

# Consultation on the Letter of Rights for Scotland

September 2019

# **Consultation on the Letter of Rights for Scotland**

## **Introduction**

The Letter of Rights is given to suspects and accused persons held in police custody in Scotland. Its purpose is to clearly explain their rights as provided for in domestic legislation.

The Scottish Government introduced a non-statutory Letter of Rights for Scotland in 2013 which was updated in 2018 to take account of provisions under the Criminal Justice (Scotland) Act 2016.

Following the introduction of an updated Letter of Rights in January 2018, to coincide with commencement of part 1 of the Criminal Justice (Scotland) Act 2016, the Scottish Government undertook to consult on potential changes to the Letter of Rights in 2019 to capture lessons learned.

To ensure the Letter of Rights is fit for purpose, the Scottish Government is keen to gather views on the content and language used in the letter and the formats in which it is made accessible.

## **Purpose**

The purpose of this consultation is to seek the views of key stakeholders and members of the public on the current Letter of Rights for Scotland.

## **Structure of the Consultation Paper**

This paper provides a brief background to the Letter of Rights. Questions can be found under each of the relevant sections and a summary of the questions is given at the end of this paper.

The current standard Letter of Rights is at Annex A, the current 'easy read' version is at Annex B, a list of translations is at Annex C and the stakeholders that have been invited to respond can be found at Annex D.

## **Responding to this Consultation**

We are inviting responses to this consultation by 13 December 2019

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/justice/letter-of-rights-for-scotland> . You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 13 December 2019.

If you are unable to respond using our consultation hub , please send your response with the completed Respondent Information Form which is found at Annex E to: [LORConsultation@gov.scot](mailto:LORConsultation@gov.scot)

Or:

Access to Justice Team  
Scottish Government  
Room G.14  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

### **Handling your response**

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy:  
<https://gov.scot/privacy/>

### **Next steps in the process**

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

### **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [LORConsultation@gov.scot](mailto:LORConsultation@gov.scot).

### **Scottish Government consultation process**

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online at: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.

## **Background**

### **Letter of Rights**

The Letter of Rights provides important information on an individual's rights while being held in police custody. It is vital that the information is presented in a format that can be easily understood and retained by a person in custody (subject to risk assessment).

Following revision, the Letter of Rights and the 'easy read' Letter currently in use were introduced in January 2018 following commencement of part 1 of the Criminal Justice (Scotland) Act 2016. Following introduction, a number of issues were highlighted, and in response to these concerns, the Scottish Government undertook to consult on the Letter of Rights in 2019 in order to capture lessons learned and areas to be improved.

The current Letter of Rights is provided at Annex A and the 'easy read' version is provided at Annex B.

### **Criminal Justice (Scotland) Act 2016**

Part 1 of the Criminal Justice (Scotland) Act 2016 (the 2016 Act) provided a number of key changes to the arrest and custody procedures and provisions for persons coming into police custody. These have been the most significant changes to arrest and custody procedures since the Criminal Procedure (Scotland) Act 1995 (the 1995 Act). The 2016 Act received Royal Assent on 13 January 2016 and Part 1 of the Act commenced in January 2018.

## **The Content and Format of the Letter of Rights**

As previously stated, the Letter of Rights contains important information on the rights of accused persons and suspects and a copy of the Letter should be provided to every arrested person at the earliest opportunity, before any other criminal procedure is carried out. It is vital that the information is presented in a format that can be easily understood and retained by a person in custody (subject to risk assessment).

The Scottish Government is keen to hear suggestions from stakeholders on specific groups who may require the Letter of Rights in different formats and how the information included could be best communicated to people in such groups. The Scottish Government is currently considering the production of the Letter in a video format.

### **Questions on Content and Format**

1. Do you consider the content of the 'standard' version of the Letter of Rights easy to understand?

Yes/No

If not, why not?

2. Is the content of the 'easy read' version of the Letter of Rights easy to understand?

Yes/No

If not, why not?

3. Do you consider that the versions of the Letter of Rights cover the key information individuals need to know when being held in custody?

Yes/No

If not, please indicate where in the letter the content requires clarification or is missing information and suggest alternative content.

