

Submission to the United Nations Human Rights Committee (The Committee):

NHRI Report to Inform List of Issues Prior to Reporting on the United Kingdom’s 8th periodic report under the International Covenant on Civil and Political Rights

January 2020

The Scottish Human Rights Commission (SHRC) is the national human rights institution (NHRI) for Scotland, accredited with A status by the International Coordinating Committee of NHRIs. SHRC was established by an Act of the Scottish Parliament in 2008. It has a general duty to promote awareness, understanding and respect for all human rights and to encourage best practice, including through education, training and awareness raising, and by publishing research. SHRC has a number of powers including:

- The power to conduct inquiries into the policies or practices of Scottish public authorities.

- Recommending such changes to Scottish law, policy and practice as it considers necessary.

- The power to enter some places of detention as part of an inquiry.

- The power to intervene in some civil court cases.

SHRC is one of the three NHRIs in the UK. SHRC is a member of the UK’s National Preventive Mechanism (NPM) designated in accordance with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

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Contents

|  |  |
| --- | --- |
| Contents | 2 |
| Part I. | 5 |
| Introduction to structure and scope of this report | 5 |
| Structure of the report | 5 |
| Sources | 6 |
| Part II. Background briefing regarding recommended questions | 7 |
| Constitutional and legal framework within which the Covenant is implemented | 7 |
| Human Rights Act 1998 and the European Convention on Human Rights | 7 |
| Impact of Brexit on Rights protections | 9 |
| Dissemination of information regarding the Covenant | 11 |
| Data availability & effective monitoring | 12 |
| Right to an effective remedy and a fair trial | 12 |
| Historic Abuse | 12 |
| Access to justice for those affected by sexual violence | 13 |
| Access to legal aid | 14 |
| Not proven verdict | 16 |
| Access to independent advocacy | 17 |
| Police complaints | 18 |
| Accountability of private providers of public services | 19 |
| Equality and non-discrimination | 20 |
| Communication and language barriers to rights enjoyment | 20 |
| Equal rights of men and women, measures to prevent discriminatio**n** | 21 |
| Political representation | 21 |
| The representation of women on the boards of Scottish Public Authorities | 22 |
| Gender pay gap | 24 |
| Violence against women and girls | 25 |
| Violence against women and girls | 25 |
| Black and minority ethnic women and LGBTQI+ domestic violence | 27 |
| Discrimination and incitement to discrimination, hostility or violence | 28 |
| Hate crime | 28 |
| Stop & Search | 31 |
| Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment | 33 |
| Deaths in Custody | 33 |
| Effective and independent investigation of cases of death in custody and mental health detention | 34 |
| Suicide | 35 |
| Restraint | 37 |
| Use of electroshock weapons | 38 |
| Use of psychotropic medication amongst people with autism & learning disabilities | 38 |
| Treatment of persons deprived of their liberty | 40 |
| Human rights training for staff in custody settings | 40 |
| Prison overcrowding | 41 |
| Women in custody | 45 |
| Children and young people in custody | 47 |
| Sentencing | 49 |
| Mental health detention | 50 |
| Young People in Intensive Psychiatric Care | 51 |
| Freedom from arbitrary or unlawful interference and new technologies | 52 |
| Biometrics: facial recognition, cyber kiosks & digital forensics | 52 |
| Freedom of assembly & association | 54 |
| Marches | 54 |
| Family Life | 54 |
| Parental leave | 54 |
| Rights of the child | 55 |
| Corporal Punishment | 55 |
| Minimum age of criminal responsibility | 56 |
| Access to adequate mental health services | 57 |
| Democratic participation | 59 |
| Prisoner voting | 59 |
| Public participation in decision making | 61 |
| Human rights budgeting and budget scrutiny | 62 |
| Digital government | 64 |
| Protection of minorities | 66 |
| Rights of Scottish Gypsy Travellers | 66 |
| Appendix I: Recommendation Questions | 69 |

Part I. Introduction, Structure and Scope of this report

1. The Scottish Human Rights Commission (SHRC) welcomes the opportunity to make this submission to the Human Rights Committee (the Committee) in advance of its deliberations on the List of Issues for the United Kingdom (UK). In this document SHRC suggests a number of questions for the Committee to put to the UK, particularly in relation to Scotland. This report covers the legal framework, policies and practices in Scotland in accordance with the mandate of the SHRC.

2. The Scotland Act 1998, which established the Scottish Parliament, requires both the Scottish Parliament and Scottish Government[[1]](#footnote-2) to observe and implement all of the UK’s international human rights obligations.[[2]](#footnote-3) Under the terms of the Scotland Act 1998 all issues which are not explicitly reserved to the UK Parliament are devolved to the Scottish Parliament. Consequently issues such as justice, detention, policing, health, education and social care are within the powers of the Scottish Parliament. A meaningful understanding of the obligations of the Scottish Parliament and Government to observe and implement International Covenant on Civil and Political Rights (ICCPR) will be crucial to ensuring law, policy and practice in Scotland are fully compliant.

Structure of the report

3. A grouped article by article analysis of the ICCPR is pursued in this document. In selecting material for this report we have prioritised matters that on our analysis:

* are the most pressing and /or
* where the Committee is likely to be interested in additional information (based on a previous recommendation, correspondence or general comment) and/or
* where SHRC has carried out particular work on the issue which may assist the Committee.

4. The overall report has also been reviewed with specific consideration to the SDGs. For the purpose of brevity, these references are footnoted throughout the report.

Sources

5. This report draws from SHRC’s evidence base which was created as part of a three year research project culminating in the publication of “*Getting it Right: Human Rights in Scotland”* in 2012[[3]](#footnote-4) and led to the development of Scotland’s first National Action Plan for Human Rights (SNAP).[[4]](#footnote-5) This database has been further developed and updated through a national participatory process[[5]](#footnote-6) to develop Scotland’s second National Action Plan (SNAP 2),[[6]](#footnote-7) SHRC’s contribution to the Scottish Shadow Report to the SDG Voluntary National Review Process,[[7]](#footnote-8) as well as our reports to other UN Treaty Bodies.[[8]](#footnote-9) This report also draws on other SHRC sources, such as our responses to consultations about proposed legislative change, and many external sources, including reports published by NGOs, Ombudsmen, inspectorates and regulators. We would be pleased to provide any clarification, further information, or other assistance to the Committee.

Part II. Background regarding recommended questions

Constitutional and legal framework within which the Covenant is implemented (art. 2)

Human Rights Act 1998 and the European Convention on Human Rights

6. SHRC recalls the Committee’s previous concluding observation relating to the Human Rights Act 1998 (HRA). SHRC consider that we should maintain, in full, the protections provided by the HRA and areopposed to any changes that lessen accountability and diminish the protection of rights. The Commission has expressed long-standing concerns about the regressive nature of many elements of previously mooted proposals to repeal the HRA and replace it with a British or UK Bill of Rights.[[9]](#footnote-10) The recent Conservative manifesto[[10]](#footnote-11) stated that the UK Government does now intend to retain rather than repeal the HRA, however, it is clear from the manifesto that there is an intention to restrict its application and scope.

7. Furthermore the HRA is integrated into the UK constitutional framework within which devolved powers are exercised in Scotland. The HRA is embedded into the Scotland Act 1998, (as well as the Government of Wales Act 1998, the Belfast/Good Friday Agreement and the Northern Ireland Act 1998). The HRA provides a coherent framework and minimum threshold of protection of human rights throughout the UK. This level of integration of the HRA into the devolution arrangements provides a strong constitutional and legal case for its retention.

The Scottish Government and Parliament is opposed to both the repeal and/or restriction of scope of the HRA.

8. It is also important to note that the HRA does not extend to all ICCPR rights. Furthermore, the UK Government has not ratified the Optional Protocol to the ICCPR, allowing individual complaints, thereby providing other routes of redress for Covenant rights. We also note with concern the number of reservations the UK Government maintains against the ICCPR.[[11]](#footnote-12)

9. The potential impact of the United Kingdom of Great Britain and Northern Ireland leaving the European Union (Brexit),[[12]](#footnote-13) including the loss of and risk to legal protections for civil and political rights has given impetus to exploring what can be done within the Scottish Parliament’s devolved competence to strengthen our human rights laws. A dialogue has been taking place in Scotland for a number of years around the importance and role of international human rights standards; these standards are increasingly referenced, understood and embedded in law and policy making, on a cross party basis, and by civil society organisations.[[13]](#footnote-14)

10. On December 10th 2018, SHRC welcomed the First Minister’s Advisory Group on Human Rights Leadership’s recommendations on how Scotland can continue to lead by example in human rights.[[14]](#footnote-15) The recommendations include an Act of the Scottish Parliament which incorporates directly into Scots law those rights included in ICCPR and, in particular those rights included in other UN treaties which are not protected by the HRA. We also welcome the recent commitment by the First Minister to incorporate the UN CRC into law to the maximum extent possible, within the powers of the Scottish Parliament, using the language of the Convention.[[15]](#footnote-16)

SHRC therefore recommends that the Committee asks the UK Government:

11. Whether it commits to maintaining the legal protection of ICCPR rights as currently provided through the HRA.

12. How it will ensure that the ‘Constitution, Democracy & Rights Commission’ to be established or any other process intended at recommending reforms of the HRA , will be impartial, independent of Government, represent a range of political, legal and societal views from all parts of the UK and be underpinned by a commitment not to weaken the legal protection of ICCPR rights.

Impact of Brexit on Rights protections

13. SHRC is concerned that the EU Charter of Fundamental Rights (the Charter) will no longer directly apply to the UK or to Scotland as a consequence of the EU (Withdrawal) Act 2018 (the Withdrawal Act).[[16]](#footnote-17) It is notable and of concern that the Charter has been singled out as the only aspect of EU law not to be retained upon the UK’s withdrawal from the European Union. Clause 5 of the Withdrawal Act, removes the Charter from UK law and prevents it from applying to ‘retained’ areas of EU law following Brexit.

14. Despite the UK Government’s stated position that removal of the Charter from UK law “*will not affect the substantive rights that individuals already benefit from in the UK*”,[[17]](#footnote-18) it is clear that the removal of the Charter does indeed result in a reduction in the protection of substantive rights[[18]](#footnote-19) and reduces the ability to promote and enforce non-discrimination laws and policies.[[19]](#footnote-20) Concerns about diminution of rights protection over time is further increased by the Withdrawal Act provisions allowing ministers to manage legislative change to retained EU law and any other legislation impacted by Brexit, by statutory instrument.[[20]](#footnote-21) These “Henry VIII” powers allow for changes to rights protections without Parliamentary scrutiny and with no other mechanisms through which to protect retained rights from amendment.

15. Finally, EU membership requires member states to be signatories to the European Convention on Human Rights (ECHR). Withdrawal from the EU means the ECHR, incorporated through the Human Rights Act and enshrined in the Scotland Act, is more vulnerable to withdrawal by the UK.

16. SHRC has welcomed the principle that Scottish Ministers should be empowered to keep pace with progressive developments at an EU level following the UK departure from the EU, and this was a guiding principle of the First Minister’s Advisory Group on Human Rights Leadership.[[21]](#footnote-22)

SHRC recommends that the Committee ask the UK Government:

17. What measures will it take to ensure the protection of all Covenant rights across all jurisdictions in the UK post-Brexit.

Dissemination of information regarding the Covenant

18. There has been very little public awareness of the Covenant and its Optional Protocols among judges, public officials, police and law enforcement officers, legal advisers and the public at large.

SHRC recommends that the Committee ask the UK and Scottish Governments :

19. What steps they have taken to disseminate information about the submission of its eighth periodic report, its examination by the Committee and the Committee’s previous concluding observations on the seventh periodic report across the UK.

20. The Committee has previously expressed the importance of raising levels of awareness about the Covenant, not only among public officials and State agents, but also among the population at large.[[22]](#footnote-23) Scotland does not have a national strategy for human rights education and no plans have been developed to deliver any of the three phases of the World Programme for Human Rights Education. However, Recommendation 3 of the First Minister’s Advisory Group on Human Rights Leadership relates to capacity-building to enable effective implementation of the Act[[23]](#footnote-24) so as to improve people’s lives.

SHRC recommends that the Committee ask the Scottish Government:

21. To outline the steps it intends to take to ensure a process of targeted capacity-building is undertaken to enable the practical and effective implementation of the Act.

Data availability & effective monitoring

22. In order to ensure effective equality monitoring, various UN Committees have repeatedly recommended that the State put in place a system to collate disaggregated data. This is further supported by the call for better data disaggregation as part of the delivery of the SDGs, in order to match the ambition that “*no one should be left behind*” and “*no target should be met, unless met for all groups.*”[[24]](#footnote-25) However, there continues to be a lack of available official disaggregated data, especially on intersectionality, which would provide vital information on individuals affected by multiple discrimination and allow policy and legislation to be shaped to address those.

SHRC recommends that the Committee ask the UK and Scottish Governments:

23. How they are planning to improve the collection and publication of disaggregated data on intersectionality to enable appropriate monitoring and scrutiny of policies.

Right to an effective remedy and a fair trial (Arts. 2, 14 and 24)

Historic Abuse

24. SHRC welcomed a series of measures introduced by the Scottish Government to fulfil the commitments contained within the Historic Abuse Action Plan[[25]](#footnote-26). This included the establishment of the Scottish Child Abuse Inquiry in 2015;[[26]](#footnote-27) the National Confidential Forum,[[27]](#footnote-28) which provides an acknowledgement function for survivors of abuse in care; the introduction of the Apologies (Scotland) Act 2016;[[28]](#footnote-29) the apology on behalf of the Scottish Government made by the Deputy First Minister on 23 October 2018;[[29]](#footnote-30) and the introduction of the Limitation (Childhood Abuse) (Scotland) Act 2017)[[30]](#footnote-31) which removed the time limit on childhood abuse claims in the civil courts.

25. SHRC also broadly supports the proposed Financial Redress scheme for survivors of historical child abuse in care[[31]](#footnote-32) and welcomes the introduction of the Advance Payment Scheme, to provide financial redress for eligible survivors who are terminally ill or over 68 years old, avoiding the need for these survivors to wait until legislation can be passed. However, SHRC is concerned that some of the initial proposals around eligibility criteria for applications to the redress scheme may be too restrictive, and would also close off routes to civil actions for applicants. In line with the right to effective remedy, SHRC is of the view that applicants should be able to access the redress scheme alongside pursuing a civil action.

SHRC recommends that the Committee ask the Scottish Government:

26. What steps it will take to ensure that eligibility criteria for the financial redress scheme are not overly restrictive, do not discriminate against particular groups of survivors and that they enable individuals to pursue their right to an effective remedy through a civil action.

Access to justice for those affected by sexual violence

27. SHRC welcomes the proposed introduction of the Forensic Medical Services (Victims of Sexual Offences) Bill, which aims to improve the way in which forensic medical examinations and associated healthcare are conducted, including taking a trauma‑informed approach and introducing a self‑referral model for victims of sexual crime who wish to have a forensic medical examination without first reporting a crime to the police. Recent research and advocacy work on the rights of disabled women in general sexual health settings suggest that disabled people may face significant barriers in accessing appropriate support in forensic medical settings.[[32]](#footnote-33)

SHRC recommends that the Committee ask the Scottish Government:

28. To outline the steps it intends take to ensure a trauma‑informed approach will be appropriately resourced.

29. What steps it is taking to monitor and ensure that disabled people, including disabled women, have equal access to forensic medical examinations, including with respect to the accessibility of venues, availability of appropriate facilities, equipment and information, and where required, support to make decisions with respect to the examination.

Access to legal aid

30. Access to legal aid is key to delivering access to justice for all through effective, accountable and transparent institutions.[[33]](#footnote-34) Although the amount of budget allocated to legal aid in 2018/19 has increased from 2017/18, the increase was allocated to administrative costs rather than legal aid itself. The Law Society of Scotland’s view is that with the current rate of inflation, budget allocation to legal aid would need to be higher to maintain the same level of funding in real terms. Independent research into Legal Aid firms highlights some key concerns with the system.[[34]](#footnote-35)

31. The Law Society called for fees to increase and budget goals to be relaxed as a prerequisite to ensure equality of access to legal advice. It is well documented that any decline in legal aid means less protection for women, as a high level of legal aid work is carried out in respect of issues that disproportionately impact on women including child contact, divorce and protective orders.[[35]](#footnote-36)

32. The Scottish Government stated, as part of the devolution of employment tribunals, that there will be no tribunal fees.[[36]](#footnote-37) However, there has been a significant increase in court fees and concern that this will negatively impact on the ability of many people to access justice on access to justice for many, especially disabled people.[[37]](#footnote-38) The Scottish Government does not believe that these increases will have a discriminatory impact, because the fee increases apply to all court users – with those on low incomes able to secure assistance from legal aid and other available exemptions.[[38]](#footnote-39) SHRC is concerned that this response does not take into account the disproportionate impact of such high court fees on disabled people, the disability pay gap and the barriers to getting legal aid, for example that legal aid is not available for all civil cases.

