



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Equalities, Human Rights and Civil Justice Committee

**Tuesday 6 May 2025**

**Session 6**



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**EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE**  
**11<sup>th</sup> 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:**

Alexandra Devoy (Scottish Government)

Cat McMeeken (Scottish Government)

Kaukab Stewart (Minister for Equalities)

**CLERK TO THE COMMITTEE**

Euan Donald

**LOCATION**

The James Clerk Maxwell Room (CR4)



## Scottish Parliament

### Equalities, Human Rights and Civil Justice Committee

*Tuesday 6 May 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 11th meeting in 2025 of the Equalities, Human Rights and Civil Justice Committee. We have received apologies from Maggie Chapman, and Marie McNair will join us remotely.

Our first agenda item is a decision on whether to take in private agenda items 3, 4 and 5. Item 3 is consideration of the evidence on the International Covenant on Economic, Social and Cultural Rights. Item 4 is consideration of the committee's approach to scrutiny of the legislative consent memorandum for the Border Security, Asylum and Immigration Bill. Item 5 is consideration of the committee's approach to the Scottish Human Rights Commission's report on progress in moving people from institutions to independent living, following the committee's evidence session on 1 April. Do we agree to take those items in private?

**Members indicated agreement.**

## International Covenant on Economic, Social and Cultural Rights

10:01

**The Convener:** Our second agenda item is an evidence session on the Scotland-specific issues that were raised in the United Nations Committee on Economic, Social and Cultural Rights concluding observations and recommendations to the Scottish Government at the end of a five-year review of compliance with the ICESCR.

I refer members to papers 1 and 2, and I welcome to the meeting Kaukab Stewart, Minister for Equalities. I also welcome her supporting officials from the Scottish Government: Ian Davidson, deputy director for social security policy; Alexandra Devoy, human rights policy lead, treaties and international; Andrew Fraser, child poverty briefing and strategy team leader; and Cat McMeeken, deputy director of the equality division. I invite the minister to make a short opening statement.

**The Minister for Equalities (Kaukab Stewart):** Thank you, convener. I am grateful to the committee for inviting me to give evidence. I welcome the role of the Parliament as a human rights guarantor for the people of Scotland and the distinct work of this committee in driving progress on that. I am looking forward to discussing the issues and working with the committee on the Parliament's and the committee's approach to national level scrutiny, following on from the international human rights reporting mechanisms.

The leading role of the Parliament in supporting and overseeing the implementation of human rights has been formally recognised internationally. Of course, all of our parliamentary committees have a role to play in that. Over the past two decades, the Parliament has played a critical role in developing a culture of human rights. That is demonstrated, for example, by the establishment of the Children and Young People's Commissioner Scotland and the Scottish Human Rights Commission, along with the work to incorporate international human rights treaties such as the United Nations Convention on the Rights of the Child.

With regard to the international reporting of human rights, we welcome the international scrutiny of our human rights record. International treaty reporting in relation to state parties takes place on a cyclical basis and drives improvement by requiring state parties to account for past performance and to respond to recommendations for future actions. Engaging with international human rights monitoring mechanisms, such as

those within the United Nations and the Council of Europe, ensures that we remain vigilant about implementing our international obligations and focused on making continued improvements to the realisation of rights for people in their everyday lives. It also gives us an opportunity to share international examples of good practice and strong delivery.

In February, as part of a United Kingdom delegation to the UN in Geneva, Scottish Government officials took part in the seventh periodic review of the International Covenant on Economic, Social and Cultural Rights. The interactive dialogue is an important transparency, scrutiny and accountability mechanism, and we welcomed the opportunity to provide evidence on the actions that Scotland has taken in relation to devolved matters since the previous reporting period in 2016. The UN committee welcomed Scotland's approach to the incorporation of international treaties and to tackling issues such as child poverty and drug-related deaths.

On 3 March, the committee published its concluding observations, which set out the recommendations for both reserved and devolved policy areas. There are more than 130 recommendations to the UK state party, of which 49 recommendations relate to policy areas that are devolved to the Scottish Government.

It is worth noting that that interactive dialogue is historically significant, because the UN committee received the largest number of civil society reports for any state party review, which is an example of an achievement that we can all be proud of. Building on that, we are engaging with civil society to consider our next steps and how we can strengthen our approach to implementation.

That engagement includes the development of a human rights digital tool to openly and transparently track concluding observations from international treaty bodies and to provide a platform from which to monitor implementation in Scotland. A design group has been established, which includes representatives from civil society as well as parliamentary officials, to advance the phased development of the tool, with a view to launching an initial product by March 2026. Our shared ambition is that the information in the tool will be useful for civil society and the Parliament, including committees such as this one, for the purpose of enhanced informed scrutiny of the implementation of the recommendations in the concluding observations, which will help to drive forward policy improvements and resilience.

As the committee knows, we are working to develop proposals to incorporate into domestic law a number of international treaties such as the International Covenant on Economic, Social and Cultural Rights. Incorporation of treaties into

domestic law strengthens the protection of human rights by making them a part of the domestic legal framework, ensuring that those rights are accessible to the people who need them and are increasingly embedded in all policy, practice and service delivery. Through that approach, we aim to build a stronger human rights culture in Scotland. Through the development of human rights capability building across the public sector, we are taking steps now to lay the groundwork for future legislation. All of that work is closely linked to our equality and human rights mainstreaming strategy.

