



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities, Human Rights and Civil Justice Committee

Tuesday 16 January 2024

Session 6



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EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE
1st Meeting 2024, Session 6

CONVENER

Kaukab Stewart (Glasgow Kelvin) (SNP)

DEPUTY CONVENER

*Maggie Chapman (North East Scotland) (Green)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Meghan Gallacher (Central Scotland) (Con)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

*Paul O’Kane (West Scotland) (Lab)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Jim Farish (Scottish Human Rights Commission)

Shelley Gray (Scottish Human Rights Commission)

Claire Methven O’Brien (Scottish Human Rights Commission)

Jan Savage (Scottish Human Rights Commission)

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Equalities, Human Rights and Civil Justice Committee

Tuesday 16 January 2024

[The Deputy Convener opened the meeting at 09:45]

Decision on Taking Business in Private

The Deputy Convener (Maggie Chapman):

Good morning, everyone, and welcome to the first meeting in 2024, in session 6, of the Equalities, Human Rights and Civil Justice Committee.

We have apologies from our convener, Kaukab Stewart MSP. That is why I am chairing the meeting.

Acting Deputy President Abigail Boyd, member of the Legislative Council of New South Wales, Australia, is in the public gallery. She is very welcome to the meeting.

Our first agenda item is to decide whether to take in private agenda item 3, under which the committee will consider the evidence that it will hear under agenda item 2. Are members happy to take that item in private?

Members indicated agreement.

Scottish Human Rights Commission

09:45

The Deputy Convener: Our second agenda item is to take evidence from the Scottish Human Rights Commission. I refer members to papers 1 and 2 in our briefing packs.

I welcome to the meeting Jan Savage, who is executive director of the Scottish Human Rights Commission, and Jim Farish, Shelley Gray and Claire Methven O'Brien, who are all SHRC commissioners. You are all very welcome to the meeting.

I invite Jan Savage to give an opening statement.

Jan Savage (Scottish Human Rights Commission): Thank you very much. Good morning, deputy convener and members of the committee who are in the room and are joining the meeting virtually. It is a real pleasure for members of the Scottish Human Rights Commission to be with you this morning to explore the commission's work over the past year, which is the final year of its current strategic plan.

I confirm to the committee that our annual report for the period 2022-23 was laid before Parliament on 31 October, in line with the commission's statutory obligations under section 15 of the Scottish Commission for Human Rights Act 2006. We recognise that this evidence session also provides an opportunity for committee members to engage with the commission on its wider work over the past year since we last met the committee, in November 2022.

It has been a significant year for the commission, with a lot of change and positive development. As members are aware, the commission has undertaken a major programme of strategic and operational transformation. That programme has focused on internal change to promote stronger governance and stability for the public body, and to support a new work programme that is more externally focused, using our mandate to shift our priorities from reactive policy analysis to more proactive work to address human rights violations and denials in communities across Scotland. We are working to address the accountability gap as it has presented itself to the commission. Commission outputs this year have highlighted the scale of that gap in many significant ways.

I will summarise some highlights. We have begun work on four new spotlight projects to highlight the lived experiences of people across Scotland and show us and the Parliament where

human rights are not being met in places of detention, including in respect of long-term detentions under the Mental Health (Care and Treatment) (Scotland) Act 2003, in the complexity of the current access to justice system in Scotland, and in communities out of Edinburgh. That has taken the commission to the Highlands and Islands this year to engage directly with people in communities where human rights are.

Our recent research on attitudes to human rights tells us that, although support for human rights in Scotland is growing and has increased over the past four-year period, most people still do not know where to go to get help with human rights or information about their rights.

We have fulfilled our duty as a national human rights institution to provide evidence to the United Nations and the Council of Europe on how human rights across multiple international treaties are being enjoyed.

In June 2023, the commission published a paper that explored the emerging trend of calls for new public bodies, new commissions and new commissioners to uphold the human rights of particular groups of rights holders. We looked at that through the prism of those rights holders and what those calls told us about their experience of access to justice in the current system. In that paper, we recognised the role of the commission in that experience.

On our operations, the commission appointed its first executive director this year. I was pleased to take up that role in January 2023. The role has provided stability to governance and leadership of the commission's operations, including the implementation of the work plan that I have described. We have implemented a shared services agreement with the Scottish Public Services Ombudsman, which now provides financial services to the commission, human resources support, management accounts and learning and development, building on our shared facilities.

Staff turnover in the commission reduced from around 50 per cent in 2021-22 to zero in 2022-23. That trajectory continues to date. I am pleased to report that we have filled all vacancies in the commission following a successful recruitment round over the summer. That took the commission to its full capacity for the first time since 2021.

An independent governance review was commissioned, completed and accepted in full by all members of the commission who are with us today. That is now being implemented at pace.

Our independent governance review highlighted recommendations to the Scottish Parliamentary Corporate Body to address the disparity between the commission's mandate and the mandates of

other United Kingdom national human rights institutions. There were recommendations to increase the number of members of the commission to promote more diversity and pluralism across the commission and for our legislation to be reviewed to make provision for an interim chair should that be required. Upon the demittal of our chair in June 2023 and in the absence of that provision in our current legislation, members of the commission here today have acted on a monthly rotational basis to support me and the team. On behalf of the commission, I thank them for their collaboration, strategic leadership and support through the interim period.