Not proven verdict

SHRC recommends that the Committee ask the Scottish Government:

33. How it intends to respond to the recommendations of the Independent Review of Legal Aid.

34. What steps it is taking to monitor the impact of availability and reductions to legal aid, in particular whether these reductions are having a disproportionate impact on specific groups, for example, women or disabled people.

35. In Scotland, unlike most other legal systems in the world, there are three possible verdicts in criminal cases: guilty, not guilty and not proven. The legal implications of a not proven verdict are exactly the same as a not guilty verdict. However, concerns exist that the verdict is not always well understood and can cause confusion for both jurors and the public, and that it could carry a stigma for an accused person as well as failing to provide the necessary closure for victims.

36. In 2016 the Justice Committee heard evidence for and against removing the not proven option and most members of the Committee concluded that the not proven verdict was on ‘borrowed time’[[39]](#footnote-40) and may not serve any useful purpose. Recent research[[40]](#footnote-41) conducted on behalf of the Scottish Government suggested that a guilty verdict might be more likely if the third option was not available in criminal trials. Campaigners note that the not proven verdict is used disproportionately in rape cases, with Rape Crisis Scotland concerned that it gives an "easy out" for juries in rape trials and therefore diminishes the likelihood of convictions and access to justice.[[41]](#footnote-42) Following the successful civil case against her attacker in 2018 by Miss M,[[42]](#footnote-43) calls are being made for Scotland to abolish ‘not proven’ to improve access to justice for all.[[43]](#footnote-44)

SHRC recommends the Committee ask the Scottish Government:

37. What steps it intends to take to improve access to justice for victims of rape and sexual assault, including in relation to the abolition of the not proven verdict.

Access to independent advocacy

38. Independent Advocacy is a key provision to help empower people to have a stronger voice and to have as much control as possible over their own lives. It is critical for safeguarding people who are vulnerable or discriminated against, or for whom services find difficult to serve. In Scotland there are several relevant pieces of legislation and government policy which reference or enshrine a right of access to advocacy.[[44]](#footnote-45) However, despite an increase in the numbers of people who have accessed independent advocacy services in recent years, the corresponding statutory funding allocated to advocacy organisations has decreased.[[45]](#footnote-46) This has resulted in a reduction in the numbers of paid and volunteer advocates; advocacy organisations having to prioritise people who are in crisis, meaning that they are operating extensive waiting lists and some groups who should be able to access independent advocacy due to mental health issues are still not able to do so, including children and young people.[[46]](#footnote-47)

41. Section 122 of the Children’s Hearings (Scotland Act) 2011, which set a requirement for the Chair of Children’s Hearings to inform young people of their right to independent advocacy, had not been enacted. The delay of enacting Section 122 was to allow the Scottish Government to better understand the advocacy landscape in terms of commissioning and availability. A National Practice Model and draft standards for Children’s Hearing Advocacy has now been developed and the 2019-20 Programme for Government says that a National Children’s Hearing Advocacy scheme will be launched in Spring 2020, with £1.5 million allocated to it.

SHRC recommends the Committee ask the Scottish Government :

42. What steps they are planning to take to monitor the roll out of the National Children’s Hearing Advocacy scheme.

SHRC recommends that the Committee ask the Scottish Government:

39. How it plans to ensure that all those who need to access their right to independent advocacy are able to do so, especially those with mental health concerns and children.

40. What steps they are taking to monitor the equality impact of reductions to independent advocacy.

Police complaints

43. In 2018 Dame Elish Angiolini was appointed to conduct a review of the Scottish Police Complaints Procedure in light of the recommendations contained in Post-legislative scrutiny of the Police and Fire Reform (Scotland) Act 2012.[[47]](#footnote-48) Her preliminary report[[48]](#footnote-49) was put before the Scottish Parliament in June 2019 and the final report is due in summer 2020. The Preliminary report included a number of recommendations for Police Scotland, the Scottish Police Authority, Police Independent Reviewer of Complaints and the Cabinet Secretary.

SHRC recommends the Committee ask the Scottish Government :

44. What steps they are taking to act upon the recommendations in the preliminary report on Scottish Police Complaints Procedure.

Accountability of private providers of public services[[49]](#footnote-50)

45. SHRC notes that many public services in areas such as housing, security, health and social care are provided by private actors contracted by the State party. It is considered essential that there is clarity both in law and in practice that all private actors providing public services are legally obliged to act compatibly with Covenant rights and there is access to remedy if rights standards are not upheld. The recent case of Serco, a private provider of asylum accommodation using lock-changes in forced evictions and being found by the courts not to be bound by the HRA is illustrative of this issue. [[50]](#footnote-51)

SHRC recommends the Committee ask the UK and Scottish Governments:

46. What steps are being taken to ensure that all commissioning, procurement and contracting of private providers of services take account of human rights obligations.

47. What measures are being taken to clarify the human rights obligations of all non-state actors with regard to human rights in line with international norms such as those set out by UN "Protect, Respect and Remedy" Framework and Guiding Principles.

Equality and non-discrimination (arts. 2 and 26)

Communication and language barriers to rights enjoyment

48. SHRC notes with concern that many people in Scotland continue to experience barriers to accessing their Covenant rights due to limited availability of accessible information formats, equipment, facilities and limited public sector understanding of how to support communication needs.[[51]](#footnote-52)

49. The Scottish Government recognised the importance of inclusive communication in facilitating the rights of disabled people in its ‘Fairer Scotland for Disabled People: A Delivery Plan’.[[52]](#footnote-53) The Scottish Government has published an Action Plan (2017-2023) with actions to help ensure deaf and deafblind BSL users are fully involved in all aspects of daily and public life. The Health (Tobacco, Nicotine etc. and Care) Scotland Act 2016[[53]](#footnote-54) creates a duty on Scottish Ministers to provide or secure the provision of communication equipment, and support in using that equipment, to any person who has lost their voice or has difficulty speaking.

SHRC recommends that the Committee ask the Scottish Government :

50. What steps it is taking to monitor the extent to which people with communication needs are able to access appropriate information formats, equipment and support in order to fulfil their Covenant rights, for example to information and participation.

Equal rights of men and women, measures to prevent discriminatio**n (arts. 3 and 26)**

Political representation

51. Women continue to be underrepresented in decision-making roles in the political and public sphere in the Scotland and the UK.[[54]](#footnote-55) Just over 36 per cent of MSPs,[[55]](#footnote-56) 31 per cent of MPs[[56]](#footnote-57) and 24 per cent of councillors are women in Scotland.[[57]](#footnote-58) All of Scotland’s female MSPs and MPs are white and the nation regressed in global gender rankings from 4th place in 2003 to 27th in 2017.[[58]](#footnote-59)

SHRC recommends that the Committee ask the UK and Scottish Governments:

52. What steps they are taking to move towards a representative proportion of women in legislatures and executive arms of national, devolved and local government.

53. There is also very limited representation of disabled people among MSPs and MPs in Scotland,[[59]](#footnote-60) although Inclusion Scotland is currently running a number of programmes to address this, e.g. interning programme and the One in Five Campaign.[[60]](#footnote-61)

The representation of women on the boards of Scottish Public Authorities

54. Some progress has been made with regards to regulated public bodies. In 2018/19, 48.6 per cent of board members were female, up from 34.5 per cent in 2004/5. However, only 28.2 per cent of public bodies are chaired by women.[[61]](#footnote-62) The persistence of vertical occupational segregation is illustrated by the fact that 81 per cent of the total NHS workforce is comprised of women, but 81 per cent of NHS Board chairs are men.[[62]](#footnote-63) Women are also underrepresented in Scotland’s judiciary, accounting for just over 25 per cent of all judicial office holders in 2017.[[63]](#footnote-64) Women continue to experience sexist behaviour while working in public bodies; a factor that constrains their participation.[[64]](#footnote-65) The recent Independent Review of Hate Crime in Scotland by Lord Bracadale recommended that due to the increased prevalence of abuse related to gender, a new aggravation on gender hostility should be introduced.[[65]](#footnote-66)

SHRC recommends that the Committee ask how the Scottish Government:

55. How it is planning enforce the Gender Representation on Public Boards (Scotland) Act 2018 and how it will strengthen data collection to better understand the issue and measure progress.

Gender pay gap

56. In Scotland the gender pay gap sits at 14 per cent when comparing men and women's overall average hourly earnings.[[66]](#footnote-67) A 2018 report found that 4 factors are driving the pay gap: bonus earnings, the size of a company a woman works for, Occupational Segregation and the ‘Gender residual’. [[67]](#footnote-68)

57. Women's employment is concentrated in the public sector, with 48 per cent of working women represented in Public Administration, Education and Health industries. Around 80 per cent of administrative and secretarial workers and those in personal service jobs are women. Only 10 per cent of senior managers in the science, technology and engineering sector are women. Scotland's Modern Apprenticeship programme continues to be acutely segregated by gender, where women account for only [2 per cent](http://www.skillsdevelopmentscotland.co.uk/media/42952/modern-apprenticeship-statistics-up-to-the-end-of-quarter-3-2016-17.pdf) of construction apprentices, [20 per cent](https://www.closethegap.org.uk/content/resources/Making-Manufacturing-Work-for-Women---Summary-of-research-findings-Close-the-Gap-June-2015.pdf) of manufacturing apprentices, but [97 per cent](http://www.skillsdevelopmentscotland.co.uk/media/41670/ma-by-level-framework-and-gender-2015-2016-q4.pdf) of childcare apprentices and [93 per cent](http://www.skillsdevelopmentscotland.co.uk/media/42030/ma-by-level-framework-and-gender-2016-2017-q1.pdf) of hairdressing apprentices. [[68]](#footnote-69)

58. The Equality Act (Gender Pay Gap Information) Regulations 2017 require large private and third sector organisations to report their top line pay gap, including the gender gap in bonus payments. However, the Regulations exclude smaller organisations with fewer than 250 employees. There is a requirement in Scotland for public bodies that employ 150 people or more to report gender pay gap information every two years. This requirement was extended to public bodies that employ 20 people or more in 2016. However, research has shown that reporting on the gender pay gap remains poor.[[69]](#footnote-70)

59. The operation of the Public Sector Equality Duty to date appears to have had limited impact on tackling inequality, particularly the gender pay gap. While Scotland has introduced a number of strategies to address gender inequality,[[70]](#footnote-71) these are largely voluntary initiatives with no legal underpinning.[[71]](#footnote-72)/[[72]](#footnote-73)

SHRC recommends that the Committee ask the Scottish Government:

60. What steps it has taken to develop a national strategy to address the causes of the gender pay gap, including targeted measures to reduce gender segregation.

Violence against women and girls (arts. 2, 3, 7 and 26)

Violence against women and girls

61. SHRC welcomes the introduction of the *Domestic Abuse (Scotland) Act 2018*. [[73]](#footnote-74) The last few years have seen signiﬁcant movement on criminal justice and policy responses to tackle violence against women, including the Domestic Abuse Act and the Equally Safe strategy. SHRC notes the Scottish Government’s stated commitment to considering the outcome of Lady Dorrian’s review of the management of sexual offences and how they can be better conducted through the courts.

62. However, a comprehensive approach requires the Government to continue improving the legislative framework, for example, by ratifying and implementing the Istanbul Convention, and supporting greater awareness-raising for victims and survivors of domestic abuse, to encourage reporting and ensure that the broader scope of the protections provided by the Act are understood (e.g. economic abuse).[[74]](#footnote-75)

SHRC recommends that the Committee ask the UK Government :

63. What progress it has made towards the ratification of the Council of Europe Convention on Combatting Violence Against Women and Domestic Violence (the “Istanbul Convention”).

64. Adequate funding is also necessary to ensure that women and children receive support to access the services they require. Training for prosecutors, sheriffs, local authorities and law enforcement is also required to ensure that the law is robustly enforced and accurate statistical records in relation to domestic violence exist.[[75]](#footnote-76)

SHRC recommends that the Committee ask the Scottish Government to explain:

65. How all relevant public bodies will be appropriately financed and trained to enforce the Domestic Abuse (Scotland) Act 2018.

Black and minority ethnic women and LGBTQI+ domestic violence

66. SHRC is concerned about widespread gaps in Scotland in providing specialist services for black and minority ethnic women experiencing domestic violence (especially asylum-seeking, refugee and trafficked women). Furthermore, local authority sources reveal that the number of families with No Recourse to Public Funds (NRPF) is increasing in Scotland. An Inquiry by the Equalities and Human Rights Committee of the Scottish Parliament (EHRiC) in 2017 on NRPF,[[76]](#footnote-77) highlighted that women and children survivors of domestic abuse who have insecure immigration status and NRPF are at ‘acute’ risk of suffering destitution due to hostile immigration policies.

67. While there is some research on LGBTI people’s experience of domestic abuse, more is required to fully understand people’s experiences. Women’s Aid has highlighted that members of the LGBTI community can face additional abuse experiences such as fear of being ‘outed’[[77]](#footnote-78) and research by the ‘Voice Unheard’ project with LGBTI young people, found that 47.1 per cent of young people said that fear of homophobia, biphobia or transphobia would make them less likely to access domestic support services. [[78]](#footnote-79) Research by Scottish Transgender Alliance found high levels of domestic abuse experienced by transgender people (80 per cent of respondents[[79]](#footnote-80) had experienced emotional, sexual or physical abuse from a partner or ex-partner).[[80]](#footnote-81)

SHRC recommends that the Committee ask the Scottish Government to explain:

68. What concrete steps it is taking to prevent violence against women and children in Scotland, including by improving specialist provision for LGBT people, Black and ethnic minority women, disabled people and individuals with complex needs, and ensure that services are available and accessible to all survivors, regardless of immigration status.

Discrimination and incitement to discrimination, hostility or violence (arts. 2,3,20,26 and 27)

Hate crime

69. Overall there has been a reported decrease in hate crimes in Scotland over the last decade. The rate of change, however, varies by type of aggravation. Race related crime (which remains the most commonly reported hate crime),[[81]](#footnote-82) religiously aggravated charges[[82]](#footnote-83) and transgender identity aggravated charges[[83]](#footnote-84) all decreased in 2018-19.

70. Since the legislation introducing these aggravations came into force in 2010, both sexual orientation aggravated charges (the second most common type of hate crime)[[84]](#footnote-85) and disability aggravated charges,[[85]](#footnote-86) have increased year on year.[[86]](#footnote-87) There are however, no definitive figures for the outcome of these cases.

71. Research into young people’s experiences of discrimination and Islamaphobia in Scotland, revealed that while ethnic minority young people feel strongly affiliated with Scotland and ‘Scottish-ness’, experiences of everyday racism can make them feel alienated and excluded.[[87]](#footnote-88) The research also highlighted the negative impact of the media on fuelling racial-religious stereotypes.[[88]](#footnote-89) A 2017 inquiry by the Scottish Parliament’s Equalities and Human Rights Committee into bullying in schools[[89]](#footnote-90) recommended a focus on prevention, calling for better monitoring and data collection on bullying incidents in order to improve more effective policy making. The inquiry findings informed [*Respect for All*](https://www.gov.scot/publications/respect-national-approach-anti-bullying-scotlands-children-young-people/)*,[[90]](#footnote-91)* which contains an explicit commitment to addressing all types of bullying, including prejudice-based bullying. However, research published in 2019 revealed how Black, Asian and Minority Ethnic young people in Scottish schools continue to feel teachers and schools were not well equipped to respond effectively to any concerns raised about racism or discrimination.[[91]](#footnote-92)

72. There remains no mandatory reporting of prejudice-based bullying and SHRC remains concerned that current data collection methods do not provide an accurate measurement of prejudice-based bullying or hate crime in Scotland. The introduction of third party reporting has not resulted in a marked increase in indirect reporting. As a result, under-reporting of all hate crime remains a particular concern.

73. In 2018, Lord Bracadale undertook a review of hate crime on behalf of the Scottish Government which recommended a range of legal changes in Scotland to:

* introduce aggravations where offending involves hostility on grounds of gender and age, in addition to existing coverage of race, religion, disability, sexual orientation and transgender identity,
* create offences to deal with threatening or abusive conduct which stirs up hatred in respect of each of these characteristics – sufficient to cover online hate crime/hate speech,
* consolidate all hate crime legislation in a single Act.

74. The Scottish Government is now considering reforms to hate crime legislation in Scotland and has undertaken a recent consultation to seek stakeholder views on consolidating and modernising hate crime laws; new statutory aggravations; new “stirring up” offences, and other related issues.[[92]](#footnote-93)

SHRC recommends that the Committee ask the Scottish Government:

75. What steps it is currently taking to systematically improve data collection on prejudice-based bullying and hate crime, strengthen support services for victims and strengthen legal protections.

Stop and Search

76. In the 7th periodic report under ICCPR, the Committee expressed concern about the use of stop and search powers in Scotland, and particularly about non-statutory searches undertaken on a large scale by Police Scotland that appeared to involve, inter alia, the selective application of such measures in a manner that was allegedly unlawful and disproportionate.[[93]](#footnote-94)

77. These views helped to support a growing domestic call for change to stop and search legislation. In May 2017, following a consultation that had widespread support and was unanimously approved by the Scottish Parliament, a new Code of Practice (CoP) on police stop-and-search powers came into force in Scotland. The CoP states that statutory searches must be "*necessary, proportionate and in accordance with the law*".[[94]](#footnote-95) Specific guidance was also introduced on dealing with children and vulnerable adults. Non-statutory or ‘consensual’ stop-and-searches are no longer legal.