The focus of today's evidence session is the United Nations Committee on Economic, Social and Cultural Rights recommendations on Scottish devolved policy. Although the treaty covers a wide scope of devolved policy areas, from education to health, I understand that the committee is particularly interested in hearing about evidence that relates to social security, because our radically different Scottish system is founded on the principle that social security is a human right. That is in sharp contrast to the UK approach, which, only last month, Amnesty International described as "consciously cruel", after publishing a report that identified what the organisation described as "severe human rights violations" at the heart of the UK Government benefits system.

Based on dignity, fairness and respect, our system mitigates the worst of UK Government austerity and invests in the people of Scotland, providing vital assistance to enable older people to heat their homes and to help disabled people to live independent lives. In 2025-26, we are investing £644 million in our package of seven benefits and payments, including the Scottish child payment, that are available only in Scotland.

I agree entirely with the UN's observation that the UK Government must end the unacceptable two-child cap. In the light of the UK Government's failure to act on that recommendation, we are working to end the cap in Scotland by next April.

We are committed to meeting our 2030 child poverty targets. The 2025-26 Scottish budget prioritises action to eradicate child poverty, not only through our social security system but through much wider investment—for example, in breakfast clubs, employability support and free bus travel.

Thank you for your patience, convener. I look forward to answering the committee's questions and to working with you to further embed good practice in the follow-up process for international reporting mechanisms.

**The Convener:** Thank you, minister. What is the Scottish Government's current timeline for introducing the human rights bill, and will it include full incorporation of ICESCR rights?

**Kaukab Stewart:** It remains our intention to introduce the human rights bill in the next parliamentary session—subject to the outcome of the 2026 election, of course. In the meantime, before the summer recess, in order to facilitate further extensive engagement with stakeholders, we will publish a discussion paper that sets out our proposed approach to the bill.

**The Convener:** Will mechanisms be included to ensure public participation and accountability in the implementation of human rights?

**Kaukab Stewart:** Proposals for the bill have been informed by extensive engagement over a number of years with a range of rights holders, duty bearers, civil society representatives and other stakeholders. That has included hearing views from a dedicated lived experience board and engagement with groups that face historical and on-going barriers. That has included engagement with organisations that represent Gypsy Traveller communities, refugees, migrants and asylum seekers. As we move forward, we will continue to listen to the voices of lived experience and marginalised communities, alongside those of civil society, public sector bodies, legal experts and academics.

Proposals for the bill include mechanisms such as the creation of a human rights scheme and reporting duties for public bodies, which will embed public participation and accountability in the framework and its implementation.

**Evelyn Tweed (Stirling) (SNP):** Good morning. Will the Government commit to ensuring that duties in the human rights bill apply across all public bodies, not just to the Scottish Government? How might that be done?

**Kaukab Stewart:** Undoubtedly, that is a complex area, and we continue to work through it. For instance, the UK Supreme Court's 2021 judgment on the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill highlighted the complexities of human rights incorporation in a devolved context. We want to work with the UK Government to explore those complexities in relation to the scope of the duties that we propose in the human rights bill.

In March, the centre for public policy at the University of Glasgow hosted an event that brought together academics, officials and other interested actors from Scotland and across the UK to discuss issues that have arisen from the 2021 Supreme Court judgment, including the incorporation of human rights. We will continue to work with the UK Government and provide further updates in due course.

**Evelyn Tweed:** You touched on this in an earlier answer, but perhaps you can expand a bit.

How will the bill embed effective remedies and accountability for rights breaches?

**Kaukab Stewart:** That is a good question. There are two main strands to the work to increase accountability for human rights under the bill. The first involves establishing an approach that shares human rights leadership and responsibility among several bodies. We therefore propose expanding the powers and remits of a number of bodies, including the Scottish Human Rights Commission, the Children and Young People's Commissioner Scotland, the Scottish Public Services Ombudsman and other oversight bodies. Our hope is that that will strengthen their ability to provide accountability and support for human rights in Scotland.

10:15

The second strand of the work involves developing measures that will enable courts and tribunals to deliver effective and appropriate remedies when it is found that a duty bearer has failed in its duty under the bill regarding protected rights. Before the summer, we will publish a discussion paper that will set out in greater detail our approach to policy in the bill.

**The Convener:** We have heard a bit about the accountability of different departments and people in relation to delivery. Will you tell us a bit about the treaty body tracking tool that the Scottish Government is developing?

**Kaukab Stewart:** Yes, I can give an overview, and then perhaps the convener will be minded to allow Alexandra Devoy to come in on that, as she has been working on the tool quite closely.

As I mentioned in my opening remarks, a design group has been convened that consists of stakeholders with expertise in human rights monitoring and implementation. In recognition of the crucial role that the Parliament plays in implementation and scrutiny, Scottish Parliament officials are members of the design group. The Scottish Government and delivery partners are working with a view to launching an initial product by March 2026, following engagement with stakeholders, but that is subject to the technical and functional specifications being deliverable.

One of the intended outcomes of the human rights tracker is to improve transparency by creating a tool that is open and publicly accessible. In turn, it will support civil society and the Scottish Parliament to monitor and interrogate processes and hold the Government to account in order to drive improvement and policy resilience.