To provide governance continuity at that time, I was appointed as interim accountable officer by Parliament. With the recommendation of the independent governance review to separate the accountable officer role from the role of the chair, that has become the permanent arrangement as of September 2023, on the invitation of the SPCB.

All of those outputs have been delivered by a small organisation. We have a headcount of 15 staff and a budget of £1.3 million. I must pay tribute to the tireless work of the commission staff team and the recognised trade union in the past 12 months in dedicating themselves to such an ambitious internal and external work programme to strengthen the commission and increase its outputs in order to deliver greater accountability for, and visibility of, human rights denials in Scotland.

Building on the governance review recommendations, evidence through our treaty monitoring work and spotlights, and the findings of our June 2023 paper entitled "At a Crossroads— which way now for the human rights system in Scotland?", the current commission is clear that there is much more that the commission could do to monitor and increase accountability for human rights violations for the people of Scotland, with the powers and the resource to do so.

The commission is committed to working with Parliament in this session to explore all routes to examine the potential for an extension of its mandate. The human rights bill that will be presented before Parliament in due course presents one opportunity to do so, as do the opportunities that will present themselves through the Finance and Public Administration Committee's inquiry into the strategic landscape of commissioners in Scotland. The commission welcomes that inquiry and its scope.

In summary, we as a commission have sought to bring a renewed focus on the purpose, priorities, visibility, impact and engagement of the commission, centred on our mandate as a public body tasked with protecting and promoting the human rights of everyone in Scotland. The

commission looks forward to the SPCB advertising for a new chair in due course to lead us through the next period of strategic development. We look forward to delivering to Parliament a new strategic plan for 2024-28 that is focused on developing the commission's role as the human rights watchdog for the people of Scotland.

I will conclude my remarks there, deputy convener.

The Deputy Convener: Thank you very much. That is very helpful.

I will kick off with some questions about a couple of points that you have raised. You talked about the spotlights and the shift from being reactive and doing reactive policy analysis to being more proactive. How did you determine the top priorities? How does that feed into the next strategic plan?

Jan Savage: I would be happy to answer that question first.

The commission agreed that that shift would take place in this year—I think that that was agreed in the February meeting. The staff team then worked up a series of eight potential topic options for the commission to consider. The basis of the evidence at the time was the best available information through the treaty monitoring process and reports from civil society and other human rights defenders, in which we saw evidence of systemic human rights violations at scale.

A decision-making framework, which was published on the commission's website, guided the process through which the commissioners considered the eight proposals. Each proposal was scored, and four emerged as priorities.

The four priorities have allowed the commission this year not only to spotlight human rights denials and to transfer some of our resources to focus on them, but to help the commission to learn about different methods of utilising its existing mandate to monitor. For example, in respect of the Mental Health (Care and Treatment) (Scotland) Act 2023, we are allowing the time to do a deep dive into how human rights are experienced in places of detention. I do not want to pre-empt what the findings or recommendations will be, but that allows us to bring evidence to Parliament and other duty bearers on the lived experience of individuals of how that is currently being actioned.

We are also looking at bigger systemic issues that relate to access to justice. I think that the committee will be as aware as the commission is of how challenging that is. That will allow us to bring further evidence to bear to guide into the next strategic plans future priorities about which particular areas of the access to justice system the

commission might feel that it is appropriate to focus on.

Our work to get out of Edinburgh and into communities where human rights are experienced has been a huge priority for all the commissioners this year. We have been encouraged to do that. That allows us not only to bring rights to life in communities, but to pilot a new monitoring model for the commission to potentially move forward with. We are certainly very interested in exploring in the new strategic planning period how the model from the Highlands and Islands may be expanded to develop a monitoring model for the commission in other regions and communities across Scotland.

Claire Methven O'Brien (Scottish Human Rights Commission): I will supplement that. More generally, of course, we refer to the terms of the Scottish Commission for Human Rights Act 2006 and the reference in that to the international human rights treaties to which the UK is a party, which sets the outer perimeter of our mandate, and the extent, severity and irremediability of any human rights abuses or violations that we are aware of. That feeds into the decision-making framework that Jan Savage referred to.

The Deputy Convener: You mentioned piloting a new monitoring model and gathering information around that. How will you identify and track the success of what you do? Your priorities and focus have shifted, so how will you measure your successes?

Jan Savage: Across the commission this year, there has been quite a significant transformation in how we monitor the impact and success of our work. We have a key performance indicators framework, with KPIs across each work programme, including on the spotlight projects. Success factors emerge from those projects once we have evidence of the impact on the rights of individuals.

At this stage, we know what impact we want to have on levels of engagement with local communities, rights holders and duty bearers, and we seek to understand the human rights at stake and to ensure that that understanding is reflected in our monitoring work.

The commission now works on a data and evidence-driven basis, and it reports to the commissioners against the key performance indicators every quarter. We monitor spend and other controls through audit and risk processes.

Jim Farish (Scottish Human Rights Commission): The work that was done for the governance review identified as shortcomings a lack of visibility and a perceived lack of impact for those whom we are there to represent. Awareness of those shortcomings has played a major part in

focusing the commissioners on the four spotlight projects in the coming year and also on how to frame our strategic plan for the next four years.