78. As committed to in the Scottish Government Race Equality Action Plan,[[95]](#footnote-96) a review of the new CoP was undertaken – published in June 2019.[[96]](#footnote-97) The review revealed that there had been a significant reduction in the number of searches and seizures;[[97]](#footnote-98) far greater proportionate reduction in police use of seizures (for alcohol) and a decline in searches following the introduction of the CoP which coincided with an increase in positive outcomes.

79. However, a number of areas of concerns were also raised, namely:

* evidence of differential patterns of use and success of stop and search by geographical location, which could indicate that the new legislation and policy may have been interpreted and adopted differently across Divisions.
* approximately one in twenty searches involved a strip search (almost always for drugs), with a higher than average detection rate. However, women were more likely than men to be subject to a strip search, despite detection rates being significantly lower for women who were strip searched.
* there continues to be inequality between some groups with protected characteristics in terms of who is searched and how successful those searches are.[[98]](#footnote-99)

SHRC also joins the Commissioner for Children and Young People in voicing concern over the recent revelation that over the last three years, at least 114 children have been strip searched, with only 13 searches resulting in finding an item of concern.[[99]](#footnote-100)

SHRC recommends that the Committee ask the Scottish Government:

80. How it can improve consistency in the interpretation and application of the Code of Practice on Stop and Search across Police Divisions.

81. What it has done to monitor the use of strip search and to explain the disproportionate rate of women and the rate of children being subjected to strip search despite significantly lower detection rates for those women and children searched.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6, 7 & 2, 9, 10 and 16)

Deaths in Custody

82. All deaths in prison and police custody are subject to a Fatal Accident Inquiry (FAI). A freedom of information request submitted to the Crown Office and Procurator Fiscal Service (COPFS) in January 2019 revealed there are 127 outstanding FAIs.[[100]](#footnote-101) Currently, the longest waiting times for an inquiry to be completed relate to two deaths eight years ago, and one FAI, completed in 2014/15, occurred 10 years after the death.[[101]](#footnote-102) A significant number of deaths in prison are still ‘awaiting determination’ as to the cause of death.[[102]](#footnote-103) Statistics for deaths in police custody are difficult to find and only appear to be available up to 2014/15. A report by the Home Office in 2017 showed that Scottish numbers were comparable with England, but marginally higher during 2013/14 and 2014/15.[[103]](#footnote-104) The FAI review process is lengthy and lacks a sufficient element of public scrutiny.

83. An independent review of the appropriateness and transparency of arrangements in the immediate aftermath of deaths in custody is due to get underway in 2020.

SHRC recommends that the Committee ask the Scottish Government:

84. To provide information on the number of people who died in police custody during 2017/18 and what steps are being taken to strengthen the Fatal Accident review process.

Effective and independent investigation of cases of death in custody and mental health detention

85. There is no mandatory investigation of deaths in mental health settings. A number of agencies can be involved in investigating the deaths of people being treated for ‘mental disorder’.[[104]](#footnote-105) However, the most common way these deaths are investigated is by means of NHS boards’ Significant Adverse Event Review processes.[[105]](#footnote-106) The current arrangements do not comply with the requirements set out in Article 2 of the ECHR , in that investigations should be independent of those implicated in the death.  A Ministerial review of the arrangements concluded that the Mental Welfare Commission for Scotland should develop a system for investigating all deaths of patients who, at the time of death, were subject to mental health detention.

Suicide

SHRC recommends that the Committee ask the United Kingdom:

86. To explain what plans it has to ensure compliance with its obligation to provide an adequate and independent investigation in the case of deaths in mental health settings.

SHRC recommends that the Committee ask the Scottish Government:

87. To supply information about the steps taken to ensure that every death of a patient being treated for ‘mental disorder’ is subject to a proportionate and human rights compliant level of review.

88. Suicide and non-fatal self-harm are important issues for public health, policy and practice in Scotland.[[106]](#footnote-107) The suicide rate appears to be higher in Scotland than in England and Wales and after a number of years in which there was an overall downward trend in suicides in Scotland, the latest statistics saw a 15 per cent rise in numbers between 2017 and 2018.[[107]](#footnote-108)

89. There are well known and pronounced socio-demographic and socio-economic inequalities in suicide patterns in Scotland, with a disproportionately high rate amongst males, people aged 35-54, people who are not married/partnered and people who live in areas of disadvantage.[[108]](#footnote-109) Of particular concern in the most recent figures has been the increase in the suicide rate for under-25s (and especially amongst women), which had risen to its highest level since 2007.

90. Recent research into suicide and homicide among people with mental illness (NCISH)[[109]](#footnote-110) revealed that, whilst 73 per cent had some contact with healthcare services prior to death, most people who died by suicide in Scotland had no contact with *specialist* mental health services in the 12 months before they died. This raises concerns about a potential gap between the mental health needs of high risk individuals and the supply of services that meet those needs.

91. In August 2018, the Scottish Government launched its Suicide Prevention Action Plan: *Every Life Matters[[110]](#footnote-111)* (with a leadership group to support delivery),with a target to reduce the rate of suicide in Scotland by 20 per cent by 2022 (from a 2017 baseline).[[111]](#footnote-112) The first annual report of the Leadership Group sets out 11 key recommendations for the Scottish Government and COSLA[[112]](#footnote-113) to support the delivery of this Plan.

SHRC recommends that the Committee ask the Scottish Government:

92. To explain what plans it has ensure that the recommendations from the National Suicide Prevention Leadership Group are taken forward.

Restraint

93. In 2018, the Children and Young People’s Commissioner Scotland (CYPCS) undertook an investigation[[113]](#footnote-114) on the adequacy of local authority policies and procedures on the use of restraint and seclusion in schools. The investigation found:

* a lack of planning and continuous assessment of individual children’s needs
* a general failure to consult with children and the families involved
* a lack of consistency across different schools and local authorities in terms of the type of document (local authority policy), status and context, and where the policies are located within local authority structure.
* inconsistencies in reporting requirements relating to the use of restraint and seclusion in schools.

The Scottish Government has now [[114]](#footnote-115) agreed to four key recommendations, including developing Human Rights Guidance on restraint and seclusion in schools. [[115]](#footnote-116) The forthcoming Scottish government guidance will direct local authorities, schools and staff in the lawful use of restraint and seclusion.[[116]](#footnote-117)

SHRC recommends that the Committee ask the Scottish Government:

94. To explain what steps it intends to take to develop and implement the Human Rights Guidance on restraint in schools.

Use of electroshock weapons

95. Police Scotland announced in 2018 that they were aiming to train 520 police officers on the use of electrical discharge weapons, with a view to them being deployed in June 2018. [[117]](#footnote-118) The deployment of these trained officers mean that around 2.9 per cent of force establishment will carry a ‘taser’. [[118]](#footnote-119) However, there is a lack of information about whether human rights are integrated into that training.

SHRC recommends that the Committee ask the Scottish Government:

96. To explain what steps have been taken to systematically integrate human rights into training on the use of electrical discharge weapons.

Use of psychotropic medication amongst people with autism & learning disabilities

97. SHRC welcomes the independent review of Learning Disability and Autism in the Mental Health (Care and Treatment) (Scotland) Act 2003 which took a human rights based approach and has ensured the voice of lived experience is at its core.[[119]](#footnote-120)

98. A key area of concern for SHRC, highlighted within this review, has been the issue of the over-prescribing of psychotropic medication to autistic people and/or people with learning disabilities for the management of behaviours perceived as challenging.[[120]](#footnote-121) The review explored the use of psychotropic medication and evidence on its effectiveness and concluded that: there is almost no evidence that psychotropic medication is helpful in supporting people with learning disability with behaviour; psychotropic medications can cause life-limiting physical health problems; and evidence for the effectiveness of psychotropic medications for autistic people is also limited.[[121]](#footnote-122)

99. The Mental Welfare Commission (MWC) in its October 2019 publication on Autism and complex care needs also raised concern over the need to reduce the use of psychotropic medication with autistic people for the management of behaviours perceived as challenging.[[122]](#footnote-123)

SHRC recommends that the Committee ask the Scottish Government:

100. To explore any legal changes necessary to allow for regulations on medical treatments including psychotropic medication, and to set out how it could improve current knowledge on understanding the health effects of current prescribing practice for autistic people and people with learning disability in Scotland.

101. What steps it will take to ensure that people currently prescribed psychotropic medication receive sufficient, appropriate support.

102. To provide information on how it intends to address the key recommendations set out in the independent review of Learning Disability and Autism in the Mental Health (Care and Treatment) (Scotland) Act 2003.

Treatment of persons deprived of their liberty (art. 10)

Human rights training for staff in custody settings

103. In Scotland, induction training for officers and staff working in custody settings draws on human rights standards, but the quality and quantity of training across different establishments is variable. Furthermore, refresher training is not always routinely provided. We have found through our involvement in prison inspection and monitoring that no specific training had been provided to prison staff on human rights for more than 8 years after commencing employment.[[123]](#footnote-124) As a consequence, knowledge is occasionally outdated and inconsistent, relying on the individual capacity of staff. For example, the recent report by the Council of Europe’s Committee on the Prevention of Torture (CPT) noted allegations of the use of excessive force during control and restraint operations and reminded the UK of the need to ensure that prison staff were aware that ‘no more force than is strictly necessary should be used to control prisoners.’[[124]](#footnote-125) We have also found that there is a lack of tools and processes to assess the effectiveness of training and educational programmes in reducing cases of ill-treatment.

104. SHRC welcomed the 2013 police commitment to integrate human rights in the structures and culture of policing, but has yet to see evidence of it being operationalised.[[125]](#footnote-126)

SHRC recommends that the Committee ask the Scottish Government:

105. To explain what steps are being taken to improve quality, consistency and quantity of training for police and prisons staff on human rights standards, and what steps are being taken to improve the delivery of health and social care in prisons.

Prison overcrowding

106. In 2013, the Committee highlighted concerns regarding the “*problem of overcrowding, and its impact on prisoner violence and access to recreational activities”*. Scotland has a large prison population (7804),[[126]](#footnote-127) with a relatively large number of people on remand (1296).[[127]](#footnote-128) A recent pre-budget report from the Scottish Parliament Justice Committee revealed that the Scottish Prison Service is often working in excess of both its operating and design capacities and only 222 prisoners short of the operating emergency capacity.[[128]](#footnote-129) The recent CPT report into Scottish prisons raised concerns on the impact of overcrowding upon prison conditions and made recommendations with respect to the upgrading of the Barlinnie estate, particularly connected to the m2 of cells and the continuing use of ‘dog-boxes’ in the Barlinnie waiting area. The CPT has criticised the use of these 1m2 holding cubicles in 1994, 2003 and 2012.[[129]](#footnote-130)

107. The Justice Committee report also noted that the current use of remand instead of alternative, community-based disposals, was a specific factor behind the high prison population.[[130]](#footnote-131) Drawing on a range of evidence, it highlighted that the loss of third sector bail supervision programmes had increased the numbers on remand and almost half of all local authorities did not undertake any bail supervision during 2017/18[[131]](#footnote-132). In its evidence the Scottish Prison Service (SPS) confirmed, despite the requirement to keep remand prisoners separate in prisons, to manage them separately and to provide them with appropriate regimes, the current numbers meant that some were being held in the same cells/areas as convicted prisoners.[[132]](#footnote-133)

SHRC recommends that the Committee asks the Scottish Government:

108. What concrete steps it has taken and intends to take to implement the CPT’s recommendations in their October 2019 report.

109. To provide a timetable for desisting from the use of 1m2 holding cubicles in Barlinnie Prison.

110. Some prisoners, in particular young men and those on remand, are locked up for long periods (as much as 20-22 hours a day), with limited access to purposeful activity. Segregation regimes are overused and the data available on solitary confinement (segregation and rehabilitation units) is not comprehensive as it is not aggregated or comparable.

111. While there has been an improvement in conditions of detention since the last report (2015) and the Prison Inspectorate (HMIPS) has adopted an explicit human rights based approach to prison inspection and monitoring in Scotland, a number of key areas still require further improvement.

112. There are significant limitations to providing adequate material conditions of detention for older prisoners and those with physical disabilities.[[133]](#footnote-134) Over one quarter of prisoners over the age of 60 are serving sentences of 5 years or more which leads to increasing number of prisoners in their 70s and 80s. [[134]](#footnote-135) As a consequence, there is an increasing need for social care for prisoners, as well as medical care. The Scottish prison estate is not equipped to care appropriately for older prisoners, with many experiencing poor treatment in terms of isolation and inadequate healthcare. [[135]](#footnote-136)

113. The report of the 2017 Scottish Parliament Inquiry on Health Care in Prison found that a change in the body responsible for delivering health services in Scottish prisons had ‘not materialised’ in a better service, and the Committee was “*disappointed to discover the unique opportunity to address health inequalities within the prison environment is not being taken.”*[[136]](#footnote-137) SHRC and HMIPS inspections support these findings. [[137]](#footnote-138)

114. There are also significant challenges to accessing benefits and housing for people leaving prison.[[138]](#footnote-139) These challenges were being met by the Through-care service (TCS),[[139]](#footnote-140) however, due to the need to return the Through-care Support Officers (TSOs) on secondment (41 officers and 3 managers) to their former roles within prisons,[[140]](#footnote-141) this service was suspended by the SPS in July 2019. Partnerships with third sector bodies are being used as a temporarily support measure, but it is unclear whether all prisoners previously supported by the TSO are now being covered by these programmes and if the services being provided are the same.[[141]](#footnote-142)

115. Through its involvement with prison inspections, SHRC has found a lack of confidence in the complaints process amongst prisoners. Our inspection reports revealed that information regarding complaints processes was not consistently provided to prisoners and was not available in alternative formats. Foreign nationals also experience heightened levels of isolation due to limited access to appropriate educational and recreational activities, as well as the lack of translated and culturally appropriate materials.

116. Extra funding from the Scottish Government was allocated to Scottish Prisons during 2019-20, however, pre-budget scrutiny[[142]](#footnote-143) has highlighted that it was being used, at least in part, to buy places in privately-run prisons. The Justice Committee has consequently encouraged the Scottish Government to adopt a longer-term approach to funding that would consider the balance between money spent on preventative services and money spent on keeping people in prison. Crime rates in Scotland are currently at an all-time low. This should be seen as an opportune moment to reverse the persistent and worryingly high use of incarceration in Scotland.[[143]](#footnote-144)

SHRC recommends that the Committee ask the Scottish Government:

117. To provide an update on plans to reduce the prison population and improve prison conditions and reintegration and Through-care services.

118. To explain what steps are being taken to ensure that: remand prisoners are managed separately and provided with appropriate regimes; and all prisoners are being adequately supported with appropriate through-care following the suspension of the Through-care Scheme.

119. To explain what steps are being taken to improve the balance between money spent on preventative services and money spent on keeping people in prison.

Women in custody

120. Scotland has one of highest rates of imprisonment of women in Europe, rising from 207 women prisoners in 2000-01, to 370 in 2017-18, of whom 89 were on remand.[[144]](#footnote-145) The growth in number of women in prisons is attributed to a rise in the use of custodial sentences, as opposed to changes in patterns of offending. While the general treatment of women in prison has improved in the last 4 years, questions remain in relation to specific issues, including mental health services, rehabilitation programmes and reintegration into the community. Women in prison are more likely to be involved in self-harm than men. In 2016/17 women accounted for 26 per cent of self-harm incidents in prison.[[145]](#footnote-146) Figures obtained by Scottish Liberal Democrats (via a Freedom of Information request) show that there were 762 incidents of self-harm in 2018, compared to 532 in 2017, a jump of 43 per cent. A total of 517 incidents were for cuts, 72 incidents were categorised under “swallows item”, 41 for “overdose” and 31 as “attempted suicide”.[[146]](#footnote-147)

121. Foreign female prisoners also experienced heightened levels of isolation due to limited access to appropriate educational and recreational activities, as well as the lack of translated and culturally appropriate materials. The CPT report[[147]](#footnote-148) also noted that opportunities for systematic screening of female prisoners for sexual abuse, and other forms of gender based violence had been missed.

122. The CPT[[148]](#footnote-149) highlighted the cases of several women with serious, acute mental health needs, who were held in segregation despite needing immediate enhanced care within a mental health setting. Staff were not trained to support the women appropriately and there appeared to be no clear process through which the women could access mental health care.

123. Women are more likely to be jailed than men for minor offences and two thirds of female admissions to Scottish prisons are for remand, 70 per cent of which do not go on to receive a custodial sentence.[[149]](#footnote-150) Therefore, much work is still needed to reduce the female prison population by changes to sentencing policy and alternatives to custodial sentences (see also Paragraphs 132-135 below on sentencing).