**Alexandra Devoy (Scottish Government):** I will build on what the minister has said. In autumn last year, the Cabinet Secretary for Social Justice

committed to publishing a tracker by March 2026. We have had the first meeting of the design group, and we have another one in the diary. The design group is made up of a host of stakeholders including, among others, the Scottish Human Rights Commission, Professor Miller, the Human Rights Consortium Scotland and parliamentary officials. We are in the process of investigating what the digital platform will look like through discussion papers and conversations. We are on track for March 2026.

**The Convener:** We move to questions from Marie McNair, who joins us online.

**Marie McNair (Clydebank and Milngavie) (SNP):** Minister, in your opening contribution, you set out what the Scottish Government is doing to eradicate child poverty. How is the Government responding to CESCR's recommendations on food insecurity?

**Kaukab Stewart:** I am sorry, but I missed the end of that.

**Marie McNair:** I was asking you to respond specifically with regard to how the Scottish Government is responding to CESCR's recommendations on food insecurity.

**Kaukab Stewart:** Thank you for repeating that.

Eradicating child poverty in Scotland is a national mission and the First Minister's top priority for the Government. The Scottish Government has implemented a broad range of actions to achieve its interim and final child poverty targets, which are detailed through annual progress reports published for the periods 2018-19 and 2023-24. Over that time, the Scottish Government has introduced and delivered new social security payments, including five family payments to directly tackle child poverty. Those are the Scottish child payment, the best start foods payment and the three best start grants that are paid at key stages of a child's life.

The Scottish Government has also taken action on the drivers of poverty reduction, including by nearly doubling the funding for the 1,140 hours of early learning and childcare for all three and four-year-olds and eligible two-year-olds. We have established devolved employability services, which supported almost 28,000 parents between April 2021 and September 2024. That included help for more than 19,000 parents through our targeted parental employability support, which was delivered under the no one left behind approach, and more than 8,500 parents through the fair start Scotland service.

**Marie McNair:** What steps are being taken to embed intersectionality and equality into all anti-poverty and social security strategies?

**Kaukab Stewart:** Forgive me, Ms McNair—I will just touch on the food bit of your previous question. I did not hear it the first time, and it went out of my head the second time, too.

With regard to food insecurity and ending the need for food banks—which I think we all want to work towards—in June 2023, the Scottish Government published “Cash-First: Towards Ending the Need for Food Banks in Scotland” to improve the response to the crisis and reduce the need for emergency food parcels. That plan takes a human rights-based approach to food insecurity, which includes the promotion of dignity, respect and choice, human rights funding and rights-based interventions.

The Scottish Government is taking forward nine actions over three years—from 2023 to 2026—to improve the response to the crisis and reduce the need for emergency food parcels. Should the committee or Ms McNair require further details on food insecurity, I would be happy to provide it.

Would you be okay to repeat the second question, Ms McNair? That would be helpful.

**Marie McNair:** Sure. What steps have been taken to embed intersectionality and equality into all anti-poverty and social security strategies.

**Kaukab Stewart:** Thank you for that really important question. We must remember that everything regarding social security benefits goes through robust equality impact assessments, which consider intersectionality across the board to ensure that we get the intended outcomes.

The Social Security (Scotland) Act 2018 established a legal duty on the Scottish Government to promote take-up of devolved entitlements. Unlike the UK Government, which does not have an equivalent strategy, the Scottish Government and Social Security Scotland have made clear commitments, in our benefit take-up strategy, to support access to social security. We try to ensure that there is as much uptake as possible, and we raise awareness of people's entitlements. That includes initiatives such as access to independent advocacy, support for disabled people, co-location of Social Security Scotland local delivery services and community spaces and targeting the marketing of devolved payments to ensure that they are accessible and available to different communities in different locations, because we know that some people will have physical barriers to getting help.

Our disability benefits were designed with our clients. That includes the adult disability payment application process, which was designed with disabled people to ensure that it is as clear and straightforward as possible. For example, no assessments for the adult disability payment are carried out by a private sector provider. Instead,



consultations are delivered by Social Security Scotland when required. The consultation is an objective discussion between the client and a practitioner, and it is based on trust. It does not include a formal dehumanising functional examination in that sense.

An independent review of the adult disability payment is under way, and the final report will be published in July 2025. The chair will make recommendations for improvements to ensure that benefits continue to meet the needs of disabled people, as set out in the principles of the Social Security (Scotland) Act 2018.

We also try to make the consultation as accessible and inclusive as possible. Social Security Scotland take a multichannel approach, which includes online availability, telephone calls, web chats and face-to-face meetings to ensure that those who choose not to or cannot use digital methods can access services.

I hope that that is helpful.

**Marie McNair:** It is so important that the voices of those with lived experience shape our future policies and strategies. I certainly welcome your assurance that such engagement will continue.

**Kaukab Stewart:** We are identifying the six priority groups that are at the highest risk: lone parents, minority ethnic families, families with disabled adults and children, families with young mothers who are under 25, families with children under one and larger families such as those with three children or more. We are focused on supporting those groups because we know that 90 per cent of all children in poverty live within those six priority family types. We are building our knowledge and understanding of the barriers to moving out of poverty that those families face.

Of course, there is also intersectionality across those groups. For instance, an ethnic minority family might have three or more children and one of those children might also be disabled.