It is a sad reflection on the commission that it did not properly understand what it was there for and what it had done in the past. The next four years will be about resetting the commission's understanding. That will not happen overnight, but it is vital that we are seen as being the rights watchdog and that we are on the side of, and working for, the rights holders, rather than being perceived as supporting the Government. That is a subtle but strategic shift towards action rather than response.

The Deputy Convener: Thank you—that is helpful. From what you have all said, your successes in the past 12 months have laid the foundation for that subsequent work.

I have a final question, after which I will bring in Paul O'Kane. Jan Savage mentioned that there has been a delay in recruiting the new chair and that broader conversations with the Scottish Parliament Corporate Body have taken place. I make everybody aware that I am a member of that SPCB, so I have some knowledge of those conversations.

10:00

Jan Savage has spoken about the transformations that the commission plans to deliver. Has the delay in recruiting a new chair been problematic? It has placed additional work on the existing commissioners. When the new chair is in place, what conversations will take place with them, given the evolving rights landscape in Scotland, the potential new powers of the commission and the new work that it will have to do?

Jim Farish: There are two aspects to that: the resilience of the organisation and its ability to plan. The delay in recruiting a chair has not been a restricting factor in our development of the strategic plan. That work has been undertaken and is almost complete without there being any impact.

The risk comes with the resilience of the organisation. There are only four commissioners and one chair. As you know, during the period of the previous annual report, the number of commissioners went down to one.

We need to think about resilience as we go forward. Two aspects of that are the number of commissioners and the status of the chair. As I said, we are more than content to rotate the chair's position, but that arrangement is probably at the very margins of the statutory position.

The resilience of the office is the biggest aspect. The situation has not prevented us from moving forward, but it makes one wonder how we would address matters without a chair in place were something to happen in the coming year, such as demittals from office.

Shelley Gray (Scottish Human Rights Commission): As has been described, we have had an effective process for managing the situation. The timing of the governance review has influenced things, as the corporate body was able to take into account its recommendations in relation to how it takes forward the chair role.

We are in a very ambitious transition year, and will be undertaking a very busy and important strategic plan, so the chair role will be important not only for the capacity of the organisation but for Jan Savage's day-to-day work and the support that she has in place. If a decision about the position of the chair were to be delayed for several more months, we would really start to feel it. I do not think that that will happen, as the plan is for a decision to be made on that in January, which is great. Having a chair will make a big difference to capacity.

Jan Savage: I have one final point on the issue, convener. You asked about the impact of the change in the human rights landscape and the position that we will find ourselves in as regards our developing a new strategic plan and welcoming a new chair into the commission when there is so much change ahead.

In our thinking about the current development of the strategic plan, we reflect on the potential for the changing mandate of the commission and the landscape in which we find ourselves. The legislation provides for the commission, at any time during the next four years, to review the strategic plan, should the chair decide that that is needed, and to look at ensuring that it remains fit for purpose in the new landscape. We are alive to that possibility.

Paul O'Kane (West Scotland) (Lab): My first question, which is perhaps for Jan Savage in the first instance, is focused on the resourcing of the commission. The commission has not used its power to conduct an inquiry. As we know, it has had to pause litigation work due to capacity issues. Does the commission have sufficient financial and staffing resources to meet its current duties and obligations in Scotland?

We know that there will be future challenges for the commission, and that new duties and powers might arise from the human rights bill. Will you comment on what those challenges might be and the potential need for further resourcing to cover them?

Jan Savage: I am happy to respond to that in the first instance. The resourcing of the commission has been pretty static since it was first established. For the current year, we have a budgeted expenditure of £1.3 million, and our projected spend into next year is—this is our budget bid to the SPCB—£1.4 million. That modest increase is mainly to account for inflationary increases that are related to staffing costs.

Sometimes, it is not helpful to make comparisons. However, as we are looking at resourcing, I would point out that the commission has a very broad mandate. It is tasked with promoting and protecting the human rights of all people in Scotland and of all communities across all international human rights treaties, whereas other public bodies in Scotland, such as the Children and Young People's Commissioner Scotland, are tasked with a role that covers one treaty and are resourced commensurately. That is not to pass comment on other bodies—they do an exceptional job—but we need to bear in mind the mandate and structure of the Scottish Human Rights Commission, which aims to do its job across multiple human rights treaties and instruments for the benefit of everyone.

The annual opportunity for the commission to consider how to fully utilise its powers is an interesting strategic issue that various commissions have grappled with over the years. The commission's power of inquiry as set out in the current legislation is quite limited. It can be used only in a certain set of circumstances around a certain set of issues.

As this committee will be aware, carrying out a public inquiry is a significant undertaking for an organisation. It requires setting up witness processes, compelling evidence and ensuring that you have in place all the documentary and governance processes. I believe that previous commissions have judged that a public inquiry would have a significant impact on their ability to do all the other work that we have already described. It comes down to balance and choices. Is the commission resourced to deliver its existing mandate currently? Strategic choices must be made every year in that regard.

Looking ahead, we know that the funding environment is febrile. We also know that the Finance and Public Administration Committee will look at the resourcing of existing commissions and at how that might impact the asks and calls from elsewhere—from civil society, Members of the Scottish Parliament and the Scottish Government—to set up new commissions and so on.

