

SHRC

Scottish
Human Rights
Commission

At a Crossroads - which way now for the human rights system in Scotland?



Exploring the experience of human rights protection
for the people of Scotland – a discussion paper

June 2023



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Where, after all, do universal human rights begin? In small places, close to home – so close and so small that they cannot be seen on any maps of the world. ... Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world.



Eleanor Roosevelt

Foreword

It has been 15 years since the Scottish Human Rights Commission (SHRC) started its work. However, Scotland is a very different place than when the SHRC was established. Not least, we have seen an increasingly divergent human rights agenda at Westminster and Holyrood, including UK Government proposals to repeal the Human Rights Act, the very foundation through which all our rights are currently protected in law.

It is also true that, whilst Scotland has enjoyed a strong human rights narrative in policy and legislation since 2006, the impact has not necessarily been felt in people's lives. For us at the SHRC, there simply isn't enough objective data available to assess human rights progress properly – and that is a concern.

But what is available – in plentiful supply – is what we see in our communities. It is the lived experience of rights holders, as evidenced by brave human rights defenders, the media, and civil society reports, which strongly suggests a significant gap between warm words of policy intent and the cold harsh experience of reality. Even more worryingly, we see a significant gap in accountability – and that's something the SHRC is keen to address.

Currently, there's a movement to establish a series of new public bodies (commissions and/or commissioners) in Scotland to uphold the rights of particular groups of people. Rights holders and civil society are absolutely correct to call out where access to justice routes are not clear or effective.

Clearly, the system isn't working for many, and we support the need for greater visibility and access to justice for a range of people.

This movement therefore should be seen as a positive challenge to current accountability mechanisms and the routes through which individuals can access justice. With this discussion paper, the SHRC fully intends to be part of that conversation - because we are part of that system.

It is an important principle of the international human rights system that national human rights institutions (NHRIs) across the world bear witness to the direct experiences of rights holders, using the best available evidence, and completely independently of the state.



In our work to review the recent proliferation of asks for new commissions, we note and share the concerns of civil society and human rights defenders where we see continued tolerance of human rights abuse, or poor implementation of good policies. We do not want to be part of the problem. Put simply, there is more we could do as Scotland's NHRI – with the powers and people to do it.

In this discussion paper we provide some reflections on why persistent challenges in accessing justice, or failure to see policy intent improve lives may be leading to so many proposals for new commissions and/or commissioners in Scotland. We also provide an analysis of some of the important considerations and impacts to people and for human rights accountability if new commissions and/or commissioners were created. We provide some insight into the Scottish Human Rights Commission, its role, and its current powers and resources. And, we explain what they are meant to achieve. Most importantly, we pose the question about the impact of a strengthened SHRC enabled to fulfil its mandate as the effective guarantor of all human rights in Scotland.

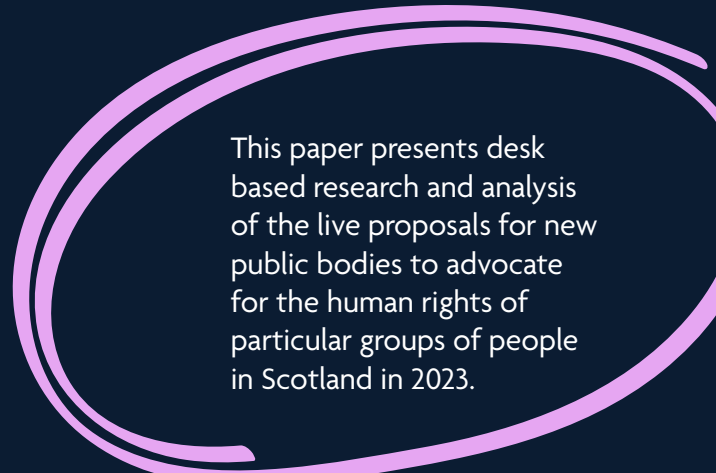
At a time when Scotland awaits action from the Scottish Government to deliver incorporation of UN Human Rights Treaties into Scots Law, there has never been a better moment to have this conversation.

We hope this paper can open a discussion on how we ensure human rights are well protected here at home. We hope that in the months ahead you can join us in the journey of building fit for purpose accountability mechanisms which ensure no one is left unattended in Scotland.

Jan Savage
Executive Director
Scottish Human Rights Commission



1.



This paper presents desk based research and analysis of the live proposals for new public bodies to advocate for the human rights of particular groups of people in Scotland in 2023.

Accountability Gap

- exploring the lived experiences of rights holders behind calls to create new commissions and commissioners in Scotland

The Commission has closely followed proposals to create new commissions and/or commissioners in Scotland, many of them related to human rights issues. Although each proposed body is unique, our analysis suggests they can be categorised in three groups: i) bodies intended to reflect the general interests of a defined group; ii) bodies with a legal accountability role or intended to offer technical guidance; and iii) bodies with an overall thematic remit.

Current proposals for new commissions and/or commissioners, which relate to human rights issues include:



Commission/er	Proposed by	Stage of the proposal
Women's Commissioner	National Advisory Council on Women and Girls (NACWG)	The proposal was issued by the NACWG and the Scottish Government indicated it would be considered, working with the SHRC.
Disability Commissioner (Scotland) Bill	Jeremy Balfour MSP (Scottish Conservative and Unionist Party)	The proposal was supported by 41 MSPs and has now secured the right to introduce a Bill.
Learning Disabilities, Autism and Neurodiversity Commissioner	Scottish Government (as part of a Learning Disability, Autism, and Neurodiversity Bill)	The proposal is currently being considered by the Scottish Government
Older People's Commissioner	Colin Smyth MSP (Scottish Labour) has announced he will present a bill to Parliament	A draft proposal was published on 12 June 2023 and a consultation is currently underway.
Victims' Commissioner	Scottish Government (Victims, Witnesses, and Justice Reform (Scotland) Bill)	The Bill is at Stage 1 in the Scottish Parliament.
Future Generations Commissioner	Scottish Government	The proposal is currently being considered by the Scottish Government.
Wellbeing and Sustainable Development Commissioner	Sarah Boyack MSP (Scottish Labour) introduced a proposed Wellbeing and Sustainable Development (Scotland) Bill	A consultation on the proposal was held between December 2022 and March 2023.
Patient Safety Commissioner for Scotland	Scottish Government (Patient Safety Commissioner for Scotland Bill)	The Bill is at Stage 3 in the Scottish Parliament.
LGBT (Conversion Practices) Commission	Expert Advisory Group on Ending Conversion Practices	The proposal, along other recommendations from the Expert Group, are being considered by the Scottish Government
Commissioner for Violence Against Women and Girls	The Independent Strategic Review of Funding and Commissioning of Violence Against Women and Girls Services	The proposal, along other recommendations from the Review, are being considered by the Scottish Government

While each proposal for a new body has an independent rationale and may fall into one or more of these types, analysis of the supporting documentation reveals a number of common themes can be identified around root cause issues prompting calls for intervention. These are explored below.

