

Scotland 2025

Information from: Scottish Human Rights Commission

Independence, effectiveness and establishment of NHRIs

International accreditation status and SCA recommendations

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The Scottish Human Rights Commission was last [re-accredited with A-status in June 2021](#).

The SCA acknowledged that the NHRI interprets its human rights mandate broadly and encouraged the NHRI to continue to do so in a liberal and purposive manner to promote a progressive definition of human rights, which includes all rights set out in international, regional and domestic instruments, including economic, social and cultural rights. The SCA recommended that the NHRI advocate for appropriate amendments to its enabling law to include a more expansive definition of human rights and to extend to acts and omissions of private entities. It also took the view that the NHRI should be enabled to conduct unannounced and unaccompanied visits to places of detention as part of its protection mandate, including in cooperation with other relevant bodies as a member of the National Prevent Mechanism under the OPCAT.

Additionally, the SCA was of the view that the selection and appointment processes for the Chair and members of the Commission, as provided for in the enabling law, were not sufficiently broad and transparent. In particular, they do not require the advertisement of vacancies, establish clear and uniform criteria, ensure that such criteria are uniformly used to assess the merit of all eligible applicants, promote broad participation in the processes. Acknowledging that, in practice, the processes are open and transparent and that the NHRI has sought to address this recommendation through dialogue with the relevant authority, the SCA encouraged the NHRI to continue to advocate for amendments to its enabling law to ensure the formalization of a process that would meet the above requirements.

Finally, the SCA encouraged the NHRI to continue to advocate for additional funding to ensure that it can effectively carry out the full breadth of its mandate.

Follow-up to international and European actors' recommendations on NHRIs and relevant developments

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The Commission has consistently advocated for “strengthening their institutional framework and working methods” as per the 2021 [SCA re-accreditation](#). Specifically, throughout 2024, the Commission has:

- Submitted written and oral evidence to a review of the Scottish Parliament Corporate Body Landscape, which includes the Commission ([Scottish Human Rights Commission \(2024\) Submission to the Finance and Public Administration Committee Inquiry into Scotland's Commissioner Landscape](#)). This evidence highlighted:
 - Findings from its 2023 report, [At a Crossroads](#), that identified gaps in the current advocacy and accountability for human rights, especially for certain groups
 - That these result in least in part from gaps in the Commission's mandate, resourcing and powers
 - That it is possible to expand the Commission in ways that address the root cause of calls for new public bodies while also reducing duplication
- Internally, developed, approved and published a new [Code of Governance for Commissioners](#), a revised [Code of Conduct](#) which directly informed the recruitment of a new Chair of the Commission (through the Scottish Parliament); addressing reforms to the recruitment and remit of Commissioners recommended by a 2023 independent review of Governance following a period of instability
- Published for the first time an annual State of the Nation report, and advocated for a formal recognition of the Commission's annual monitoring programme through a debate in the Scottish Parliament ([Letter From SHRC to the Scottish Parliament's Presiding Officer](#), December 2024)
- Consulted on and published a [Strategic Plan](#) for the period 2024-2028, which commits to strengthening the organisation through both internal reforms and advocating for enhanced powers to ensure the effectiveness of the NHRI
- Developed an internal theory of change and impact recording based on contributory analysis to better understand the difference its work makes in promoting human rights.

The Commission has also undertaken to “advocate for appropriate amendments to its enabling law to include a more expansive definition of human rights and to extend to acts and omissions of private entities.” It previously successfully advocated that legislative routes to amending its

powers and mandate could be – and should be – part of the Scottish Government’s planned Human Rights Bill, which was due to incorporate UN treaties into domestic law. The public consultation on this Bill included a question on strengthening the powers of the Commission, and the Commission published a paper specifying the areas of its mandate which could be usefully amended. This included provisions to recruit more members of the Commission, to promote greater pluralism in line with the Paris Principles. This Bill was subsequently delayed to at least the next parliamentary term, pending the result of the 2026 Scottish elections.

The Commission has nonetheless continued to make the case to the Scottish Parliament to review its mandate. In its response to a review of bodies supported by the Scottish Parliament’s Corporate Body – which includes the Commission – by the Scottish Parliament Finance and Public Administration Committee, the Commission explained that it does not have the sufficient powers and resources to meet the expectations that rights-holders have ([Scottish Human Rights Commission \(2024\) Submission to the Finance and Public Administration Committee Inquiry into Scotland’s Commissioner Landscape](#)). This response explicitly cited the GANHRI Sub-Committee on Accreditation recommendations on the mandate of the Commission.

