

## ANNEX A.2

No	TYPE OF DOCUMENT	DATE	ERDM LINK OR ATTACHMENT
1.	Email on remote hearings	15 July 2020	 See below email exchange.pdf
2.	Exchanges with EHRC in June on a variety of matters.	14 June 2020	 See below (7) Extract of email exchange with EHRC -
3.	Exchanges with EHRC on info on spousal consent in gender recognition applications	1 July 2020	 See below (8) Email Exchange with EHRC - FOI 2020
4.	Email re; Collection and reporting of sex and gender in criminal justice statistics	17 August 2020	 See below (9) Extract of email exchange - FOI 20200
5.	Email re; Gender Representation On Public Boards (Scotland) Act 2018	17 May 2020	 See below (10) Extract of email exchange - FOI 20200
6.	Email exchange re; Children (Scotland) Bill. Family Justice Modernisation Strategy	5 June 2020	 See below (11) Email Exchange with EHRC - FOI 2020
7.	Human Trafficking Webinar Events	17 June 2020	 See below FOI - October 2020 - Human T...

8.	Email re; Trafficking and Exploitation Strategy	29 May 2020	 FOI - October 2020 - Trafficki... See below
9.	FMQ re; EHRC Inquiry	June 2020	 FOI - EHRC - FMQ brief dated 1... See below
10.	Letter response re; report from the EHRC	2 June 2020	 FOI - EHRC - Letter dated 02.0... See below
11.	Media Lines re; ENRC report on Criminal Justice System failing to meet the needs of those with disabilities	11 June 2020	 FOI - EHRC - Email chain date... See below
12.	Email re; Briefing note on EHRC Scotland New Inquiry Report – Inclusive Justice: A system for all	11 June 2020	 FOI - EHRC - Email from EHR... See below
13.	Email; Letter from the Cabinet Secretary to EHRC on their Interim Report – Video Hearings and Court Proceedings	23 June 2020	 FOI - EHRC - Email chain date... See below

**From:** [REDACTED]

**Sent:** 15 July 2020 14:30

**To:** [REDACTED]

**Subject:** RE: Remote court/tribunal hearings - Australia and New Zealand

Thanks [REDACTED]

I'm coincidentally reading the guidance on virtual Personal Injury court hearings. The ASSPIC had its first virtual procedural and motion court on Monday and will have its first Proof on 4 August.

Kind regards.

[REDACTED]

**From:** [REDACTED]

**Sent:** 15 July 2020 14:26

**To:** [REDACTED]

**Subject:** FW: Remote court/tribunal hearings - Australia and New Zealand

For info

**From:** [REDACTED]

**Sent:** 15 July 2020 14:15

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** Remote court/tribunal hearings - Australia and New Zealand

Hello

Attached is the **first in a series of papers** to deliver evidence from other jurisdictions on **what should be taken into consideration when making policy and practice decisions on remote hearings**. The paper makes **general points** gleaned from a rapidly (mostly googled) search for evidence in **Australia and New Zealand**. The evidence in this paper may relate to some or all of criminal, civil family or tribunal hearings.

**Please note: There is far more detailed evidence coming out of England and we are gathering that in order to deliver you summarised intel as soon as we can.**

If you have **any comments that will help us make forthcoming papers more useful** for you please let me know. This may be a random copy list but I am hoping it's wide enough to ensure it either includes people that may be interested or includes people that can identify people that are interested.

Best wishes

[REDACTED]

**From:** [REDACTED]

**Sent:** 15 July 2020 11:11

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** RE: Remote court/tribunal hearings

Excellent [REDACTED], thanks

I will send you all the first paper before the end of play today.

Very best wishes

[REDACTED]

[REDACTED]

**From:** [REDACTED]

**Sent:** 15 July 2020 10:45

**To:** Guy J (Julie) <[REDACTED]>

**Cc:** [REDACTED]

**Subject:** RE: Remote court/tribunal hearings

Hi [REDACTED] yes, I came into gov as an analyst before I moved to the dark side and our paths have definitely crossed before, although I think more at researcher seminars rather than through working on things.

I would be very interested to see papers relating to evidence on remote hearings both as they relate to summary proceedings, and also their implications for jury trials. I would imagine those on the copylist would also wish to be sighted on this.

I presume you saw Sheriff Pyle's evaluation of virtual summary criminal trials published earlier this month. <https://www.scotcourts.gov.uk/about-the-scottish-court-service/scs-news/2020/07/03/extending-virtual-summary-trials-in-scotland>

Thanks – hope all is good with you

[REDACTED]

**From:** [REDACTED]

**Sent:** 15 July 2020 10:05

**To:** [REDACTED]

**Subject:** Remote court/tribunal hearings

Hi [REDACTED]

I have a feeling we've met before but I can't remember exactly, maybe you used to be an analyst or I've worked with you on something or you just have a similar name to others I've worked with? Anyhow I've just (re-)joined JAS, working with [redacted] and [redacted].

I'm doing a series of papers on the evidence surrounding remote hearings. Evidence is coming in thick and fast and I want to try to get it to the most useful stuff out to the right people as they are making decisions, possibly under the 'renew' agenda?

**Your name was given to me as someone who might either be interested or would know who would be interested, please can you let me know if this is the case.**

I have one paper ready with evidence from Australia and New Zealand and the next one will draw out some key findings set out in an EHRC event last week. Then I will tackle the enormous amount of stuff coming out in England.

