



**CONSULTATION SUBMISSION:**

**Child Poverty (Scotland) Bill**

**March 2017**

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The Scottish Human Rights Commission (SHRC) was established by The Scottish Commission for Human Rights Act 2006, and formed in 2008. The Commission is the national human rights institution for Scotland and is independent of the Scottish Government and Parliament in the exercise of its functions. The Commission has a general duty to promote human rights and a series of specific powers to protect human rights for everyone in Scotland. The Commission supports Scotland's National Action Plan on Human Rights (SNAP) and contributes to the Adequate Standard of Living Human Rights Action Group in raising awareness of economic, social and cultural rights in Scotland.

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## 0 Summary of key points

- Child poverty is a human rights issue. Recognising it as such transforms moral obligations into legal obligations.
- Child poverty is both a symptom and systemic cause of violations of international human rights that are established in law – including rights associated with education and work, health, housing and an adequate standard of living.
- The current Bill’s lack of systematic consideration of child poverty from a human rights perspective limits the full potential and impact this Bill and associated delivery plans could have.
- The Commission would like to see recognition of child poverty as a human rights issue within the forthcoming legislation and a rights based approach embedded within its associated delivery plans and measurement framework.
- The human right framework for child poverty in Scotland includes domestic laws (Scotland Act 1998; HRA 1998) and international human rights obligations (such as European Convention on Human Rights; the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child and the European Social Charter).
- Human rights require that the voices of people whose rights are affected by a decision, are heard throughout the process of making and implementing that decision. The Bill needs to guarantee the child’s right to participate (UNCRC Article 12).
- The Commission supports re-introduction of the child poverty targets that were removed by the UK government from the UK Government’s Child Poverty Act 2010.
- The Commission agrees that the four suggested statutory targets are appropriate and ambitious.
- Any associated delivery plans must be adequately resourced.
- Given the Scottish Government’s existing commitment to the 2030 Sustainable Development Goals (SDGs), and the prominent feature of poverty reduction within the SDGs, the Commission considers drawing the connection to the SDG targets would be helpful in the Bill or any of its associated documentation as a means of fostering policy coherence and for reporting purposes.
- Interim targets are a useful means to ensuring momentum however, this may be best achieved through the measurement framework which incorporates human rights based indicators.
- Overall, the Commission supports the proposed arrangements for reporting progress, but believes it would be strengthened by a commitment to consult with children and their parents in the development of the delivery plans.
- Local councils and health boards should be encouraged to co-produce delivery plans with local children, parents and service providers, taking account of human rights and equality impact considerations to improve both the decision making and the transparency of those decisions.
- The current outcomes framework and indicators is a good basis for tracking many of the factors (across pockets, prospects and places) contributing to progress on income poverty.
- The Commission believes it could be improved through: better connects between statutory targets and framework indicators; reviewing the content, whereby some additional indicators could enhance the government’s understanding of this complex issue; improved disaggregation of data; and by the introduction of Human Rights Based Indicators.
- Human rights based indicators ask that we explore three levels of indicators to measure progress, namely: structure, process and outcome indicators. Together they address the essential aspects of human rights implementation, namely: commitment, effort and result.
- Developing indicators through the Structure, Process, Outcome model will be beneficial in supporting a better understanding of how and why change has happened, in order to support the review and development of subsequent delivery plans. It will also help Scottish Ministers to explain the context around the achievement (or not) of the 2030 targets.

## 1 Introduction

Child Poverty is a human rights issue. It is both a symptom and systemic cause of violations of international human rights that are established in law – including rights associated with education and work, health, housing and an adequate standard of living.

States are subject to legally binding domestic and international obligations to ensure that human rights guide the design, implementation and monitoring of all public policies – and child poverty prevention is not an exception. Recognition of child poverty as a denial of children’s human rights transforms moral obligations into legal obligations. The Bill’s policy memorandum [1] states that the *“Scottish Government has made clear that concerted and effective action to confront poverty and inequality is fundamental to meeting the UK’s international human rights obligations”*. However, beyond this statement and a reference to UNCRC concluding observations, the current Bill [2] and its associated policy memorandum [1] and explanatory notes [3] gives no systematic consideration of child poverty from a human rights perspective. This limits the full potential and impact this Bill and associated delivery plans could have for realising the full enjoyment of all human rights.