The Commission welcomed the Committee Inquiry’s recommendation ([Report on Scotland's Commissioner Landscape: A Strategic Approach | Scottish Parliament](#)) that there be a moratorium on new Commissions to enable a root and branch review of the existing supported body landscape. While this also extends the moratorium to powers and mandates of existing bodies, the Commission notes that the process presents “the first opportunity since 2006 for the Scottish Parliament to review the effectiveness of the Commission's mandate to best promote the human rights of everyone in Scotland.” The Commission called for further steps to be completed in good time. ([Commission statement on the Scotland’s Commissioner Landscape report](#), [Scottish Human Rights Commission \(2024\) Briefing to Parliament on Finance and Public Administration 7th Report, 2024: Scotland's Commissioner Landscape: A Strategic Approach](#))

With regards to measures taken in Scotland to follow-up on the recommendations regarding the Commission issued by European actors, the Commission considers that there has been no progress in 2024 to implement recommendations to strengthen the organisation, although there is widespread recognition that some progress is required, evidenced in the Scottish Government’s work around the proposed Human Rights Bill. The Commission welcomes recommendations on the value of strong and supported National Human Rights Institutions, including from the UN Human Rights Committee in the most Concluding Observations concerning the UK ([UN Human Rights Committee \(2024\) Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland](#)).

The Commission's budget for 2024/25, adjusted for a 4.2% pay award, was £1.46 million (including contingency funding for a Legal Fellow role).

An additional £72.5k of budget funding was allocated from July 2024 for the enactment of UNCRC, increasing the total approved funding in 2024-25 to £1.53 million.

From November 2024, a further £76k of Contingency funding was allocated to support the implementation of the Governance review recommendations through a People and Culture Program, a total of £1.61 million.

The Commission is also proactively considering how it can develop and embed gender-mainstreaming across its work within its current strategic plan and available capacity.

Regulatory framework

Regulatory framework

The Commission cannot give any advice to individuals who may have a legal claim ([Scottish Commission for Human Rights Act s.6](#)) nor can it take proceedings in its own name on behalf of individuals or a class of individuals.

From the 16th July 2024, an exception exists in respect of proceedings relating to the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#). This is the first change to the Commission's powers since 2006, and at the time of writing, has not yet been utilised.

The Commission is now being notified of cases in it may wish to intervene and proactively considering where it can contribute. The Children and Young People's Commissioner for Scotland has complementary powers, and the Commission works with them to consider where its input would assist the courts.

The Commission has negotiated additional funding for an initial period of 2 years to strengthen its staffing capacity to service these new powers. At the time of writing, a recruitment process is ongoing.

As indicated above, the Scottish NHRI's mandate to contribute to access to justice for some individuals has been strengthened since 2022. In fact, the Commission's enhanced mandate in respect of children's rights is likely to have a positive indirect impact for women and a positive direct impact for girls. This is because women are a majority of primary caregivers for Scotland and research continues to demonstrate a close relationship between women's rights and children's rights ([The Female Face of Poverty - Women's Budget Group](#)). UK-research shows that women frequently act as 'poverty managers' in the household, going without key resources so that children's needs are met.

As these new powers have not been used in a specific case yet, this assessment is speculative.

Opportunities to take cases relating to the UNCRC are assessed on an ongoing basis where aligned to the NHRI's strategic priorities and in compliance with the Commission's statutory obligation to avoid duplication with other public bodies such as the dedicated Children and Young People's Commissioner ([CYPCS](#)).

While the Commission welcomes the expansion of its legal powers in respect of UNCRC-related complaints, it is aware that this creates an asymmetry in the protection available to groups of rightsholders. The Commission's statute ([Scottish Commission for Human Rights Act 2006](#)) currently precludes providing advice to individuals and intervening in individual circumstances. It cannot raise legal proceedings on human rights points of law, nor undertake formal investigations on matters of human rights concern, make unannounced visits, and has considerable limitations on its Inquiry power.

The Commission has stressed that at a minimum, any reforms to its statute should address these limitations ([Scottish Human Rights Commission \(2023\) A Stronger Human Rights Commission for Scotland](#)). This includes calling publicly for the functions and powers necessary to:

- Provide legal advice
- Raise legal proceedings in its own name
- Conduct investigations
- Conduct inquiries in less limited circumstances
- Require and compel information
- Make unaccompanied and unannounced visits to any human rights duty bearer
- Hold public hearings and require duty bearers to be present
- Issue binding guidance
- Allocate sufficient resources to the Commission to fulfil its current and an expanded mandate.
- Expand the mandate to be applicable to all human rights defined in the UK Human Rights Act 1998, and the International Human Rights Treaties as ratified by the United Kingdom, regardless of the incorporation approach adopted by the Scottish Government.

