

## Committee on the Elimination of Racial Discrimination Follow Up Comments

Scottish Human Rights Commission comments on the follow-up to the Concluding Observations on the combined 24th to 26th periodic reports of the United Kingdom of Great Britain and Northern Ireland by the Committee on the Elimination of Racial Discrimination

May 2026

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## 1. Key findings

- The Scottish Government has not set out clearly how it plans to act in response to the Committee's findings. The SHRC has not seen sufficient evidence to conclude that the Scottish Government has undertaken the necessary steps to ensure widespread dissemination of the Concluding Observations issued by the UN Committee on the Elimination of Racial Discrimination ('the ICERD Committee').
- Beyond the specific follow-up areas identified by the Committee, some other processes have been advanced in Scotland, such as the publication of an Anti-racism Delivery Plan 2026-2030 in March 2026.<sup>1</sup> However, it is regrettable that the Scottish Government did not take the opportunity to align the Delivery Plan with the ICERD Committee's Concluding Observations.
- The SHRC has observed since 2024 a notable shift in how some protests are facilitated by police in Scotland.
- The SHRC is concerned about reports that people in Scotland have been arrested in connection with support for a proscribed organisation, Palestine Action, despite not specifically verbalising support for this organisation. The proscription has been found to be unlawful by the High Court of England and Wales, although this judgment is under appeal by the Home Secretary and no quashing order has yet been issued,<sup>2</sup> meaning that people can still be arrested for showing support for Palestine Action. The appeal hearing took place in late April 2026 and at the time of writing in early May 2026, the judgment has not yet been handed down.
- As Scotland's NHRI, we have acted to remind both Police Scotland and the Crown Office and Procurator Fiscal's Service (Scotland's prosecution service) that they have an obligation to carry out a proportionality assessment in operational decision-making that may cause interference with rights.
- The SHRC has also raised concerns with the Scottish Government about an increasing volume of protests outside hotels housing people seeking asylum and has heard ongoing reports from civil society about the impacts for the safety and wellbeing of people housed in these accommodations.

- The ICERD Committee raised concerns about the application of counter-terrorism strategies. While this is a reserved matter for the UK Parliament, organisations in Scotland have slightly different rules in place to deliver their obligations under the Prevent strategy. Data from Police Scotland shows that referrals under this scheme are rising quite significantly, with extreme right-wing concerns (38 per cent) accounting for the highest proportion of referrals.

## 2. About the SHRC

The Scottish Human Rights Commission (SHRC) is Scotland's "A" Status accredited National Human Rights Institution (NHRI). We are a public body created by the Scottish Commission for Human Rights Act 2006. The SHRC is independent of Government and accountable to the people of Scotland via the Scottish Parliament.

The SHRC is one of three "A" Status NHRIs in the UK, and our mandate extends the promotion and protection of human rights in Scotland. Under the UK's devolution settlement, the responsibility for international treaties and foreign affairs<sup>1</sup> sits with the UK Government. Scotland, however, has the responsibility to implement international treaty obligations domestically.

## 3. Introduction

The UN Committee on the Elimination of Racial Discrimination ('the ICERD Committee') delivered its Concluding Observations Concluding observations on the combined 24th to 26th periodic reports of the United Kingdom of Great Britain and Northern Ireland in August 2024.

On publication, the ICERD Committee designated three recommendations contained in paragraphs 30 (right to freedom of peaceful assembly), 34 (counter-terrorism measures) and 52 (Windrush generation) for follow-up under article 9 (1) of the International Convention on the Elimination of All Forms of Racial Discrimination ('ICERD') and rule 65 of the ICERD Committee's rules of procedure. The UK was to provide written updates on efforts to address the recommendations in these paragraphs within one year of receipt, which it has done.<sup>3</sup>

As the ICERD Committee describes in paragraph 4 of the 2024 Concluding Observations, the UK has a "complex" devolved constitutional structure which "results in a non-uniform application of legislative measures against racial discrimination." This complexity significantly affects the issues in the follow-up, as rules applicable to peaceful assembly are largely but not fully devolved to the

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<sup>1</sup> This includes State human rights reporting obligations

Scottish Parliament, while rules affecting counter-terrorism measures and the status of the Windrush generation are largely but not fully reserved.

