

SHRC

Scottish
Human Rights
Commission

Annual
Report
2021-22



Foreword

The Commission's mandate to promote and protect human rights in Scotland remained at the heart of our work during the period covered by this Annual Report, from April 2021 to March 2022.



A key priority was our defence of the Human Rights Act, as the UK Government moved to replace it with a new “Bill of Rights”.

At the time of writing, the “Bill of Rights” has been withdrawn, but we will keep a watching brief on this significant challenge to rights in Scotland.

In the meantime, the Commission continued to make progress towards the outcomes of its Strategic Plan 2020-2024.

In September, we strongly welcomed the Scottish Government's commitment to bring forward a new Human Rights Bill.

This marked a milestone moment for Scotland and we were pleased to continue capacity building with a wide range of stakeholders while scrutinising the Scottish Government's plans.

Overall, good progress was made towards strengthening accountability for meeting human rights obligations in some key areas. For example, the Commission welcomed the launch of Scotland's Redress Scheme, a financial redress scheme for survivors of historical child abuse in care.

Additionally, our work on the Independent Review of the Response to Deaths in Prison Custody came to a close in November 2021, as the full report was published and its recommendations immediately accepted in principle by the Scottish Government Cabinet Secretary for Justice, Keith Brown.

In 2021, we also moved towards our goal to advance best practice on climate justice, as Scotland welcomed campaigners from around the world to the UN Climate Change Conference (COP 26).

The Commission co-hosted a human rights symposium in parallel with COP26, working in partnership with the Global Alliance of National Human Rights Institutions (GANHRI), the University of Stirling and the European Network of Human Rights Institutions (ENNHRI).

As a National Human Rights Institution (NHRI), the Commission has an important role to play as a bridge between Scotland and international commitments on human rights.

This year we were proud to be awarded the top grade of international accreditation as an NHRI for the third time.

This “A Status” from GANHRI and the United Nations, demonstrates the confidence the international human rights system has in the Commission’s work as an independent, authoritative body, with a broad statutory mandate to promote and protect human rights.

While there is much positive news to report, 2021–2022 also saw the Commission spotlight specific challenges as we presented Scotland’s human rights “report card” (Universal Periodic Review (UPR)) submission to the United Nations.

In our evidence, we highlighted the threat to the Human Rights Act and called for action to tackle pressing human rights issues, including access to mental health care and treatment, child poverty, poor prison conditions, hate crime, human trafficking, environmental rights and access to justice.

The Commission’s report drew on extensive evidence from a range of people living and working in communities across Scotland. This evidence, and our own research, makes clear that Scotland still has a long way to go to realise human rights in everyone’s lives.

The COVID-19 pandemic continued to affect a wide range of people in Scotland during this reporting period, including Commission staff.

We prioritised work on analysing the human rights implications of COVID-19 in Scotland, for example, around vaccine certificates, and shared our expertise on how public health lessons for the future can be powerfully framed from a rights perspective to achieve the highest degree of protections for all.

The Scottish Parliament appointed me as the new Chair of the Commission in March and, just outside the parameters of this Annual Report, I was delighted to take up the role in June 2022.

As a former UK Ambassador and head of the Human Rights & Rule of Law Department at the Foreign Office, I have worked closely with civil society, governments and NHRIs. I now want to play my part in promoting greater understanding of human rights and to see Scotland become a world leader in protecting them.

I also want to thank my predecessor, Judith Robertson, for all her efforts in leading the Commission over the last six years.

I look forward to working with you.

A handwritten signature in black ink, appearing to read 'I. Duddy', with a long horizontal flourish extending to the right.

Ian Duddy

Chair, Scottish Human Rights Commission

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About the Commission

The Scottish Human Rights Commission is Scotland's National Human Rights Institution. Established by the Scottish Commission for Human Rights Act 2006, we fulfil a broad statutory mandate to protect people's rights and hold government and public bodies to account for their human rights obligations.

The Commission is accountable to the people of Scotland through the Scottish Parliament and is accredited as an A-Status National Human Rights Institution within the United Nations (UN) human rights system. We report directly to the UN on human rights issues in Scotland.

The Commission has powers to recommend changes to law, policy and practice; to promote human rights through education, training and publishing research; to intervene in relevant civil court cases; and to conduct inquiries into the policies and practices of Scottish public authorities.

We are committed to sharing, developing and learning from best practice in human rights protection internationally. The Commission is an active member of the European Network of National Human Rights Institutions (ENNHRI), the Global Alliance of Human Rights Institutions (GANHRI) and the Commonwealth Forum of National Human Rights Institutions (CFNHRI).

The Paris Principles

The Paris Principles are criteria that the United Nations adopted in 1993 to establish the standards that A-Status National Human Rights Institutions, such as the Commission, must meet.

The Commission was accredited with A-Status in 2010 and re-accredited in 2015 and 2021.

The Paris Principles require the Commission to:

- + be given the power to promote and protect human rights and have as broad a mandate as possible;
- + have a foundation in national law;
- + have autonomy from the government with independence guaranteed by statute or constitution;
- + have a mandate based in universal human rights standards;
- + demonstrate pluralism and independence in the selection and appointment of members;
- + have adequate resources and adequate powers of investigation;
- + have a responsibility to work with both civil society and the state.

Our Strategic Plan for 2020-2024

The Commission's fourth Strategic Plan was published in March 2020 following consultation and engagement with a wide range of people and organisations. It establishes four Strategic Priorities for our work for 2020-2024. The Commission has also identified mid-level outcomes that represent key indicators of progress towards each of our Strategic Priorities.

+ STRATEGIC PRIORITY 1: Progressing understanding and strengthening legal protection of economic, social and cultural rights

+ STRATEGIC PRIORITY 2: Strengthening accountability for meeting human rights obligations

+ STRATEGIC PRIORITY 3: Building wider ownership of human rights

+ STRATEGIC PRIORITY 4: Advancing best practice locally and sharing our learning globally



STRATEGIC PRIORITY 1:



Progressing understanding and strengthening legal protection of economic, social and cultural rights

- + **OUTCOME 1.1** An Act of the Scottish Parliament is passed which gives the strongest protection possible to internationally protected rights, with a particular focus on economic, social, cultural and environmental rights.
- + **OUTCOME 1.2** There is an increase in knowledge and understanding about economic, social and cultural rights across the Scottish Parliament, Scottish Government, civil society and rights holders.
- + **OUTCOME 1.3** The Commission and other key stakeholders contribute to human rights based scrutiny of Scotland's Budget and are better able to hold government to account for budget choices.
- + **OUTCOME 1.4** The Scottish Government and local government are better able to demonstrate improvements in fiscal transparency and participation, and an understanding of key concepts around human rights budgeting.