4. Does the way the information is organised in the 'standard' version of the Letter of Rights, i. e. with a text box at the beginning, help to convey key information in a way that is easily understood?

Yes/No

If not, please indicate where there are problems with the layout of the Letter and suggest an alternative layout.

5. Does the way the information is organised in the 'easy read' version of the Letter of Rights, i.e. with a text box at the beginning, help to convey key information in a way that is easily understood?

Yes/No

If not, please indicate where there are problems with the layout of the Letter and suggest an alternative layout.

6. What alternative format(s) do you think the Letter of Rights should be provided in, e.g. print, Braille, audio?
7. Do you have any other questions or comments on the content or format of the Letters?

### **The Accessibility and Language of the Letter of Rights**

In the Letter of Rights, the Scottish Government has sought to use plain English and avoid legal jargon, to ensure rights are accurately communicated to a wide audience with varying needs.

The Letter of Rights is translated into 45 languages which are listed at Annex C.

### **Questions on Accessibility and Language**

8. Is the wording used in the 'standard' version of the Letter of Rights appropriate and accessible?

Yes/No

If not, please indicate areas where it is not appropriate or accessible and suggest alternatives.

9. Is the wording used in the 'easy read' version of the Letter of Rights appropriate and accessible?

Yes/No

If not, please indicate areas where it is not appropriate or accessible and suggest alternatives.

10. Does the 'easy read' version meet the aims of making the information provided easier to understand and more accessible to those with differing levels of literacy or with learning difficulties/disabilities?

Yes/No

If not, why not?

11. Do the illustrations included in the 'easy read' version of the letter of Rights help support understanding of the content of the Letter?

Yes/No

If not, please clarify whether you feel that removing the illustrations or using alternative illustrations would better help support the understanding of the Letter.

12. Aside from providing the 'easy read' version, how would you suggest the Letter of Rights is made accessible to those with differing levels of literacy or with learning difficulties/disabilities?
13. Are there any further languages, in everyday use in Scotland, which you think the Letter of Rights should be made available in?
14. Do you have any other questions or comments on the accessibility of the Letter of Rights or the language used in the Letter?

## Summary of Consultation Questions

1. Do you consider the content of the 'standard' version of the Letter of Rights easy to understand?

Yes/No

If not, why not?

2. Is the content of the 'easy read' version of the Letter of Rights easy to understand?

Yes/No

If not, why not?

3. Do you consider that the versions of the Letter of Rights cover the key information individuals need to know when being held in custody?

Yes/No

If not, please indicate where in the letter the content requires clarification or is missing information and suggest alternative content.

4. Does the way the information is organised in the 'standard' version of the Letter of Rights, i. e. with a text box at the beginning, help to convey key information in a way that is easily understood?

Yes/No

If not, please indicate where there are problems with the layout of the Letter and suggest an alternative layout.

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Yes/No

If not, please indicate where there are problems with the layout of the Letter and suggest an alternative layout.

6. What alternative format(s) do you think the Letter of Rights should be provided in, e.g. print, Braille, audio?

7. Do you have any other questions or comments on the content or format of the Letters?

8. Is the wording used in the 'standard' version of the Letter of Rights appropriate and accessible?

Yes/No

If not, please indicate areas where it is not appropriate or accessible and suggest alternatives.

9. Is the wording used in the 'easy read' version of the Letter of Rights appropriate and accessible?

Yes/No

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Yes/No

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13. Are there any further languages, in everyday use in Scotland, which you think the Letter of Rights should be made available in?

14. Do you have any other questions or comments on the accessibility of the Letter of Rights or the language used in the Letter?

## Letter of Rights

This leaflet gives you **important information** about your rights when you are at the police station.

By rights we mean **important freedoms and supports** that the law says everyone can have. **Knowing about your rights** will **help you** be sure that you are being treated fairly by the police.

Please read this information as soon as possible. It will help you to make decisions when you are at the police station. **Please ask for help** if you do not understand anything in this leaflet. **Please ask** if you want an **easy-read copy** or a **translation**.

