



The Scottish Parliament
Pàrlamaid na h-Alba

Published 24 March 2021
SP1014
2nd Report, 2021 (Session 5)

Equalities and Human Rights Committee Comataidh Co-ionannachd agus Còraichean Daonna

Equalities and Human Rights Committee Session 5 Legacy Report



Published in Scotland by the Scottish Parliamentary Corporate Body.

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Equalities and Human Rights Committee

To consider and report on matters relating to equal opportunities and upon the observance of equal opportunities within the Parliament (and any additional matter added under Rule 6.1.5A). In these Rules, “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Human rights, including Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights contained in any international convention, treaty or other international instrument ratified by the United Kingdom.



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Introduction

1. Recent world events including the COVID-19 pandemic, Brexit and economic constraint have underlined why there needs to be a consistent, priority, focus on equalities and human rights, as those most disadvantaged or marginalised in our communities are often the most affected by policy and law making. Often it is these groups that are least able to make their voices heard or whose voices are easiest to ignore when they should instead be fundamental in informing decision-makers' approach to their work.
2. The addition of human rights to the Committee's remit in 2016 has brought a new dimension to its work. Not only has it brought added focus to its equalities work, it has empowered the Committee to deal with a wider range of legislation and inquiry work, enabling it to consider more fully contentious topics such as those set out in its inquiry reports on [Hidden Lives - New Beginnings: Destitution, asylum and insecure immigration status in Scotland](#) and [Prisoner Voting in Scotland](#) through a human rights lens. Furthermore, it has meant the Committee can take a leading role in the Scottish Parliament being a human rights guarantor.
3. Legislative scrutiny on issues relating to the Age of Criminal Responsibility (Scotland) Bill, Children (Equal Protection from Assault) (Scotland) Bill and the first Bill to fully incorporate an international treaty into Scots law, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill (UNCRC Bill), have brought fresh insight into international human rights standards and domestic circumstances.
4. In addition, each inquiry the Committee has conducted has succeeded in bringing important issues to the Scottish Government's and others' attention. Particular areas of follow-up work by the successor Committee would allow issues to be pursued further in the interests of the stakeholders that the Committee heard from.
5. This legacy report sets out those areas the Committee believes require sustained focus to advance equality and human rights in Scotland throughout the next session and into future years. You will find these in our **Main Recommendations** in this report.
6. We have also highlighted some other activities that are useful to note under **Other Areas**.

Resourcing and meeting schedule

7. There are potentially a few factors on the horizon, which the Committee notes could impact on our successor's ability to pursue its strategic aims for equality and human rights.
8. With the expansion of the Committee's remit, discussed further under 'Getting Rights Right', came an increase in its workload. During this session the Committee has taken forward 17 distinct pieces of work. This includes scrutiny of seven bills, five subject inquiries and a further five inquiries relating to scrutiny of the Scottish budget. To put this into context, our predecessor committee undertook seven pieces of work (one bill and six inquiries). While this represents a significant increase in the Committee's workload it also reflects the importance this Committee places on putting equality and human rights at the centre of its work. Details of all the Committee's activity can be found on the respective web pages.
9. Notwithstanding the move to virtual meetings, necessitated by the response to the COVID-19 pandemic, it is frustrating that the Committee has had insufficient resources to ensure its human rights expertise is mainstreamed into the work of all committees and to support its human rights leadership role at the pace it would have wished.
10. While there have been benefits to holding virtual meetings, including witnesses not having to travel to attend meetings, it remains a challenge to hold meetings on a Thursday morning given the limited time available before Chamber business begins.
11. The Committee has worked innovatively to gather evidence through other means, but there is still a need to hold formal evidence sessions to maintain the level of legislative scrutiny and inquiry work associated with the remit, in the allotted time.
12. **Our successor committee may wish to explore the possibility of meeting earlier in the parliamentary week or whether a more flexible approach to meeting while the Chamber is sitting can be achieved than having to suspend Standing Orders in each instance. This would maximise the time it has to hear from stakeholders on what is important to them, to conduct its legislative and inquiry work, whilst sustaining its focus on sharing best practice and mainstreaming equalities and a rights-based approach.**

Engagement with stakeholders

13. Our most successful work has been where we have been engagement led; both in prioritising the Committee’s work, through giving stakeholders the opportunity to explain to us what is important to them, and in identifying the voices to be heard.
14. Over the course of the session the Committee has used innovative ways to extend its reach to groups and individuals who would not normally engage with the Parliament, so their views can be heard and considered. By creating a positive experience and showing what can be done, the Committee hopes both a wider range of participants will be more likely to engage with the Parliament in the future on other topics of interest to them and that other bodies will extend their reach when engaging and consulting. Particular areas where this has been most evident are the Committee’s engagement work on the Bills relating to female genital mutilation and the United Nations Convention on the Rights of the Child.
15. On the Female Genital Mutilation (Protection and Guidance) (Scotland) Bill, the Committee worked alongside a group from Saheliya’s ‘Champions Project’ using digital storytelling to gather their views.
16. Digital storytelling can help people talk about a difficult issue with time to reflect and structure their thinking. This helps them put together their experience and views on the focus of the inquiry, bringing out valuable testimony and evidence. This was the first time this approach has been used by the Parliament to gather views.
17. Over four workshops a group of women, supported by Saheliya and the Scottish Parliament’s Committee Engagement Unit and Outreach Service, explored the Bill. The women shared their personal experiences and priorities and key messages about the Bill. Powerful individual and collective [digital stories](#) were created and this helped shape the context for the recommendations in the Committee’s [Stage 1 report](#).
18. We received some positive feedback from the women including—
 - ” I think it will help to encourage the women from our community to stand up & share their stories & voices
 - ” It is very useful to share thoughts with other people. The environment was so great, helpful and friendly
 - ” It is important to help increase awareness and get people to learn about issue
19. They also shared some thoughts on how the experience could be developed—
 - ” Provide interpreters if language is a barrier
 - ” Need to provide more background on the Bill. A clerk or SPICE person should attend, present and answer questions at beginning of process
20. More recently in relation to the UNCRC (Incorporation) (Scotland) Bill, the Committee has worked to gather views from a diverse range of children and young people in addition to our ‘regular’ call for views. These included young children

under 12 years, young people 12-18 years, young people who care for a relative, young refugees and asylum-seekers, young minority ethnic people, children and young people with additional support needs, children and young people who don't live with their parents, LGBTI young people, and young people who have experience of the youth justice system.

21. The Committee worked collaboratively with the Children's Parliament, Children in Scotland and Together Scotland (Scottish Alliance for Children's Rights) and the Committee's Outreach services, the Education team, Public Information Services, and the Gaelic team to develop resources to assist and encourage children and young people – those at the very heart of the Bill – to give their thoughts on what could be considered a technical Bill. These resources included:
 - Leaflet and Gaelic leaflet on how to submit your views
 - Easy read booklet on how to submit your views
 - Facilitators pack and Gaelic Facilitators guide for adults working with children and young people (including schools)
 - Additional PowerPoint presentation for schools
 - How to submit views in BSL video, accompanied by the video transcript.
22. These resources helped children and young people to respond to a dedicated call for views. This is the first time a Committee has used Citizen Space (an electronic consultation platform) where it has been specifically re-designed for children and to encourage responses in formats other than solely written responses. We received more than 50 responses, including reflective writing, drawings and stop motion videos. These were from children's organisations, apprentices, primary and high schools. What the Committee found particularly encouraging with this approach is that most of the responses (36) were from individual children, demonstrating the potential of a dedicated call for views.
23. **The Committee recommends that its successor committee maintains and builds on the collaborative and fully inclusive engagement approach established during this parliamentary session.**

Main recommendations

COVID-19

24. The Committee published its [report on the impact of the COVID-19 pandemic on equalities and human rights](#) on 2 March 2021. The report highlights a broad spectrum of issues and concerns around equality and human rights, protected characteristics and socio-economic disadvantage.
25. One of the key issues arising is the extent to which impact assessments by public bodies were carried out to ensure action taken to mitigate the pandemic did not compound the harm already being experienced by protected groups, people with disadvantaged backgrounds, or marginalised groups.