124. A high percentage of women prisoners are mothers and the impact of parental imprisonment on children can be profound. Maintaining child-parent relations can positively impact not only the child, but also the imprisoned parent, prison staff and society in general by better preparing prisoner for release and social reintegration.[[150]](#footnote-151)

SHRC recommends that the Committee ask the Scottish Government:

125. To indicate their plans for gender-specific alternatives to custody.

126. What steps it has taken and will take to implement the recommendations of the CPT delegation to establish clear protocols and operating procedures among the SPS, NHS, the judiciary, and social services to ensure that vulnerable women who cannot be treated under the Scottish Mental Health Act are afforded the necessary care in an appropriate environment.

127. Whether they will adopt the Council of Europe Recommendation CM/Rec(2018), aimed at safeguarding the rights and interests of children of imprisoned parents.

Children and young people in custody

128. Data from the Centre for Youth and Criminal Justice shows that significant levels of mental ill-health are found within secure care institutions in Scotland. The Centre's survey indicated that, amongst the Scottish population, 35 per cent of children had attempted suicide in the year prior to admission, with 53 per cent experiencing suicidal thoughts.[[151]](#footnote-152) Staff within secure care also noted that in 24 per cent of cases, there was a suspected, undiagnosed mental health concern. Despite this, only 36 per cent of children within secure care had received support from the NHS's Child and Adolescent Mental Health Service (CAMHS) and only 4 per cent from the Forensic CAMHS in the year prior to their admission.[[152]](#footnote-153)

129. Her Majesty’s Inspectorate of Prisons for Scotland report on the provision of mental health services for young people entering and in custody at HMP YOI Polmont in 2019 also noted that what is clear from the available evidence reviews and academic research is that “*being traumatised, being young, being held on remand and being in the ﬁrst three months of custody increases the risk of suicide*”.[[153]](#footnote-154)

130. A recent report by the Scottish Parliament Justice Committee[[154]](#footnote-155) about secure care and prison places for children and young people, followed an inquiry into the capacity and structure of secure places and the deaths of 2 young people at HMP YOI Polmont. The Committee highlighted a key concern about the provision of secure care services, particularly in relation to mental health. Their recommendations included assessing young people within the first days of entering secure care or a young offenders’ institution and giving young people the option to stay in secure care beyond their 18th birthday if that was in their best interests.[[155]](#footnote-156)

SHRC recommends that the Committee ask the Scottish Government:

131. How it intends to respond to the high-level findings and major recommendations of the HMIPS review and the Justice Committee’s report on secure care and prison places for children and young people.

Sentencing

132. On 26 June 2019, the Scottish Parliament approved the [Presumption Against Short Periods of Imprisonment Order](https://www.legislation.gov.uk/sdsi/2019/9780111042281/contents) which extended the presumption against short sentences from 3 months or less to 12 months or less. The evidence of the value against the use of short spells of imprisonment is strong.[[156]](#footnote-157) This move has been welcomed, as one means to positively impact on prison numbers, especially in the case of women offenders. However, concern has been raised about some of the potential unintended consequences of this policy.

133. Some women’s organisations have raised concern that the blanket approach needs to be rethought in order to protect women and children in cases of domestic abuse. They argue that maintaining sentences of less than a year in domestic abuse cases is an essential tool for helping to safeguard women and children experiencing domestic abuse.[[157]](#footnote-158)

134. Howard League Scotland also noted their concern around the issue of uptariffing. When the presumption against short sentences was granted for those sentences of up to 3 months they were aware of evidence that suggested that it may have resulted in uptariffing, with more people receiving prison sentences of three to six months.[[158]](#footnote-159) Therefore, whilst being generally supportive of the new policy, it should be monitored closely for any such unintended consequences.

SHRC recommends that the Committee ask the Scottish Government:

135. How it intends to monitor the impact, including intended and unintended consequences, (including on victims of domestic abuse and uptariffing) of the introduction of a presumption against short sentences of up to 12 months.

Mental health detention

136. In 2017/18 the Mental Welfare Commission (MWC) reported 5,647 new episodes of compulsory treatment for mental health in Scotland; a 4 per cent increase on the previous year.[[159]](#footnote-160) This is the highest number since the 2003 Mental Health Act was implemented, and follows an upward trend since 2009/10. The MWC has expressed concern about the continued rise in the use of the law to treat people for mental illness, particularly the use of emergency detention.

137. There is a lack of provision for high secure mental health provision in Scotland for women designated as requiring such care. The only high secure mental health facility in Scotland is the State Hospital at Carstairs, which has no provision for women. In low security Intensive Psychiatric Care Units (IPCU), there are fewer hospital options for women, who often have to travel outside of their home Health Board area for treatment. IPCUs in hospital wards are mixed sex in Scotland.[[160]](#footnote-161)

SHRC recommends that the Committee ask the Scottish Government:

138. To explain the reasons for the continued rise in the use of the law to treat people for mental illness in Scotland and what steps it will take to reduce this.

139. To explain how it will address the lack of provision for high secure mental health provision in Scotland for women designated as requiring such care.

Young People in Intensive Psychiatric Care

140. The number of children and young people treated for mental illness in non-specialist wards in Scotland also rose in 2017-18. [[161]](#footnote-162) One hundred and three admissions were recorded nationally, involving 90 young people under the age of 18.[[162]](#footnote-163) There was a reported lack of service provision for young people requiring Intensive Pychiactric Care Units (ICPU), with some young people having to be admitted to adult IPCUs.[[163]](#footnote-164) Adult IPCUs can often be unsuitable environments for adolescents. Fourteen of the children and young people admitted to non-specialist wards were treated in an adult IPCU, including five who were under the age of 16.[[164]](#footnote-165)

SHRC recommends that the Committee ask the Scottish Government:

141. To describe what it is doing to address the lack of intensive psychiatric care facilities in Scotland for children and young people.

Freedom from arbitrary or unlawful interference and new technologies (arts. 3, 6, 7, 13 and 14)

Biometrics: facial recognition, cyber kiosks & digital forensics

142. In May 2017, an Independent Advisory Group (IAG) was established to review the retention of custody images by Police Scotland. The Cabinet Secretary for Justice also asked that the Group consider the use and retention of biometric data more generally in policing to seek to establish an ethical and human rights based framework which could be applied to existing, emerging and future biometrics in what is an important and fast-moving area of technology. In March 2018, the Group submitted their report[[165]](#footnote-166) and the government published a bill[[166]](#footnote-167) to appoint a Scottish Biometrics Commissioner. Responses to the Bill[[167]](#footnote-168) welcomed the establishment of a biometrics commissioner, though expressed disappointment at numerous departures from recommendations of the IAG.

SHRC recommends that the Committee ask the Scottish Government:

143. What steps they are taking to amend the Scottish Biometrics Commissioner bill to follow the recommendations of the Independent Advisory Group or to explain their contrary stance.

144. What steps they are taking to ensure a human rights based Framework exists to govern Digital Forensics.

145. SHRC is aware that there are a number of efforts to articulate an ethical framework in which Digital Forensics can be considered and deployed. These include a Digital Forensics External Reference Group announced by the Cabinet Secretary on 13th June 2019 (as yet not deployed); A Digital Forensics ethics working group within the Scottish Police Authority; Ethics boards established by Police Scotland and a Biometrics Ethics reference group to be established under the terms of the Bill.

146. In April 2018 Police Scotland announced trials of Digital Triage Devices, known as ‘cyber-kiosks‘. These devices are used to search digital devices to determine if further examination is necessary. It has been recommended that Police Scotland halt the roll-out of the kiosks until the legal basis for the use of these devices has been clarified to ensure their use was consistent with human rights standards.

147. SHRC is not satisfied that the use of this technology by Police Scotland complies with the requirements of Article 8 of the European Convention on Human Rights (ECHR).[[168]](#footnote-169) This is because the law surrounding the use of cyber-kiosks lacks sufficient quality to be accessible and foreseeable. In addition, there are no adequate safeguards in place as the legislation (when enacted) did not consider situations of seizure and search in this particular context. Therefore the current framework or the lack of it does not provide sufficient and robust safeguards for people’s privacy rights in this context. [[169]](#footnote-170)

SHRC recommends that the Committee ask the Scottish Government:

148. What steps they are taking to ensure that the roll-out and ongoing use of Cyber kiosks takes place within an ethical and human rights-based framework, including through the introduction of legislation and appropriate legislative scrutiny.

Freedom of assembly & association (arts. 21 and 22)

Marches

149. In 2016, the Independent Adviser on marches, parades and static demonstrations in Scotland published a report[[170]](#footnote-171) in which he made a number of recommendations to support the rights of those choosing to undertake marches and parades and those of the communities affected by such marches and parades. These included:

* early engagement by police and local authorities with march organisers in the event of any issues or problems,
* continuing and proactive engagement between local authorities, police and communities,
* clear and accessible information for march organisers and affected communities.

The Scottish Government has subsequently asked the Independent Adviser to review the progress on implementing his 2016 recommendations with reporting due in December 2019.

SHRC recommends that the Committee ask the Scottish Government

150. What steps it will take to implement the Independent Adviser’s recommendations and to ensure that it respects, protects and fulfils the rights to freedom of association in Scotland.

Family Life (art. 23)

Parental leave

151. Regulations introduced in 2015 enable parents to share leave over the course of a year following the birth or adoption of a child.[[171]](#footnote-172) However, the regulations fail to meet the financial needs of women and families. Fathers are still only entitled to two weeks of paid paternity leave, while the weekly payment for shared parental leave is less than the average weekly income for men in the UK.[[172]](#footnote-173) This means that for many families it is simply financially unviable for the father to take parental leave. As a consequence, there has been very low take up (around 2 per cent) of the arrangements by fathers.[[173]](#footnote-174) Evidence has shown that countries with effective paternity leave policies are often those that offer well-paid, flexible but non-transferable policies.[[174]](#footnote-175)

SHRC recommends that the Committee ask the UK and Scottish Government:

152. What measures they are taking to address the financial barriers to shared parental leave.

Rights of the child (art. 24)

Corporal Punishment

153. While Scots law protects adults from all forms of physical violence, the Criminal Justice (Scotland) Act 2003 had, until recently, provided a defence of ‘justifiable assault’ of a child, available where it was claimed that such an act was physical punishment carried out in exercise of a parental right. On 3 October 2019, the Children (Equal Protection) (Scotland) Act[[175]](#footnote-176) was passed by the Scottish Parliament, meaning children in Scotland now have the same protection against assault as adults. SHRC welcomes this change in the law, however, we note that this change is only one step towards a comprehensive strategy for the prevention and elimination of violence against children and respect for human rights. SHRC believes that any legislative measures must be accompanied by a national strategy to promote positive alternative methods to support parents and influence social attitudes over time.[[176]](#footnote-177)

SHRC recommends that the Committee ask the Scottish Government:

154. To update on all measures undertaken to promote positive non-violent forms of discipline in Scotland.

Minimum age of criminal responsibility

155. The Age of Criminal Responsibility (Scotland) Act 2019[[177]](#footnote-178) is now in force. The new law sets the minimum age of criminal responsibility as 12. Ten years ago, the UN Committee on the Rights of the Child General Comment No 10 set out[[178]](#footnote-179) that 12 was the absolute minimum acceptable age, and that countries should raise it to a higher age. The Committee are currently [revising this General Comment](https://www.ohchr.org/EN/HRBodies/CRC/Pages/DraftGC10.aspx) to specify that 14 is the minimum acceptable age. SHRC’s view is that Scotland should raise the age of criminal responsibility to a minimum of 14, in line with the majority of European nations and the Council of Europe Parliamentary Assembly’s Resolution.[[179]](#footnote-180)

Access to adequate mental health services

SHRC recommends that the Committee ask the Scottish Government:

156. What steps it will take to raise the age of criminal responsibility in Scotland to 14.

157. Currently in Scotland an estimated one in ten children aged five to sixteen in Scotland have a clinically diagnosable mental illness.[[180]](#footnote-181) A wide variety of factors are known to affect the mental health and wellbeing of children and young people in Scotland.[[181]](#footnote-182) Between 2013/14 and 2017/18 there has been a 22 per cent increase in referrals to specialist services as well as a 24 per cent increase in rejected referrals over the same period. Although the average wait time for their first treatment appointment in 2017/18 was 11 weeks, 26 per cent waited more than 18 weeks, compared to 15 per cent in 2013/14. [[182]](#footnote-183) Concern has been raised by the Scottish Association for Mental Health (SAMH) that despite the Scottish Government accepting all 29 recommendations set out in the Audit of Rejected Referrals,[[183]](#footnote-184) there has been no evidence of plans for ‘real’ change and in the 18 months since the publication of that report, one in five referrals has been refused help from child and adolescent mental health services (CAMHS).[[184]](#footnote-185)

158. Whilst welcoming the Programme for Government 2019-20 announcement that a 24/7 crisis support service will be made available for young people and their families (including a text service for young people), it is not yet clear what funding is allocated to this initiative or how funding will be sustainable.[[185]](#footnote-186)

159. Since December 2014, the delivery target from referral to treatment for the timely provision of specialist therapies is 18 weeks .[[186]](#footnote-187) This target has not been met and in addition, most health boards do not collect information on either the types of therapies provided and perceived impact on patients, or equality data about which groups are receiving therapies.[[187]](#footnote-188)

160. The Scottish Government’s Mental Health Strategy 2017-2027 focuses on early intervention and prevention and includes a commitment to taking a human rights-based approach to improving mental health services. However, Audit Scotland’s recent review of children and young people’s mental health concluded that:

“in practice this is limited, and mental health services for children and young people are largely focused on specialist care and responding to crisis. The system is complex and fragmented, and access to services varies throughout the country. This makes it difficult for children, young people, and their families and carers to get the support they need”.[[188]](#footnote-189)

161. The Audit Scotland review also highlighted concern that data on mental health services for children and young people is inadequate, in particular any evidence to link the effectiveness of different services to improvements in mental health outcomes. SHRC has raised similar concerns to Audit Scotland about the difficulty in tracking resource allocations through to spend and impact.

SHRC recommends that the Committee ask the Scottish Government:

162. To describe what it is doing to address the concerns regarding the availability of services to address children and young people’s mental health and how it intends to improve the monitoring of both treatment type, effectiveness and relevant equalities data.

163. To describe its plans to a human rights-based approach to improving mental health services.

Democratic participation (art. 25)

Prisoner voting

164. SHRC recalls the Committee’s previous concern and recommendations[[189]](#footnote-190) regarding the blanket denial of any convicted prisoner of the right to vote. At present the Scottish Elections (Franchise and Representation) Bill proposes that everyone who has a legal right to live in Scotland, including foreign nationals, should have the right to vote in Scottish Parliament and local government elections. The Bill also proposes that prisoners serving 12 months or less will be allowed to register and vote, ensuring that Scotland is compliant with the European Convention on Human Rights. [[190]](#footnote-191)

165. As SHRC reflected in evidence[[191]](#footnote-192) to the Scottish Parliament Standards, Procedures and Public Appointments Committee in its Stage 1 report on this Bill, there are some key concerns with the Scottish Government’s proposed approach. As the presumption against sentences of twelve months or less was adopted by the Scottish Parliament in June 2019 (see Paragraphs 132-135), the approach taken in the Bill to allow only prisoners sentenced for 12 months or less to vote, will in effect enfranchise very few additional people. This could lead to a challenge over whether the proposed legislation actually delivers a policy change that would bring Scotland within the margin of appreciation in relation to complying with the European Convention Human Rights ruling – a matter that has been outstanding since 2001.[[192]](#footnote-193)

166. The Scottish Parliament Standards, Procedures and Public Appointments Committee (SPPA) stated its belief that:

*“The Committee would like to see the Scottish Government’s policy on prisoner voting driven by principle and evidence. We believe the Scottish Government has settled on an approach which fails to address the central question of what disenfranchisement seeks to achieve”.[[193]](#footnote-194)*

SHRC recommends that the Committee ask the Scottish Government:

167. To provide information on the number of prisoners who would be enfranchised by the proposed Bill and to what extent its proposals comply with Article 25 of the Covenant.

SHRC recommends that the Committee ask the Scottish Government to set out how it intends to ensure that the 24/7 crisis support service will be sustainably funded.

SHRC recommends that the Committee ask the Scottish Government to explain what action it is taking to understand the reasons for the failure to achieve the 18 week waiting targets for psychological services and how it intends to improve the monitoring of both treatment type, effectiveness and relevant equalities data.

SHRC recommends that the Committee ask the Scottish Government to describe its plans to a human rights-based approach to improving mental health services.

Public participation in decision making

168. There is growing recognition in Scotland that participation is key to the realisation of people’s human rights. Being afforded the opportunity to participate in decisions around delivery of local services, national policy (including the budget) and legislative priorities complement rights to vote, standing for and holding elected office. It also creates opportunities to develop policies which are more innovative, appropriate and tailored to people’s needs, provided participation is representative and well-supported.