The Commission has also consistently supported the Scottish Government's intention to incorporate UN treaties domestically through a proposed Human Rights Bill for Scotland. The Scottish Government has committed to incorporation of the UN International Covenant on Economic, Social and Cultural Rights and at least aspects of the UN Conventions on the Elimination of All Forms of Racial Discrimination, Elimination of All Forms of Discrimination Against Women and the Rights of Persons with Disabilities.

As part of these proposals, the Scottish Government had indicated willingness to revisit the power of the Commission generally. The independent analysis of the Scottish Government's consultation on the Bill affirmed that there is strong support from rights-holders and civil society for a strengthened Commission, which, as reported in 2024, was foreseen to play a critical role in stronger accountability mechanisms, including judicial and non-judicial routes to remedy.

In September 2024, the Scottish Government paused its legislative commitment to the Human Rights Bill until after the next Scottish elections in 2026. In practice, there is no certainty that any future Government will take forward the commitment. The decision not to proceed within the current parliament has been widely condemned by both the Commission and broad swathes of civil society ([Commission statement on Human Rights Bill for Scotland](#)). The Scottish Government has accepted that trust has been significantly impacted however argues that it requires more time to navigate the complexity of the UK's constitutional arrangement following the successful legal challenge that previously constrained the (less technically ambitious) scope of incorporation of the UN CRC ([Meeting of the Parliament: EHRCJ/08/10/2024 | Scottish Parliament Website](#))

The current situation creates an imbalance of human rights protections in Scotland, whereby the Commission (and the Commissioner for Children and Young People Scotland) has explicit legal powers to protect children's rights but no powers to take legal proceedings in respect of other groups. It further leaves no immediate legislative vehicle to enhance the powers and mandate of the Commission. Following a Scottish Parliament Committee review of supported bodies there is a moratorium on expanding powers and resources of the Commission and other arms-length parliamentary bodies until at least September 2025.

However, the Commission continues to believe that the statutory limits on powers and therefore insufficient resources to protect human rights is at least a contributory factor in calls for new focused bodies to support the rights of specific groups in Scotland, such as disabled people or women, and therefore is advocating for a revision of its mandate as a priority.

A recent intervention from the Scottish Parliament Equality, Human Rights and Civil Justice – the Commission's lead Committee in the Scottish Parliament – into the current review is a positive indicator of the Commission's progress in building parliamentary support for a review of its enabling powers and general mandate ([Letter from the Convener to the SPCB Supported Bodies Landscape Review Committee, 5 February 2025](#)).

NHRI enabling and safe space

NHRI enabling and safe space

Research undertaken by the Commission in 2023 ([Attitudes to Human Rights in Scotland](#)) demonstrates that the general public does not generally know where to go for advice or human rights of who can help with a human rights-related complaint ([Attitudes to Human Rights in Scotland 2023](#)). Through attitudinal research commissioned from national polling company YouGov, the Commission found that 78% of people in Scotland would not know who to go to if they had a query about human rights. The Commission hopes to replicate this research with duty bearers within the current strategic plan cycle (2024-2028).

Following its own observational analysis and findings by an independent governance review in 2023, the Commission has prioritised increased awareness in the Scottish Parliament and among other duty bearers.

This work is ongoing, but includes:

- Development of the Commission's first annual State of the Nation (SoTN), issued to all Scottish Parliamentarians on Human Rights Day ([State of the Nation report 2024: Civil and Political Rights in Scotland](#)), with further communications issued to the Presiding Officer and Equality, Human Rights and Civil Justice Committee calling for an annual human rights day debate to be aligned to the Commission's monitoring ([Letter-SHRC-Presiding Officer on State of the Nation 2024](#))
- Working with MSPs in the Highlands and Islands region to examine their casework through the lens of economic, social and cultural rights, including the normative content (explained through a dedicated 'adequacy' framework developed by the Commission ([Economic, Social and Cultural Rights in the Highlands and Islands](#)))
- Bilateral engagement with MSPs and Parliamentary Committees to provide human rights analysis developed in key reports, such as the Highlands and Islands Monitoring and 'Review, Recommend Repeat' ([Review, recommend, repeat: An assessment of where human rights have stalled in places of detention](#)), a report the Commission and National Preventive Mechanism produced examining follow up to recommendations from human rights bodies concerning detention conditions
- Written human rights framework advice on legislative proposals, including the use of framework legislation, election candidacy, housing, social care and the budget (Various: [Publications | Scottish Human Rights Commission](#))
- Ongoing parliamentary engagement, particularly with subject committees in relation to the Commission's spotlight projects, including de-institutionalisation ("[Tick Tock...](#)") and implementation of recommendations concerning human rights in places of detention ([Review, recommend, repeat: An assessment of where human rights](#)

[have stalled in places of detention](#)).