**Marie McNair:** Thank you.

**The Convener:** We will move on to questions from Tess White.

**Tess White (North East Scotland) (Con):** My question is on the rights of women, disabled people, the LGB community, the TI+ community and racialised minorities. You said at the start of the meeting that the Scottish Government is aiming to be the human rights guarantor for all people in Scotland. How will you prioritise the rights of those particular groups in upcoming policy reviews? I would specifically like to mention the fairer Scotland duty and the social security charter in that regard.

**Kaukab Stewart:** We take the participation, accountability, non-discrimination and equality, empowerment and legality—PANEL—approach to policy making. We actively engage with communities across Scotland in the development and implementation of policies, and that reflection of diverse perspectives ensures that our policies are inclusive and effective. The publication of, and the continuing improvements that are being made to, the equality and fairer Scotland budget statement alongside the Scottish budget is evidence of that commitment—I think that I have mentioned that at previous appearances before the committee.

In line with our statutory duties, the differential impact of budgetary decisions on protected characteristics, including sex, are considered as part of the budget process. Of course, it is our statutory duty to produce a charter, which is subject to regular review, and a yearly report on performance as well. All statutory equality impacts are already considered under the public sector equality duty, which includes the requirement to pay due regard to the characteristic of sex.

10:30

**Tess White:** That is welcome, particularly bearing in mind that we had a whole session on the public sector equality duty and all nine protected characteristics.

You have talked about the protected characteristic of sex. Following the Supreme Court judgment on the definition of “woman”, how will the Scottish Government actively prioritise the sex-based rights of women in upcoming policy reviews?

**Kaukab Stewart:** There was a meeting on 30 April about the Supreme Court judgment. However, I was not privy to that, so I think that it would be fair to pass that question to Cat McMeeken.

**Cat McMeeken (Scottish Government):** I am happy to come in. For clarity, the Supreme Court issued a decision on the definition of “woman” under the Equality Act 2010. It is important to use the full definition in that regard.

A short-life working group meeting was convened last Wednesday afternoon, which involved various departments across Government. It followed a meeting with the Equality and Human Rights Commission earlier that morning, during which a discussion took place on the interim update—not interim guidance—that the EHRC has produced on the matter. We expressed our keenness to the EHRC to work with it as it developed the guidance and asked what the process for that would be. We also said that the Scottish Government is examining all the

legislation and policy that might be impacted by the guidance. The EHRC was content with the process that we were undertaking in that regard.

**Tess White:** You are therefore confirming that the Scottish National Party Government is proactively looking at all the policies in relation to the judgment.

Minister, do you have any further detail on the forthcoming equality strategy for women and girls, which Shirley-Anne Somerville announced on 22 April? Do you have any thoughts about the organisations that will be involved in it?

**Kaukab Stewart:** Are you able to provide that information, Cat?

**Cat McMeeken:** Yes, I am happy to come in on that. The First Minister's National Advisory Council on Women and Girls put forward a number of calls to action or recommendations, one of which was that there be a strategy for equality for women and girls in Scotland. We have already started some of the engagement on that—initially, it was only with the National Advisory Council of Women and Girls and their lived experience panel, which has quite a wide representation across public bodies in Scotland and people with lived experience. However, we will go further in our engagement and consultation, which will be much more extensive, and we are now working through who would be involved in that.

**Tess White:** Do you have any idea on the timing of that?

**Cat McMeeken:** For the consultation, we expect to be running different types of events for different groups of stakeholders, some of which might have sensitive information that we really want to treat in a very respectful way. It is important for us to engage with public bodies, too.

It will be a long engagement process, because we are looking at producing a very considered strategy that will cover all the equality rights for women and girls in Scotland over the next 10 years. It is a significant piece of work, so the consultation period will not be a short two weeks; it will run for a number of months and there will be quite extensive involvement. I do not have the names of the different organisations because we are not yet at the stage of working that through.

**Tess White:** How will you make sure that all the right organisations are involved in reviewing that, particularly in the light of the Supreme Court judgment?

**Cat McMeeken:** Do you mean involved in reviewing the strategy?

**Tess White:** Yes—organisations that will give input through the consultation.

**Cat McMeeken:** The strategy is still to be designed and co-produced; we are not at the review stage, as it has not yet been written.

We will involve a wide range of organisations. If, perchance, you are talking about the involvement of gender-critical colleagues, I am proposing to have numerous meetings with them over the next while, and we have already written to them to suggest that.

**Tess White:** You have already written to the organisations that might be involved, then they will—

**Cat McMeeken:** No. I have already written to gender-critical colleagues in different organisations that we have engaged with to propose having further meetings with them. We have not designed the list of engagement groups for the wider strategy yet, but we would be content for anybody who would like to be involved to be involved in that.

**Tess White:** They can write to you and you will review—

**Cat McMeeken:** Yes, of course.

**Tess White:** Will you give us an idea of the timescale for that? Is it in the next couple of months?

**Cat McMeeken:** We want to work at pace on this, so we are happy to start having meetings on it over the summer.

**The Convener:** We have a supplementary from Pam Gosal.

**Pam Gosal (West Scotland) (Con):** I have two supplementaries, following on from Tess White's questions.

Minister, the recent decisions by the UK Supreme Court in London and by the Court of Session in Edinburgh have made it clear that women and girls need to be protected. Single-sex spaces and services are vital for their protection, yet all too often the Scottish Government has put gender ideology above the rights of women and girls. Will the Scottish Government be implementing the EHRC's interim update on the practical implications of the UK Supreme Court judgment?