“ Everything we worked for, that has taken 25 years, could be lost in a year.

(UN Women Deputy Executive Director Anita Bhatia talking about the UN brief: [Whose Time to Care? - Unpaid Care and Domestic Work During COVID](#))

Source: The Scottish Parliament

26. For example, gendered concerns on policies such as unpaid care and childcare, women’s labour market participation, women’s use of public space and transport, and men’s violence against women were raised by Engender and their cumulative impact.ⁱ In relation to the protected characteristic of disability, specifically learning disability, the Scottish Commission for People with Learning Disabilities called for robust data collection to identify impact and inform policies to mitigate harm.ⁱⁱ Impact assessment is covered in more detail under ‘Public Sector Equality Duty’.
27. The report made a dozen recommendations on areas including (but not limited to): access to food and strengthening of the [guidance for local authorities](#) on the Food Fund; social care and the public inquiry into care homes, which should take a human rights-based approach; social isolation and a review of the Government’s “A

i Equalities and Human Rights Committee, [Report on the impact on the COVID-19 pandemic on equalities and human rights](#), published 2 March, SP Paper 966 1st Report. 2021 (Session 5), Part 2 Protected characteristics and people in vulnerable situations, Women, Equality Impact Assessments, paragraphs 294-296

ii Equalities and Human Rights Committee, [Report on the impact on the COVID-19 pandemic on equalities and human rights](#) , published 2 March, SP Paper 966 1st Report. 2021 (Session 5), Part 2 Protected characteristics and people in vulnerable situations, Disabilities and Long-Term Health Conditions, Learning disabilities, Need for disaggregated data, paragraphs 230-232

Connected Scotland” strategy; digital inclusion and a widening of the ‘vulnerability’ criteria on projects and funds designed to tackle digital exclusion; ensuring that the mental health recovery plan delivers increased availability of mental health support; and that the cumulative impact on groups including women, children and young people, and migrants, refugees and asylum seekers are properly assessed.

28. The Committee also sought further information on 16 areas of concern it believes is necessary to inform further scrutiny work.
29. These include – but again, are not limited to – support and treatment of black and minority ethnic people in line with the recommendations of the Expert Reference Group on COVID-19 and Ethnicity; ensuring inclusive communication is built into all national and local government frameworks; treatment of older people; embedding the needs of LGBT+ people into the mental health recovery plan; the monitoring of prison conditions and their compliance with human rights standards; actions to assist blind and partially sighted people with social distancing and access to supermarkets, and the collation of disaggregated data on the impact of the pandemic on people with learning disabilities.
30. Our successor committee should expect a response from the Scottish Government. The Committee has also written to COSLA about local authorities’ legal duties regarding adaptations for people with disabilities.
31. **The Committee considers our successor committee must prioritise these scrutiny areas with the Scottish Government as the country navigates its post-COVID-19 recovery. Close attention will be needed to ensure the issues, challenges and barriers, already faced by these groups, are not further exacerbated. They should be proactively addressed and resolved in partnership with these groups, so nobody is left behind.**

United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill

32. The UNCRC Bill as passed by the Parliament on [16 March 2021](#), will be commenced six months after Royal Assent. This Bill is a landmark Bill for Scotland, as the first country in the UK to incorporate the UNCRC. The legislation will make children and young people’s rights justiciable under Scots law.
33. One of the four guiding principles of the UNCRC is Respect for Children’s Views (Article 12). Article 12 was key to how the Committee approached its scrutiny of the Bill, ensuring that all children under the age of 18 had the opportunity to participate and have their views heard on legislation that directly affects them. The Committee set out to achieve a level of engagement with children and young people that could be replicated with other Bills and inquiries across all subject areas as a matter of course. The number and creativity of the responses as set out in paragraph 22 demonstrate how effective this level of engagement can be.
34. In addition to the co-production of resources referred to in the ‘engagement’ section of this report, the Committee undertook seven virtual engagement calls with a range of children and young people who would not ordinarily provide their views directly to

Parliament. The virtual outreach engagement calls were with the following organisations, all of whom ensured the relevant consent forms and safeguarding policies and procedures were in place prior to the calls—

Aberlour, Barnardo's Scotland, Carers Trust Scotland, Children and Young People's Centre for Justice, Children in Scotland, Children's Parliament, Intercultural Youth Scotland, Licketysplit, Scottish Commission for People with Learning Disabilities, Scottish Youth Parliament, Scottish Refugee Council, Scottish Throughcare and Aftercare Forum, Together (Scottish Alliance for Children's Rights), Who Cares? Scotland and Youthlink Scotland.



Ruth Maguire MSP, with her dog Rudi, attends a virtual meeting with The Children's Parliament and Licketysplit Theatre Company



Gillian Martin MSP dresses as a caterpillar for a virtual meeting with the Children's Parliament & Licketysplit Theatre Company

Source: The Scottish Parliament

35. Organisations hosted the meetings with Committee members, so the children and young people were able to have ownership and lead the sessions. The Committee thanks all of those organisations and, in particular, the children and young people who participated in these calls and is encouraged by the feedback received from the young people and staff—

” “I really enjoyed taking part and felt like my voice was heard....I thought having the Scottish Parliament scribes taking notes was really good and made the event not tokenistic as you knew that your voices and views were being noted down. Thank you again. (Young person who attended an engagement call)

” I was really impressed with the whole event. It ran really smoothly, and the activities were a great way to get young people feeding in to the consultation, having options to write things down instead of necessarily speaking was great in our breakout room... the interactive consultative activities were great. Having the MSPs rotate breakout room and listen worked well too, as sometimes there is the risk they speak a lot during consultations rather than listen, which wasn't the case. - (Member of supporting staff)

- ” Generally speaking, it was brilliant that elected members of a Parliamentary Committee were able to give priority to hearing the views of people during really challenging circumstances. That meant a lot to us all and showed that things can be done differently and with just as much impact. The members listened well and asked questions that made it clear they were thinking about how what they were hearing fit with the overall direction of the bill - (Member of supporting staff).
- ” It was a really fantastic event which I hope the Parliament looks to replicate in other areas of their work - (Member of supporting staff).
36. This was followed up with a [child-friendly](#) Stage 1 report for children and young people. Having shared their views it is important to show how these have been reflected in the Committee’s considerations and what will happen next with the inquiry or Bill. This inclusive approach, the Committee believes, is essential to children and young people accessing their rights.
37. The Committee considers children and young people’s views should be routinely considered by the Scottish Parliament and its committees across all policy areas, such as transport, health, culture, prisons and policing as they could potentially impact on them differently.
38. **We recommend our successor committee continues this approach across its inquiry and legislative work and liaises with other committees to share best practice, so their approach is compatible with the requirements of the UNCRC.**
39. Although the Scottish Parliament is not a listed public authority, the Committee believes the Parliament should seek to ensure it meets the standards as laid out in the legislation in relation to its operation and scrutiny practice. The Bill was amended at Stage 3 to require the Scottish Parliamentary Corporate Body to publish a report annually about the actions taken by the Parliament and its committees to secure better or further effect of the rights of children and any further planned actions for the year ahead.
40. The [Programme for Government 2020-21](#) stated that work with the National Taskforce on Human Rights Leadership (National Taskforce) would continue (further discussed under ‘Getting Rights Right’) with the aim of delivering—
- ” a radical blueprint for human rights legislation covering all areas of devolved responsibility. This will include how best to take forward our commitment to incorporate the UN Convention on the Elimination of All Forms of Discrimination against Women into domestic legislation. We will also actively consider the incorporation of the UN Convention on the Rights of Disabled People and the UN Convention on Racial Discrimination, working closely with key stakeholders in these sectors.ⁱⁱⁱ
41. It will therefore be important for the successor committee to monitor whether the UNCRC incorporation legislation is having the desired impact. Indeed, lessons

iii Protecting Scotland, Renewing Scotland, Scottish Government’s Programme for Government 2020-21, page 107

learned from incorporation of the UNCRC will be crucial, particularly if action is taken in the next parliamentary session to incorporate further international treaties.