Negative attitudes towards people who experience poverty can take many forms, including stigmatisation, prejudice and discrimination. Attitudes such as these are often based on the view that people living in poverty are somehow inferior or of lesser value.[4] The Commission, therefore, recommends considering the specific human rights obligations in this area as a means of changing the terms of the discussion around child poverty and ensuring human rights are realised in practice.

The First Minister noted in May 2016 in her Priorities Speech to Parliament that in addition to defending the Human Rights Act, the Scottish Government would *“work with civic Scotland to establish a set of social and economic rights for all of Scotland’s citizens. By valuing and strengthening human rights, we can empower citizens and encourage better government.”* [5]

This Child Poverty (Scotland) Bill and the delivery plans that are developed to fulfil the targets within the Bill offers a further<sup>1</sup> opportunity to further the realisation of economic, social and cultural rights within law, policy and practice in Scotland. The Commission would like to see recognition of child poverty as a human rights issue within the forthcoming legislation and a rights based approach embedded within its associated delivery plans and measurement framework.

The Commission welcomes the opportunity to comment on the Child Poverty (Scotland) Bill and hopes the following comments provide a helpful basis for enhancing and better fulfilling children’s rights in practice. The remainder of the response first sets out some of the key human rights of relevance to child poverty for the Committee to consider, before responding to the specific consultation questions.

## 2 Human Rights Framework for Child Poverty

Under the Scotland Act 1998<sup>2</sup>, both the Scottish Government, Parliament and all public authorities must observe and implement all of the UK’s international human rights obligations such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Rights of the Child

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<sup>1</sup> This would follow on from the announcement in February 2017 by Jeane Freeman, Minister for Social Security, that the forthcoming Social Security Bill will embed a rights based approach, with dignity and respect into the Scottish system from the very outset and that the internationally recognised right to social security will be on the face of legislation.

<sup>2</sup> Scotland Act 1998, Schedule 5, para 7(2).

(UN CRC) and the European Social Charter, as well as acting compatibly with the European Convention on Human Rights (ECHR) through the Human Rights Act 1998 (HRA).<sup>3</sup> Ensuring that all concerned have a meaningful understanding of their obligations will be crucial to ensuring that law, policy and practice in Scotland are fully compliant. As the UK has not yet accepted the right of individual petition to the Committee under ICESCR or its corollary in the Convention on the Rights of the Child, embedding these measure as a means to fulfil children's rights in Scotland is of increased importance.

## 2.1 International Covenant on Economic, Social and Cultural Rights

ICESCR was ratified by the UK in 1976. It requires the UK to respect, protect and fulfil the following rights known as economic, social and cultural rights (ESC rights):

- **Work**, under "just and favourable conditions", with the right to form and join trade unions (Articles 6, 7, and 8);
- **Social security**, including social insurance (Article 9);
- **Family life**, including paid parental leave and the protection of children (Article 10);
- **An adequate standard of living**, including adequate food, clothing and housing, and the "continuous improvement of living conditions" (Article 11);
- **Health**, specifically "the highest attainable standard of physical and mental health" (Article 12);
- **Education**, including free universal primary education, generally available secondary education and equally accessible higher education. This should be directed to "the full development of the human personality and the sense of its dignity" and enable all persons to participate effectively in society (Articles 13 and 14);
- **Participation** in cultural life (Article 15).<sup>4</sup>

Each right is defined in detail through the General Comments of the Committee on Economic, Social and Cultural Rights (the Committee), which monitors implementation of the rights by states around the world. This includes identifying specific actions which must be undertaken to realise the rights.

The principle of "**progressive realisation**" is of particular importance to ESC rights. This principle acknowledges that the full realisation of certain rights will take time to achieve and will be subject to constraints on the state's resources. Article 2 of the ICESCR creates a duty on all parties to:

*take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*

The requirement to "take steps" means there is a continuing obligation to work towards the realisation of the rights contained in ICESCR. The Committee also interprets the principle as establishing minimum core obligations to provide, at the least, minimum essential levels of each of the rights. If the state's resources are highly constrained, it should include the use of targeted programmes aimed at the vulnerable.<sup>5</sup>

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<sup>3</sup> Scotland Act 1998, s29 (2), s57.

<sup>4</sup> An outline of these rights is provided for in Annex A.