Thanks and best wishes  
[REDACTED]

**From:** [redacted]@gov.scot [redacted]@gov.scot>  
**Sent:** 14 June 2020 14:34  
**To:** [redacted]equalityhumanrights.com>  
**Cc:** [redacted]equalityhumanrights.com>; [redacted]@gov.scot;  
[redacted]gov.scot [redacted]@gov.scot; [redacted]@gov.scot;  
[redacted]gov.scot  
**Subject:** A number of things

[redacted]

1. Hi. I hope you are well. A number of miscellaneous issues – it might be useful to have a chat?
2. First of all, you kindly agreed to speak at the Scottish Government Justice Directorate away-day, on the rule of law. This away-day was postponed to 30 September, as a consequence of Covid-19. We have now decided to postpone it again and I will be in touch with a new date for the New Year.
3. Secondly, [redacted] and I had a catch up the other day on the Children (Scotland) Bill and the associated Family Justice Modernisation Strategy. There is one point arising on which I would be grateful for views.

[redacted]  
[redacted]  
Scottish Government  
[redacted]

\*\*\*\*\*  
\*\*\*\*

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\*\*\*\*

**From:** [redacted]equalityhumanrights.com>  
**Sent:** 16 June 2020 18:44  
**To:** [redacted]@gov.scot>  
**Subject:** RE: A number of things

Hi [REDACTED]

Thanks very much for your updates. Will we catch up with a call / webex? 11ish on Thursday any good for you?

[REDACTED]

[REDACTED]

Equality and Human Rights Commission

**T** [REDACTED] **Mobile:** [REDACTED]

151 West George Street,  
Glasgow G2 2JJ

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**From:** [REDACTED]  
**Sent:** 17 June 2020 08:01  
**To:** [REDACTED] <[\[REDACTED\]@equalityhumanrights.com](mailto:[REDACTED]@equalityhumanrights.com)>  
**Subject:** RE: A number of things

[REDACTED]

Hi. I suspect out IT does not run to webex!

Would a call at 11.30 on Thursday be OK? What's the best number?

[REDACTED]

[REDACTED]

Scottish Government

[REDACTED]

**From:** [REDACTED] [\[REDACTED\]@equalityhumanrights.com](mailto:[REDACTED]@equalityhumanrights.com)>

**Sent:** 01 July 2020 09:42

**To:** [REDACTED] [\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>

**Subject:** Spousal consent

Hi [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

I wondered whether you hold any information on how many applications to the sheriff court to issue a full GRC after an interim GRC has been issued by the Gender Recognition Panel there have been? Also do you know how many divorces in Scotland on the ground that an interim GRC had been issued to one of the parties to the marriage there have been? Are you aware of any issues that have arisen in this area that you are able to share?

Any information gratefully received

[REDACTED]  
[REDACTED]

Equality and Human Rights Commission

**T:** [REDACTED] **Mobile:** [REDACTED]

151 West George Street,  
Glasgow G2 2JJ

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Commission** | **Scotland**

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**From:** [REDACTED]  
**Sent:** 01 July 2020 11:08  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: Spousal consent

[REDACTED]

Hi.

We don't have hard stats on the number of applications to the sheriff court to issue a full GRC after an interim GRC has been issued.

However, we were hearing more informally that no such applications had been made. Just before lockdown, I heard informally that one might be in the pipeline.

The number of married applicants to the Gender Recognition Panel is quite low in the first place. Please see: <https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-january-to-march-2019> (please see table GRP 4 – the relevant tables are also attached above for ease of reference).

And the number of applications generally to the GRP from Scotland is low too – around 30 a year.

We do have stats on the bases of divorces and dissolutions but I can't find them in our Civil Justice Stats tables – I've asked our statistician for a link. But when I looked in the past the number of divorces on the ground that an interim GRC had been issued was very low – around 1 a year.

[REDACTED]  
[REDACTED]  
Scottish Government  
[REDACTED]

**From:** [REDACTED]  
**Sent:** 01 July 2020 13:02  
**To:** [REDACTED] [equalityhumanrights.com](mailto:equalityhumanrights.com)>  
**Cc:** [REDACTED] [@gov.scot](mailto:@gov.scot)>  
**Subject:** RE: Spousal consent

[REDACTED]

Hi. Further to the email below, stats on divorce and dissolution are available within the Excel 'Supporting file' named "Divorce and Dissolution Supplementary Tables 2018-19" at <https://www.gov.scot/publications/civil-justice-statistics-scotland-2018-19/> (On the right hand side towards the top under the PDF)

The relevant tables are 2 and 3.

[REDACTED]  
[REDACTED]  
Scottish Government  
[REDACTED]

**From:** [REDACTED]

**Sent:** 17 August 2020 18:44

**To:** [REDACTED] <[REDACTED]@gov.scot>

**Subject:** RE: Collection and reporting of sex and gender in criminal justice statistics

[REDACTED]

OSR may not be aware of a statement given by EHRC on collection of data for the public sector equality duty to SG and published as part of the documentation from the sex and gender in data working group-

<https://www.gov.scot/binaries/content/documents/govscot/publications/minutes/2019/09/sex-and-gender-in-data-working-group-meeting-september-2019/documents/ehrc-submission-on-collecting-and-presenting-data-on-sex-and-gender/ehrc-submission-on-collecting-and-presenting-data-on-sex-and-gender/govscot%3Adocument/EHRC%2Bsubmission%2Bon%2Bcollecting%2Band%2Bpresenting%2Bdata%2Bon%2Bsex%2Band%2Bgender..pdf>. Much of this is not about presentation of data collected for the PSED, but the recording of it, but relevant points are made.

