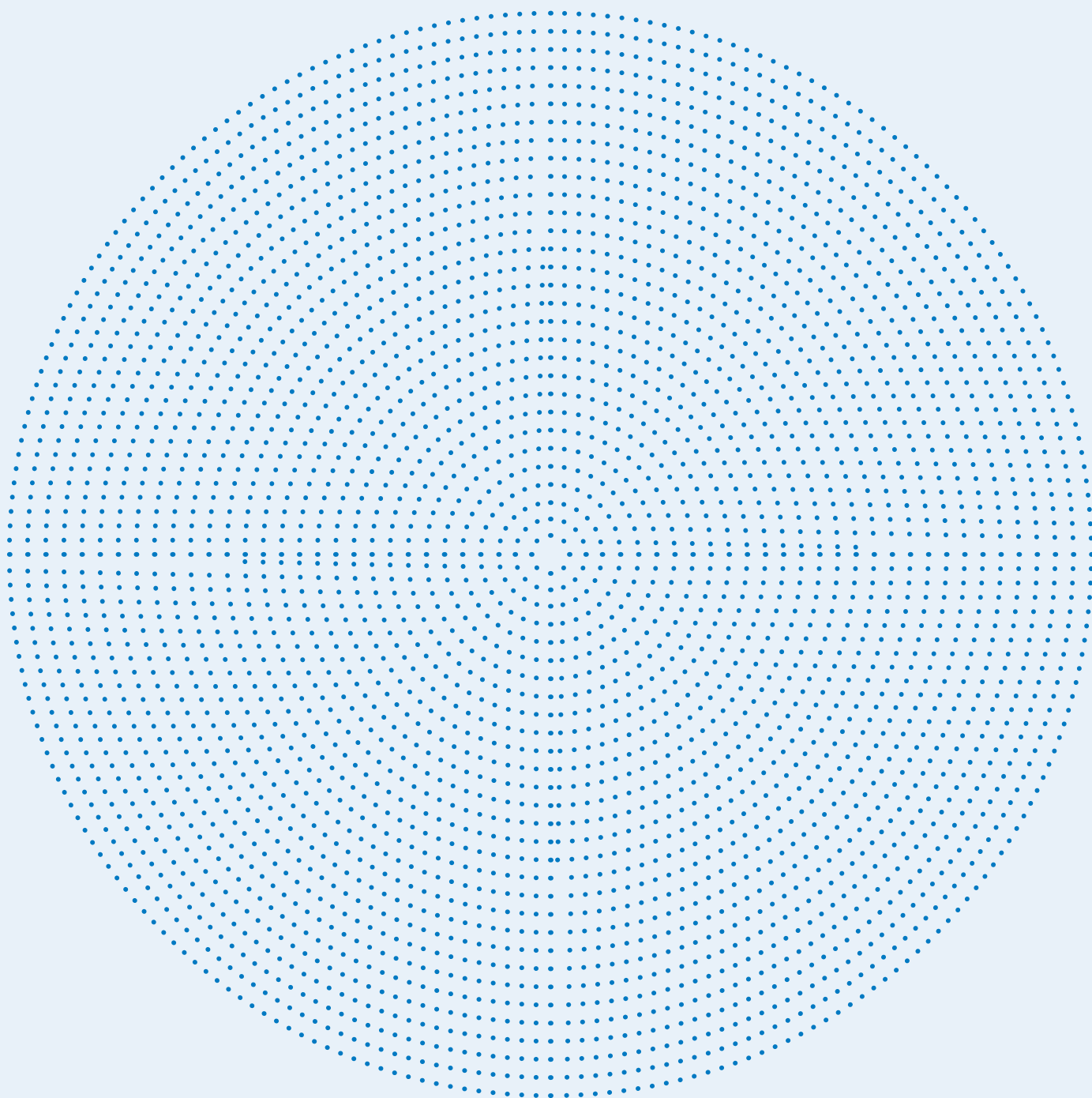

Annual Report 2012/2013

SHRC

Scottish
Human Rights
Commission



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The 30 rings of light on the cover represent the 30 Articles of the Universal Declaration of Human Rights which was adopted by the United Nations on 10 December 1948. International Human Rights Day is celebrated on 10 December each year.

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About the Commission

The Commission is an independent body established by the Scottish Parliament in 2008 to promote and protect the human rights of everyone in Scotland. The functions of the Commission are set out in the Scottish Commission for Human Rights Act 2006 (the Act). Under the Act the Commission has a general duty to promote awareness, understanding and respect for all human rights – economic, social, cultural, civil and political – to everyone, everywhere in Scotland, and to encourage best practice in relation to human rights. The Commission fulfils this duty through recommending changes to Scottish law, policy and practice as necessary, awareness raising, carrying out research, and providing guidance.

Under its powers the Commission can conduct inquiries into the policies or practices of Scottish public authorities, enter some places of detention, and can intervene in civil court cases where relevant to the promotion of human rights and where the case appears to raise a matter of public interest.