<sup>5</sup> It is recognised that land is also a vital resource that is capable of being allocated to achieve the core obligations set out ICESCR See the Commission's Consultation Submission on the Future of Land Reform in Scotland, February 2015. Available at: <http://www.scottishhumanrights.com/news/latestnews/landreformsubmissionfeb15>

Finally, in relation to all ESC rights there is a prohibition on discrimination which is effective immediately with respect of the rights contained in the Covenant.<sup>6</sup>

## 2.2 UN Convention on the Rights of the Child

The UNCRC is a legally-binding international agreement setting out the civil, political, economic, social and cultural rights of every child, regardless of their race, religion or abilities.

The UNCRC consists of 54 articles in total that set out children’s rights and how governments should work together to make them available to all children (see Appendix 1). There are four core principles that underpin all other rights contained within the UNCRC:

**Article 2** - the principle of non-discrimination;

**Article 3** - the principle of the best interest of the child;

**Article 12** - the principle of respect for the child’s views and the right to participate;

**Article 6** - the principle of the child’s right to life, survival and development [6]

Child poverty, as defined according to the UNCRC, can also be organised around three domains of rights: provision, protection and participation [6] (see Table 1 below).

This broader approach to child poverty better reflects the multidimensional nature of child poverty. Measuring progress based on this wider understanding of child poverty would require the development of indicators that reflect a child’s well-being under the different dimensions. Although not currently framed in this way, the indicators contained within the current framework do already go some way to achieving this (as noted in Table 1) and could be easily adapted to reflect their human rights relevance (see section 3.6 for further discussion on indicator development).

**Table 1 – Rights Domains and UNCRC Articles**

Rights Domain	UNCRC Articles	Current Child Poverty Framework Indicators
<b><u>Provision</u></b>		
Health and Nutrition	23, 24, 27	<u>Prospects</u> 1, 2, 3, 4, 5, 6
Education & Work	28, 29	<u>Pockets</u> 2, 5, 6, 8 <u>Prospects</u> 9, 10, 11, 12, 13, 14, 15; <u>Places</u> 10, 11
Information	17	<u>Places</u> 3, 12
Social Security & Income	26	<u>Pockets</u> 1, 3, 4, 5,6,7
Housing	27	<u>Places</u> 1, 2, 7
<b><u>Protection</u></b>		
Name, Identity and family relations	5, 7, 8, 9, 10, 16, 20, 21, 22, 25	<u>Prospects</u> 7
Protection from injury, violence and neglect	19	<u>Places</u> 5, 6,
Protection from economic exploitation	32	
Protection from sale, traffic, sexual and other forms of exploitation	11, 34, 35, 36, 3	
Protection from harmful practices	24, 33	<u>Places</u> 5, 6
Protection from armed conflicts	38	

<sup>6</sup> Article 2(2) ICESCR

Justice	39, 40	
<b>Participation</b>		
Freedom of expression, of thought, conscience and religion	12, 13, 14, 30	<u>Prospects 7; Places 3</u>
Freedom of association and peaceful assembly	15	<u>Prospects 8; Places 4</u>
Leisure and rest	31	<u>Prospects 6, 8, 9</u>

### 2.3 [Other international human rights](#)

Treaty obligations from other human rights instruments are also relevant in this context. For example, the United Nations Convention on the Rights of Persons with Disabilities (CRPD) includes rights to an inclusive education, a decent standard of living, support to participate in society and live in the community, accessible physical environments and information and equality.

### 2.4 [Procedural obligations](#)

International human rights also require certain procedural obligations to be met which are highly relevant to the Child Poverty (Scotland) Bill. These include obligations about participation, access to information and effective monitoring.

Fundamentally, human rights require that the voices of people whose rights are affected by a decision, are heard throughout the process of making and implementing that decision. The procedural legal obligation of participation of individuals in decision making and where appropriate the design of services is considered to help ensure that systems are responsive to the particular needs of disadvantaged groups.

Human rights protections therefore give weight to participation, involvement and transparency in the future of public service provision and models of co- production being adopted.<sup>7</sup>

The analysis from the first consultation on the Child Poverty (Scotland) Bill [7] highlighted a recognition of *“the importance of taking into account the views of families, children and young people experiencing poverty, and understanding the impact and extent of poverty in different groups”*. [7] It is therefore concerning that what is contained within the Bill in relation to participation rights, falls short by failing to guarantee the child’s right to participate (UNCRC Article 12).

