

Summary of Engagement Work of the National Taskforce for Human Rights Leadership

The following notes are intended to broadly summarise key points raised in discussions throughout the Taskforce's engagement work. These have been prepared by the Programme Office of the Taskforce.

*

Civil Society Reference Group – 25 and 26 June 2020

Attendees

Amnesty International, British Institute of Human Rights, CRER, Deaf Scotland, Freedom from Torture, Friends of the Earth Scotland, Human Rights Consortium Scotland, Interfaith Scotland, Justice, LGBT Youth Scotland, Muslim Council of Scotland, National Taskforce for Human Rights Leadership, Poverty Alliance, Quakers, RNIB Scotland, Scottish Care, Scottish Government, Scottish PEN and the Jewish Leadership Council.

Key Features: Participants felt the framework should adopt international treaties into domestic law. In addition, some participants felt now is the right time to discuss economic, social, and cultural rights as we start to consider rebuilding after the pandemic.

Opportunities: Participants felt the framework could make international human rights law relevant in the everyday lives of people in Scotland. This could include strengthened protections related to gender, race and disability. In addition participants felt there was now a very strong case for enhanced protections of the environment, noting the pandemic has put the environment strongly in to focus.

Challenges: Participants recognised that the existing constitutional settlement may mean that some areas of human rights where there could be further protections are limited by the Scottish Government's legislative competence. Participants also recognised that the framework needs to achieve a balance of rights to avoid a hierarchy, in addition to the capacity and resourcing demands the framework will have.

*

The Human Right to a Healthy Environment Roundtable - 29 June 2020

Attendees

Academic Advisory Panel, Canopus Scotland, Common Weal, Faculty of Advocates, Former UN Special Rapporteur on Human Rights and the Environment, Friends of the Earth, Law Society, LINK, National Taskforce for Human Rights Leadership, Queen Margaret University School of Law, RSPB, Scottish Crofting Commission,

Scottish Government, Scottish Human Rights Commission, Scottish Parliament, SEPA and University of Strathclyde.

John Knox, the former UN Special Rapporteur on Human Rights and the Environment, discussed international models for environmental protections, access to justice, everyday accountability and effective implementation including examples of good practices for Scotland to follow.

Key Features: Participants felt there should be more opportunities for remedy of human rights breaches outside of courts, where adjudications could include opportunities for mediation and negotiation as steps prior to court action. In addition, participants noted the usefulness of integrating human rights in environmental impact assessments as a way to bring environmental rights to the forefront of duty bearers' thoughts.

Opportunities: It was noted by participants that the framework could provide an opportunity to involve communities in decision making processes. Furthermore, participants highlighted the importance of links with children's rights as children are disproportionately affected by environmental degradation, for example by the impact of air pollution. In addition, a legal framework that protects vulnerable children from environmental harm can also be effective to protect vulnerable adults.

Challenges: Participants shared experiences of seeking access to justice on environmental matters, noting the high associated costs and low success rate. Coherence of the overall framework was highlighted as a challenge by participants, as the framework will not be as effective if rights treated as being in silos, so it will be important to look at overarching concepts to tie rights together.

*

Engender – 30 June 2020

Attendees

Engender, National Taskforce for Human Rights Leadership, Scottish Human Rights Commission, Scottish Government, and Professor Nicole Busby (Taskforce Academic Advisory Panel)

Key Features: Participants discussed how best to incorporate CEDAW into the framework. Participants also highlighted the importance of continual engagement with people and stakeholder groups as the framework is implemented, and in particular to ensure the framework gives consideration to the work of the First Minister's National Advisory Council for Women and Girls.

Opportunities: Participants agreed that they felt CEDAW was integral to the government's ambition and noted the First Minister's existing commitments. They agreed that the current devolution settlement was not a barrier to incorporating

CEDAW and agreed that a pragmatic and straightforward approach to incorporation should be considered.

Challenges: Participants felt that incorporation of CEDAW would need to be considered alongside the current UNCRC Bill, as well as any incorporation of economic, social and cultural rights.

*

Children and Young People Organisations – 7 July 2020

Attendees

Action for Children, Barnardo's Scotland, Care Protection, Children in Scotland, Children's Health Scotland, Children's Parliament, Equality and Human Rights Commission, Home Start UK, NSPCC, Parenting Across Scotland, Quakers in Britain, Scottish Commission for Learning Disability, Scottish Government, Scottish Youth Parliament, Scottish Youth Parliament, Together Scotland, Together Scotland, UNICEF, Who Cares? Scotland and Youth Link Scotland.

Key Features: Participants highlighted the potential to include additional international treaties within the framework such as CRPD and CEDAW. Participants also highlighted the importance of engagement throughout the process, accessible language within the framework and independent advocacy as a key feature.

Opportunities: Participants felt the UNCRC Bill and Taskforce recommendations should align and support each other. The Taskforce should seek to learn from any setbacks encountered and resolutions that were identified during the UNCRC process.

Challenges: It was noted by participants that conflicting rights have been a challenge during the UNCRC process, so the Taskforce should consider how the rights contained within the framework will work together. In addition, participants felt that the limits of the Scottish Government's legislative competence could lead to challenging work to overcome complex legal hurdles to implement the Taskforce's recommendations.

*

Scottish Councils Equality Network – 28 July 2020

Attendees

Aberdeen City Council, Angus Council, COSLA, East Ayrshire Council, East Renfrewshire Council, Falkirk Council, Fife Council, Glasgow City Council, Highland Council, Inverclyde Council, Midlothian Council, National Taskforce for Human Rights Leadership, Scottish Borders Council, Scottish Government, Shetland Islands Council, South Lanarkshire Council, Stirling Council, West Dunbartonshire Council and West Lothian Council.

Professor Nicole Busby provided an overview of her paper *The Essential Features of an Equality Clause and the Potential incorporation of CEDAW*.

Key Features: Participants agreed with the position set out in Professor Busby's paper that there is a continuing need for an equality clause and also felt there should be guidance to state that impact assessments are done at the beginning of a process, to steer the direction of travel. In addition, participants felt intersectionality of rights should be taken into account in the guidance. With regards to a sunrise clause as outlined in FMAG, participants felt this would need to have clear timescales, but would give public authorities time to prepare for the framework so they can become compliant when the framework comes into force.