169. SHRC welcomes the creation of the independently convened Citizen’s Assembly of Scotland[[194]](#footnote-195) which seeks to explore: what kind of country Scotland is seeking to build, how best Scotland can overcome the challenges it and the world face in the 21st century[[195]](#footnote-196). The assembly is made up of 130 citizens selected randomly so as to be broadly representative of the population eligible to vote under the arrangements proposed in the Scottish Elections (Franchise and Representation) Bill 2019. This approach sets a strong precedent for future meaningful participation of people’s voices in decision making.

170. SHRC also welcomes the second recommendation of the First Minister’s Advisory Group on Human Rights Leadership, to undertake a process of public participation as a vital part of the preparation of any new human rights legislation and its implementation.[[196]](#footnote-197)

SHRC recommends that the Committee ask the Scottish Government:

171. What mechanisms it has in place to monitor the representativeness and effectiveness of the Citizen’s Assembly of Scotland.

172. How it will ensure that the most disenfranchised voices e.g. those of prisoners, Scottish Gypsy Travellers, Care leavers etc. are heard within all public policy and legislative initiatives which affect rights?

Human rights budgeting and budget scrutiny

173. Since 2018, SHRC has developed a programme of work aimed at increasing our own capacity and that of others with both formal and informal oversight responsibilities to undertake budget scrutiny and hold the government to account in relation to budgetary impact on human rights.[[197]](#footnote-198) This work has shown that the Scottish Government does not currently take a human rights based approach to budgeting or its more general policy development processes and the budget is not routinely scrutinised through a rights lens. Formal and informal scrutiny is also extremely difficult due to the opaqueness of the national budget and the inability to connect resource allocation and spend once devolved to the local level.

174. SHRC welcomes the Scottish Government’s membership of the Open Government Partnership.[[198]](#footnote-199) The current Scottish Action Plan (2018-2020)[[199]](#footnote-200) contains commitments in five areas including a commitment on improving financial performance and transparency. However, making use of the Open Budget Survey Index methodology,[[200]](#footnote-201) draft findings from our work show that the Scottish Government scores for transparency and participation leave room for significant improvement.[[201]](#footnote-202)

175. Other recent work by SHRC exploring satisfaction levels with the participation process to develop the national budget also revealed the difficulties various stakeholders faced in accessing transparent fiscal information and a scepticism amongst participating stakeholders that their engagement actually had a genuine impact on decision making of the budget priorities.[[202]](#footnote-203)

176. Whilst expressing a willingness in its 2014 Equality Budget Statement[[203]](#footnote-204) to explore human rights budgeting, this resulted in little activity by the Scottish Government. However, there has been a changing narrative in recent years towards strengthening rights protections and incorporating economic, social, cultural and environmental rights as well as civil and political into domestic law as mentioned above. In tandem with this, Scotland has also seen an increase in fiscal powers and responsibilities, devolved to the Scottish Government through the Scotland Acts 2012[[204]](#footnote-205) and 2016.[[205]](#footnote-206) The arrival of these new fiscal powers and responsibilities led to a fundamental review of the Scottish Parliament’s budget process by the Budget Process Review Group[[206]](#footnote-207) which produced recommendations that should help to improve the Scottish budget process, including decision making around resource generation, allocation and spend and better connection of resources to impact.[[207]](#footnote-208)

SHRC recommends that the Committee ask the Scottish Government:

177. What steps it will take to improve fiscal transparency; including availability of accessible budgetary information to facilitate better pre and post budget scrutiny and promote citizen participation in budgetary decision making processes.

178. What steps it will take to show human rights leadership in adopting a process of human rights budgeting.

Digital government

179. UK and Scottish Governments have been pursuing a digital transformation agenda for many years. This means that public services are now digital first, and citizens need to develop essential digital skills in order to engage. In Scotland the policy and best practice guidance for this agenda falls out of the Digital Strategy.[[208]](#footnote-209)

180. Around 1 in 4 of the adult population do not currently have the essential skills that they need in order to make the best us of digital services.[[209]](#footnote-210) A number of initiatives have been developed to help people develop these skills[[210]](#footnote-211)  but this digital skills gap is a significant and serious concern. Those without skills are more likely to be disabled, living in social housing and from lower socio-economic groups so digital access and skills is often framed as a social justice issue.[[211]](#footnote-212)  The UN Special Rapporteur for Poverty addressed the issue of Digital Services in his comment on the UK in November 2018 noting that “*the impact on the human rights of the most vulnerable in the UK will be immense*”. He was significantly critical of the UK Government’s move to digital by default for public services such as benefits.[[212]](#footnote-213)

SHRC recommends that the Committee ask the Scottish Government:

181. What Human Rights Impact Analysis they conducted prior to launching the Digital strategy and what analysis they have conducted since the launch of the strategy.

Protection of minorities (arts. 27 & 2, 6, 7, 25)

Rights of Scottish Gypsy Travellers

182. Various UN Committees have repeatedly delivered Concluding Observations and Recommendations regarding the necessary improvements required to improve the lives and rights realisation of Scottish Gypsy Travellers. Most recently in 2016 the UN CERD[[213]](#footnote-214) requested that the State party develop a

“*comprehensive strategy, in consultation with members of Gypsy, Traveller and Roma communities, to ensure a systematic and coherent approach in addressing the challenges that they continue to face in the fields of health, education, housing and employment, and ensure its effective implementation by adopting specific action plans and effective oversight and monitoring mechanisms to track progress, with adequate human and financial resources*.”[[214]](#footnote-215)

183. SHRC welcomes the recent efforts led by a Scottish Ministerial working group to support the development a joint Action Plan between the Scottish Government and COSLAwhich aims, amongst other things,totackle racism and discrimination towards Gypsy/Travellers, increase representation in public life and decision‑making in communities, improve the wellbeing and outcomes for Gypsy/Travellers, and deliver more culturally‑appropriate and better accommodation. This has been done with some engagement with Gypsy/Traveller Communities.

184. It is not clear, however, what funding has actually been allocated to deliver the specific actions. The financial information presented in the Action Plan, the Action Plan’s press release, the 2019-2020 Programme for Government, and the 2019-2020 Scottish Budget, all differ. Each document presents different amounts and /or breakdowns to some but not all action areas.[[215]](#footnote-216) This makes monitoring allocation, spend and impact and crucially, being able to hold the government to account for these commitments, virtually impossible. The opaque language and lack of transparency is not unique to this area of the budget and is a general criticism of the annual Scottish Budget (see paragraphs 173-178).

185. Recent research conducted on behalf of the Scottish Housing Regulator (SHR)[[216]](#footnote-217) across ten of Scotland’s 29 local authority provided Gypsy/Traveller sites, found that people were concerned about site conditions, cleanliness and disrepair in amenity blocks. There was also limited awareness and knowledge among Gypsy/Travellers of site standards as regulated by the SHR. In addition to the budgetary concerns around the strategy as a whole, SHRC has a particular concern around the process by which the £2 million additional investment in the improvement in Gypsy/ Traveller sites across 32 local authorities will be allocated. Without a rights based process, the risk exists that the money will simply be divided between the 32 local authorities with no assessment of where the greatest need for improvement exists and improvements that are deemed appropriate by the local authorities will be undertaken without consultation with the relevant Gypsy/ Traveller communities.[[217]](#footnote-218)

SHRC recommends that the Committee ask the Scottish Government:

186. If it intends to set out an enhanced Action Plan for Gypsy Travellers which is fully and transparently costed, in order to support effective oversight and monitoring mechanisms to track progress.

187. If it intends to undertake a human rights based approach to the £2 million allocated investment in the improvement in Gypsy/ Traveller sites.

188. How it intends to ensure that a broader range of Gypsy/Traveller voices are heard and not just those engaged with government funded projects.

Appendix I. Recommended Questions

The SHRC recommends that the UN Human Rights Committee (the Committee) asks the United Kingdom and Scottish Governments, where relevant, to provide information in response to the questions set out below.

Constitutional and legal framework within which the Covenant is implemented

Human Rights Act 1998 and the European Convention on Human Rights

SHRC therefore recommends that the Committee asks the UK Government:

11. Whether it commits to maintaining the legal protection of ICCPR rights as currently provided through the HRA.

12. How it will ensure that the ‘Constitution, Democracy & Rights Commission’ to be established or any other process intended at recommending reforms of the HRA , will be impartial, independent of Government, represent a range of political, legal and societal views from all parts of the UK and be underpinned by a commitment not to weaken the legal protection of ICCPR rights.

Impact of Brexit on Rights protections

SHRC recommends that the Committee ask the UK Government:

17. What measures will it take to ensure the protection of all Covenant rights across all jurisdictions in the UK post-Brexit.

Dissemination of information regarding the Covenant

SHRC recommends that the Committee ask the UK and Scottish Governments :

19. What steps they have taken to disseminate information about the submission of its eighth periodic report, its examination by the Committee and the Committee’s previous concluding observations on the seventh periodic report across the UK.

SHRC recommends that the Committee ask the Scottish Government:

21. To outline the steps it intends to take to ensure a process of targeted capacity-building is undertaken to enable the practical and effective implementation of the Act.

Data availability & effective monitoring

SHRC recommends that the Committee ask the UK and Scottish Governments:

23. How they are planning to improve the collection and publication of disaggregated data on intersectionality to enable appropriate monitoring and scrutiny of policies.

Right to an effective remedy and a fair trial

Historic Abuse

SHRC recommends that the Committee ask the Scottish Government:

26. What steps it will take to ensure that eligibility criteria for the financial redress scheme are not overly restrictive, do not discriminate against particular groups of survivors and that they enable individuals to pursue their right to an effective remedy through a civil action.

Access to justice for those affected by sexual violence

SHRC recommends that the Committee ask the Scottish Government:

28. To outline the steps it intends take to ensure a trauma‑informed approach will be appropriately resourced.

29. What steps it is taking to monitor and ensure that disabled people, including disabled women, have equal access to forensic medical examinations, including with respect to the accessibility of venues, availability of appropriate facilities, equipment and information, and where required, support to make decisions with respect to the examination.

Access to legal aid

SHRC recommends that the Committee ask the Scottish Government:

33. How it intends to respond to the recommendations of the Independent Review of Legal Aid.

34. What steps it is taking to monitor the impact of availability and reductions to legal aid, in particular whether these reductions are having a disproportionate impact on specific groups, for example, women or disabled people.

Not proven verdict

SHRC recommends the Committee ask the Scottish Government:

37. What steps it intends to take to improve access to justice for victims of rape and sexual assault, including in relation to the abolition of the not proven verdict.

Access to independent advocacy

SHRC recommends that the Committee ask the Scottish Government:

39. How it plans to ensure that all those who need to access their right to independent advocacy are able to do so, especially those with mental health concerns and children.

40. What steps they are taking to monitor the equality impact of reductions to independent advocacy.

SHRC recommends the Committee ask the Scottish Government :

42. What steps they are planning to take to monitor the roll out of the National Children’s Hearing Advocacy scheme.

Police complaints

SHRC recommends the Committee ask the Scottish Government :

44. What steps they are taking to act upon the recommendations in the preliminary report on Scottish Police Complaints Procedure.

Accountability of private providers of public services

SHRC recommends the Committee ask the UK and Scottish Governments:

46. What steps are being taken to ensure that all commissioning, procurement and contracting of private providers of services take account of human rights obligations.

47. What measures are being taken to clarify the human rights obligations of all non-state actors with regard to human rights in line with international norms such as those set out by UN "Protect, Respect and Remedy" Framework and Guiding Principles.

Equality and non-discrimination

Communication and language barriers to rights enjoyment

SHRC recommends that the Committee ask the Scottish Government :

50. What steps it is taking to monitor the extent to which people with communication needs are able to access appropriate information formats, equipment and support in order to fulfil their Covenant rights, for example to information and participation.

Equal rights of men and women, measures to prevent discriminatio**n**

Political representation

SHRC recommends that the Committee ask the UK and Scottish Governments:

52. What steps they are taking to move towards a representative proportion of women in legislatures and executive arms of national, devolved and local government.

The representation of women on the boards of Scottish Public Authorities

SHRC recommends that the Committee ask how the Scottish Government:

55. How it is planning enforce the Gender Representation on Public Boards (Scotland) Act 2018 and how it will strengthen data collection to better understand the issue and measure progress.

Gender pay gap

SHRC recommends that the Committee ask the Scottish Government:

60. What steps it has taken to develop a national strategy to address the causes of the gender pay gap, including targeted measures to reduce gender segregation.

Violence against women and girls

Violence against women and girls

SHRC recommends that the Committee ask the UK Government :

63. What progress it has made towards the ratification of the Council of Europe Convention on Combatting Violence Against Women and Domestic Violence (the “Istanbul Convention”).

SHRC recommends that the Committee ask the Scottish Government to explain:

65. How all relevant public bodies will be appropriately financed and trained to enforce the Domestic Abuse (Scotland) Act 2018.

Black and minority ethnic women and LGBTQI+ domestic violence

SHRC recommends that the Committee ask the Scottish Government to explain:

68. What concrete steps it is taking to prevent violence against women and children in Scotland, including by improving specialist provision for LGBT people, Black and ethnic minority women, disabled people and individuals with complex needs, and ensure that services are available and accessible to all survivors, regardless of immigration status.

Discrimination and incitement to discrimination, hostility or violence

Hate crime

SHRC recommends that the Committee ask the Scottish Government:

75. What steps it is currently taking to systematically improve data collection on prejudice-based bullying and hate crime, strengthen support services for victims and strengthen legal protections.

Stop & Search

SHRC recommends that the Committee ask the Scottish Government:

80. How it can improve consistency in the interpretation and application of the Code of Practice on Stop and Search across Police Divisions.

81. What it has done to monitor the use of strip search and to explain the disproportionate rate of women and the rate of children being subjected to strip search despite significantly lower detection rates for those women and children searched.

Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment

Deaths in Custody

SHRC recommends that the Committee ask the Scottish Government:

84. To provide information on the number of people who died in police custody during 2017/18 and what steps are being taken to strengthen the Fatal Accident review process.

Effective and independent investigation of cases of death in custody and mental health detention

SHRC recommends that the Committee ask the United Kingdom:

86. To explain what plans it has to ensure compliance with its obligation to provide an adequate and independent investigation in the case of deaths in mental health settings.

SHRC recommends that the Committee ask the Scottish Government:

87. To supply information about the steps taken to ensure that every death of a patient being treated for ‘mental disorder’ is subject to a proportionate and human rights compliant level of review.

Suicide

SHRC recommends that the Committee ask the Scottish Government:

92. To explain what plans it has ensure that the recommendations from the National Suicide Prevention Leadership Group are taken forward.

Restraint

SHRC recommends that the Committee ask the Scottish Government:

94. To explain what steps it intends to take to develop and implement the Human Rights Guidance on restraint in schools.

Use of electroshock weapons

SHRC recommends that the Committee ask the Scottish Government:

96. To explain what steps have been taken to systematically integrate human rights into training on the use of electrical discharge weapons.

Use of psychotropic medication amongst people with autism & learning disabilities

SHRC recommends that the Committee ask the Scottish Government:

100. To explore any legal changes necessary to allow for regulations on medical treatments including psychotropic medication, and to set out how it could improve current knowledge on understanding the health effects of current prescribing practice for autistic people and people with learning disability in Scotland.

101. What steps it will take to ensure that people currently prescribed psychotropic medication receive sufficient, appropriate support.

102. To provide information on how it intends to address the key recommendations set out in the independent review of Learning Disability and Autism in the Mental Health (Care and Treatment) (Scotland) Act 2003.

Treatment of persons deprived of their liberty

Human rights training for staff in custody settings

SHRC recommends that the Committee ask the Scottish Government:

105. To explain what steps are being taken to improve quality, consistency and quantity of training for police and prisons staff on human rights standards, and what steps are being taken to improve the delivery of health and social care in prisons.

Prison overcrowding

SHRC recommends that the Committee asks the Scottish Government:

108. What concrete steps it has taken and intends to take to implement the CPT’s recommendations in their October 2019 report.

109. To provide a timetable for desisting from the use of 1m2 holding cubicles in Barlinnie Prison.

117. To provide an update on plans to reduce the prison population and improve prison conditions and reintegration and Through-care services.

118. To explain what steps are being taken to ensure that: remand prisoners are managed separately and provided with appropriate regimes; and all prisoners are being adequately supported with appropriate through-care following the suspension of the Through-care Scheme.

119. To explain what steps are being taken to improve the balance between money spent on preventative services and money spent on keeping people in prison.

Women in custody

SHRC recommends that the Committee ask the Scottish Government:

125. To indicate their plans for gender-specific alternatives to custody.

126. What steps it has taken and will take to implement the recommendations of the CPT delegation to establish clear protocols and operating procedures among the SPS, NHS, the judiciary, and social services to ensure that vulnerable women who cannot be treated under the Scottish Mental Health Act are afforded the necessary care in an appropriate environment.

127. Whether they will adopt the Council of Europe Recommendation CM/Rec(2018), aimed at safeguarding the rights and interests of children of imprisoned parents.

Children and young people in custody

SHRC recommends that the Committee ask the Scottish Government:

131. How it intends to respond to the high-level findings and major recommendations of the HMIPS review and the Justice Committee’s report on secure care and prison places for children and young people.

