



The Scottish Parliament
Pàrlamaid na h-Alba

**EQUALITIES AND HUMAN RIGHTS COMMITTEE
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Dear Joan,

**EU ENGAGEMENT AND SCRUTINY OF THE COMMITTEES OF THE
SCOTTISH PARLIAMENT**

Thank you for your letter of 21 December 2017 in relation to the annual reporting process on EU engagement and scrutiny of the committees of the Scottish Parliament. The letter sought information on any work we have conducted in relation to European Commission's work programme as well as the common frameworks and Brexit.

**EU Policy Developments and the European Commission Work
Programme**

We noted the reference to development of the European Pillar of Social Rights, which was signed up to by EU, the European Parliament and the Commission on 17 November 2017 in the Commission's work programme "*A deeper and fairer Economic and Monetary Union*". It is understood this Pillar aims to promote more effective rights for citizens. The principles of the Pillar fall into three categories of relevance to our remit and our work on Brexit. These are:

- Equal opportunities and access to the labour market e.g. gender equality and inclusive education and training
- Fair working conditions e.g. work life balance

- Social protection and inclusion e.g. Children from disadvantaged backgrounds have the right to specific measures to enhance equal opportunities

In our report in July 2017, on prejudiced-based bullying and harassment of children and young people in schools, following a visit to West Dunbartonshire:

“It was noted that West Dunbartonshire contains areas of high deprivation, but it was noted that poverty is not a protected characteristic under the Equality Act. However, teaching staff expressed the view that pupils are often bullied because they can’t “afford the latest things”. Poverty is one of the leading reasons children may suffer bullying at school.”¹

We also recently commented on the Scottish Government’s Child Poverty Delivery Plan and how it could support and compliment the series of actions being taken to address the issues raised in our report on bullying in schools. We highlighted actions to reduce child poverty would support the improvement of children’s mental health and wellbeing in the context of the educational environment, as these will ultimately impact on life outcomes.

Also related to this aspect of the Commission’s work programme is our monitoring of the socio-economic duty under section 1 of the Equality Act 2010. The intention of the duty is to require specified public authorities, when making strategic decisions, to consider how their decisions might help reduce the inequalities associated with socio-economic disadvantage. The Scottish Government consulted on the duty between 18 July 2017 and 12 September 2017. We are aware there have been some concerns around implementation of the duty and how this will impact on the implementation of the existing Public Sector Equality Duty. We expect to consider shortly the Regulations which name the public authorities subject to the duty.

Impact of UK’s withdrawal from the EU on equalities and human rights in Scotland

During the past year we have held two evidence sessions on Brexit. The session on 27 April 2017² focused on relevant submissions to the Culture, Tourism, Europe and External Relations Committee’s call for evidence on its inquiry into EU referendum and its implications for Scotland³ and the views of the third sector. Whilst the evidence session on 30 November 2017⁴ looked at

¹ EHRiC 5th Report 2017 (Session 5): It is not Cool to be Cruel: Prejudice-based bullying and harassment of children and young people in schools – page 48:
http://www.scottish.parliament.uk/S5_Equal_Opps/Inquiries/EHRiC_5th_Report_2017_SP_Paper_185.pdf

² EHRiC, 27 April 2017, Official Report:
<http://www.parliament.scot/parliamentarybusiness/report.aspx?r=10914&mode=pdf>

³ CTEER Committee’s Inquiry into, EU referendum and its implications for Scotland
<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/100259.aspx>

⁴ EHRiC, 30 November 2017, Official Report:

what stakeholders believed should be included in the European Union (Withdrawal) Bill, in order to provide continued protection for equality and human rights in the UK.

We have been monitoring developments and trying to seek further clarity on what Brexit will mean for the equalities and human rights in Scotland. We have heard concerns from various witnesses including academics, statutory bodies and third sector organisations. These are summarised below:

- The Charter of Fundamental Rights of the European Union, which includes a broad range of civil, political, economic, social and cultural rights will no longer apply post-Brexit.
- The loss of protections under the Charter of Fundamental Rights.
- The lack of recourse to the ECJ and its opinion in terms of advancing equalities and human rights protections post-exit.
- There might be relitigation of UK court decisions which have been based on ECJ rulings.
- Treatment of EU citizens who seek to remain in Scotland post Brexit (including issues around community cohesion).
- EU funding for third and voluntary sector which support equalities and human rights across Scotland.
- Equalities might be overlooked as the focus of debate will be on the economic issues.
- Lack of future funding under European Structural Funds to third sector projects to provide equalities and human rights issues advocacy services.
- Clarity around the list of powers returning from the EU that intersect with the devolution settlement in Scotland (111 powers listed), in particular, what is meant by number 46 - Equal Treatment Legislation.

We also intend to continue our focus on Brexit in 2018, by taking opportunities to consider relevant issues through our inquiry work. In particular, our inquiry into Human Rights and the Scottish Parliament⁵ will consider how the Parliament can protect and advance human rights in a post-exit Scotland. We are also seeking authority to visit Strasbourg as part of our inquiry and hope to meet with the representatives of the Constitutional Affairs Committee (AFCO) and the DROI sub-committee on human rights.

<http://www.scottish.parliament.uk/parliamentarybusiness/report.aspx?r=11241&mode=pdf>

⁵ EHRIC inquiry into 'Human Rights and the Scottish Parliament':

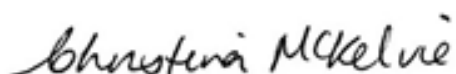
<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/106453.aspx>

Common frameworks

At present we have not conducted any work in relation to the development of common frameworks as defined in the Joint Ministerial Committee (EU Negotiations) Communique of 16 October 2017. Although, as you are aware, we have begun to investigate what is meant by 'equal treatment legislation' and this might lead us to consider the common framework in this respect. We have written a letter⁶ to the Scottish Government's Minister for UK Negotiations on Scotland's Place in Europe and await his response before agreeing our next actions.

We welcome the proposal by EU reporters to hold a meeting on Brexit and the work being undertaken by individual committees and would be pleased to share the work we have undertaken on equalities and human rights issues.

Yours sincerely,



Christina McKelvie
Convener
Equalities and Human Rights Committee

cc: Annie Wells, European Union Reporter

⁶ Letter from the Convener to the Minister for UK Negotiations on Scotland's Place in Europe: http://www.scottish.parliament.uk/S5_Equal_Opps/General%20Documents/Convener_to_Minister_on_Brexit_22012018.pdf