This commission's concern lies in making use of that opportunity to look at the monitoring mandate.

We are also clear that an increase in resource for the sake of an increase is not what the budget process is about. In addition, we must look at the powers that are mandated to the commission and what it has in its toolkit to improve its monitoring of, and take action on, potential violations.

I refer the committee to a paper that the commission published last October, which compared the powers of this commission with the powers of other national human rights institutions that are operating in the UK—that is, with the Northern Ireland Human Rights Commission and the Equality and Human Rights Commission. Both those bodies can take litigation in respect of human rights violations as experienced by individuals as a result of the actions of the state. This commission cannot do that. Those organisations can provide advice to individuals—the EHRC does that through a helpline function; the Northern Ireland Human Rights Commission does that differently. This commission is prevented in legislation from providing advice to individuals. Furthermore, both the Northern Ireland Human Rights Commission and the Equality and Human Rights Commission can undertake investigations that have a greater statutory footing than, for example, our current spotlight work has. This commission cannot do those things.

We are exploring the route forward for the powers of the commission as well as potentially extending its footprint to deliver a stronger role in monitoring accountability in human rights terms.

The Deputy Convener: I think that Jim Farish and Shelley Gray want to come in as well.

Shelley Gray: I will add two quick points related to our consideration of potential new powers for the commission. First, we have analysed the question first and foremost through the lens of rights holders in Scotland and what that would mean for them and their access to justice. That is our starting point. I repeat Jan Savage's comment that this is not about asking for additional budget or, indeed, for additional powers just for the sake of it.

Secondly, in our conversations with other commissions, it has been quite clear that those that have a broad suite of powers are able to decide, in response to particular issues, which power would most appropriately help them to tackle the issue. For all commissions, there is always a strategic decision to make each year, and in relation to each issue, about which powers they call on. The ability for commissions to pull on different mechanisms is very helpful for some of them.

Jim Farish: As someone coming into the Scottish Human Rights Commission, I was surprised by how the priorities must change in any

given period. As requirements are placed on the commission, some other activity must be dropped in the interim.

The staff are very flexible, and it is testament to their good character that they are happy to be flexible and are capable of that. However, from a purely practical point of view, that is not necessarily very good when it comes to planning a strategic approach. Even some things that we need to do this month have been altered because something else with a greater priority has come in.

Resourcing is not just about the amount of money that we have as an organisation. It is also about the number of feet that we have on the ground that can deliver against both the strategic plan and those things that come in from elsewhere that need to be addressed. The strategy and the four key projects for this year are to give us focus and to keep us driving forward, as opposed to our being caught up in the backwash of other activities, if that makes sense.

The Deputy Convener: Yes, that makes sense.

I come back to Paul O’Kane.

Paul O’Kane: Thank you. Those helpful comments answer some of my supplementary questions.

What is interesting is the discussion and debate around powers for a purpose—new powers for the commission with that sense of purpose. I noted in the “At a crossroads” report the consideration of the wider landscape and the increase in the number of called-for commissioners on a variety of issues that would impact the human rights of individuals. In the Parliament, and perhaps more widely, we are having something of a debate around the need for commissioners, the growth in their numbers and the challenges therein. Do you want to expand more on your views about the increase in the call for commissioners in different areas and perhaps how those calls interact with the work of the SHRC? We have heard a bit about that already. What role does the SHRC feel that it could play instead of some of those other options being taken forward? I do not refer to any commissioner proposal in isolation but more broadly to the principle.

Jan Savage: The commission took the decision quite early on in 2023 to take a look at that issue. It has emerged as a trend, and has been reflected in discussions in the Parliament. The commission’s interest over the first part of 2023 was less about the what; namely, at that time, there were about six or seven calls for different commissions or commissioners. Our concern was more around the why: why are people, communities, civil society, parliamentarians and governments feeling that this is the option, and what does that tell us about how human rights

have been experienced by those groups and, more importantly, what has their access to justice experience been? That led the commission to pose that question and be reflective and quite sympathetic. We are the body that is concerned with the promotion and protection of everyone’s human rights, after all.

From the commission’s perspective, the trend is significant evidence of existing challenges in access to the Scottish justice system around human rights. The majority of those proposals were around rights-based issues—not all but most of them.

We took the time to think about what that means for people’s understanding and awareness of the Scottish Human Rights Commission, their engagement with the commission to date and the resource and reach of the commission. The latter reflects issues that we have already covered this morning; we are a small commission with limited resources and quite a limited mandate. The paper suggested that there might well be a correlation between those things and people struggling to access justice, and the role of the Scottish Human Rights Commission as part of that system could perhaps be strengthened.

10:15

That is not the answer to everything—it is not the panacea—but we certainly reflect that there could and should be a potentially greater role for the commission in that landscape. That is not just our advice. It is what the United Nations would say in respect of the powers of national human rights institutions and, as we have already explored, that is the case in other parts of the United Kingdom. The analysis reflected that access to justice for rights holders through their national human rights institution is worse in Scotland than it is in any other part of the United Kingdom. That is not where we would wish to be as a commission, and it poses a question for the Parliament to consider.