Age of Criminal Responsibility (Scotland) Bill

42. On the importance of monitoring the Scottish Government's commitment to its international obligations, the Committee draws attention to the Age of Criminal Responsibility (Scotland) Bill scrutinised at [Stage 1](#) in 2018.
43. At 8, Scotland's age of criminal responsibility was the lowest in Europe. In England, Wales and Northern Ireland it was 10. The minimum age of prosecution was raised to 12 in 2011. Since then, children under 12 have had their cases heard in a children's hearing instead of a criminal court. The Bill, now an Act, means that no child under 12 can be referred to a children's hearing for committing a criminal offence, convicted of an offence, or receive a criminal record.
44. During the Bill's passage there was debate about increasing the age of criminal responsibility further. In response, the Minister for Children and Young People, Maree Todd, announced on 29 April 2019 that an [Advisory Group](#) would be established to review the operation of the Age of Criminal Responsibility (Scotland) Act 2019 and to consider potential future ages of criminal responsibility in Scotland. The Advisory Group has yet to report.
45. **In the next parliamentary session, the Committee recommends its successor Committee continues to monitor the progress of the Act's implementation and the outcomes of the Advisory Group.**

Destitution, asylum and insecure immigration status

46. In late 2016 the Scottish Refugee Council, the British Red Cross, Scottish Women's Aid, and the Office of the Children and Young People's Commissioner called for an urgent inquiry into the issue of destitution amongst asylum seekers and those with insecure immigration status in Scotland.
47. On 22 May 2017 the Committee published its inquiry report [Hidden Lives, New Beginnings: Destitution, Asylum and Insecure Immigration Status in Scotland](#). In this report we made various recommendations to the Scottish Government to address the serious issues we identified.
48. These included the creation of a dedicated Scottish anti-destitution strategy to inform a national approach to mitigating destitution amongst asylum seekers and people with insecure immigration status. The Scottish Parliament debated the findings and recommendations of our report on [30 May 2017](#). The Scottish Government responded to the Committee's report on [21 July 2017](#). It recognised that several of our recommendations required discussion and cooperation with the UK Home Office on reserved matters relating to the asylum and immigration system.

49. The Scottish Government committed to utilising the New Scots refugee integration strategy to seek a multi-agency approach to mitigating some of the negative impact identified in the Committee's report. Scottish Ministers also committed to examine what further support they can provide to asylum seekers and people of insecure immigration status who have No Recourse to Public Funds. For example, the Government is examining implementing its Equally Safe strategy, which tackles all forms of violence against women and girls, to support asylum seekers and people with insecure immigration status.
50. The Committee followed this work up with a roundtable evidence session on [14 June 2018](#) and, in [September 2019](#), considered an update on implementation of the recommendations in its Report and wrote to the Scottish Government and other stakeholders.
51. A further follow up evidence session with key stakeholders to assess progress on the implementation of the Committee's recommendations had been scheduled for March 2020. Unfortunately, this did not happen due to COVID-19. The Committee has, however, used opportunities within its COVID-19 inquiry and its 2021-22 budget scrutiny to continue to engage with the Scottish Government on support for asylum seekers and people with insecure immigration status in Scotland.
52. Furthermore, the Local Government and Communities Committee agreed to build on the work undertaken by this Committee and, in September 2020, wrote to the Scottish and UK Governments and other organisations on what support is being provided to help people who have No Recourse to Public Funds.
53. **The Committee recommends its successor committee continues to work with the Local Government and Communities' successor committee to follow up work in this area, particularly in light of the impact of the COVID-19 pandemic and Brexit in the next session.**

Getting Rights Right

54. At the start of Session 5, 'human rights' were added to the remit of the Committee. This gave the Committee a locus to look strategically at human rights within the Scottish Parliament. Additional factors were that the human rights landscape was changing, because of the UK leaving the EU, and the potential for a UK Bill of Rights which would supersede the Human Rights Act 1998.
55. The Committee undertook an inquiry, culminating in the report [Getting Rights Right: The Scottish Parliament and Human Rights](#). Subsequently, the Committee has increasingly taken a human rights approach to its work and encouraged other committees and public authorities to adopt a human rights lens when decision-making and undertaking their core activities.
56. The Scottish Government, Scotland's National Human Rights Institutions and third sector stakeholders have worked closely with the Committee on pin-pointing the key areas for development and have been hugely supportive to the Committee over the parliamentary session. Some of the recommendations made were long term goals that underpin the development of a wider culture of human rights, over multiple sessions. Though the Committee has already taken some good steps and seen the

plan progress, the Covid-19 pandemic has brought into sharper focus the need for a fully integrated human rights approach. The Annexe sets out the 40 recommendations made in the Report and the detailed progress made to date. Also highlighted are the Committee's recommendations to our successor committee to help prioritise and continue to drive forward progress over the next session.

57. The Committee wishes to emphasise a couple of areas which it believes should contribute substantially to progress in the next session.
58. On 29 September 2016, the Parliament added human rights as an additional matter to the Equalities and Human Rights Committee. An important step in the implementation plan was to secure a permanent change to the Committee's remit. The Standard Procedures and Public Appointments Committee published its report, [Standing Order Rule changes – Equalities and Human Rights Committee remit](#), on 2 March 2021, recommending the Committee's remit be permanently changed. The Parliament agreed motion [S5M-24374](#) on 17 March 2021. This change to Standing Orders will give the Committee, as a mandatory committee, an unequivocal mandate to mainstream human rights in the Parliament.
59. Also of significance, is the programme of workshops undertaken with support from the Scottish Human Rights Commission (SHRC). These aimed to increase Members' knowledge of the international human rights framework and associated standards, whilst also gathering information about the knowledge required to support Members as Parliamentarians and in their work as constituency MSPs. Unfortunately, the COVID-19 crisis impacted on the workshops' delivery timetable, though sufficient information was gathered to inform the SHRC's development of induction training for MSPs for session 6.
60. **As a priority, the Committee recommends that members of its successor committee receive in-depth training on human rights to enable them to continue to show leadership on human rights in the Parliament.**
61. The First Minister's Advisory Group on Human Rights Leadership was set up to make [recommendations](#) on how Scotland can lead by example in the field of human rights. It met for the first time on 17 January 2018 and reported on 10 December 2018.
62. Like the Committee, a key concern for the Advisory Group was what might happen to the human rights landscape after Brexit. The group used three guiding principles to develop their recommendations—
 - non-regression from the rights currently guaranteed by membership of the European Union
 - keeping pace with future rights developments within the European Union
 - continuing to demonstrate leadership in human rights.
63. Its principal recommendation was the creation of a new statutory human rights framework for Scotland. This would include—
 - civil and political rights, restated in abbreviated form from the Human Rights Act 1998

- economic, social and cultural rights, such as the right to adequate housing and the right to adequate food
 - an environmental right, right to a healthy environment
 - rights belonging to different groups, such as women, disabled people, older people and LGBT people.
64. This proposal would involve a new Act of the Scottish Parliament incorporating rights from UN and other human rights treaties into Scots law. The Advisory Group proposed that the Act could be legislated for at the start of the next term of the Parliament in 2021.
65. A [National Taskforce for Human Rights Leadership](#) was set up—
- ” to establish a statutory framework for human rights that can bring internationally recognised human rights into domestic law and protect the human rights of every member of Scottish Society.
66. The National Taskforce [reported](#) on 12 March 2021, setting out its recommendations and evidence base to the Scottish Government for establishing a statutory framework for human rights.
67. In evidence to the Committee, Shirley-Anne Somerville, the Cabinet Secretary for Social Security and Older People said—
- ” the Government has accepted 30 recommendations from the task force, including measures that will, for the first time, improve equality and human rights on an environmental, social, economic and cultural scale. The recommendations include bringing together those rights, which belong to everyone, in one place; incorporating and expanding on the UN treaties; and creating additional legislation to protect the rights of LGBTI people and older people. The recommendations from the task force build on previous ambitious human rights work, and they will help to underpin the new legislation and put Scotland firmly at the forefront of human rights leadership.^{iv}
68. **The Committee recommends its successor committee monitors developments, noting this is an area of priority that could involve the committee preparing for the introduction and scrutiny of framework legislation and the incorporation of international treaties.**
69. On human rights leadership, the Committee came together in December 2018 with the Scottish Human Rights Commission and the Scottish Government to hold an event, [Human Rights Take-Over!](#) The event was incredibly successful in bringing together key stakeholders to celebrate achievements and to map out future challenges.
70. **The successor committee may wish to hold a similar event during the next parliamentary session.**

iv Equalities and Human Rights Committee, 18 March 2018, Official Report, Col 3

Race Equality, Employment and Skills



Source: Equalities and Human Rights virtual committee meeting, Scottish Parliament

