

A Human Rights Bill for Scotland: Consultation

The Scottish Social Services Council is the regulator for the social work, social care and children and young people workforce in Scotland. Our work means the people of Scotland can count on social services being provided by a trusted, skilled and confident workforce.

We protect the public by registering social service workers, setting standards for their practice, conduct, training and education and by supporting their professional development. Where people fall below the standards of practice and conduct we can investigate and take action.

We:

- publish the national codes of practice for people working in social services and their employers
- register people working in social services and make sure they adhere to the SSSC Codes of Practice
- promote and regulate the learning and development of the social service workforce
- are the national lead for workforce development and planning for social services in Scotland
- publish data and official statistics on the social work, social care and children and young people workforce.

Questions

1. What are your views on our proposal to allow for dignity to be considered by courts in interpreting the rights in the Bill?

The concept of dignity is central to the way we carry out our function as regulator for the social work, social care and children and young people workforces in Scotland and we welcome the proposal that the courts may consider dignity when interpreting the rights in this bill.

2. What are your views on our proposal to allow for dignity to be a key threshold for defining the content of Minimum Core Obligations (MCOs)?

We support this proposal.

3. What are your views on the types of international law, materials and mechanisms to be included within the proposed interpretative provision?

We have no view on this.

4. What are your views on the proposed model of incorporation?

We have no view on this.

5. Are there any rights in the equality treaties which you think should be treated differently? If so, please identify these, explain why and how this could be achieved.

We have no view on this.

6. Do you agree or disagree with our proposed basis for defining the environment?

We agree with the proposed basis for defining the environment.

7. If you disagree please explain why.

N/A

8. What are your views on the proposed formulation of the substantive and procedural aspects of the right to a healthy environment?

We support the formulation as provided in the consultation document.

9. Do you agree or disagree with our proposed approach to the protection of healthy and sustainable food as part of the incorporation of the right to adequate food in ICESCR, rather than inclusion as a substantive aspect of the right to a healthy environment? Please give reasons for your answer.

Yes. We agree with the Scottish Government's reasoning in relation to this point.

10. Do you agree or disagree with our proposed approach to including safe and sufficient water as a substantive aspect of the right to a healthy environment? Please give reasons for your answer.

Yes. We support the distinction that is made on this point between water for human consumption and water as part of the wider ecosystem.

11. Are there any other substantive or procedural elements you think should be understood as aspects of the right?

We have no view on this.

12. Given that the Human Rights Act 1998 is protected from modification under the Scotland Act 1998, how do you think we can best signal that the Human Rights Act (and civil and political rights) form a core pillar of human rights law in Scotland?

We have no view on this.

13. How can we best embed participation in the framework of the Bill?

We have no view on this.

14. What are your views on the proposed approach to including an equality provision to ensure everyone is able to access rights, in the Bill?

We support this proposal

15. How do you think we should define the groups to be protected by the equality provision?

We have no view on this.

16. Do you agree or disagree that the use of 'other status' in the equality provision would sufficiently protect the rights of LGBTI and older people?

We have no view on this.

17. If you disagree, please provide comments to support your answer.

N/A

18. Do you think the Bill framework needs to do anything additionally for LGBTI or older people?

We have no view on this.

19. What is your view on who the duties in the Bill should apply to?

We support this proposal on the basis that this is consistent with other equality and human rights reporting and assessment duties.

20. What is your view on the proposed initial procedural duty intended to embed rights in decision making?

We support this proposal and believe that this duty could be incorporated into the current requirement to carry out equality impact assessments.

21. What is your view on the proposed duty to comply?

We support the introduction of a duty to comply.

22. Do you think certain public authorities should be required to report on what actions they are planning to take, and what actions they have taken, to meet the duties set out in the Bill?

We believe that reporting requirements are a useful method for making sure public bodies are meeting the duties to which they are subject. These duties also allow public bodies to demonstrate the positive actions they have taken to meet their duties and give the public confidence that public bodies respect these rights.

23. How could the proposed duty to report best align with existing reporting obligations on public authorities?

Public bodies are already subject to several reporting requirements that potentially overlap with the proposed duty. We welcome and strongly support the recognition that public bodies already have several reporting duties and to develop an approach that is proportionate, reasonable and meaningful. Our view is that the Scottish Government could examine how the duty could be combined with existing reporting duties, such as those arising from the Scotland Specific Duties under the Public Sector Equality Duty and our environmental reporting duties.

24. What are your views on the need to demonstrate compliance with economic, social and cultural rights, as well as the right to a healthy environment, via MCOs and progressive realisation?

We have no view on this.

25. What are your views on the right to a healthy environment falling under the same duties as economic, social and cultural rights?

We have no view on this.

26. What is your view on the proposed duty to publish a Human Rights Scheme?

We have no view on this.

27. What are your views on the most effective ways of supporting advocacy and/or advice services to help rightsholders realise their rights under the Bill?

We have no view on this.

28. What are your views on our proposals in relation to front-line complaints handling mechanisms of public bodies?

We have no view on this.

29. What are your views in relation to our proposed changes to the Scottish Public Services Ombudsman's remit?

We believe that steps to streamlining and improving the complaints process are a key part of improving the quality and consistency of care in Scotland. Making sure human rights complaints fall within the remit of this process is essential to ensuring public services properly uphold the rights of the bill.

30. What are your views on our proposals in relation to scrutiny bodies?

We support the proposals in relation to scrutiny bodies, in particular centralising human rights in their function and would welcome any changes that support closer working between scrutiny bodies.

31. What are your views on additional powers for the Scottish Human Rights Commission?

We have no view on this.

32. What are your views on potentially mirroring these powers for the Children and Young People's Commissioner Scotland where needed?

We have no view on this.

33. What are your views on our proposed approach to 'standing' under the Human Rights Bill? Please explain.

We have no view on this.

34. What should the approach be to assessing 'reasonableness' under the Human Rights Bill?

We have no view on this.

35. Do you agree or disagree that existing judicial remedies are sufficient in delivering effective remedy for rights-holders?

We have no view on this.

36. If you do not agree that existing judicial remedies are sufficient in delivering effective remedy for rightsholders, what additional remedies would help to do this?

N/A

37. What are your views on the most appropriate remedy in the event a court finds legislation is incompatible with the rights in the Bill?

We have no view on this.

38. What are your views on our proposals for bringing the legislation into force?

We have no view on this.

39. What are your views on our proposals to establish Minimum Core Obligations through a participatory process?

We have no view on this.

40. What are your views on our proposals for a Human Rights Scheme?

We have no view on this.

41. What are your views on enhancing the assessment and scrutiny of legislation introduced to the Scottish Parliament in relation to the rights in the Human Rights Bill?

We have no view on this.

42. How can the Scottish Government and partners effectively build capacity across the public sector to ensure the rights in the Bill are delivered?

We would welcome an opportunity to shape and contribute to the development of the guidance.

43. How can the Scottish Government and partners provide effective information and raise awareness of the rights for rights-holders?

We have no view on this.

44. What are your views on monitoring and reporting?

We have no view on this other than those stated previously in this response.

Scottish Social Services Council

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