Sentencing

SHRC recommends that the Committee ask the Scottish Government:

135. How it intends to monitor the impact, including intended and unintended consequences, (including on victims of domestic abuse and uptariffing) of the introduction of a presumption against short sentences of up to 12 months.

Mental health detention

SHRC recommends that the Committee ask the Scottish Government:

138. To explain the reasons for the continued rise in the use of the law to treat people for mental illness in Scotland and what steps it will take to reduce this.

139. To explain how it will address the lack of provision for high secure mental health provision in Scotland for women designated as requiring such care.

Young People in Intensive Psychiatric Care

SHRC recommends that the Committee ask the Scottish Government:

141. To describe what it is doing to address the lack of intensive psychiatric care facilities in Scotland for children and young people.

Freedom from arbitrary or unlawful interference and new technologies

Biometrics: facial recognition, cyber kiosks & digital forensics

SHRC recommends that the Committee ask the Scottish Government:

143. What steps they are taking to amend the Scottish Biometrics Commissioner bill to follow the recommendations of the Independent Advisory Group or to explain their contrary stance.

144. What steps they are taking to ensure a human rights based Framework exists to govern Digital Forensics.

148. What steps they are taking to ensure that the roll-out and ongoing use of Cyber kiosks takes place within an ethical and human rights-based framework, including through the introduction of legislation and appropriate legislative scrutiny.

Freedom of assembly & association

Marches

SHRC recommends that the Committee ask the Scottish Government

150. What steps it will take to implement the Independent Adviser’s recommendations and to ensure that it respects, protects and fulfils the rights to freedom of association in Scotland.

Family Life

Parental leave

SHRC recommends that the Committee ask the UK and Scottish Government:

152. What measures they are taking to address the financial barriers to shared parental leave.

Rights of the child

Corporal Punishment

SHRC recommends that the Committee ask the Scottish Government:

154. To update on all measures undertaken to promote positive non-violent forms of discipline in Scotland.

Minimum age of criminal responsibility

SHRC recommends that the Committee ask the Scottish Government:

156. What steps it will take to raise the age of criminal responsibility in Scotland to 14.

Access to adequate mental health services

SHRC recommends that the Committee ask the Scottish Government:

162. To describe what it is doing to address the concerns regarding the availability of services to address children and young people’s mental health and how it intends to improve the monitoring of both treatment type, effectiveness and relevant equalities data.

163. To describe its plans to a human rights-based approach to improving mental health services.

Democratic participation

Prisoner voting

SHRC recommends that the Committee ask the Scottish Government:

167. To provide information on the number of prisoners who would be enfranchised by the proposed Bill and to what extent its proposals comply with Article 25 of the Covenant.

Public participation in decision making

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172. How it will ensure that the most disenfranchised voices e.g. those of prisoners, Scottish Gypsy Travellers, Care leavers etc. are heard within all public policy and legislative initiatives which affect rights?

Human rights budgeting and budget scrutiny

SHRC recommends that the Committee ask the Scottish Government:

177. What steps it will take to improve fiscal transparency; including availability of accessible budgetary information to facilitate better pre and post budget scrutiny and promote citizen participation in budgetary decision making processes.

178. What steps it will take to show human rights leadership in adopting a process of human rights budgeting.

Digital government

SHRC recommends that the Committee ask the Scottish Government:

181. What Human Rights Impact Analysis they conducted prior to launching the Digital strategy and what analysis they have conducted since the launch of the strategy.

Protection of minorities

Rights of Scottish Gypsy Travellers

SHRC recommends that the Committee ask the Scottish Government:

186. If it intends to set out an enhanced Action Plan for Gypsy Travellers which is fully and transparently costed, in order to support effective oversight and monitoring mechanisms to track progress.

187. If it intends to undertake a human rights based approach to the £2 million allocated investment in the improvement in Gypsy/ Traveller sites.

188. How it intends to ensure that a broader range of Gypsy/Traveller voices are heard and not just those engaged with government funded projects.

1. The Scottish Executive is renamed the Scottish Government under the Scotland Act 2012. [↑](#footnote-ref-2)
2. SHRC notes that both the Scottish Government and Parliament should, in compliance with the Scotland Act 1998, observe and implement the UK’s international obligations. [↑](#footnote-ref-3)
3. An unprecedented three year research project by the Scottish Human Rights Commission, “Getting it Right? Human Rights in Scotland”, found that while Scotland has made notable progress, it can do better. It has a relatively strong legal and institutional framework for human rights, some examples of positive strategy and policy direction, but the actual outcomes for people often remain inconsistent. In response SHRC proposed the development of SNAP to help bring about the necessary progress in implementation of human rights at the level of service delivery and practice. [↑](#footnote-ref-4)
4. <http://scottishhumanrights.com/actionplan> [↑](#footnote-ref-5)
5. This process involved engagement with over 1000 people with lived experience of human rights issues or concerns – see here for further details: <http://www.snaprights.info/wp-content/uploads/2019/03/7.-SNAP-All-Our-Rights-Report-vFinal-Word-March-2018.docx> [↑](#footnote-ref-6)
6. <http://www.snaprights.info/snap-2> [↑](#footnote-ref-7)
7. SHRC has participated in the 2019 SDG VNR as a member of the Scottish SDG Network - <https://globalgoals.scot/scotlands-sustainable-development-goals-network/> SHRC contributed to the Scottish Shadow report (forthcoming) and submitted a Paragraph 89 NHRI Submission see <https://sustainabledevelopment.un.org/index.php?page=view&type=30022&nr=2241&menu=3170> [↑](#footnote-ref-8)
8. “Scotland and the SDGs: A national review to drive action, Publication forthcoming. [↑](#footnote-ref-9)
9. See here- <http://www.scottishhumanrights.com/other-issues/human-rights-act/> [↑](#footnote-ref-10)
10. The Conservative Manifesto states “*We will update the Human Rights Act and administrative law to ensure that there is a proper balance between the rights of individuals, our vital national security and effective government. We will ensure that judicial review is available to protect the rights of the individuals against an overbearing state, while ensuring that it is not abused to conduct politics by another means or to create needless delays. In our first year we will set up a ‘Constitution, Democracy & Rights Commission’**that will examine these issues in depth, and come up with proposals to restore trust in our institutions and in how our democracy operates*. See p.48 <https://assets-global.website-files.com/5da42e2cae7ebd3f8bde353c/5dda924905da587992a064ba_Conservative%202019%20Manifesto.pdf> [↑](#footnote-ref-11)
11. See United Nations Treaty Collection, ‘[Chapter IV, Human Rights: 4. International Covenant on Civil and Political Rights](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en#EndDec)’ It is understood that the UK maintains the second highest number of reservations to the ICCPR among states parties. [↑](#footnote-ref-12)
12. Further details on the potential impact of Brexit in the following section. [↑](#footnote-ref-13)
13. E.g. References to international human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights, in Scottish domestic legislation included in the Community Empowerment (Scotland) Act 2015; the Land Reform (Scotland) Act 2016; and the Social Security (Scotland) Act 2018 [↑](#footnote-ref-14)
14. <https://humanrightsleadership.scot/wp-content/uploads/2018/12/First-Ministers-Advisory-Group-on-Human-Rights-Leadership-Final-report-for-publication.pdf> [↑](#footnote-ref-15)
15. <https://news.gov.scot/news/strengthening-childrens-rights> [↑](#footnote-ref-16)
16. [www.legislation.gov.uk/ukpga/2018/16/contents/enacted](http://www.legislation.gov.uk/ukpga/2018/16/contents/enacted) [↑](#footnote-ref-17)
17. HM Government, Legislating for the United Kingdom’s withdrawal from the European Union (2017) Cm 9446, para 2.23. [↑](#footnote-ref-18)
18. For example see EHRC published legal advice received from senior independent counsel Jason Coppel QC. <https://www.equalityhumanrights.com/sites/default/files/eu-withdrawal-bill-legal-advice-jason-coppel-qc.pdf> ; and Discussion Paper on Brexit Colin Murray, Aoife O’Donoghue and Ben Warwick; <http://www.nihrc.org/uploads/publications/Discussion_Paper_on_Brexit.pdf> [↑](#footnote-ref-19)
19. Which is a target under Sustainable Development Goal (SDG) Goal 16.b. [↑](#footnote-ref-20)
20. S7 (4) EU (Withdrawal ) Bill [↑](#footnote-ref-21)
21. Joint statement in response to the European Union (Legal Continuity) (Scotland) Bill by the Scottish Human Rights Commission, the Equality and Human Rights Commission, the Human Rights Consortium Scotland, the Scottish Council for Voluntary Organisations and Together, Scotland’s Alliance for Children’s Rights- <http://www.scottishhumanrights.com/news/joint-statement-welcoming-intention-to-retain-the-eu-charter-of-fundamental-rights-in-scots-law/> [↑](#footnote-ref-22)
22. SDG goal 16 (16.10) also highlights the importance of ensuring public access to information and the protect fundamental freedoms, in accordance with national legislation and international agreements. [↑](#footnote-ref-23)
23. Which would bring international human rights treaties into Scots law. [↑](#footnote-ref-24)
24. <http://www.undatarevolution.org/report/> <https://www.ohchr.org/Documents/Issues/HRIndicators/DataDisaggregation.pdf> [↑](#footnote-ref-25)
25. https://www.shrcinteraction.org/Portals/23/Action-Plan-on-Historic-Abuse-of-Children-in-Care-Nov-2013.pdf [↑](#footnote-ref-26)
26. https://www.gov.scot/policies/child-protection/scottish-child-abuse-inquiry/ [↑](#footnote-ref-27)
27. https://www.nationalconfidentialforum.org.uk/ [↑](#footnote-ref-28)
28. http://www.legislation.gov.uk/asp/2016/5/contents/enacted [↑](#footnote-ref-29)
29. https://www.gov.scot/publications/financial-redress-for-survivors-of-child-abuse-in-care-information-note/ [↑](#footnote-ref-30)
30. http://www.legislation.gov.uk/asp/2017/3/contents/enacted [↑](#footnote-ref-31)
31. https://www.gov.scot/publications/financial-redress-survivors-historical-child-abuse-care-review-advance-payment-scheme/ [↑](#footnote-ref-32)
32. See Engender, 2017, ‘Equally Safe: A consultation on legislation to improve forensic medical services for victims of rape and sexual assault, Note relating to disabled and learning disabled women’s experiences, available at https://www.engender.org.uk/content/publications/1557327269\_Engender-note-on-Equally-Safe-A-consultation-on-legislation-to-improve-forensic-medical-services-for-victims-of-rape-and-sexual-assault.pdf [↑](#footnote-ref-33)
33. Which also supports SDG Targets 16.3: on the promotion of the rule of law at the national and international level and ensuring equal access to justice for all and 16.6: on developing effective, accountable and transparent institutions at all levels. [↑](#footnote-ref-34)
34. Including poor rates of pay, “*undue bureaucracy and extreme micromanagement performed by the Scottish Legal Aid.*” See <https://www.lawscot.org.uk/media/10079/legal-aid-financial-health-report-february-2017.pdf> [↑](#footnote-ref-35)
35. The recent Report of the Joint Committee on Human Rights Committee confirmed that access to justice is a pre-condition necessary for the enforcement of human rights and that measures which limit access to legal aid have a disproportionate impact on disabled people, women, children and migrants. Enforcing Rights (11th July 2018)- Tenth Report of Session 2017-19, House of Commons, Housing of Lords Joint Committee on Human Rights: <https://publications.parliament.uk/pa/jt201719/jtselect/jtrights/669/669.pdf> [↑](#footnote-ref-36)
36. Scottish Government (2015), ‘A Stronger Scotland: The Government’s Programme for Scotland 2015-16’. Available [here](http://www.gov.scot/Resource/0048/00484439.pdf) [accessed: 27 July 2017] [↑](#footnote-ref-37)
37. The Court Fees (Miscellaneous Amendments) (Scotland) Order 2016 schedules 1 and 4 [↑](#footnote-ref-38)
38. Scottish Government (2016), ‘The Court Fees (Miscellaneous Amendments) (Scotland) Order 2016 Equality Impact Assessment’. Available [here](http://www.gov.scot/Publications/2016/11/3573) [accessed: 27 July 2017] [↑](#footnote-ref-39)
39. https://www.scottishlegal.com/article/justice-committee-rejects-bill-on-abolition-of-not-proven-verdict [↑](#footnote-ref-40)
40. <https://www.bbc.co.uk/news/uk-scotland-49972637> [↑](#footnote-ref-41)
41. <https://www.bbc.co.uk/news/uk-scotland-49972637> [↑](#footnote-ref-42)
42. AR v Stephen Daniel Coxen, 2018, SC EDIN 53 PN1880/16 [↑](#footnote-ref-43)
43. Which also supports SDG Target 16.3 on the promotion of the rule of law at the national and international level and ensuring equal access to justice for all. [↑](#footnote-ref-44)
44. Law**:** Social Security (Scotland) Act 2018, Social Care (Self-directed Support) (Scotland) Act 2013, Patient Rights (Scotland) Act 2011, Adult Support and Protection (Scotland) Act 2007, Adults with Incapacity (Scotland) Act 2000 as amended by the Adult Support and Protection (Scotland) Act 2007, Education (Additional Support for Learning) (Scotland) Act 2004, Mental Health (Care & Treatment) (Scotland) Act 2003.

    **Policy: National Care Standards: Standard 19, The keys to life. Improving quality of life for people with learning disabilities (2013), Road to Recovery. The Scottish Government Drug Strategy (2008), Caring Together: The Carers’ Strategy for Scotland (2010-2015), Standards of Care for Dementia in Scotland (2011).** [↑](#footnote-ref-45)
45. <https://www.siaa.org.uk/wp-content/uploads/2017/09/SIAA_Advocating_Human_Rights_Guide.pdf> [↑](#footnote-ref-46)
46. <https://www.siaa.org.uk/wp-content/uploads/2017/09/SIAA_Advocacy_Map_2015-16-1.pdf> [↑](#footnote-ref-47)
47. Which also supports SDG Target 16.3 on the promotion of the rule of law at the national and international level and ensuring equal access to justice for all. [↑](#footnote-ref-48)
48. https://consult.gov.scot/independent-reviews/police-complaint-handling-investigation-misconduct/ [↑](#footnote-ref-49)
49. Addressing this issue would also support delivery of SDG Targets 16.3: on the promotion of the rule of law at the national and international level and ensuring equal access to justice for all and 16.6: on developing effective, accountable and transparent institutions at all levels. [↑](#footnote-ref-50)
50. Case of Ali v Serco & SSHD [2019] CSIH 54 [↑](#footnote-ref-51)
51. Addressing these issues will also support SDG Targets focused on reducing inequalities and the promotion of peace justice and strong institutions - namely 10.2 by 2030 to empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status; 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; 16.7: Ensure responsive, inclusive, participatory and representative decision make at all levels; and 16.b: Promote and enforce non-discriminatory laws and policies for sustainable development. [↑](#footnote-ref-52)
52. https://www.gov.scot/publications/fairer-scotland-disabled-people-delivery-plan-2021-united-nations-convention/ [↑](#footnote-ref-53)
53. [www.legislation.gov.uk/asp/2016/14/contents/enacted](http://www.legislation.gov.uk/asp/2016/14/contents/enacted) [↑](#footnote-ref-54)
54. Under the Scottish Government cabinet reshuffle which took place in June 2018, 6 out of 12 (50%) of cabinet members are now women. Seven out of 16 (44%) ministers are women. [↑](#footnote-ref-55)
55. <https://www.parliament.scot/ResearchBriefingsAndFactsheets/SPStatistics_18-19.pdf> [↑](#footnote-ref-56)
56. As of the 2019 General Election. [↑](#footnote-ref-57)
57. Women in Parliament and Government’ (February 2018) House of Commons Briefing Paper Number SN01250 [http://researchbriefings.files.parliament.uk/documents/SN01250/SN01250.pdf see](http://researchbriefings.files.parliament.uk/documents/SN01250/SN01250.pdf%20see) also <https://www.scotsman.com/news/politics/general-election/number-of-women-councillors-in-scotland-rises-but-remains-low-1-4442054> [↑](#footnote-ref-58)
58. Gender Matters Roadmap: Towards Women’s Equality in Scotland (September 2017) Engender <https://gendermatters.engender.org.uk/content/resources/Gender-Matters-Roadmap---towards-womens-equality-in-Scotland.pdf> [↑](#footnote-ref-59)
59. UKIM (2017), ‘Disability Rights in the UK’, pp. 51-52 ; <https://www.parliament.scot/ResearchBriefingsAndFactsheets/SPStatistics_18-19.pdf> [↑](#footnote-ref-60)
60. Addressing these issues will also support SDG Targets focused on reducing inequalities, promoting gender equality and the promotion of peace justice and strong institutions – namely 5.5: Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life; 5.c: Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.; 10.2 by 2030 to empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status; 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; 16.6: on developing effective, accountable and transparent institutions at all levels; and 16.7: Ensure responsive, inclusive, participatory and representative decision make at all levels. [↑](#footnote-ref-61)
61. <https://www.ethicalstandards.org.uk/sites/default/files/publications/ESC%20Annual%20Report%20and%20Accounts%202018-19_1.pdf> [↑](#footnote-ref-62)
62. Gender Matters Roadmap: Towards Women’s Equality in Scotland (September 2017) Engender <https://gendermatters.engender.org.uk/content/resources/Gender-Matters-Roadmap---towards-womens-equality-in-Scotland.pdf> [↑](#footnote-ref-63)
63. 2017 Judicial Diversity statistics - Gender and Age (September 2017)

