

Human rights in Scotland: A Timeline

Background

Human rights was devolved to Scotland by the 1998 Scotland Act and civil and political rights¹, which come under the European Convention on human rights, are protected by the Human Rights Act 1998. Economic, social and cultural rights are also recognised by international treaties which apply to Scotland, these include rights relating to employment, housing, health, education and adequate standards of living. Whilst there is greater emphasis and focus on civil and political rights and these have been enshrined into our own legislation, economic, social and cultural rights do not have the same level of importance, yet, it is these rights that have the biggest impact on people's everyday lives.

Scotland's approach to human rights is also governed by international law. This has developed since the United Nations adopted the Universal Declaration of Human Rights in 1948. Seven major UN human rights treaties, along with eight Council of Europe human rights treaties, currently apply to Scotland.

In 2008 the Scottish Human Rights Commission was established by an Act of the Scottish Parliament.

The updated National Performance Framework also includes the outcome, "will respect, protect and fulfil human rights and live free from discrimination".

Scotland's National Action Plan on human rights – SNAP

In 2013, the Scottish Human Rights Commission launched Scotland's National Action Plan on human rights 2013-2017 (SNAP). SNAP has been described as a 4 year roadmap for the realisation of all internationally recognised human rights and was set to pursue three Outcomes, supported by nine Priorities. A number of groups involving public sector and voluntary bodies worked together to develop SNAP and identify how best to achieve change. A Leadership Panel involving high level representation of public and voluntary sectors as well as people whose human rights are directly affected oversaw the implementation of SNAP.

Outcome 1: Better Culture (Better human rights culture) - People understand and can affirm human rights and organisations are enabled and accountable to put human rights into practice.

- SNAP Priority 1: Empowerment - Increase people's understanding of human rights and their participation in decisions.

¹ Some of these include, the right to fair trial, freedom of expression, freedom of religion or conscience, property, freedom of assembly, privacy, life, be free from inhuman or degrading treatment or punishment and vote.

- SNAP Priority 2: Ability - Increase organisations' ability to put human rights into practice.
- SNAP Priority 3: Accountability - Increasing accountability through human rights based laws, governance and monitoring.

Outcome 2: Better Lives - Scotland effectively tackles injustice and exclusion, improving lives.

- SNAP Priority 4: Enhance respect, protection and fulfilment of human rights to achieve high quality health and social care. (Influenced Mental Health Strategy and tried to influence Health and Social Care Integration).
- SNAP Priority 5: Enhance respect, protection and fulfilment of human rights to achieve an adequate standard of living for all. (Try to influence budget decision based on human rights).
- SNAP Priority 6: Enhance respect, protection and fulfilment of human rights to achieve justice and safety for all. (Tackle barriers to justice).

Outcome 3: Better World - Scotland gives effect to its international obligations at home and internationally.

- SNAP Priority 7: Implement international human rights obligations.
- SNAP Priority 8: Respect, protect and fulfil human rights in our international action.
- SNAP Priority 9: Engage constructively with the international human rights system.

The second SNAP is due to be launched sometimes in 2019.

PANEL Principles

The Scottish Human Rights Commission developed the PANEL principles as a way of operationalising a *human rights based approach*, which helps to ensure that people's human rights are put at the very centre of policies and practice. The PANEL Principles include:

Participation: People should be involved in the decisions that affect their rights

Accountability: There should be monitoring of how people's rights are being affected, as well as remedies when things go wrong.

Non-Discrimination: All forms of discrimination must be prohibited, prevented and eliminated. People who face the biggest barriers to realising their rights should be prioritised.

Empowerment: Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.

Legality: Approaches should be grounded in the legal rights that are set out in domestic and international laws.

First Minister's Advisory Group on Human Rights Leadership

The First Minister's Advisory Group was set up in January 2018 to make recommendations on the next steps in Scotland's human rights journey in the wake of Brexit. There is also a focus on how to further the social, economic and cultural rights of citizens in Scotland.

The Advisory group published its recommendation in December 2018, these included:

Recommendation 1: An Act of the Scottish Parliament which provides human rights leadership.

Recommendation 2: A public participatory process to be developed as a vital part of preparation of the Act and its implementation.

Recommendation 3: Capacity-building to enable effective implementation of the Act so as to improve people's lives.

Recommendation 4: A Scottish Government National Mechanism for Monitoring, Reporting and Implementation of human rights

Recommendation 5: Development of human rights-based indicators for Scotland's National Performance Framework (NPF).

Recommendation 6: Process for Implementation of Recommendations 1-5

If there is further devolution or independence:

Recommendation 7: Integration of any further devolved powers into the framework as proposed in Recommendation 1 and, if independence, a written constitution including a Bill of Rights for Scotland.

The economic, social and cultural rights that the Advisory Group recommend that we sign up to include, a right to an adequate standard of living and explicitly mention a right to the enjoyment of the highest attainable standard of physical and mental health.

Implementing our rights

While civil and political rights have been encompassed explicitly within our legislative system, social, economic and cultural rights have not.

The implementation of our social rights which include a right to health are only now being recognised by Government. While there is recognition there remains a level of hesitance to explicitly include these rights in legislation and policy.

For example, a right to food is currently being discussed in the context of the Good Food Nation Bill. Whilst the draft consultation document recognises the importance of delivering a right to food it proposes that the Good Food Nation Framework will have *regard* to the international human rights framework rather than seek to incorporate a right to food into domestic law.

There are a number of policies and legislation that are based on human rights however, the implementation of the human rights is not happening. For example, the right to health is inclusive however, the existence of health inequalities in Scotland indicates that this right is not being realised.

There needs to be a move away from developing human Rights Frameworks, policies and strategies towards implementing human Rights.

The recent visit by Philip Alston, UN Special Rapporteur on extreme poverty and human rights, whilst relating to the UK as a whole, has revealed the need to move towards actioning our social, economic and cultural rights.

The statement given by Philip Alston is focussed heavily on the social, economic and health inequalities in society and strongly expresses a need to tackle these.