For the purposes of this submission, the SHRC limits its comments to matters devolved to Scotland in line with our mandate. While we do comment on reserved matters which affect the enjoyment of rights in Scotland on matters of protest, in respect of counterterrorism and Windrush, our answers are limited to the impact of these matters on Scottish people within the devolved context. The Equality and Human Rights Commission (EHRC) submission considers these issues at UK level.

## 4. Follow-up

### 4.1. Dissemination of Information

After the Concluding Observations were published by the Committee in Sept 2024, the Scottish Government Minister for Equality attended a civil society event in November 2024 where she reflected positively in her public remarks on the review, and suggested further information would be forthcoming on responses. In March 2025 having had no further update, the SHRC wrote to the Equality, Human Rights and Civil Justice Committee to highlight the publication of several sets of Concluding Observations applicable to the UK, including CERD.<sup>4</sup> We also wrote to the Minister for Equalities, explicitly seeking assurances that an official response to the CERD process would be forthcoming.<sup>5</sup>

Since these letters were issued in March 2025 the Scottish Government has launched a publicly available human rights tracker tool which captures the CERD recommendations that are relevant to Scotland.<sup>6</sup> Beyond this however, it has not, in our view, taken broader steps to ensure widespread dissemination of the Concluding Observations, nor has it responded to the SHRC's recommendation that the Scottish Government set out how it plans to act in response to the Committee's findings.

However, beyond the specific follow-up areas identified by CERD, some processes have been advanced on other matters. For example, in March 2026, the Scottish Government published an Anti-racism Delivery Plan 2026-2030<sup>7</sup>, advancing at least in part the Committee's recommendation in paragraph 18 ("The Committee recommends that the State party adopt further comprehensive policies and action plans, or strengthen existing ones, to tackle racial discrimination and inequalities").

If fully implemented, some of the specific commitments in the Delivery Plan would address the ICERD recommendations. For example, the Anti-Racism Education Programme described contributes to Committee's recommendations on education

outcomes in paragraph 46 of the Concluding Observations. However, this Delivery Plan does not explicitly cross reference between the recommendations from the ICERD review and its actions. This is a missed opportunity to demonstrate implementation and embed the Committee's recommendations directly into Scottish Government policy work.

In March 2026 the Scottish Government also launched the first phase of a digital human rights tracker tool, which enables members of the public to view and arrange Concluding Observations by thematic or population interests.<sup>8</sup> This tool includes the recommendations made by the ICERD Committee in 2024, improving visibility opportunities for intra-treaty alignment to promote awareness and accountability for implementation. Future functionality will be for the next Scottish Government to determine.

## **4.2. Information relating to paragraph 30 - the right to freedom of peaceful assembly**

The Scottish Government sets out the legal framework applying to different forms of assemblies in Scotland in its 2024 guidance on Marches, parades and static demonstrations.<sup>9</sup> This framework does not include Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023, which are the primary subjects of paragraph 30. However, paragraph 30 highlights broader issues with restrictions on protest in practice and asks the State to "take all measures necessary to ensure the exercise of the right to freedom of peaceful assembly without any discrimination."