Where the Parliament goes next in considering the value and merit of commissioner proposals is, ultimately, not for the commission to decide. We can inform, and we certainly sought to inform the debate and to grasp the issue through our report in June. We look forward to engaging with the Finance and Public Administration Committee’s inquiry and welcome, in particular, the scope of that inquiry not just focusing on the implications for the public purse, which of course it must, but looking more broadly at the strategic landscape and what the experience has been for rights holders. We look forward to continuing to be a very influential part of that process.

The Deputy Convener: Does anybody else want to come in on that? No. Paul, do you have any more questions?

Paul O’Kane: No. That was very useful in terms of the wider piece of work around commissioners. I will pause there.

Fulton MacGregor (Coatbridge and Chryston) (SNP): Good morning to the panel members. Thank you for your evidence so far. I have a couple of questions that broadly follow on from Paul O’Kane’s line of questioning. You are funded by the SPCB, and we know that the 2022-23 budget cut about 22 per cent from your budget of the previous year. Have you had any discussions or received any indications about why that cut was made? In addition to what you have already said, what has been the impact on your operational planning?

Jan Savage: Regarding fluctuations, in general, the first thing to say is that the environment for all public bodies is tough, and we are very clear—we have been made aware via SPCB routes—that opportunities to extend the budget of the commission would have to be considered on merit in that context. We are mindful of that.

Fluctuations over the past couple of years for this commission have been related, in part, to some of the high staff-turnover issues that I referred to earlier. The commission had a 50 per cent turnover in 2021-22, which had an impact on the commission’s run rate going into the following year, and we had to work to right-size that. In addition, a temporary staff member—a legal fellow—has been added to the commission’s headcount this year. The role is not a core part of our budget moving forward but is an element that we are piloting.

Also, there is an explainable change in the shared services agreement with the Scottish Public Services Ombudsman, which I spoke about earlier, to the tune of around £35,000 each year. That is a transfer, in essence, and the saving is to the public purse. However, it is not reflected in the budget of the Scottish Human Rights Commission moving forward, so there are explainable reasons for that. We are ambitious, as you have heard, and we are really keen to expand the footprint of the commission, but that has to be done at an appropriate time and pace.

The Deputy Convener: Back to you, Fulton Macgregor.

Fulton MacGregor: Sorry—I think I made the mistake of muting myself between questions. I did not realise that you now cannot unmute yourself—the system has totally changed.

Thank you for that answer, Jan. Let us move on to talk about your ambitions. I note that the second

Scottish national action plan for human rights, which was published last year and runs to 2030, sets out 54 actions across eight priority areas. I will not go into what those are, but a couple of examples are in our papers, including the criminal justice system and the school education system. Based on what you said in response to the previous question and what you have said throughout the meeting, how realistic are the actions and how do you plan to measure them?

Jan Savage: The responsibility for delivering the actions in SNAP 2 is with the Scottish Government and other duty bearers. The Scottish Human Rights Commission played a role in facilitating an independent secretariat to work across civil society and with other stakeholders and rights holders to develop the action plan, which, as you say, is the second iteration of a national action plan. The commission’s role since 30 March, when that action was delivered, has been around accountability—working to hold the Scottish Government and other duty bearers to account on progress across the 56 recommendations.

Just last week, the commission wrote to the minister to request an update on the first part of the work plan, which was a prioritisation exercise. The Government and all of us accept that the 56 recommendations cannot be delivered in one year. However, the Scottish Government made an early commitment to the leadership panel that developed the SNAP 2 action plan to prioritise which actions it would progress at this early stage. The commission does not yet have visibility of the prioritisation. That is the first step and, once we know what the priorities are, the commission will take a view on how to formalise its monitoring role over the next strategic planning cycle.

The Deputy Convener: I will bring Jim Farish in on that.

Jim Farish: I think the difference between SNAP and SNAP 2 is a manifestation of our revised strategic approach, in so far as being very clear that this is not ours to deliver. We participated and contributed to its development, but it is not ours to deliver, and our role, to some extent, is to hold those responsible—keep their feet to the fire—on delivery over time.

We did some work just recently on the strategic plan, and it was interesting to find that rights holders were aware that the duty bearers had covered the legislative requirements but that the delivery of services did not necessarily match. That is where we can interject and say, “You have said this in plan X, but we are not necessarily seeing it delivered on the ground for those rights holders who should be benefiting.”

We are moving into a different sphere of operation over the next four years. We need to be clearer about what our responsibilities are and who our responsibilities are to, and we must make those things clear so that people understand our role and function more readily at the end of the next four-year cycle.

The Deputy Convener: Thank you. As Fulton MacGregor has no further questions, we move to Meghan Gallacher.

Meghan Gallacher (Central Scotland) (Con): We have had SNAP and we are now on SNAP 2. You harnessed data back in late 2017, when about 1,500 people participated in various community events, your online surveys and of course your national participation event. Since then, we have had a pandemic and we are currently experiencing a global cost of living crisis. Is the data that you harnessed back in 2017 still relevant to the action points that you gathered? We live in an ever-changing world and I am interested in whether the action points and opinions of the Scottish people back in 2017 are still relevant.

Shelley Gray: That is a very good point. A key point is that we look at lots of different sources of information to get insight into people's experiences of their rights. Evidence suggests that many of the issues that emerged from the work done in 2017 have only been augmented by things such as the pandemic. We gather that type of intelligence through the mechanisms and monitoring work that Jan Savage spoke about. For example, we have worked on monitoring the Convention on the Rights of Persons with Disabilities, and we found that the pandemic was a big issue, as you would expect, as is the cost of living and so on. Although that work is, as you say, a few years old, it is still relevant and you can draw a thread through more recent work that reaffirms what, in relation to those issues, is worse for particular groups. I was going to say something else there and it has gone out of my head.