The Commission is under a duty to ensure it is not duplicating work that others already carry out. An inclusive approach has been adopted so that the expertise and interests of all stakeholders are taken into account and utilised wherever possible in delivering strategic priorities. The Commission promotes and protects the human rights guaranteed by the European Convention on Human Rights, which form part of the law of Scotland through the Human Rights Act 1998 and the Scotland Act 1998, as well as other human rights which are guaranteed by international conventions ratified by the UK. The Commission works to a set of five Strategic Priorities in a Strategic Plan (2012–2016) to ensure it meets its mandate, is accountable, and achieves business excellence.

The Commission also has an international role as the National Human Rights Institution (NHRI) for Scotland. NHRIs are independent organisations, established by law, to promote and protect human rights. The Commission is one of over 100 NHRIs around the world, and one of three in the UK, alongside the Northern Ireland Human Rights Commission and the Equality and Human Rights Commission. When establishing the Commission, the Scottish Parliament took care to comply with the Principles Relating to the Status of National Institutions, known as the Paris Principles. These are a series of recommendations on the role, status and functions of national human rights institutions adopted by the UN General Assembly in 1993. The Paris Principles enable the Commission to represent Scotland within the UN human rights system and are a key reference for the Commission. In June 2010 the Commission achieved Grade 'A status' as a NHRI, the highest level of accreditation from the United Nations (UN).

Since 2011 the Commission has been Chair of the European Network of 40 NHRIs.

Introduction from the Commission

We welcome you to this Annual Report of the Scottish Human Rights Commission (the Commission).

This report offers an overview on some of the past year's key activities in implementing the Strategic Priorities of the Commission. These priorities reflect the legislative mandate from the Scottish Parliament which emphasises the role of SHRC in promoting best practice in the application of human rights in cooperation with and seeking to influence others. The Commission's primary focus has been to effectively contribute to the building of a sustainable human rights culture.

A key activity of 2012/13 saw the Commission significantly increase engagement with a broader range of public, private and voluntary bodies through the development of Scotland's first National Action Plan for Human Rights (SNAP). SNAP represents an unprecedented opportunity to better integrate human rights in the way we do things in Scotland. In leading the development of SNAP the Commission has been guided by international experience and best practice which demonstrates that National Action Plans for Human Rights must be evidence-based, inclusively developed and independently monitored.

In October 2012 the Commission published *Getting It Right? Human Rights in Scotland*, the product of three years of research mapping the realisation of internationally recognised human rights in Scotland. The evidence in this report has been greatly enriched over a five month participation period in which hundreds of individuals and organisations gave their views on priorities and steps they felt should be taken to progressively realise human rights for all in Scotland.

The Commission is now bringing together, in an inclusive way, individuals drawn from civic society, public authorities and Scottish and UK governments to produce a draft for public consultation. This will then be further developed before SNAP is launched on International Human Rights Day, 10 December 2013. SNAP's implementation will be independently monitored by SHRC and others so as to ensure accountability and transparency. This process is being closely followed internationally in the hope that it may provide learning for other countries and we encourage you to engage with it.

Another key activity has been promoting the use of a human rights based approach. Building on the success of its *Care about Rights* project, the Commission has continued to promote the practical application of such an approach in relevant areas as, for example, health and social care. Over the past year this approach has gained increasing support as evidenced through the integration of human rights in Health Inequality and Human Rights Impact Assessments promoted by NHS Health Scotland, the Scottish Government's Mental Health Strategy 2012–2015 as well as the Health and Social Care Alliance's publication of *Being Human: A Human Rights Based Approach to Health and Social Care*.

Other activities include facilitating the participation for the first time of all relevant actors to develop an Action Plan for achieving justice and remedies for victims/survivors of historic child abuse, and launching an inclusive process to develop and pilot best practice in integrated equality and human rights impact assessment. The Commission also drew attention to the devolutionary implications of a proposed UK Bill of Rights, influencing the UK Commission of Inquiry to conclude that no further steps be taken pending the



outcome of the Scottish referendum on independence. Internationally the Commission strengthened the European Network of National Human Rights Institutions (ENNHRI) by supporting it in establishing an office in Brussels and establishing the Secretariat during the Commission's first term as its elected Chair, as well as influencing Scotland's commitment to championing climate justice at home and abroad.

Whilst it was pleasing to have the work of the Commission positively acknowledged across the chamber in the Scottish Parliament's debate on human rights in February 2013 there are very significant challenges to be faced in promoting and protecting human rights in Scotland and the Commission, along with others, will need to rise to meet these challenges. For example, austerity and the impact of the UK Welfare Reform Act are hitting home for many of the most vulnerable in our communities. The human rights to social security, an adequate standard of living, adequate housing and to the highest attainable standard of health need to be protected.

This is also a time when the future of Scotland is being debated and will be determined in the pending referendum. The Commission does not advocate any particular outcome but the promotion and protection of human rights must be at the heart of any future Scotland, both in its vision and in reality. The Commission is determined to play its part to uphold the human rights of all in Scotland and looks forward to continuing to work with you to make this happen.

