

SHRC

Scottish
Human Rights
Commission

Universal Periodic Review of Human Rights

The Scottish Government and Scottish
Parliament must do more as protectors
and guarantors of human rights

Participation

Accountability

Non-discrimination

Empowerment

Legality

December 2016

About the Universal Periodic Review

Every four to five years, Member States of the United Nations assess each other's progress on human rights through the Human Rights Council. The Council then makes a series of recommendations to the government of the country being assessed. This is called the Universal Periodic Review (UPR).

The UPR means that Scotland and the UK's performance on human rights is examined against the requirements of international human rights treaties and commitments. The UK is set to be reviewed for a third time in May 2017. The UN will set out its final findings and recommendations later in 2017.

As Scotland's national human rights institution the Scottish Human Rights Commission has a distinct role in the review process. We contribute evidence, support civil society organisations to take part in the process, and have speaking rights at the Human Rights Council.

The Scottish Parliament and Scottish Government must go further to protect and promote human rights

Evidence submitted by the Scottish Human Rights Commission to the latest Universal Periodic Review of Human Rights (UPR) of the UK by the United Nations (UN), shows that a number of international human rights standards and recommendations have not yet been met. Significant challenges continue to be felt where it really matters – in the reality of too many people’s day-to-day lives.

In its submission to the UN, the Commission makes recommendations calling on the Scottish Government and the Scottish Parliament to address the issues within their devolved responsibilities and go further to prove their commitment to universal human rights by:

- 1** Incorporating all UN human rights treaties by strengthening their enforceability in law.
- 2** Taking a human rights based approach – putting the standards and principles of human rights at the heart of policy making, spending decisions, monitoring and accountability of all public bodies and the exercising new powers devolved to Scotland.
- 3** Committing further to strengthening Scotland’s National Action Plan on Human Rights (SNAP), which enables civil society and people with lived in experiences of human rights issues to work together to advance human rights in Scotland.
- 4** Addressing specific human rights issues still faced by a number of groups in Scotland including Gypsies & Travellers, people accessing social care services and those in detention.

What can be done: recommendations for action

In its role as a human rights guarantor, the Scottish Parliament has an obligation to oversee more effective national implementation of UPR recommendations. However there has been limited progress since the last review in 2012.

In its full submission the Commission makes 24 specific recommendations. Here, we highlight four priority issues for both the Scottish Government and Scottish Parliament.

1. Incorporating all UN human rights treaties

In a speech on Human Rights Day 2015, First Minister Nicola Sturgeon recognised that making international human rights treaties enforceable in domestic law is an “important part of the debate in ensuring people’s rights are at the heart of everything government does.” However, there has been no further incorporation of international human rights treaties since the previous UPR in 2012.

Human rights laws, which reflect and legally protect the underlying principles of dignity, fairness and equality, should underpin how the Scottish Government and Scottish Parliament respond to challenges at the forefront of people’s lives.

Addressing inequality and realising people’s rights, such as the right to an adequate standard of living, the right to education, housing and healthcare services, must be a priority for the Scottish Government, according to the international framework of human rights laws that the UK has signed and formally agreed to.

The Commission therefore recommends that the Scottish Government:

- ✦ ensures policies and procedures are consistent with all international human rights laws;
- ✦ continues its fight to retain the Human Rights Act 1998;
- ✦ incorporates all UN, EU and Council of Europe human rights treaties into Scots law;

- + strengthens the enforceability of international human rights treaties in Scotland; and
- + incorporates the UN's Sustainable Development Goals and Paris Climate Change targets into Scotland's National Performance Framework for all public authorities.

2. Taking a human rights based approach

Taking a human rights based approach is about making sure that people's rights are put at the very centre of policies and practices. The Scottish Government and the Scottish Parliament have voiced support for this approach at a high level, however more needs to be done to ensure a gap does not open up between what they say they will do to protect people's rights, and the reality experienced by people on the ground.

In particular, it is important that the Scottish Government and Scottish Parliament take a human rights based approach in relation to:

- + Policy making and spending decisions (particularly those that affect vulnerable groups).
- + The new powers devolved to Scotland in relation to social security and taxation.
- + The development of the Scottish Government's ten year mental health strategy.
- + Introducing and championing measures to reduce inequalities including the educational attainment gap
- + Strengthening support for those with human rights issues such as those living in poverty, ethnic minority groups, disabled people, Gypsies and Travellers, refugees, migrant workers, people receiving social care, victims of human trafficking and people in detention.
- + Improving monitoring, data collection, reporting and staff training around specific key issues such as human trafficking and hate crime.

The Scottish Parliament also needs to:

- + Increase its ability to act as a human rights guarantor – holding Government and other public bodies to account, and embedding human rights in their own work.
- + Ensure that the Scottish Commission for Human Rights has adequate funding to enable it to fulfil its mandate.

3. Strengthening Scotland's National Action Plan for Human Rights (SNAP)

Central to the human rights based approach is empowering and supporting those with lived experience of human rights issues to participate in the development of policies and spending decisions. As an international example of best practice in making this a reality, it is important that the Scottish Government fully implements and resources SNAP.



4. Addressing specific human rights issues

There are a number of areas where improvement is required to address real issues faced by specific groups of people in Scotland including gender equality, children's rights, race religion and belief and social care.

Rights of people receiving social care

Gaps continue to be felt where it really matters:

- ✦ A recent audit of local authorities' progress in implementing Self Directed Support concluded that local authorities still have a substantial amount of work to do.
- ✦ Since 2012, social care charges have increased on average by 20% (2016 Inclusion Scotland).

What can be done:

- ✦ Local authorities must be given adequate support for people to exercise choice and control in accessing the care and support they require.
- ✦ Gaps in the implementation of self-directed support must be addressed to ensure people living in social care have choice and control.
- ✦ A national independent Commission on social care funding should be established urgently.

Rights for Gypsies and Travellers

Gaps continue to be felt where it really matters:

- + Scottish Gypsies and Travellers are still experiencing discrimination and poorer outcomes in health, education and employment.

What can be done:

- + A comprehensive implementation plan, which ensures real actions and the delivery of resources consistent with international human rights standards, is needed to reconcile the human rights of Gypsies and Travellers and settled communities.

Rights of people in detention

Gaps continue to be felt where it really matters:

- + 15% of the prison population is detained while awaiting trial.
- + Overcrowding, mental health and access to treatment while in detention remains a concern.
- + People continue to be held in immigration detention centres longer than necessary.

What can be done:

- + The Scottish Government should increase and promote the use of alternatives to detention, rehabilitation and reintegration of the offender.
- + Places of detention must comply with the protection of rights provided by international law, including access to adequate health services.
- + The UK should set a statutory time limit for immigration detention and judicial oversight of detention.

For more information

View the Commission's full submission and find out more about the UPR at:

<http://www.scottishhumanrights.com/international/universal-periodic-review>

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