**Scottish Human Rights Commission’s**

**Views on the draft National Outcomes and Indicators**

**April 2018**

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.

# Introduction

The Scottish Human Rights Commission (the Commission) welcomes the opportunity to provide our views on the draft National Outcomes and Indicators that will help inform EHRiC’s response to the LGC Committee on the review of the National Performance Framework (NPF). The Commission welcomes this review and the general commitment to periodic review of the Outcomes to encourage an ongoing discussion about national priorities that are based on a wide range of views. The Commission also welcomes the important inclusion of this specific Outcome on Human Rights.

# Engagement with the National Performance Framework

Following the launch of Scotland’s National Action Plan for Human Rights (SNAP) in 2013 a monitoring group was developed to bring together a range of experts (including the National Performance Framework lead from Scottish Government) to support the development of a monitoring framework for SNAP, including developing its long term outcomes.

The long term 2030 Outcomes of SNAP included a focus on realising people’s rights through human rights based monitoring. This time bound goal of 2030 was not accidental, rather it was a deliberate choice to bring a focus of the Sustainable Development Goals (SDGs) into SNAP. On publication of the SDG Goals in 2015 it was apparent that human rights were reflected throughout the SDGs and that human rights could both support the implementation and monitoring of the SDGs whilst the achievement of the SDGs could support the realisation of human rights in practice.

In July 2015 the First Minister committed Scotland to the SDGs, declaring that the UN’s SDGs offered a vision of the world that she believed that the people of Scotland shared. In December of the same year in a key note speech at a SNAP Innovation forum she also outlined the Scottish Government’s commitment to monitor the progress of the SDGs in Scotland through the NFP and SNAP.

In early 2016, the Commission set up a small Working Group to explore further with the Scottish Government how we could go about embedding human rights and addressing the SDGs through the National Performance Framework.

The review of the National Outcomes during 2017 set out to improve the alignment with the SDGs and with other Frameworks such as Scotland’s National Action Plan for Human Rights and Scotland’s Economic Strategy***.*** Our Working Group acted as a sounding board throughout this process and the Commission also engaged in stakeholder workshops on the new Outcomes and later, the Indicator Workshop for the Human rights Outcome. The Commission Chair also sat on the NPF Review Roundtable which has had regular opportunities to input into the development of the Outcomes.

In August 2017, the Commission formally submitted a review to government of the draft National Outcomes. Following this submission and further discussion with the NPF Lead, the following Outcome was proposed:

**We respect, protect and fulfil human rights and live free from discrimination**

As you will be aware, “Respect, Protect and Fulfil” has a very specific meaning with regard to human rights realisation, drawn from the International Human Rights Framework and understood by the International Human Rights Community. It was felt that this wording would best reflect the State’s international human rights obligations across the full spectrum of Civil, Political, Economic, Social, Cultural and Environmental rights as well as the fundamental principle of non-discrimination.

The Commission has and will continue to work with the NPF team to support their understanding of human rights based indicators[[1]](#footnote-1) and of relevant indicators for the human rights Outcome.

# Qu 1. Are the proposed change to the National Outcomes and Indicators appropriate?

## Outcomes – overall view

The National Outcomes are of critical importance in reflecting the values and aspirations of Scottish society. They also have the potential to provide a useful mechanism by which to monitor and analyse commitments, effort and outcomes and thereby hold the Scottish Government, Parliament, Public Bodies and Institutions accountable for their progress (or otherwise) across a wide range of policy areas. The Commission welcomed this review and the recognition that the new Outcomes needed to be better aligned with mutually supportive accountability frameworks both domestically (e.g. Scotland’s National Action Plan for Human Rights) and internationally (e.g. the Sustainable Development Goals).

Your Committee’s letter to the Commission notes there are two Outcomes with particular relevance to human rights. The Commission would go further to state that human rights are relevant to and across all of the Outcomes. Indeed it would be useful if the narrative that eventually sits alongside the new National Outcomes could reflect this.

## Human Rights Outcome

The Commission supports the Human Rights Outcome as described in the revised NPF. Scotland has obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that the state must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires the state to protect individuals and groups against human rights abuses. The obligation to fulfil means that the state must take positive action to facilitate the enjoyment of basic human rights. Protection and fulfilment require policy, action and resource. Without these, we will have access to rights in theory, but they will not be delivered in practice.

The Commission also supports the addition of ‘and live free from discrimination’ which was added following the removal of the previous National Outcome on inequality. Whilst the Commission supports the idea that equality/inequality should be explored across all of the Outcomes with as much disaggregated data as possible, the Commission is also of the view that removing non-discrimination from the Outcomes puts at risk the basic SDG objective of ‘leaving no one behind’. Also it is important to note there is a bigger global picture for the Scottish Government to consider in that Scotland is currently considered to be a good example setter with regard to their commitment to and plans for the monitoring of the SDGs. Not including non-discrimination as a NPF Outcome would have been viewed as an unwelcome and retrogressive step by the UN.

## Missing Outcome

When the Commission provided its original review of the proposed National Outcomes it had made the case for the inclusion of an outcome on Violence – “We live free from Violence in all its forms”. This was noted as a gap during the Commission’s SDG/NPF analysis.

A considerable number of measures within the SDGs focus on violence reduction (especially in relation to Violence Against Women and Girls, Child abuse, Sexual & Psychological abuse of young people, FGM, Trafficking, Hate crime, Discrimination & Harassment.)

Evidence from [*Getting it Right*](http://www.snaprights.info/how-snap-was-developed/getting-it-right) *(SHRC 2012)* (the Commission’s evidence base for SNAP)and feedback from the recent SNAP participation process have repeatedly highlighted the need for a focus on the prevention of violence in Scottish society. With the new Justice Strategy and the wide range of work being undertaken in these policy areas this is a concerning omission. The Commission is, therefore, disappointed not to see this reflected in the new National Outcomes and measuring progress in this area remains a significant gap in the NPF’s ability to measure SDG progress.