Opportunities: Participants highlighted the importance of leadership buy-in for the successful implantation of the new framework, as this would assist with embedding a culture of human rights.

Challenges: Participants expressed concerns that the new framework risked creating more bureaucracy as opposed tackling and improving real issues.

*

Meeting with Who Cares? Scotland - Independent Advocacy and Care Experience Note – 5 August 2020

Attendees

National Taskforce for Human Rights Leadership, Scottish Government and Who Cares? Scotland

Key Features: Participants felt that a human rights Framework should include consideration of how to increase individuals' awareness of the rights included within the framework, in order to help people identify rights breaches. It was also suggested collective action be considered as a way of seeking remedy for human rights breaches, as well as more opportunities for remedy outside of courts.

Opportunities: Participants felt that there are many examples of good practice that the Taskforce should draw upon, such as local authorities providing positive platforms for rights education that reduced stigma of those in care, and enhanced children's knowledge of child rights. Participants also suggested that the Taskforce explore how to include people with lived experience of being in care for consideration as a protected characteristic.

Challenges: Participants felt that barriers to independent advocacy, such as funding, should be addressed by the framework. There should also be careful consideration of competing rights, such as the rights of a child versus the rights of a parent.

*

COSLA Special Interest Group – 12 August 2020

Attendees

COSLA Special Interest Group and National Taskforce for Human Rights Leadership

Professor Miller joined the COSLA Special Interest Group meeting and provided a short introduction on the work the Taskforce have done to date.

Key Features: Participants highlighted the Taskforce recommendations could assist with putting robust protections in place for those experiencing poverty and ensure safeguards are put in place to protect vulnerable groups within society, particularly groups that have been greatly affected by the pandemic.

Opportunities: Participants noted opportunities for local government to shape and influence the Taskforce's ongoing work.

Challenges: The impact of the Covid-19 pandemic and implications of Brexit were highlighted as key challenges that the Taskforce should consider.

*

Older People Strategic Action Forum (OPSAF) Roundtable – 20 August 2020

Attendees

Faith in Older People, Glasgow Disability Alliance, Hourglass, Human Rights Consortium Scotland, National Taskforce for Human Rights Leadership, Outside the Box, Scottish Government and Scottish Pensioners Forum.

Key Features: Some participants felt a key feature could be the inclusion of an Older People's Commissioner. Participants felt that while such a role could either be elected or appointed, it was important that the role have sufficient remit to speak on behalf of older people. Participants also felt that there should be support to expand the capacity of advice agencies to give people information on how to access their rights.

Opportunities: Participants were clear that the framework could provide an opportunity to drive a culture change which is more respectful towards treating older people with dignity. In addition, participants felt the framework could be an opportunity to encourage participation among seldom heard groups in decision making processes.

Challenges: Participants noted that budgeting and resourcing could be a challenge to the effective implementation of the framework especially as a result of the economic impact the pandemic will have. Participants also highlighted the intersectionality among rights of older people as there are older disabled people, older people with LGBTI identities, and older people from minority ethnic groups and

it is crucial that the framework effectively allows their rights across these groups to be accessed effectively.

*

LGBTI+ Rights Roundtable – 21 August 2020

Attendees

Respect Me, LGBT Youth, Stonewall Scotland, Equality Network, National Taskforce for Human Rights Leadership and Scottish Government.

Key Points – Participants agreed that the Framework is an opportunity to embed LGBTI+ rights across legislation, particularly to go beyond cultural rights into areas such as hate-crime, education, discrimination and conversion therapy. They also agreed that the absence of a corresponding UN Treaty to incorporate should not be a barrier to ambitious legislation that would establish Scotland as a world leader in Human Rights.

Opportunities – Participants agreed that establishing statutory requirements would support LGBTI+ rights by grounding them in legislation, so that the risk of regression and back-sliding of rights in future is reduced. They also agreed that the Framework should support education and continual engagement, so that ordinary people – especially young people – learn about their human rights, how to safely access their rights, report abuses and seek remedial actions without facing further discrimination.

Attendees felt that establishing LGBTI+ rights in the framework could help address a growing public perception that these rights are a largely ‘settled’ issue which has contributed to exclusion, marginalisation, or reduced priority in efforts to tackle discrimination. They also agreed that the Framework should establish clear messages for duty-bearers to support LGBTI+ rights holders, even in digital spaces, and should improve the effectiveness of the existing framework for protected characteristics in the Equality Act.

Participants noted that the development of the Bill would take place alongside, and influence, the development of other legislative work such as the review of the Gender Recognition Act, and so the work to develop the Framework should help provide platforms for advocates to shape the public debates in those areas.

Challenges – While participants broadly support the proposed Framework, they were also mindful of the challenge of accommodating UK legislation where areas of human rights remain reserved, such as with refugees and migration. They also felt that the Framework should be constructed so that it is cognisant that equality outcomes aren’t required to directly assess gender equality and sexual orientation/gender reassignment – combining measurements can miss out on different types of marginalisation and the homogenisation of protected characteristics can miss out on recognising important differences. Some participants also believe that a challenge would be getting the balance right between guidance and areas

open to interpretation, as getting it wrong increases the risk of rights groups competing between each other to realise their rights.

*

Health & Wellbeing Roundtable - 25 August 2020

Attendees

CORRA, COSLA, Edinburgh University, Improvement Service, Inclusion Scotland, National Taskforce for Human Rights Leadership, NHS Lothian, Scottish Community Safety Network, Scottish Government, Scottish Human Rights Commission, SNAP, South Ayrshire Health & Social Care Partnership, The Consultation Institute and Voluntary Health Scotland

Key Features: Participants felt the framework should offer an opportunity to strengthen the rights of disabled people, which have been disproportionately affected by COVID-19, through the incorporation of CRPD. Participants also felt that the framework should improve access to independent advocacy and strengthen measures to ensure accountability.