Professor Alan Miller, Chair
Professor Kay Hampton, Commissioner
Shelagh McCall, Commissioner
Matt Smith OBE, Commissioner

Chapter One

Empowering People to Realise their Rights Through Promoting Greater Awareness and Respect for Human Rights

Developing and promoting Scotland's National Action Plan for Human Rights (SNAP)

From April 2012 to October 2012 the Commission finalised research on the realisation of internationally recognised human rights in Scotland. The resulting report, *Getting it Right?*, was developed by the Commission with support and peer review by a Research Advisory Group and a range of external experts in specific areas of research and practice. It is based on reviews of legal literature on Scots law in comparison to various international human rights treaties, reviews of non-legal literature, the outcomes of the Commission's initial national consultation conducted in 2009, a synthesis of individual enquiries received by the Commission and a range of focus groups and in depth interviews. The report looked at the gaps and good practices for human rights in Scotland's legal, political, economic, social, technological and environmental contexts and across eight broad areas of life:

1. Dignity and care
2. Health
3. Where we live
4. Education and work
5. Private and family life
6. Safety and security
7. Living in detention
8. Access to justice and the right to an effective remedy

The key findings in *Getting it Right?* show that while Scotland has a relatively strong legal and institutional framework for human rights, and some examples of positive strategy and policy direction, too often the actual outcomes for people are inconsistent. Some of the specific issues highlighted in the research include the right to adequate housing, fair pay, fuel poverty, availability of services in rural areas, policing, the rights of victims of crime, non-discrimination in healthcare, and the rights of disabled people, Scottish Gypsy/ Travellers and asylum seekers in Scotland.



Steps to make human rights real	What does the scoping project overview suggest?	Progress largely on track partially on track largely off track
Structural steps (laws and institutions)	A range of human rights based laws. National Human Rights Institution with 'A status' Other institutions increasingly taking a rights based approach	
Process steps (strategies and policies)	Some rights based strategies and policies in some thematic areas but no overarching human rights action plan	
Outcomes (practice, results for people affected)	Reports of divergent practice even in areas with human rights based laws and strategies.	

Scotland therefore needs a more systematic approach to assure and not assume the realisation of human rights in practice. *Getting it Right?* was published and widely promoted in October 2012, and received significant and positive feedback from Scottish and international civil society, the Scottish Government and parliamentarians, international organisations and individuals.

A National Action Plan for Human Rights is a roadmap for the progressive realisation of human rights. It provides a clear, coherent and systematic way of addressing gaps and replicating good practices. It is recommended by the United Nations, Council of Europe and other human rights bodies and international guidance recommends that a National Action Plan for Human Rights should be evidence based, developed in an inclusive way and independently monitored.

Experience from Nordic and Commonwealth countries among others shows the potential of this approach to deliver real and sustainable improvements in the realisation of human rights for all, particularly the most marginalised and vulnerable people in society.

Developing a National Action Plan for Human Rights

The Commission, as the NHRI for Scotland, has led the process of developing Scotland's National Action Plan for Human Rights. This interactive process ensured that the views and experiences of all of those in society whose rights and responsibilities are engaged were heard and acknowledged. The Commission constructed a wide range of opportunities for the active participation of civil society organisations, the public, private and voluntary sectors and experts. The Commission invested capacity in ensuring that the voices of the most marginalised people in society were heard.



There were four main sources of participation and interaction during 2012/2013:

Advisory Council

The Advisory Council is made up of individuals who have significant experience of the application of human rights, drawn from across Scottish civic life. The Council first met in November 2012, and will meet again throughout 2013. Members provide advice to the Commission on the development of SNAP. In the list of Members below institutional affiliations are provided for the purpose of identification, although Members serve in their personal capacity. The Members of the Advisory Council are:

Professor June Andrews, Director of Dementia Services Development Centre, University of Stirling
Dr Rowena Arshad OBE, Head of the Institute for Education, Community and Society, University of Edinburgh
Mark Bevan, Scotland Director, Amnesty International UK
Rev Dr. Graham K. Blount, Minister, St Enoch's Hogganfield Parish Church
Tressa Burke, Chief Executive, Glasgow Disability Alliance
Michael Chalmers, Director of the Office of the Advocate General for Scotland and solicitor to the Advocate General for Scotland
Michael P. Clancy OBE, Director of Law Reform, Law Society of Scotland
Catriona Dalrymple, Head of Policy Division, Crown Office
Alun Evans, Director of the Scotland Office, Her Majesty's Government
Dr James Hunter CBE FRSE, Emeritus Professor of History at the University of the Highlands and Islands and Vice-Chairman of the Scottish Government's Land Reform Review Group
John Loughton, Former Chair of Scottish Youth Parliament, Director of Dare2Lead
Kaliani Lyle, Scotland Commissioner Equality and Human Rights Commission
Rory Mair, Chief Executive, COSLA
Professor Kathleen Marshall, Child Law Consultant
Jim Martin, Scottish Public Services Ombudsman
Dr Jim McCormick, Scotland Adviser to Joseph Rowntree Foundation
Ian McKay, Chair of Institute of Directors for Scotland
Jacquie Roberts OBE, Former Chief Executive of the Scottish Care Commission and Care Inspectorate
Judith Robertson, Head of Oxfam Scotland
John Scott QC, Vice-Chair (Crime) of Society of Solicitor Advocates, Chair of Howard League for Penal Reform
Dr Marsha Scott, Convener, Engender Scotland
Mona Siddiqui, OBE, FRSE, FRSA, Professor of Islamic and Interreligious Studies, University of Edinburgh
Martin Sime, Chief Executive, Scottish Council for Voluntary Organisations.
Grahame Smith, General Secretary, Scottish Trade Union Council
Ken Thomson, Director General, Strategy & External Affairs, Scottish Government
Lynda Towers, Solicitor to the Scottish Parliament, Chair In-House Lawyers Group and member of Law Reform Group of Law Society of Scotland
Professor Rebecca Wallace, Professor of International Human Rights and Justice, Robert Gordon University Aberdeen