### Your rights:

1. You have the right to know why the police are keeping you at the police station.
2. You have the right to know what the police think you have done.
3. You have the right not to speak. You do not have to answer any questions the police ask you. **BUT** you do have to give your name, address, date of birth, where you were born and your nationality.
4. You have the right to have someone else told you are at the police station. If you are under 16, this must be a parent or guardian. If you are 16 or over, this might be a family member, a carer or a friend.
5. You have the right to have a lawyer told that you are at the police station. This is free.
6. You have the right to speak to a lawyer in private at any time. This is free.
7. You have the right to have a lawyer present if the police interview you. This is free.
8. If you are under 16, a lawyer must be present when the police interview you unless there are exceptional circumstances. If you are 16 or 17 and subject to a compulsory supervision order, a lawyer must be present when the police interview you unless there are exceptional circumstances.
9. If you are under 16 you have the right to be visited by your parent or guardian at the police station.
10. If you are 16 or 17 and subject to a compulsory supervision order you have the right to be visited by your parent or guardian at the police station.
11. You have the right to medical help if you are ill or injured.

## Your rights

In exceptional circumstances, some of **these rights** may not apply. For example, if the police think you have important information to stop someone being hurt they might need to ask you questions before your lawyer arrives.

**The police cannot delay or remove your right to remain silent.**

### More information for people kept at the police station

(known as "held in custody").

- **Your right not to speak** (known as "right to silence")

You do not have to answer any questions the police ask you, apart from to give your name, address, date of birth, place of birth and nationality.

Anything you say may be written down or recorded. Anything you say could be used as evidence at trial, if your case is taken to court.

- **Telling a lawyer you are at the police station**

You can ask the police to tell a lawyer that you are at the police station. This can be your own lawyer or the on-call lawyer. The police will arrange for a lawyer to be contacted as soon as possible. This is free.

- **Telling someone else that you are at the police station**

If you are 16 or over and not subject to a compulsory supervision order you can **ask the police to tell someone** that you are at the police station. This could be **someone in your family, your partner, your carer, your friend or another person you know**. You might not be allowed to speak to this person.

If you are 16 or 17 you will be allowed access to this person unless there are exceptional circumstances.

If you are:

- **under 16**

or

- **under 18 and subject to a compulsory supervision order**

The police must try to tell your parent or guardian that you are at the police station.

- **If you are ill or injured**

The police will ask you questions about your health and wellbeing. It is important that you tell the police if you have a medical condition that may affect you while you are at the police station.

The police might ask a healthcare professional to check on you. This is to help make sure you are looked after properly while at the police station. If you think you need to see a doctor or a nurse tell the police. If you are ill or injured, you will be provided with medical help.

- **Food and Drink**

Water will be provided if you ask for it. You will be offered food if you are at the police station for more than four hours. If you have any dietary or religious needs then tell the police as early as possible.

**If you need extra help**

**This is information about a service only. It is not a right.**

You might need help understanding what is happening when you are at the police station. This help can be provided by a support person called an Appropriate Adult. This might be needed if you have a mental disorder or learning disability. **Speak to the police if you think you need this help.**

If the police think that you need the help of an Appropriate Adult, they will get you one, even if you do not ask.

- **Getting an interpreter to help you**

It is important that you can understand what is being said at the police station. If you **do not speak or understand English**, the **police will get someone** who speaks your language **to help you**. This person is called an interpreter. This is free.

- **Getting help with communication**

Lots of people find it hard to understand what is happening at the police station. **Please ask for help if you are not sure about anything. Please ask for help** with reading if you need it.

If you are **deaf or have trouble communicating** clearly, **the police will get someone to help you**. This could be a BSL interpreter or another appropriate professional. This is free.

- **If you are not British**

If you are not British, you can ask the police to contact your High Commission, Embassy or Consulate, to tell them where you are and why you are in the police station. Someone can then visit you in private and arrange for a lawyer to see you.

- **What happens if you are charged or brought into the police station on a warrant?**

If you are charged with an offence, you might be allowed to leave or you might be kept in the police station and taken to court on the next possible day.

If you have been brought into the police station on a warrant, you can be held and taken to court on the next possible day. In some situations you may be allowed to go home.

- **Getting to see paperwork**

A note of the evidence in the case will be given to you or your lawyer, if your case goes to court. This will let you or your lawyer prepare your defence. You have the right to a translation of at least the relevant parts of important paperwork if you do not understand English.