Opportunities: Participants noted that the work to develop and implement the framework could be highly effective at boosting knowledge among rights holders of their rights and how to access them.

Challenges: Participants noted a key challenge would be getting public bodies to work together, as opposed to working in silos, which will restrict the positive outcomes the framework could bring. In addition, attendees noted that human rights are interrelated and interdependent, so the Taskforce recommendations will need to consider how rights interact with each other to effectively tackle systemic issues.

*

Women's Roundtable – 28 August 2020

Attendees

Academic Advisory Panel, Close the Gap, COSLA, Engender, National Taskforce for Human Rights Leadership, Scottish Women's Aid and Scottish Women's Convention.

Key Features: Participants noted the importance of an Equality Clause as being essential to the framework, but this must recognise and articulate the limitations by the current devolution arrangements and the reservation of equal opportunities. In addition, participants were supportive of CEDAW incorporation within the framework.

Opportunities: Participants highlighted a big opportunity to look at socio-economic rights.

Challenges: Participants highlighted implementation challenges such as building capacity of rights holders and duty bearers and how to adequately resource the public sector to make these huge changes.

*

The Human Right to a Healthy Environment Roundtable – 28 August 2020

Attendees

COSLA, Environmental Rights Centre for Scotland, Baskut Tuncak, Former UN Special Rapporteur on Toxics and Human Rights, Friends of the Earth Scotland, National Taskforce for Human Rights Leadership, NatureScot, Public Health Scotland, Queen Mary University London, RSPB Scotland, Scottish Environment LINK, Scottish Government, Scottish Human Rights Commission, Scottish Land Commission, Scottish Parliament, SEPA, Strathclyde University and University of Stirling.

Baskut Tuncak, the Former UN Special Rapporteur on Toxics and Human Rights, delivered a short presentation noting the interconnectedness of environmental rights and other rights groups. This was particularly relevant to children and by extension the Scottish UNCRC Incorporation Bill.

Key Features: Participants felt the Place Standard tool could be used to build consensus across different outcomes. Participants also highlighted the importance of meaningful participation in environmental decision-making and described their knowledge and experience of the positive outcomes of bringing together public bodies, local communities and businesses.

Opportunities: Participants agreed that the opportunity to forge partnerships between the public and private sector was an important aspect that could be developed by the framework. Participants felt that achieving environmental rights ambitions could only be achieved through public authorities working in collaboration with others. Participants also felt a right to a healthy environment could be an important asset to improve health and wellbeing and therefore reducing health inequalities.

Challenges: Participants highlighted Brexit as a potential challenge to environmental rights, and were clear they wish to avoid any regression on the rights protected under membership of the European Union.

*

Access to Justice Roundtable - 1 September 2020

Attendees

Law Society of Scotland, University of Stirling, Faculty of Advocates, National Taskforce for Human Rights Leadership and Scottish Government.

Key Features - Participants agreed that methods of collective litigation are vital to ensuring systemic issues are resolved at the source, rather than responding retroactively to individual rights breaches. It was also added that participants felt that the framework should be flexible, in order to ensure interpretation could be carried out smoothly and effectively.

Opportunities – Participants felt that the new framework should seek to enable all rights-holders to access their rights via open, affordable and publicised routes. Participants also agreed that alternative remedies to legal recourse should also be fully explored.

Challenges - Participants agreed that the framework should be supported by strong legislation in order to be effective. Participants also recognised existing barriers that the framework should seek to remove, including ensuring adequate public funding for advice bodies to ensure equal access to the legal system, issues with existing backlogs of legal work, and the pace of rights litigation.

*

Health & Social Care Roundtable – 8 September 2020

Attendees

John Scott QC - Chair of the Mental Health Legislation Review, COSLA, Health and Social Care Alliance, Healthcare Improvement Scotland, Inclusion Scotland, National Taskforce for Human Rights Leadership, NHS Lothian, Royal College of Psychiatrists, Scottish Care, Scottish Human Rights Commission, SNAP, South Ayrshire Health & Social Care Partnership and UNISON.

Key Features: Participants were clear that the language of the framework needs to be accessible for all and independent advocacy will be essential to provide individuals with guidance to realise their rights. In addition, participants highlighted the need for stronger accountability and non-judicial routes to remedy, with access to courts being available as a last resort.

Opportunities: Participants felt that the framework should implement practical tools to take forward Scotland's human rights ambitions. Participants agreed that incorporating international obligations into domestic law will support making these rights a reality. Participants also noted the potential for the framework to have a positive influence on the private sector where public functions are outsourced to private actors.

Challenges: Participants noted there will need to be carefully developed supporting guidance on how to balance rights, and to resolve conflicts. Some participants felt that there is a risk that the framework provides better support to those who are already able to articulate and pursue their rights than those who already face

challenges doing so, and therefore the framework should be developed with the goal of being as widely accessible and inclusive as possible.

*

Disability Roundtable – 17 September 2020

Attendees

Alliance, Equality and Human Rights Commission Scotland, Glasgow Disability, Inclusion Scotland, Macular Society, National Taskforce for Human Rights Leadership, SAMH, SCLD, Scottish Government, Scottish Human Rights Commission and VOX Scotland

Key Features: Participants felt that full incorporation of CRPD would be necessary, particularly as the pandemic has highlighted inequalities and gaps in protections for disabled people. Participants also felt that the priority for the framework is to ensure rights are made real, meaningful, and accessible, to be enacted by duty-bearers, coupled with supportive decision-making and effective participation as key features of the framework.

Opportunities: The opportunity for public participation in the framework was welcomed by participants. In addition, some participants suggested the framework could facilitate a better process for budgeting that could be to identify what people need, then identify what systems are needed to meet these standards, then raise a budget accordingly.

Challenges: Participants highlighted that while a strong Scottish human rights framework is a positive goal, it is vital that implementation is supported with investment of time and resources within communities and the public sector to ensure people can meaningfully access their rights and remedies.

