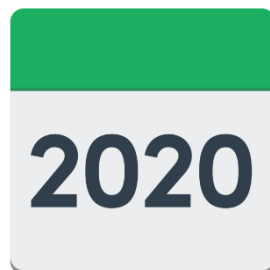
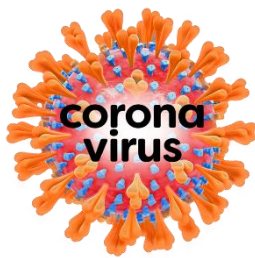


# How has coronavirus affected social care and human rights?



# What is this report about?



The Scottish Human Rights Commission tells people about human rights.

It protects human rights for everyone in Scotland.



It has powers to:

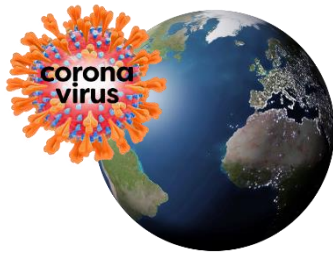
- do research – finding facts, figures and information about a subject
- check and report on how human rights are being respected, protected and used.



The Commission has looked at how the coronavirus pandemic has affected the rights of:

- people who get care at home
- people who get support in the community
- unpaid carers
- people who work in social care.





A pandemic is a disease that has spread across the whole world.



The report has 24 recommendations.

A recommendation is what we think should happen.

Some of the recommendations must happen as soon as possible.

## Human rights and social care

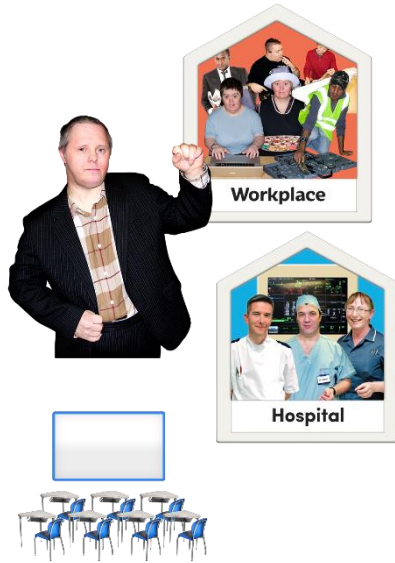


Social care is the personal care and practical help for people who need support with daily living because they have an illness or disability.



Social care should be:

- good quality
- support people in the way they need
- be easy to get
- support people's rights.



Social care helps people to get many of their other rights, including:

- family life
- health
- education
- employment
- and independent living in the community.

## What information did the Commission look at?

We spoke to people who work in:



- social care and mental health
- the law and advocacy
- disabled people's organisations
- carers' organisations.



We looked at Freedom of Information requests – where anyone can ask for information that is kept by a public service organisation.



We also looked at surveys and reports from other organisations.



The Commission is very worried about people whose social care support has been cut or taken away.



It could make a big difference to their rights now and in the future.



The coronavirus pandemic has shown that social care services were not working well.

Services have not been able to give people the support that is best for them.



Changes in the law because of the pandemic have not been explained well.

It has not been clear how the law has been used.



There have not been enough checks on how the law is working.



The way that decisions are made about social care should change.

People's rights should be at the centre of making decisions.



Human rights laws should be part of the way social care is provided.



Health and social care organisations should:

- make sure there are people and organisations who are responsible for making things happen



- spend money in the right way.

# Recommendations – what we think should happen.

## Starting care and support services again.



1.  
The Scottish Government and local councils should agree to start care and support up again.

It should be at least at the level it was at before the coronavirus pandemic.



People should get a full assessment of their support needs if they need more support because of coronavirus and lockdown.



The new coronavirus laws should not be used to change people's support packages that were in place before January 31st.



2.  
Councils and Health and Social Care Partnerships must give people the same care package they had before the coronavirus pandemic.



They must give people an assessment if their needs have changed.



2. Many people have been supported by their family during the coronavirus pandemic.

Organisations must not think that family support can keep going without more help.



Disabled people, family carers, older people and children and young people must be told how their care package will be started again.

They must be told in a way they understand and on time.



4. Scottish Government guidance says that people who have not had a social care assessment or it has not been completed must have a review before 6 weeks have passed.





If this cannot happen, councils should be clear with people and their families when a full assessment will happen and how this will change their care costs.

## Being involved in making decisions.



5.

The Scottish Government and councils should have guidance on how to make emergency decisions about social care.

The guidance should:



- protect people's rights and have them at the centre of all decisions

- make sure people are involved in making decisions



- be clear about how decisions are made.

- make sure that rights that are respected now should not get worse



- give the right support that is needed

- treat everyone equally



6.  
If there are emergency situations in the future and there is not enough money, people must be involved in decisions about cutting their care packages.



This is most important where people need support to make decisions or another person has power of attorney or is a welfare guardian.