STRATEGIC PRIORITY 2:



Strengthening accountability for meeting human rights obligations

- + **OUTCOME 2.1** Domestic legal protections for human rights are strengthened and not weakened.
- + **OUTCOME 2.2** Barriers to access to justice are mapped and progress is made to remove them in key identified areas.
- + **OUTCOME 2.3** Accountability gaps in law are highlighted and addressed through the strategic use of our legal powers, contributing to enhanced legal protection of rights.
- + **OUTCOME 2.4** An increased number of inspectorate and regulation bodies take a human rights based approach to their enforcement powers.
- + **OUTCOME 2.5** Parliamentary scrutiny is increasingly informed by human rights and human rights based approaches in practice.
- + **OUTCOME 2.6** UN Treaty body concluding observations and recommendations reflect issues affecting people in Scotland and action is taken to implement them.
- + **OUTCOME 2.7** The UK's National Preventative Mechanism is stronger at achieving the purpose of the Optional Protocol to the Convention Against Torture and strengthening the protection of persons deprived of their liberty.
- + **OUTCOME 2.8** The National Performance Framework better measures progress towards realising human rights and makes stronger connections between human rights and achieving the Sustainable Development Goals.

STRATEGIC PRIORITY 3:



Building wider ownership of human rights

- + **OUTCOME 3.1** An increased number of public bodies demonstrate that they consider and implement human rights in the design, delivery and scrutiny of services, with services showing improved outcomes for people as a result.
- + **OUTCOME 3.2** An increase in informed human rights discourse in the Scottish media and social media.
- + **OUTCOME 3.3** An increase in parliamentary debates and scrutiny informed and framed by human rights.
- + **OUTCOME 3.4** Scotland's National Action Plan for Human Rights is better resourced and able to deliver on its defined priorities, continuing to act as a mechanism for collective action on rights across civil society, public bodies and government.
- + **OUTCOME 3.5** The Commission's work increasingly reflects the voices and experiences of people affected by the human rights issues we work on, and those experiences are more reflected in public debate.

STRATEGIC PRIORITY 4:



Advancing best practice locally and sharing our learning globally

- + **OUTCOME 4.1** The delivery of our Strategic Plan reflects global best practice in the implementation of human rights.
- + **OUTCOME 4.2** Climate Justice is increasingly understood as a human rights issue in Scotland and beyond.
- + **OUTCOME 4.3** Regional and International human rights actors invite the Commission to share our work to inform practice elsewhere, with our contribution leading to positive, progressive change.

Strategic Priority 1:

Progressing understanding and strengthening legal protection of economic, social and cultural rights.

The Commission wants to see strengthened understanding, legal protection and implementation in Scotland of economic, social and cultural rights (ESCR) and other internationally protected rights. We believe this has the potential to contribute significantly to progress towards a Scotland which is achieving its Sustainable Development Goal commitments, is free from poverty in all its forms, and where no-one is left behind.

Towards a new Human Rights Bill for Scotland **OUTCOME 1.1 AND 1.2**

This year the Scottish Government committed to introduce a new Human Rights Bill for Scotland.

It was a landmark moment announced in the Programme for Government in September 2021.

The Bill will incorporate four international human rights treaties directly into Scots Law, those covering economic, social and cultural rights, women's rights, disabled people's rights, and the rights of black and ethnic minority people. It will also include a right to a healthy environment, rights for older people, LGBT+ people, and an equality clause to ensure equal access to the rights contained in the Bill.



Public bodies and others will have duties to uphold all of these rights and they will become enforceable in Scottish courts.

The Commission immediately began to play a significant role in the development process for the framework Bill, focused on ensuring its commitments will be resourced and implemented meaningfully in practice.

For example, we joined the Scottish Government's Human Rights Bill Governance and Engagement Advisory Board, contributing detailed expertise, advice and analysis.

In particular we supported next steps towards two key goals, based on the recommendations of the National Taskforce for Human Rights Leadership, which the Commission was an active member of in the previous year:

- ✚ Ensuring those with lived experience could fully participate in the development of the Bill.
- ✚ Strengthening access to justice.

As part of a wider programme of engagement and capacity building, we also collaborated on research, training and workshops with other National Human Rights Institutions, academics, civil society, regulators, the Scottish Government and those with direct, lived experience of human rights issues in Scotland.

Our intensive work in anticipation of the pre-legislative consultation will continue into the next year.

Building a new era for human rights in Scotland



“Joined **11 workshops** set up by the Scottish Government’s Human Rights Bill Team, promoting legal standards and best practices from across the world for incorporating international human rights into domestic law”



“Led **roundtable discussion** with members of the Strategic Scrutiny Group (SSH), resulting in a **positive change of understanding** from Regulators, Inspectorates and Ombudspersons around their involvement in the new human rights framework”



“Presented briefings on the new Human Rights Bill to Parliamentary Committees, **increasing knowledge** of Members of the Scottish Parliament”



“Developed **dialogue** with the Human Rights Consortium Scotland (HRCS) and other civil society stakeholders about future collaboration and engagement towards the new Human Rights Bill”

“Key work to ensure a **Lived Experience Board** was established, allowing the Scottish Government to hear directly from rights holders about the Bill”



Human Rights budgeting project

OUTCOMES 1.3 AND 1.4

Applying a human rights framework to public budgets would add significant value to efforts to realise social justice in Scotland. The Commission has an established programme of work on human rights budgeting and this year we continued to engage with the Scottish Government's Equality Budget Advisory Group (EBAG), contributing to discussions on issues such as child poverty, and supporting our long-term strategy to enhance human rights budget work.



HUMAN RIGHTS BUDGETING 2021-2022



Participated in roundtable talks and **multi-stakeholder** events on financial priorities with Scottish Government Ministers and Kate Forbes, Cabinet Secretary for Finance and the Economy.

Influenced the questions asked by the *Equality, Human Rights and Civil Justice Committee* during its budget scrutiny.

Trained Audit Scotland staff on a human rights based approach.

Joined the **Fiscal Openness and Transparency Commitment Oversight Group**, a role which will run until 2025.



Shared our knowledge with international partners, for example, advising and providing resources to the Korean Human Rights Commission as it explored ways to developed a human rights approach within the national budget.

Submitted a detailed response to the Scottish Government's consultation *Tax Policy and the Budget – a Framework for Tax*. In this, the Commission recommended the Scottish Government engage in an **Equality and Human Rights Impact Assessment** process.