*

Local Authority Roundtable - 17 September 2020

Attendees

Aberdeenshire Council, Association of Local Authority Chief Housing Officers, COSLA, Dumfries and Galloway City Council, Dundee City Council, Fife Council, Glasgow City Council, National Taskforce for Human Rights Leadership, Renfrewshire Council, Scottish Government, Scottish Human Rights Commission and South Lanarkshire Council.

Key Features: Participants were largely in favour of statutory guidance noting it carries more weight and demonstrates a clear way to show compliance. Participants also felt non-statutory guidance relies heavily on organisations acting in 'the spirit' of things and believe not everyone will do this.

Opportunities: Participants felt there was an opportunity through the framework, if implemented well, for Local Authorities to build better partnerships with organisations to deliver services that ensure rights are fully taken up.

Challenges: Participants noted there could be some challenges when creating a culture change towards a human rights based approach, particularly with regards to ensuring mutual respect across public bodies and partners, and the framework should be developed with approaches aimed at addressing these challenges.

*

Civil Society Reference Group - 29 September 2020

Attendees

Age Scotland, Amnesty, Article 12, Chartered Institute of Housing, Children's Health Scotland, Children's Parliament, Criminal Justice Voluntary Sector Forum, Deaf Scotland, EIS, Engender, Equality Network, ERCS, Fife Centre for Equalities, Friends of the Earth Scotland, Glasgow Disability Alliance, Govan Law Centre, Health & Social Care Alliance, Home Start, Howard League, Inclusion Scotland, Justice, JustRight Scotland, LGBT Youth, LSA, Making Rights Real, Muslim Council of Scotland, Partners in Advocacy, Quakers, SCDC, Scottish Centre for Learning Disabilities, Scottish Environment Link, Scottish Independent Advocacy Alliance, Scottish Refugee Council, Scottish Rural Action, Shelter, Together, UNICEF and Who Cares Scotland.

Key Features: Some participants felt inclusion of dignity as an underpinning approach is essential for the framework, recognising that the framework will need to consider how one person's dignity interacts with another's and the need to have a universal definition of dignity. Some participants felt there would be significant value in involving rights holders in the process of developing, implementing and monitoring routes of accessing remedy established by the framework.

Opportunities: Participants felt there is an opportunity for collaboration when addressing imbalances, taking into account the opinions of rights holders, duty bearers and other stakeholders involved. In addition, participants felt there was the opportunity to be clear on accountability and empower and enable rights holders and advocates to realise their rights through the framework.

Challenges: Participants felt indivisibility and interrelatedness of rights should be considered, in particular the balancing of rights which can be very complex. In addition, participants noted affordability is a huge factor when trying to access justice which could be a barrier to fully realising rights.

*

Public Sector Reference Group – 29 September 2020

Attendees

Bòrd na Gàidhlig, Care Inspectorate, Community Justice Scotland, Community Safety Network, COSLA, Children and Young People's Commissioner Scotland, Dumfries Council, Healthcare Improvement Scotland, Information Commissioner's Office, National Taskforce for Human Rights Leadership, Nature Scotland, NHS 24, NHS Tayside, North Ayrshire Council, Prison Inspectorate, Public Health Scotland, Renfrewshire Council, Scottish Funding Council, Scottish Government, Scottish Human Rights Commission, Scottish Prison Service, SCTS, SEPA and Social Work Scotland.

Key Features: Participants felt there are currently duties already developed in the UN and EU systems, and many examples of international best practice to draw upon, which can be adapted to the Scottish context. Some participants felt this could be the time to incorporate these into domestic law. In addition, participants were clear that accountability and measurability should be key features of the framework.

Opportunities: Participants felt that the framework should seek to build on existing human rights based approaches rather than start afresh and risk duplicating effort. In addition, participants felt that the framework should provide the opportunity to shift thinking within organisations towards a greater emphasis on liaising with rights holders early in decision making processes, and maintaining a dialogue throughout policy development.

Challenges: Participants noted the importance of considering how individual rights-holders understand and claim their rights. In addition, participants highlighted the risk of competing and conflicting rights, and ensuring public authorities work collaboratively in the decision making process as key challenges the framework should address.

*

Council of Ethnic Minority Voluntary Sector Organisations (CEMVO) – 7 October 2020

Attendees

Council of Ethnic Minority Voluntary Sector Organisations, National Taskforce for Human Rights Leadership and Scottish Government.

Key Features: Participants agreed that CERD incorporation would help progress work against racial inequality, but also noted that incorporation is only part of achieving this alongside effective monitoring, review and enforcement of its implementation. Participants agreed that the Framework around CERD incorporation should seek to ensure rights and equalities beyond what is already guaranteed by existing laws. Participants also agreed that the framework should recognise the intersectionality of human rights.

Opportunities: Participants agreed that the affirmative action aspect of CERD presented opportunities to benefit the communities they work with.

Challenges: Participants agreed that the framework should recognise and address the challenge of raising human rights awareness so that people know what their human rights are and how to access them in an affordable and accessible way. Participants also agreed that lessons learned from the Equality Act and Human Rights Act have shown that infrastructure to implement human rights frameworks are not always adequate, so the new Scottish framework should be of sufficient capacity to delivery effective implementation and enforcement.

*

Faith Roundtable - 8 October 2020

Attendees

Catholic Parliament Office, Evangelical Alliance, Forum of Britain, Humanist Society Scotland, Interfaith Scotland, Jewish Council Leadership, Muslim Council of Scotland, National Taskforce for Human Rights Leadership, Quakers, Scottish Council of Jewish Communities, Scottish Government and Scottish Human Rights Commission.

Key Features: Participants felt that the framework should allow for greater scrutiny of how well rights are being implemented and have more accountability for those organisations that do not meaningfully respect human rights. In addition, participants highlighted the importance of ensuring that the framework is accessible and the language is inclusive.

Opportunities: Participants felt there should be an opportunity to embed the concept of human dignity within the framework as this concept underpins all human rights.

Challenges: Participants noted capacity building could be a significant challenge for the Taskforce. Furthermore, participants felt it will be essential to ensure people know their rights, how to claim their rights and how decisions will affect them, so the Taskforce should consider how this can be done.