The SHRC is concerned about reports that people in Scotland have been arrested in connection with support for a proscribed organisation, Palestine Action, despite not specifically verbalising support for this organisation. We note that concerns have been raised by international and domestic human rights experts, including the UN High Commissioner for Human Rights, about the potential 'chilling effect' the proscription of Palestine Action could have, and disproportionate restrictions to rights protected by Articles 10 and 11 of the European Convention of Human Rights (ECHR).<sup>10</sup>

In August 2025, we wrote to Police Scotland and the Crown Office and Procurator Fiscal Service (the Scottish Prosecution Service) highlighting the importance of a human rights-based approach to the policing of peaceful protestors following the proscription of 'Palestine Action' under the Terrorism Act 2000.<sup>11</sup> The SHRC's letter notes that the operationalisation of policing and law enforcement practices as well as prosecution policies affect devolved areas. The letter sought to remind both agencies of their obligations under Article 10 and Article 11 of the ECHR when considering

individual actions. This requires strict oversight and explicit proportionality assessment in operational decision-making that may cause interference with rights. We received responses from both the Lord Advocate and Police Scotland in August 2025, acknowledging the importance of the right to peaceful protest and highlighting guidance<sup>12</sup> issued to Police Scotland in July 2025 on the arrest and liberation of individuals involved in protest. Both letters note however, that prosecutors and police are required to apply legislation as determined by elected parliamentarians.

At time of writing, the proscription of Palestine Action has been declared unlawful by the High Court of England and Wales, although this judgment is under appeal by the Home Secretary and no quashing order has yet been issued. The appeal hearing took place in late April 2026 and at the time of writing in early May 2026, the judgment has not yet been handed down.

A separate petition for judicial review was lodged in the Scottish Courts and given permission to proceed in January 2026, with a substantive hearing scheduled for June 2026.<sup>13</sup>

In the High Court case, the Court considered the initial decision to proscribe Palestine Action had not been proscribed by law in accordance with the UK Government's own policy approach and that proscription in this case was a disproportionate interference with Article 10 of the ECHR, which protects freedom of expression and Article 11 of ECHR, which protects freedom of association and peaceful assembly.

An appeal in this case was heard at the end of April 2026, and the proscription remains in place while the appeal is ongoing. Since the High Court's judgment, more arrests linked to support are being reported in the media, although it is unclear whether any new arrests have been made in Scotland since February. Police Scotland told media that "As the court has ruled that the proscription order will remain in place, Police Scotland will continue to enforce the law proportionately. Officers will be provided with appropriate guidance in order to adhere with legislation and in consultation with the Crown Office and Procurator Fiscal Service."<sup>14</sup>

Police Scotland have thus far not published arrest data. Data collected by investigative journalists suggests that 103 reports of terrorism charges associated with the banned direct action group had been received by the Crown Office and Procurator Fiscal Service (COPFS) in Scotland by the end of February 2026, although they were unable to determine what proportion of charges led to convictions.<sup>15</sup>

At the same time as the SHRC has expressed concern about disproportionate interference with freedom of expression and assembly, in our published correspondence, we have also sought to remind Police Scotland and the Prosecution Service that these freedoms are not absolute, and the rights of others must be appropriately balanced.

Throughout 2025, the SHRC has observed and received reports of increasing numbers of protests outside hotels in Scotland housing people seeking asylum and heard reports from civil society about the impacts for the safety and wellbeing of people housed in these accommodations. The SHRC notes that the rights of the asylum seekers whose de facto homes are being protested outside is a particular consideration in this context. These individuals have little choice about where they are accommodated; though our work on economic, social and cultural rights more broadly we have raised concerns about the impact of No Recourse to Public Funds (NRPF) conditions on the safety and dignity of asylum seekers.<sup>16</sup> The SHRC has also received reports from civil society organisations via the Chair of increased levels of racist abuse and harassment over the past year which we have highlighted in our State of the Nation report.<sup>17</sup>

The Chair of the SHRC wrote to the Chief Constable, copied to the Lord Advocate and Scottish Ministers, in November 2025, stating that "the safety of individuals and the community must be a key consideration in the proportionate policing of such activities", and noting that other aspects such as the hotels being people's homes and supposed place of safety (Article 8 ECHR) and the principle of non-discrimination (Article 14 ECHR) must also feature prominently in any proportionality assessment to inform a policing response.<sup>18</sup>

### **4.3. Information relating to paragraph 34: counter-terrorism measures**

Much of the information in the section above relating to arrests connected to Palestine Action is relevant to the Committee's concerns about the application of counter-terrorism strategies contributing to an "atmosphere of suspicion towards members of Muslim communities and continu[ing] to have a negative impact on the exercise of their rights to freedom of expression, education, health, freedom of religion and freedom of peaceful assembly."