The Commission is actively monitoring awareness of its work, especially in parliament. Analysis (to be included in its next annual report) shows that mentions of the Commission in a range of parliamentary business have increased year on year since 2022. However, the Commission is aware that increased recognition of its human rights monitoring and protection activities does not mean that state bodies are fully appraised of the unique role of an NHRI. Its input to a short-life Parliamentary Committee established to [review the Corporate Body Supported Bodies Landscape](#) highlights that the SHRC is not only bound by domestic laws and principles but must comply with the Paris Principles to deliver its purpose and mandate as an NHRI ([Written Evidence - SPCB Supported Bodies For Commission](#)). Questioning and reporting, including from members of this Committee and its witnesses, has not demonstrated consistent appreciation of this difference and the application of the principles, especially pluralism and independence. ENNHRI has observed this gap, and written to the Committee to encourage recognition of the unique role and value of the SHRC in promoting and protecting human rights in Scotland ([ENNHRI expresses support for the Scottish Human Rights Commission in light of parliamentary review - ENNHRI](#))

In addition, to support monitoring and wider public awareness the SHRC has a [Strategic Plan Commitment](#) to work alongside people and communities and to develop a Participation and Engagement Strategy and principles. The development of this strategy has underpinned increased external engagement with a wide range of stakeholders by the Chair, Commission members and staff.

NHRI's access to information and involvement in the legislative process

With regards to adequate access to information and to policy makers, the Commission believes that whilst there are no specific barriers to policymakers and the legislative process, two areas of improvement could be considered.

Firstly, the Commission has successfully sought and welcomed more formalised regular meetings with both the Scottish Government, including the introduction of a biannual meeting with the Chair of the NHRI and Scotland's First Minister, and with the UK Government, largely through the Ministry of Justice. It continues to prioritise and build closer working relationships with the Scottish Parliament, reflecting the statutory basis as a supported body and our commitment to independence and pluralism. However, particularly with reference to primary focus on devolved matters, the specific role of NHRIs could be better understood and demarcated. The Commission frequently prepares advice in the form of policy consultation responses which are not differentiated in analysis from the status of individuals and civil society. This

risks underestimating the importance of human rights obligations and considerations.

Further, there is no requirement of either Scottish Government or Parliament to formally respond to recommendations from the NHRI nor from Treaty Bodies, as is the case in many other countries. A formal response to or consideration of recommendations or findings occurs on a case-by-case basis. The Commission has recommended that the Scottish Parliament allocate time annually to debate its State of the Nation response, for example through changes to the rules of procedure, and encourages the Scottish Government to formally respond to Treaty Body Concluding Observations publicly, indicating where it will progress action ([Letter-SHRC-Presiding Officer on State of the Nation 2024](#))

Secondly, where access to information that is required to engage in the policy process is publicly available, it is frequently not sufficiently detailed. The Commission routinely highlights gaps in data availability and disaggregation that would vastly improve monitoring.

A key example is the insufficiency of the budget information. In 2024 the Commission published its analysis of Scotland's budget process, [applying the Open Budget Survey questionnaire](#) to the Scottish Budget 2021/22. This analysis found that Scotland scores 60 out of 100 for budget transparency ('Limited Information Available'). Key issues identified include the lack of pre-budget statement, a reduction in the supporting information published alongside the budget and the lack of in-year budget reports ([Scotland's Open Budget Survey 2023](#)).

Analysis by the Scottish Parliament has noted movement in the key themes raised in the pre-budgetary parliamentary scrutiny by committees from comments on the availability of data and information previously, to more focus on how this data is used by Scottish Government. ([Scottish Government responses to pre-Budget scrutiny: all smiles, no substance? – SPICe Spotlight | Solas air SPICe](#))

NHRI's resources

The Commission welcomes the increase in its core budget and temporary staffing costs in the financial year 2023-24, as mentioned above.

The Commission has (at January 2025) a small staff team of 15 (14.6 FTE). This included a Legal Fellow, which is a fixed 12-month contract, recruited on an annual basis, which is funded on an ongoing through SPCB contingency funding. This staff supports the Commission, consisting of one 0.5 FTE Chair and two 0.2 FTE Members of the Commission, and two vacant Member positions, a total of 1.3 FTE Commission members.

In February 2025, the Commission has been recruiting for 3 new interim posts.

One of these posts, 1 FTE, plus additional contracted hours of 0.3FTE for two existing staff members, is being funded for an initial two-year period following a change to the Commission's mandate as a result of the UNCRC Act which came into force in July 2024. The other two posts, 2 x FTE, are being funded for 12 months to support the implementation of the Governance Review through increased senior managerial capacity and to support organisational development.