*

Coalition for Race Equality and Rights (CRER) - 9 October 2020

Attendees

Coalition for Race Equality and Rights, National Taskforce for Human Rights Leadership and Scottish Government

Key Features: Participants noted that many of the specific provisions within CERD have now been largely established in Scotland – such as preventing segregation in schools. However new concerns have arisen such as the importance of eliminating racial bullying of children in schools which participants felt requires urgent and substantive actions by policy makers at national, regional and local levels. Participants felt that public sector duties and compliance is an area that needs strengthened, with the quality of reporting often not to the standard needed to tell if compliance actions are really making a difference. For this reason, while incorporation of CERD was welcome, their preference was for actions that would ensure the existing framework was fit for purpose now and in future.

Opportunities: Participants felt that incorporation was an opportunity to address an ongoing challenge of setting a clear understanding across public authorities and government structures about the extent to which transformative policies should be taken up. They also felt that it is important for the framework supports decision-making that is aware of, and aimed at reducing, inequality and discrimination in minority ethnic communities. Participants also felt strongly that the Framework should establish stronger support for ordinary people to take up routes to remedy, and that a substantive set of proactive duties is needed alongside stronger enforcement in order to enable systematic change to address discrimination and inequalities.

Challenges: Participants felt that adding more human rights-based duties to the existing ones risked increasing the bureaucratic burden on frontline workers and public authorities, so the framework should support better enforcement of existing duties and obligations. They proposed that one option to explore is a stronger role for the Scottish Human Rights Commission to carry out enforcement more rigorously, with more enforcement staff and resources to take public bodies to court.

*

Second Disability Roundtable - 14 October 2020

Attendees

Inclusion Scotland, Glasgow Disability Alliance, Disability Equality Scotland, National Taskforce for Human Rights Leadership and Scottish Government

Key Features - Participants agreed that the framework should be grounded in reality - while still seeking ambitious goals - in order to make tangible and substantive progress. Participants also agreed that rights-holders should be involved directly in the work to develop the framework going forward.

Opportunities - Participants agreed with the approach of embedding rights protected by CRPD within the framework, and that it should also prioritise providing accessible redress and legal remedies.

Challenges – Some participants also felt that there was a degree of justified cynicism amongst the disabled community about being engaged in policy

development exercises where the purpose is unclear and seen as unproductive, and this would need to be overcome through clear objectives and communications from the outset of developing the Framework. Some participants also felt that the current constitutional settlement may present challenges where some matters remain reserved to the UK Government.

*

BEMIS Scotland - 30 October 2020

Attendees

BEMIS Scotland, National Taskforce for Human Rights Leadership and Scottish Government.

Key Features – Participants felt that the history of CERD helps to highlight the history of racial inequality in the UK and Scotland, and supported full incorporation as a means to improve the overall understanding of racial discrimination in Scotland, increase discussions about race rights, and help galvanise an equality and human rights based approach to understanding and addressing racial inequality.

Opportunities - Participants felt that the story of CERD is important in understanding the history of racial discrimination as well as highlighting that racism can manifest in different forms, including through nationality and ethnic/national origin. Participants felt that incorporating CERD into the Framework, in particular the definition of 'race', would raise the profile of the issue of racial discrimination, and create a platform for communities to have a dialogue and work together, without reducing the importance of specific issues relevant to different ethnic communities.

Challenges – Participants noted that the definition on racial discrimination given in Article 1 of CERD, the same one adopted by the Equality Act 2010, does not include nationality and so creates a risk that different groups will compete for the realisation of their rights. Participants also strongly believed that any definition of race should be consistently applied across local and national public authorities and organisations.

*

Scottish Independent Living Coalition – 2 November 2020

Attendees

Deaf Scotland, Glasgow Disability Alliance, Inclusion Scotland, Lothian Centre for Independent Living, National Taskforce for Human Rights Leadership, People First, People for Scotland, Scottish Government and SILC

Key Features: There was broad support among participants to incorporate CRPD so that rights for disabled people are at the forefront of the framework, and for the

framework to clearly spell out the rights of disabled people and the duties that duty bearers must carry out.

Opportunities: Participants agreed that getting the framework right for disabled people would help get it right for everyone so it is important that it has a substantive and positive impact on the lives of disabled people. Participants felt that part of achieving this would be to ensure a meaningful role for disabled people as the framework is developed and implemented.

Challenges: Participants felt that the role of private organisations carrying out public healthcare duties was an area where the framework would need to establish clear roles, responsibilities and duties, and it is important to ensure private actors doing public functions are bound by this the legislative aspects of this framework. Participants also highlighted capacity building as being key to effective implementation of the framework to ensure duty bearers have adequate funding, training, and education, to deliver a human rights based approach.

*

Independent Review of Social Care in Scotland – 3 November 2020

Attendees

Independent Review of Adult Social Care in Scotland, National Taskforce for Human Rights Leadership and Scottish Government

Key Features: Participants felt that a human rights-based approach to recovering from the COVID pandemic would be essential and so welcomed the broad aims of the framework. Participants also agreed that greater scrutiny will play a big part in ensuring effective implementation of any new requirements emerging from the development of the framework.

Opportunities: Participants agreed that the new framework would be an opportunity to strengthen the capabilities of individuals to understand and engage in securing their rights, and strengthen the abilities of duty-bearers to meet obligations.

Challenges: Participants agreed that bridging the gap from intent to implementation was important, and that it was important to ensure that the framework was practical and applicable to everyday life. Some participants also felt that while it is important to give proper consideration to human rights proofing of policy, it is important to not overlook the cultural and leadership dimension that has made it difficult to imbed human rights processes thus far.

*

SIAA Meeting - 4 November 2020

Attendees

Lomond & Argyll Advocacy, CAPS Independent Advocacy, Perth & Kinross Independent Advocacy, Dunfermline Advocacy, Partners in Advocacy, Advocacy Highland, Scottish Independent Advocacy Alliance, Dundee Independent Advocacy, AdvoCard Edinburgh, Patients Advocacy Service, Royal Edinburgh Hospital.

