

Submission from Equality and Human Rights Commission

Introduction

The Equality and Human Rights Commission is the National Equality Body (NEB) for Scotland, England and Wales. We work to eliminate discrimination and promote equality across the nine protected grounds set out in the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We are an “A Status” National Human Rights Institution (NHRI) and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC). This is a unique situation internationally and one which reflects the complexity of the devolved settlements across the UK.

We welcome the Equalities and Human Rights Committee (EHRiC) inquiry into human rights and the Scottish Parliament, looking particularly at participation and engagement, parliamentary procedure and process, and accountability. Parliament plays a vital part in securing and enhancing human rights in Scotland and, as a State body, has clear obligations to uphold human rights.

Our response will focus on parliamentary procedure and process, in particular on some of the further steps the Scottish Parliament could take to ensure that human rights are being taken into consideration when policies are created and legislation is developed; and accountability, i.e. what the Scottish Parliament could do better to ensure that international human rights requirements are being met in Scotland.

Parliamentary procedure and process

We understand that EHRiC actively engaged with the SHRC on the issue of Parliamentary processes and accountability, including a specific session with the SHRC on this issue during 2017. We would highlight and endorse the SHRC’s work and recommendations, especially the SHRC’s submission to the Commission on Parliamentary Reform looking at the role of Parliament.¹ We would also like to highlight the importance of the Belgrade Principles, which provide guidance on how NHRIs and Parliaments should interact and cooperate.

Generally, the Commission would encourage the Committee to integrate the concluding observations and recommendations of the UN’s UPR report and the various UN Committees into their general considerations of policy, as they conduct their work programme.

It is important that a wider understanding of human rights principles and of the importance of the international conventions is embedded across Parliament and not just the EHRiC. The Commission would encourage subject specific Committees of the Scottish Parliament to use international human rights treaties as the basis for their analysis of gaps in protection that need to be addressed in domestic policy and

¹ Scottish Human Rights Commission (2017), *Submission to the Commission on Parliamentary Reform*. Available at: https://test123582.files.wordpress.com/2017/02/cpr_032_scottishhumanrightscommission1.pdf [accessed on 14.03.2018].

law, and the shadow reports of the statutory Commissions and Civil Society Organisations to inform their deliberations.

The follow up work linked to Treaty Monitoring (the work linked to international human rights treaties), especially around the implementation of recommendations and addressing concluding observations, should involve a clear national and cross-departmental mechanism. Establishing clear aims and objectives with specific deadlines in consultation with key stakeholders is vital in order to be able to monitor progress in an effective and consistent manner. While this is discussed further below, parliamentary procedures and processes will need to be amended to properly account and provide adequate resources for this Treaty Monitoring work.

Such a national and cross-departmental approach will need to be underpinned by adequate and relevant training to ensure that departments, staff and stakeholders have a good understanding of equality and human rights, and have the resources and skills in order to implement this work.

We further suggest that the EHRiC looks at increasing the use of equality and human rights impact assessments across the Scottish Parliament and Government when developing and implementing policies or legislation. The EHRC and SHRC had a joint project that examined the use of equality and human rights impact assessments (EQHRIAs) and developed resources for public bodies.² The EQHRIA project piloted this joint impact assessment model with two partner organisations, Fife and Renfrewshire Councils, and contributed to the development of ideas and also to the road-testing of such approaches. We believe that EQHRIAs have the potential to enable equality and human rights thinking to be embedded into the policies, practices, procedures and priorities of public bodies.

Moreover, the Parliament should also review and improve its procedures and processes based on their impact on equality and human rights on a regular basis.

Accountability

Our experience has been that Scottish Government departments tend to put more energy into reporting to, and examination by, the UN, and less into the follow up of UN Concluding Observations. One of our continuing challenges is therefore to develop and maintain momentum for implementation by Government. We see Parliament as having a vital role in this. Regular meetings, for example, with legal advisers, Committee staff and civil servant representatives of those Government departments responsible for treaty reporting and implementation allow an exchange of information and discussion of potential follow up to help foster the Government's further engagement with human rights treaties.

Committees can use UN recommendations and the evidence that they receive on these issues as a means of tracking progress towards the Scottish Government's adoption of and compliance with, internationally recognised standards. We would expect that the EHRiC and other relevant committees would consider these equality and human rights issues and follow up on the specific recommendations. As

² The Scottish Human Rights Commission (2018), *Equality & Human Rights Impact Assessment*. Available at: <http://eqhria.scottishhumanrights.com/> [accessed on 15.03.2018].

mentioned above, EHRC suggests that clear aims and objectives with specific deadlines are developed in consultation with key stakeholders in order to be able to monitor progress in an effective and consistent manner.

In line with Human Rights Council Resolution 35/29,³ the EHRC would also recommend working together with national and international partners to enable the Scottish Parliament to learn from good practice and to enable and encourage an increased understanding and incorporation of human rights across Parliament from Committees to individual MSPs and their staff.

As the Committee will know, the wider incorporation and enhancement of human rights in Scotland is also currently being examined by the First Minister's Advisory Group on Human Rights Leadership. We would expect the EHRC and other Parliamentary Committees to actively engage with the recommendations and comments of the Advisory Group.

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³ UN Human Rights Council (2017), *Contribution of parliaments to the work of the Human Rights Council and its universal periodic review*, 19 June 2017, A/HRC/35/L.24. Available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/35/L.24 [accessed on 07.03.2018].