It is recognised that budget and staffing increases have been granted in an extremely challenging fiscal environment and that the investment in the Commission's work demonstrates confidence in its impact and ability to deliver value for money. Yet, the Commission cannot consider its resources to be fully adequate when considered against the full breadth of the mandate and the effective discharge of Paris Principle responsibilities. Looking at the other UK NHRIs, the SHRC is the smallest and has the weakest legal powers, creating asymmetry in the availability of recourse for human rights issues across the UK.

The Commission has recently reached an agreement with the Scottish Government and Scottish Parliament on the funding arrangements to implement its new powers under the UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. In doing so, it is a matter of public record that the cost of using its legal powers, including own name litigation, is not reflected within its annual core budget settlement, and instead, would require contingency funding through the Scottish Parliament Corporate Body. This makes visible the realities of resourcing the Commission's functions, and the process created a record of a shared understanding of this across Government, Parliament and the NHRI for the first time. The Commission reiterated this point on the record during evidence to the Scottish Parliament's Equalities, Human Rights and Civil Justice Committee, who have subsequently publicly indicated an interest in having input into decisions about the resourcing of the Commission related to human rights outcomes in Scotland ([Scrutiny of SPCB supported bodies Letter from the Convener to the Convener of the SPCB Supported Bodies Landscape Review](#)).

Follow up to NHRI's recommendations

No formal changes have implemented to respond directly to NHRI recommendations in Scotland since 2022. However, policymakers from the Scottish Government, Parliament and public bodies routinely cite the Commission in their considerations on policy matters. Examples from 2024 include:

- Scottish Parliament Public Administration and Finance Committee: [Report on Scotland's Commissioner Landscape: A Strategic Approach](#)

- [Meeting of the Parliament: 12/12/2024 | Scottish Parliament Website](#), Debate on Healthcare in Remote and Rural Areas
- [Meeting of the Parliament: 10/12/2024 | Scottish Parliament Website](#) Human Rights Day Debate
- [Meeting of the Parliament: LGHP/26/11/2024 | Scottish Parliament Website](#) Scrutiny of the Public Services Ombudsman
- [Meeting of the Parliament: EHRCJ/29/10/2024 | Scottish Parliament Website](#) Scrutiny of the Budget
- [Meeting of the Parliament: EHRCJ/08/10/2024 | Scottish Parliament Website](#) the Human Rights Bill for Scotland
- [Meeting of the Parliament: CJ/02/10/2024 | Scottish Parliament Website](#) Police (Ethics and Conduct Scrutiny Bill)
- Assisted Dying for Terminally Ill Adults [Meeting of the Parliament: HSCS/12/11/2024 | Scottish Parliament Website](#)
- Safe Access Zones for Abortion Service Providers [Meeting of the Parliament: HSCS/12/03/2024 | Scottish Parliament Website](#)
- Deaths in Prison Custody [Meeting of the Parliament: PA/14/03/2024 | Scottish Parliament Website](#)
- Proposals for a Disability Commissioner [Meeting of the Parliament: EHRCJ/17/09/2024 | Scottish Parliament Website](#)
- Proposals for a National Care Service [Meeting of the Parliament: HSCS/01/10/2024 | Scottish Parliament Website](#)

In addition, in January 2025 the Scottish Parliament held a chamber debate entirely focused on the report of the Commission's monitoring of economic, social and cultural rights in the Highlands and Islands of Scotland. In February 2025, the Rural Affairs Committee in the Parliament are also holding an evidence session about the report and its findings. This demonstrates the Commission's proactive domestic human rights monitoring work leading to greater parliamentary human rights scrutiny of concerns.

In 2024 the Commission launched a State of the Nation Report, which is intended to support promote the Commission's monitoring of human rights issues directly to members of the Scottish Parliament. This first iteration included links to recommendations from the UN Human Rights Committee issued in 2024. ([Briefing to Parliament: Scottish Human Rights Commission's State of the Nation 2024 report on civil and political rights in Scotland](#))

Functional immunity / Measures to protect NHRI staff

Lastly, the Commission members and staff do not enjoy any functional immunity from criminal prosecution ([Scottish Commission for Human Rights Act 2006](#) Schedule 1). The Commission's statements in respect of inquiry powers are subject to absolute privilege for the purposes of civil defamation proceedings, while other statements made in connection with the Commission's statute are subject to qualified privilege (Section 17). This means

that the Commission's verbal or published statements cannot be challenged under defamation law, provided that such statements are not motivated by malice or intent to injure (qualified privilege.) Members and staff making statements on behalf of the Commission in line with delegated authority therefore in practice enjoy some protection from SLAPPS.

