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25<sup>th</sup> April 2019

Dear Ruth,

In my response to the Committee's report, *Getting Rights Right: Human Rights and the Scottish Parliament* (24 January), I made clear my commitment to engaging constructively with the recommendations put forward by the Committee, and to assisting you in your further deliberations.

In that spirit, I would like to take this opportunity to update you on both historical and forthcoming activity in relation to international human rights treaty reporting, engagement with UN Special Procedures and other analogous activity.

International human rights treaty monitoring features prominently in the Committee's report, notably in relation to proposals to develop, along with other partners, a publicly accessible international treaty monitoring database system (recommendation 12), and to provide a timetable for implementing actions to address recommendations made by the United Nations Human Rights Council following the third Universal Periodic Review (UPR) of the UK in May 2017 (recommendation 8).

As far as the UPR is concerned, it remains my hope that the mid-term report due later this year will be able to look in further detail at a number of specific actions recommended by the Human Rights Council (where these are applicable to Scotland and have been accepted by the Scottish Government). I will provide further information on the timing of the report once I have details from the Ministry of Justice in relation to the development of the UK Government's own mid-term report.

In the meantime, I thought it would be useful to provide the Committee with an insight into the breadth of engagement with international human rights mechanisms that the Scottish Government has undertaken in recent months, and to set out forthcoming milestones in treaty monitoring activity. An annex to this letter also provides a summary of historical activity since 2012 and serves to illustrate the extent of existing engagement with relevant institutions and processes.

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## Overview

As you know, the UK has signed and ratified seven core UN human rights treaties and seven Council of Europe (CoE) treaties. These are listed in Annex A. Compliance with treaty obligations is monitored and examined by the relevant UN and CoE treaty bodies on a cyclical basis.

The UK also participates in the Universal Periodic Review (UPR), which is conducted by the UN Human Rights Council and takes place roughly every five years. It similarly cooperates with UN Special Procedures in fulfilment of their mandates, including by facilitating visits from Special Rapporteurs (UNSR) and responding to requests for information on specific thematic issues.

The Scottish Government actively supports, and participates in, UK engagement with these international human rights monitoring mechanisms, and works closely with Whitehall counterparts to ensure that formal reporting processes (via the UK as the state party) properly reflect devolved policies and actions in Scotland.

## International Human Rights Treaties

In parallel with these formal state party processes we also have an established policy of publishing our own Scottish Government position statements ahead of treaty body examinations and for each cycle of the Universal Periodic Review. For example:

- In December 2017 we published a full Scottish Government response to the recommendations made by the UN Human Rights Council following its 3<sup>rd</sup> Cycle UPR examination of the UK record.<sup>1</sup>
- In May 2018 we published a position statement on action taken in Scotland to implement the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).<sup>2</sup> This was produced in advance of the formal examination, which took place in Geneva on 26 February 2019.
- In January 2019, the SG published its own update on five thematic areas highlighted in UPR recommendations from May 2017.<sup>3</sup> This complements the overall UK update (published on 9 August 2018), to which the SG also contributed.
- On 28 February 2019 we published a position statement<sup>4</sup> in advance of the examination of the UK record under the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), which will take place in Geneva on 7 and 8 May 2019.

These Scottish Government documents seek to address Scottish-specific issues within the overall context of each UN treaty reporting (and UPR) cycle and are explicitly intended to support informed debate in Scotland in relation to compliance with UN human rights obligations.

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<sup>1</sup> <https://www.gov.scot/publications/universal-periodic-review-human-rights-united-kingdom-december-2017-scottish/pages/10/>

<sup>2</sup> <https://www.gov.scot/publications/scottish-government-position-statement-convention-elimination-forms-discrimination-against-women/pages/1/>

<sup>3</sup> <https://www.gov.scot/publications/universal-periodic-review-human-rights-united-kingdom-2017-update-five-thematic-areas/>

<sup>4</sup> <https://www.gov.scot/publications/un-convention-against-torture-cruel-inhuman-degrading-treatment-punishment-position-statement/>

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Our hope is that these position statements will be of direct assistance not just to the Parliament but also to the many civil society organisations that have a close interest in the subject matter of each treaty. They are also intended to assist engagement by wider interests across the public, private and third sectors, and indeed to inform members of the general public. In addition, these position statements contribute more generally to the pool of information available to external observers who wish to know more about Scotland's human rights record and our performance against specific human rights treaty obligations.