Not sure to what extent all this is helpful. Happy to discuss further for example on Skype.

[REDACTED]

Scottish Government | Justice Directorate | [REDACTED] | [REDACTED]  
[REDACTED] | St Andrew's House | Edinburgh | EH1 3DG



**From:** [REDACTED]@gov.scot>

**Sent:** 17 May 2020 16:51

**To:** [REDACTED]@gov.scot>; [REDACTED]

[REDACTED]@gov.scot>

**Cc:** [REDACTED]\_gov.scot>; [REDACTED]\_gov.scot>; [REDACTED]

[REDACTED]@gov.scot>; [REDACTED]@gov.scot>; [REDACTED]

[REDACTED]\_gov.scot>; [REDACTED]@gov.scot>; [REDACTED]

[REDACTED]@gov.scot>; [REDACTED]\_gov.scot>; [REDACTED]

[REDACTED]\_gov.scot>; [REDACTED]\_gov.scot>; [REDACTED]

[REDACTED]@gov.scot>; [REDACTED]\_gov.scot>; [REDACTED]

[REDACTED]@transport.gov.scot>; [REDACTED]@gov.scot>; [REDACTED]

[REDACTED]\_gov.scot>

**Subject:** RE: URGENT FOR COMMENT BY MONDAY 18 MAY: Gender Representation On Public Boards (Scotland) Act 2018: Options for Communications Activity and Support for Boards

[REDACTED]  
[REDACTED]

The EHRC figure dates from around 2011, 2012 and was based on a small sample of 10,000 people as part of testing questions on sex, gender identity and gender reassignment. 1% of respondents there said that they had undertaken gender reassignment and 0.4% of respondents to a gender identity question identified in a non-binary way:

[https://www.equalityhumanrights.com/sites/default/files/technical\\_note\\_final.pdf](https://www.equalityhumanrights.com/sites/default/files/technical_note_final.pdf) . This seemed on the high side and as I said had a small sample though I do not know if they were intended to be representative in some way of the general population in the UK.

[REDACTED]

Scottish Government | Justice Directorate | [REDACTED] [REDACTED]  
[REDACTED] | St Andrew's House | Edinburgh | EH1 3DG

**From:** [REDACTED] <[\[REDACTED\]@equalityhumanrights.com](mailto:[REDACTED]@equalityhumanrights.com)>  
**Sent:** 05 June 2020 11:58  
**To:** [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>  
**Subject:** Hi

Hi [REDACTED],

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

I hope you're keeping well in these times. I was hoping to check in with a quick question – is the family justice modernisation strategy continuing as planned this year, or should we expect a Covid-19/capacity related delay? We've been rewriting our business plan frequently according to changing circumstances and I'm keen to get an idea of what's coming up to help us prioritise.

You and colleagues may have been redeployed, so no worries if you don't have an answer for me! Even an idea of who to contact would be useful.

And it would be good to hear from you, if you get a chance.

Warm regards,

[REDACTED]

[REDACTED]

[REDACTED]

Equality and Human Rights Commission

**T:** [REDACTED]

151 West George Street,  
Glasgow G2 2JJ

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**From:** [REDACTED]

**Sent:** 08 June 2020 07:14

**To:** [REDACTED] [equalityhumanrights.com](mailto:equalityhumanrights.com)>

**Cc:** [REDACTED] [gov.scot](mailto:gov.scot)>; [REDACTED]

[REDACTED] [gov.scot](mailto:gov.scot)>

**Subject:** RE: Hi

[REDACTED]

1. Hi. I hope you are enjoying your new post despite lockdown and that you are well.

2. I am copying in my colleagues [REDACTED] and [REDACTED] who are working with me on the Children (Scotland) Bill and the Family Justice Modernisation Strategy (FJMS).

3. The Bill has been delayed by Covid-19 pressures but is now progressing and we expect Stage 2 towards the end of this month. Once the Bill is through, there will be a considerable amount of implementation work for us to do [REDACTED]

4. On the FJMS <https://www.gov.scot/publications/family-justice-modernisation-strategy/pages/14/>, [REDACTED]

5. However, we are continuing to work on the FJMS when time permits and, for example, have recently sent the Family Law Committee of the Scottish Civil Justice Council a policy paper to cover actions 7 and 20 (on domestic abuse and on extending the existing court rule on referring family cases to mediation). This paper links in with existing work by the Family Law Committee on the case management of family actions. The paper was an "open" paper and so should be published by the Family Law Committee secretariat shortly.

6. Happy to discuss and be good to have a general catch-up.

[REDACTED]

[REDACTED]

Scottish Government

[REDACTED]

**From:** [REDACTED]@gov.scot [REDACTED]@gov.scot>  
**Sent:** 08 June 2020 17:37  
**To:** [REDACTED]@equalityhumanrights.com>  
**Cc:** [REDACTED]@gov.scot; [REDACTED]@gov.scot  
**Subject:** RE: Hi

[REDACTED]

Hi. By coincidence, something else has come up and it would be good to have a chat. Are you free for a phone call later this week some time?

[REDACTED]  
[REDACTED]  
Scottish Government  
[REDACTED]

**From:** [REDACTED]@equalityhumanrights.com>  
**Sent:** 09 June 2020 09:40  
**To:** [REDACTED]@gov.scot>  
**Cc:** [REDACTED]@gov.scot>; [REDACTED]  
[REDACTED]@gov.scot>  
**Subject:** RE: Hi

Hi [REDACTED],

Thanks so much for this really useful update. I have quite a lot of availability this week actually, only in meetings on Thursday morning. Just let me know when suits.