1.1. Implementation gap between policy and legislation

There is a widely recognised and reported gap between Scottish policy and practice, suggesting the role of a Commissioner is seen as a vehicle to secure implementation. This may not necessarily be linked to specific powers, but demonstrates a desire that such bodies have effective convening power and status to drive forward change.

In analysing the views of civil society in response to the consultation on the proposed Disability Commissioner, there is evidence organisations would value this authoritative focus on implementation. For example, MND Scotland suggest that a “Disability Commissioner with responsibility for reviewing laws and policies, working with the third sector, could help ensure greater transparency, consistency and showcase examples of best practice.”¹ Epilepsy Scotland highlight a sense among disabled people that there has been a lack of action: “One respondent commented ‘they talk a good talk, but after that they don’t follow it up’. The Disability Commissioner should have the remit to hold people to account, ensuring action is taken, and words and commitments come to fruition.”²

In relation to the Learning Disabilities, Autism and Neurodiversity Commissioner, for example, the Scottish Commission for People with Learning Disabilities (SCLD) has indicated that a Commissioner is critically important. In the words of SCLD, a Commissioner is urgently required given the ‘evidence we have of the human rights abuses and inequalities faced by people with learning disabilities.’³

1.2. The need for a champion

Some of the proposals seem to indicate that there is a need for a visible ‘champion’ to ensure that a particular group’s interests and rights are guaranteed.

Organisations that have called for an Older People’s Commissioner, for example, have expressed the need for an urgent ‘champion’ to help make Scotland the best place in the world to grow old. In this sense, they have indicated that the government should create a Commissioner so it can act as ‘an independent champion for older people and ensure that policy and practice across government considers the long-term needs of people in later life.’⁴

In relation to the Scottish Government’s proposed Learning Disabilities, Autism and Neurodiversity

Commissioner, discussions held with organisations in the sector indicate that some consider a Commissioner would be symbolic in showing these issues were important and could be a champion when people’s rights had been abused.⁵

However, it is also notable that some groups of rights holders themselves can be sceptical about the value of a ‘champion’ role. Where it is desirable, many express a desire that this model can only work if the champion is recruited from within the community of people they would represent.

Proposals for a Disability Commissioner from Jeremy Balfour MSP, indicate that disabled people need a ‘dedicated champion’ to encourage the elimination and prevention of discrimination and have regard to the provisions of the UN Convention on the Rights of Persons with Disabilities. The proposal further indicates that the commissioner would work collaboratively with existing public bodies, but with the Disability Commissioner being the first port of call and a champion of disabled rights.⁶

1.3. Dissatisfaction with accountability mechanisms

Another common thread identified in comments on proposals for new commissions and/or commissioners is dissatisfaction with access to remedies and accountability where there are potential breaches of human rights.

Accountability for individual or systemic failures to respect human rights is currently distributed among a range of existing bodies, including courts, tribunals, regulators such as the Care Inspectorate, the Mental Welfare Commission (MWC), the Scottish Public Service Ombudsman (SPSO), the Ethical Standards Commission for Scotland, the Scottish Public Services Ombudsman (SPSO), the Scottish Housing Regulator (SHR), the Children and Young People Commissioner for Scotland (CYPCS), the Equalities and Human Rights Commission (EHRC), and the SHRC, among others.

There is also a role for the Committee system of the Scottish Parliament to take a more strategic overview of human rights concerns in any area of devolved public policy.

Some comments from advocates of new bodies suggest that support is needed to navigate existing complaints and accountability mechanisms. This is especially true in relation to specific groups, where individuals

experiencing barriers need additional or tailored information.

Whilst there is clear dissatisfaction with existing system/s, there is no clear emerging view on how new public bodies could address this.

Some proposals indicate a desire for a new bespoke complaints handling mechanism to be offered by the body proposed. The Disability Commissioner proposal sought views on an investigatory power hosted within the office that extends to public bodies and service providers. Inclusion Scotland suggests some disabled people surveyed for their response were supportive of this, however:

66 From those more sceptical about the proposals for a Commissioner there was a feeling that investigative powers alone will not lead to the policy and legislative changes necessary to protect and promote disabled people's rights, as even when existing organisations such as the EHRC have investigative powers, as well as legal and enforcement powers using the court and tribunal systems, this has not resulted in the necessary policy and legal changes for disabled people.”⁷

1.4. Perceived ‘easy win’ for Government

Another potential reason that new commissions and/or commissioners have been proposed may be the perception by duty bearers that creation of a new office is a first step or easier win than more technical legislative reform or policy change in response to evidence of areas of concern as presented in the business case for each new public body. Ensuring that people's rights are effectively protected might require substantial changes to practices, policies, regulations and behaviours. Given the complexities, it could be argued that from the perspective of duty bearers, a symbolic ‘easy win’ might be to set up a new body tasked with promoting respect for a group's rights without actually addressing any of the issues identified.

Given the existence of several commissions and commissioners in Scotland, and the precedent set by governments across the UK, it is possible to propose the creation of a new institution mirroring the ones that have already been set up (including mirroring their powers, budget and governance). It is also common practice to propose a new body as part of wider legislative proposal, with the aim of ensuring a ‘champion’ for the areas of work introduced by the Act of Parliament in the fullness of time (this includes, for example, the Victim's Commissioner as part of the proposed Victims, Witnesses and Justice Reform (Scotland) Bill).

1.5. The influence of comparative policy and new public bodies elsewhere in the UK

Another potential root cause identified is the general trend of following other jurisdictions in creating particular legislation or practices that have been presented as having had positive impact elsewhere in the United Kingdom. This is a particularly common feature of devolved policy making, especially between Scotland and Wales, where proposals routinely reflect the existence of similar bodies in other parts of the UK:

- [Wellbeing of Future Generations \(Wales\) Act 2015](#)
- [The Children's Commissioner for Wales Act 2001](#)
- [Patient Safety Commissioner for England, appointed under the Medicines and Medical Devices Act](#)
- [Biometrics Commissioner for England and Wales \(now the Biometrics and Surveillance Camera Commissioner\), initially appointed in March 2013 under Section 20 of the Protection of Freedoms Act 2012](#)

There are a number of reasons why this relationship may be influential, for example, the parallel establishment of the devolved institutions creating an optimal learning environment. However it is not just Wales that inspiration has been drawn from. The proposed Victims' Commissioner for example draws on the comparative role in England and Wales as well as Northern Ireland and London Victims' Commissioner roles.⁸

In the proposal for the Wellbeing and Sustainable Development Commissioner, Sarah Boyak MSP comments on the positive role of comparative experience:

“While this proposal will not seek to exactly replicate any other nation’s comparative legislation, it will look to build on the local research base and the experience of other nations to produce a Bill tailored to the needs of Scotland and its specific sustainable development and wellbeing landscape.”

