

# **Supplementary written submission from the Children and Young People's Commissioner Scotland, dated 3 April 2025**

**SPCB Supported Bodies Landscape Review Committee**

## **Information on the request for changes to the powers of the Children and Young People's Commissioner Scotland**

1. At our evidence session on 27 February 2025, we were asked about whether we are currently requesting any changes to our powers and invited to share any views with the Committee in writing.
2. We are respectful of the purpose of this Committee's remit and the financial situation in which the Scottish Parliament must make budget decisions. In the context of this process therefore, the only change we are suggesting is that the Scottish Government and the Parliament should respond to recommendations made in the CYPCS's Annual Report. This could be achieved either via an enforceable legal duty (an amendment to legislation) or more simply by acceptance of a recommendation made by your Committee.
3. This would link clearly to the office's function (in particular under s4(2)(b) of the 2003 Act). It would enhance the office's ability to hold Scottish Government to account, and to support the Parliament in its role as a human rights guarantor. Crucially it would require no additional financial or staffing resource to deliver.
4. During discussions with Scottish Government on the Human Rights Bill we explored whether it would be appropriate to seek any potential enhancements to the Commissioner's powers. The options were based on consideration of those held by other similar bodies in Scotland and the rest of the UK. The discussions were limited, but the options suggested were:
  - Powers of entry and inspection
  - Powers to require provision of data out with an investigation
  - Power to enforce investigation recommendations
5. However, the Human Rights Bill is now postponed until at least the next Parliamentary term, therefore Children and Young People's Commissioner (CYPCS) is not actively pursuing these powers. We remain focussed on maximising the opportunities presented by the incorporation of the United Nations Convention on the Rights of the Child (UNCRC).

## **Our current powers**

6. Reference has also been made during the evidence sessions to comparisons between our powers and those of SHRC. We would like to take the opportunity to clarify that the CYPCS does not currently have stronger powers than SHRC.
7. The CYPCS's enabling legislation and the SHRC's enabling legislation are drafted differently, with slightly different powers afforded to each institution.
8. We provide some examples below but if members intend to explore this matter in any depth the Committee may require to undertake a more detailed side by side analysis of our underpinning legislation.
9. The only express power CYPCS has that the SHRC does not is the power to conduct individual investigations.
10. SHRC has powers that we do not. For example, the SHRC may enter and inspect any place of detention and interview anyone detained therein (s11 2006 Act).
11. The SHRC also has powers that are similar (albeit differently framed) to ours. For example, the SHRC may conduct an inquiry into the policies and practices of Scottish public authorities in relation to human rights (s8 2006 Act). While the scope of the power is different, powers to take evidence, protection from defamation, report to the Parliament etc are almost identically framed.