Drafting Group

The drafting process is collective and involves public authorities and civil society. A Drafting Group was established during 2012/2013 to bring together individuals drawn from institutions and organisations who have expertise that can help to develop the Action Plan. The Commission chairs and is a member of the Group which aims to agree the process and content for the development of SNAP.

Co-production

The Commission worked in partnership with a range of civil society organisations (particularly those with strong membership or participation networks) to establish a series of co-production groups. These meetings helped to ensure that the lived experiences of people whose rights SNAP aims to uphold directly inform its development and implementation. Groups were established with race and gender equality groups, disabled people's organisations, people with experience of mental health problems, Scottish Gypsy/Traveller communities, people living in poverty, and people with learning disabilities.

Participation process

The publication of *Getting it Right?* marked the start of a five month participation phase – some of the activities undertaken in this phase included:

- Printed copies of *Getting it Right?* were distributed to over 300 stakeholders.
- A dedicated online presence for SNAP was developed, promoted and maintained.
- To mark International Human Rights Day on 10 December 2012 the Commission hosted a National Human Rights InterAction in Glasgow with around 80 participants from across public authorities and civil society. Minister for Community Safety & Legal Affairs Roseanna Cunningham opened the meeting alongside the Chair of the Commission, and special video messages from United Nations High Commissioner for Human Rights Navi Pillay and Council of Europe Commissioner for Human Rights Nils Muižnieks, were shown to participants and broadcast online. Participants broke into thematic discussion groups to discuss priorities and potential commitments to include in the Action Plan.
- An online webcast event took place to enable people living in remote and rural areas to directly engage with the Commission and contribute their views.
- A number of other events were held including a whole day event with Glasgow Caledonian University, a student-led event at the University of Edinburgh, a meeting at the Scottish Trade Unions Congress Fringe Event, and three events at The Gathering 2013, Scotland's biggest third sector event.

At the conclusion of the participation phase approximately 430 people had taken part in events hosted or supported by the Commission. 144 written contributions were received, including 64 individual responses, 20 responses gathered at participation events, and 60 responses were made on behalf of organisations. Some of the responses from organisations drew on their own consultation and outreach experiences, for example the response from the Scottish Youth Parliament reflected the policy priorities identified in their own consultation that gathered the views of 42,804 young people. The development of SNAP continues into the next financial year (see Timeline).

Timeline



Measuring Progress / Monitoring

In 2012/2013 the Commission began to develop an independent monitoring system that will measure the progress of SNAP. Organisations and agencies who collect or develop data as well as external experts were approached to begin the development of a measurement framework to ensure that the outcomes can be objectively tracked. Engagement included a roundtable with the Research Advisory Group, a series of bilateral meetings with external bodies, and a reviewing exercise on the Human Rights Measurement Framework (the Framework was developed in partnership with the Equality and Human Rights Commission, and was first published in 2011).

Communication and Engagement

During 2012/2013 the Commission increased its public profile by engaging with traditional media, offering expert comment and analysis on emerging issues as well as proactively promoting project work. The Commission engaged with several critical issues including defending the Human Rights Act, reform of media regulation, responses to historic child abuse, the development of SNAP and Scotland's constitutional future. News and expert opinion from the Commission were covered in (amongst others) the Guardian, Herald, Scotsman, Huffington Post, BBC Scotland (radio, online and television coverage), and a number of local newspapers as well as specialist and trade press.

Online communication was increased to reflect changing uses of technology and the trend towards social media. There was a 39% increase in the number of visits to the Commission website during 2012/2013 compared to 2011/2012, with a 44% increase in the number of unique visitors. Social media was extensively used to build relationships, promote work and establish discussions and debates online. A review of accessibility functions on the website led to a design refresh, while the social media platform Twitter saw a 200% rise in the number of followers in 2012/2013. The Commission also jointly produced a successful animation to promote the UN Convention on the Rights of Persons with Disabilities that was viewed over 3,500 times on YouTube and praised by international partners for the creative and accessible approach to the Convention. The Commission's outreach work was increasingly aligned to its broader operational work with a particular focus on the participation process to develop SNAP. Capacity was also used to support regular engagement with the Scottish Consortium for Human Rights and the Scottish Parliament Cross Party Group on Human Rights, as well as at a number of external events where the Commission provided expertise or support to third sector organisations.

The Commission also increased the amount of contact it has with the university sector. The Chair delivered a keynote lecture at the University of Edinburgh as part of the *Our Changing World* series in November 2012, and gave visiting lectures and seminars at the University of Dundee, the University of Glasgow, Glasgow Caledonian University, University of Abertay Dundee and the University of Strathclyde. Commission staff visited law faculties and supported careers fairs, and offered students the opportunity to engage with SNAP through event volunteering.