- **Information about the right of access to a lawyer**

- o Tell the police if you want to speak to a lawyer. The police will contact a lawyer for you as soon as possible.

- o You are allowed to have a private conversation with a lawyer at any time. This might be on the telephone, or they might come and see you at the police station.

- o Speaking to a lawyer does not make it look like you have done something wrong.

- o A lawyer's job is to protect your rights and give you advice about the law.

- o You can choose to speak to a lawyer you know or the on-call lawyer. The on-call lawyer is independent and does not work for the police.

- o If the police interview you, you can ask that the lawyer is in the room with you when this happens.

- o The police are not normally allowed to interview you without a lawyer if you have asked for a lawyer to be in the room with you.

- o You can change your mind about speaking to a lawyer and can ask for a lawyer at any time. Tell the police as soon as possible and they will contact a lawyer for you.

- o If the lawyer does not come to the police station when they said they would, or you need to talk to the lawyer again, ask the police to contact him or her again. The police have no influence on when the lawyer arrives at the police station once they are contacted.

- **How long can you be kept in custody?**

The police can normally keep you for up to **12 hours** without charging you with an offence.

The police can extend this up to a maximum of **24 hours**, but only if a Police Inspector agrees to this (Chief Inspector if you are under 18).

You have the right to have your say about this decision, or you can choose to have your lawyer speak to the police for you.

# Your Rights when you are at the Police Station

## Easy Read

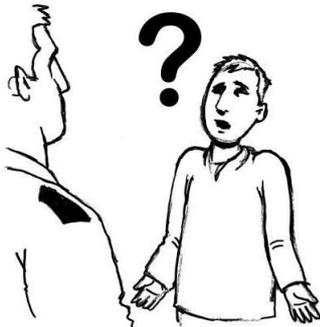


This leaflet gives you **important information** about your rights when you are at the police station.

By **rights** we mean **important freedoms and supports** that the law says everyone can have. **Knowing about your rights** will help you be sure that you are being **treated fairly** by the police.

Please read this information as soon as possible. It will help you to make decisions when you are at the police station. **Please ask for help** if you do not understand anything in this leaflet. **Please ask** if you want a translation.

## Your rights:



**1. You have the right to know why the police are keeping you at the police station.**

**2. You have the right to know what the police think you have done**



**3. You have the right not to speak. You do not have to answer any questions the police ask you. BUT you do have to tell them your name, address, date of birth, where you were born and your nationality.**



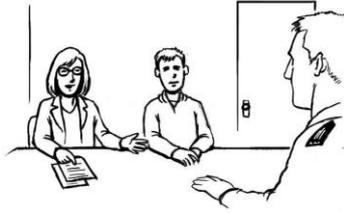
**4. You have the right to have someone told that you are at the police station. If you are under 16, we must tell a parent or guardian. If you are 16 or over, this might be a family member, a carer or a friend.**



**5. You have the right to have a lawyer told that you are at the police station. This is free.**



**6. You have the right to speak to a lawyer in private at any time. This is free.**



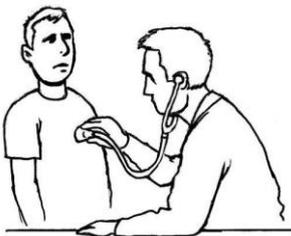
**7. You have the right to have a lawyer in the room with you if the police interview you. This is free.**

**8. If you are under 16 a lawyer must be with you while the police interview you unless there are exceptional circumstances. If you are 16 or 17 and subject to a compulsory supervision order, a lawyer must be with you when the police interview you unless there are exceptional circumstances.**



**9. If you are under 16 you have the right to be visited by your parent or guardian at the police station.**

**10. If you are 16 or 17 and subject to a compulsory supervision order you have the right to be visited by your parent or guardian at the police station.**



**11. You have the right to see a doctor or a nurse if you are ill or injured.**

## Your rights

In exceptional circumstances, some of these rights may not apply. For example, if the police think you have important information to stop someone being hurt they might need to ask you questions before your lawyer arrives.

The police cannot delay or remove your right to remain silent.

More information for people kept at the police station (known as “held in custody”).