71. In its [Race Equality, Employment and Skills: Making Progress?](#) report, published on 15 November 2020, the Committee identifies areas in which it is concerned about the lack of progress being made by public authorities in response to the Scottish Government’s Race Equality Framework 2016 – 2030.
72. The Committee’s report followed up on work undertaken by its predecessor committee, as reflected in its [Removing Barriers: race, ethnicity and employment](#) report. Drawing on informal and formal meetings with minority ethnic communities organisations and stakeholders, a call for views and direct correspondence with and evidence from public authorities, the report highlights particular areas of concern—
 - Institutional racism
 - Racism and discrimination in the workplace (including reporting mechanisms and equality and diversity training)
 - Recruitment, retention and progression (particularly regarding the collection and analysis of data)
 - The ethnicity pay and employment gap
 - The limited use of positive action.
73. The Committee’s work was further informed by virtual engagement calls conducted by its Outreach Service with representative groups and third sector organisations including: Sikh Sanjog, Intercultural Youth Scotland, Radiant and Brighter Community Interest Company, YCSA (Youth Community Support Agency), West of Scotland Regional Equality Council (WESREC) and Central of Scotland Regional Equality Council, (CSREC).

74. Throughout its inquiry, the Committee heard of a lack of consistency with collecting and analysing data. It noted that, without disaggregated data, it is difficult for public authorities to meet their requirements under the Public Sector Equality Duty (including Scottish specific duties).
75. In its [response](#) to the Committee's report the Scottish Government acknowledged the lack of progress in this area. The Minister for Business, Fair Work and Skills said the Committee's recommendations will "drive the focus of a public sector leadership summit on race equality in employment" to be held in March 2021.
76. The Minister for Older People and Equalities responded on [23 December 2020](#) specifically to the Committee's request for an update on the review of the operation of the PSED (including the Scottish Specific Duties)
77. **The Committee recommends its successor committee follows up on the planned leadership summit and keeps a close eye on the ongoing PSED review, reinforced by consistent monitoring of the Scottish Government's progress on race equality in Scotland.**

Gypsy/Travellers

78. The Committee has taken a longstanding interest in the lives of Gypsy/Travellers in Scotland. The former Equal Opportunities Committee conducted two inquiries on Gypsy/Travellers in the previous session^v. This built on a previous inquiry by the Committee conducted ten years before.
79. The Scottish Government responded to both inquiries, and undertook a range of work relating to housing, social care and education in response to the work of the former Committee. However, a key outstanding area for action had been the development of a National Strategy for Gypsy/Travellers. Different Cabinet Ministers had told the Committee that a strategy would be published in 2015, 2016 and 2017.
80. In recognition of Human Rights Day 2017, the Equalities and Human Rights Committee held a session with the Gypsy/Traveller Community in Scotland ([7 December 2017](#)). The Committee heard that little had changed for Gypsy/Travellers since the two inquiries, and that in certain areas had got worse.
81. A Ministerial Working group was [announced](#) to determine priorities for action to make positive changes to the lives of Gypsy/Travellers. On 30 May 2019, the Committee considered the Scottish Government's draft action plan. The final [joint action plan](#) by the Scottish Government and the Convention of Scottish Local Authorities (COSLA) was published in October 2019.
82. **There is still more progress to be made, as such the Committee recommends its successor Committee keeps a focus on this area by monitoring the implementation of the Scottish Government and COSLA's action plan to ensure it impacts positively on the lives of Gypsy/Travellers in Scotland.**

^v Equal Opportunities Committee, [Gypsy/Travellers and Care \(2012\)](#) and [Where Gypsy/Travellers Live \(2013\)](#)

Other areas

Budget scrutiny

83. Equalities and human rights budget lines are relatively small as many funding initiatives across portfolios can contribute to achieving equality and human rights.
84. Like other committees with a cross-cutting subject area, such as climate change, it has been incredibly challenging to scrutinise the Scottish Government’s budget effectively to ensure funding is resulting in positive outcomes for the equality and human rights of people in Scotland. The Committee’s Report [Looking Ahead to the Scottish Government's Draft Budget 2018-19: Making the Most of Equalities and Human Rights Levers](#) built on the experience and work of its predecessor committees to create a scrutiny framework to make it easier to bring consistency to this activity. The Committee has identified 8 key themes to support its scrutiny and bring consistency to its activity:
- Progress on developing human rights budgeting
 - Improving equalities data
 - Mainstreaming of equalities in the budget (Equality and Fairer Scotland Budget Statement (EFSBS))
 - Role of the Equality Budget Advisory Group
 - The National Performance Framework and Outcomes
 - Public authority implementation of national priorities
 - Linking budget scrutiny to the Public-Sector Equality Duty
 - Allocation of resources.
85. By taking a clearly defined approach, and following up systematically on these individual themes, the Committee has made progress and had some success across the themes. Of particular note are the allocation of resources and the EFSBS. Specifically, the Committee secured an increase in the Scottish Budget from £24.6 million in 2019-20 to £30.2 million in 2020-21 for the Promoting Equality and Human Rights budget line. This was the first real terms increase in a decade.
86. In relation to the [EFSBS](#) the Committee notes the statement has been changed this year to meet the recommendation made in our 2021-22 Pre-budget scrutiny letter—
- ” A high-level analysis of the most significant 10-20 emerging risks of the deepest and most widespread equalities impacts (e.g. drawing on existing equalities assessments of Covid and Brexit), and a narrative to link that to specific decisions in the draft budget. This should include an assessment of where data is limited, and/or not disaggregated sufficiently.^{vi}

^{vi} Equalities and Human Rights Committee, [Pre-Budget letter to the Scottish Government](#), 29 October 2020, paragraph 27(b).

87. Further development and evaluation of this approach would be helpful in the coming session.
88. **The Committee recommends its successor committee seeks to continue and develop this approach, monitor its efficacy and the effectiveness of the changes made to the Equality and Fairer Scotland Budget Statement (including the user-friendly version introduced by the Scottish Government this year).**
89. The successor committee might also wish to consider working with those committees with cross-cutting subject areas to share learning.
90. As well as focussing on strategic themes, the Committee has undertaken themed inquiries related to budget scrutiny, for example [Universities and disability](#), and most recently [Valuing the Third Sector](#), which has been a topic of continued investigation.
91. General calls for views on pre-budget scrutiny have resulted in limited engagement. Although the Committee conducts year-round financial scrutiny through its work programme, there is scope to increase stakeholders' understanding and engagement with the budget process. The Committee has found that undertaking themed inquiries periodically has been a helpful way to not only engage stakeholders, but to continue their engagement in subsequent budget processes. This is something the successor committee may wish to continue.

