

National Taskforce for Human Rights Leadership – Minutes

Third meeting, Wednesday 26 February 2019, 10:00 – 12:30
COSLA, Haymarket Yards, Edinburgh EH12 5BH

Taskforce Attendees:

- **Cabinet Secretary for Social Security and Older People** - Ms Shirley-Anne Somerville - Co-Chair
- **Minister for Older People and Equalities** – Christina McKelvie
- **Professor Alan Miller** - Co-Chair
- **Professor Elisa Morgera** - Co-Director of Strathclyde Centre for Environmental Law and Governance
- **Judith Robertson** - Scottish Human Rights Commission
- **Murray Hunt** - Barrister specialising in Human Rights, and Legal Adviser to the All-Party Parliamentary Group on the Rule of Law
- **Fiona Killen** - Member of the Constitutional Law Sub-Committee, Law Society of Scotland, and Head of Parliamentary and Public Law Unit, Anderson Strathern
- **Alastair Pringle** - Equality and Human Rights Commission
- **Cath Denholm** – Director of NHS Health Scotland and Deputy Chair of Scottish Natural Heritage
- **Mhairi Snowden** - Co-ordinator, Human Rights Consortium Scotland
- **Kavita Chetty** – Scottish Human Rights Commission
- **Mirren Kelly** – COSLA
- **Councillor Kelly Parry** – COSLA

Scottish Government attendees:

- **Paul Johnston** – Director General of Education, Communities and Justice
- **Lisa Bird** - Deputy Director for Equality, Human Rights and the Third Sector
- **Elisabeth Campbell** – Strategic Lead, Human Rights
- **Cristina Dello Sterpaio** - Human Rights Taskforce Team Leader
- **Fraser Meechan** – Secretariat to the National Taskforce
- **Shumirai Mhonda-Kapora** - Secretariat to the National Taskforce

Guest attendees:

- **Maree Todd** – Minister for Children and Young People
- **Graham Fisher** – Scottish Government, Head of Constitutional and Civil Law Division
- **Max McGill** – Scottish Government, Parliamentary Counsel
- **Gill McCrum** – Scottish Government, Human Rights Bill Team Leader
- **Gill Surfleet** – Scottish Government, Human Rights Bill Team Leader

Apologies:

- **Nils Muižnieks** – Former Commissioner for Human Rights, Council of Europe

1 Introduction and welcome

1.1 The Cabinet Secretary welcomed members of the Taskforce and noted that apologies had been received from Nils Muižnieks, and advised she was grateful for Nils involvement in the 20 February stakeholder event.

1.2 The Cabinet Secretary extended her thanks to Maree Todd, Minister for Childcare and Early Years for attending this Taskforce meeting to discuss the UNCRC bill.

2 Papers for agreement

2.1 The minutes from the previous meeting of 20 November 2019 were circulated prior to today's meeting. Members indicated they were content. The Cabinet Secretary noted that the minutes would be published in due course by the Taskforce Programme Office, on the Taskforce web page.

2.2 The Cabinet Secretary noted that most of the action log activities were now closed or in progress. Regarding action point B3 the Cabinet Secretary advised herself and Professor Miller considered the best time to write to the relevant committees was after the 20 February stakeholder event. Judith Robertson and Murray Hunt advised there would be progress in the coming weeks regarding action point B5, as parliamentarians have now been identified, so they will be reaching out to arrange meetings.

Action Points

C1 - Co-chairs to write to the Equality and Human Rights Committee and other relevant committees to keep them updated on the work of the Taskforce.

C2 - Murray Hunt and Judith Robertson to further discuss parliamentary engagement and feed this back to Taskforce.

3 Reflections on 20 February stakeholder event

3.1 Professor Miller thanked officials for organising the 20 February 2020 event, the Taskforce members who helped to facilitate the breakout groups and also thanked Taskforce members that presented. Professor Miller had noted the event was a success with lots of positive engagement, and engaging question and answer session. Professor Miller also advised Nils Muižnieks felt this event was significant in a European context, which is very encouraging.

3.2 Taskforce members confirmed there was a lot of positive engagement and useful ideas shared in all breakout sessions that the Taskforce can use going forward, such as balancing rights and the importance of capacity building.

3.3 The Cabinet Secretary noted she has hoped to stay at the event longer, but looks forward to the feedback with great interest.

4 Update on progress of with the UNCRC bill

4.1 The Minister for Childcare and Early Years thanked the Taskforce for her invitation to the Taskforce meeting to provide an update on the exciting work being undertaken, against the backdrop of Brexit that threatens to disproportionately erode the rights of the most vulnerable in society. The Minister for Childcare and Early years discussed the steps taken and the lessons learned during the UNCRC bill.

4.2 The Minister highlighted the UNCRC bill would take a maximalist approach where possible, but noted there was barriers regarding certain issues that are reserved by Westminster, preventing full incorporation of the UNCRC bill. However, work is being done to future proof the UNCRC bill should powers of the Scottish Parliament change in the future.

4.3 The Minister for Childcare and Early Years discussed the interdependency and indivisibility of rights. She discussed how failure to ensure protection of rights of all people disproportionately affects children. She described the effects domestic violence has on children and explained the direct link between women and girl rights and the enjoyment of child rights.