The Scottish Government's record in giving effect to the rights set out in CoE treaties is also assessed from time to time by the relevant CoE treaty body.

In October 2018 the CoE Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment carried out a nine day ad-hoc inspection of places of detention in Scotland. The visit included a meeting with the Cabinet Secretary for Justice and the Minister for Older People and Equalities, which took place on 24 October. The Committee's initial findings were notified to the Scottish and UK Governments in November and a Scottish Government response to its preliminary observations was submitted at the end of January. The Committee's full report has now also been received and we will respond in detail. The report is currently confidential (in accordance with Article 11 of the Convention) but the Scottish Government response will be made publicly available, alongside the Committee's report, in due course.

The Scottish Government also contributed to a UK Government report submitted to the CoE Committee of Ministers in December 2018, in relation to provisions in the European Social Charter which relate to children, families and migrants.

## **UN Special Procedures and Treaty Bodies**

Members of the Equalities and Human Rights Committee will be aware of the visit to the UK of the UN Special Rapporteur (UNSR) on extreme poverty and human rights in November 2018. Indeed, several of your members spent time with Professor Alston during his visit to the Parliament.

Professor Alston's visit was, however, only one of a number of formal and informal interactions which the Scottish Government has had with UN Special Procedures, treaty bodies and analogous international mechanisms over the last 12 months.

To provide a flavour of the nature and frequency of Scottish Government engagement with international human rights mechanisms of this kind, you will wish to note the following contacts that have taken place since November:

- Informal meeting between the Minister for Older People and Equalities and the Chair of the UN Committee Against Torture (facilitated by the Scottish Human Rights Commission) in the course of an unofficial visit to Scotland in November 2018.
- Visit of the UNSR on extreme poverty and human rights. Meetings with the First Minister, the Cabinet Secretary for Communities and Local Government, the Cabinet Secretary for Finance, Economy and Fair Work, the Minister for Older People and Equalities, and two roundtable sessions with Scottish Government officials.

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- Scottish Government contribution to a UK submission to the UN Committee on the Rights of the Child concerning a revision to its General Comment on youth justice (Dec 2018)
- Scottish Government contribution to the UK response to a request for information from the UNSR on the independence of judges and lawyers (Jan 2019)
- Scottish Government contribution to the UK response to the UNSR on hazardous waste regarding draft principles on the rights of workers and exposure to hazardous substances (Feb 2019)
- Scottish Government contribution to the UK response to the UNSR on extrajudicial, summary or arbitrary executions regarding use of force by law enforcement officers against persons with psychosocial and/or intellectual disabilities (Feb 2019)
- Scottish Government contribution to the UK response to the UNSR on the rights of persons with disabilities regarding the rights of older persons with disabilities (Mar 2019)
- Scottish Government contribution to the official UK statement to be delivered verbally to the UN Human Rights Council in June following submission of the final report of the UNSR on extreme poverty and human rights (Apr 2019)

Other significant activity over the course of 2018 included visits to Scotland (as part of wider visits to the UK) of two other UN Special Rapporteurs, covering privacy and contemporary racism. As was the case with Professor Alston in November, these visits included meetings with both ministers and officials, as well as with civil society interests in Scotland.

### **Forthcoming Activity**

Over the course of 2019 we expect there to be Scottish Government engagement with the UK Government and with international processes in connection with the:

- Final report of the CoE Committee for the Prevention of Torture on its visit to Scotland in October 2018 (April), followed by an SG response
- Submission of the SG contribution to a UK response to the UN Committee on the Rights of Persons with Disabilities on areas highlighted in its report following the review of the UK in 2017 (April)
- Formal examination of the UK under UNCAT (7-8 May). A senior Scottish Government official will participate in the UK delegation and present information to the UN Committee.
- Submission of the UK periodic report on implementation of the CoE Framework Convention on the Protection of National Minorities (May), including material contributed by the Scottish Government.
- UNSR on extreme poverty and human rights - submission of report to the UN Human Rights Council following his visit to the UK in November 2018 (June).
- UNSR on contemporary racism - submission of report to the UN Human Rights Council following her visit to the UK in May 2018 (June).
- Publication by the UN Human Rights Committee of a list of issues for the forthcoming review (expected in 2021-22) of UK performance under the International Covenant on Civil and Political Rights (ICCPR) (Summer 2019)
- Submission of the SG contribution to the UK periodic report to the CoE Committee of Ministers on compliance with provisions in the European Social Charter relating to employment, training and equal opportunities (October)

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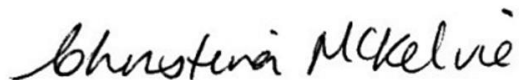
- Submission of the SG contribution to the UK mid-term report under the UPR and publication of a Scotland-specific version of the mid-term report (Autumn-Winter 2019)

[Note: The dates identified above are subject to change and it is possible that other events and activity, for example visits by UN Special Rapporteurs, may be added at short notice]

I hope that the information provided in this letter is helpful to the Committee in planning its own forward business and in giving further consideration to its own role in engaging with the international human rights treaty system.

I would welcome and encourage further discussion by the Committee of the role which the Scottish Parliament can play in supporting Scotland's engagement with international institutions and processes, and in ensuring that Scotland can account successfully for its efforts to ensure that internationally-recognised human rights are respected, protected and fulfilled, and that every member of society can live with human dignity.

Yours sincerely,



**CHRISTINA McKELVIE**

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## INTERNATIONAL HUMAN RIGHTS TREATIES RATIFIED BY THE UK

### UNITED NATIONS<sup>5</sup>

#### Signed and ratified by the UK

- International Covenant on Civil and Political Rights (ICCPR) – last review 2015; list of issues expected Summer 2019; state party report due July 2020
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – last review 2016; state party report due June 2021
- Convention on the Elimination of all Forms of Racial Discrimination (CERD) – last review 2016; state party report due April 2020
- Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) – state party report Nov 2017; SG position statement May 2018; last review Feb 2019; state party report due Mar 2023
- Convention on the Rights of the Child (CRC) – last review 2016; state party report due Jan 2022
- Convention on the Rights of Persons with Disabilities (CRPD) – last review 2017; state party report due July 2023
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (CAT) – state party report Nov 2017; SG position statement Feb 2019; next review May 2019

### COUNCIL OF EUROPE

#### Signed and ratified by the UK

- European Convention on Human Rights (ECHR)
- European Social Charter (ESC)
- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment (CPT)
- European Charter for Regional and Minority Languages (ECRML)
- Framework Convention for the Protection of National Minorities (FCPNM)
- European Convention on Action against Trafficking in Human Beings (CATHB)
- Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention)

#### Signed but not yet ratified by the UK

- Revised European Social Charter (rESC)
- Council of Europe Convention on Preventing and Combatting Violence against Women and Domestic Violence (CPVW – “Istanbul Convention”)<sup>6</sup>

## SCOTTISH GOVERNMENT

April 2019

<sup>5</sup> UN Treaty factsheet available <https://beta.gov.scot/publications/united-nations-treaties-ratified-by-the-uk/>

<sup>6</sup> UK signed the Istanbul Convention in 2012. The SG strongly supports ratification of the Convention. Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