In recent months, the Commission has for the first time been subject to calls from a sitting MSP, and member of the Scottish Parliament Corporate Body Supported Bodies Landscape Review Committee, ([SPCB Supported Bodies Landscape Review Committee | Scottish Parliament Website](#)) for its members to be dismissed and the institution to have its funding withheld as part of inquiry into its use of mandate and functions ([Official Report, Meeting of Parliament March 12 2025](#)). These comments have been repeated and reported upon in a range in broadcast and social media.

NHRI's recommendations to national authorities

NHRI's recommendations to national authorities

The Commission believes that the Scottish Parliament should consider the full scope of the Commission's mandate and powers and therefore the strength of available support for addressing human rights denials for people in Scotland. In particular, this should include:

- Consideration of how best to strengthen the legal powers of the Commission so as to improve accountability for human rights violations at both structural and individual levels
- A review of the resourcing across the Commission's full mandate, including any new powers, to ensure that the Commission can deliver support effectively
- The ability to recruit more members of the Commission in order to promote a more pluralist and diverse membership (currently, [the Scottish Commission for Human Rights Act sch. 1](#) permits up to 4 members of the Commission plus a Chair)

Scotland 2025

Information from: Scottish Human Rights Commission

Human rights defenders and civil society space

Laws and measures negatively impacting civil

society and Human Rights Defenders

Laws and measures negatively impacting civil society and Human Rights Defenders

The Commission's first State of the Nation report ([State of the Nation report 2024: Civil and Political Rights in Scotland](#)) was published in December 2024, to mark International Human Rights Day. This summarises monitoring work aligned to civil and political rights as expressed in the EHRC and ICCPR.

The Commission identified the following issues relevant to a contraction of civic space:

- While, the Police, Crime, Sentencing and Courts Act 2022 and the Public Order Act 2023 – does not directly apply to Scotland, Scottish residents engaging in protests in England and Wales could face stricter restrictions. These laws have expanded police powers to impose noise limits, criminalise trespass, and restrict certain forms of protest. The UN Human Rights Committee has called for the UK to amend these laws to ensure compliance with international human rights standards.
- In 2024, several student protest encampments at Scottish universities linked to university investments and actions in the Occupied Palestinian Territories, brought the issue of peaceful assembly into focus.
- The Abortion (Safe Access Zones) (Scotland) Act 2024 introduced restrictions on protests near abortion service providers, aiming to protect patients and staff from intimidation. The Commission recognised this as a proportionate restriction on the right to protest in order to protect other rights, such as access to healthcare.
- The media continues to be a predominant platform for harassment and hate speech, with social media increasing public harassment faced by women, LGBTI+, Scottish Gypsy/Travellers and other minority ethnic and religious communities.
- Strategic Lawsuits Against Public Participation (SLAPPs), have also come under scrutiny in Scotland following proposals to introduce anti-SLAPP measures in England and Wales. Though anecdotal concern about SLAPPs brought in Scotland have been shared with the Commission, there is limited independent research to identify the scale at which such measures are used.
- There is currently debate about extending Scotland's Freedom of Information laws to ensure greater transparency and accountability.

As part of a 'Spotlight' thematic project examining barriers to the realisation of economic, social and cultural rights in the Scottish Highlands and Islands ([Scottish Human Rights Commission \(2024\) Economic, Social and Cultural Rights in the Highlands and Islands](#)), the Commission met with and held semi-structured interviews with a range of human rights defenders, including campaign groups, community organisations and the third sector. This evidence revealed that some human rights defenders in the region were

worried that engaging with the Commission could put at risk their professional and social relationships.

Finally, while the Commission has not specifically identified direct interference with funding security or grant conditions for civil society organisations, those we have engaged with have described an increasingly challenging funding environment, putting their operational sustainability at risk ([SHRC submission to ICESCR 2025](#)). Several NGOs who receive funding grants from Scottish Government sources have referenced both instances of social pressure to limit their criticisms of government actions and instances of opposition or public suspicion about their independence because they accept government funding. The Scottish Council of Voluntary Organisations (SCVO) is campaigning for improved, sustainable and unrestricted multi-year funding settlements ([SCVO \(2023\) Fair Funding for the Voluntary Sector](#)).

Moreover, the Commission has recently refreshed its approach to participation through a dedicated participation strategy. This aligns participation of rights-holders in the Commission's work with international standards for human rights defenders, such as Article 7 of Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms and the Marrakesh Declaration.

While at an early stage of rolling out the approach articulated in the Participation Strategy, it builds on learning from the Commission's recent 'spotlight' and core business work in articulating a series of principles for participation in the work of the SHRC:

- Personal Leadership
- Inclusive Planning
- Payment and Responsibility
- Trauma-informed Practice
- Accessibility

These principles will be integrated into Commission projects, in particular five key approaches:

1. Engagement with Members of the Commission to help inform Spotlight priorities,
2. Co-design and delivery of relevant spotlights,
3. Engagement opportunities to inform international and local monitoring,
4. Empowerment programme for Scotland's Human Rights Defenders,
5. Safeguarding via monitoring the experiences of Scotland's Human Rights Defenders.