Learning from best practice can of course be a positive and effective way of harnessing successes seen in other parts of the UK and across the world. However if policy developments are not adequately tailored to local context, the result can often mean alternative means of securing similar outcomes are not fully explored. For example, while inspiration can be drawn from Wales, it does not have a stand-alone NHRI tasked with promoting and protecting human rights like the SHRC.⁹

1.6. Lack of awareness of the SHRC and the role of NHRIs among the public and policymakers

A final observation is the lack of direct contact with or commentary about the existence of the SHRC in the process of developing the various proposals for new commissions and/or commissioners. This has resulted in a lack of consideration of the potential role for the SHRC to play in addressing the issues raised by various groups of rights holders, subject to proportionate resourcing arrangements and additional powers as required. This suggests there may be a lack of knowledge about the role of an NHRI and its potential to meet the demands identified by the calls for new commissions and or commissioners.

It is notable that to date, only one proposal – the Women’s Commissioner¹⁰ – involves an expansion of the SHRC’s remit. Even here, the proposal was to add a new designated post to the part-time membership of the Commission, which would require an amendment to the Scottish Human Rights Commission (Scotland) Act 2006, without a clear view on how the additional remit should be operationalised, although a general need for additional resources and powers was the subject of a further recommendation.

At the time of this proposal, the SHRC response noted the requirement that NHRIs have the broadest possible mandate and that there was a risk that having a designated function for one identified group could undermine this breadth and put at risk the Commission’s A status within the international human rights monitoring system recognised by the United Nations.¹¹ In other words, there was a need to ensure that the Commission would continue to promote and protect the rights of all members of society, not just a specific group.

As indicated by the Global Alliance of National Human Rights Institutions (GANHRI):

“An NHRI’s mandate should be interpreted in a broad, liberal and purposive manner to promote a progressive definition of human rights which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights.”

The SHRC further noted that:

“Academic research into the accreditation process and the decisions of the Sub-Committee on accreditation has led some to conclude that thematic national institutions are likely to find it difficult to obtain accreditation and the few that have applied have received a B or C grade.”

It was reasoned that any consideration of the structure and resourcing of the Commission ought to be undertaken in a holistic way that permitted wider protection and promotion of the human rights of more people.

The SHRC has not gathered detailed data about general awareness of the role of NHRIs or the Commission generally.¹² The SHRC’s own research, due to be published later this year, does indicate that three quarters of people in Scotland do not know where to go if they had a query about human rights. Anecdotal feedback from stakeholder engagement across civil society and MSPs suggests low awareness of the Commission’s NHRI status and functions. Whilst this is an issue for the Commission to consider further in its next four-year Strategic Plan, it suggests that the proposals for new Commissions/ers may not have fully considered the opportunities (or indeed limitations) of alignment with the SHRC as an existing public body.

2.

Key considerations of creating new commissions and/or commissioners: close the accountability gap or increase complexity?

2.1. The potential impacts to rights holders

2.1.1. Accessing justice

As explored above, in the majority of cases, frustration with the disparity between policy intent and what happens in people's lives is generally the driving force behind calls for new public bodies. The accountability landscape in Scotland is already complex, with a multiplicity of scrutiny bodies with overlapping mandates. For example, in mental health alone, the Mental Welfare Commission, SHRC, Public Health Scotland, the Care Inspectorate, Healthcare Improvement Scotland, SPSO and the Office of the Public Guardian all have areas of responsibility. A rights holder seeking to resolve an issue may be signposted between these organisations and, in some cases, find nobody able to assist.¹³

The development of the existing landscape has happened organically rather than with a coherent overview. It could be therefore be considered that, contrary to the good intentions of the proposals, the development of new commissions risks adding to this complexity and creating further gaps in access to justice. This is especially true in light of the disparate approach to the proposed design and structure of each potential new Commission. It also has the potential to make the system as a whole even more inaccessible to rights holders, particularly those less equipped to navigate complex systems.

This view has been expressed by some civil society organisations in relation to proposals for a Learning Disabilities, Autism and Neurodiversity Commissioner, where some stakeholders have expressed a view that there are already 'many routes to formal investigations through local authorities, existing commissioner offices, Public Ombudsmen and so on' and had concerns over how a new body would work to address issues referred to such an office. Some stakeholders have proposed that working with existing commissions, as well as increasing access to law centres and advocacy organisations, would be a 'far better way to improve accountability and tackle formal investigations.'¹⁴

2.1.2. Lack of intersectional understanding

A rights holder may experience issues or identities that are intersectional, for example, a woman with a learning disability. Considering the indivisibility and interdependence of human rights, an intersectional approach to upholding human rights, which takes account of all relevant identities of the human being,

would enable more effective rights protection, rather than a system which separates artificially the different issues.

Further, it is clear that some of the proposals overlap with each other, for example, a Disability Commissioner and a Learning Disability, Autism and Neurodiversity Commissioner. This further subdivides a person's characteristics across mandates and new public bodies who may or may not work effectively together.

2.1.3. Prioritisation of certain groups

The demand for some new commissions comes from a real or perceived lack of focus on certain marginalised groups arising from the accountability gap between policy intent and reality. The rationale often cited is that creating a new body seeks to increase the profile of the concerns of those groups, and ensure that they are not forgotten. However, if this develops across the subgroups of rights holders in an organic, rather than intentional way, it risks creating gaps for groups who are under served.

Indeed, it is a concern for the SHRC that the most marginalised groups may not have the influence or coordination to advocate for their own commission and risk being further overshadowed by a focus on other groups of people. This is demonstrated in some of the proposals, where it has been expressed that the views of some marginalised groups may not have not been taken into account.

2.1.4. Expectations vs risk of tokenism

Commissions may be proposed as an answer to gaps in rights protections that have been identified for certain groups e.g. an Older Persons Commissioner to address the very real concerns about the lack of consideration of older people's rights which came to the fore during the pandemic.