During 2012/13 the Commission began a review of its internship programme with a view to considering its replacement with a programme from 2014/15 that could build capacity in the next generation of human rights defenders in Scotland.

Chapter Two

Supporting the Implementation of Human Rights in Practice

Capacity building support for the adoption of a human rights based approach to public service in priority areas identified in research and the development of SNAP

Human Rights InterAction – Historic Abuse

In 2012/2013 the Commission made progress towards the development of an Action Plan to realise the human rights of survivors of historic child abuse in Scotland.

The Commission has been working since 2009 to promote effective access to justice and remedies for survivors of historic child abuse. In February 2010 the Commission published a Human Rights Framework for Justice and Remedies for Historic Child Abuse in Scotland – this report outlines a comprehensive approach to ensuring effective access to justice, remedies and reparation for childhood abuse.

In April 2012 the Commission contracted the Centre for Excellence for Looked After Children in Scotland to support the preparation and delivery of a series of InterActions to develop an Action Plan on Justice and Remedies. The aim of the InterActions is to bring together those affected to develop a plan to deliver justice and remedies for victims/survivors of historic abuse. The first InterAction was held in February 2013. The InterAction was attended by survivors and their representatives, Minister for Public Health Michael Matheson, representatives of local authorities, institutions which provided residential child care, workers associations, foster care organisations, religious bodies, civil society and a range of others. The InterAction was chaired by Professor Monica McWilliams, an expert in transitional justice and one of the architects of the Good Friday Agreement in Northern Ireland, and was supported by staff and the Chair of the Commission. Further negotiations were agreed to in the areas of:

- Empowerment of victims/survivors to access justice including support services.
- Experience sharing between institutions and public bodies on steps which they can take to respond through remedies such as apologies and compensation.
- Acknowledgement of harm, for example through effective apologies.
- Accountability of all of those who held responsibilities for the care of children and learning lessons for current and future child care practice.
- The possibility of establishing a national reparations fund.
- Possible changes to the civil law time bar.
- The value of introducing an “Apology Law” which would enable all institutions to make full and effective apologies.

A second InterAction will take place in June 2013 to take these points forward in an ‘Action Plan’. The Commission also made submissions to Scottish Government consultations on a National Confidential Forum for historic abuse and a review of the civil law of damages in respect of the impacts of the “time-bar” on access to justice for survivors of historic abuse.



Human Rights Impact Assessment

In 2012/2013 the Commission worked to highlight the benefits of mainstreaming equality and human rights considerations into governance, policy and decision making structures of public bodies, and private organisations who deliver services. Embedding equalities and human rights law and principles can assist the Scottish public sector in meeting the dual challenges they face in terms of falling incomes but rising demand for services, and assist in resource allocation. This approach supports better outcomes for people, improving performance, demonstrating accountability and accessibility and ensuring compliance with the law.

In partnership with the Equality and Human Rights Commission in October 2012 the Commission began to develop an integrated equality and human rights impact assessment model (EQHRIA). This includes the development of tailored guidance for local authority decision making at both strategic budget analysis and operational levels. The broad objectives of this project are to advance a better understanding of both equality and human rights issues and to develop, in partnership, practical support for best practice in equality and human rights impact assessment.

The EQHRIA project is working with two partner organisations, Fife and Renfrewshire Councils, in a pilot model of the project, supported by a Steering Group. A number of key milestones were reached in the project during 2012/2013 – in November 2012 a baseline analysis was conducted by ODS Consulting was completed to assess how both local authorities currently assess equality and human rights impact. The Baseline Report was produced in December 2012. A key part of the project is to develop training materials that increase knowledge and understanding of equality and human rights. The materials provide an introduction to the human rights and equalities framework, as well as practical case studies.

In December 2012 the Commissions held a roundtable with human rights and equalities consultants and trainers as well as impact assessment experts, and the materials were then tested with the Scottish Councils Equalities Network. Training on EQHRIA was delivered to both Fife and Renfrewshire Councils in January 2013. The Commissions received very positive feedback and evaluation from the training, and the materials will be developed further before publication and dissemination. The Commissions also worked with public sector facilitation and training experts Equal and Diverse in helping the Councils to pilot the project in a chosen service area. In the next financial year, 2013/2014, the Commissions will identify an appropriate service area to pilot the project in, and set down an Action Plan with the Councils. The good practice principles and approaches to impact assessment will be shared with all public bodies in Scotland later in 2013/early 2014.

Health and Social Care

Building on the success of its training and capacity building programme *Care about Rights*, in 2012/2013 the Commission continued to work in partnership to promote a human rights based approach in health and social care settings.

The Commission worked with NHS Health Scotland in the development and promotion of Health Inequalities and Human Rights Impact Assessments. From April to October 2012 the Commission developed a series of case studies to demonstrate the added value of integrating human rights into decision making processes. The case studies on health and social care integration, dementia care, community wards and the 'see me' campaign strategy were launched at an event in October 2012 co-hosted by the Commission and NHS Health Scotland. The workshop, entitled 'Human Rights and Health – Principles into Practice', sought to develop a shared understanding of human rights in the context of NHS Scotland, set out the added value of putting human rights at the heart of policy and decision making and to increase understanding of human rights in impact assessment. The event was attended by around 50 NHS Scotland staff including policy and decision makers as well as frontline health workers. In evaluating the event 92% of respondents said they felt the day was 'Good' or 'Excellent'.