“We need human rights based taxation to help Scotland build back”

Article written by research officer Dr Ali Hosie, published in *The Herald* newspaper and on the Commission’s website in December 2021.

“Tax, the realm of accountants, economists and policy experts – but what has it got to do with human rights? The answer is everything.

When governments sign up to international treaties (as Scotland has via the UK), including the International Covenant on Economic, Social and Cultural Rights, these treaties come with obligations. One of these is to maximise available resources to realise rights on the ground.

If Scotland is to move from rhetoric to reality in “taking a human rights based approach” to policy and practice, it needs to be willing to put its money where its mouth is when it comes to tax.”

Strategic Priority 2:

Strengthening accountability for meeting human rights obligations

The Commission wants to see a Scotland where those with power are held to account for meeting their human rights obligations. This accountability should extend to all civil, political, economic, social and cultural rights and should apply in law, policy and practice.

We want accountability for human rights in Scotland to be strong locally, internationally, politically, legally, and in everyday practice.

Defending the Human Rights Act

OUTCOME 2.1

As the UK Government moved at pace with its proposals to reform the Human Rights Act 1998 (HRA), the Commission engaged strongly with stakeholders and developed a programme of public commentary to strengthen our work promoting the positive impact of the HRA.

In July 2021, we welcomed a report from Westminster's Joint Committee on Human Rights, which concluded there was no case for amending the HRA.

The report highlighted the importance of the HRA to the devolution settlement in Scotland, drawing on evidence from the Commission and others, and concluded that no further reform should be pursued without the consent of the Scottish Parliament.



Human Rights Act 1998

“In our combined work with people and communities across Scotland, we hear time and again that the Human Rights Act is valued as a law that helps to keep people safe, and one that makes Scotland a fairer, more just and more equal place to live.

People in Scotland tell us over and over again that they want human rights laws to be strengthened, not weakened.”

Joint statement from the Commission, Amnesty Scotland, the Human Rights Consortium Scotland, JustRight Scotland and Making Rights Real, in December 2021, when the UK Government published plans to replace the Human Rights Act with a new “Bill of Rights”.

We also submitted a detailed response to the UK Government's consultation on *A Modern Bill of Rights*.

The Commission strongly urged the UK Government to comply in full with its obligations under the European Convention on Human Rights and retain the HRA in its current form.

Our Head of Legal and Policy, Barbara Bolton, gave evidence to the Independent Human Rights Act Review alongside other NHRIs. She also wrote articles published in *The Scotsman* newspaper and the *Journal of the Law Society of Scotland*, laying out why the UK Government's proposals should be of grave concern to us all.

We will continue our work defending the Human Rights Act and its importance in Scotland.

The Scottish Mental Health Law Review

OUTCOME 2.1

Our continued work on the Scottish Mental Health Law Review saw the Commission offering high-level expertise around the Scottish Government's proposed consultation this year, providing input on issues such as the rights of disabled people, children and young people's mental health and involuntary care and treatment.

The Commission welcomed the Review's participatory approach with practitioners and people with lived experience represented at all levels.

Securing Access to Justice

OUTCOME 2.2

In December, the Commission welcomed the launch of Scotland's Redress Scheme, which marked the opening of a financial redress scheme for survivors of historical child abuse in care.

The journey towards securing access to justice and remedies for survivors of historical child abuse in care has been long and challenging and survivors have worked tirelessly for many years to reach this point.

Many people in Scotland are still suffering from the impact of abuse they suffered in the past. Since 2009 the Commission has been among the organisations and individuals supporting efforts to promote effective access to justice and remedies.

Throughout this year, working in partnership with CELCIS (The Centre for Excellence for Children’s Care and Protection) we continued to chair and attend meetings of the InterAction Action Plan Review Group, which was established to ensure the continued and effective implementation of the Action Plan for Survivors of Historical Abuse.

The InterAction Action Plan Review Group met for the final time in March 2022, following which it wrote to the Deputy First Minister summarising progress and providing concluding comments and received a response to that letter.

The Commission looks forward to the successful implementation of the financial redress scheme.

Using our legal powers

OUTCOME 2.3

While the Commission continues to consider opportunities to deploy its Litigation and Intervention Strategy, the ongoing impact of COVID-19 and general capacity constraints meant this area of work was paused during 2021-2022.

Embedding a Human Rights Based Approach in the work of Inspectorate and Regulation bodies

OUTCOME 2.4

Building on human rights training the Commission delivered to the Scottish Housing Regulator (SHR) in 2020-2021, this year we presented a talk on the new Human Rights Bill for Scotland at the Scottish Housing Regulator joint sectoral briefing, aiming to make social landlords more aware of their obligations.

We also engaged with other organisations in the sector, such as the Association of Local Authority Chief Housing Officers, the Collaborative Centre of Housing Evidence and the Chartered Institute of Housing (CIH), to raise knowledge, awareness and understanding of the right to housing.

Prison Inspections and Prison Monitoring

The Commission has a long-term programme of work with Her Majesty's Inspector for Prisons in Scotland (HMIPS) to support a human rights based approach to the inspection and monitoring of prisons.

This year we continued to engage with HMIPS, meeting with the new head of Human Rights Inspections and supporting a review of its quality indicators for inspection and monitoring from a human rights based approach.

We also worked with the Scottish Government, Scottish Prison Service and other relevant stakeholders, such as the Howard League, to raise awareness of accountability standards and principles in relation to the management of prisons in a COVID-19 environment.

In June, we successfully held a capacity building session for 40 Independent Prison Monitors from across Scotland on a human rights based approach and on the role of the National Preventative Mechanism in their work.

Embedding Human Rights in the Work of the Scottish Parliament

OUTCOME 2.5

In line with our Strategic Plan for 2020-2024, we built on our work to engage with the Scottish Parliament, successfully increasing the knowledge, understanding and application of human rights of individual Members of the Scottish Parliament (MSPs) and the Parliament's Committee structures.

For example, in November, we delivered training to the Equalities, Human Rights and Civil Justice Committee on using a human rights based approach. Discussion then began with Parliament to roll the training out to other committees.

Our communications team produced a short video about UPR which explained our submission and how it was informed by responses from civil society. This was shared across Twitter, Facebook and Instagram.



International Treaty Monitoring

OUTCOME 2.6

Every four to five years, the UN Human Rights Council (UNHRC) runs a process called the Universal Periodic Review (UPR), whereby all UN Member States assess each other's compliance with international human rights laws and standards. The UNHRC then makes recommendations to the government of the country being assessed.