Also, do you not think that, the longer that you wait, the more that you are not only putting women and girls at risk, but leaving public bodies liable in cases such as the Sandie Peggie case? You have updated us a little bit on that matter, but I am concerned about what happens while we wait. People are being affected every day. Women and girls are not protected at this moment, even though the judgment has been issued. Will you clarify what you are doing now, while you are waiting for certain things to come through?

**Kaukab Stewart:** I understand your frustration. The enforcement lies with the EHRC. You are right to point out that there was an interim update but that guidance has not been issued. The EHRC is working at pace and I believe that it will issue its guidance towards the end of June. In the meantime, the Scottish Government is reviewing a wide range of areas—I think that Cat McMeeken specified all of them. That will enable us to be in a state of readiness so that, when the EHRC issues its guidance, we will be able to move forward at pace.

**Pam Gosal:** It is very good to hear that you will move at pace because, as I said, this is about protection. It is also about rights, so there could be more court cases.

I wrote to you asking whether the Scottish Government will implement the recommendations of the Sullivan review on collecting data based on biological sex. Your response to my written question stated:

“The Scottish Government has previously committed to reviewing its guidance on collecting data on sex and gender by the end of 2026 as part of the Non-Binary Equality Action Plan.”—[Written Answers, 17 April 2025; S6W-36211]

When my colleague Tess White highlighted in the chamber last week that there is a “serious safeguarding risk” with regard to changing the gender marker of children in national health service records, she received a non-answer from the Cabinet Secretary for Social Justice. As the Minister for Equalities, can you give me a clear answer as to whether the children’s gender markers should be changed in NHS records?

**Kaukab Stewart:** To give you a specific answer and make sure that we get it technically correct, I will pass that on to Cat McMeeken.

**Cat McMeeken:** There are two parts to that question. One relates to the Sullivan review, which, at a four-nations level, all the chief statisticians will be looking at as well. There will be further information coming on that, but I believe that the review was published just a few weeks ago, so there is quite a lot in it to unpack.

I am sorry—you will have to remind me what your second question was in relation to.

**Pam Gosal:** It was in relation to children’s gender markers.

**Cat McMeeken:** Yes—the community health index markers. That question relates specifically to health, so we are happy to write to you on that—we can pick it up with officials and the Cabinet Secretary for Health and Social Care—to provide you with further detail.

**Pam Gosal:** Thank you, Cat—if you could write to me on that, that would be great.

You mentioned that information will come forward from the Sullivan review and that there is a lot in it to unpack. Parts of that review are for the UK Government to act on, but there are also implications for the Scottish Government. Do you have a date for the information coming forward?

**Cat McMeeken:** I can write to you with that as well. We are engaging with the chief statistician on that, so we can come back to you with a firm timetable.

**Pam Gosal:** Thank you—that would be really helpful.

Minister, to follow on from Tess White’s question on engagement, women’s rights groups, including For Women Scotland, feel neglected by the Scottish Government. That was especially true during the debate on the Gender Recognition Reform (Scotland) Bill, when the Scottish Government spent more time engaging with groups that supported the bill.

What is the Scottish Government doing to ensure that, going forward, all sides are heard equally? Will you, in your ministerial role, personally guarantee that women’s groups such as For Women Scotland, and groups such as Sex Matters and LGB Alliance, will be called for evidence?

**Kaukab Stewart:** I think that Cat McMeeken has already mentioned the specific bodies that have been written to. I believe that it was the Cabinet Secretary for Social Justice who wrote to them, not me, so, if you will forgive me, I will bring Cat in on that one. You will appreciate that different people have taken different leads on this.

**Cat McMeeken:** Those organisations were written to as well. This issue sits across a lot of different areas of Government, and they have interests in those areas, so it is really important that they engage not just with equalities officials but on any policy in which they have an interest, and that might sit in education, health and so on. Part of the work that I want to continue to do with them is to consider how they can get that effective engagement at different levels across Government for the work in which they have a legitimate interest.

For example, to refer back to the previous question on how they have engaged on the strategy, that would sit under the officials in my area, so I would make sure that those organisations would have open access to engage with them as the strategy was developing. Whether they want that engagement to be one on one or part of the wider workshops that we are doing, we are amenable to working with them on that in whatever way they would like.

**Pam Gosal:** Thank you, Cat—I am very pleased about that because that has not happened in the past. Those groups have spoken about that. To be honest, when evidence is taken, whether it is in this committee or whether it comes to you as the Scottish Government, it is important that we hear from everybody to make sure that we are implementing things in the right way.

There is a balance, but those organisations have not been heard in the past, so I am really pleased with what you have said. If that does not happen, I will be writing to the minister to ensure that we include those groups.

**Kaukab Stewart:** Thank you for that. There is a wider point about women's political representation as well. We want to be—well, we are—committed to achieving that fairer and more equal political representation so that everybody's voices can be heard.

We recognise that we need to do better in representing the diversity across Scotland. We are doing other work alongside that. We are, of course, engaging with the EHRC on its forthcoming guidance. As I said in my earlier answer, we will be in a state of readiness for when we get that. In the meantime, it is the Cabinet Secretary for Social Justice who is having that dialogue with the EHRC, and she welcomes working with it.