Of further importance in developing opportunities for participation in the Commission's work is the Commission's 2024-28 Strategic Plan, which

identifies four thematic priorities: tackling poverty, rights in places of detention, access to justice, and rights to remedy for specially protected groups.

Practices negatively impacting civil society and human rights defenders

Practices negatively impacting civil society and human rights defenders

The Scottish NHRI's reports on below practices that could negatively impact on civil society space and/or reduce human rights defenders' activities:

- verbal or physical attacks on civil society organisations and/or human rights defenders, their work and environment;
- negative attitudes/campaigns towards/perceptions of civil society and/or human rights defenders by public authorities and the general public;
- online and/or offline threats or harassment;
- surveillance by state actors;
- strategic lawsuits against public participation – SLAPPs.

However, the Commission's information in this respect is significantly limited to anecdotal reports and media coverage, meaning that it is difficult to confirm with confidence the veracity, severity and regularity of the listed practices in Scotland.

In 2024, the Commission published a treaty monitoring report to the Human Rights Committee and its first State of the Nation report, focused on civil and political rights. As part of both monitoring reports, the Commission identified certain reports that indicate occurrence of some of the practices listed used to overtly or implicitly reduce the activities of human rights defenders.

Additionally, NGOs who attended dedicated engagement to inform the Commission's report to the UN Committee on Economic, Social and Cultural Rights indicated challenges in the sustainability and political environment ([Scottish Human Rights Commission \(2025\) Parallel Report of the Scottish Human Rights Commission to Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues in relation to its seventh periodic report to the Committee on Economic Social and Cultural Rights](#))

[Police Scotland's three-year Business Plan 2024-2027](#) refers to increasing AI technology and capabilities and Police Scotland are actively considering the adoption of Live Facial Recognition Technology (LFRT). The use of LFRT raises proportionality concerns, including for Article 8, 10, 11 and 14 of the European Convention on Human Rights, as well as being potentially discriminatory for a number of marginalised groups, in particular people of colour. There is also a concern that the legal basis for use of such technology is lacking and could

therefore fail to satisfy the requirement that any interferences with fundamental rights be "in accordance with the law". In May 2024, the ICCPR Concluding Observations in respect of the UK, highlighted the Committee's concern at the use of LFRT to monitor peaceful gatherings in other parts of the country and the Committee recommended that the State should end the use of facial recognition technologies and other mass surveillance technologies by law enforcement agencies at protests.

Due to the above limitations, the Commission has not directly identified gendered aspects, but many examples brought to its attention informally concerned people from marginalised groups, including women, racialised communities and people from minority ethnic communities, disabled people and people from LGBTQI+ communities. The Commission is aware of qualitative research highlighting the nature and scale of online harassment towards women human rights defenders, including journalists ([Women journalists tell of experiences of harassment, stalking and online abuse — Women in Journalism Scotland](#)).

Furthermore, while the Commission maintains no formal record of threats and attacks on human rights defenders, it is not aware of instances where state bodies have publicly been shown to be orchestrating such attacks. Information shared by individuals with the Commission does from time to time include allegations against state bodies, though the Commission currently has no power to investigate these.

In addition, the current discourse around the inclusion of transgender persons, particularly transgender women in single-sex services, is leading to some transgender people and LGBTQI+ organisations and some women and women's groups to describe attacks by state and non-state actors on their rights and identities.

In April 2025, the UK Supreme Court issued a judgment concerning the interpretation of GB-wide equality law provisions defining 'sex discrimination' with consequences for access to single sex services or accommodation (termed 'exceptions') ([For Women Scotland Ltd \(Appellant\) v The Scottish Ministers \(Respondent\) - UK Supreme Court](#)). The Court ruled that 'sex' in the legislation refers to 'biological sex'. The Commission is currently engaging with a broad range of stakeholders and experts to consider the human rights implications for both women and for transgender persons, both with and without a legal change of gender (gender recognition certificate) ([In response to the UK Supreme Court's ruling on the case, For Women Scotland Ltd v The Scottish Ministers](#))

The Commission has commented on the lack of availability for legal aid ([Legal Aid Crisis: Demographics point to criminal law 'wasteland' | The Herald](#)). the wider concerns about access to remedy, including the difficulties of accessing judicial review as a third party, make it extremely difficult for organisations to

challenge human rights violations (HRCS report). As a result, individuals must attempt to navigate extremely expensive, complex and at times traumatic avenues to justice in order for human rights issues to be surfaced. This reduces the opportunities for structural issues to be addressed as complaints are individualised.