This is a key opportunity for NHRIs and civil society organisations to communicate issues of concern directly to the UN.

The UK will be reviewed for its fourth cycle of UPR in November 2022. In preparation, the Commission presented **Scotland's Human Rights Report Card** (our UPR submission) to the UN in March.



Our comprehensive evidence report highlighted threats to the Human Rights Act and called for action to tackle rights concerns across Scotland. Key areas included: Mental health care and outcomes; Poverty; Prison Conditions; Hate Crimes; Access to Justice; Environmental Rights; Children's Rights.

The report drew on extensive evidence from a range of sources, including a series of civil society workshops held during November to December 2021 to gather evidence of human rights priorities in Scotland.

The workshops were co-hosted by the Commission and the Human Rights Consortium Scotland, a network of civil society organisations working together to promote and protect human rights.

More than 150 organisations and individuals signed up to attend at least one of nine workshops, sharing evidence and expertise.

The Commission also held a capacity building session in May 2021, together with UPR Info, which provided advice on best practice for submitting civil society reports.

In the year ahead, we will pursue international advocacy and engagement with our peer NHRIs and other UN member states to draw attention to our findings.



The European Social Charter

This year the Scottish Human Rights Commission submitted a report to the Council of Europe on the UK's National Report on the Implementation of the European Social Charter.

This extensive report provided a detailed analysis of key human rights issues in relation to health, social care and social welfare policy in Scotland.

The Commission made over 60 recommendations, 35 on Health and Social Care and 33 addressing COVID-19 recovery.

This report drew from the Commission's evidence base built from earlier research projects; our reports to other UN Treaty Bodies; evidence from our Lived Experience Leadership Group; the Commission's recent monitoring report focused on COVID-19, Social Care and Human Rights and our series of COVID-19 focused publications.

The UK Government published a report responding to the Review, addressing issues raised by the Commission.

The Convention on the Rights of People with Disabilities



This year we began research on key items to be included in UK and Scottish reports for the Convention on the Rights of People with Disabilities (CRPD), working jointly with the United Kingdom Independent Mechanism (UKIM), which is tasked with monitoring implementation of the CRPD across the UK.

“As Scotland’s accredited National Human Rights Institution, the Commission reports regularly to the UN on both progress and ongoing challenges with human rights in Scotland. Our latest comprehensive review heard from a wide range of people living and working in communities across Scotland. Their evidence, and our own research, makes clear that Scotland still has some way to go before we can confidently claim that human rights are a reality in everyone’s lives.

“Our recommendations to the Scottish Government would help to close this implementation gap in a number of key areas and we urge the Scottish Government to act on the issues we have highlighted.”

Dr Anna Black, Commissioner, Scottish Human Rights Commission

National Preventive Mechanism

OUTCOME 2.7

The Commission is one of 21 members of the United Kingdom’s National Preventive Mechanism (NPM), established in March 2009 as part of the UK’s commitment under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

The NPM examines how people held in places of detention are treated and makes recommendations to relevant authorities.

This year the Commission was Chair of the Scottish sub-group of the NPM. In August, the group published an independent report it had commissioned, highlighting human rights concerns in Scottish prisons and monitoring progress against recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which inspected Scottish prisons and police stations in 2018 and 2019.



The CPT made key recommendations to tackle issues such as overcrowding, lack of access to appropriate mental health support, lack of purposeful activity for remand prisoners and detention in police custody beyond 24 hours.

The report pointed to some positive steps that have been taken to address these recommendations. It also raised concerns that many have not been fully addressed. The NPM Scottish Sub-Group also held an online webinar in August to discuss the findings with key stakeholders.

The Commission fully supported the two key recommendations, calling on the Scottish Government to:

- + implement all CPT recommendations and regularly monitor progress on their implementation now and in the future.
- + undertake concerted and coordinated action between the executive, police, prosecution services and the courts to give full effect to the presumption of liberty. This will go some way to addressing the systemic issues at the heart of many CPT recommendations.

Our Chair participated in media interviews to highlight the key findings and recommendations, raising the profile of conditions in Scottish prisons.

The National Performance Framework (NPF)

OUTCOME 2.8

The NPF is a Scottish Government initiative that measures progress towards realising a range of economic, social and environmental indicators and achieving Sustainable Development Goals.

To help achieve its purpose, the framework sets out ‘National Outcomes’, such as helping to track progress in reducing inequality.

In 2021-22, the Commission continued to support improved understanding of human rights within the Sustainable Development Goals Network and Steering Group, encouraging wider interest in using a Human Rights Based Approach for the next NPF cycle and more human rights based indicators.

We also responded to the Finance and Public Administration Committee’s call for views on how the National Outcomes shape Scottish Government policy aims and spending decisions.

Human Rights Based Approach

OUTCOMES 2.4, 2.5 AND 3.1

A human rights based approach ensures that people’s rights are put at the centre of policies and practices. The PANEL principles are one way of breaking that down.

To mark International Human Rights Day on 10th December 2021, the Commission made a series of short videos explaining the PANEL principles and shared them across our social media platforms and on our website for a wide public audience.



Strategic Priority 3:

Building wider ownership of human rights

The Commission wants to see a Scotland where everyone knows and understands the value of their rights, particularly in their everyday lives. And we want people to be able to work together with those with responsibilities to uphold rights, to put them into practice.

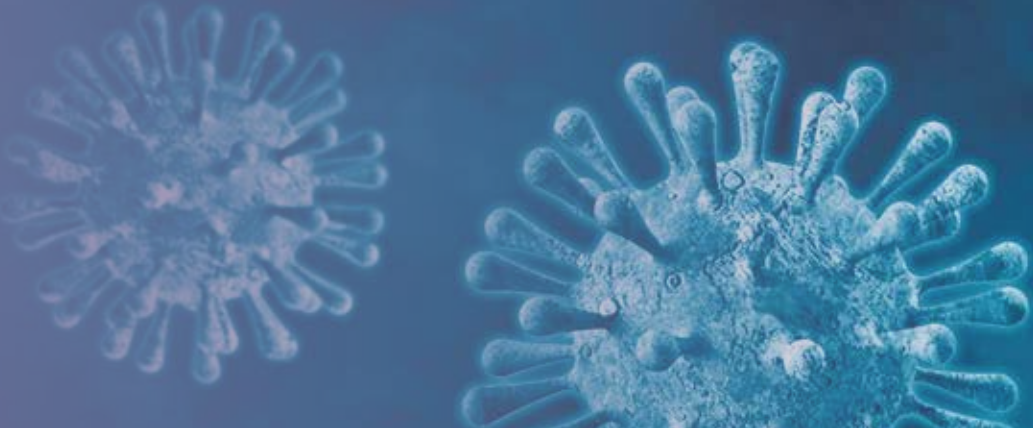
COVID-19 Policy Work OUTCOMES 3.1 AND 3.3

Throughout 2021-2022, a significant focus of the Commission's work remained around the COVID-19 pandemic, contributing human rights based analysis to the response by government and public bodies.

