

**HUMAN RIGHTS AND THE NATIONAL PERFORMANCE FRAMEWORK**

**BRIEFING FOR MSPS:**

**SCOTTISH PARLIAMENT LOCAL GOVERNMENT AND COMMUNITIES DEBATE: CONSULTATION ON THE DRAFT NATIONAL OUTCOMES**

**THURSDAY 24th MAY 2018**

**Summary**

1. The Scottish Human Rights Commission welcomes the review of the National Performance Framework (NPF) as an important mechanism for ongoing discussion about national priorities for Scotland. The Commission particularly welcomes the inclusion of a specific National Outcome on Human Rights within the updated NPF.
2. The wording of the draft National Outcome on human rights states: “We respect, protect and fulfil human rights and live free from discrimination”. This wording directly reflects Scotland’s human rights obligations and duties under international law. 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 resources. Without these, access to rights exists in theory, but they will not be delivered in practice.
3. The Commission also welcomes the progress made in the updated NPF towards developing national indicators that seek to measure progress on human rights. However, we are of the view that more work is needed to develop indicators that represent best practice in this area. The Commission is committed to working with Scottish Government and other relevant stakeholders to advance this work.

**Human rights and the National Performance Framework – background**

1. Following the launch of Scotland’s National Action Plan for Human Rights (SNAP) in 2013, a monitoring group was formed comprising a range of stakeholders, 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.
2. The long term outcomes subsequently developed for SNAP were time-bound to 2030, with this date deliberately chosen to align with the timeline for the Sustainable Development Goals (SDGs). SNAP’s outcomes also included a focus on realising people’s rights through human rights based monitoring. When the SDGs were published in 2015 it was apparent that human rights were reflected throughout them, that human rights could support their implementation and monitoring, and that their achievement would support the realisation of human rights in practice.
3. In July 2015 the First Minister committed Scotland to the SDGs, declaring that they offered a vision of the world she believed the people of Scotland shared. In December 2015, in a keynote speech at an event marking the halfway point of SNAP’s first cycle, the First Minister also committed the Scottish Government to monitoring progress on the SDGs through both SNAP and the NPF.
4. The review of the NPF during 2017 set out to improve their alignment with the SDGs and with other frameworks including SNAP and Scotland’s Economic Strategy. The Scottish Human Rights Commission coordinated a Working Group to act as a sounding board throughout this process and engaged in stakeholder workshops on both the new Outcomes and Indicators for the proposed Human Rights Outcome. The Commission’s Chair also sat on the NPF Review Roundtable, which has had regular opportunities to input into the development of the Outcomes.
5. 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 in government, the following Outcome was proposed: “We respect, protect and fulfil human rights and live free from discrimination.” The wording “Respect, Protect and Fulfil” has a very specific meaning with regard to human rights realisation, drawn from the international human rights legal 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 human rights principle of non-discrimination.

**Human rights gaps in the updated National Performance Framework**

1. While we are broadly supportive of the human rights dimensions of the updated NPF, the Commission believes a number of gaps remain outstanding.

*Prevention and reduction of violence*

1. Evidence from the Commission’s research, policy and public participation work repeatedly highlights violence as a significant human rights issue in Scottish society, which has a disproportionate impact on particular groups and communities, and should be the focus of prevention strategies and measures. Equally, a considerable number of measures within the SDGs focus on violence reduction, particularly in relation to violence against women and girls, child abuse, sexual and psychological abuse of young people, female genital mutilation, trafficking, hate crime, discrimination and harassment.
2. In its original analysis of the NPF in relation to the SDGs and human rights, the Commission noted a gap in relation to a National Outcome on the prevention and reduction of violence. The Commission remains disappointed not to see this reflected in the new National Outcomes.

*Human rights measurement indicators*

1. Aspects of all the updated National Outcomes have relevance to human rights. This reflects the fundamental principle that human rights are universal, indivisible, interdependent and interrelated, set out in the 1993 Vienna Declaration.
2. International best practice in human rights measurement would involve setting indicators that measure progress across three levels: having the right law and policy structures in place; ensuring correct processes exist to support the implementation of law and policy; and the outcomes that are ultimately achieved in people’s lives.
3. The focus on structures and processes, as well as outcomes, is something that makes human rights indicators distinct from other approaches. Outcome indicators look backwards at results, whereas structure and process indicators look forward.
4. The Commission is of the view that substantial work is needed to strengthen the measurement indicators across the updated NPF so that they provide a better way of measuring progress on human rights that aligns with international best practice. While this is true across all of the National Outcomes, the indicators currently identified in relation to the Human Rights Outcome also only provide a partial measure.
5. The Commission has and will continue to work with the NPF team to support their understanding of human rights based indicators and of relevant indicators for the Human Rights Outcome. 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.

**Further information**

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