The Bill states that in preparing a delivery plan, the **Scottish Ministers must consult—**

- (a) such local authorities or associations of local authorities as they consider appropriate,
- (b) such persons and organisations **working with or representing children** as they consider appropriate,
- (c) such persons and organisations **working with or representing parents** as they consider appropriate,
- (d) such other persons as they consider appropriate.

Whilst children (and their parents) could fall into the category of “such other persons as they consider appropriate”, the Commission believes that an explicit obligation to consult with children should be contained within Section 5 of the bill. Recognition of children’s rights requires that children are active in

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<sup>7</sup>The UN Convention on the Rights of Persons with Disabilities also includes procedural obligations of participation requiring that in other decision-making processes concerning issues relating to persons with disabilities (Article 4 (3)). Article 8 of the ECHR also confers a right of participation in decision making in some circumstances where Article 8 rights are at stake E.g. Case OF Taskin and other v. Turkey (Application no. 46117/99), 10 November 2004 regarding environmental matters; McMichael v United Kingdom (1995) 20 EHRR 205; TP&KM v UK (Application No. 28945/95 – Judgment 10 May 2001)

the decisions that affect them and with regard to the development of an effective child poverty delivery plan, children's involvement is crucial.

*"Children must be recognised as full actors in their own well-being rather than be passive objects of choices made on their behalf". [6]*

This could also be monitored with an improved indicator that focusing specifically on children's ability to participate. At the moment a current Places indicator asks for an increased percentage of people from deprived areas who feel they can influence local decisions from 21%. This could instead focus on the availability and accessibility of child participation initiatives and decision-making processes affecting children, including support structures for information of children and training for adults (see Section 3.6 for further discussion on indicators).

### 3 Consultation questions

#### 3.1 Question 1: Do you agree that statutory child poverty targets should be re-introduced for Scotland?

The Commission supports the Scottish Government's re-introduction of the child poverty targets that were removed by the UK government from the UK Government's Child Poverty Act 2010. As has been noted by the Scottish Government and others, the removal of the statutory framework was raised as a key concern by the UN Committee on the Rights of the Child in its recent review of the UK. The concluding observations called on the State party to establish "*clear accountability mechanisms for the eradication of child poverty, including by re-establishing concrete targets within a set timeframe and measureable indicators.*" [8] A re-introduction of these statutory income targets is both important in supporting the government to fulfil its obligations, but also in that it sends a strong message to those with lived experience of poverty, that this is an important issue for government and policy makers.

#### 3.2 Question 2: What do you think of the appropriateness and scope of the 4 proposed targets?

Overall, the Commission agrees that the four suggested statutory targets are appropriate and ambitious. They are internationally recognised as robust measures of child poverty. They are the product of more than four decades of consultation and development by successive governments at UK and Scotland level [7] and have direct relevance to EU and International human rights treaties.

The combination of the four targets allows for recognition that poverty is experienced in different ways, at different levels and over different periods and therefore acknowledges that all are valid and none are acceptable.

Of particular note is the inclusion of housing costs as a deduction from household income. This is important because housing costs are often high and are therefore a big lever in poverty creation and reduction. The Commission would, however, recommend that the government continue to publish and compare income before and after housing costs in order to provide statistics for intentional comparison and so that the relative contribution of housing costs to poverty can be monitored.

Given the Scottish Government's existing commitment to the 2030 Sustainable Development Goals (SDGs), and the prominent feature of poverty reduction within the SDGs, the Commission considers

drawing the connection to the SDG targets would be helpful in the Bill or any of its associated documentation. [1-3] as a means of fostering policy coherence and for reporting purposes.<sup>8</sup>

**Section 1(2) of the Child Poverty (Scotland) Bill** sets out the child poverty targets are that, of children living in households in Scotland:

- (a) less than 10% fall within section 2 (relative poverty),
- (b) less than 5% fall within section 3 (absolute poverty),
- (c) less than 5% fall within section 4 (combined low income and material deprivation),
- (d) less than 5% fall within section 5 (persistent poverty).

**Goal 1 of the Sustainable Development Goals** is to End poverty in all its forms everywhere.

There are specific sub targets related to this overall goal of which Target 1.2 is highly relevant to this Bill:

- By 2030, **reduce at least by half** the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions.