For example, we prepared a **briefing for MSPs on the COVID-19 vaccine certification scheme** ("vaccine passports"), which was cited by MSPs during debates in the Scottish Parliament.

In August, we welcomed the Scottish Government's **announcement** that work was underway to establish a public inquiry to investigate the handling of the COVID-19 pandemic in Scotland, and noted the commitment to take a person-centred, human rights based approach.





Kavita Chetty, our Head of Strategy and Legal, **briefed MSPs** at an event organised by Amnesty Scotland on why human rights need to be embedded into the Inquiry from the outset. She said:

“People’s human rights, including the right to life, have been impacted by almost every measure and decision taken in response to the COVID-19 pandemic. The experiences of people living in care homes, people accessing social care, those in prison, or children unable to attend school or nursery all have human rights implications. While the whole population experienced unprecedented restrictions on their personal freedoms, we already know that some groups have felt the impact acutely and disproportionately.”

“As we start to look back on decisions made, it is important to understand both why and how people’s human rights were impacted. A public inquiry can shine a light on systemic issues and failures, in turn allowing for accountability and lessons to be learned as we move into recovery.”

We submitted **14 recommendations** to embed a human rights based approach into the Inquiry’s Terms of Reference (TOR). Along with other stakeholders, we advocated for meaningful participation and a focus on the pandemic’s disproportionate impact on particular groups and communities.

Deaths In Custody Review

OUTCOMES 3.1 AND 3.5

After two years of research, analysis and engagement with families affected by deaths in prison custody in Scotland, as well as prison and NHS staff, the Commission co-published the results of the **Independent Review of the Response to Deaths in Prison Custody** (the Review) in Scotland.

The Independent Review was co-Chaired by Wendy Sinclair-Gieben, Her Majesty's Chief Inspector of Prisons for Scotland, Professor Nancy Loucks OBE, Chief Executive of the charity Families Outside, and Judith Robertson, Chair of the Scottish Human Rights Commission. It was commissioned by the Cabinet Secretary for Justice in November 2019.

The Review's findings called for radical reform to the response to deaths in prison custody in Scotland, concluding that it was letting families down and failing to provide bereaved relatives with a voice.

The Review recommended a wide-ranging set of systemic, practical and compassionate changes to radically improve how deaths in prison custody are responded to in Scotland, informed by a human rights based approach. Particularly, it called for investigations to be completed faster and for families or next of kin of people who have died to be involved at every stage.

The key recommendation was that an independent body should carry out a separate independent investigation into every death in prison custody.

We led intensive, joint communications planning to achieve strong and widespread coverage for our report across Scottish and UK broadcast, print and digital media.

The Review was well received by a wide range of stakeholders. The Cabinet Secretary for Justice, Keith Brown, responded immediately in the Scottish Parliament, accepting all the recommendations in principle and acknowledging that the current system "lacks the compassion that we might expect".

The Commission remains engaged with the progress of the recommendations and will continue to monitor this in the year ahead.

Wider Policy Work

OUTCOMES 3.1 AND 3.3

We contributed expert human rights analysis and evidence to a wide range of legislative and policy processes throughout 2021-2022, in addition to the work detailed in this Annual Report. All of the Commission's policy submissions are published on our website. In the period under review, these included:

- ✦ Submission to the Special Rapporteur on the Rights to Freedom of Peaceful Assembly.
- ✦ A briefing to support the *Empire, Slavery and Scotland's Museums: Addressing our Colonial Legacy* project run by Museums Galleries Scotland (MGS).
- ✦ Written and oral submissions on the consultation on the petition to end "Conversion Therapy".
- ✦ Briefing on Human Rights and New Technologies in Policing.
- ✦ Submission to the National Care Service Consultation.
- ✦ Submissions to the Finance and Public Administration Committee and to the Equality, Human Rights and Civil Justice Committee on pre-budget scrutiny.
- ✦ Response to the consultation on the proposed Assisted Dying for Terminally Ill Adults (Scotland) Bill.
- ✦ Response to the Scottish Government's consultation on Ending the Need for Food Banks: A Draft Action Plan.
- ✦ Submission to the Mental Welfare Commission consultation proposing a new system for the investigation of deaths in mental health care.
- ✦ A position paper on the National Advisory Council on Women and Girls recommendation to appoint a Commissioner tasked specifically with the promotion and protection of women's rights.
- ✦ Submission on the Good Food Nation (Scotland) Bill.
- ✦ Submission on the consultation on Anne's Law (proposals for adults living in care homes to maintain family and friendship connections).

Policing

OUTCOME 3.1

In this year the Commission was a member of the Independent Advisory Group (IAG) on Emerging Technologies in Policing, which was set up in 2020 to ensure emerging technologies used by Police Scotland are compatible with equality and human rights legislation and best practice.

We also published a well-received issue paper on **Human Rights and New Technologies in Policing**.

The COVID-19 pandemic raised particular issues around policing, human rights and public health. The Commission attended weekly meetings of the IAG on Police Scotland's use of temporary powers during the pandemic and ensured that human rights standards informed the work of the group, for example, in areas such as handling of fixed penalty notices, particularly to vulnerable groups.

The right to protest also fell into the spotlight this year as the COP26 UN Climate Change Conference came to Scotland.

In September we wrote a **letter** to Alison Johnstone MSP, Presiding Officer of the Scottish Parliament and Chair of the Scottish Parliamentary Corporate Body (SPCB), expressing concern about its request to the Home Office that the Scottish Parliament be designated as a site under the Serious Organised Crime and Police Act 2005.

We highlighted concerns this would interfere with the ability of people in Scotland to exercise their rights to freedom of peaceful assembly and association and urged the SPCB to publish a full human rights assessment of its decision.



Media and Communications

OUTCOME 3.2

The Commission raises awareness of human rights with the wider public through media, social media, online and digital communications. We also work to learn from, develop and share good practice in communicating about human rights so that our work contributes to joint domestic and international efforts to promote human rights to wider audiences.