## **Making sure people learn from what has happened.**



7.  
The Scottish Government should collect facts and figures about how and when care and support has been stopped.



This will help the social care sector to work well if the virus gets worse in the winter when people also get flu.



An inquiry is an investigation into what has gone well and what could be better.

If there is any inquiry into the pandemic it must say how the rights of people who use social care have been affected.



The Commission has also looked at people's rights in care homes.

9.

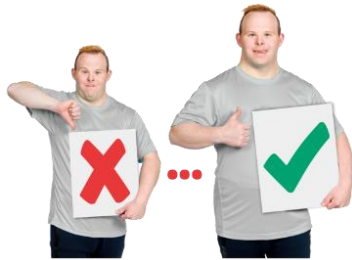
The Scottish Government should publish information about:



- which Health and Social Care Partnerships and councils have used the new coronavirus laws
- which are planning to use them
- how they have chosen to use the powers or not.

This will help us to see why and how these laws are used in the future.

## Social care services with human rights at the centre.



10.

The Scottish Government should change social care services so they are a way for people to get their human rights.

They:

- must be made better
- have human rights at the centre
- make changes in laws
- change:



- work policies
- the way money is used
- and the way people work.

## Using human rights to decide how money is used.



11.

The Scottish Government should have human rights at the centre of how they decide what money is spent on public services.

It should look at the rights of older and disabled people.

This could change how money is used and make sure people have their rights.

## Laws



12.

The Scottish Government should work with councils who are using or have used the laws so get information on people who have been affected by the coronavirus laws.

The Commission thinks the Scottish Government should publish this information so people can see how these laws are being used.





13.

The Scottish Government should get information about people, families and carers affected by coronavirus laws to understand their experiences and worries about care and support.



14.

The Commission agrees with the Scottish Government guidance on social care assessments.

There must be assessments for people who did not get a full assessment because the law was changed.



Reviews for adults who cannot make decisions for themselves, should follow the rules of the Adults with Incapacity Act and the recommendations of the United Nations Convention on the Rights of Persons with Disability.



Councils and Health and Social Care Partnerships should clearly communicate with people and their families to tell them when an assessment will happen.



15.

The powers under the coronavirus laws should not be used for people who had an assessment and a care and support package before 31st January 2020.



People must have an assessment before their care and support package is changed.



16.

The coronavirus laws should only be used for the shortest time possible.

These laws can affect the length of guardianship orders and chances for people to get them changed.



17.

If someone has a welfare power of attorney or a welfare guardian, councils must get in touch with that person to talk about changes to a care package.

This makes sure people are kept safe and their rights are respected.



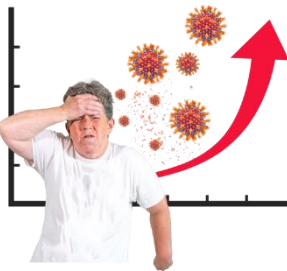
This should happen even when staff are under a lot of stress or when there is not much time.

## Guidance.



18.

People who know a lot about social care, including disabled people and unpaid carers, should be involved in changing and making new guidance in the future.



They should be involved in planning for future crises, for example if coronavirus starts to spread again.



19.

A review is when something is assessed to see what is working well and what could be better.



The Scottish Government should have a review to see if decisions about social care in the pandemic could have been done in a different way.



## Personal Protective Equipment and Testing.



20.

The Scottish Government should make sure personal protective equipment and testing is available to everyone who gets or gives social care.

## Workforce



21.

Social care staff should be able to get support for their mental health and trauma support because of their experiences of the coronavirus pandemic.



Trauma means someone has been under a lot of stress when bad things have happened.

## Convention on Rights of Persons with Disabilities



22.

The United Nations Convention on the Rights of Persons with Disabilities Convention says that all disabled people must have all human rights and freedoms.

Their rights must be protected.



The Convention should be put into Scottish law.

This would make policies better and change the way services are given to people.



23.

Putting the Convention into Scottish law would make sure councils follow Convention rights into decision making.

It would mean councils had to follow what the Convention says.



This would make sure councils and government work in the same way.

It would also make it easier for people to question councils about social care decisions.



24.

The National Taskforce on Human Rights Leadership looks at ideas for new human rights laws in Scotland.

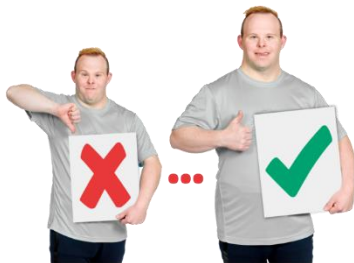
It should look at putting the Convention into Scottish law.

## And finally...



The coronavirus pandemic showed that social care services are not working well.

The social care services we have now do not give people the right support that is right for them.



It does not make sure their rights are respected and protected.

Things need to change to make sure people do not lose their rights.



The Commission hopes the Scottish Government, councils and other public organisations will look at this information and make changes.