However, if new commissions are created with the expectation that they will solve the problems but are not adequately empowered or resourced to do so, the expectation of rights holders is likely to remain unmet. If commissions are set up without adequate powers of investigations and legal routes to challenge and address the underlying issues in current practice, policies or laws in Scotland, the biggest problems that people are facing will continue to be remain unresolved, and the commissions proposed risk being tokenistic in practice.

2.1.5. Immediacy

It is clear from the proposals that rights holders do not want to wait for change. They are rightly frustrated, and see that the call for a commission and/or commissioner to represent their interests is a last resort; an option that will put to an end once and for all to the challenges that people are continuing to experience. This is a matter of some reflection and concern for the SHRC, as part of this system, and has informed its 2023/24 work programme.

In this context, it should be noted that the process of setting up a new public body takes time, allowing for the proposal to be researched and scoped, set out, consulted upon, drawn up into legislative proposals, placed on the legislative timetable and passed through the parliamentary process, to set up the commission in operation. While some proposals are at a more advanced stage of this process, others may take a number of years to come to fruition. If the concern is remedying known gaps in human rights protection, there is a risk that setting up new commissions which will tackle those gaps down the line may distract from the immediate need to take action.

2.2. Potential impacts to the domestic protection of human rights

2.2.1. Dilution of human rights protection

Human rights are indivisible and interdependent. This means that one set of rights cannot be enjoyed fully without the other. It also means that often, when one right is breached or impacted, another is as well. For example, it is difficult to exercise the right to education without access to adequate food and housing - lack of sufficient and nutritious food impacts a person's ability to learn.

When considering the current proposals, the SHRC cautions that adding new commissions with different approaches, mandates and powers risks creating a landscape where different areas of rights are given more attention or priority than others. Decisions to create new commissions and the levels of funding and mandates of each commission will be largely political decisions, not necessarily based on evidence demonstrating priority areas of focus.

At a time where Scotland is preparing to incorporate international human rights treaties into Scots Law by 2026, there is a risk that adding various new commissions fuels a culture that threatens the interdependence and interconnectedness of human rights, which in turn could lead to an overall dilution of rights protection.

2.2.2. Public understanding of human rights

Related to this, it could be argued that the creation of new commissions risks skewing understanding by duty bearers of certain areas as human rights issues at the expense of others. Whilst the rights of people with autism, older people and victims of crime to access justice are all human rights issues, it is a concern that creating numerous different bodies could fracture existing public understanding of "human rights issues" or at least could hamper efforts to ensure that the public and duty bearers have a suitably wide understanding of different areas as human rights issues. This is a particular issue if the new commissions do not choose to take a rights based approach to their work, or to frame their work in human rights terms.

2.2.3. Duplication/overlap of mandates

The SHRC has a broad mandate to promote human rights and, in particular, to encourage best practice in relation to human rights'. There are a number of public bodies operating in Scotland who have a mandate that already overlaps with the SHRC's mandate. Examples include:

- i) the Children and Young People's Commissioner Scotland whose functions include promoting and protecting the human rights of children and young people in Scotland;
- ii) the Equality and Human Rights Commission which has a mandate to promote and protect human rights in Scotland in relation to matters reserved to the UK Parliament; and
- iii) the Mental Welfare Commission, which protects and promotes the human rights of people with mental illness, learning disabilities, dementia and related conditions.

In an already cluttered and complex landscape for rights holders to access justice, it will be important for the Scottish Parliament to consider this broader

picture in the process of developing proposals for new public bodies, and not just consider the merits of each proposal on its own. Whilst the recent proliferation of calls for new commissioners has emerged as a trend in the last three years, it is not a new concept. It is helpful in the current context to consider the Scottish Parliament's Finance and Public Administration Committee's test for setting out new bodies and office holders of the Scottish Parliament's Corporate Body.¹⁵ The review of SPCB Supported Bodies undertaken by Parliament in 2009 specifically indicated that:

1. Any future bodies should not duplicate a role already being carried out; and
2. for bodies to be designated as Parliamentary commissioners, they should meet certain criteria (guiding principles below)¹⁶

Clarity of Remit: a clear understanding of the office holder's specific remit;

Distinction between functions: a clear distinction between different functions, roles and responsibilities including audit, inspection, regulation, complaint handling, advocacy;

Complementarity: a dovetailing of jurisdictions creating a coherent system with appropriate linkages with no gaps, overlaps or duplication;

Simplicity and Accessibility: simplicity and access for the public to maximise the "single gateway/one-stop shop" approach;

Shared Services: shared services and organisational efficiencies built in from the outset; and

Accountability: the establishment of clear, simple, robust and transparent lines of accountability appropriate to the nature of the office.

The Committee further recommended that

“New proposals for office-holders should provide strong evidence that the proposer has explored all possible opportunities to have an existing body carry out the additional function, or make use of existing resources.”

Given that each live proposal is at a different stage, with a different set of powers, and will be considered by different Committees of the Scottish Parliament at different times, there is a risk that the opportunity for this broader consideration could be missed.



The SHRC and its role in Scotland

The SHRC shares the concerns of rights holders and civil society on the lack of enjoyment and access to human rights to which people in Scotland are entitled to expect. We consider this proliferation of asks is evidence of an unsatisfactory accountability landscape in Scotland, and as an existing public body with the mandate to promote and protect the human rights of everyone in Scotland, we now seek to explore the SHRC's current, and potential future role, in improving this position.

3.1. The Scottish Human Rights Commission

The Scottish Human Rights Commission was created through an Act of the Scottish Parliament in 2006. The parts of the Act establishing the Commission came into force on 8 November 2007.¹⁷ It is Scotland's National Human Rights Institution, as accredited by the United Nations. The Commission is independent from government and parliament, but accountable to the Scottish Parliament.

The independence of the SHRC is essential to fulfilling its functions, as the promotion of human rights may require it to be critical of existing practices or provide critical advice in relation to policies and legislation enacted by the Parliament or Government.

The SHRC has a broad mandate, and modest resource to deliver it.

This includes responsibility for monitoring enjoyment of all human rights in Scotland, and the specific rights afforded to all people through the European Convention on Human Rights; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of Persons with Disabilities; the Convention on the Elimination of All Forms of Discrimination Against Women; the Convention on the Elimination of All Forms of Racial Discrimination; the UN Convention Against Torture; the European Social Charter; and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. The SHRC discharges its duty to monitor the Convention on the Rights of the Child by working with the Children and Young People's Commissioner Scotland. The Commission recognises the importance of having a separate, sister institution, which is shaped throughout by the views of children and young people and works in a child-friendly way.

Section 2 of the Act sets out that the SHRC has a general duty to promote awareness, understanding and

respect for human rights and, in particular, to promote best practice in relation to human rights.