Public Sector Equality Duty

92. The Minister for Older People and Equalities provided an update on the Public Sector Equality Duty (PSED) review on 23 December 2020 (and in [response to the Committee's pre-budget scrutiny](#) on 2 February 2021).
93. The Scottish Government will be progressing the review in two stages between now and summer 2021. The first stage will be the production of a report on the effectiveness of PSED in Scotland, learning from the experience of seeking to discharge the equality duty during the Covid-19 pandemic.
 - ” We have undertaken substantial engagement with stakeholder and equality networks throughout the pandemic, and we have therefore learned a great deal about the operation of PSED in these circumstances. This learning will shape interim findings and suggested next steps, which will underpin the second stage set out below. Work on this report is now underway and we intend to publish it in early spring 2021.
 - ” The second stage of the review, engaging with equality stakeholders to develop specific proposals, will form part of the development of the new strategy for embedding equality and human rights in the work of the government, as per the commitment made in September's Programme for Government.
94. In relation to the importance of the PSED and Covid-19, the Equality and Human Rights Commission said—

” Unsurprisingly, the pandemic has shone more of a light on existing inequalities than shown us new ones. It is important to think about the data gaps that we have seen. That is a fundamental problem that we have found specifically over this period. Not enough information is being gathered about people in Scotland generally and particular groups so that we can ground the equality impact assessments and decision making.^{vii}

95. **The Committee highlights the importance of the operation of the PSED, data collection and the need for robust impact assessments in tackling discrimination and improving equality outcomes. The Committee recommends its successor committee monitors progress in this area.**

Oversight bodies and equalities and human rights priorities

96. The former Equal Opportunities Committee would hold periodic evidence sessions with the Equality and Human Rights Commission (EHRC) in Scotland to update the Committee on its business plan.

97. When the subject matter of human rights was added to the remit of the Committee, it was agreed that the Committee would hold periodic evidence sessions with the Scottish Human Rights Commission (SHRC), as well as the EHRC. This allows the Committee to consider how the commissions function, ensure there is no duplication of work and that priorities are complementary. The Committee is also able to maintain a relationship with the two commissions as a ‘critical friend’.

98. The SHRC discussing human rights and the health pandemic said—

” In some respects, we are in exactly the kind of scenario that human rights were designed for. They were designed to enable people to weigh up the harms, to look at things from a responsible and legal perspective and to make decisions based on the law and on how human rights play out. Therefore, there is absolutely more to do, particularly when it comes to the engagement of people in vulnerable groups.^{viii}

99. In looking to future challenges, the SHRC considered the key areas are empowerment. Judith Robertson, Chair of the Commission said the “responsibility on duty bearers to give people information about their rights” and “when something goes wrong, they can access justice quickly, affordably and effectively and in a way that works for them. That is the biggest gap in Scotland, in my view”.^{ix}

100. Over and above these periodic sessions, the Committee has also worked closely with Scotland’s Commissioner for Children and Young People on the human rights of children and young people.

^{vii} Equalities and Human Rights Committee, 25 February 2021, Official Report, Col 7.

^{viii} Equalities and Human Rights Committee, 25 February 2021, Official Report, Col 24.

^{ix} Equalities and Human Rights Committee, 25 February 2021, Official Report, Col 27

101. Throughout the session, the Committee has also found it useful to have regular contact with Audit Scotland and the Auditor General for Scotland around its work programme and how this intersects with the Committee's work priorities. Audit Scotland reports are a valuable source of information for Committee.
102. Some valuable discussions have also taken place with the Scottish Public Services Ombudsman about taking a human rights approach to its work and working with public bodies on complaints processes.

Public Petitions

103. At its meeting on [14 January 2021](#), the Committee agreed to carry forward two public petitions for consideration by its successor committee. session 6—

PE1787 – The use of Makaton sign language in the legal system. *Calling on the Scottish Parliament to urge the Scottish Government to ensure that all parts of the legal system use Makaton sign language.*
104. The Committee noted how the issues raised in the petition, specifically around accessibility and inclusive communication, have come up during its work over the latter part of this parliamentary session.

PE1817 – End Conversion Therapy. *Calling on the Scottish Parliament to urge the Scottish Government to ban the provision or promotion of LGBT+ conversion therapy in Scotland.*
105. The Committee agreed the subject matter of this petition is of great importance and to highlight the need for this to be considered in the next parliamentary session, either through an inquiry or, if needed, a committee bill.
106. The Public Petitions Committee highlighted two further petitions which, while closed, identify issues which our successor committee might consider within its work programme.

PE1813: Reform the national curriculum to include all African Scottish history. *Calling on the Scottish Parliament to urge the Scottish Government to reform the national curriculum to include Afro-Scottish history including artefacts of African diaspora, cultural and economic contributions, the role of the British Empire and the benefits to Scotland from colonies of the Caribbean and Africa.*

PE1814: Compulsory education of Black, Asian, and minority ethnic history in Scottish schools. *Calling on the Scottish Parliament to urge the Scottish Government to embed Black, Asian, and minority ethnic (BAME) history into the school curriculum.*

Overall conclusion

107. Next parliamentary session is likely to be extremely challenging for the reasons the Committee has set out in this report. It will be crucial for all committees to prioritise equalities and human rights from the outset in their work – actively pursuing participation from those least likely to engage. The Committee wishes its successor committee well with its pivotal role in mainstreaming equalities, holding duty bearers to account, and ensuring the Scottish Parliament is an effective human rights guarantor.

Annexe - Getting Rights Right: Human Rights and the Scottish Parliament

108. The majority of the recommendations contained in the Getting Rights Report are aimed at how the Equalities and Human Rights Committee and the Scottish Parliament undertakes its work, as well as other committees' role in human rights considerations within the Parliament. Some recommendations also focused on the Scottish Government.
109. The Committee believed it was important to set timescales for actions to drive forward progress. On the whole actions have been progressed in some form, but the Committee recognises that resourcing, workload and the impact of COVID-19 on working practices, has had some impact on the timetable.
110. It is also worth noting that some actions have been rolled together to make them easier to address, while others have had to be paused to enable other actions to be taken that would then allow further progress to be made.

Equalities and Human Rights Committee and other Committees

Priority to Year 1 (2019)

Recommendation 2 (Para 48): UK's withdrawal from the European Union – Increase Scottish human rights 'voice' in the UK Parliament through Joint Committee on Human Rights and the Women and Equalities Committee at Westminster.

- Advised UK, Wales and Northern Ireland legislators of the publication of the Report
- The Committee met with the House of Lords, EU Justice Sub-Committee 21 May 2019 regarding rights after Brexit and the Committee's Getting Rights Right Report
- The Committee responded on [26 February 2021](#) to the UK Government's consultation on the Human Rights Act 1998
- The Committee has tried to organise informal meetings with its counterpart committees in the UK, but unfortunately due to work schedules this hasn't been possible. **Given the greater use of virtual meetings, the Committee recommends our successor committee aims to set up more regular contact going forward.**

Recommendation 5 (Para 86): Leadership in Human Rights - Receive a Scottish Government Annual Human Rights Report and scrutinise annually.

- The Committee received a written annual update from the Scottish Government on [25 April 2019](#) and held an evidence session on [18 March 2021](#) (supported by

written evidence on [22 February 2021](#) and [25 February 2021](#)). Unfortunately, the COVID-19 pandemic interrupted the Committee’s work programme during 2020.

Recommendation 39 (Para 347): Implementation - Create a detailed action plan to support the implementation of the Report recommendations.

- A detailed implementation plan has been created to guide and track, the Committee, Parliament and Parliamentary staff’s activity in this area. Information from this plan has been used to inform the Committee’s work programme papers. The Committee’s activities on human rights can found through its Annual Reports. This Annexe to the Committee’s legacy report fulfils its commitment to report more fully on progress before the end of the Parliament in 2021.

Years 1 – 3 (2019-2021)

Recommendation 4 (Para 77): Equalities and Human Rights Advocacy Support - Investigate the capacity and resourcing of civic society equalities and human rights advocacy.

- The Committee published its report [Looking ahead to the Scottish Government’s Draft Budget 2020-21: Valuing the Third Sector, 4th Report, 2019 \(Session 5\)](#). The Government responded on 6 February 2020. ([see Annexe B](#)). In pursuance of the Committee’s recommendations, the Committee revisited the topic in its most recent budget work, [Budget Scrutiny 2021-22](#) (para 119 to 131). The Committee also secured a debate on its work in this area, ‘Valuing the Third Sector’ which was held on [1 December 2020](#). The Scottish Government responded to third sector concerns on [27 October 2020](#) and on [2 February 2021](#).