Warm regards,

[REDACTED]

**From:** [REDACTED]@gov.scot [REDACTED]@gov.scot>  
**Sent:** 10 June 2020 09:53  
**To:** [REDACTED]@equalityhumanrights.com>  
**Subject:** FW: Hi

[REDACTED]

Hi. Would this afternoon suit for a quick catch-up? I have a call at 4.30 but am otherwise free.

[REDACTED]  
[REDACTED]

Scottish Government

[REDACTED]

**From:** [REDACTED] <[\[REDACTED\]@equalityhumanrights.com](mailto:[REDACTED]@equalityhumanrights.com)>  
**Sent:** 10 June 2020 10:02  
**To:** [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>  
**Subject:** RE: Hi

Sounds good, how about 3.30pm?

Thanks,

[REDACTED]

**From:** [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)> [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>  
**Sent:** 10 June 2020 10:43  
**To:** [REDACTED] <[\[REDACTED\]@equalityhumanrights.com](mailto:[REDACTED]@equalityhumanrights.com)>  
**Subject:** RE: Hi

Yes, that's fine. What's the best number to call you on?

**From:** [REDACTED]  
**Sent:** 10 June 2020 10:47  
**To:** [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)> [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>  
**Subject:** RE: Hi

Thanks [REDACTED].

[REDACTED]

This number should work ^.

Many thanks,

[REDACTED]

**From:** [REDACTED] <[\[REDACTED\]@equalityhumanrights.com](mailto:[REDACTED]@equalityhumanrights.com)>  
**Sent:** 10 June 2020 16:09  
**To:** [REDACTED] <[\[REDACTED\]@gov.scot](mailto:[REDACTED]@gov.scot)>  
**Subject:** RE: Hi

Hi [REDACTED],

Although the website says this guide is for England and Wales, see page 11 for the duty to make reasonable adjustments in sections 20 and 21 of the Equality Act 2010. The sectors this duty applies to are in parts 3/4/5/6/7/8, but please do get in touch with [REDACTED] if you'd like more info on this.

<https://www.equalityhumanrights.com/sites/default/files/equality-act-2010-handbook-for-advisers.pdf>

This may also be helpful:

[https://www.equalityhumanrights.com/sites/default/files/redraft\\_of\\_psd\\_tech\\_guidance\\_-\\_v6sc.pdf](https://www.equalityhumanrights.com/sites/default/files/redraft_of_psd_tech_guidance_-_v6sc.pdf)

Thanks a lot for our chat,



**From:** [redacted] **On Behalf Of** Human Trafficking

**Sent:** 17 June 2020 15:28

**Subject:** Human Trafficking Webinar Events in June and July 2020 - Hosted by the Trafficking Awareness Raising Alliance (TARA)

Good afternoon,

Trafficking Awareness Raising Alliance (TARA) are offering 3 multi-agency webinars on Human Trafficking in Scotland for frontline services through June and July.

These are introductory webinars that will last 2 hours and are geared towards frontline services with zero to limited knowledge on the topic. The sessions have been designed to raise awareness and will cover:

- What Human Trafficking is and its prevalence
- Your role as a frontline service provider
- What supports are available for survivors

Organisations that have several staff members (over 5) who would like to attend or that have specific training needs on the topic, can arrange for a free bespoke webinar session by contacting TARA to discuss.

Please register by clicking on the links below which will take you to Eventbrite

[North of Scotland - June 24 at 1:30-3:30](#)

[East of Scotland - July 1 at 10:30am-12:30pm](#)

[West of Scotland - July 6 at 1pm](#)

For enquires regarding these events please contact [redacted]

I would be grateful if you could share wider with interested parties.

Thank you  
[redacted]

[redacted] Human Trafficking Team | Criminal Justice Division | Scottish Government | GWR | St Andrew's House | Regent Road | Edinburgh | EH1 3DG | email: [redacted] | t: [redacted]

**From:** [redacted] **On Behalf Of** Human Trafficking

**Sent:** 29 May 2020 11:49

**Subject:** Trafficking and Exploitation Strategy - Third Annual Progress Report and Strategy Review

Good morning,

I am pleased to let you know that the annual progress report and statutory review of Scotland's Trafficking and Exploitation Strategy has been [published](#) today and is now live on the Scottish Government website.

The findings of this publication have been developed over the last six months where an extensive programme of engagement has been undertaken to seek the views of a wide range of stakeholders on the effectiveness of the Strategy and its implementation, and whether changes are needed either to the Strategy itself or to the implementation approach.

The current Strategy remains fit for purpose and provides an effective framework for continuing to improve in the short term. However, through continued partnership working, a revised and updated Strategy will be developed and published in line with the latest evidence on trafficking and exploitation.

A [news release](#) has also been issued which outlines increased funding to support organisations working with victims of human trafficking.

The news release and link to the publication are also on [Twitter](#). I would be grateful if you could share this wider or add to your own websites etc.

Thank you  
[redacted]

[redacted] Human Trafficking Team | Criminal Justice Division | Scottish Government | GWR | St Andrew's House | Regent Road | Edinburgh | EH1 3DG | email: [redacted] | t: [redacted]

If you no longer wish to receive these emails please click [here](#)

# **EHRC INQUIRY – DISABLED PEOPLE IN THE CRIMINAL JUSTICE SYSTEM**

Contact: [REDACTED] or [REDACTED]

**ISSUE** – On 11 June 2020 the Equalities and Human Rights Commission (EHRC) published the report of its inquiry into the participation of disabled people in the criminal justice system. The UK-wide inquiry focused on the experiences of adult accused people with a cognitive impairment, mental health condition and / or neuro-diverse condition at the pre-trial phase of the justice process.