In order to fulfil its duties, it has a number of powers. These include the power to publish advice, guidance and ideas, conduct research and provide education and training. The Commission may also review and recommend changes to law, policy and practice. This has formed the main focus of the Commission since its inception.

The SHRC also has the power to conduct inspections in places of detention, conduct inquiries (under some strict conditions) and to intervene in civil proceedings before a court in certain circumstances.

Unlike the NHRIs in other countries of the United Kingdom, it does not have the powers to raise legal proceedings in its own name or to provide advice to victims of human rights violations. The Equality and Human Rights Commission has these powers in England and Wales, and the Northern Ireland Human Rights Commission has these powers in Northern Ireland.

The Commission is allowed to work with other people and organisations in exercising its functions and must seek to ensure that it is not duplicating the work other public bodies are already doing.

To date, it is evident from our analysis of the current proposals that the awareness of the actual and potential role of the Commission in upholding the human rights of all people in Scotland is limited across rights holders, civil society and duty bearers.

3.2. National Human Rights Institutions

The SHRC is accredited by the United Nations as an A Status NHRI. As acknowledged by the United Nations, NHRIs are the cornerstone of domestic human rights protection systems and serve as a bridge between international human rights norms and the State.

NHRIs are assessed based on the UN Principles Relating to the Status of National Human Rights Institutions (the "Paris Principles"). The Principles constitute a set of internationally recognised standards to assess the credibility, independence and effectiveness of NHRIs, which were adopted by the United Nations General Assembly in 1993. NHRIs functions or activities are described in the Paris Principles as "responsibilities", meaning things these institutions are obliged to do. The Paris Principles require NHRIs to have as wide a role as possible, with two main responsibilities, in particular:

- Human rights promotion: creating a national culture of human rights where tolerance, equality and mutual respect thrive.
- Human rights protection: helping to identify and investigate human rights abuses, to bring those responsible for human rights violations to justice, and to provide a remedy and redress for victims. NHRIs should have a legally defined mandate to undertake these functions and to issue views, recommendations or even seek remedies before the courts.

The key pillars of the Paris Principles are pluralism, independence and effectiveness. Overall, the Principles indicate that:

- NHRIs should have a broad mandate to enable them to promote and protect all human rights;
- They should have broad functions enabling them to deliver on their mandate;
- Pluralism being a key pillar on which NHRIs are founded, the composition of NHRIs should reflect the “social forces (of civil society) involved in the protection and promotion of human rights”;
- NHRIs should have adequate resources to ensure the funding, staffing, infrastructure and institutional capacity to perform their functions and discharge their responsibilities;
- NHRIs should work cooperatively, recognising that effective human rights work requires NHRIs to collaborate with other state institutions, NGOs and civil society groups.

Since 2010, the UN has accredited the SHRC as Scotland’s NHRI. It has determined that it complies with all aspects of the Paris Principles.

3.3. How the SHRC works

The Commission is formed of a Chair appointed by the King (on the nomination of the Scottish Parliament) and up to four members, appointed by the Scottish Parliament. They are empowered by the Scottish Human Rights Commission Act 2006 to employ staff to deliver the work of the Commission.

In 2023, the SHRC employs 13.8 staff FTE and works through a delivery budget of £1.3m, now led by a full time Executive Director. Its operations are structured through three teams with responsibility for a) Legal and

Policy work; b) Commission Secretariat and Business Support; and c) Communications and Engagement.

It works to a four year strategic planning cycle, the objectives and financial plan of which must be laid before the Scottish Parliament to approve.

The Commission’s current strategic plan to 2024 commits to the promotion of economic, social and cultural rights, and to building awareness of human rights across duty bearers in Scotland. It also delivers on its responsibilities to report directly to the United Nations on human rights enjoyment in Scotland, and to provide analysis and advice on the human rights implications of proposed legislation in the Scottish Parliament.

A significant strategic priority for the SHRC over this period has been to encourage and promote action to incorporate UN Treaties into Scots Law.¹⁸

The Commission takes an evidence-led approach to its work programme, and in the final year of its current strategic planning cycle, is concerned about the disparity between the experience of rights holders in Scotland against a strong human rights based policy landscape.

In 2023/24, it has approved a work programme of desk based investigations around access to justice, unrealised rights of people in detention, the human rights of people who have learning disabilities and autism detained in hospital, and economic, social and cultural rights enjoyment in the Highlands and Islands.

Whilst these pieces of work will fall short of a formal inquiry, they do constitute part of the Commission’s power in section 4.1.b of its Act, which allows it to monitor and review any policy or practice of any Scottish public authority and issue recommendations. It is the SHRC’s intention that working in this way will allow the opportunity to bear witness to the lived experience of rights holders and make concluding observations about the enjoyment of human rights in Scotland for particular groups of people.

3.4. What the SHRC cannot do

The Commission does not have the powers to raise legal proceedings in its own name.

This is a key feature of other NHRIs across the UK, and allows a final route to challenge the practice of duty bearers where action or inaction can be demonstrated

as having a detrimental impact on the human rights of a specific group of people. The effect is to ensure the burden of human rights litigation does not fall on individual victims, and to ensure such cases are able to fix more structural issues that affect many people across the country. The possibility of the action, rather than frequent use of the power, is a significant tool in the pursuit of justice.

The EHRC has this power in England and Wales, and the NIHRC has this power in Northern Ireland. In effect, this means that people in other parts of the UK have greater access to justice routes than people in Scotland through their NHRI.

Whilst the Commission has the power to intervene in legal proceedings, it has used this power infrequently. At present, the SHRC is restricted in its ability to intervene in legal proceedings, due to the high costs involved.

Whilst it has the power to conduct inquiries, in reality, this power is difficult to use, insofar as it has been constructed to require the SHRC to approach such a task through the lens of all duty bearers of the type in question. That is, it could not conduct an inquiry into the practice of one local authority or one health board for example – it would need to include all local authorities or all health boards in the scope of the inquiry. This would be a significant undertaking and impact on the Commission’s ability to service other elements of its mandate.

The SHRC cannot provide direct advice or support to any individual about their human rights. This is in contrast to the other UK NHRIs who are mandated to

offer this service to the public in England, Wales and Northern Ireland.

The SHRC cannot issue binding guidance (such as the EHRC), nor can it compel information to ensure it is monitoring correctly the implementation of human rights or to make unannounced visits to inspect duty-bearers and make sure they are complying with their obligations (powers that the Mental Welfare Commission does have).

3.5. The SHRC’s resources

In assessing the compliance of the SHRC to the Paris Principles, the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions has expressed its concern over the funding available to the SHRC.