In 2012/2013 the Commission continued to support the further development and promotion of Health Inequalities and Human Rights Impact Assessments guidance, tools and templates as a member of the project Steering Group.

The Commission supported the use of Health Inequalities and Human Rights Impact Assessments in the development of Scotland's new Tobacco Control strategy and as a member of the Equalities Reference Group for the Health and Social Care Integration Bill.

Human rights guidance was provided to the NHS during the drafting of new guidance on 'Preparing for emergencies – guidance for Health Boards' on the human rights implications of emergencies. The Commission also participated in a high level policy discussion in February 2013 on Scotland's approach to eHealth, providing guidance on the human rights implications of the further use of information and communications technologies to enhance healthcare.

The Commission engaged with the development of Scotland's new Mental Health Strategy, resulting in a commitment within the strategy that the Government will work with the Commission and the Mental Welfare Commission to ensure human rights are upheld in mental health settings.

In March 2013 the Commission took part in a review of the activity of the Scottish Government's Adult Care and Support Division, outlining the benefits of a more consistent adoption of a human rights based approach across their portfolio.

Business and Human Rights

Strengthening recognition of human rights principles in procurement policies and practices, both in Scotland and internationally, is the central pillar of this work.

The Commission recognises that in Scotland an increasing number of public services are provided by private bodies including health and social care, housing, detention services, access to employment and some utilities. The Commission made recommendations to the Scottish Government on the Procurement Reform Bill, promoting a human rights approach to commissioning, procurement and delivery of services. The Commission met with the Scottish Government, Scottish Development International and other relevant actors to advise on steps to be taken in the implementation of the UN Guiding Principles on Business and Human Rights. There was also engagement with a number of universities to share knowledge of the international framework of business and human rights and facilitate its integration into curricula.

Internationally the Commission, as Chair of the European Network of National Human Rights Institutions, led the work to develop best practice guidance in national action plans for the implementation of the UN Guiding Principles. The development of such national actions plans by EU member states has been encouraged by the European Commission.

Environment and Human Rights

The Commission was active in promoting awareness and understanding of climate justice, human rights and the environment. These activities included chairing the Commonwealth Forum of NHRIs working group on climate change and joining a high level Scottish Government led Steering Group that will organise a major international conference on climate justice later in 2013. There was sustained engagement with the university sector around this issue, and the Chair and staff delivered lectures and seminars on the theme of climate justice at a number of institutions. The Commission supported former President of Ireland Mary Robinson while she was in Edinburgh delivering the Enlightenment Lecture on climate justice in November 2012 at the University of Edinburgh.

The Commission also led the drafting process on an open letter submitted to the UN Conference on Sustainable Development, Rio+20, in which the international community of NHRIs called on member states and other participants to take urgent steps to prevent development that violates human rights, and to pursue a model of economic growth which is socially and environmentally sustainable.

Chapter Three

Improving human rights protection in Scotland through influencing law and policy



The Commission provides advice on the human rights implications of proposed changes to law and policy in Scotland, including through engagement with Government and Parliament consultations. The Commission uses a set of objective criteria to prioritise issues on which it provides advice.

During 2012/2013 the Commission submitted responses to 18 consultations, public petitions and calls for evidence from Scottish Parliament Committees. Some of these issues included the reform of public procurement, Scots criminal law and procedure as well as Scottish court reform, policing and custody visiting, the integration of health and social care and self-directed support, community empowerment and the rights of victims and witnesses. The Commission also gave oral evidence to a number of Scottish Parliament Committees including the Equal Opportunities Committee Inquiry into Where Gypsy/Travellers Live and the Justice Committee on the Victims and Witnesses Bill.

In March 2013 the Commission published an issues paper setting out how human rights can be embedded within Scotland's constitutional framework, irrespective of the outcome of the independence referendum in September 2014. The paper, 'The Future of Human Rights in Scotland' was welcomed by experts, civil society, the media and political parties as a considered and meaningful contribution to the debate.

The Commission continued to defend the Human Rights Act. The Scottish Human Rights Commission was one of two Scottish members of the Advisory Panel to the Commission on a UK Bill of Rights, established by the UK Government. The Commission was critical of the final report, noting that the recommendations from the Report (by majority) would, in the current political climate, result in the weakening of human rights protection for everyone in the UK. The Report (a majority view) in recommending a Bill of Rights lacked a credible evidence base, and the Commission noted, if enacted, its recommendations "would also set a precedent for the erosion of human rights protections in countries across Europe."

Case Studies

Scottish Parliament Equal Opportunities Committee Inquiry: Where Gypsy/Travellers Live

In July 2012 the Commission submitted written evidence to the Equal Opportunities Committee Inquiry: Where Gypsy/Travellers Live. Subsequently the Commission was invited to provide oral evidence to the Committee in December 2012. The Commission delegation, headed by Professor Kay Hampton, called on the Committee to recommend that Scottish Ministers lead a process involving local authorities, Gypsy/Traveller communities and others whose rights are engaged to develop an Action Plan to realise the rights of all. The evidence was well received and referenced throughout the Committee's final report which recommended the development of a national strategy.