Overall, the Commission's reach into public audiences via mentions in print, broadcast and online media continued to grow, with a combined reach of more than 30 million across the year (source: Kantar).

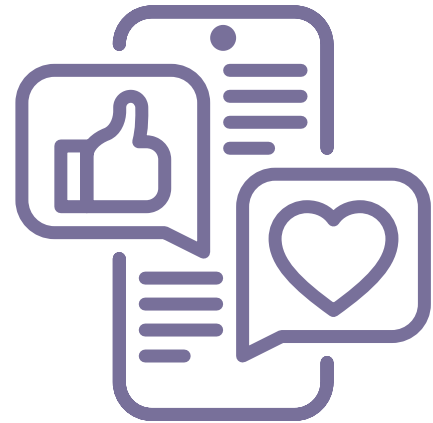
Key topics covered by media included:

- ✦ Our defence of the Human Rights Act
- ✦ The Independent Review of the Response to Deaths in Prison Custody
- ✦ Human rights and COVID-19
- ✦ A new Human Rights Bill for Scotland
- ✦ Police Scotland's proposed use of Cyber Kiosks

During the year, we achieved print media coverage of our work in 133 unique articles. This spanned Scottish and UK national daily newspapers such as *The Scottish Sun*, *The Herald* and *The Times*, as well as regional and specialist titles reaching a wider range of communities across Scotland.

Our broadcast coverage included BBC News, STV News, BBC Radio Scotland and local and national radio stations.

Social media and online engagement remained strong and we gained more than 1,000 new Twitter followers this year, taking us to total of around 10,800. We also launched a blog section on our website and an Instagram channel, providing new platforms for self-generated editorial content. We also published webinars on our YouTube channel to make them available to a broad, public audience.



Internally, we developed a new Communications Strategy, with nine mid-level outcomes based on audience insight research and lessons drawn from the previous year's work. We carried out detailed work on a new editorial 'Style Guide' and created new social media handling guidelines to support our staff. Plain English training and media training sessions were also delivered for colleagues across the organisation to improve our communications output and strengthen our ability to share human rights messages in the most accessible way possible.

The Communications team also continued an ongoing process of website maintenance and development, and work to ensure our content fully meets accessibility standards.



Parliamentary Engagement with Human Rights

OUTCOMES 2.5 AND 3.3

The Commission monitors how the Scottish Parliament engages with human rights and our own work, to help us develop ever stronger policies and practices.

Analysis shows that:

- ✦ Human rights were mentioned 990 times over the course of 2021-2022, an average of approximately 80 per month.
- ✦ The Commission was mentioned 112 times, an average of approximately nine per month.
- ✦ The Equalities, Human Rights and Civil Justice Committee accounted for the highest number of SHRC mentions, with 16 attributable mentions accounting for 41% of the total. This was followed by the COVID-19 Recovery Committee (6), Finance and Public Administration (4) and Criminal Justice (3).
- ✦ The Commission was also mentioned during seven parliamentary debates. These include a debate on the Covid-19 Vaccine Certification Scheme in September; the Stage 1 debate on the Good Food Nation (Scotland) Bill and the debate on Anne’s Law on Care Home Visiting.
- ✦ In the chamber, there were 64 human rights debate mentions, making it one of the most widely referenced policy issues.



“The UN notes that one of the main goals of a plan like SNAP is to shift human rights activity from the “realm of idealism and rhetoric” into practice and routine... Human rights belong to everyone, and SNAP is for everybody in Scotland.”

Lucy Mulvagh, SNAP Secretariat Lead

Scotland’s National Action Plan for Human Rights (SNAP)

OUTCOME 3.4

Scotland’s first SNAP ran from 2013 to 2017 as a roadmap towards building a Scotland where everyone can live with human dignity.

SNAP is a collaborative national action plan that brings together government, public bodies, civil society organisations, the Commission and people with lived experience of human rights violations. It has been internationally praised for this collaborative, multi-stakeholder approach.

The purpose of national human rights action plans like SNAP – as recommended by the UN and Council of Europe – is to improve the promotion and protection of human rights.

After an intense period of research and development that began in late 2017, but was disrupted by the COVID-19 pandemic, work on the second SNAP was picked up again in 2021-22, supported by interim hosting from the Commission and funding from the Scottish Government.

An interim SNAP Secretariat Lead was appointed and this year they published a new blog on the Commission website, to promote SNAP and inform a wide audience about its work.

The Commission also supported recruitment of a new, independent SNAP Leadership Panel, involving various stakeholders, that is co-chaired by the Commission and Scottish Government. The Leadership Panel is currently focused on reviewing, revising and finalising Scotland’s next SNAP, and we continue to fully support it.

The Lived Experience Leadership Group

OUTCOME 1.1 AND 3.5

This year the Commission continued to benefit from the input and expertise of members of the Lived Experience Leadership Group, established in December 2020.

During spring 2021, the group contributed their views and experiences to the Independent Review of the Human Rights Act, and the Scottish Government's consultation on Adult Disability Payment. The group also wrote to the Chief Medical Officer to raise concerns about the human rights impact of changes to shielding guidance at that time.

Autumn saw the group produce a detailed and wide-ranging response to the Programme for Government. The group also met with civil servants leading on the new Human Rights Bill to share their advice and experiences of participatory processes.

In March 2022, the LELG's work was paused to enable a period of internal review and reflection, to allow the Commission to identify where change and greater clarity is needed, so that more rights holders can meaningfully participate in and influence our work. The Commission is grateful to members of the LELG for their patience throughout this time, and for their many contributions to building stronger participation to advance human rights in Scotland.

Developing our participation strategy

OUTCOME 3.5

In 2021-22 the Commission continued to build on learning from its first participation strategy and review, learning from all our engagement and participation work since 2015.

The Lived Experience Leadership Group made significant contributions to highlighting what works well and areas for development – along with insights shared by rights holders across a huge number of participatory projects over the years.

This year new research published by the Commission looked at the question of paying people with lived experience for their participation in research, policy and other work. We commissioned researcher Rhiann McLean to investigate and published her final report *Paying People with Lived Experience For Their Participation* in December 2021.

The research explores the issue in detail, giving a range of case studies, and outlining crucial steps and recommendations.

SOCIAL CARE

After a substantial period of research, analysis and relationship-building with stakeholders, in November, we responded to the Scottish Government's call for views on its proposals for a National Care Service for Scotland.