The inquiry found:

- The justice system is not designed around the needs and abilities of disabled people, and reforms in England and Wales risk further reducing participation.
- Impairments that may require adjustments are not always identified and that this is a barrier to effective participation.
- Adjustments are not always made for disabled people because information about their impairments is not passed on.
- The existing framework to provide adjustments to secure effective participation for disabled defendants and accused people is inadequate.
- Legal professionals do not consistently have the guidance or training they need to be able to recognise impairments, their impact, or how adjustments can be made.

The report makes the following recommendations for the Scottish Government and its partners:

- Gaps in collection and analysis should be addressed to inform better system design and there should be clear regulatory oversight to monitor the effective participation.
- SG should agree a long-term aim of a health-led screening and assessment process.
- SG should create a system that will ensure appropriate collection and sharing of information on identified needs and recommended adjustments across health, social work and justice.
- SG should set up an intermediary service for disabled accused persons.
- SG should review the use and effectiveness of current vulnerable witness provisions available to vulnerable accused persons.
- High Court of Justiciary should change the criminal procedure rules to require all courts to enquire whether any adjustments are necessary to ensure an accused person can participate effectively in proceedings.
- Training and codes of conduct / standards for the legal profession should include disability awareness.

EHRC also published an interim report based on the inquiry's findings in April which focused on video links in courts, due to the increased use of technology in the justice system as a response to Covid-19. This report found that video hearings could disadvantage disabled accused people, and the full report expands the findings in the interim report.

## **Top Lines**

- The Scottish Government welcomes the EHRC's reports and acknowledges the barriers to effective participation that disabled people may face when they come into contact with the justice system.
- We are committed to ensuring the justice system is fair, effective and accessible for all.
- This means considering the impact on disabled people as any reforms are introduced and in making sure that support is available for those who need it.
- This is recognised in our A Fairer Scotland for Disabled People Action Plan and in our Mental Health Strategy, as well as in the independent review of forensic mental health services which was announced by the Minister for Health last year.
- We established the Health and Justice Collaboration Improvement Board in 2017 to develop a much more integrated service response in key areas where health and justice services intersect.
- We recently introduced legislation, backed up with £1 million additional funding to local authorities, to establish a statutory Appropriate Adult service to improve communication support for vulnerable individuals during police investigations.
- We are continuing to work with our partners and stakeholders to further build on this work.
- This includes provide annual funding to the SOLD Network, which works to improve support for people who have difficulty with communication and understanding and are at risk of, accused or convicted of crime.

## **Scotland is the first country in the United Kingdom to implement a statutory Appropriate Adult service to provide communication support for vulnerable adults during police investigations.**

- The legislation to set this up came into force in January and we have provided £1 million additional funding to local authorities to deliver the service.
- We have also provided additional funding to the Care Inspectorate, which is now responsible for assessing the quality of Appropriate Adult provision in Scotland.
- The legislation also placed a duty on the police to take steps to ensure the relevant support is put in place for vulnerable people in custody.
- We are continuing to work with Police Scotland and other stakeholders in respect of training in relation to this.
- Our learning from the development of this service is helping to inform wider work in relation to support for disabled people in the criminal justice system.

## **We acknowledge that further work is required to explore how best to provide support to vulnerable people in criminal proceedings**

- We are exploring whether this is best facilitated through a registered intermediary scheme or other communication support model, and are considering this as part of wider work to reform the criminal justice system for vulnerable people.
- We recognise the importance of establishing the right kind of support as early as possible in the justice process, and also to ensure that any policy development in this area links in with the Evidence and Procedure Review.

- At the moment we consider there is no legislative bar if a person was required to assist with advising the court on the communication needs of a witness, but acknowledge that a lack of formal structure and guidance in relation to this type of support means that it is not used as often as it could be.

**A Fairer Scotland for Disabled People action plan includes the ambition to ensure that Scotland's justice system is equipped to meet the needs of disabled people in a fair and inclusive way.**

- We published a report on the Action Plan in December 2019 and we envisage that it will form the basis of our report to the Scottish Parliament in early 2021.
- The Scottish Government provides annual grant funding to the SOLD Network, which works to improve support for people who have difficulty with communication and understanding and are at risk of, accused or convicted of crime.
- This year we have provided funding of £99, 241 funding for SOLD.
- The Scottish Strategy for Autism 2018-21 also committed to working with the SOLD Network to improve autism awareness across the criminal justice system.
- We are also aware of the need to ensure the right support is provided for the small number of young people with additional needs who end up going through the adult criminal justice as highlighted through the multi-agency whole system approach to offending behaviour by young people.
- Increasing awareness of speech, language and communication needs for young people in the youth justice system was a priority within the Youth Justice Strategy which came to a formal end in June 2020. Consideration is now being given to a future vision and action plan for youth justice to be published at the end of 2020.

**We recognise the importance of strong links and collaborative working between those in the criminal justice system and other areas.**

- In 2017 we established the Health and Justice Collaboration Improvement Board.
- This brings together senior leaders from health, justice and local government to develop a much more integrated service response in key areas where health and justice services intersect.
- One of the three priority areas for the Board is mental health and distress.