    <http://www.scotland-judiciary.org.uk/Upload/Documents/DiversityStatsScotlandSept2017.pdf> [↑](#footnote-ref-64)
64. UK Parliament Report on Sexual harassment of women and girls in public places (2018). Available at: <https://publications.parliament.uk/pa/cm201719/cmselect/cmwomeq/701/70102.htm>. See also Guardian article <https://www.theguardian.com/world/2018/mar/01/sturgeon-shocked-by-holyrood-survey-on-sexism-and-abuse> [↑](#footnote-ref-65)
65. It has been argued that a standalone offence of misogynistic behaviour is required to challenge the harassment and abuse facing women and girls which, amongst other things, acts as a barrier to full participation. See: Independent Review of Hate Crime Legislation in Scotland: Final Report (May 2015: <https://www.gov.scot/binaries/content/documents/govscot/publications/report/2018/05/independent-review-hate-crime-legislation-scotland-final-report/documents/00535892-pdf/00535892-pdf/govscot%3Adocument> [↑](#footnote-ref-66)
66. Office for National Statistics Gender Pay Gap Statistics- Provisional 2018: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/annualsurveyofhoursandearningsashegenderpaygaptables> [↑](#footnote-ref-67)
67. Gender residual is the unobserved individual characteristics on which no information is included in the research. See: The Gender Penalty: Exploring the Causes and Solutions to Scotland’s Pay Gap (Feb 2018) Close the Gap. [↑](#footnote-ref-68)
68. Close the Gap statistics <https://www.closethegap.org.uk/content/gap-statistics/> [↑](#footnote-ref-69)
69. Making Progress? An Assessment Of Public Sector Employers’ Compliance With The Public Sector Equality Duty (2015) Close The Gap <https://www.closethegap.org.uk/content/resources/Making-Progress---An-assessment-of-employers-compliance-with-PSED-November-2015.pdf> [↑](#footnote-ref-70)
70. For example, the Scottish Business Pledge and the Partnership for Change 50/50 by 2020 [↑](#footnote-ref-71)
71. See: Gender Pay Gap Reporting Report of House of Commons Business, Energy and Industrial Strategy Committee, (23rd July 2018). Thirteenth report of the sessions 2017-2019. [↑](#footnote-ref-72)
72. Addressing these issues will also support SDG Targets focused on reducing inequalities and promoting gender equality – namely 5.c: Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.; and 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard. [↑](#footnote-ref-73)
73. The *Domestics Abuse (Scotland) Act* *2018* can be viewed at: <http://www.legislation.gov.uk/asp/2018/5/contents/enacted> [↑](#footnote-ref-74)
74. Addressing Violence against Women is also a key area of focus of Goal 5 of the SDGs – with a specific target (5.2) set to Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation. Action to tackle VAW would also support delivery of targets 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard and 16.1: Significantly reduce all forms of violence and related death rates everywhere. [↑](#footnote-ref-75)
75. The government announced £165,000 of dedicated training funding for Scottish Women’s Aid and also additional funding to train police officers on the new Act. See: <https://www.theguardian.com/society/2018/feb/01/scotland-set-to-pass-gold-standard-domestic-abuse-law> [↑](#footnote-ref-76)
76. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/EHRiC/2017/5/22/Hidden-Lives---New-Beginnings--Destitution--asylum-and-insecure-immigration-status-in-Scotland/3rd%20Report.pdf> [↑](#footnote-ref-77)
77. See: *Speaking Out: Recalling Women’s Aid in Scotland: 40 Year of Women’s Aid in Scotland* (2017) Women’s Aid: <https://womenslibrary.org.uk/gwl_wp/wp-content/uploads/2017/12/Speaking-Out-40-years-of-Womens-Aid-1.pdf> [↑](#footnote-ref-78)
78. See: ‘Safe Lives’ blog on LGBT young people’s experience of domestic abuse (Feb 2017): <http://safelives.org.uk/practice_blog/lgbt-young-peoples-experiences-domestic-abuse> [↑](#footnote-ref-79)
79. See: *Out of Sight, Out of Mind? Transgender People’s Experience of Domestic Abuse* (2013), Scottish Transgender Alliance: <https://www.scottishtrans.org/wp-content/uploads/2013/03/trans_domestic_abuse.pdf> [↑](#footnote-ref-80)
80. Addressing these issues will also support SDG Targets focused on reducing inequalities (Goal 10) and the promotion of partnerships for the goals (Goal 17), namely, SDG 10.3 Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; SDG 17.8 - to increase significantly the availability of high quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts. [↑](#footnote-ref-81)
81. In 2018-19, there were 2,880 charges reported. Crown Office statistics show that this represents a 32 per cent drop from a peak in 2011-12; a 12 per cent drop from 2017-18; and the lowest annual total since consistent figures became available in 2003-04. <https://www.copfs.gov.uk/images/Hate%20Crime%20in%20Scotland%202018-19%20PDF.pdf> [↑](#footnote-ref-82)
82. In 2018-19 there were 529 charges reported, (which was the lowest number since 2004-05, shortly after the relevant legislation was introduced) and reflected an 18 per cent decrease compared to 2017-18 [↑](#footnote-ref-83)
83. 2018-19 saw 40 charges compared to 52 in 2017-18. [↑](#footnote-ref-84)
84. 1,176 charges were reported in 2018-19, a 5 per cent rise from 2017-18 [↑](#footnote-ref-85)
85. These figures saw a 1 per cent increase to 289 reported charges in 2018-19. [↑](#footnote-ref-86)
86. This is with the exception of 2016-17 in the case of disability charges. [↑](#footnote-ref-87)
87. Hopkins, P. et.al. (2015) ‘Faith, Ethnicity and Place: Young Peoples Everyday Geopolitics in Scotland’, Arts and Humanities Council, available at:

    <http://research.ncl.ac.uk/youngpeople/> [↑](#footnote-ref-88)
88. Ibid [↑](#footnote-ref-89)
89. https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/104104.aspx [↑](#footnote-ref-90)
90. The Scottish Government’s refreshed national approach to anti-bullying: <https://www.gov.scot/publications/respect-national-approach-anti-bullying-scotlands-children-young-people/> [↑](#footnote-ref-91)
91. <https://interculturalyouthscotland.org/> [↑](#footnote-ref-92)
92. Addressing these issues will also support SDG Targets focused on education (Goal 4), reducing inequalities (Goal 10) and the promotion of peace, justice and strong institutions (Goal 16), namely, 4.7: By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture’s contribution to sustainable development; 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; 16.1: Significantly reduce all forms of violence and related death rates everywhere; and 16.2: End abuse, exploitations, trafficking and all forms of violence against and torture of children. [↑](#footnote-ref-93)
93. (CCPR/C/GBR/CO/7) [↑](#footnote-ref-94)
94. <https://www.gov.scot/publications/code-practice-exercise-constables-power-stop-search-person-scotland/> [↑](#footnote-ref-95)
95. <https://www.gov.scot/publications/fairer-scotland-race-equality-action-plan-2017-2021-highlight-report/> [↑](#footnote-ref-96)
96. <https://www.gov.scot/publications/twelve-month-review-code-practice-stop-search-scotland-qualitative-report/> [↑](#footnote-ref-97)
97. Although this reduction represents the continuation of a longer term trend since 2015. [↑](#footnote-ref-98)
98. Addressing concerns with stop & search would also support SDG Targets focused on reducing inequalities (Goal 10) and the promotion of peace, justice and strong institutions (Goal 16), namely, 4.7: By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among [↑](#footnote-ref-99)
99. <https://www.thetimes.co.uk/article/childrens-watchdog-questions-strip-searches-by-police-scotland-lh2hrntvk> [↑](#footnote-ref-100)
100. The figures were obtained by the Scottish Liberal Democrats in January 2019. See: <http://www.scotlibdems.org.uk/lib_dems_uncover_staggering_8_year_waits_for_families_for_fatal_accident_inquiries> [↑](#footnote-ref-101)
101. For further information see: <https://www.scottishlegal.com/article/staggering-fatal-accident-inquiry-delays-of-up-to-eight-years-revealed> [↑](#footnote-ref-102)
102. See: The Scottish Prison Service publish statistics on prisoner deaths in Scotland. Available at <http://www.sps.gov.uk/Corporate/Information/PrisonerDeaths.aspx> [↑](#footnote-ref-103)
103. Deaths in Police Custody: A Review of the International Evidence. Research Report 95 (October 2017). Home Office:<https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/655710/Deaths_in_police_custody_A_review_of_the_international_evidence.pdf> [↑](#footnote-ref-104)
104. ‘Mental disorder’ is the term used in the Mental Health Care and Treatment (Scotland) Act and the Adults with Incapacity (Scotland) Act. SHRC acknowledges that this terminology is no longer viewed as appropriate by people with mental health needs, autistic people and people with learning disabilities. [↑](#footnote-ref-105)
105. See <http://www.healthcareimprovementscotland.org/our_work/governance_and_assurance/learning_from_adverse_events/nhs_ayrshire__arran_report.aspx> [↑](#footnote-ref-106)
106. Addressing the rate of suicide in Scotland would also support delivery of SDG Goal 3 Health and well-being target focused on reducing by 2030 by one third, premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well- being (Goal 3.4). [↑](#footnote-ref-107)
107. <https://www.scotpho.org.uk/health-wellbeing-and-disease/suicide/data/scottish-trends> [↑](#footnote-ref-108)
108. A profile of deaths by suicide in Scotland 2011-2017 A report from the Scottish Suicide Information Database (ScotSID): 2018. [↑](#footnote-ref-109)
109. <https://www.hqip.org.uk/resource/national-confidential-inquiry-into-suicide-and-homicide-annual-report-2017/> [↑](#footnote-ref-110)
110. <https://www.gov.scot/publications/scotlands-suicide-prevention-action-plan-life-matters/> [↑](#footnote-ref-111)
111. It is recognised that “a comprehensive public health approach to improving mental wellbeing, addressing the underlying determinants of poor mental health, reducing stigma associated with poor mental health, and ensuring that services identify and respond to the co-occurrence of mental and physical health problems” is necessary to underpin a successful national suicide prevention programme. A profile of deaths by suicide in Scotland 2011-2017 A report from the Scottish Suicide Information Database (ScotSID): 2018. [↑](#footnote-ref-112)
112. Coalition of Scottish Local Authorities. [↑](#footnote-ref-113)
113. See *No Safe Place: restraint and Seclusion in Scotland’s Schools* (Dec 2018) CYPCS at: <https://www.cypcs.org.uk/ufiles/No-Safe-Place.pdf> [↑](#footnote-ref-114)
114. Following an intervention by the Equality and Human Rights Commission (EHRC) to support a Judicial Review raised in the Scottish courts in August 2019, and a series of discussions between CYPCS, EHRC Scotland and John Swinney MSP, the Deputy First Minister and Cabinet Secretary for Education and Skills, see <https://www.cypcs.org.uk/advice/restraint-and-seclusion/taking-action-on-restraint-and-seclusion> [↑](#footnote-ref-115)
115. 1. Produce human rights-based guidance on restraint and seclusion and review the effectiveness of that guidance, 2. Involve children, young people and their families in the drafting and review of the guidance,

     3. Consider statutory action should the guidance prove to be ineffective, and 4. Develop and introduce a standard dataset to be implemented across Scotland to ensure consistent recording and monitoring of incidents. [↑](#footnote-ref-116)
116. This would also support delivery of SDG Goal 16.2: End abuse, exploitations, trafficking and all forms of violence against and torture of children. [↑](#footnote-ref-117)
117. See: <https://www.heraldscotland.com/news/16240360.more-than-500-taser-cops-to-walk-scottish-beats-starting-in-june/> [↑](#footnote-ref-118)
118. *Specially Trained Officers (STOs): Guidance questions and answers for C3 Service Advisors*. Police Scotland. <https://www.pnld.co.uk/media/56554/police-scotland-paper-on-tasers.pdf> [↑](#footnote-ref-119)
119. The review set out to explore whether the legislation is fit for purpose with regard to its impact on the rights of people with learning disability and / or autistic people. The final report published in December 2019 has produced 46 recommendations: <https://www.irmha.scot/wp-content/uploads/2019/12/IRMHA-Final-report-18-12-19-1.pdf> . [↑](#footnote-ref-120)
120. Addressing this concern would also support delivery of SDG Goal 16 Targets 16.1: Significantly reduce all forms of violence and related death rates everywhere; and 16.2: End abuse, exploitations, trafficking and all forms of violence against and torture of children. [↑](#footnote-ref-121)
121. https://www.irmha.scot/wp-content/uploads/2019/08/Full-consultation-document-FINAL-29-08-19.pdf [↑](#footnote-ref-122)
122. https://www.irmha.scot/wp-content/uploads/2019/08/Full-consultation-document-FINAL-29-08-19.pdf [↑](#footnote-ref-123)
123. HMP *& YOI* Polmont Full Inspection October 2018. Available at http://www.scottishhumanrights.com/justice/prisons-and-detention [↑](#footnote-ref-124)
124. Council of Europe, Committee for the Prevention of Torture, Inhuman and Degrading Treatment, 2019, Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

     from 17 to 25 October 2018, Strasbourg, available at https://rm.coe.int/1680982a3e [↑](#footnote-ref-125)
125. Addressing this concern would also support delivery of SDG Goal 16 target 16.6: on developing effective, accountable and transparent institutions at all levels. [↑](#footnote-ref-126)
126. As of 1 February 2019. See: <http://www.sps.gov.uk/Corporate/Information/SPSPopulation.aspx> <https://inews.co.uk/news/scotland/remand-prisoner-numbers-rise-scotland-506805> [↑](#footnote-ref-127)
127. In percentage terms, there was a particularly large increase in remand prisoners – up 56% since 1999-00. [↑](#footnote-ref-128)
128. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/12/1/Pre-budget-scrutiny-of-the-Scottish-Government-s-draft-budget-2020-21--justice-and-policing/JS052019R23.pdf> [↑](#footnote-ref-129)
129. Council of Europe, Committee for the Prevention of Torture, Inhuman and Degrading Treatment, 2019, Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

     from 17 to 25 October 2018, Strasbourg, available at https://rm.coe.int/1680982a3e [↑](#footnote-ref-130)
130. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/12/1/Pre-budget-scrutiny-of-the-Scottish-Government-s-draft-budget-2020-21--justice-and-policing/JS052019R23.pdf> [↑](#footnote-ref-131)
131. [ibid.](https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/12/1/Pre-budget-scrutiny-of-the-Scottish-Government-s-draft-budget-2020-21--justice-and-policing/JS052019R23.pdf) [↑](#footnote-ref-132)
132. Ibid. [↑](#footnote-ref-133)
133. See for example, inspection reports of HMP Perth (2018), HMP Greenock (2018), HMP Shotts (2017) at <http://www.prisoninspectoratescotland.gov.uk/publications>. [↑](#footnote-ref-134)
134. *Who Cares? The Lived Experience of Older Prisoners in Scotland’s Prisons: A thematic study carried out by HMIP for Scotland* (July 2017): <https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/SCT03172875161.pdf> [↑](#footnote-ref-135)
135. *Who Cares? The Lived Experience of Older Prisoners in Scotland’s Prisons: A thematic study carried out by HMIP for Scotland* (July 2017): <https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/SCT03172875161.pdf> [↑](#footnote-ref-136)
136. Read the *Report into Healthcare in Prisons* (2017) Health and Sport Committee, Scottish Parliament, at: https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/103318.aspx [↑](#footnote-ref-137)
137. SHRC is a UK NPM member and inspects prison in Scotland, jointly with HMIPS since 2015. The reports are available at <http://www.scottishhumanrights.com/justice/prisons-and-detention/> [↑](#footnote-ref-138)
138. Five groups of prison leavers face particular barriers: remand prisoners, those on short sentences; women; young people; and those who were homeless on entering prison *See Prison leavers and homelessness* (2015), E. Dore, Iriss, available at <https://www.iriss.org.uk/resources/insights/prison-leavers-and-homelessness> [↑](#footnote-ref-139)
139. This service paired prisoners up with a Support Officer to help them make arrangements for benefits, housing and medical provision upon their release, thereby reducing the difficulties that former prisoners faced upon release and reducing the risk of re-offending. [↑](#footnote-ref-140)
140. Due to the high prison population and problems with staffing (e.g. absence levels). [↑](#footnote-ref-141)
141. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/12/1/Pre-budget-scrutiny-of-the-Scottish-Government-s-draft-budget-2020-21--justice-and-policing/JS052019R23.pdf> [↑](#footnote-ref-142)
142. Ibid. [↑](#footnote-ref-143)
143. Addressing this concern would also support delivery of SDG Goal 16 target 16.1: Significantly reduce all forms of violence and related death rates everywhere. [↑](#footnote-ref-144)
144. Weekly figures for 4 October 2019 show 414 women in custody (with 82 untried). See: *Law Society of Scotland Submission to the Justice Committee* (25th January 2018): <http://www.parliament.scot/S5_JusticeCommittee/Inquiries/Remand-LSS.pdf> <https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/12/1/Pre-budget-scrutiny-of-the-Scottish-Government-s-draft-budget-2020-21--justice-and-policing/JS052019R23.pdf> [↑](#footnote-ref-145)
145. *Is Scotland Fairer?:* *The State of Equality and Human Rights in 2018* (2018) Equality and Human Rights Commission. <https://www.equalityhumanrights.com/en/publication-download/scotland-fairer-2018> [↑](#footnote-ref-146)
146. Read more at: https://www.scotsman.com/news/politics/self-harm-incidents-skyrocketing-in-scots-prisons-1-4890855 [↑](#footnote-ref-147)
147. Council of Europe, Committee for the Prevention of Torture, Inhuman and Degrading Treatment, 2019, Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