In its reaccreditation process in 2021 the SCA indicated that: “while the SHRC’s budget has been sufficient to allow it to largely meet the terms of its mandate – it continues to encourage additional funding for the SHRC to ensure that it can effectively carry out the full breadth of its mandate. The SCA emphasised that, to function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its ability to freely determine its priorities and activities.”

The SHRC is among the smallest public bodies in Scotland tasked with promoting and protecting people’s rights. Its budget is modest compared to bodies tasked with looking at a specific issue or group of people (mental health or children, for example).



Body	Type	Area of work	Budget
Care Inspectorate	Non-departmental public body	Social Care	£25,389,000
Scottish Housing Regulator	Non-ministerial office	Social Housing	£5,334,000
Mental Welfare Commission for Scotland	Non-departmental public body	Mental Health	£4,529,000
Environmental Standards Scotland	Non-ministerial office	Environment	£2,192,000
Scottish Information Commission	Parliamentary body	Access to information	£1,945,000
Scottish Land Commission	Non-departmental public body	Access to Land (environment / culture)	£1,550,000
Children and Young People’s Commissioner for Scotland	Parliamentary Body, Independent Children’s Rights Institution	Children and Young People’s rights	£1,536,000
Scottish Human Rights Commission	Parliamentary body, National Human Rights Institution	All Human Rights	£1,378,000

The Commission is also a small institution compared to other NHRIs in countries of similar size and population. For example:

NHRI	Staff numbers
Portugal	104
New Zealand	78
Ireland	72
Denmark	45
Norway	28
Northern Ireland	25
Scotland	13.8

The proposed new public bodies for Scotland would increase the headcount working in the space of the promotion and protection of the human rights of groups of people significantly, albeit across different institutions with different mandates.

The question this trend poses is not whether there is an accountability gap. Analysis of the proposals currently being considered confirms that the:

“Lived experience of people in communities across Scotland demonstrates a significant gap between rights and reality. The question for Scotland, as a rights respecting country, is how best to truly close this gap.”



4.



What next for human rights in Scotland?

Scotland has reached a critical crossroads in its human rights journey.

The SHRC has called for the strengthening of human rights laws in Scotland for more than a decade. As a member of the National Taskforce on Human Rights Leadership, we called for a new Human Rights Bill to incorporate into Scots Law the rights found in the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on Elimination of Racial Discrimination (CERD); the Convention on the Elimination of Discrimination Against Women (CEDAW); the Convention on the Rights of Persons with Disabilities (CRPD); and for further protections for older persons and LGBT+ people.

The Scottish Government has committed to lay a new Human Rights Bill before the Scottish Parliament in 2024/25 to achieve these aims. A consultation paper regarding the new Bill has now been published by the Government.

This key legislative moment presents the rare opportunity to reshape the mandate, powers and function of the SHRC too. Whether this is in parallel with the creation and funding of new commissions and or commissioners, or whether this is an opportunity to reshape the mandate of the SHRC is ultimately a decision for the Scottish Parliament.

However, it is clear that the common drivers are lived experience of the people of Scotland who are dissatisfied with their access to human rights, and this is an area of considerable concern to the SHRC. In line with our current mandate to provide advice to Parliament under Section 3.1.b of the 2006 Act, the SHRC recommends that a cohesive, national approach is now required to consider the systems, powers and processes that are needed to truly make rights real.

We offer this analysis paper to inform this approach, and note the publication *The role of commissions and commissioners in Scotland and the UK*,¹⁹ an independent research paper recently commissioned by the Scottish Government on this area.

When considering the lived experiences of rights holders which have led to the recent calls for new commissions and/or commissioners, our assessment is that the national debate should now consider further a) where the current gaps in accountability truly are; b) what powers and resource each new public body would require to ensure consistency of approach; and c) whether there is the potential for action to reform the legislative mandate, form, and function of the SHRC to create greater access to justice routes for all.

This final section therefore provides some options for the Scottish Parliament, civil society and the Scottish Government to appraise through due process:

⇒ **Option A**
New Commissions/ers are established

⇒ **Option B**
Alternative Commissioner structure at SHRC

⇒ **Option C**
Enhanced powers for the SHRC

⇒ **Option D**
Enhanced infrastructure for the SHRC

These options are not necessarily mutually exclusive.



➔ Option A

New Commissions/ers are established

Should the trend to develop new public bodies and commissioners continue apace, and should this be the direction of travel approved by the Scottish Parliament, there is potential for 10 new public bodies to be created in Scotland.

Aside from the public finance implications, which we estimate to be in the region of £9-13 million but which Parliament will consider via the Finance and Public Administration Committee, from the perspective of rights holders, it is incumbent upon Parliament to consider the powers and mandates of each commission and/or commissioner in the round. At present, the proposals contain a real mixture of powers and duties, and this inconsistency of approach runs the risk of creating unequal access to rights for different groups of people in Scotland.

Beyond the powers proposed to each, should the Scottish Parliament see fit to facilitate and approve the development of new commissions and or commissioners, they must be resourced sufficiently to service their mandates.

A further consideration is around duplication. The creation of new commissions covering what are generally understood to be human rights issues would have the potential to create further duplication or overlap of existing mandates and complicate the human rights landscape further. The SHRC would urge early consideration of the scale of potential duplication, and that Parliament should consider this in discussions around each proposal, and the totality of the current trend.

In terms of the SHRC's working practice, it is already equipped to work with other public bodies. The SHRC navigates the current landscape well and is not often presented with situations where the mandates of other organisations impinge on its ability to raise what it believes to be a pressing human rights issue.

Consistency of advice to inform policy and legislative developments is a further consideration. An NHRI such as the SHRC is intended to be the national authority for human rights issues, mandated by an Act of Parliament to provide definitive advice and guidance on the development of legislation via a human rights framework. Creating different bodies that can provide contradictory interpretations of human rights may also have the potential to undermine the overall domestic protection of human rights in Scotland.

Role of the SHRC

The mandate and resource of the SHRC has not been revisited since 2006. In recent years, the United Nations Secretary General has called on countries to ensure that NHRIs are provided with a broad mandate to protect and promote all human rights and granted adequate powers of investigation into allegations of human rights violations.²⁰ He also called on countries to ensure NHRIs are provided with adequate human and financial resources and the autonomy necessary to freely propose and manage their own budgets and recruit their own staff members.²¹

The current UN High Commissioner for Human Rights, Volker Turk, said that

“National Human Rights Institutions are key to making human rights a reality. And they give us chance to advance towards future we all hope for. But for this, NHRIs need greater funding and full independence in line with the Paris Principles.”²²

The SHRC aspires to be truly able to fulfil its role as the guarantor of human rights in the country, and wants to ensure it is part of the solution to the problems that people currently face in Scotland.