- **Your right not to speak** (known as “right to silence”)

You do not have to answer any questions the police ask you, apart from to give your name, address, date of birth, place of birth and nationality.

Anything you say may be written down or recorded. Anything you say could be used as evidence at trial, if your case is taken to court.

- **Telling a lawyer you are at the police station**

You can ask the police to tell a lawyer that you are at the police station. This can be your own lawyer or the duty lawyer. The police will arrange for a lawyer to be contacted as soon as possible. This is free.



- **Telling someone else that you are at the police station**

If you are 16 or over and not subject to a compulsory supervision order you can **ask the police to tell someone** that you are at the police station. This could be **someone in your family, your partner, your carer, your friend or another person you know.**

If you are 16 or 17 this person will be allowed to visit you if you want unless there are exceptional circumstances.



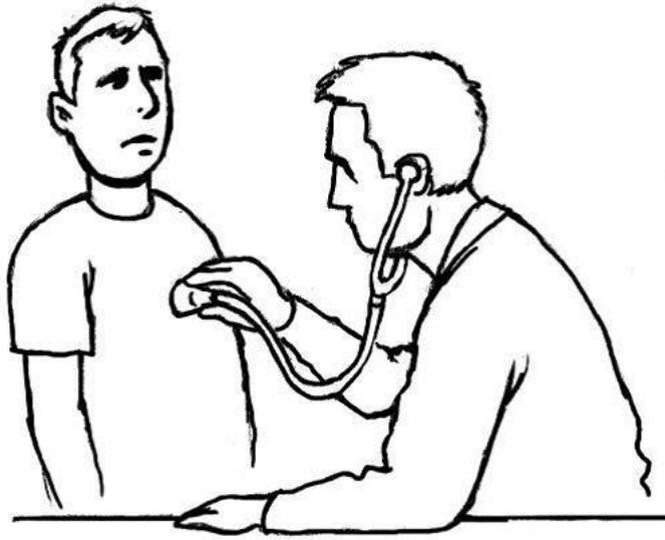
If you are:

- **under 16**
- or
- **under 18 and subject to a compulsory supervision order**

The police must try to tell your parent or guardian that you are at a police station.

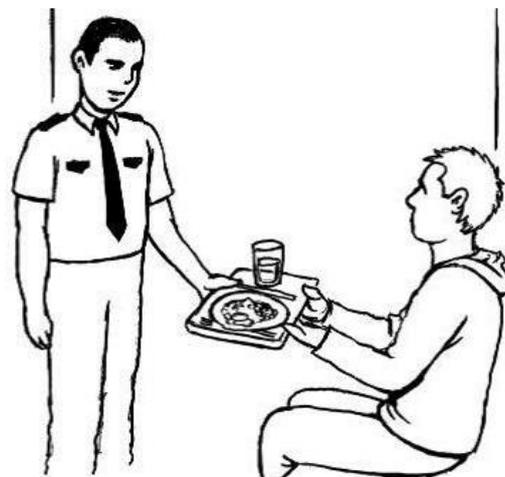
- **If you are ill or injured**

The police will ask you questions about your health and wellbeing. It is important that you tell the police if you have a medical condition that could affect you while you are at the police station. The police might ask a healthcare professional which will be a doctor or nurse to check on you. This is to help make sure you are looked after properly while you are at the police station. If you think you need to see a doctor or a nurse tell the police. If you are ill or injured, you will be given medical help.



- **Food and Drink**

Water will be given to you if you ask for it. You will be offered food at meal times if you are at the police station for more than four hours. If there are any foods you can't eat them tell the police as soon as possible.



### **Getting an interpreter to help you**

It is important that you can understand what is being said at the police station.

If you **do not speak or understand English**, the **police will get someone** who speaks your language **to help you**. This person is called an interpreter. This is free.

- **Getting help with communication**

Lots of people find it hard to understand what is happening at the police station. **Please ask for help if you are not sure about anything. Please ask for help with reading** if you need it.

**If you are deaf or have trouble communicating** clearly, the **police will get someone to help you**. This is free.



- **If you are not British**

If you are not British, you can ask the police to contact someone from your country, to tell them where you are and why you are in the police station. Someone can then visit you in private and arrange for a lawyer to see you.