## OVERVIEW OF INTERNATIONAL REPORTING ACTIVITY SINCE 2012

Date	Treaty / Mechanism	Examination / Publication / Visit
May 2012	UPR	Interactive Dialogue at UNHRC (2 <sup>nd</sup> Cycle)
Jan 2013	UNSR	UNSR Assembly/Association (formal visit)
June 2013	UNSR	UNSR Assembly/Association – report on UK to UNHRC
Aug/Sept 2013	UNSR	UNSR Housing (formal visit)
Dec 2013	UNSR	UNSR Housing – Report on UK to UNHRC
Apr 2014	UNSR	UNSR VAWG (formal visit)
Jul 2014	UPR	Mid Term Review (2 <sup>nd</sup> Cycle)
Jul 2014	ICESCR	Position statement (response to recommendations)
Jan 2015	ICCPR	Position statement (in advance of examination)
Mar 2015	FCPNM	UK state party report (including SG contribution)
May 2015	UNSR	UNSR VAWG – Report on UK to UNHRC
July 2015	ICCPR	Formal examination of UK record by the Committee
Sept 2015	UNCRC	Visit by Chair (informal visit)
Mar 2016	ICESCR	Position statement (in advance of examination)
Mar 2016	CRC	Position statement (in advance of examination)
Mar 2016	FCPNM	Advisory Committee visit to the UK (including Scotland)
May 2016	CRC	Formal examination of UK record by the Committee
Jun 2016	ICESCR	Formal examination of UK record by the Committee
Aug 2016	CERD	Formal examination of UK record by the Committee
Nov 2016	CERD	Visit by Chair (informal visit)
Nov 2016	CRPD	CRPD report on UK Welfare Reform – Article 6 (OP-CRPD) inquiry
Dec 2016	CRPD	A Fairer Scotland for Disabled People (action plan)
Dec 2016	FCPNM	SG contribution to UKG response to Advisory Committee visit report
Jan 2017	UNSR	UNSR on Hazardous Waste (formal visit)
Feb 2017	ECMRL	SG contribution to UK report
Apr 2017	UPR	Position statement (in advance of examination)
March 2017	UNSR	UNSR Food (informal visit)
May 2017	UPR	Interactive Dialogue at UNHRC (3 <sup>rd</sup> Cycle)
Aug 2017	CRPD	Formal examination of UK record by the Committee
Oct 2017	CERD	Follow up report
Dec 2017	UPR	Full response (UPR and treaty reviews since 2015)
Dec 2017	CERD	Race Equality Action Plan (action plan)
May 2018	ICESCR	Visit by Chair (informal visit)
May 2018	CEDAW	Position statement (in advance of examination)
May 2018	UNSR	UNSR Racism (formal visit)
May 2018	ECMRL	Telephone session between Committee of Ministers and SG officials
June 2018	UNSR	UNSR Privacy (formal visit)
July 2018	UNSR	UNSRs Food, Waste and Environment (informal)
July 2018	ECMRL	Evaluation report
Aug 2018	ESC	Thematic report (children, families and migrants)
Aug 2018	ECRI	SG contribution to UK interim response to 2 priority recommendations
Sept 2018	CRPD	Follow up report
Oct 2018	CPT	Formal inspection (Scotland only)
Nov 2018	UNCAT	Visit by Chair (informal visit)
Nov 2018	UNSR	UNSR on Extreme Poverty (formal visit)
Jan 2019	UPR	Short update on five thematic areas
Jan 2019	CPT	SG response to Preliminary Observations
Feb 2019	CEDAW	Formal examination of UK record by the Committee
Feb 2019	UNCAT	Position statement (in advance of examination)

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## Abbreviations

<i>CEDAW</i>	–	<i>Convention for Elimination of all Discrimination against Women (UN)</i>
<i>CERD</i>	–	<i>Convention for the Elimination of Racial Discrimination (UN)</i>
<i>CPT</i>	-	<i>Convention for the Prevention of Torture (Council of Europe)</i>
<i>ECMRL</i>	–	<i>European Charter for Regional or Minority Languages (Council of Europe)</i>
<i>ECRI</i>	-	<i>European Commission against Racism and Intolerance (Council of Europe)</i>
<i>ESC</i>	–	<i>European Social Charter (Council of Europe)</i>
<i>FCPNM</i>	–	<i>Framework Convention for the Protection of National Minorities (C of Europe)</i>
<i>ICESCR</i>	-	<i>International Covenant on Economic, Social and Cultural Rights (UN)</i>
<i>ICCPR</i>	–	<i>International Covenant on Civil and Political Rights (UN)</i>
<i>UNCAT</i>	-	<i>Convention against Torture (UN)</i>
<i>UNCRC</i>	–	<i>Convention on the Rights of the Child (UN)</i>
<i>UNCRPD</i>	–	<i>Convention on the Rights of Persons with Disabilities (UN)</i>
<i>UNSR</i>	–	<i>UN Special Rapporteur</i>

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