As part of a global network, the Commission has looked carefully at other NHRIs across the world, to learn from best practice which may strengthen our work and structure, and to inform potential solutions that would enhance the accountability landscape in Scotland.

In doing so, we have considered structures currently in place in Northern Ireland, the Netherlands, South Africa, Mexico, New Zealand, Australia, Costa Rica, Peru, among others. This has included structures that can better ensure that thematic/group issues are well identified, researched, addressed and championed.

There are three potential routes for the Parliament to consider which may assist this process.

➔ Option B Alternative Commissioner structure at SHRC

Globally, other NHRIs operate different models to ensure plurality of membership and representation at Commission level. For example, the NIHRC has six Commissioners and one Chief Commissioner.

The New Zealand Human Rights Commission (NZHRC) was composed of four Commissioners:

- Chief Commissioner for Human Rights
- Equal Employment Opportunities Commissioner
- Race Relationships Commissioners
- Disability Rights Commissioner (until 2022)

However, the NZHRC is currently under a process of reform and will no longer have thematic commissioners. Following a recent governance review, the NZHRC considered that thematic commissioners undermined the overall purpose of the NHRI, not being able to adequately fulfil its holistic and comprehensive mandate for all rights holders in New Zealand, as many groups and areas of rights were not a priority for the institution.

The Australian Human Rights Commission also divides themes across its Commissioners:

- Aboriginal and Torres Strait Islander Social Justice Commissioner
- Age Discrimination Commissioner
- Children's Commissioner
- Disability Discrimination Commissioner
- Human Rights Commissioner
- Race Discrimination Commissioner
- Sex Discrimination Commissioner

The AHRC, however, has been subject to criticism over the last few years, including from the UN Sub-Committee on Accreditation which has delayed its reaccreditation and indicated that it should have a broader and more holistic mandate. There have also been concerns around the appointment process as it relates to the required expertise that is considered for such appointments. Civil society has also criticised the

little attention that the current model affords to some areas of rights for all rights holders (such as Economic, Social and Cultural Rights).

These models offer important learning in the specific context of the Scottish Human Rights Commission. The SHRC has recently commissioned a Governance Review which will consider the implications of the existing mandate on the SHRC's governance arrangements.

Any such changes to the membership of the SHRC in terms of numbers of Commissioners would require an amendment to the Scottish Human Rights Commission Act 2006.

➔ Option C Enhanced powers for the SHRC

As outlined above, the SHRC has a narrower set of powers available to uphold and protect the human rights of the people of Scotland than other NHRIs in the UK.

Whilst this would be anecdotal at this stage, we do consider that there may be a causal link between this gap in legal powers, and the frustrations experienced by rights holders in accessing justice. We will be producing further analysis on this issue in 2023.

The SHRC would encourage early consideration of increasing its powers to uphold human rights in Scotland, based on the existing practice of United Nations accredited NHRIs in the rest of the UK, across Europe and globally.

As a minimum, the SHRC would be pleased to incorporate the powers to raise legal proceedings in its own name; powers to provide legal advice to individuals; more usable powers of Inquiry; and the power to compel information. All of these options would require amendment to the Scottish Human Rights Commission Act 2006.

To ensure the SHRC works closely with existing mechanisms and that people are well supported, we also encourage consideration around the infrastructure in place (through local rights centres and legal aid) to facilitate greater signposting and advice on human rights issues.

Option C would also require the Parliament to increase funding to the SHRC to discharge its new powers effectively.

➔ Option D Enhanced infrastructure for the SHRC

While all elements of Options B and C require legislative amendments, in the immediate/short term, steps could be taken to enhance SHRC's current structure.

Analysis of other NHRI models across the world reveals alternative models which may provide for more focused protection of the human rights of particular groups of people aligned to UN Treaties in response to the calls for more Commission/ers. These would have resource implications for the SHRC, but not necessarily legislative implications for its founding mandate.

Implementing a new structure

Through the lens of the current calls for new public bodies representing particular groups of people in Scotland, we would draw attention to the Rapporteurship model, which entails a series of small teams within an NHRI focused on particular groups of people and/or particular human rights treaties. This structure is most commonly used in Latin-American NHRIs, including in Mexico, Peru, and Costa Rica, but also across Europe – for example the Netherlands NHRI works with a UN Convention on the Rights of Persons with Disabilities (CRPD) team, which focuses solely on the human rights of disabled people.

The Mexican NHRI (Comisión Nacional de Derechos Humanos de México) is divided by thematic Rapporteurships (Visitodurías) led by a member of staff, with the support of a team (for example, they include a Rapporteur for migrants, for economic social and cultural rights, for indigenous peoples, and for women).

The Peruvian NHRI (Defensoría del Pueblo) is composed of distinct Rapporteurships (Adjuntías), including disabled people, women, children, torture, economic social and cultural rights and the environment

The Costa Rican NHRI (Defensoría de los Habitantes) is composed of eight thematic Rapporteurships, including immediate attention (civil and political rights), women, equality and non-discrimination, quality of life (social and cultural rights), public governance, economic studies and sustainability (budgeting and environmental rights), children and young people, and workers' rights.

The focused team model has worked effectively in the NHRIs in which it has been implemented, which have all been accredited by the United Nations. It delivers three important elements:

- People, groups, themes and areas of human rights that are of critical concern and respond to international and domestic obligations are always monitored and addressed. This is, that each Rapporteurship proactively guarantees that the enjoyment of rights (within their area) is always monitored effectively and that the NHRI has comprehensive work in all areas of human rights, that protect all people. This then ensures that no area or group of people are left unattended.
- The Rapporteurship structure allows for highly qualified individuals to be directly recruited to work as human rights champions and experts in their fields.
- The Rapporteurship structure allows for less disruption in the work programmes. As permanent teams, work can be planned long term and there is more stability in the leadership and strategic direction of a specific theme. The model also allows for greater flexibility around the deployment of staff resource, without legislative amendment, as demands to work on specific themes are likely to change over time.

How might this work in SHRC?