## **If you need extra help**

You might need help understanding what is happening when you are at the police station. This help can be given by a support person called an **Appropriate Adult**. This might be needed if you have a mental disorder or learning disability.

**Speak to the police if you think you need this help.**

If the police think that you need the help of an **Appropriate Adult**, they will get you one, even if you do not ask.

- **What happens if you are charged or brought into the police station on a warrant?**

If you are charged, you might be allowed to leave or you might be kept in the police station and taken to court on the next possible day.

If you have been brought into the police station on a warrant, you can be held and taken to court on the next possible day.

- **Getting to see paperwork**



A note of the evidence in the case will be given to you or your lawyer, if your case goes to court. This will let you or your lawyer prepare your defence.

You have the right to a translation of at least the important paperwork if you do not understand English.

## Information about the right to speak to a lawyer



- o Tell the police if you want to speak to a lawyer. The police will contact a lawyer as soon as possible.
- o You are allowed to have a private conversation with a lawyer at any time. This might be on the telephone, or they might come and see you at the police station.
- o Speaking to a lawyer does not make it look like you have done something wrong.
- o A lawyer's job is to protect your rights and give you advice about the law.
- o You can choose to speak to a lawyer you know or the duty lawyer. The duty lawyer is independent and does not work for the police.
- o If the police do interview you, you can ask that the lawyer is in the room with you when this happens.
- o The police are not normally allowed to interview you without a lawyer if you have asked for a lawyer to be in the room with you.

o You can change your mind about speaking to a lawyer at any time. Tell the police as soon as possible and they will contact a lawyer for you.

o If the lawyer does not come to the police station when they said they would, or you need to talk to the lawyer again, tell the police. They will contact him or her again. The police have no influence on when the lawyer arrives at the police station once they are contacted.

- **How long can you be kept at the police station?**



The police can normally keep you for up to **12 hours** without charging you with a crime.

The police can extend this for up to **24 hours**, but only if a Police Inspector agrees to this (Chief Inspector if you are under 18)

You have the right to have your say about this decision, or you can choose to have your lawyer speak to the police for you.

**ANNEX C – List of languages the Letter of Rights has been translated into**

**Official EU languages (in alphabetical order):**

Bulgarian  
Czech  
Danish  
Dutch  
English  
Estonian  
Finnish  
French  
German  
Greek  
Hungarian  
Irish  
Italian  
Latvian  
Lithuanian  
Maltese  
Polish  
Portuguese  
Romanian  
Slovak  
Slovene  
Spanish  
Swedish

**Top 8 non-EU languages spoken across the Scottish prison estate (in alphabetical order):**

Albanian  
Arabic  
Cantonese  
Mandarin  
Punjabi  
Russian  
Urdu  
Vietnamese

**Further languages (in alphabetical order):**

Amharic  
Bengali  
Croatian  
Farsi  
Gaelic  
Hindi  
Kurdish  
Pashto  
Somali  
Swahili  
Tamil

Thai  
Tigrigna  
Turkish

**ANNEX D – Organisations invited to respond to this discussion paper**

BEMIS

C-CHANGE

Centre for Youth and Criminal Justice

Children 1<sup>st</sup>

Citizens Advice Scotland

Council of Ethnic Minority Voluntary Sector Organisations (Scotland)

Crown Office and Procurator Fiscal Service

Dyslexia Scotland

Enable

Epilepsy Scotland

Equality and Human Rights Commission

Faculty of Advocates

Inclusion Scotland

Interfaith Scotland

JUSTICE

Law Society of Scotland

Mental Welfare Commission for Scotland

National Autistic Society Scotland

People First (Scotland)

Plain English Society

Public Defence Solicitors Office

Royal National Institute of Blind People

Scottish Appropriate Adult Network

Scottish Association for Mental Health

Scottish Child Law Centre

Scottish Children's Reporter Administration

Scottish Commissioner for Children and Young People

Scottish Consortium for Learning Disability

Scottish Human Rights Commission

Scottish Refugee Council

VOX (Scotland)

**ANNEX E – Respondent Information Form****Consultation on the Letter of Rights for Scotland****RESPONDENT INFORMATION FORM**

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:  
<https://gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

**Information for organisations:**

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Yes

No



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