Key Features: Participants noted their wish for the new framework to be a preventative tool when it comes to human rights breaches, as opposed to retroactively seeking remedy. Participants felt that the ability to raise collective class action cases would be a useful tool in battling inequalities.

Opportunities: Participants felt there was an opportunity to strengthen collective access to the political process to democratise decision-making. Attendees also added that human rights-based approaches should be seen as a positive, as opposed to being a hindrance. Participants felt that innovative remedies should be considered, including restorative justice. Participants noted their keenness to create a human rights board, with which duty-bearers and advocates can liaise, in order to resolve disputes in a timely and smooth manner.

Challenges: Attendees were in agreement that maximum available resources should be allocated in support of the framework in order to ensure duty-bearers can develop sufficient capacity, in order to ensure that prioritisation of one case over another isn't a necessity.

*

Audit Scotland - 11 November 2020

Attendees

Gemma Diamond and Mark Roberts - Audit Scotland, National Taskforce for Human Rights Leadership and Scottish Government.

Key Features: Everyday accountability was discussed as a key feature, with the potential for a space set out in the framework that could be occupied by regulators, inspectors, auditors and complaints handlers.

Opportunities: It was noted Audit Scotland convenes a scrutiny body forum with a focus on everyday accountability. The Taskforce agreed to meet with this group as part of its work to gather evidence to inform its recommendations for the framework. It was noted the Taskforce would welcome an opportunity to meet the scrutiny forum and discuss what kind of guidance, capacity building and powers they think the Taskforce should explore further.

Challenges: Audit Scotland noted that supporting guidance, new duties on public authorities and capacity building may take time to embed which could impact monitoring and reporting initially.

*

Professor Alison Phipps, Chair, New Scots Refugee Integration Strategy Core Group – 3 December 2020

Attendees

New Scots Refugee Integration Strategy Core Group, National Taskforce for Human Rights Leadership and Scottish Government.

Key Features: Professor Phipps set out how the New Scots partnership to deliver the New Scots Policy on Refugee integration draws on the Universal Declaration of Human rights in protecting rights on employment, health, social security and culture. She also felt that it is important to be aware of the role of conventions on linguistic rights to protect indigenous language rights even though this is not a protective characteristic under the Universal Declaration of Human Rights. Professor Phipps also noted another key feature could be protection of the Refugee Convention itself and the way New Scots policy ensures 'integration from Day 1' in Scotland.

Opportunities: In Professor Phipps' view the COVID-19 pandemic has highlighted the importance of cultural rights especially for asylum seeker and refugee communities. Research conducted on behalf of New Scots shows that Refugees and Asylum seekers feel that the protection of cultural human rights and languages are important to integrating into Scottish Society.

Challenges: Professor Phipps felt that there is important work to be done to ensure housing and employment protect and support the human rights and welfare of asylum seekers and refugees; and to enshrine the rights of asylum seekers and rights to seek asylum in Scottish law. Professor Phipps also noted interpreting, especially in relation to health would be another challenge.

*

Meeting with the Scottish Land Commission – 3 December 2020

Attendees

Scottish Land Commission, National Taskforce for Human Rights Leadership

Key Features: Participants agreed that a key feature of the framework should be an ambitious approach so that the framework unlocks actions to realise progressive improvements to achieving and maintaining a healthy environment. Community participation should also be a key feature for example having communities more involved and engaged in making decisions.

Opportunities: It was noted that Scotland's land reform experience may offer useful learning to the human right to a healthy environment.

Challenges: It was noted by participants that capacity building will be an important challenge to overcome, so the framework can be effectively implemented.

*

Older People's Strategic Action Forum Meeting (OPSAF) - Friday 4 December

Attendees

Age Scotland, Faith in Older People, National Taskforce for Human Rights Leadership, Outside the Box, Scottish Government, Scottish Human Rights Commission, and Scottish Older People's Assembly, Scottish Pensioners Forum and the UN Independent Expert on the Enjoyment of all Human Rights by Older People.

The UN Independent Expert on the Enjoyment of all Human Rights by Older People, Claudia Mahler, provided a short overview of work being done at UN level on strengthening the rights of older persons, provided some reflections of COVID -19 crisis and offered some information on regional developments that would be useful to inform discussion.

Key Features: Some participants felt there would be value in having a very broad article in the framework regarding older persons rights to provide a foundation first, which can then be further refined. There was also broad agreement that inclusive participation and engagement should also be a key feature within decision making processes and this should be strengthened by the framework. Participants also felt that it is essential for the framework to be very clear on who is accountable in each circumstance to ensure individual cases do not fall through gaps.

Opportunities: Participants felt that establishing the framework will help increase the visibility of older person's rights and improve individuals' confidence to challenge perceived rights breaches. Participants also felt the framework could embed the rights and principles within society so both rights holders and duty bearers are clear on their rights, roles and responsibilities.

Challenges: Participants were clear that a recognition of intersectionality is important to the realisation of rights for older people. For example, with age there will often be a crossover with disability so older person's rights will have to take in to account how it works with CRPD.

*

Access to Remedy Roundtable – 7 December 2020

Attendees

JustRight Scotland, EHRC, Citizens Advice Scotland, CYPCS, SCJC, SHRC, Law Society Scotland, Faculty of Advocates, Clan Childlaw

Key Features: Participants felt that increasing the powers of SHRC to allow them to raise test cases would support the implementation of the framework. Participants also agreed that the establishment of complaints-handling organisations could be of great benefit in educating authorities on the requirements of compliance, and to raise

public awareness. Participants also agreed that a culture shift would be important in transitioning to a more comprehensive, transformative framework, and while the judicial system will take time to change, putting systems in place that allow transformative change in the longer term would be important.

Opportunities: Participants agreed that the framework would be a good opportunity to increase access to effective remedy, ensuring a higher intensity of judicial review. Some participants felt that structural interdicts could be used in order to enact effective response to collective issues, noting the *Tutela* system used in Colombia as an innovative approach.

Challenges: Participants agreed that remedies are currently complex and difficult to navigate in Scotland, and so the framework would need to ensure consistent and clear communication around remedies in order to be effective and accessible. Participants also agreed routes to remedy should also be affordable for everyone. Some participants also felt that the risks in fragmenting rights and equality oversight across the UK was a potential obstacle to implementing the framework.