Recent SPICe analysis [9] shows the comparative targets for 2030 with child poverty levels for 2014-15 shows the following:

- Twenty two per cent of children live in a household in relative poverty after housing costs. This is 12 percentage points away from the 2030 target of 10 per cent.
- Twenty one per cent of children live in a household in absolute poverty after housing costs. This is 16 percentage points away from the 2030 target of five per cent.
- Twelve per cent of children live in relative poverty after housing costs and material deprivation. This is seven percentage points away from the 2030 target of five per cent.
- Currently there are no reliable statistics on levels of persistent poverty. The first set of statistics should be available in spring 2017.

This shows that for all of these targets for which data is currently available, the Scottish Government is actually aiming for similar or even more ambitious targets than the stipulated in the SDGs. This Bill offers an important opportunity for the Scottish Government to reaffirm its existing public commitment to the SDGs, to show an explicit structural commitment to Goal 1 of the SDGs, and to provide a world-leading example for other countries to follow.

It is also worth noting here that the Scottish Government and the Commission is currently exploring how to embed human rights outcomes and indicators within the National Performance Framework and using this to support the way that the government will measure its progress within the SDGs (see section 3.6 for more details). This could therefore also help with the further development of the child poverty measurement framework, in particular making the relevant connections from the CPMF to the SDGs and the NPF.

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<sup>8</sup> The Bill's Policy memorandum mentions the important of sustainable development but makes no reference to the SDGs themselves.



### **3.3 Question 3: Are interim targets are needed?**

Interim targets are a useful means to ensuring momentum is maintained especially when initiatives are being implemented and progress measured over a long time period. It is useful to be able to work back from long term outcomes and identify: what would progress look like at X point in the process?

It is the opinion of the Commission, however, that this may be best achieved through the measurement framework – in particular through the development of the existing framework to incorporate human rights based indicators. See section 3.6 for more details.

### **3.4 Question 4: What do you think of the proposed arrangements for reporting progress towards meeting the targets sufficient and how best to hold the Scottish Government to account?**

The reporting mechanisms set out in the Bill are:

- a 'delivery plan' to be published at three points during the life of the legislation: April 2018; April 2021; and April 2026 which sets out the activity that is to be pursued to achieve the child poverty targets;
- an annual progress report;
- a report on annual activity at the local level to support the goal of eradicating child poverty by local authorities and partner health boards;
- A final report following the end of the financial year 2030-31 by Scottish Ministers showing the progress made towards the four poverty measures, accompanied by a requirement to explain if a target has not been met, why this has been the case.

Overall, the Commission supports the proposed arrangements for reporting progress. There are however a few ways that we would suggest this process be improved.

The Bill would be strengthened by a commitment to consult with children and their parents in the development of the delivery plans. This participation by children and their parents should be extended to monitoring the progress of the delivery plans. Experience from the development, implementation and monitoring of Scotland's National Action Plan for Human Rights (SNAP) has shown the value of such participation and engagement.

Finally, identifying why targets have been achieved is equally important to identifying why they have failed. The requirement to explain should therefore be extended to cover success as well as failure. A human rights based indicator framework will aid in this reporting process (see section 3.6).

### **3.5 Question 5: What do you think of the responsibility placed on local councils and health boards to make local progress reports?**

It is important that local councils and health boards understand their role in reducing child poverty. Local delivery plans that do not take account of local context are less likely to adequately address local patterns of poverty. Local councils and health boards will also find that co-producing delivery plans with local children, parents and service providers which take account of a human rights and equality impact considerations will improve both the decision making and the transparency of those decisions.

### **3.6 Question 6: What do you think of the existing Child Poverty Measurement Framework and its 37 indicators?**

Social policy relating to poverty reduction goals and targets needs to be more comprehensive and address several causes of poverty that goes beyond purely a lack of income. This includes a combination of well-being dimensions, for example health, education, housing, income security, leisure and participation. [6] The current outcomes framework and indicators included in the 2015 Child Poverty report is a good basis for tracking many of the factors (across pockets, prospects and places) contributing to progress on income poverty.

The Commission has four main areas that it would like to make suggestions regarding the framework and we extend an invitation to the Social Security Committee to discuss these issues further.

- The first area relates to **connections** between statutory targets and the Child Poverty Measurement Framework.
- The second area relates to **content**, whereby there are a few additional indicators which the Commission believes would enhance the government's understanding of this complex issue. These examples are just some of the possible changes that could be made and the Commission welcomes the Scottish Government's intention to consult further on this. Involving children in this consultation will be key to both a better framework and fulfilling the procedural obligation re participation rights.
- The third area relates to **disaggregation** of data.
- The fourth area relates to the **structure of the framework** itself and impacts on the whole framework.

