

Mr John Swinney MSP, Cabinet Secretary for Covid Recovery  
Mr Humza Yousaf MSP, Cabinet Secretary for Health & Social Care

By email: [Scottish\\_Ministers@gov.scot](mailto:Scottish_Ministers@gov.scot)

21 May 2021

Dear Mr Swinney MSP and Mr Yousaf MSP

## **Public inquiry into the handling of COVID-19 pandemic**

The Scottish Human Rights Commission (the “Commission”) welcomes you to your new roles and looks forward to continuing to engage with you.

We are writing to reiterate our previous calls for a forthcoming public inquiry into the handling of the COVID-19 pandemic to take a human rights based approach, both in its design and function. We welcome that, in July 2020, the First Minister put on record her commitment that any public inquiry should take a human rights based approach.<sup>i</sup>

In July 2020, we published a briefing [COVID-19: Care homes and human rights](#) in which we set out the human rights framework as it applies to some of the issues that have arisen in Scotland’s care homes during the pandemic, and detailed the requirements of human rights law to ensure effective investigations are carried out. Although the focus of the July briefing was on care homes, our call and expectation for any inquiry to take a human rights based approach applies equally to all aspects of the handling of the pandemic.

A human rights based approach is about empowering people to know and claim their rights, and increasing the ability and accountability of individuals and institutions who are responsible for respecting, protecting and fulfilling human rights. There are some underlying principles which are of fundamental importance in applying a human rights based approach in practice. These are known as the PANEL principles.

- **P**articipation of everyone in decisions which affect their human rights
- **A**ccountability of those responsible for the respect, protection and fulfilment of human rights
- **N**on-discrimination and equality
- **E**mpowerment of rights holders to know and claim their rights
- **L**egality – an explicit application of human rights law and standards


A human rights based approach goes beyond ensuring compliance or accountability in relation to human rights law but rather sets out an approach to respect, protect and fulfil human rights in both process and outcome. This means taking a rights based approach to the scope, design and methodology of an inquiry from the outset of the process. Further detail on a human rights based approach to inquiries and investigations is set out in Annex 1 of our briefing referred to above.

We would welcome a discussion with your officials around the plans being developed for a public inquiry and hope to build on our previous recommendations and input to ensure a human rights based approach is achieved. We believe that where a rights based approach is taken to the inquiry, with lived experience and human rights legal standards at its core, the output will be strengthened and the insights gained will be informative for the related COVID-recovery agenda also.

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Yours sincerely



Judith Robertson  
**Chair**

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<sup>i</sup> Official Report, Meeting of the Parliament (Hybrid) 30 July 2020.

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