**Through our Mental Health Strategy we committed to reviewing existing mental health legislation to determine if new measures are necessary to fulfil the distinct needs of people with learning disabilities or autism.**

- The principal aim of the review of the Mental Health Act is to improve rights and protections, which includes people's experiences within justice services.
- The Review launched the stage 1 consultation in February 2020 and produced an Interim report which was published on 1 June. The interim report sets out some of the themes emerging from the views already gathered, and plans for the next steps for the Review over the rest of the year.
- A further interim report will be published in December 2020.

**In March 2019 the Minister for Mental Health announced an independent review in how forensic mental health services are being delivered across Scotland.**

- The review includes representation from organisations involved in legal and court proceedings.
- The terms of reference of the review includes consideration of:
  - The provision of professional and expert witness psychiatric and psychological reports to Scottish courts and the impact any delays may have on people awaiting sentence; and
  - The availability and provision of forensic mental health services generally, in context of the investigation and prosecution of crime, including, in particular to persons accused of crime.
- Phase 1 of the review, gathering views including from those with lived experience of receiving forensic mental health services concluded earlier this year.
- Phase 2 which focuses on considering the evidence is underway and an interim report setting out emerging themes will be published this summer.
- The final phases of the review will involve identifying improvements and making recommendations for change based on the evidence the review has gathered.
- On 27 March 2020 the review was suspended due to the coronavirus pandemic. Prior to this suspension it was expected that the review would publish its final findings and recommendations by the end of September 2020. Given the current suspension, an amended timetable will be required.

**We have engaged with the Law Society of Scotland in relation to its work on vulnerable accused people**

- We participated in the Law Society's roundtable on vulnerable accused in November 2018 and are continuing to engage with the Society in relation to the report and recommendations which came from that event.
- While training and the use of special measures are operational matters for the profession and our justice partners, we are happy to work with them to ensure that special measures are being utilised appropriately for individuals who require such support at court.

**The Coronavirus (Scotland) Act 2020 included provisions to enable the wider use of technology in court proceedings**

- These provisions recognised that the ability to conduct court business remotely is an important element of the justice system's response to the emergency situation.
- We acknowledge the Commission's concerns about the impact such provisions may have on disabled individuals' effective participation.
- The provisions give all parties the opportunity to make representations, and have regard to any judicial guidance issued before a decision is taken to proceed with attendance by electronic means.
- This will allow any party to raise concerns in the interests of justice around the need to appear electronically.

[REDACTED]  
[REDACTED]

Our Reference: 202000031434

Your Reference: A letter and embargoed report from the Equality and Human Rights Commission

02 June 2020

Good morning [REDACTED]

Thank you for your email dated 20 April to the Cabinet Secretary for Justice. I have been asked to respond on behalf of the Justice Digital and Strategy Unit, which sits within the Scottish Government; please accept my apologies on the delay in getting back to you.

I understand that Christina McKelvie, the Minister for Older People and Equalities, has responded to Mr Wilkes about the interim report on the impact of video hearings on 27 April. Firstly, I would like to repeat that we share these views in ensuring that the rights of all people are upheld in our justice system, including those who as a result of disability are at risk of disadvantage through the use of technology.

As you will know the Coronavirus (Scotland) Act 2020 included provisions to enable the wider use of technology in court proceedings, recognising that the ability to conduct court business remotely will be an important element of the justice system's response to the emergency situation. The Scottish Courts and Tribunals Service (SCTS) is working with partners across the system to help ensure that criminal and civil business in our courts can continue to run, despite the current restrictions associated with the coronavirus outbreak. We will ensure that the report is shared SCTS so that they are sighted on the findings contained within it.

Please get in touch with me directly if I can be of any further assistance to you.

Regards

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

[REDACTED]  
**CRIMJUS : Justice Digital and Strategy Unit**

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St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)



**From:** [REDACTED] **On Behalf Of** Cabinet Secretary for Justice  
**Sent:** 11 June 2020 13:55  
**To:** [REDACTED] Cabinet Secretary for Justice [REDACTED]  
**Cc:** [REDACTED] Cabinet Secretary for Communities and Local Government  
**Subject:** RE: line to clear - EHRC Criminal Justice System/ disabled people - PA

Hi [REDACTED]

Mr Yousaf is content to clear.

Regards  
[REDACTED]

[REDACTED] Private Secretary  
Cabinet Secretary for Justice  
Scottish Government  
[REDACTED]  
[REDACTED]

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**From:** [REDACTED]  
**Sent:** 11 June 2020 13:33  
**To:** Cabinet Secretary for Justice [REDACTED]  
**Cc:** [REDACTED] Cabinet Secretary for Communities and Local Government [REDACTED]  
**Subject:** line to clear - EHRC Criminal Justice System/ disabled people - PA

Cab Sec/PO,

PA is covering an EHRC report which says Scotland's criminal justice system is failing to meet the needs of those with learning disabilities, autistic spectrum disorders and brain injuries and needs reform to ensure disabled accused individuals can access the adjustments they need. Report in full below.

We have discussed with officials and SpAds. Grateful for clearance of suggested lines.

For awareness the EHRC report is running without embargo.

Thanks,

[REDACTED]

A Scottish Government spokesperson said:

“We welcome the EHRC’s report and acknowledge the barriers to effective participation that disabled people may face when they come into contact with the justice system. We are committed to ensuring the justice system is fair, effective and accessible to all, both in terms of considering the impact on disabled people as any reforms are introduced and in making sure that support is available for those who need it. We recently introduced legislation, backed up with £1 million additional funding to local authorities, to establish a statutory Appropriate Adult service to improve communication support for vulnerable individuals during police investigations and we are continuing to work with our partners and stakeholders to further build on this work.”