#### ***3.6.1 Connections***

It is widely accepted that poverty is about more than simply income or an absence of income. The Child Poverty Measurement Framework provides a good range of indicators that expose the key drivers of child poverty. The overall framework would however benefit from making the connections between those indicators and how they relate to the statutory targets. This would be an important part of the process for the development of the framework – but it would help if a clear statement of those connections was also contained within the Bill.

#### ***3.6.2 Content issues***

Given that the Scottish government does not currently hold all of the levers by which to effect change in the rates and experience of child poverty in Scotland, this could be reflected within the outcome indicators. For example, the uptake of Universal Credit and/or the impact of Benefit sanctions will play a key role in household income. Monitoring these as additional 'Pockets' indicators would better help to show where a negative impact has arisen as a result of action out with the Scottish Government's control. It could also help to identify where support needs to be increased in order to overcome that impact.

Also given the recent importance placed by the Scottish government on income maximisation (eg in the development of the new social security system) this needs to be captured within the indicator framework. It will be important to assess how many people are accessing the benefits that they are entitled to and what efforts are being made to facilitate this.

In relation to Places, the Scottish Government should consider further indicators around the issue of housing, such as: the number of families in rent arrears and at risk of losing their home; housing quality;

number of children living in temporary accommodation or the number of homelessness applications made by families with children.

The importance of access to food and the benefit that a good diet plays in the realisation of other rights has been established (e.g. as noted earlier in relation to a child's ability to fully benefit from their education). Given this and the unprecedented rise in the use of food banks in recent years (as noted in the Commissions submission to the UK review on Economic, Social and Cultural Rights in 2016 [10]), the Commission suggests that an indicator focusing on food insecurity and use of food banks might be of more use when exploring food , compared to whether a child has their 5 a day.

### **3.6.3 Data disaggregation**

Poverty is experienced differently by different people and existing evidence tells us that people who share certain protected characteristics are more likely to experience poverty. [11] This needs to be reflected in the framework. In order to be compliant with a number of international treaty body obligations (see for example see UN CRC Committee Reporting Guidelines), an explicit commitment to promoting the availability of improved disaggregated data, would better facilitate the examination of child poverty experiences across all (or as many as possible) of the indicators in this framework.

Without good quality disaggregated data it is not possible to ensure that the most vulnerable children in society are helped. As previously noted by the EHRC *“the life chances of people in Scotland are significantly influenced by the protected characteristics that they do or do not share... For the Child Poverty strategy to work effectively, and to deliver for all Scots, it needs to contain sufficient nuance to ensure that measurements reflect and do not hide these realities.... Put simply, success for the majority may mask stasis or deterioration in living conditions for the few.”* [11]

### **3.6.4 Human Rights Based Indicators**

It is widely recognised by the United Nations and internationally that qualitative and quantitative indicators are essential tools in the realisation of human rights. International human rights treaties and jurisprudence of the human rights treaty bodies call for the development of statistical indicators and data collection to help measure progress in human rights. [12] Internationally, human rights indicators are tools for States to assess their own progress in implementing human rights and compliance with the international treaties. The Office of the High Commissioner for Human Rights (OHCHR) has published *Human Rights Indicators: A Guide to Measurement and Implementation*. [12] The publication aims to assist in developing quantitative and qualitative indicators to measure progress in the implementation of international human rights norms and principles. The Guide describes the conceptual and methodological framework for human rights indicators recommended by international and national human rights mechanisms and used by a growing number of governmental and non-governmental actors.

### **3.6.5 How human rights based indicators differ from normal indicators?**

*“Perhaps the most important source of added value in the human rights approach is the emphasis it places on the accountability of policy-makers and other actors whose actions have an impact on the rights of people. Rights imply duties, and duties demand accountability. It is therefore an intrinsic feature of the human rights approach that institutions and legal/administrative arrangements for ensuring accountability are built into any poverty reduction strategy”.* [13]

Human rights indicators, as with other types of indicators are about measuring. However, human rights based indicators measure the extent to which the government (duty bearer) is meeting its obligations to

respect, protect and fulfil the human rights of all its citizens and the extent to which the individual or group (rights holder) is enjoying their rights.

The indicators set out in the Child Poverty Measurement Framework are what we would describe as outcome indicators. They tell us about the lived experience and realities for people, which is important. What they don't tell us or help to explain, however, is how these outcomes have come about.