Police and Fire Reform (Scotland) Act 2012

Policing in Scotland underwent significant reform in 2012/2013 with the creation of a single police force. The Commission's consultation response strongly recommended that human rights should be explicitly included in the policing principles of the Police Service of Scotland. Subsequently human rights were included in the new Constable's declaration and the Code of Ethics for Policing in Scotland. These developments further advance a human rights based approach to policing, and provide a good example for other public bodies.

Commission on Women Offenders

In April 2012 the Commission on Women Offenders, established by the Scottish Government, published its final report. The Commission had contributed oral and written evidence based on research presented within *Getting it Right?* Recommendations such as steps to provide alternatives to prison and provide improved mental health services for women offenders were reflected in the final report.

Chapter Four

Progressing the Realisation of Human Rights of People in Scotland and Beyond Through Further Developing our International Role

Our role and responsibilities within the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights.

As a National Human Rights Institution the Commission is a bridge between the national and international human rights systems. This important role gives Scotland a voice in the international human rights community and brings experiences back to benefit the people of Scotland. As an 'A status' NHRI, the Commission sits alongside around 70 other national organisations around the world. The Commission has developed strong links with fellow NHRIs, supporting those under pressure and sharing best practice experience across all continents, and engaged closely with sister NHRIs in the UK and Ireland.

The NHRI community is organised into regional groups, and in 2012/2013 the Commission continued to Chair the European Network of the International Coordinating Committee of NHRIs (first appointed in 2011), representing around 40 European ombudsmen, commissions and agencies. As Chair the Commission provided coordination and leadership of activities, engaged with regional and international partners, and provided a regular flow of information to NHRIs across Europe. There was particular focus on the reform of the European Court of Human Rights and the roles that NHRIs play in supporting implementation and awareness of the ECHR. In April 2012 a statement from the European Network was delivered to the High Level Conference on the European Court of Human Rights in Brighton. The Commission worked with the key regional partners (Council of Europe, European Union/Fundamental Rights Agency and the Organisation for Security and Co-operation in Europe) to develop a coordinated approach to their work with NHRIs. The Commission attended the 11th Biennial conference in Jordan in November 2012, making a contribution to the creation of the Amman Declaration and Programme of Action – "The human rights of women and girls: Promoting gender equality: The role of national human rights institutions." A permanent secretariat for the European Network was established with support from the Commission in February 2013.

In addition to chairing the European Network the Commission was active within a number of working groups of the ICC and European Group, including business and human rights, older people, the Convention of Rights for Persons with Disabilities, the European Legal Working Group, and on human rights education. At the Commonwealth level the Commission was active on the working group on climate change and human rights. These forums provide an opportunity to share experience with NHRIs from around the world and for the Commission to have enhanced impact at the regional and international level. For example, as part of the European Legal Working Group in 2012/2013 the Commission attended a number of meetings of the Council of Europe Steering Committee on Human Rights, actively engaging with the process of reform of the European Court of Human Rights. In September 2012 the Commission also led a European regional workshop on the Edinburgh Declaration on Business and Human Rights. The international engagement carried out by the Commission has been recognised by the Scottish Parliament and the Scottish Government as "hugely respected at an international level."

On 5 February 2013 Members of the Scottish Parliament debated motion S4M-05556 on promoting and protecting human rights in Scotland, Europe and the wider world, and Members unanimously voted to nominate for reappointment the Chair of the Commission to a further three year term. Here are some of the voices from the debate:

"The creation of the Scottish Human Rights Commission by this very Parliament in 2006 is an example of devolution at its best: outward looking, internationalist and fighting the corner for the powerless, the poor and the dispossessed. The Scottish Human Rights Commission has been a success story. In 2010, it received 'A status' and was recognised as fully compliant with the UN principles on the status of national institutions, which brings with it international recognition and speaking rights at the Human Rights Council and other UN bodies. In 2011, Scotland was elected Chair of the European group of national human rights institutions. We undoubtedly have a strong team of commissioners and staff."

David Stewart MSP (Scottish Labour)

"We commend the excellent work of the Scottish Human Rights Commission, and we look forward to the development of the national action plan."

Alison McInnes MSP (Scottish Liberal Democrats)

"In May, as part of the UK, Scotland was assessed positively by the United Nations on our realisation of international human rights standards. Indeed, the Scottish Human Rights Commission, which as we heard is accredited by the UN as an 'A status' national human rights institution, spoke at that meeting. The Commission, which was created by this Parliament, is hugely respected at an international level – a respect that was shown and shared by many members in the debate today."

Humza Yousaf MSP (Scottish National Party), Minister for External Affairs and International Development

"I note with interest the work of the Scottish Human Rights Commission on developing Scotland's first national action plan for human rights this year. I understand that action plans have already been drafted in around 30 countries across the world and I am sure that the national action plan in Scotland will represent a significant step towards informing and educating people about human rights as well as identifying any gaps in good practice. I certainly wish the drafters of that action plan every success."