*

UNCRPD Reference Group – 8 December 2020

Attendees

Alliance, Edinburgh Napier University, Glasgow Disability Alliance, Inclusion Scotland, Law Society Scotland, Mental Welfare Commission Scotland, Scottish Commission for Learning Disability, Scottish Government, Scottish Human Rights Commission, and Scottish Independent Living Coalition, National Taskforce for Human Rights Leadership

Key Features: Participants felt that incorporation of CRPD should be a key feature of the framework. In addition, participants noted that court action should be the last resort with more opportunities for remedy before this stage, as well as more opportunities for collective action.

Opportunities: It was noted by participants that there are opportunities to ensure rights are met without the need to seek legal outcomes through remedies that rectify structural inequalities. Furthermore, participants felt the incorporation of CRPD could drive a culture change regarding disabled people's rights so that rights are proactively considered in decision making processes and therefore more likely to be meaningfully realised.

Challenges: Participants were clear that real change will only come from effective implementation of the framework, including through adequate budgeting and resourcing. This was highlighted as a challenge by participants who felt the pandemic may have a negative impact on public authorities resourcing and budgeting capacity.

*

UNCERD Reference Group – 9 December 2020

Attendees

SHRC, Coalition for Racial Equality and Rights (CRER), BEMIS, Radiant and Brighter, Govan Community Project, Anti-racist Intercultural Youth Scotland, Scottish Minority Women's Network, Progress in Dialogue, Perth and Kinross Associations for Voluntary Service Minority Communities Hub, Law Society of Scotland Equalities Law Sub-Committee

Introductory remarks and discussion contributions from Anastasia Crickley, Chairperson of UN Committee on the Elimination of Racial Discrimination.

Key Features: The majority of participants agreed that the complete and holistic incorporation of CERD would be an important step and give momentum to open up further legislative opportunities as well as support an intersectional approach to eliminating racial discrimination. In particular CERD could support improving data on hate crimes, and supporting wider and improved education for those delivering services in order to understand the impact of racial discrimination on the communities they work with. Participants viewed CERD as a core and essential international treaty and felt that national governments are more likely to prioritise issues because of the additional scrutiny provided by international review.

Opportunities: Most participants felt that the Framework should address intersectionality, and help grow awareness of rights in communities as well as support people to access their rights. Participants agreed that early support from leaders was important, and the Framework should help educate leaders on the historic sources of racism, including colonialism, so that they are better informed to support that goal. Most participants also felt that the Framework should include accountability and penalties for non-compliance, and some participants wanted the framework to explore how CERD aligns with the Public Sector Equality Duty. Participants also broadly agreed that incorporation of CERD was an opportunity to consider how the rights of people interacting with the criminal justice system could be better supported.

Participants noted that a lot of people engaging with government organisations on rights would benefit from clear information about where compliance powers and routes to remedy are devolved or reserved. It was noted that outreach work is needed to ensure communities know their rights, and how to claim them, and that engagement should not only be on the level of duty-bearers.

Challenges: Participants agreed that while the COVID-19 pandemic and the Black Lives Matter movement have brought racial issues to the forefront of public thought, duty-bearers still need to improve their understanding of what policy will make the best impact. Participants agreed that the Framework should enable a consensus of the definitions of race and racial discrimination because they have experience of

duty bearers working with different, or incomplete, definitions of racial inequality indirectly leading to negative impacts for the communities they work with.

Some participants felt that incorporation of CERD would support the rights of Travellers and Eastern European immigrants by including them in CERD definitions of racial groups, so that efforts to support the rights of these communities against discrimination would have a better underpinning within the Framework.

*

CEDAW Reference Group – 14 December 2020

Attendees

COSLA, Engender, Scottish Women's Aid, Amnesty International, Close the Gap, Law Society of Scotland, Scottish Human Rights Commission.

Presentation from Professor Nicole Busby, Academic Advisory Panel.

Key Features: Participants felt that CEDAW had a role in strengthening rights enabled by other treaties. Particularly UNCRC as the rights and welfare of women are inextricably linked with those of children. This was part of a broader view held by participants that human rights are intersectional and the rights of individuals cannot be captured by one treaty alone. Therefore, the strong preference expressed by participants was for an ambitious approach of incorporating CEDAW alongside other treaties.

Opportunities: Many participants viewed incorporation of CEDAW as an opportunity to strengthen existing protections for women's rights, such as the Public Sector Equality Duty. Some participants also encouraged the Taskforce to ensure the framework aligns with the outputs of the First Minister's National Advisory Council for Women and Girls, as well as with the Istanbul Convention of the Council of Europe.

Challenges: Most participants agreed that the framework should enable meaningful change to systematic and historically structural inequalities against women, and should include substantive monitoring and enforcement measures. In their view this would help address the increased impacts on women's rights exacerbated by the COVID-19 pandemic and Brexit. Some participants also felt that policy-makers should be better trained to recognise Gender competence and the intersectionality of human rights, and the framework should therefore support more joined-up approaches and co-production with ordinary people with lived experience of the issues.

*

Public Sector Reference Group – 15 December 2020

Attendees

Care Inspectorate, Children and Young People's Commissioner Scotland, COSLA, Information Commissioner's Office, Mental Welfare Commission, Mental Welfare Commission, National Taskforce for Human Rights Leadership, NHS Education for Scotland, Prisons Inspectorate, Public Health Scotland, Renfrewshire Council, Scottish Community Safety Network, Scottish Government, Scottish Human Rights Commission and Scottish National Heritage.

Professor Elisa Morgera gave a presentation on the importance of a healthy environment, noting obligations recognised by UN frameworks and outlining the importance of a healthy environment both internationally and in Scotland.

Key Features: Participants felt that an integrated model as opposed to a phased approach to rights incorporation was preferable for the framework, given that covering too much separately could mean too broad an approach. Some participants also highlighted there would be benefits in making the most of the current impetus towards human rights in responding to the pandemic and that an incremental approach could miss out on this momentum.