4.4 The Minister highlighted that human rights are also children's rights. Therefore, it's imperative that children are heard as part of the development of a statutory framework for human rights. It is vital to educate rights holders on their specific rights so these can be exercised. Ms Todd explained that her work on the UNCRC provided a pathfinder for future bills and her team will support the Taskforce in its work. She also expressed she is keen to share lessons learned. Ms Todd invited questions from Taskforce members.

4.5 Taskforce members noted that significant capacity building would have to be undertaken, in addition to themes of accountability and transparency, so policy closes the gaps leaving nobody behind, particularly the most vulnerable in society.

4.6 Members noted the principles of intersectionality as certain issues will cover more than one right leading to complexity in developing a bill, for duty bearers and also rights holders. A possible solution offered at the 20 February 2020 stakeholder event was dedicated human rights officers within organisations, similar to data protection officers, that can provide advice to duty bearers and rights holders.

4.7 Taskforce members highlighted the need for a culture change to enshrine a human rights approach in organisations, allowing for effective implementation.

Ms Todd left the meeting at 11:12am.

5 Brief update on work programme / roundtables / Academic Advisory Panel

5.1 Professor Miller advised the work programme is on track, with roundtable dates, venues and themes falling in to place. Thus far, roundtables are being planned concerning health, rural, non-rural, local authorities environmental and Access to Justice. Professor Miller is open to suggestions for further roundtables before the results are fed back.

5.2 Professor Miller confirmed he and Elisabeth Campbell, Strategic Lead for Human Rights, recently attended the Academic Advisory Panel meeting. The Academic Advisory Panel are undertaking papers on the Equality Clause and CEDAW. Furthermore, Professor Nicole Busby will be doing a paper on the pros and cons of a statutory framework for human rights. The papers are expected to be completed by the end of June.

5.3 Judith Robertson advised the Scottish Human Rights Commission have a short paper going through their secretariat that could assist the participation process, this will form part of the participation process as this is not a national paper. Mhairi Snowden agreed it would be important to engage children in regarding human rights.

5.4 Christina McKelvie pointed out that regulators and ombudsman should be consulted to assist with institutional change and a shift towards a human rights approach. This was backed up by Mirren Kelly who advised Audit Scotland are being consulted as audit and scrutiny drives how organisations behave.

5.5 Members considered how the organisations could impact another organisations ability to meet their obligations. Mirren Kelly used the example of forestry and the environment being affected by cultural importance.

6 Bill drafting process

6.1 The Cabinet Secretary introduced Max McGill (Parliamentary Council Office), Graham Fisher (Scottish Government Legal Department), Gill McCrum and Gill Surfleet (Joint Team Leaders - Scottish Government bill drafting team).

6.2 The bill drafting process was explained to Taskforce members, with the responsibilities of each team within this process outlined.

6.3 The Cabinet Secretary advised lessons from the UNCRC bill will be learned. The Scottish Government would try to make this process as transparent as possible, but noted legal advice for example cannot be shared.

7 Taskforce work product

7.1 The Taskforce work product was circulated with Taskforce members prior to the meeting. The Cabinet Secretary highlighted the need for a strong policy base that gets it rights. Furthermore, the Cabinet Secretary stressed the intention is for this to be world leading. To do this we should allow a full consultation period.

7.2 Professor Miller agreed, advising the timeline would allow for a robust end game, while allowing for an adequate sunrise clause of approximately 3 or 4 years.

7.3 Judith Robertson asked if the policy specification would be published. The Cabinet Secretary confirmed the policy specification will be published, subject to legalities.

7.4 Taskforce members discussed how we could develop capacity with no concrete policy specifications. With this being a very complex issue members should discuss capacity building as part of the engagement process through roundtables. Due to policy specification being extremely broad, it is important to engage in dialogue as to what we want to achieve from roundtables. Roundtable issues would need to focus on what we want in the bill, what we would need to implement this and what it would take to achieve this. The Cabinet Secretary and Elisabeth Campbell of the Scottish Government confirmed this would formed part of the engagement plan.

7.5 Murray Hunt highlighted the need to engage parliamentarians as part of the process, and this should be done as soon as possible, ideally involving all political parties, in his experience.

Cabinet Secretary and Christina McKelvie had to leave meeting for other engagements at 12:30pm.

8 Communication and engagement strategy

8.1 The communication and engagement strategy was issued to Taskforce members prior to the meeting. Professor Miller advised members this is a draft and open for discussion. The paper will become more detailed as the communication strategy becomes more concrete.

8.2 Taskforce members agreed the need for a consistent plan that is consistent on issues, including a media plan with timings.

8.3 Members agreed to have a couple of weeks to digest the communication and engagement strategy and come back with more input. There has been significant input from the 20 February 2020 stakeholder event that would need to be taken in to account.

Members content with the first draft of the communication and engagement strategy.

9 AOB

The next meeting of the Taskforce will take place on 6 May 2020 and details will be circulated to members by the Programme Office in due course. In the meantime Taskforce members will plan and undertake the relevant roundtables.

Meeting concludes.