In the **response**, we laid out the human rights framework which applies to social care and how it should be applied to elements of the new proposals. Key points included:

- ✦ Human rights must be embedded in a way that is consistent, intentional and evident, as well as accountable in practice. The Commission believes the proposals have some way to go to achieve this.
- ✦ A human rights based approach requires that all aspects of relevant human rights are built into the various aspects of a new system – from commissioning and procurement, through eligibility and assessment, to complaints and redress and regulatory frameworks.

Toast to A Rights-Based Scotland

In this year, as the Commission's Chair Judith Robertson prepared to demit office, she shared her vision of a future Scotland across our social media to mark International Human Rights Day on 10th December.

OUTCOME 3.2



O wad some Power the giftie gie us
To see oursels as ithers see us!
It wad frae money a blunder free us,
An' foolish notion:

Well, how do ithers see us?

Do they see a nation with people included,
Where a' bodys voice is now unmuted,
Barriers broken and people supporterd,
And lived experience shared?

A land where wrongs are righted fast,
Where those with power o'er deed and task
Bring rights tae bear both first and last
In mony a setting

A land where riches now are shared
Health, homes and dignity restored
Where creed and colour are not the measure
Of worth or merit
But humankind, in all its scope,
Thrives, nourished and cherished.

A land where rights are known and valued,
And used by all wae whit's decided
Is good for you and me and them
Wha's rights are much derided

A land where treaties mean their words
Where what was signed is brought tae pass
Where laws and rules all meant tae guide us
Are stuck to – fast

A rights based Scotland is what we are toasting
This 10th December's global reckoning
Let's know when ithers cast an e'e
A rights based Scotland is what they see.

Judith Robertson, Chair,
Scottish Human Rights Commission 2016-2022

Editor: **Carolyn Scott**

Strategic Priority 4:

**Advancing best practice locally
and sharing our learning globally**

The Commission strives to show leadership as Scotland's National Human Rights Institution, both in delivering our mandate in Scotland and by contributing to the progressive evolution of human rights internationally. We seek to contribute to and learn from emerging international trends and best practice, leading the way for Scotland in developing the means to better realise everyone's rights. Our international and regional relationships, in particular with our peer National Human Rights Institutions, are key to this.

International Engagement

OUTCOME 4.1

In this year the Commission publically welcomed the UN Human Rights Council landmark recognition of the right to a safe, clean, healthy and sustainable environment, hailing it as an "important and much needed milestone".

The move was of particular importance in Scotland as the Scottish Government began to develop its new Human Rights Bill for Scotland, committing to enshrine the right to a healthy environment – alongside many others – into Scotland's domestic law.

Leading towards our work on COP26 we also submitted a detailed analysis to the Special Rapporteur on the rights to freedom of peaceful assembly, particularly looking at the links with climate justice.



UN Climate Change Conference (COP26) Engagement Work

OUTCOME 4.2

The UK hosted the 26th UN Climate Change Conference of the Parties (COP26) in Glasgow in November 2021.

In parallel to the event, international human rights organisations held three days of online talks, aimed at boosting efforts to put human rights at the heart of climate policy.

The **NHRI Symposium** brought together more than 130 representatives from National Human Rights Institutions (NHRIs), co-hosted by the Commission, the University of Stirling and the Global Alliance of National Human Rights Institutions (GANHRI), with support from the United Nations Environmental Program, Development Program, and Office of the High Commissioner on Human Rights.

This was a well-attended and highly successful event and the decision to run it virtually allowed greater flexibility in terms of attendance, interpretation and international sign language provision.

Our mandate to promote the relationship between human rights and the climate crisis

In advance of COP26, we collaborated with our peer NHRIs, the Northern Ireland Human Rights Commission and the Equality and Human Rights Commission, to publish a joint statement warning that the human rights implications of the climate crisis must be tackled during the conference.

We were also signatory to an **open letter** led by GANHRI.

01-12 NOV 2021
GLASGOW

COP26



“A human rights based approach is essential to dealing with the challenge of climate change. Climate change has profound impacts on people and their rights including access to water and sanitation, housing and homelessness, and loss of livelihoods.

“COP26 was an important opportunity to drive the global response needed to tackle the human rights issues associated with climate change. National Human Rights Institutions can play a key role in securing accountability for human rights within climate policy, and we were pleased to be able to support the NHRI Symposium for our sister organisations from around the world.

“Here at home, we have also recently welcomed the Scottish Government’s commitment to incorporating the right to a safe, clean, healthy and sustainable environment in a new Human Rights Bill for Scotland, and will continue to work with them to make this right real and meaningful.”

Dr Jacqueline Kingham, Commissioner, Scottish Human Rights Commission

Sharing Best Practices

OUTCOME 4.3

The Commission is an active member of the European Network of National Human Rights Institutions (ENNHRI), the Global Alliance of Human Rights Institutions (GANHRI) and the Commonwealth Forum of National Human Rights Institutions (CFNHRI).

In this year we continued to participate in a range of work with our peers within ENNHRI and GANHRI to share our experiences and learn from others in relation to economic, social and cultural rights, best practice in communicating human rights, using legal powers and delivering human rights engagement.

For example, Commission staff fed into ENNHRI's *Rule of Law* report and contributed to an ENNHRI newsletter, sharing best practice regarding protection of disabled people's rights during COVID-19. We also supported the development of an online course *Human Rights and the 2030 Agenda for Sustainable Development: What Role for NHRIs in the UNECE region?* alongside ENNHRI and the Danish Institute for Human Rights (DIHR), and presented at a joint GANHRI/DIHR webinar.

Commission examples of best practice were included in the DIHR publication *'Indicators and Data for Human Rights and Sustainable development: A Guide for NHRIs.'*



Organisational Development

Accreditation

This year the Commission was re-awarded the top grade of international accreditation as a National Human Rights Institution (NHRI) for the third time.

This “A Status” from the Global Alliance of NHRIs and the United Nations Office of the High Commissioner for Human Rights recognises the Commission’s independence, authority and broad statutory mandate to promote and protect human rights.

The decision was made by a Committee of National Human Rights Institutions from around the world, following an extensive review of the Commission and its work in Scotland. It took place against a set of detailed standards endorsed by the United Nations in 1993, known as the Paris Principles.

The **Committee’s accreditation report** commends the Commission’s work to promote and protect human rights. It also recommends increases to the Commission’s resources and changes to its underpinning legislation to strengthen its operations.

Operating Environment

The Commission is an independent public body, accountable to the people of Scotland through the Scottish Parliament. It has a range of accountabilities arising from this, including requirements to comply with all general Scottish public sector responsibilities and relevant legislation in areas such as freedom of information, equality, public procurement, data protection and others.