Claire Methven O'Brien: I will supplement what Shelley said by going back to your earlier question, convener, about how we measure our impact and success, because I think that it is related.

Measuring impact and success are notoriously hard issues in the study of human rights and the way human rights laws act on society. How do you measure whether those laws have an impact and change things on the ground for people longitudinally, over years? The nature of change in society and in public institutions is very complex but that means that it is very important for us to focus on it and we have identified it as an area where we want to up our game. Part of that has involved commissioning work on a theory of

change for the SHRC so that we are better informed about the possible mechanisms through which we can, given our specific legal mandate and the limited nature of the resources that we have, most effectively trigger positive impacts for public institutions, for rights holders and in society more broadly. That work is in hand.

As has already been mentioned, the work on assessing attitudes in Scotland to human rights is also in hand. That research was commissioned prior to us being in post and we intend to commission it on a repeat basis, so that we have at least the beginnings of a data set that gives us a basis on which to evaluate whether things are moving in the right direction and what are new and emerging trends or areas of difficulty.

Meghan Gallacher: Thank you. The reason why I am asking that question is that SNAP 2 is described as a "living action plan". If SNAP 2 were included in a human rights bill, how would that work in an ever-changing environment? How would that fit into the scope of legislation that might go through the Parliament?

Jan Savage: The human rights scheme, monitoring and evaluating how the human rights bill was having an impact, would be one way, if not to implement the action plan because it has probably not been designed to be implemented within legislation, but to implement elements of the accountability system around human rights in Scotland in law. That is one way to think about that. Other actions that have been identified in SNAP 2 relate to strengthening the legal framework around human rights in Scotland, which will be delivered in time through the Parliament's consideration of the human rights bill. There are different types of recommendations within SNAP 2, which is why the initial advice to the Government was to undertake the prioritisation element.

As Claire Methven O'Brien has outlined, we are considering our on-going monitoring role and how that may align with the SNAP 2 priorities over the next four years of our strategic planning cycle. The new human rights bill provides an opportunity to develop a stronger monitoring system and scheme in Scotland for human rights more generally.

Shelley Gray: I will briefly add that some of the wider work around SNAP, both the first and second iterations, has been around trying to build a stronger human rights culture in Scotland and that will be a critical part of the new legislation.

I was involved in the first SNAP in a civil society role. One of the barriers to making progress against the actions and recommendations was about resourcing, but other barriers were cultural issues around capacity, awareness of rights and capacity among duty bearers in particular. Some

of that wider building of a culture of human rights work is another thing that connects those two issues of SNAP and incorporation.

10:30

Meghan Gallacher: Thank you. Finally, I have a question on data sets and monitoring because one of the concerns that I have had with the Scottish Government for quite some time is to do with the lack of data that records human-rights-based issues or other issues that are contained within the action points you have raised. Are you actively encouraging the Scottish Government to record more data to make sure that we can benchmark against the 54 action points that you have outlined? Certainly, MSPs would be keen to see that so that we can effectively scrutinise the work of the Scottish Government on the action points that you have highlighted within your report.

Jan Savage: I think that the short answer to that question is yes. I know that that is a point that the commission regularly raises in its reporting to the United Nations and the Council of Europe. The data to prove progress or otherwise is quite often just not there and that is a weakness in our human rights monitoring system in Scotland for sure. As you heard from the commission earlier, over this next four-year strategic planning cycle, the commission wants to be clear about the data set, methodologies and processes that it will utilise to play a stronger independent monitoring role in that space.

Meghan Gallacher: Thank you very much.

Karen Adam (Banffshire and Buchan Coast) (SNP): It is lovely to see the panel this morning. Apologies that I cannot be there in person.

You have touched on the new Scottish human rights legislation and I know that you have done quite a lot of work on it and that it is on-going. Can you reflect on that work so far? Do you see any strengths or weaknesses?

Jan Savage: From the commission's perspective, this is the fulfilment of one of its strategic plan objectives, which is to strengthen the legal framework around human rights in Scotland. The development of legislation that will achieve that is a great thing for Scotland. The potential for the creation of a stronger legal framework is significant and, indeed, it is the recommendation of the United Nations that state parties should seek to progress that. This commission is committed through the rest of this year and into the next strategic planning cycle to properly scrutinise and support the Parliament in its work to deliver legislation that maximises the protections available through the Scottish legal framework for access to justice for individuals in Scotland. That is our priority.

Over the next four months, the commission is doing a deep dive into particular areas of the bill as it is being developed and that is evolving all the time because of the changing landscape that has been referred to. Lots of things are now being clarified through Supreme Court judgments and the development of other legislation in the space, such as the incorporation of the Convention on the Rights of the Child for example. The landscape has changed significantly from when the legislation was first proposed and continues to progress as it is being developed. At this stage, we have not seen a great deal of detail from the Scottish Government to be able to provide any assessment or analysis of the model that has been proposed, but the Parliament has our commitment that that is a core function of the commission and that will continue to be our priority.