Background

More information on the Appropriate Adult service is available [online](#).

### **Scottish criminal justice system failing disabled people**

*Equality watchdog says criminal justice system is leaving disabled citizens “bewildered”*

Having recently produced [interim findings](#) in response to the coronavirus pandemic, the Equality and Human Rights Commission (EHRC) Scotland has today further warned the justice system is failing to meet the needs of those with learning disabilities, autistic spectrum disorders and brain injuries and needs reform to ensure disabled accused individuals can access the adjustments they need.

As it launches the full findings of its Britain wide inquiry into whether the separate criminal justice systems in Scotland and England and Wales treats disabled people fairly, EHRC Scotland says Scotland’s criminal justice system is not systematically recognising the needs of disabled people, meaning accused people risk not being able to participate properly in the legal process. It also explains that there is an overrepresentation of people with learning disabilities and mental health issues within the system that the government has failed to document, that those accused aren’t routinely provided with adjustments they need to participate in the justice process, and that too many legal professionals do not understand the barriers to participation that disabled accused face.

Highlighting that increased digitalisation of the system threatens disabled people’s access to justice – as it risks them being even less able to understand what is happening, and communicate, than when they are participating in person – EHRC Scotland stresses the urgency of reform of the system to meet disabled people’s needs, in turn improving it for all court users.

**John Wilkes, Head of Scotland at the Equality and Human Rights Commission, said:**

“A non-discriminatory criminal justice system, that everyone can participate in, underpins our society. It stands for democracy, equality and the rule of law.

“But disabled people often face barriers to understanding their situation and making themselves properly understood to others. This can result in them feeling bewildered by the system and not able to effectively participate.

Clearly the system needs a redesign.

“The Scottish Government and executive agencies need to make it a priority to understand the needs of disabled people in the system, giving serious consideration to our findings and recommendations, and commit to making our justice system fair for all.”

Alongside its findings, the report makes a number of recommendations to the Scottish Government and relevant agencies:

- ensure departments and executive agencies address gaps in the collection, monitoring and analysis of disability data, and ensure there is clear regulatory oversight to monitor their effective participation
- develop early and effective screening for all accused people and give consideration to how screening might work for those involved in criminal proceedings where the route does not involve the police and/or custody
- ensure timely access and sharing of information
- support the duty to make reasonable adjustments and respect fair trial rights through for example the introduction of a registered intermediary service
- We also recommend that those bodies involved in the training and support of legal professionals;
  - Improve understanding of disability and the barriers to participation by taking steps to ensure initial professional qualification training for law students includes disability awareness, all relevant codes of conduct and standards are amended to specifically include disability awareness as a professional requirement, and disability awareness is a mandatory element of continuing professional development for those working in criminal law

For more information visit [equalityhumanrights.com](http://equalityhumanrights.com) or contact [REDACTED]

[REDACTED]

Newsdesk

Scottish Government

[REDACTED]

**From:** [REDACTED]

**Sent:** 11 June 2020 15:39

**Subject:** EHRC Scotland new Inquiry report - Inclusive Justice: A system for all

Good afternoon,

Today, the Equality and Human Rights Commission has launched our inquiry report, 'Inclusive Justice: A system for all'. This inquiry looks at whether the criminal justice system treats disabled people fairly. This report raises concerns that the system is failing people with learning disabilities, autistic spectrum disorders and brain injuries and needs reform in order to ensure that disabled accused can access the adjustments they need. Please find attached a copy of the report.

Our findings show that the criminal justice system is not recognising the needs of disabled people, and it is not providing the adjustments they need to participate in the justice process. We also highlight that many legal professionals do not have adequate training to recognise impairments and their impact, or to understand how adjustments can be made.

The increased digitalisation of the system threatens disabled people's access to justice as it risks leaving people unable to properly understand what is happening during the trial process and will increase the risk of impairments not being identified. We stress the urgency of reforming the system to meet disabled people's needs, in turn improving it for all court users.

Alongside its findings, the report makes five accompanying recommendations to Government and relevant agencies:

1. Ensure departments and executive agencies address gaps in the collection, monitoring and analysis of disability data, and ensure there is clear regulatory oversight to monitor their effective participation.
2. Develop early and effective screening for all defendants and accused people and give consideration to how screening might work for those involved in criminal proceedings where the route does not involve the police and/or custody.
3. Ensure timely access and sharing of information.
4. Support the duty to make reasonable adjustments and respect fair trial rights.
5. Ensure initial professional qualification training for law students includes disability awareness, all relevant codes of conduct and standards are

amended to specifically include disability awareness as a professional requirement, and disability awareness is a mandatory element of continuing professional development for those working in criminal law.

We have [shared our report on twitter](#) and would appreciate any retweets if this is considered appropriate from your organisation or personal accounts.

If you have any further questions, please contact me on [vonnie.sandlan@equalityhumanrights.com](mailto:vonnie.sandlan@equalityhumanrights.com)

Kind regards,

[REDACTED]

[REDACTED]  
Communications and Public Affairs Manager  
Equality and Human Rights Commission

**T:** [REDACTED]  
**M:** [REDACTED] 151 West George Street,  
Glasgow G2 2JJ

[equalityhumanrights.com](http://equalityhumanrights.com)



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***Due to the COVID-19 outbreak I am working compressed hours from home. My usual working pattern is 8am – 1pm. I may be sending emails at a time convenient for me but please note I do not expect you to respond outside of your working hours or at the weekend.***

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## Our vision and purpose

We're here to stand up for freedom, compassion and justice in our changing times. We do it by promoting and upholding equality and human rights ideals and laws across England, Scotland and Wales. Our work is driven by a simple belief; if everyone gets a fair chance in life, we all thrive.