In line with the ratified international human rights instruments by the UK (the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on Elimination of Racial Discrimination, the Convention on Elimination Against Women, and the Convention on the Rights of Persons with Disabilities); and current protected characteristics under the Equality Act, a model which may work in the Scottish context would be establishing dedicated teams, or Rapporteurships, within the Commission, each covering areas such as:

- Justice: civil and political rights (ECHR / ICCPR / UNCAT)

- Economic, social, cultural and environmental rights (ICESCR / European Social Charter)

- Women's rights (CEDAW / Istanbul Convention)

- Disabled people's rights (CRPD)

- Older persons' rights

- Ethnic minority rights (CERD)

- LGBT+ persons' rights

Each Rapporteurship may consist of a Rapporteur (expert and champion) working with a dedicated team, each charged with delivering the overall mandate and functions of the Commission, but with a specific focus on within their theme. This could include publishing routine reports related to human rights issues and provide recommendations; enhancing the voices of victims and people with lived experience; monitoring the policies and practices of Scottish public authorities to ensure they are implementing their human rights obligations; provide technical advice and guidance, both internally within the SHRC and to all possible stakeholders on expert knowledge of their theme; provide education and training to civil society organisations, rights-holders, and public authorities on a routine and sustainable basis; among many others.

As an indicative structure, the work and mandate of currently proposed new public discussed or advocated bodies could be mapped on to a Rapporteurship model, and would work within the legislative mandate of the SHRC:



Proposed body	Potential Rapporteurship
Women's Commissioner	Women's rights Rapporteurship
Disability Commissioner	Disabled people's Rapporteurship
Learning Disabilities, Autism and Neurodiversity Commissioner	Disabled people's Rapporteurship
Older People's Commissioner	Older persons' Rapporteurship
Victims' Commissioner	Justice Rapporteurship
Future Generations	ESCE rights Rapporteurship
Wellbeing and Sustainable Development Commissioner	ESCE rights Rapporteurship
Patient safety Commissioner	ESCE rights Rapporteurship
LGBT (Conversion Practices) Commission	LGBT+ persons' rights Rapporteurship
Commissioner for Violence Against Women and Girls	Women's rights Rapporteurship

In this model, the Commissioners of the SHRC appointed by the Scottish Parliament would still retain governance oversight and responsibility for strategic direction of the SHRC, as is the case currently. If the powers of the SHRC were to be modified further through the proposed Human Rights Bill for Scotland, the Rapporteurship teams could potentially also assume various other responsibilities, subject to resource. This would include, but not limited to:

- Support and/or lead the realisation of investigations/Inquiries;
- Provide technical knowledge to SHRC's legal team on direct advice provision to individuals, ongoing cases, when appropriate;
- Provide technical knowledge to SHRC's legal team on proceedings which it raises in its own name to defend human rights, when appropriate;
- Draft relevant guidance to duty-bearers;
- Convene public hearings on issues of concern;
- Perform visits to monitor compliance with Human Rights Bill;

Whilst this option would require an independently produced financial analysis and business case, it is estimated this proposed structure could be achieved at less than 25 per cent of the potential cost associated with the current set of proposals for new Commissions/ers.²³

Most importantly, the options presented here for SHRC would ensure that the Commission is robust enough to fulfil its role as the guarantor of human rights in Scotland, while also ensuring that all issues, people and rights are promoted and protected effectively and equally.

Conclusion

Which way forward?

The SHRC agrees that there are clear gaps in accountability around human rights obligations in Scotland. The calls from civil society, Scottish Government and MSPs to address these gaps are very welcome and must be considered fully and seriously. Clearly, the system isn't working for too many, and we support the need for greater visibility and access to justice for a range of people.

Regardless of the route taken from here, through the process of developing the proposed new Human Rights Bill for Scotland, we expect that careful consideration will be given to ensuring the SHRC is provided with the necessary powers to effectively promote and protect

human rights. In the months ahead, we will be providing further analysis of what those appropriate powers might be, taking into account the expectations of rights holders, the UN human rights system, and best practice from other NHRIs across the world.

In this paper, the SHRC has explored the issues being experienced in Scotland. We urge a national, cohesive approach to considerations of the proposals for new public bodies to ensure that the most important destination is reached: that all rights holders are better supported to access justice and public bodies are more accountable and better supported to design and deliver public services which promote and protect human rights.

If you would like to discuss this paper further, please contact our Legal Policy Development Officer Luis Felipe Yanes at LuisFelipe.Yanes@scottishhumanrights.com

Endnotes

¹ Response Data (jeremybalfour.org.uk)

² Response Data (jeremybalfour.org.uk)

³ Position Statement: Navigating a Complex Landscape, The Human Rights Bill for Scotland and the Learning Disability, Autism and Neurodiversity Bill, Scottish Commission for People with Learning Disabilities, July 2022 SCLD-Position-Statement-Legislative-Change-Aug-22.pdf

⁴ Latest News | Age Scotland (ageuk.org.uk)

⁵ See more at role-commissions-commissioners-scotland-uk-final-report-march-2023.pdf (www.gov.scot)

⁶ disability-commissioner-consultation-final.pdf (parliament.scot)

⁷ Response Data (jeremybalfour.org.uk)

⁸ Making the case for a Victims' Commissioner for Scotland - Victim Support Scotland

⁹ The Equality and Human Rights Commission serves as the National Human Rights Institution for England and Wales.

¹⁰ Annex A - The NACWG's 2020 Recommendations - National Advisory Council on Women and Girls report: Scottish Government response - gov.scot (www.gov.scot)

¹¹ nacwg-position-paper-17032022.pdf (scottishhumanrights.com)

¹² The Commission's most recent insight work did not focus on the role of the commission but on attitudes towards human rights building_a_human_rights_culture_scotland.pdf (scottishhumanrights.com)

¹³ These issues will be the subject of a further paper from the Commission later in 2023-24.

¹⁴ An open letter to Kevin Stewart MSP, Minister for Mental Wellbeing and Social Care — Autism Understanding Scotland

¹⁵ The Scottish Parliament - Review of SPCB Supported Bodies Committee - Committee Report

¹⁶ Scottish Parliament Finance Committee. 7th Report, 2006 (Session 2). Inquiry into Accountability and Governance (SPP 631), para 129

¹⁷ The Scottish Commission for Human Rights Act 2006 (Commencement No. 1) Order 2007

¹⁸ See more on the Commission's work at <https://www.scottishhumanrights.com/projects-and-programmes/incorporation-new-human-rights-law-for-scotland/>

¹⁹ See full report at role-commissions-commissioners-scotland-uk-final-report-march-2023.pdf (www.gov.scot)

²⁰ UN Human Rights Council, Report of the UN Secretary-General, National institutions for the promotion and protection of human rights, A/HRC/39/20 (2018)

²¹ UN Human Rights Council, Report of the UN Secretary-General, National institutions for the promotion and protection of human rights, A/HRC/39/20 (2018)

²² Volker Türk, UN High Commissioner for Human Rights (2023)

²³ Further information can be provided upon request