The UK's national programme Prevent is the key strategy aimed at stopping people becoming terrorists or supporting terrorism, which is accompanied by statutory guidance for public authorities under Section 29 of the Counter-Terrorism and Security Act 2015.<sup>19</sup> Separate guidance exists for Scotland.<sup>20</sup>

As noted above, responsibility for the creation of these strategies sits at UK level; however, agencies in Scotland are responsible for their application. The ways in which Prevent is delivered and interacts with other devolved areas such as the justice system in Scotland can be quite different to other parts of the UK, and some differences are reflected in the Guidance for Scottish Bodies.<sup>21</sup> For example, in Scotland there is no obligation to promote 'British Values' as part of the Prevent obligations as there is in England and Wales<sup>22</sup>. Within the higher education context, Amnesty UK have highlighted the lack of "oversight equivalent... [in Scottish universities when compared] to that of the Office for Students in England and Wales".<sup>23</sup>

While the data does, as the State report suggests, indicate that there are a lower number of referrals to Prevent per capita in Scotland compared with England and Wales, the referral data published by Police Scotland also shows that referrals have increased significantly over the past two years, from 87 referrals in 2022/23 to 114 referrals 2023/24 and 162 referrals in 2024/25.<sup>24</sup> The proportion of referrals considered to require support via Prevent Case Management has also increased from 49 percent in 2023/24 to 58 per cent in 2024/25.

It is difficult to draw any conclusions about the reasons referrals are increasing from the Police Scotland data alone. In 2024/25, extreme right-wing concerns (38 per cent) accounted for the highest proportion of referrals (32 per cent in 2023/24 and 36 per cent in 2022/2023) and the proportion of concerns relating to Islamist extremism have remained relatively stable in 2024/25 (14 per cent) and 2023/24 (17 per cent) although higher than the proportion recorded in 2022/23 (11 per cent).<sup>25</sup>

In addition to the matters, we have raised directly with government and elsewhere, SHRC is aware of civil society activity, including direct engagement with the Scottish Government on Prevent related activities and its potential incompatibility with international human rights requirements.<sup>26</sup>

The SHRC notes that the Scottish Government states in its contribution to the follow-up report that its approach to counter terrorism is "sharing the same overarching strategic objectives as the rest of the UK."<sup>27</sup>

#### **4.4. Information relating to paragraph 52: Windrush generation**

The SHRC has no information to provide to the Committee on devolved specifics relating to the Windrush Generation in Scotland.

### **5. Conclusions and NHRI recommendations**

The SHRC welcomes this opportunity to comment in response to the information provided by the UK, including Scottish Government as part of the ICERD Committee's follow-up. We note that the issues selected for the follow-up procedure are predominantly issues reserved to the UK Government, although they clearly have significant impacts for people in Scotland.

That being the case, the SHRC considers that there are actions that the Scottish Government and other devolved agencies could do to support the implementation of these recommendations and the Concluding Observations more generally. These include:

- Creating a clear, accessible and transparent mechanism to set out how the Scottish Government is responding to the Concluding Observations, as they have now done for those issued by the Committee on Economic, Social and Cultural Rights.<sup>28</sup> This process can encourage further detailed consideration of the impact of the Concluding Observations in a devolved setting and enable many Scottish voices to contribute further.
- Ensure that devolved agencies, including law enforcement bodies are supported to carry out robust proportionality assessments to uphold applicable human rights standards in all operational decision-making.
- Use their role to advocate to the UK Government for the cessation of practices or changes to policy or law that are leading to human rights denials.

This report was submitted to the United Nations Committee on the Elimination of Racial Discrimination on 11th May 2026. All the information in this report was accurate at the date of submission.