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The Equality and Human Rights Commission was established by the Equality Act 2006 as the Commission for Equality and Human Rights.

**From:** [REDACTED]  
**Sent:** 23 June 2020 10:35  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: EHRC interim report - video hearings and court proceedings

Of course! Apologies, I should have done that in the first place! The reference is 202000044943.

Kind regards,

[REDACTED]

[REDACTED] **Gender Equality | Equality, Human Rights and Third Sector | Scottish Government | Victoria Quay | Edinburgh EH6 6QQ | Tel: [REDACTED] | Email: [REDACTED]**

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**From:** [REDACTED]  
**Sent:** 23 June 2020 10:24  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: EHRC interim report - video hearings and court proceedings

That's great, [REDACTED] – thanks for confirming.

Can you share the correspondence / Micase ref just so that we're sighted on this before we finalise our response, which relates to the full EHRC inquiry and not just the digital matters / interim report.

[REDACTED]

**From:** [REDACTED]  
**Sent:** 23 June 2020 10:13  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: EHRC interim report - video hearings and court proceedings

Good morning [REDACTED],

I did not include anything on the video hearings in my final response as I was concerned that it may complicate your response. No need to form a coordinated response with the letter I drafted.

Kind regards,

[REDACTED]

[REDACTED] | Gender Equality | Equality, Human Rights and Third Sector | Scottish Government | Victoria Quay | Edinburgh EH6 6QQ | Tel: [REDACTED] | Email: [REDACTED]

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**From:** [REDACTED]  
**Sent:** 23 June 2020 10:10  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: EHRC interim report - video hearings and court proceedings

[REDACTED]

We need to get the letter up to PO by Thursday, so could somebody let me know if we need to be taking a coordinated approach re the reply we're sending from CSJ and what is going out from FM per [REDACTED]'s email.

Thanks  
[REDACTED]

**From:** [REDACTED]  
**Sent:** 18 June 2020 09:24  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: EHRC interim report - video hearings and court proceedings

Thanks [REDACTED].

We've got a response from Cab Sec for Justice to the final report drafted that's just awaiting clearance from [REDACTED], so let me know if this is something that should be linked into that response.

[REDACTED]

**From:** [REDACTED]  
**Sent:** 17 June 2020 17:28  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** RE: EHRC interim report - video hearings and court proceedings

We answered a MACCS on the interim report, which reiterated the views were made by [Redacted] in her response to the same report in the last couple of months.

However, [REDACTED] was leading recently for CSJ on the main report, I think published last week. The EHRC seems to have scatter-gunned a lot of emails in recently on the same issue, but this seems to be related to the interim report – [REDACTED], can you share the email with me or its reference on MACCS? I'll review tomorrow morning.

I don't think we had been aware of a version that had gone to the FM.

---

[REDACTED] Justice Digital and Strategy | Scottish Government

Please call or message [REDACTED]

Twitter: [REDACTED]

**ON SCOTS? PLEASE USE SKYPE FOR BUSINESS**

*You may get an email from me during evenings and weekends while I am working from home; however I do not expect a response during these times.*

**From:** [REDACTED]

**Sent:** 17 June 2020 17:17

**To:** [REDACTED]

**Cc:** [REDACTED]

**Subject:** FW: EHRC interim report - video hearings and court proceedings

[REDACTED]

Did you answer a similar letter previously? I guess the answer needs to point to SCTS but did you have some lines we can offer [REDACTED] please?

[REDACTED]

**From:** [REDACTED]

**Sent:** 16 June 2020 08:56

**To:** [REDACTED]

**Subject:** RE: EHRC interim report - video hearings and court proceedings

Thanks for letting me know [REDACTED] and hopefully [REDACTED] will be able to help!

Kind regards,

[REDACTED]

[REDACTED] | **Gender Equality | Equality, Human Rights and Third Sector | Scottish Government | Victoria Quay | Edinburgh EH6 6QQ | Tel: [REDACTED] | Email: [REDACTED]**

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**From:** [REDACTED]  
**Sent:** 16 June 2020 07:39  
**To:** [REDACTED]  
**Subject:** RE: EHRC interim report - video hearings and court proceedings

Sorry [REDACTED], it may be that [REDACTED] and Co may have a better idea on the use of video hearings.

[REDACTED]

**From:** [REDACTED]  
**Sent:** 15 June 2020 17:18  
**To:** [REDACTED]  
**Subject:** EHRC interim report - video hearings and court proceedings

Hi [REDACTED],

I have been asked to draft a response to the attached email from the EHRC to the FM and wondered if you had any lines that I can use in response to the following section?:

“To update you on other work we have been doing you may be aware that we have recently written to the Cabinet Secretary of Justice to share our interim report, which shares our evidence and findings on the use of video hearings in court proceedings. We hope these can support and inform decision-making around any proposals to allow court processes to commence whilst helping to mitigate the risks to participation of disabled people.”

**It would be helpful to know if you are acting on any of their evidence/interim report?** Apologies if this is not your policy area.

Kind regards,

[REDACTED]

[REDACTED] | **Gender Equality | Equality, Human Rights and Third Sector | Scottish Government | Victoria Quay | Edinburgh EH6 6QQ | Tel: [REDACTED] | Email: [REDACTED]**

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