Opportunities: Participants welcomed the growing recognition of the interdependency between the right to a healthy environment and economic, social and cultural rights, and encouraged the framework to build on this approach. In addition, participants felt that it was important to make links across CRPD incorporation and the right to healthy environment, noting the importance to mental and physical health to safely accessing outdoor environments.

Challenges: Participants felt that the process of developing and implementing the framework needs to be done collaboratively with relevant groups and individuals, and therefore care should be taken to ensure it is not overwhelming, so that people can meaningfully engage with it.

*

Taskforce meeting with Who Cares? Scotland – 15 December 2020

Attendees

Who Cares? Scotland, Scottish Human Rights Commission, Human Rights Consortium

Key Features: Participants felt that whilst writing human rights into domestic law is important, the practical mechanisms for implementation and accessibility are just as important, especially in relation to economic and social rights.

Opportunities: Participants supported bringing wider socio/economic rights into law and in particular the right to independent advocacy. Investment in legal aid, independent advocacy and quality human rights training and education were seen as essential in ensuring human rights are realised effectively and that there are effective remedial routes to support everyone to access their rights.

Challenges: Participants highlighted that the framework should address existing gaps. As an example they considered the risks of falling through the gaps for care experience children and adults between 16 and 18 years old moving from support embedded within the rights of a child into those of adults, where the current legislative framework means that as children mature they lose access to services previously guaranteed by their rights as a child.

*

The Human Right to a Healthy Environment Roundtable – 25 January 2021

Attendees

Canopus, CYPCS, Environmental Standards Scotland, ERCS, Friends of the Earth, Law Society, Living Law, National Taskforce for Human Rights Leadership, NatureScot, QMU, RSPB, Scot Link, Scottish Government, Scottish Human Rights Commission, Scottish Parliament, Stirling University, Strathclyde University and David Boyd, UN Special Rapporteur on Human Rights and the Environment.

David Boyd, UN Special Rapporteur on the Environment discussed examples of international best practice that Scotland could look to draw upon and highlighted the importance to have clean air, safe and sufficient water, healthy produced food, non-toxic environments to live, work and play, a safe climate and healthy eco-systems and biodiversity.

Key Features: Participants felt that environmental rights and the rights of children and young people are closely linked and this should be embedded in the framework. There was agreement that the views of children should be sought as part of developing the framework for environmental rights, noting that many children are very engaged in discussions around environmental rights and politics and would be keen to take part.

Opportunities: Participants were keen for the framework to permeate the private sector too as this would be a catalyst to culture change and stronger environmental outcomes. Therefore, participants felt the framework could be an opportunity to widen the definition of a public authority to include relevant private actors.

Challenges: Participants highlighted the devolution settlement as being a potential challenge for the framework where it may seek to explore the limits of legislative competence within Scotland.

*

Civil Society Reference Group – 27 January 2021

Attendees

Alliance, Amnesty, Article 12 in Scotland, Chartered Institute of Housing, Church of Scotland, Civil Society Network, Deaf Scotland, Edinburgh Tenants Federation, Engender, Freedom from Torture, Glasgow Disability Alliance, Human Rights Consortium Scotland, Inclusion Scotland, LINK, Making Rights Real, National Taskforce for Human Rights Leadership, Nourish, Scottish Community Development Centre, Scottish Commission for Learning Disabilities, Scottish Care, Scottish Government, Law Society, Scottish Human Rights Commission, Stonewall, Together Scotland and Who Cares? Scotland.

Key Features: Participants felt that the framework should be developed with the ongoing engagement and participation of groups and individuals who will be affected by its implementation, and this should be accessible to all and have clear remits and outcomes.

Opportunities: Participants felt children and young persons' perspectives should be taken in to account and embedded across the participation process. Particularly on issues such as environmental rights where there is a risk of making children feel marginalised from participation and decision making, despite the important impact the environment has on their growth and development.

Challenges: Some participants felt there could be challenges when facilitating safe conversations, particularly with regards to topics where participants could have polarised views. Furthermore, participants highlighted the importance of accessible language and case studies to ensure the framework is relatable to duty bearers and embeds a human rights based approach.

*

LGBTI+ Rights Roundtable – 27 January 2021

Attendees

LGBT Youth, Stonewall, Equality Network

Key Features: Participants agreed that the Framework should support ongoing efforts to achieve progressive realisation of LGBTI+ rights, which should involve features such as simplified language, clarity of intent in consultations, and learning from international examples.

Opportunities: Participants agreed that the Taskforce should seek to learn lessons from the work of the UNCRC Bill, and seek to adapt and broaden elements of that work to include in an ambitious framework. Participants also agreed that alongside progressive realisation, the framework should support and enable a cultural shift in how LGBTI+ rights are understood, upheld, and viewed positively, with legal recourse for individuals and groups as one aspect but to also involve a specific onus on public authorities and scrutiny bodies to protect, promote and uphold LGBTI+ rights so that this task does not fall to those who are supposed to be protected by those rights.

Challenges: Participants agreed that an ongoing challenge is how rights can be used to protect systems that prevent human rights from being realised, and the framework should seek to challenge and overcome that by putting in place transparency, proactive obligations for duty bearers, and improving the use of Impact Assessments so that they lead to changes in outcomes and greater realisation of rights.

*

Audit Scotland - 8 February 2021

Attendees

Audit Scotland, National Taskforce for Human Rights Leadership and Scottish Government.

Key Features - Participants agreed on the important role of resourcing scrutiny bodies for developing and implementing the framework, noting that public bodies would be expected to utilise the maximum available resources to ensure progressive realisation of rights.

Opportunities - Participants also agreed that scrutiny bodies need clear and effective powers in place to give them an effective scope to investigate how local authorities are following guidance for scrutiny bodies and ensure compliance with duties.

Challenges - Participants felt that the Framework should be very clear on the roles and responsibilities of scrutiny bodies to ensure there was no confusion about which groups should be reporting and enforcing specific duties, and by doing this the framework would reduce the risks of creating gaps in monitoring and scrutiny.