10:45

We are taking action to have more diverse representation in the Parliament and in local government. For instance, we have called on the UK Government to introduce gender quotas for elections across the UK, or for us to have the power to do that. We also fund organisations such as Elect Her, and I know that the member has appeared at promotion events that it has held. We provide funding to Engender to make sure that it progresses its equal representation project. We also provide funding to the Convention of Scottish Local Authorities to support the work of the cross-party barriers to elected office special interest group and the young women lead project.

A wide variety of work is going on to make sure that women are included and to maximise their participation in political life.

**Pam Gosal:** Thank you. Convener, I have one more question, which touches on budgeting. Can I ask that quickly?

**The Convener:** Tess White would like to come in and then—

**Pam Gosal:** My question is just on the back of what the minister said.

**The Convener:** As long as it does not interfere with the question that Tess White is planning to ask.

**Pam Gosal:** I do not think that it will.

**The Convener:** We do not want to skip over her question.

**Pam Gosal:** Minister, when you have been in the committee in the past, we have spoken about budgeting across all the departments and asked how we ensure that, throughout its work, each department adheres to women's rights and other rights. Can you guarantee that every department will implement, for example, the EHRC guidance? As Cat McMeeken said, the policy might sit in different areas, such as education, or it might sit in your area. We have not yet got the budgeting right to implement a lot of this. What guarantees can you give that every department will implement the EHRC guidance and that everybody soaks it up in relation to single-sex spaces, places and services?

**Kaukab Stewart:** Will you clarify what you mean by budgeting? Do you mean resourcing, or are you talking about budgets for individual portfolios?

**Pam Gosal:** In the past, you have spoken to the committee about ensuring that, when we implement something, every department understands what the budget is for, whether that is for women and girls, for people in poverty or for disability, and that they make sure that it is aligned throughout every department. At that time, it was said that there were gaps for some issues. I want to ensure that we do not face the same situation when the EHRC guidance comes and that we make sure that it is implemented right through each department.

**Kaukab Stewart:** We are committed to ensuring that our policies advance equality and human rights for all of Scotland's people and that we embed that, as you say, across all the different portfolio areas. That is based on the principles of human rights budgeting, which are transparency, accountability and participation. As I mentioned earlier, continuing improvements in the publication of the equality and fairer Scotland budget statement alongside the budget is evidence of that.

The differential impact of budgetary decisions on protected characteristics, including sex, are considered as part of the budget process in line with our statutory duties. I mentioned that all statutory equality impact assessments are already considered under the PSED and I have given evidence on that before.

The short-life working group that Cat McMeeken referred to has been tasked with examining all

legislation, policies and strategies. It is undertaking a thorough audit to understand where we will need to take action. As I said earlier, I can only reaffirm that we will be in a state of readiness once the EHRC has produced its guidance. As I said at previous committee meetings, I am working hard to mainstream everything so that it is everybody's responsibility in every portfolio. I am also continuing with my one-to-one meetings with ministerial colleagues and cabinet secretaries and I do not doubt that that will form part of future discussions. We all take our responsibilities very seriously to make sure that there is a consistent and coherent response in the different portfolio areas.

**Tess White:** My earlier set of questions explored you listening and hearing when incorporating policies. My next question is about rights-based budgeting but, before I ask that, I want to go back to something that you said in relation to a question from my colleague Pam Gosal.

You talked about gender quotas and you mentioned Elect Her and Engender. You are conflating sex and gender. The public sector equality duty has nine protected characteristics, one of which is sex and one of which is gender reassignment. When you review policies, it is important to differentiate between sex and gender. From this session and you saying that you are hearing what people are saying, I hope that you are mindful that when you say gender, do you mean gender or do you mean sex?

**Kaukab Stewart:** You are correct to point that out in light of the Supreme Court judgment, which was very clear. The Scottish Government has accepted it.

However, we must also be aware—I know that you are—that a lot of terminology uses both those terms. In my answer to Pam Gosal's question, I was referring to quotas and representation. Of course, the Supreme Court ruled on that, because the case was about gender representation on public boards, so it specified that and I am mindful of it.

**Tess White:** It is almost as though a line has been drawn. You talk about Elect Her and Engender, and they are very good organisations, but they focus on gender, not biological sex. I suppose that matters, because my next question is about funding.

On rights-based budgeting, I wrote to you about how the Scottish Government funds and supports third sector and activist organisations in the regard that I have just mentioned, but I am still waiting for a response. Maybe I can resend that letter to you in light of the judgment, and you can now write to me. I would appreciate that.

In that correspondence, I talk about millions of pounds. There are all these figures. A recent one was £500 million. Huge amounts of money have been spent by the SNP Government on a gender self-identification echo chamber. I have used that term: it is an echo chamber with the likes of the Equality Network, Stonewall and LGBT Youth Scotland. There is, however, evidence that women's groups advocating for sex-based rights feel that they have been marginalised and they feel maligned. Moving forward, I think it is important to recognise that, particularly when you are looking at funding. If you are only funding those organisations that agree with your view, there is a huge issue with that.

My colleague Pam Gosal talked about costly litigation, and we cannot talk about specific cases, but if the Scottish Government does not move at pace, there will be litigation for the NHS, hospitals, schools and leisure centres across the board.

I think that, right now, the public sector feels that it is having to scramble to unravel something. Will the SNP Government and the minister finally accept that rights-based budgeting does not just mean funding the groups that agree with you?