A continued and significant challenge during the reporting period was the impact of COVID-19, working from home and staff sickness absence related to COVID-19.

Flexible processes were developed to support induction and performance monitoring for staff, with clear, structured processes for identifying learning and development needs. The Commission also paused some areas of work and focused on mandatory and strategic priorities.

“We were delighted to be awarded “A Status” accreditation for a third time. This demonstrates the confidence that the international human rights system has in the Commission’s work as an independent, authoritative National Human Rights Institution.

“The Commission’s independence enables us to promote and protect all international human rights in Scotland with authority and in line with international legal standards. This will be vital as we look to secure stronger human rights laws in Scotland, while continuing to monitor, report on and seek changes to address concerns about how people’s rights are realised in practice.”

“Our re-accreditation also secures our status in the international arena. It means that we can continue to report directly to the UN on Scotland’s implementation of international human rights treaties and make direct contributions to the Human Rights Council.”

Judith Robertson, Chair of the Scottish Human Rights Commission 2016-2022

The Commission office re-opened from 30th August 2021 with policies and guidance in place to ensure a safe working environment. Staff were also permitted to continue working from home.

The Commission went through a period of transition this year as Chair, Judith Robertson, demitted office. To ensure continuity, the Commission put in place an interim operational plan and Commissioners led particular streams of work until the new Chair took up office.

The Commission's work is usually delivered on a day-to-day basis by a staff team numbering 17 people on average (12.8 FTE) as at 31st March 2022.

During the reporting period we recruited to three staff posts:

- + A Policy and International Officer
- + A new Information Management Support role.
- + A Participation Officer

Our Budget Submission for 2022-2023 to the Scottish Parliamentary Corporate Body (SPCB) reflected ongoing requirements and made the case for increased resources to support our 2020-2024 strategic priorities and enable the organisation to deliver on high level outcomes.

This was particularly important in the context of the Scottish Government's plans to bring forward a new Human Rights Bill.

Financial Summary

Funding

The Commission receives annual funding from the Scottish Parliamentary Corporate Body (SPCB) and occasional small grants from other sources. The SPCB approved a resource budget of £1,294k for financial year 2021-22, including approved contingency funding and Scottish Government funding for Scotland's National Action Plan for Human Rights (SNAP). For 2021-22, a further £51k contingency funding was received for maternity leave cover.

Financial Position*

The financial year 2021-22 was the Commission's thirteenth full year of operation. The Commission's net expenditure on operating activities for the year ended 31 March 2022 totalled £1,215k. A further breakdown is set out below.

	£'000
Staff costs	1,065
Operational costs	29
Operational consultancy	17
IT costs	22
Website	13
Training, conferences and subscriptions	14
Auditor's remuneration	14
Printing, stationery & library costs	3
General office costs	12
Travel, subsistence and hospitality	5
Legal and consultancy fees	7
Recruitment Costs	8
Depreciation	6
	1,215

*unaudited

Who We Are

Chair of the Commission

Judith Robertson took up office in April 2016 and led the Commission's strategy and operations until March 2022. Her successor Ian Duddy (right) took up post in June 2022.



The Chair represents the Commission in a range of national and international contexts, provides leadership to the staff team, and has overall responsibility for the Commission's accountability.

Commissioners (2021-2022)

Dr Anna Black took up her post in May 2021. She is a GP in Glasgow, a non-executive director of Public Health Scotland and is completing a PhD in Public Health at the University of Glasgow exploring how women who are asylum seekers or refugees access primary healthcare.



Susan Kemp is a lawyer specialising in international criminal and human rights law. She demitted office on 30 April 2021.



Jane-Claire Judson joined the Commission in September 2017. Jane-Claire is the Chief Executive Officer for Chest Heart and Stroke Scotland. She was previously National Director for Diabetes Scotland. She is also currently a Board member at NHS Health Scotland.



Alan Mitchell is a General Medical Practitioner and Member of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. He demitted office on 30 April 2021.



Dr Jacqueline Kinghan took up post in May 2021. She is a human rights lawyer and academic with expertise in access to justice. She is a Senior Lecturer at Newcastle Law School and works with charities and NGOs in Scotland on legal and social change projects.

Our Staff

Our staff come from a wide range of backgrounds including international human rights law, domestic law, social policy and research, third sector campaigning, civil society advocacy, project management, journalism and public sector management. Together they bring combined expertise in promoting and protecting human rights through law, policy and practice.

Contact Us

+ General Enquiries – hello@scottishhumanrights.com

Please see our website for full details of our current staff team.

Getting Involved in Our Work

The Commission welcomes the opportunity to work with people and organisations affected by human rights issues, and our work to promote and protect human rights more generally. You can keep in touch and get involved in the following ways:

+ Website

Our website www.scottishhumanrights.com contains all of our policy submissions, reports to international human rights treaty bodies, case studies, training materials and other resources.

+ Social Media

Our Facebook ([@scothumanrights](https://www.facebook.com/scothumanrights)), Twitter ([@scothumanrights](https://twitter.com/scothumanrights)) and Instagram ([scothumanrights](https://www.instagram.com/scothumanrights)) feeds are updated regularly with news, information and links to other relevant human rights information.

+ Projects

If you would like any more information about any of the projects or policy areas we work on, please contact the relevant member of our team, or email hello@scottishhumanrights.com

+ Annual report

We welcome feedback on the content of our annual report, as well as ideas of what you would like to see in it in future years.

Accessibility

We're committed to making our communications easy-to-use and accessible for everyone. Our accessibility policy can be found on our website, along with some support tools:

+ ReachDeck (formerly Browsealoud)

Our website includes software called ReachDeck which provides reading, speech and translation support for a range of people including those with dyslexia, low literacy, English as a second language, and/or mild visual impairments. This service is free and will help users to read all the content available on our website (including this annual report).



To begin using ReachDeck please visit our website and click on the logo on the top right hand of your browser. Then simply click on any text to hear it read out loud.

+ British Sign Language (BSL)

In Scotland, British Sign Language (BSL) users can use the contactSCOTLAND Video Relay Service (VRS) to contact all of Scotland's public bodies and third sector organisations for free. This service is available online via <http://contactscotland-bsl.org/> You can also download the app onto your smartphone and/or tablet (iPhones, Android phones, iPads, tablets etc).

If you have any queries about other support needs and would like this publication in another format such as large text, British Sign Language (BSL) or Braille, please contact: hello@scottishhumanrights.com or call 0131 297 5750.



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SHRC/2022/01

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