Recommendation 12 (Para 129): International treaty monitoring - Develop a systematic approach to sharing with Committees international monitoring information, whilst waiting for creation of a database.

Recommendation 9 (Para 123): International treaty monitoring - Scrutiny of Universal Periodic Review by other Committees.

- The Committee’s clerking and research staff have had limited resources to undertake this for all committees, as such as an interim measure, SPICe has had discussions about further incorporating international treaties and convention rights into their work to support committees. Ten clerks and researchers attended the human rights workshops to develop their knowledge.

Recommendation 13 (Para 137): Scotland’s National Action Plan for Human Rights

- Hold an annual evidence session on Scotland's National Action Plan and Parliamentary debate and develop a Parliamentary engagement plan for Scotland's National Action Plan

- It is understood the Scottish Government is working with the Scottish Human Rights Commission on the SNAP 2 governance structure and that once this structure has been developed, full consideration would be given to appropriate resourcing.
- The next steps involve refining the 61 actions in light of COVID-19 and finalising the measurement framework, with a view to launching SNAP 2 in 2021. **Committee action has been on hold until SNAP 2 is available, this is an area the Committee recommends its successor committee should progress in the new session.**

Recommendation 15 (Para 165): Enforcement and remedies - Investigate strengthening powers of the Scottish Human Rights Commission (SHRC). Also, consider human rights and regulatory or inspection regimes.

- In relation to the Scottish Human Rights Commission, the UNCRC Incorporation Bill strengthened the powers of the SHRC in relation to children and young people.
- The National Taskforce recommends extending the powers of the SHRC:
Taskforce Recommendation 11: The Scottish Human Rights Commission (SHRC) should be given additional powers including taking test cases and conducting investigations and any further extended powers should be considered.
- **The Committee recommends the successor committee monitors the SHRC's powers in light of the National Taskforce for Human Rights Leadership recommendations.**
- Regarding other inspection and regulatory regimes, COVID-19 has shown this as an important area of consideration. The successor Committee could consider a series of smaller phased inquiries. The Committee has begun the process, over the course of other work, with the Scottish Public Services Ombudsman.

Recommendation 17 (Para 180): First Minister's Advisory Group - Engagement of Committees with Advisory Group recommendations.

- The National Taskforce reported on [12 March 2021](#).

Recommendation 18 (Para 190): Scottish Human Rights Commission - Strengthen Parliamentary relationship with Scotland's National Human Rights Institute – the Scottish Human Rights Commission.

- Covid-19 pandemic has really highlighted the importance of having the independent Scottish Human Rights Commission as a critical friend. The Committee is aware

that some committees have taken evidence from the SHRC in response to their monitoring reports. The main legacy report sets out how the Committee has strengthened its relationship with the SHRC.

Recommendation 19 (Para 205): Equalities and Human Rights Committee - Integrate approach to equalities and human rights in the Parliament and Scotland.

- Work is ongoing around an integrated impact assessment tool to assist Parliamentary staff in identifying equalities and human rights aspects of their work and to support committees' scrutiny work.
- Also importantly, to demonstrate the progress made and further work required, the Committee agreed to highlight its legacy report to the Presiding Officer and Chief Executive.

Recommendation 22 (Para 215): Equalities and Human Rights Committee - Produce guidance to embed and support human rights in the work of the Parliament and its Committees.

- This aspect is ongoing and relies on progress being made with integrated impact assessment and guidance will reflect advances made in the overall implementation plan.
- The aim is to review guidance for committees during the campaign and summer recesses 2021.

Recommendation 30 (Para 282): Systematic Legislative Scrutiny - Consideration of outstanding subordinate legislation/delegated powers to be brought into force to make rights more effective.

- This is a discreet, but possibly substantial area of work that the Committee does not have resources to undertake currently. The work could be progressed through a research project. **The Committee suggests our successor committee could commission this research to be undertaken in conjunction with the Delegated Powers and Law Reform Committee.**

Recommendation 31 (Para 290): Post-Legislative Scrutiny - Identify Acts with significant human rights impact to prioritise post-legislative scrutiny. Develop guidance with the Public Audit and Post-Legislative Scrutiny Committee for Committees when conducting such post-legislative human rights scrutiny.

- Identification of Acts with significant human rights impact to prioritise post-legislative scrutiny requires a discreet piece of work to be undertaken. **The Committee suggests its successor committee could commission research in the early**

part of session 6 to inform its work programme. Research outcomes while being relevant to the Committee and any Post-Legislative Scrutiny Committee, will also prove use to relevant subject committees to help inform and prioritise their work programme.

- It is hoped the integrated impact assessment tool and associated guidance will be useful for undertaking post-legislative scrutiny. This recommendation is also linked to Recommendation 22.

Recommendation 32 (Para 315): A Human Rights-Based Approach to Scrutiny - Develop an approach to scrutiny.

- This is an area which the Committee has been progressing during this session as can be seen for the Committee's legacy report. Particular areas identified as requiring further work are gathering children's views across wider policy areas not just education, child protection and youth justice. Further efforts are also required to reach the most marginalised groups to hear their views more routinely. This recommendation is also linked to Recommendation 22.

Recommendation 35 (Para 335): Building capacity - Develop and deliver tailored induction and career training on human rights for members and staff who support committees.

Recommendation 37 (Para 344): Building capacity – For committees to identify a committee Human Rights Champion.

Recommendation 38 (Para 346): Building capacity - Review operation of Human Rights Champions approach after one year.

- Recommendations 37 and 38 are closely linked to the induction training for new and existing members on human rights to be delivered in Session 6 as set out in recommendation 35. Members of the Equalities and Human Rights Committee agreed to be human rights Champions on the other committees they served on. It was hoped other Members that undertook workshops delivered in 2020 would have gone on to become human rights Champions on their respective committee, however, this was cut short by the COVID-19 pandemic. **The Committee recommends the successor committee re-establishes the human rights Champion approach (recommendation 37) once session 6 human rights induction training has been delivered (recommendation 35) and follows up on its operational effectiveness in accordance with recommendation 38.**

Recommendation 39 (Para 347): Implementation - Review operation of the Action Plan annually and report more fully on progress before the end of the Parliament in 2021.

- Human rights updates have been provided in Annual Reports for [2018-2019](#),

[2019-2020](#) and [2020-2021](#).

- This legacy report contains a fuller update of progress made on the implementation of the Action Plan.

Years 3 – 6 (2021 to 2024)

Recommendation 10 (Para 124): **International treaty monitoring** - Hold Parliamentary debate once per UPR cycle.

- The Third Universal Periodic Review is 2017-2022. Many of the recommendations in the report are linked to international treaty monitoring, which includes the UPR cycle and concluding observations.
- The OHCHR has made available the calendar of reviews of the UPR 4th cycle, which will officially start in October/November 2022, and will finish in January/February 2027. In the upcoming cycle, States will be reviewed in the same order as in the 3rd cycle. The calendar of the 4th cycle is available [here](#).
- **The Committee recommends its successor committee considers the appropriate timing of the debate within the cycle, including taking account of:**
 - **time for the Parliamentary training to embed**
 - **dissemination of relevant concluding observations to committees**
 - **progress of an international treaty monitoring database, and**
 - **and how this intersects with the proposal for a SNAP parliamentary debate.**

Ongoing or when available to progress

Recommendation 3 (Para 61): **Budgetary matters** – Develop scrutiny of human rights through the Scottish Budget Process.

- Convener/Clerks/SPICe attending Human Right Budget master class in February 2018.
- Held an informal tripartite meeting between the Committee, the Scottish Human Rights Commission and the Scottish Government to consider human rights budgeting in April 2019
- Scrutinised the human rights budgeting aspects of the Scottish Budget for [2019-20](#),

[2020-21](#) and [2021-22](#). Refer to budget consideration in the main legacy report.