In order to do this, human rights based indicators ask that we explore three levels of indicators to measure progress, namely: structure, process and outcome indicators. Together they address the essential aspects of human rights implementation, namely: **commitment, effort** and **result**.

**Structural indicators** measure a state's commitment or intention to abide by international human rights law.

**Process indicators** measure the efforts undertaken by the state to meet their human rights obligations.

**Outcome indicators** measure a state's human rights performance, evaluating the results of its policies on people's lived experience.

The focus on duty-bearer **commitment** and **effort**, as opposed to only measuring result outcome, is one of the areas which make human rights indicators distinct.

It is clear from the guidance that human rights indicators should also address cross-cutting issues, namely: participation; accountability and non-discrimination (all of which have been mentioned in the sections above). These cross-cutting issues are foundational blocks of a human rights based approach and they help to shift the focus of analysis to the most marginalised and excluded. They support a deeper analysis of political and social power relationships in the public (and private) sectors.

A human rights based approach to measurement does not represent a radical departure from existing indicator sets/methodologies. It is about adapting existing indicators so far as necessary by requiring disaggregation and developing some new indicators that will measure how responsive and accountable a state is, and if it has the capacity to implement laws and policies promoting human rights. So it is not just about outcomes or result, it is also about government conduct and scrutinising a government's commitment e.g. its budgetary commitments to fulfilling its human rights obligations. Crucially, it will help to contextualise an outcome, to better explain how that particular outcome has been arrived at. See example below relating to children's mental health.

### **Access to healthcare (mental health)**

#### **Contextual Description:**

It is recommended to present a descriptor as to why mental health is important to child wellbeing referencing the established connections between poverty and mental ill-health. Make connections to long term impact on mental health of poor housing and also the connections between poor mental health and negative educational outcomes, thereby establishing the indivisible nature of human rights.

#### **Relevant current National Outcomes:**

NPF Outcome 7: We have tackled the significant inequalities in Scottish Society

NPF Outcome 10: We live in well-designed, sustainable places where we are able to access the amenities and services we need

NPF Outcome 16: Our public services are high quality, continually improving, efficient and responsive to people's local needs.

**Relevant SDGs:**

SDG Goal 3: Ensure healthy lives and promote well-being for all at all ages

Target 3.4 By 2030, reduce by one third premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well-being

Target 3.8 Achieve universal health coverage, including financial risk protection, access to quality essential health-care services and access to safe, effective, quality and affordable essential medicines and vaccines for all

**Structure Indicators: (state commitment)**

**Legal and constitutional framework**

1. International human rights treaties relevant to the right to health ratified by the State
2. Date of entry into force and coverage of the right to health in domestic law
3. Number of NGOs (per 100,000 children) involved in the promotion of children's mental health

**National policy**

1. Timeframe and coverage of national policy on children's mental health

**Process Indicators\*: (effort by the state)**

1. Staffing ratios per X population and geographical location (e.g. mental health workers, specialists in child mental health etc.)
2. Mental health services available per X population and geographical location (e.g. GPs, CAMHS Specialist services, school mental health services etc.)
3. Waiting times/ referral times for access to different types of mental health services per X population and geographical location.
4. Public expenditure on mental health services as a share of all health services; Public expenditure on children's mental health services as a share of all mental health services/ all children's health services/ all health services. Public expenditure on children's mental health education programmes.
5. Proportion of children educated on mental health issues

**Outcome Indicator\*: (impact/results)**

Current Prospects outcome 2: Decrease the percentage of the poorest children with below average mental health.

\*all fully disaggregated by prohibited grounds of discrimination and socio-economic status.

Developing indicators through the Structure, Process, Outcome model will be beneficial in supporting a better understanding of how and why change has happened, in order to support the review and development of subsequent delivery plans. It will also help Scottish Ministers to explain the context around the achievement (or not) of the 2030 targets.

Over time, successfully embedding human rights within local and national monitoring mechanisms will not only help Scotland to measure its progress towards national and local targets but it was also help Scotland to fulfil its reporting obligations under all of its international human rights treaties and the Sustainable Development Goals (SDGs).

The Commission would welcome the opportunity to work further the Social Security Committee to develop a human rights based indicator framework for the measurement of progress around child poverty.

The Scottish Human Rights Commission  
End.

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