     from 17 to 25 October 2018, Strasbourg, available at https://rm.coe.int/1680982a3e [↑](#footnote-ref-148)
148. Council of Europe, Committee for the Prevention of Torture, Inhuman and Degrading Treatment, 2019, Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)

     from 17 to 25 October 2018, Strasbourg, available at https://rm.coe.int/1680982a3e [↑](#footnote-ref-149)
149. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/J/2019/12/1/Pre-budget-scrutiny-of-the-Scottish-Government-s-draft-budget-2020-21--justice-and-policing/JS052019R23.pdf> [↑](#footnote-ref-150)
150. Addressing these concerns around women in custody would also support delivery of SDG Goals 5 and 16, namely: 5.5: set to Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation; and 16.1: Significantly reduce all forms of violence and related death rates everywhere. [↑](#footnote-ref-151)
151. Moreover - Twenty-two per cent had received a trauma diagnosis over that time-frame and 45 per cent had experienced sexual exploitation, an issue that may require specialist counselling and support. <https://digitalpublications.parliament.scot/Committees/Report/J/2019/11/26/Secure-care-and-prison-places-for-children-and-young-people-in-Scotland> [↑](#footnote-ref-152)
152. <https://digitalpublications.parliament.scot/Committees/Report/J/2019/11/26/Secure-care-and-prison-places-for-children-and-young-people-in-Scotland> Ibid. [↑](#footnote-ref-153)
153. [https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication\_files/Report per cent20on per cent20Expert per cent20Review per cent20of per cent20Provision per cent20of per cent20Mental per cent20Health per cent20Services per cent20at per cent20HMP per cent20YOI per cent20Polmont per cent20- per cent20Final per cent20Version.pdf](https://www.prisonsinspectoratescotland.gov.uk/sites/default/files/publication_files/Report%20on%20Expert%20Review%20of%20Provision%20of%20Mental%20Health%20Services%20at%20HMP%20YOI%20Polmont%20-%20Final%20Version.pdf) [↑](#footnote-ref-154)
154. <https://digitalpublications.parliament.scot/Committees/Report/J/2019/11/26/Secure-care-and-prison-places-for-children-and-young-people-in-Scotland> [↑](#footnote-ref-155)
155. Addressing these concerns around children and young people in custody would also support delivery of SDG Goal 16, namely targets: 16.1: Significantly reduce all forms of violence and related death rates everywhere; and 16.2: End abuse, exploitations, trafficking and all forms of violence against and torture of children. [↑](#footnote-ref-156)
156. Not only are short sentences expensive and provide offenders with limited opportunity to engage with rehabilitative services, they can often contribute to the loss of stable housing, employment, financial stability, access to benefits, family relationships – the cumulative impact of which means that people who receive short sentences have the highest level of reoffending.https://www.gov.scot/publications/evaluation-community-payback-orders-criminal-justice-social-work-reports-presumption-against-short-sentences/pages/4/ [↑](#footnote-ref-157)
157. https://www.commonspace.scot/articles/9435/dr-marsha-scott-phasing-out-short-prison-sentences-good-thing-not-domestic-abusers [↑](#footnote-ref-158)
158. Howard League Scotland. (2019). Written submission to the Justice Committee Pre-budget scrutiny of the Scottish Government’s draft budget 2020/21: justice and policing, 23rd Report, 2019 (Session 5) [↑](#footnote-ref-159)
159. See *Statistical Monitoring: Mental Health Act Monitoring Data 2017/18* (Dec 2018), Mental Welfare Commission: <https://www.mwcscot.org.uk/media/437904/final_for_print_mha_monitoring_data_2017-18.pdf> [↑](#footnote-ref-160)
160. Addressing these concerns around mental health detention would also support delivery of SDG Goal 16, target 16.6: on developing effective, accountable and transparent institutions at all levels. [↑](#footnote-ref-161)
161. *Statistical Monitoring: Young Person Monitoring Report 2017-18* (December 2018) Mental Welfare Commission: <https://www.mwcscot.org.uk/media/437572/young_person_monitoring_report_2017-18.pdf> [↑](#footnote-ref-162)
162. This compares with 71 admissions involving 66 young people in the previous year. [↑](#footnote-ref-163)
163. Op cit. 46 [↑](#footnote-ref-164)
164. Ibid. [↑](#footnote-ref-165)
165. <https://www.gov.scot/publications/report-independent-advisory-group-use-biometric-data-scotland/> [↑](#footnote-ref-166)
166. <https://www.parliament.scot/parliamentarybusiness/Bills/111859.aspx> [↑](#footnote-ref-167)
167. <https://consult.gov.scot/safer-communities/use-of-biometric-data/> [↑](#footnote-ref-168)
168. http://www.scottishhumanrights.com/news/cyber-kiosks-commission-remains-disappointed-with-scottish-government-response/ [↑](#footnote-ref-169)
169. [↑](#footnote-ref-170)
170. <https://www.gov.scot/publications/independent-report-marches-parades-static-demonstrations-scotland/> [↑](#footnote-ref-171)
171. The Shared Parental Leave Regulations 2014 [↑](#footnote-ref-172)
172. Parents, Work and Care: Striking the Balance (Jemima Olchawski, 2016) The Fawcett Society. Fathers are entitled to 90% of their salary or £145.15 a week, whichever is the lowest. Given that the mean weekly pay for men in the UK is just under £600 for many this represents a significant cut in earnings at a time when costs are increasing and their partner is also likely to be earning less. <https://www.fawcettsociety.org.uk/Handlers/Download.ashx?IDMF=ee914eef-9b45-4f6e-84c5-57c0547727b4> [↑](#footnote-ref-173)
173. Shared parental leave take-up may be as low as 2% (February 2018) BBC News <http://www.bbc.co.uk/news/business-43026312> [↑](#footnote-ref-174)
174. [‘Parental leave: Where are the fathers?’](https://www.oecd.org/policy-briefs/parental-leave-where-are-the-fathers.pdf) (March 2016) Policy Brief, Organisation for Economic Co-operation and Development [accessed: 29 April 2018]. [↑](#footnote-ref-175)
175. <http://www.legislation.gov.uk/asp/2019/16/enacted> [↑](#footnote-ref-176)
176. Addressing these remaining concerns around corporal punishment of SDG Goals 5 and 16, namely targets: 5.3: Eliminate all harmful practices, such as child, early and forced marriage and female genital mutilation; and 16.2: End abuse, exploitations, trafficking and all forms of violence against and torture of children. [↑](#footnote-ref-177)
177. <https://www.legislation.gov.uk/asp/2019/7/contents/enacted> [↑](#footnote-ref-178)
178. <https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC_General_Comment_10.pdf> [↑](#footnote-ref-179)
179. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=21090> [↑](#footnote-ref-180)
180. See <https://www.audit-scotland.gov.uk/report/children-and-young-peoples-mental-health> [↑](#footnote-ref-181)
181. 44% of 15-year-old females in Scotland show signs of emotional problems; 36% of children and young people with learning disabilities have a diagnosable psychiatric disorder; 45% of looked after children in Scotland aged between 5-17 were assessed as having at least one mental disorder; 33% of young carers report problems around eating and self-harming or having suicidal thoughts. 40% of LGBT young people consider themselves to have a mental health problem compared with 25 per cent of all young people in Scotland; 95% of 16 to 20-year-olds in custody have at least one mental health problem and Children living in low income households are three times more likely to suffer mental health problems than their more affluent peers. <https://www.audit-scotland.gov.uk/report/children-and-young-peoples-mental-health> [↑](#footnote-ref-182)
182. <https://www.audit-scotland.gov.uk/report/children-and-young-peoples-mental-health> [↑](#footnote-ref-183)
183. <https://www2.gov.scot/Resource/0053/00537523.pdf> [↑](#footnote-ref-184)
184. <https://www.isdscotland.org/Health-Topics/Mental-Health/Child-and-Adolescent-Mental-Health/> [↑](#footnote-ref-185)
185. Addressing these issues around the provision of mental health services for children and young people would also support delivery of SDG Goal 3 Health and well-being target focused on reducing by 2030 by one third, premature mortality from non-communicable diseases through prevention and treatment and promote mental health and well- being (Goal 3.4). [↑](#footnote-ref-186)
186. <https://www.opendata.nhs.scot/dataset/child-and-adolescent-mental-health-waiting-times> [↑](#footnote-ref-187)
187. <https://www.isdscotland.org/Health-Topics/Mental-Health/Child-and-Adolescent-Mental-Health/> [↑](#footnote-ref-188)
188. https://www.audit-scotland.gov.uk/report/children-and-young-peoples-mental-health [↑](#footnote-ref-189)
189. (CCPR/C/GBR/CO/6, para. 28; (CCPR/C/GBR/CO/7, para. 25) [↑](#footnote-ref-190)
190. Addressing the issue of prison voting in Scotland would also support delivery of SDG Goals 5, 10 and 16. Namely by supporting targets: 5.5: Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life; 10.2 by 2030 to empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status; 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; and 16.7: Ensure responsive, inclusive, participatory and representative decision make at all levels. [↑](#footnote-ref-191)
191. <http://www.scottishhumanrights.com/media/1838/prisoner-voting-consultation-march-2019-v2.docx> [↑](#footnote-ref-192)
192. Standards, Procedures and Public Appointments Committee. Official Report, 19 September 2019, Col 2 [↑](#footnote-ref-193)
193. <https://sp-bpr-en-prod-cdnep.azureedge.net/published/SPPA/2019/11/13/Stage-1-Report-on-the-Scottish-Elections--Franchise-and-Representations--Bill-1/SPPAS052019R14.pdf> [↑](#footnote-ref-194)
194. <https://www.gov.scot/news/citizens-assembly-of-scotland/> [↑](#footnote-ref-195)
195. This includes those arising from Brexit; and what further work should be carried out to give the people of Scotland the information needed to make informed choices about the future of the country [↑](#footnote-ref-196)
196. Addressing these issues would also support delivery of a number of SDG Goals including targets 5.5: Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life; 10.2 by 2030 to empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status; 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; 11.3: By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries; 13.3; improve education, awareness- raising and human and institutional capacity on climate change mitigation, adaptation, impact reduction and early warning; 13.b: Promote mechanisms for raising capacity for effective climate change-related planning and management in least developed countries, including focusing on women, youth and local and marginalized communities; 16.7: Ensure responsive, inclusive, participatory and representative decision make at all levels; and 16.b: Promote and enforce non- discriminatory laws and policies for sustainable development. [↑](#footnote-ref-197)
197. See <http://www.scottishhumanrights.com/economic-social-cultural-rights/human-rights-budget-work/> [↑](#footnote-ref-198)
198. This is a multilateral initiative, aimed at securing concrete commitments from national and subnational governments to promote open government, empower citizens, corruption, and harness new technologies to strengthen governance. [↑](#footnote-ref-199)
199. <https://www.gov.scot/publications/scotlands-open-government-action-plan-2018-20/> [↑](#footnote-ref-200)
200. <https://www.internationalbudget.org/open-budget-survey/> [↑](#footnote-ref-201)
201. <http://www.scottishhumanrights.com/media/1842/human-rights-budgeting-150319-presentation-whole.pdf> Slide [↑](#footnote-ref-202)
202. Ibid. [↑](#footnote-ref-203)
203. <http://www.parliament.scot/S4_EqualOpportunitiesCommittee/Equality_Statement.pdf> [↑](#footnote-ref-204)
204. http://www.legislation.gov.uk/ukpga/2012/11/contents/enacted [↑](#footnote-ref-205)
205. http://www.legislation.gov.uk/ukpga/2016/11/contents/enacted [↑](#footnote-ref-206)
206. The BPRG was established by the Scottish Parliament’s Finance and Constitution Committee and the Scottish Government. Final report can been found here: [www.parliament.scot/S5\_Finance/Reports/BPRG\_-\_Final\_Report\_30.06.17.pdf](http://www.parliament.scot/S5_Finance/Reports/BPRG_-_Final_Report_30.06.17.pdf) [↑](#footnote-ref-207)
207. The final report included 59 key recommendations (all accepted by Government and many consistent with human rights principles). [↑](#footnote-ref-208)
208. <https://www.gov.scot/policies/digital/> [↑](#footnote-ref-209)
209. <https://www.lloydsbank.com/banking-with-us/whats-happening/consumer-digital-index.asp> [↑](#footnote-ref-210)
210. See for example the digital participation charter: <https://digitalparticipation.scot/> [↑](#footnote-ref-211)
211. <https://d1ssu070pg2v9i.cloudfront.net/pex/carnegie_uk_trust/2019/02/21143338/LOW-RES-3999-CUKT-Switched-On-Report-ONLINE.pdf> [↑](#footnote-ref-212)
212. Addressing these concerns around the impact of increased ‘digital by default’ would also support delivery of the following SDG targets: 16.3: Promote the rule of law at the national and international levels and ensure equal access to justice for all; 16.6: Develop effective, accountable and transparent institutions at all levels; 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements; and 17.18: By 2020, enhance capacity-building support to developing countries, including for least developed countries and small island developing States, to increase significantly the availability of high- quality, timely and reliable data disaggregated by income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts. [↑](#footnote-ref-213)
213. CERD/C/GBR/CO/21-23 [↑](#footnote-ref-214)
214. CERD/C/GBR/CO/21-23 UN CRC also called in 2016 for meaningful participation of Roma, gypsy and traveller communities, including children, in planning and decision-making processes.

     <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsl%2bN10MmdFIWGiBm7N%2bEPpl6oQVX7Cs%2bQ%2byjZw6GexIALjR1lpE7jqbq3ScPwsAhr4c02LO%2fwWIQzG2OX2m4OAvEMCxla40RMGPgA4zfHJJ1z7Cv7yb71i3rvDLpuVgACA%3d%3d> [↑](#footnote-ref-215)
215. The total 2019-2020 budget for equalities priorities is £24.6 million – no further breakdown allocation in the budget document is provided, so it is not possible to know what has been allocated to any Gypsy/Traveller projects or the Action Plan. The Action Plan mentions a variety of funding pots some of which are new and others which are not – making it impossible to identify what is totally new funding allocated to this plan. The 2019-2020 Programme for Government mentions that funding has been provided for a range of projects, but only mentioned two specific allocations: Practical and financial support to enable Gypsy/Traveller communities to shape national policy agendas and local priorities and to assess the progress we are making (£100,000 in 2019-2020); and £2 million additional investment in public sector Gypsy/ Traveller sites, designed to improve quality of life. The Scottish Government’s news launch (<https://news.gov.scot/news/improving-gypsytraveller-lives>) of the Action plan says that there will be an investment of £3 million, although it is not clear within which budgetary years or from which areas of the budget this will come from. [↑](#footnote-ref-216)
216. <https://www.housingregulator.gov.scot/media/1264/shr-national-panel-2019-report-5-gypsy-traveller-final.pdf> [↑](#footnote-ref-217)
217. Addressing the wide range of issues impacting on the rights of Scottish Gypsy Travellers would also contribute to addressing the following targets of the SDG Goals. 4.7: By 2030, ensure that all learners acquire the knowledge and skills needed to promote sustainable development, including, among others, through education for sustainable development and sustainable lifestyles, human rights, gender equality, promotion of a culture of peace and non-violence, global citizenship and appreciation of cultural diversity and of culture’s contribution to sustainable development; 5.5: Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life; 6.b: Support and strengthen the participation of local communities in improving water and sanitation management; 10.2 by 2030 to empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status; 10.3: Ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action in this regard; 11.3: By 2030, enhance inclusive and sustainable urbanization and capacity for participatory, integrated and sustainable human settlement planning and management in all countries; 16.7: Ensure responsive, inclusive, participatory and representative decision make at all levels; and 16.b: Promote and enforce non- discriminatory laws and policies for sustainable development. [↑](#footnote-ref-218)