Claire Methven O'Brien: Among the points that Jan Savage raised, I will emphasise that we see the legislation as an opportunity and, as she mentioned, UN bodies routinely encourage states to incorporate human rights treaties, so the human rights bill is clearly aligned with the recommendations coming from international bodies. It is very important to us that the resulting legislation should be intelligible to public authorities and rights holders. There is no avoiding the fact that the devolved context and the constitutional issues associated with that pose challenges to incorporating human rights instruments. Our focus within that context will be on striving to achieve and inform the development of legislation that empowers public authorities with intelligible duties, as well as rights holders, and on pinpointing the preconditions for the legislation to work practically to a positive effect in terms of legal aid, access to justice and the other things that rights holders will need to be able to vindicate the new rights that they should formally have under the legislation.

Karen Adam: The British Bill of Rights Bill has now been scrapped by the UK Government and there is also a bit of an on-going live debate about the European Convention on Human Rights. We are talking about the landscape: how does that atmosphere and the on-going debate affect possible human rights legislation in Scotland? Is that affecting your work in any way?

Jan Savage: The committee will see from our annual report that last year the commission did step in and provide advice in very strong terms to the Westminster Government in respect of its Bill of Rights Bill and the outcome was a good outcome in respect of upholding the rule of law in the United Kingdom.

From the commission's perspective, one area of focus to flag—it impacts the development of the

new Scottish human rights bill—is that we need to be clear that any new powers and role of accountability conferred on the commission as a result of that process are not limited in scope to only those rights which are developed through the human rights bill in Scotland. That is a critical point for us in respect of maintaining accountability across all human rights that impact on all of our daily lives here in the United Kingdom. The protection of the broader legal framework around human rights is of foundational importance to this commission and continues to be and, to that end, we monitor the on-going development of other priorities and proposals from the UK Government, namely at the moment, the Illegal Migration Act 2023. We keep a watching brief on that and, where we consider it appropriate as a commission, we have made statements and would intervene as required.

Yes, there is a febrile environment around the development of human rights and our role is, as our mandate says, to protect, and to promote the protection of human rights through the legal framework.

Claire Methven O'Brien: To be clear, we would oppose withdrawal from the European Convention on Human Rights and we find that the constant discussion about it undermines the place of human rights in society and jeopardises public authorities' confidence and the strength of their commitment to human rights. It is not a positive environment.

Annie Wells (Glasgow) (Con): Good morning, panel. Jan, you mentioned in your opening remarks that there are still people out there who do not know who to contact about human rights issues. What is the reason for that? How can it be addressed?

Jan Savage: That is a good question, Annie. We know that from the research, which is an interesting piece because it looks at how human rights have been experienced by individuals and how that differs across communities, parts of the country, age demographics and so on.

One of the biggest barriers to people knowing where to go is that people do not necessarily understand what human rights are in the first place. That is one of the reasons why, this year, the commission has taken the decision to get out of Edinburgh into communities and speak to individuals about things that happen in their everyday lives that are not necessarily registered as rights issues. People's rights to housing, nutritious food, clean water and environmental health are all fundamental human rights. Our job as a commission, building on the evidence from that research, is to build at individual level, fundamentally, an awareness that people already have those rights and that there are organisations

and public bodies, including the commission, that are there to care about them and to ensure that people have every support that they require to make them real.

We are exploring that through work such as the Highlands and Islands spotlight work. The work in those communities is not just exploring the lived experience of people in those communities. We are also triangulating that work with data and evidence from the case loads of constituency MSPs in those communities, a thematic analysis of complaints received by our partners at the Scottish Public Services Ombudsman in those areas and, similarly, the involvement of Citizens Advice Scotland.

We are doing everything that we can to get to the bottom of the question that you raise because we see it as a critical barrier to achieving a stronger human rights culture.

Jim Farish: Annie Wells's question is a really good one. The reality is that our communications need to be more accessible and clearer about what we are there for and what we can offer. Back in September, we developed a three-tier approach to communications, and a new communications team is working on that to try to make the communications more accessible. There is a need for legalised and theoretical responses to treaties, but there is also a need to articulate how they can impact on daily living—for example, on somebody who has difficulty accessing a general practitioner, legal services or whatever in any part of the country.

In relation to what Ms Gallacher said, I know that the committee knows this, but there is a correlation between poverty and people accessing their rights. I was aware of that, but I did not realise how much of a barrier it is until I became a commissioner. We need to recognise that in our approach, but also in how we frame our communications and arguments so that people can see that we are there to help and represent them and not just somebody further down the line who has a better understanding of what we are talking about.

Shelley Gray: The way that the commission works with civil society and community organisations is also really important. I will give an example. Over the past year, we have been involved in some work alongside Scottish Gypsy Traveller communities. In that instance, we are talking about a group of people who face really severe contraventions of their rights in various respects. A third sector organisation has worked alongside them to enable them to think about those issues in terms of human rights, to take forward human rights monitoring and then to take that to the duty bearers, and we have been working in that space as the human rights

watchdog. We are working alongside the community members and that organisation to help with the process of holding the duty bearers to account, because that is incredibly difficult for those communities, as you can imagine.

It is important for us to be really clear about what our role is within the human rights system and all the bits that need to be there so that people can see issues in terms of human rights and know how to take their rights forward.