## 6. Endnotes

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- <sup>1</sup> Scottish Government (2026) [Anti-racism delivery plan 2026-2030](#)
- <sup>2</sup> [R \(Ammori\) v Secretary of State of the Home Department Case No:AC-2025-LON-002122](#)
- <sup>3</sup> [Committee on the Elimination of Racial Discrimination, \(2025\) Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports CERD/C/GBR/FCO/24-26](#)
- <sup>4</sup> [SHRC \(2025\) Letter to the Equality, Human Rights and Civil Justice Committee: Concluding Observations from the United Nations Committee on Racial Discrimination](#)
- <sup>5</sup> [SHRC \(2025\) Letter to the Minister for Equalities: Implementation of Concluding Observations, United Nations International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#)
- <sup>6</sup> [Human Rights Tracker Scotland](#)
- <sup>7</sup> [Anti-racism delivery plan 2026-2030 - gov.scot](#)
- <sup>8</sup> [Scottish Government Human Rights Tracker](#)
- <sup>9</sup> [Scottish Government \(March 2024\) Marches, parades and static demonstrations: guidance.](#)
- <sup>10</sup> OHCHR (July 2025) Press Release: UK: Palestine Action ban ‘disturbing’ misuse of UK counter-terrorism legislation, Türk warns | OHCHR, 25 July 2025
- <sup>11</sup> [SHRC \(2024\) Letter to COPFS on the policing of pro-Palestine protests and human rights](#)
- <sup>12</sup> COPFS (July 2025) Lord Advocate’s guidelines: liberation of offenders involved in protest | COPFS
- <sup>13</sup> [Craig Murray for Judicial Review of the Terrorism Act 2000 \(Proscribed Organisations Case Ref & Case Name: COS-P1017-25\)](#)
- <sup>14</sup> [The National \(2026\) Police Scotland issues statement after Palestine Action court ruling](#)
- <sup>15</sup> [The Ferret \(2026\) Over 100 Scottish terrorism charges have been linked to Palestine Action. That's more in seven months than all other groups faced in 25 years. 5th April 2026](#)
- <sup>16</sup> [SHRC \(2025\) State of the Nation Report: Economic, Social and Cultural Rights in Scotland; SHRC \(2024\) SHRC submission to UN on ICERD](#)
- <sup>17</sup> [SHRC \(2025\) State of the Nation Report: Economic, Social and Cultural Rights in Scotland](#)

- <sup>18</sup> [SHRC \(2026\) Letter to Police Scotland: Policing of protests at hotels housing asylum seekers](#)
- <sup>19</sup> [Prevent duty guidance: England and Wales \(2023\) - GOV.UK](#)
- <sup>20</sup> [HM Government \(2024\) Prevent duty guidance: Guidance for specified authorities in Scotland](#)
- <sup>21</sup> [UK Government \(2024\) Prevent duty guidance: for Scotland \(accessible\)](#)
- <sup>22</sup> [UK Government \(2023\) Prevent duty guidance: Guidance for specified authorities in England and Wales](#)
- <sup>23</sup> [Amnesty International UK \(2024\) The Prevent Duty and its Chilling Effect on Human Rights: March 2024](#)
- <sup>24</sup> [Police Scotland, Prevent Referral Data](#)
- <sup>25</sup> [Police Scotland, Prevent Referral Data; 2024-25](#)
- <sup>26</sup> [Together Scotland, Letter to the Cabinet Secretary for Justice and Home Affairs](#)
- <sup>27</sup> [Committee on the Elimination of Racial Discrimination, \(2025\) Information received from the United Kingdom of Great Britain and Northern Ireland on follow-up to the concluding observations on its combined twenty-fourth to twenty-sixth periodic reports CERD/C/GBR/FCO/24-26](#)
- <sup>28</sup> [Scottish Government \(2025\) High level action plan in response to the Committee on Economic, Social and Cultural Rights](#)