Annabel Goldie MSP (Scottish Conservatives)

Promoting international accountability and empowering civil society on international human rights law

The UN Human Rights System

In 2012 the UK underwent its second Universal Periodic Review (UPR) at the UN Human Rights Council. The Review considers the implementation of all UN human rights treaties ratified by each member state.

Following its preparatory work undertaken in the previous year, in 2012/13 the Commission sought to further influence the process and ensure the outcomes informed the development of Scotland's National Action Plan for human rights. Together with the Northern Ireland Human Rights Commission and the Equality and Human Rights Commission, the Commission wrote to all members of the UN Human Rights Council, and met with and wrote to UK Ministers in order to outline its priorities for the review. The Commissions also intervened in the final UPR session in September 2012 and held follow up meetings with UK and Scottish Government to promote SNAP as the vehicle to implement UPR outcomes in Scotland.

The Commission sought to promote best practice in engagement with the UPR in other countries, presenting at an international meeting at the invitation of the Inter-Parliamentary Union and the Commonwealth in November 2012.

In January 2013 the Commission met with the UN Special Rapporteur on the rights to Freedom of Peaceful Assembly and of Association during his mission to the United Kingdom. The Commission welcomed the concluding statement from the Special Rapporteur that reflected a number of the issues raised in the discussion, including on notification periods for parades/protests, intelligence gathering and advocating a rights based approach to policing. His final report is due to be presented to the UN Human Rights Council in May 2013.

National Preventive Mechanism

The National Preventive Mechanism (NPM) was established in 2009 by the UK Government to meet its UN treaty obligations regarding the treatment of anyone held in any form of custody under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The Commission is one of 18 members of the NPM. The Commission works with the other members of the NPM to monitor law, policy and practice in relation to detention, including mental health detention, prisons and police custody. The NPM Annual Report for 2011/2012 explicitly referred to the response the Commission submitted to the Scottish Government consultation on the detention and questioning of suspects in police custody and their right to assistance.



Convention on the Rights of Persons with Disabilities

The Commission was appointed as an independent mechanism responsible for promoting, protecting and monitoring the implementation of the Convention upon ratification by the UK in June 2009, a role it undertakes in partnership with the Equality and Human Rights Commission in Scotland. Throughout 2012/2013 the Commissions engaged with the Scottish Government seeking a clear and coordinated process to implement the Convention in Scotland.

The Commission also promoted best practice in the implementation of the Convention in other states, participating in a roundtable with the Irish Government, at the invitation of the Irish Human Rights Commission and the Centre for Disability Law and Policy at the National University of Ireland in Galway in May 2012.

Also, in May 2012 the Commission and the Equality and Human Rights Commission launched an animation to raise awareness and understanding of the CRPD. The animation has received a great deal of positive feedback, including over 3,500 views on YouTube and has been used both domestically and internationally to increase understanding and engagement with the Convention. The UN Committee on the CRPD has requested copies of the animation, praising the initiative, and it has also been promoted and used by other NHRIs across Europe.



Expert Meetings

The Commission supported international efforts to advance human rights in times of austerity, participating in an expert meeting to inform the position of the Council of Europe Commissioner on Human Rights and a major conference on austerity and human rights hosted by Amnesty International Ireland, both in November 2012.

The Commission participated in a discussion with a member of the UN Committee for the Elimination of Discrimination Against Women, Scottish Government and Scottish civil society in March 2013 in advance of the Committee's review of the UK in May 2013.

Chapter 5

Ensuring the Commission is Effective, Efficient, Professional and Accountable

In April 2012 the Commission moved into a new Strategic Plan period, 2012–2016, and adopted a third Operational Plan, 2012–2014, that sets out a series of projects with specific, measurable, achievable, relevant and time bound (SMART) objectives.

The Commission operates within a structure of good governance and strong internal controls, and strives to lead by example. It follows the recommendations set out by 'The Nolan Committee' in adhering to the Seven Principles for Public Life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

In May 2012 Commissioners Professor Kay Hampton and Shelagh McCall were reappointed to three year terms.

In January 2013 the Chair of the Commission was unanimously nominated for reappointment by the Scottish Parliament for a further three year term of office. Members of the Scottish Parliament acknowledged the contribution of the Chair to the increased understanding of human rights and older people within the care sector, representing Scotland within the international community, and in raising the profile of human rights generally in Scotland.

In 2012/2013 the Commission continued work with the internal Finance, Risk and Audit Committee that assesses internal controls on an ongoing basis. A Business Risk Management Group also meets monthly to assess business risks to the Commission.

There is a commitment to training and professional performance and in 2012/2013 staff participated in continuing professional development (CPD) training in financial management, policy development and communications management. Two staff posts were filled for maternity cover, and one post remained as a full time position but moved to a job sharing structure.

The Commission is restricted from giving advice to individuals or taking on individual cases. In 2012/2013 acknowledgement or signposting information was provided to 264 individuals or organisations by direct request (email, letter and telephone calls). This was an increase of 100% from the previous year. Many of the individual requests related to poverty and the impact of welfare changes, housing, dispute resolution, health and mental health issues. The Commission received and answered five Freedom of Information requests. No formal complaints were received. The Audited Accounts for the period and a reporting statement relating to the Public Services Reform (Scotland) Act 2010 will be published later in 2013.