The Deputy Convener: Jan, did you want to come back in quickly before we go back to Annie Wells?

Jan Savage: Yes. If time permits, convener, I will mention one of the softer impacts.

In my day-to-day role, I get to see everything that is happening across the commission. I have talked about how we use data and evidence, how we monitor our profile and how that has increased over the past year. One of my favourite softer impacts from the last while was an article in the *Strathspey Herald* just before Christmas. It was prompted not by the commission, but by a local journalist who had seen that the commission was in the community and had been provoked to write an article. They studied human rights at university and knew about the treaties, the UN and the system, but they were a bit surprised that the commission was in their local community. They found out a wee bit more and went along and had a conversation. They said that it really opened their eyes, as a local journalist and an educated person who thought that they knew a lot about what human rights are, to what is happening in Scotland and right under their nose.

It is early days, but that is a really strong indicator of the impact of the monitoring model and the community engagement model, with the commission getting out of Edinburgh, talking about human rights and witnessing human rights. That is an indicator of the impact that the commission could have over the next four years if we continue with that model.

The Deputy Convener: Thanks, Jan. Annie, back to you.

Annie Wells: I am fine with that, convener. Thanks very much, panel.

The Deputy Convener: Paul O'Kane has a further question. *[Interruption.]* Is Paul there?

10:45

Paul O'Kane: Sorry. I decided not to touch any buttons because of Fulton MacGregor's experience earlier, but I should probably have pressed something.

I have a question about the universal periodic review. When the commission wrote the committee about the UK's fourth cycle of that periodic review, which took place in November 2022, it said that it would be encouraging the UK and Scottish Governments to work constructively together before the formal response to the UPR report was sent. The response was published in March of last year. I am keen to get your views and your assessment of the UK Government's response and, if you want to comment on this, to hear whether you think that the two Governments worked together on it or whether there could have been more opportunities for that constructive working.

Jan Savage: We will need to come back to you in writing on the detail of that but, as I understand it, the UK Government, in its response, accepted about 40 per cent of the list of issues. The commission is looking at an independent analysis of what the norm would be in respect of trends. We can provide some details of that in writing.

Paul O'Kane: It is important to the committee that we understand the Scottish Human Rights Commission's views on that, the extent to which there has been collaboration and whether there needs to be follow-up scrutiny, so that undertaking to come back to the committee with the detail is really helpful.

The Deputy Convener: I have a couple of supplementary questions that pick up on some of the comments that you have made. I was struck by Jim Farish's comment that there is almost a mismatch between the legislation or what people know they should be delivering and people's experience of what is delivered. Shelley Gray talked about the absence of a shared understanding across Scotland of what rights are, what they could be and what they should or must be—all those things.

You spoke about your work with civil society, your work going into communities and all those elements. Is there a role for us, as MSPs, in that regard? You provide training to this committee reasonably regularly on different elements of human rights in both the Scottish and UK landscapes, but also globally. You have also worked with the Social Justice and Social Security Committee. Given what you said about the value of information from casework and the case loads that MSPs have in certain areas, can we do more across Parliament to help MSPs to better understand what they should be looking for so that they can come to you or to us as a committee and we can have a better shared understanding? Where could you support that work?

Jan Savage: That emerged as a priority action for the commission through the final stages of development of the strategic plan for the next

year. We believe that we could do a lot more to support capacity building across Parliament at the individual caseworker level and at committee level, and the commission wants to prioritise that. There is a set of principles—the Belgrade principles—that the United Nations and the network of national human rights institutions across the world apply in working with parliamentarians, and the commission will seek to strengthen that over the next four years.

The spotlight work gives us a model to share experiences with Parliament. In addition to the reports that we provide on violations that we uncover, we will also share the learning about what that model needs to look like if we are to upscale it and work in partnership with MSPs and their offices more often. The short answer is that there is more that we can do.

The commission has for a long time advocated for Parliament to consider its findings. One of the limitations of the commission's existing mandate is that we do not issue binding guidance and we cannot compel responses, but Parliament can compel responses and it can bring people together in the way that you have done with us today. A strengthened relationship in that respect could be explored over the coming years, particularly if the commission is to do more work, as it is, to monitor violations.

The Deputy Convener: Thanks—that is helpful. Those of us who are on this committee probably think more regularly than others do about the human rights deficiencies that constituents come to us with. Maybe I am speaking ill of some of my colleagues, but I assume that those things are not uppermost in all our minds when we deal with casework. There is substantial work to be done, which may include the committee considering how we share these conversations with our colleagues. We have done some of that work in the budgeting conversations that we have had, given that equalities and human rights budgeting is everybody's job and not just the job of members of this committee.

Do members have any other thoughts or questions that they want to raise? I do not see anyone shouting out in the room or online. Do members of the panel have any final comments or thoughts that they want to leave with us?

Jim Farish: Thank you for the opportunity to be here and to share what I think is an exciting and ambitious plan. We look forward to coming back and reporting on updates as and when you see fit.

The Deputy Convener: Thank you, Jim, and I thank Jan, Claire and Shelley, too. It has been an interesting discussion. We really appreciate your time and your thoughts this morning.

That ends the public part of the meeting. Thank you very much, everyone.

10:52

Meeting continued in private until 11:04.

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