**Kaukab Stewart:** Thank you for that. I understand what you are getting at, and you have covered a lot of areas there.

To be very clear, the Scottish Government procures certain services from organisations, including in the third sector, and they are monitored. There is day-to-day funding governance through Inspiring Scotland, and third sector bodies are covered by the Office of the Scottish Charity Regulator, so there is thorough scrutiny and governance.

At this time, there are certain groups of people, including transgender people, who are feeling particularly vulnerable. I have had questions from you about some of those organisations before. For instance, we fund a suicide helpline; the funding is there to provide a service that people need in order to be able to deal with mental health issues regarding their protected characteristics. We procure specific services in that regard, so it is not a question of funding any particular type of ideology.

I will bring in Cat McMeeken to give a little bit of further detail.

**Cat McMeeken:** I think that the minister covered most of it. It is worth noting that the equality and human rights fund funds people under the Equality Act 2010, but—as the minister rightly said—the funding is for services; it is not core funding. We do not fund organisations as lobbying organisations—we fund organisations that provide services to communities and groups of people to do specific things to advance equality, inclusion

and human rights. Organisations have to bid into that fund, and it is—as you would imagine—very oversubscribed; it covers all the protected characteristics, so a wide range of organisations, in particular disabled people's organisations, can access it.

**Tess White:** Minister, I accept that funding help desks and suicide prevention is very important. However, if you find out that the groups that you are funding are giving misinformation through guidance, will you commit to stopping their funding if you have the evidence in front of you?

**Kaukab Stewart:** I am not sure that I have the scope to do that. We have a robust process—there is an accountable officer involved and Inspiring Scotland are the people who do that impartially; they have that impartial judgment. Perhaps Cat McMeeken can explain how that actually works.

**Cat McMeeken:** The EHRC also plays a significant role, in that it would be for that body, as the regulator for the Equality Act 2010, to intervene in any of those organisations and advise them if their guidance is incorrect.

If you are asking, if and when that happened, what the Scottish Government's response would be, first, there would be questions for OSCR, because the groups would be charitable organisations. We would need to consider all the evidence if we were to continue funding them or to give them new funding in a different setting next year.

**Tess White:** I just want to check my understanding. We are talking about hundreds of millions of pounds of taxpayers' money. You are saying that if people have evidence that guidance is incorrect and against the law, they need to go to the EHRC to complain, not to the Scottish Government. You will then wait for guidance or direction from the EHRC, rather than taking a view on the funding yourself. The filter is with the EHRC and it is not with you.

11:00

**Cat McMeeken:** I would refer to what the EHRC would say on that, which would be that it is the regulator and it would be for the EHRC to intervene on those issues. The EHRC would suggest that people should go to it to discuss these things.

Also, I am curious as to the “hundreds of millions of pounds” of funding that you mentioned. If you could provide any further detail on that, I might be able to enhance my answer to your question.

**Tess White:** I will—thank you.

So, you are waiting for guidance from the EHRC before the Scottish Government takes a view on switching the taps off for any funding.

**Cat McMeeken:** I do not think that that is a fair representation of what I said. I will repeat it, for the record.

The EHRC is in the process of developing guidance. The Scottish Government has taken a position, as have the other devolved nations and the UK Government—as the EHRC is well aware—which is that we need to wait for guidance from the EHRC before producing or changing any more of our own guidance, but that we should put ourselves into a state of readiness and understand what we need to change in the event of the EHRC's guidance coming forward. We are definitely taking a very proactive approach.

That would be the position that the EHRC would expect all organisations to be in. If a third sector organisation is developing guidance on this issue, the EHRC would say, and has said, “Take account of the Supreme Court decision and look at what we've said on it, and get yourself as far forward as you can.”

Obviously, statutory guidance is statutory guidance, and there is complexity, so the EHRC needs to unpick that and go through its own significant consultation process on the matter. All that needs to be in place. That is the position that the EHRC is taking in this regard: that it is legitimate and proportionate to wait until the guidance is issued by the regulator, because of the potential consequences of getting it wrong. The EHRC would say that there would be potential implications and high litigation costs for people if they do not get it right.

**Tess White:** So, the Scottish Government is not funding lobby groups to give guidance on their interpretation of the law.

**Cat McMeeken:** The Scottish Government funds a range of organisations to provide particular services under the equality and human rights fund. All the information is available to the committee—we have made it available to the committee before, and I am happy to do so again. Those organisations are on the public record, and that is part of Inspiring Scotland's work. They deliver projects and programmes of work, so the funding will be very specific. An organisation would get £10,000 of funding to deliver a community project in a particular area, for example. We do not provide core funding, which is for the wider lobbying activities that organisations do. It is much more about giving funding for specific services.

**Tess White:** Okay—thank you.

**The Convener:** We go back to Pam Gosal.

**Pam Gosal:** No, I am fine, convener—I tied my questions into one.

**The Convener:** Okay—thank you. We move to questions from Paul O’Kane.

**Paul O’Kane (West Scotland) (Lab):** Good morning to the minster and officials.

I am interested in parliamentary scrutiny and how we ensure that scrutiny of ICESCR rights continues. First, I would like to understand whether an implementation plan or an action plan in response to the concluding observations will be brought forward. Is that the Government’s plan? If so, when does the minister expect to be able to publish that?

**Kaukab Stewart:** The equality, inclusion and human rights directorate has responsibility for overseeing the reporting on, and implementation of, the ICESCR, including cross-governmental co-ordination on that. A human rights treaty reporting, monitoring and implementation group provides co-ordination for all Scottish Government human rights treaty reporting activity, including a consistent and cross-cutting approach to the implementation of the treaty body recommendations.