**Indicators**

As noted above, there are aspects of all the National Outcomes that have relevance to human rights, which reflects the fundamental principle that human rights are universal, indivisible, interdependent and interrelated (Vienna Declaration 1993).

To best reflect this, the Commission recommended the inclusion of human rights based indicators. Best practice explains that such indicators help to measure progress across three levels, namely: having the right structures in place with regards to law and policy, ensuring that the correct processes can support effective implementation and outcome.  Together they address the essential aspects of human rights implementation, namely: commitment, effort and result.

The focus on commitment and effort, as opposed to only measuring result outcome, is one of the areas which make human rights indicators distinct. Outcome indicators look backwards at results, whereas Structure and Process indicators help governments to look forward and make more progress, e.g. by removing barriers to better outcomes such as systemic discrimination as a result of law or policy, intended or unintended.  Process indicators also strengthen evidence-based policymaking by assisting governments in determining whether their interventions are actually leading to improved outcomes or whether they need to be adjusted.

For the Human Rights National Outcome this could include indicators that measured for example: Scotland’s progress on delivering on outstanding UN treaty body recommendations; Implementation of International Human Rights Standards into law and policy; Understanding of human rights; Participation in public body decisions on policy (incl. budget) Human Rights Based Approach taken by public bodies; Human rights analysis of the Scottish budget/ Alignment of Scottish budget decisions with the NPF and Human rights based regulation, complaints, redress and performance frameworks. T

## Selected indicators for the Human Rights Outcome

The Commissions view is that the current indicators under the Human Rights Outcome provide only a partial measure of the Outcome. To improve these measures the Commission has agreed to work with the NPF team to develop further indicators that will better reflect the different aspects of ‘respect, protect and fulfil’ as well as non-discrimination, including indicators on understanding of human rights, discriminatory attitudes and possibly a way of measuring progress towards UN recommendations.

In addition, the measure being used for the indicator on ‘Public Services treat people with dignity & respect’ is not fit for purpose. Currently the measure looks at service delivery from a needs-based perspective, not a rights-based one (needs can always be cut back to ‘the most needy’, rights provide a red line below which service provision should not fall) and secondly there is little correlation between how a local council designs services and how an individual feels they are treated by a service.

# Qu 2. Has the Government’s consultation exercise on the revised NPF been sufficient?

It is the view of the Commission that good and sufficient effort has been made to ensure a wide range of stakeholder voices, both duty-bearers and rights-holders, has been heard through the consultation on the Outcomes. The same level of engagement has not been possible with regard to the Indicators due to time constraints; however, this has been made explicit in their methodology.

# Qu 3. Are the Sustainable Development Goals (SDGs) incorporated into the NPF in such a way as to ensure that they will be fully implemented?

The NPF is a measurement framework – as such it cannot implement the SDGs. What is required for progress and change is a Scottish Government implementation plan/s. The NPF clearly sets out what wide consultation has revealed to be the national priorities for progress in Scotland. It sets out our desired outcomes and the ways in which those outcomes will be measured, and attempts to relate those outcomes and indicators to the Goals of the SDGs. It does not and cannot ensure ‘implementation.’ That requires structural commitments, policy efforts, budgetary commitments and action planning.

In so far as what is contained within the NPF being seen and acted on as national priorities and hence supporting the implementation of the SDGs, would require that the SDGs are well reflected within the NPF, which currently, while progress has been made, there is further scope for improvement.

Based on a comparison of SDG indicator measures and those of the current NPF the Commission estimates that around 30% of SGD indicator measures are reflected in the revised NPF. (Full details can be made available).

It is clear that there will be a requirement for measures and data supplementary to that provided within the NPF if Scottish Government is to be able to adequately measure progress towards all of the SDGs. Many of these measures and data are available in Scotland – they are just not included within the NPF.

It is worth noting that there is an expectation that individual countries will not necessarily focus on all targets within the SDGs, but rather, will decide on which targets have the most relevant domestic applicability. A more in-depth analysis of the relevancy of the SDG targets to the situation in Scotland will certainly highlight a range of indicators that may not be considered applicable for Scotland. Decisions need to be made, transparently, about which indicators are being measured by Scotland. If the decision is that only the NPF will be used to measure progress nationally, then there will be significant gaps.

It is also that case that some countries may chose more challenging targets if those presented within the SDGs have already been or are close to being achieved. In addition, countries may choose more domestically appropriate indicators. Scotland has included a range of such indicator measures.

# Qu. 4 Will the proposed revisions to the NPF ensure policy coherence between the different National Outcomes, National Indicators and SDGs?

Policy coherence requires effective action planning. As noted in response to the previous question, this requires action from the government in the form of an implementation plan/s.

# Qu. 5 To what extent do your think public sector bodies use the National Outcomes to measure their performance?

Without further research, the Commission is not in a position to comment on this. What the Commission can say is that the National Outcomes are a significant focus within the measurement framework that was developed for SNAP and the various stakeholders engaged in SNAP (public bodies included) have engaged with this as a useful framework.

**The Scottish Human Rights Commission**

**April 2018**

1. This is still work in progress as human rights based indicators (as defined by the [UN High Commissioner for Human Rights](http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf)) have not been used in this iteration of the NPF. See [here](http://www.ohchr.org/Documents/Issues/HRIndicators/GuidanceNoteonApproachtoData.pdf) for further details in relation to human rights based indicators and the SDGs. [↑](#footnote-ref-1)