Recommendation 6 (Para 90): Leadership in Human Rights - Develop the human rights 'voice' of the Committee.

- As can be seen from the Committee's annual reports and its 2021 legacy report, the Committee has taken every opportunity to develop its human rights voice, with human rights now being a central feature across its work. A couple of specific instances not covered elsewhere in the report are:
 - Convener's question at the First Minister's Conveners Group evidence session on [8 May 2019 \(Cols 10-11\)](#)
 - The Committee's contribution to Finance and Constitution Committee's Debate on the Parliament's Evolving Scrutiny Function - Brexit on [Tuesday 8 December 2020 \(Cols 75-77\)](#)

Recommendation 7 (Para 121): International treaty monitoring - Engage with treaty bodies and UN Human Rights Council

- Committee met with the UN Special Rapporteur on extreme poverty and human rights on 8 November 2018
- Committee met with the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on 8 May 2018
- [Correspondence](#) on 28 June 2019 concerning UN treaty body system and its consideration of the Convention on the Elimination of Discrimination Against Women and Minister for Older People and Equalities [response](#).

Recommendation 16 (Para 177): First Minister's Advisory Group - Scrutinise method of incorporation of UNCRC.

- The Committee considered the UNCRC Incorporation Bill in 2020-21, see UNCRC Incorporation Bill section of the legacy report.

Recommendation 20 (Para 212): Equalities and Human Rights Committee - Provide human rights leadership in the Parliament, through a 'road map' for progress.

- The Committee set out its 'road map' in its report, as attached at the end of this Annexe. This provides a simplified action plan for the main institutions which is progressed through the implementation of detailed recommendations as set out here and through the Committee's work programme decisions.

Recommendation 36 (Para 336): **Building capacity** - Committee commissioning of tailored training remit relevant human rights training to assist them with their work programme.

- At the beginning of session 6, committees could commission a paper for Business Planning days setting out human rights issues within their remit. This could then inform an early evidence on human rights to set the tone of scrutiny. **The Committee recommends its successor Committee, supported by Clerks and SPICe, brings this suggestion to the attention of other committees to inform their preparation work for Business Planning days.**

The Scottish Parliament

Years 1 – 3 (2019-2021)

Recommendation 29 (Para 274): **Systematic Legislative Scrutiny** - Pilot systematic human rights scrutiny of Government Bills requiring a dedicated legal adviser, who would also support our international work.

- In the next session consideration should be given to appointing a standing adviser to assist the Committee to undertake triage and then report to the Committee. The Committee could then decide whether to draw to other Committees attention or whether it raises a systemic issue which the Committee should pursue as part of its remit. **The Committee recommends its successor Committee should consider whether to appoint a standing adviser in light of the National Taskforce on Human Rights Leadership Report and what that role would entail.**

Recommendation 21 (Para 214): **Equalities and Human Rights Committee** - Amend Standing Orders to make the Equalities and Human Rights Committee a mandatory Committee of the Parliament.

- Refer to the Committee's main legacy report.

Recommendation 23 (Para 227): **Legislative competence** - Expand, as possible, the Presiding Officer's statement of legislative competence to inform debate on human rights.

- The Committee wrote to the Presiding Officer on [31 January 2019](#).

Recommendation 33 (Para 325): **A Human Rights-Based Approach to Scrutiny** - Undertake an investigation to ensure younger children's voices, and children's voices in general, are heard by the Parliament across subject areas and that they are engaged

appropriately with the work of MSPs and the Parliament more broadly.

- Refer to the Committee's recommendation in the main legacy report on the UNCRC (Incorporation) (Scotland) Bill

Years 3 – 6 (2021 to 2024)

Recommendation 34 (Para 328): A Human Rights-Based Approach to Scrutiny - Develop a monitoring mechanism to measure the effectiveness of the Parliament's human rights participation work to inform future action and to encourage a plurality of views, including those of marginalised groups.

- This is likely to require a working group to establish current work and identify whether any changes are needed.

Ongoing

Recommendation 40 (Para 351): Resourcing - Resource initiatives, e.g. work with the international human rights system, legal support to systematise scrutiny of human rights until the end of this parliamentary session, and the development and delivery of human rights induction and career training.

- See main legacy report, progress on Getting Rights Right implementation plan and related recommendations.

Scottish Government

Years 1 – 3 (2019-2021)

Recommendation 1 (Para 49): UK and EU human rights protections post-Brexit - Establish a mechanism for monitoring relevant developments, reporting relevant progressive developments in EU rights protection to the Parliament and identifying divergences between EU law and UK law in the field of human rights.

- This is set out in the introduction of the National Taskforce report as one of the three broad aims of the human rights framework to keep pace with developments:
 - reaffirming the civil and political rights contained within the Human Rights Act, which gives domestic effect to the European Convention on Human Rights;
 - keeping pace through monitoring and adapting future progressive rights

developments within the EU, the Council of Europe and the broader international human rights framework; and

- demonstrating leadership through not only incorporating but also effectively implementing the full range of economic, social, cultural and environmental rights and specific rights for specific groups from UN human rights treaties.

Recommendation 11 (Para 128): International treaty monitoring - Create a Scottish mechanism for implementation, reporting and follow up, modelled on the NMIRFs recommended by the UN.

- This is set out in recommendation 30 by the National Taskforce:

Taskforce Recommendation 30: Further consideration should be given to the development and strengthening of effective monitoring and reporting mechanisms at all levels and duties at both national and public authority levels, recognising that this will be important to secure better compliance with the framework. It should include consideration of a National Mechanism for Monitoring, Reporting and Implementation, as recommended by the First Minister’s Advisory Group on Human Rights Leadership.

Recommendation 12 (Para 129): International treaty monitoring database - To develop a publicly accessible international treaty monitoring database system for Scotland, including by providing the necessary resources for the creation of such a database.

- This recommendation has been supported at official level, between the Scottish Parliament, Scottish Government and the Scottish Human Rights Committee. However, it requires leadership and focused resources to maintain the database. It is also unclear who would manage the database. However, there are benefits in developing the database. It allows all users – public authorities, stakeholders, the public, to access treaties and to see if they have been incorporated, to see what concluding observations have been made and how the state has responded. The EHRC has a [human rights tracker for the UK and Welsh Government](#).
- Members of the Committee saw a similar human rights tracker that has been developed for [New Zealand’s National Plan of Action](#). It is a simple webtool that allows users to track their Government’s progress implementing recommendations from the Universal Periodic Review (UPR) in real-time and gives people the opportunity to understand and examine human rights progress.

Recommendation 16 (Para 177): First Minister’s Advisory Group - Identify timescale for incorporation of the United Nations Convention on the Rights of the Child (UNCRC).

- The UNCRC incorporation Bill was passed by the Parliament on 16 March 2021, see main legacy report for related recommendations.

Recommendation 8 (Para 122): International treaty monitoring – The Scottish Government to provide a timetable for implementation Universal Periodic Review actions and within 2 years to add to its timetable its plans for responding to the relevant recommendations of all other UN Treaty bodies and Special Rapporteurs.

- The Universal Periodic Review (UPR) is a peer review process conducted by the UN Human Rights Council to assess the human rights situation in every UN Member State. The UPR assesses how states are putting human rights into practice, looking at their human rights obligations as set out in:
 - the [UN Charter](#)
 - the [Universal Declaration of Human Rights](#)
 - the [international human rights treaties](#) each state has signed up to voluntary commitments, such as national human rights policies
 - relevant international humanitarian law (which regulates the conduct of war)
- The UN Human Rights Council last assessed the UK and published its 227 [recommendations](#) for the UK in May 2017. The [EHRC website](#) provides background information on the UPR process and its response to the UPR regarding the UK's report.