An internal group of human rights bodies leads has also been co-ordinated to develop a consistent Scottish Government approach to treaty body recommendations. Alexandra Devoy can give you a more specific view of the timeline.

**Alexandra Devoy:** Your question was about how we are going to make a plan to implement the concluding observations from ICESCR. In previous years and cycles we have developed what we called a position statement, which was a broad and in-depth view of the list of issues and the recommendations of previous exercises. That gave an in-depth view of the Scottish Government’s policy position.

We are moving away from the position statements because we felt that they were not landing correctly with stakeholders and were not landing well with parliamentary bodies. We are working with stakeholders to understand the most useful way of presenting information about how we plan to look at the recommendations and, where possible, implement them.

I also refer you to the fact that we are developing a digital tracker tool for March next year. That will gather the recommendations from various exercises with a view to how we improve and implement internally and how we drive scrutiny and accountability externally. I hope that that answers your question.

**Paul O’Kane:** It does, in part. The point about implementation is important. Last week, and throughout many sessions in relation to ICESCR

and human rights more broadly, we heard that there is a lack of implementation and delivery. We could rehearse the Government deciding not to introduce certain pieces of legislation, for example, or deciding not to do certain things. I am keen to understand whether, rather than broad positions in statements, the minister intends to have a clear implementation plan that is linked to legislative actions in programmes for government, for example, or policy updates and things that the Government has the power to do.

**Kaukab Stewart:** You said it very well. You will be fully aware that the plan will be all of those things, but the most important thing is embedding a human rights approach across everything. That is the cultural change that has to happen, which is why I talked about participation, consultation and collaboration, which are really important. It will involve not just the Scottish Government in that sense, but public bodies and a wide variety of stakeholders. It is important for that approach to be embedded from the get-go, so that that is the starting point. We need to take people with us in order to do that.

The tracker tool will be open and available to the committee and members of the general public. It will be able to track the progress that is being made across all the duty bearers. It will provide accountability, transparency and tracking, which is to be welcomed. It is not just a tool for us; we will not be marking our own homework. It is a tool that is available for everyone to use to hold us to account as well as everyone else who is responsible for the implementation of those rights.

**Paul O’Kane:** Is it your view that the tracker tool will have definitive actions in relation to legislative plans or policy changes?

**Alexandra Devoy:** I am happy to answer that and I will also go back to your previous question. We need to admit that we have got it wrong in the past. There is a gap between where we have been able to meet that need for the information that is available and how we make that information available. We recognise that there has been a gap and we are looking to fill it.

I am sorry—what was your other question?

**Paul O’Kane:** Will the tracker tool be the tool that we will use to analyse the Government’s legislative programme?

**Alexandra Devoy:** Yes. We are working with stakeholders on what that will look like. The idea is that it will take the recommendations from the various interactive dialogues and meetings with UN special rapporteurs and draw all that data together into one place, so that it becomes a bit of a data bank, while also recognising that we have a gap around collecting data and using it to drive evidence-based policymaking. We will be using

the tracker in that space, but we are working with stakeholders to make sure that the tracker will answer those questions and provide that platform for people.

**Paul O’Kane:** It is welcome to hear that the tracker will be available to MSPs and the public, but how does the minister intend to update parliamentarians and ensure that the work is subject to that level of scrutiny? Will there be reporting back to the committee on what we have just discussed, and does she intend to provide regular updates to the Parliament more broadly?

**Kaukab Stewart:** Absolutely. It is really useful that we are doing this. I would also open it up to other committees, because it covers a wide range of portfolios.

We are continuing to explore with stakeholders how the Scottish Government will respond publicly to the ICESCR recommendations; those conversations are taking place right now. However, I do not want to be sitting here saying that this is the most effective method of communication from our point of view. It is really important to hear from the people to whom we are accountable what the most effective way of achieving accountability is. Those conversations are taking place.

More widely, we are engaging with Scottish Parliament officials as well as stakeholder experts. We have talked about the digital tracker and we hope that it will drive implementation and improvement, scrutiny and accountability.

I would welcome more regular engagement with the committee on international human rights treaty reporting, monitoring and implementation. That can be done in many ways. I can come and speak directly to the committee, and the committee is welcome to write to me regularly for interim updates on such matters. I will welcome any other suggestions that the committee might wish to make. I would happily consider those.

We know that the committee’s role in monitoring is important. It takes a lead role, as the Parliament does, in supporting and overseeing the implementation of human rights. That has been formally recognised. Indeed, “Getting rights right: human rights and the Scottish Parliament”, which the committee published in 2018, sets out the role of the Parliament and its committee as a guarantor of human rights. I have the utmost respect for that.

The CESCR also noted the crucial role that the Parliament plays in advancing the concluding observations. I re-emphasise that I see the Scottish Parliament’s committees as playing a central role in monitoring and scrutinising the implementation of ICESCR, the concluding observations and other treaty body recommendations more widely.

**Paul O’Kane:** That is something that the committee will certainly want to consider in respect of on-going scrutiny. That was useful.

**The Convener:** Thank you. That concludes our formal business in public this morning. I thank you all once again for coming along. We will now move into private to consider the remaining items on our agenda.

11:14

*Meeting continued in private until 11:43.*



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