The Scottish Government [responded to the UPR](#) on 8 December 2017, and submitted an [update on five thematic areas](#) on 21 January 2019. It lists actions in these five thematic areas:

- Domestic human rights framework – the proposed new Human Rights Framework
 - Violence against women and girls – e.g. the, Domestic Abuse (Scotland) Act 2018 which creates a new specific offence of domestic abuse, which provides that it is an offence for a person to engage in a course of behaviour that is abusive of their partner.
 - Tackling racial discrimination – refers to the Race Equality Action Plan
 - Access to justice – refers to the independent review of legal aid
 - Human trafficking and slavery - refers to the first convictions under the Human Trafficking and Exploitation (Scotland) Act 2015.
- The Scottish Government's submission to the Committee ([22 February 2021](#)) states that the next UPR examination is expected to take place in Geneva in October 2022. The letter notes that it is a belated update; there was no update in 2020.

” As you know, the events of the last year have resulted in significant disruption to planned activity of this kind. That has been the case both internally, within Scotland, and in relation to processes at the international level. I am therefore now providing the Committee with a belated update covering the period since April 2019.

- It has provided a full list of activity since April 2019 and has highlighted the contacts

since March 2020.

Recommendation 14 (Para 142): Third sector UN rights treaty monitoring - Resource civic society to improve engagement with the United Nations and develop an approach to up-skill civic society around engagement in UN treaty monitoring.

- The Committee pursued this recommendation as part of its [Budget Scrutiny 2020-21](#) (para 148) and in its [Budget Scrutiny 2021-22](#) (para 48). The Scottish Government, in its most recent response of 2 February 2022 ([Annexe](#)), said “We will explore the options to expand support to organisations in this area through our new Supporting Equality & Human Rights Fund”.
- Recommendation 20 made by the National Taskforce focuses on the policy objective of capacity building of rights-holders to know and to be able to use their rights:

Taskforce Recommendation 20: The Scottish Government, working with civil society, community-based stakeholders and public authorities, should develop effective ways to make sure that people have the information that they need about their rights and easy access to advice on rights.

Recommendation 24 (Para 244): Availability of human rights information - Provide a ‘Human Rights Memorandum’ to increase engagement of stakeholders with human rights issues.

Recommendation 25 (Para 245): Availability of human rights information - ‘Human Rights Memorandum’ should include compatibility with relevant human rights obligations (including UN treaties obligations) as well as ECHR, and opportunities to advance human rights, as well as its assessment of the Bill’s impact on those rights.

- The Scottish Government responded “The extent to which issues of substance arise in relation to a specific legislative proposal is of course highly context-dependent. In some instances these issues may be of considerable prominence. In others they could be very limited in scope. For that reason the Scottish Government’s inclination would be to build on the existing work which is being done to enhance the human rights content of the Policy Memorandum accompanying every bill.”
- **The Committee recommends its successor committee continues to monitor the quality of human rights information included in policy memorandums.**

Years 3 – 6 (2021 to 2024) and *Years 6-9 (2024 to 2027)

Recommendation 26 (Para 256): Legislative and Policy Impact Assessments -

Develop and agree a template for an ‘impact and opportunity assessment’. (With the Scottish Human Rights Commission and the Equalities and Human Rights Commission).

Recommendation 27 (Para 257): Legislative and Policy Impact Assessments - Improve pre-legislative consultations to encourage stakeholder discussion of human rights issues.

Recommendation 28* (Para 266): Legislative and Policy Impact Assessments - Identify and report on what measures need to be taken to enable joint Equalities and Human Rights Impact Assessments. Consider training requirements to carry out joint Equalities and Human Rights Assessments.

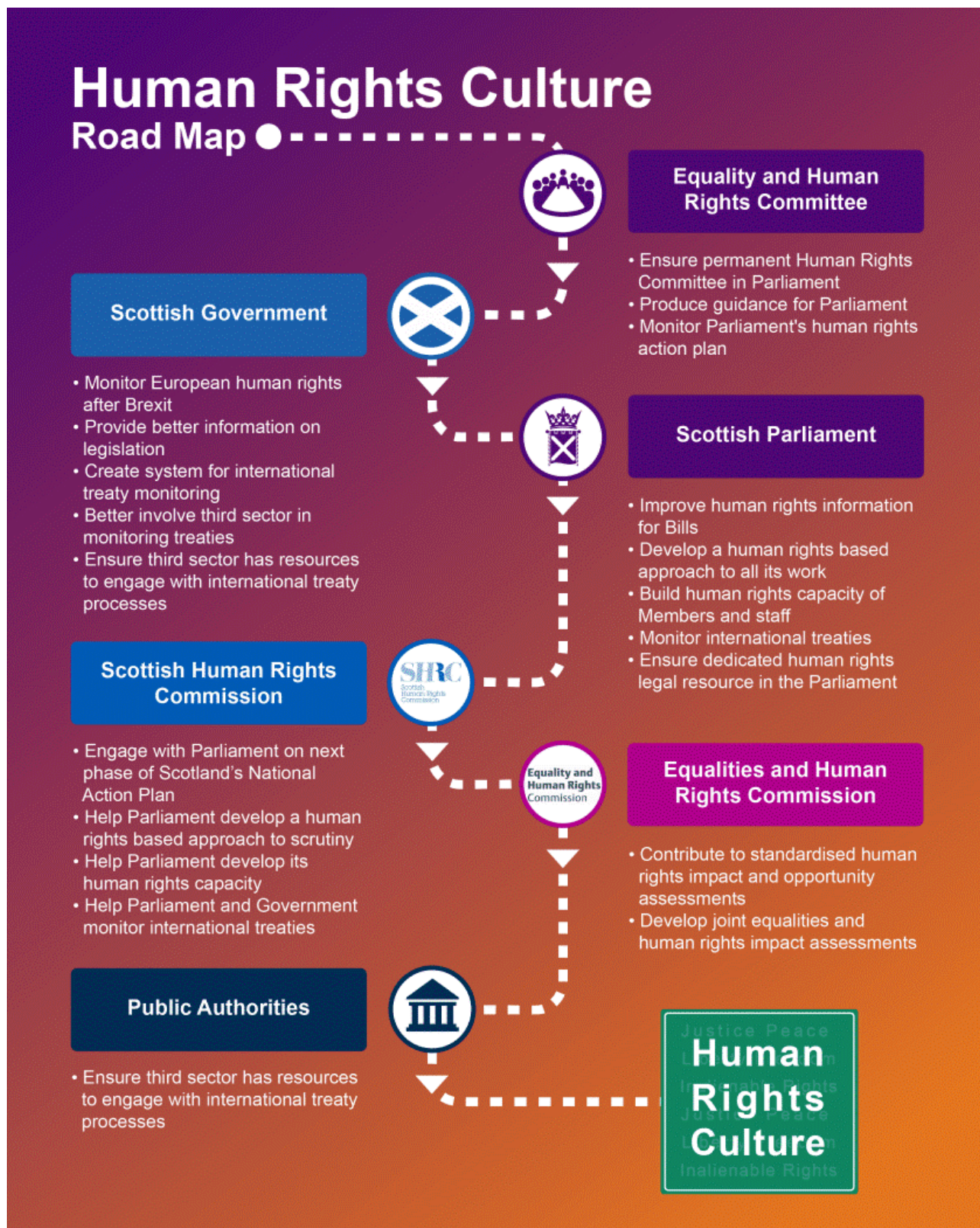
- In the Scottish Government’s response to the Committee’s report, it said: “These recommendations enjoy the in-principle support of the Scottish Government and are consistent with our long-established commitment to embedding all aspects of human rights and equality at the heart of the policy development and legislative processes.”
- The Taskforce made the following recommendation, which may address recommendation 27:

Taskforce Recommendation 14: Pre-legislative assessment to be included in the framework – which could include a requirement to certify that any proposed Bill complies with the rights contained within the framework and demonstrate where the proposed Bill contributes to the advancement of such rights.

- In terms of implementation, the Taskforce report states:

” These next steps are likely to include a pre-legislative consultation process, preparation of legislation and policy and explanatory memoranda, the parliamentary legislative process and a public participatory process, development of statutory and non-statutory guidance, capacity-building and development of training and good practice.

Human Rights Culture: Roadmap



Source: Scottish Parliament