The Commission has, in partnership with the Children and Young People's Commissioner for Scotland, published research and an interactive mapping tool to better understand the availability of human rights-related advice and advocacy services for all in Scotland ([SHRC and CYPSC \(2024\) Human Rights Related Advice and Advocacy Services in Scotland](#)). This showed that there are 262 services across Scotland that offer human rights-related advice and advocacy, but only 14% of this offering legal representation. Additionally:

- The most common human rights issues covered include mental health, housing, disability, health, and social security or benefits.
- There are less services covering issues such as biometrics, AI, privacy, freedom of expression and workers' rights.
- Significant gaps exist in legal representation with only 38 services across Scotland providing this.
- Research found significant geographic disparities in service accessibility, with rural areas facing access challenges due to distance and transportation issues. A high concentration of the services are located in central Scotland.

The limitations in the Commission's mandate further exacerbate these problems. As the Commission cannot provide advice to individuals, human rights defenders are unlikely to raise issues with us directly and timeously, which undermines the confidence with which the Commission can assess the scale and nature of harms.

Activities of NHRIs to support civil society space and Human Rights Defenders

Activities of NHRIs to support civil society space and Human Rights Defenders
The Commission has hosted several roundtables to hear from civil society. These have included

- Externally facilitated roundtables with people who experience racism to support the monitoring and reporting activity of the Commission in the review of the UN Convention on the Elimination of All Forms of Racial Discrimination ([SHRC \(2024\) Parallel Report to CERD](#))
- Internally facilitated roundtables to support the Commission's monitoring and reporting activity for the International Covenant on Economic, Social and Cultural Rights ([SHRC \(2025\) Submission to](#)

ICESCR 2025

- The facilitation of a dedicated human rights defenders' group and a reference group to support the Commission's research into the institutionalisation of adults with learning disabilities. ([SHRC \(2025\) "Tick Tock..."](#))

The Commission regularly engages bilaterally or multilaterally with civil society in support of research, monitoring, capacity building and advice. The Commission believes that expanded legal powers to take own name litigation and to provide advice to others could reduce the burden on individual rights-holders and civil society.

Further, the Commission is not aware of specific actors who have investigated challenges or threats to civil society. An area of focus has been reporting to international and regional mechanisms, with 4 UN treaty body reviews and 3 Council of Europe reviews in twelve months:

- [Parallel Report to the United Nations Human Rights Committee on the 8th examination of the United Kingdom of Great Britain and Northern Ireland under the International Covenant on Civil and Political Rights \(ICCPR\), January 2024](#)
- [Submission to the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence \(GREVIO\) Parallel Report for the Baseline Report in Monitoring the United Kingdom, January 2024](#)
- [Additional information for the UN Committee on the Rights of Persons with Disabilities to inform its inquiry review into the UK \(as UKIM\), March 2024](#)
- [Parallel Report for the Combined twenty-fourth to twenty-sixth periodic reports submitted by the United Kingdom of Great Britain and Northern Ireland \(UK\) under Article 9 of the Convention on the Elimination of All Forms of Racial Discrimination, July 2024](#)
- [European Social Charter: Ad hoc report on the cost-of-living crisis submitted by the Government of the United Kingdom – Comments by the Scottish Human Rights Commission, July 2024](#)
- [Meeting with Group of Experts on Action against Trafficking in Human Beings \(GRETA\) asp part of Fourth Round Questionnaire](#)
- [Parallel Report of the Scottish Human Rights Commission to Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues in relation to its seventh periodic report to the Committee on Economic Social and Cultural Rights, January 2025](#)

Consideration on how to support civil society to work on implementation of relevant recommendations which connect to civic space is ongoing as part of the next operational planning cycle.

The Commission's monitoring and reporting activities both internationally and domestically have examined the civil and political rights, including those of human rights defenders. Examples of challenges highlighted include the challenges of access to justice for human rights defenders, who frequently encounter the barriers in the justice system, including the limitation in access to legal aid, court complexity and expenses and the operation of Fatal Accident Inquiries (FAI).

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

- The Scottish Government should ensure that there is sustainable, fair and transparent funding for third sector organisations who work on human rights issues, in campaigning for human rights and / or civic space. Pressure on resources such as requests to participate in consultation or to facilitate participation of individuals should be full recognised as resource and expertise intensive.
- The Scottish Government should examine its approach to public engagement to ensure that its processes establish respectful and progressive engagement as opposed to extractive consultation. It is important that the Scottish Government – and other duty bearers – recognise the draw on CSO resources through funding and / or action.

Scotland 2025

Information from: Scottish Human Rights Commission

Functioning of justice systems

Based on its human rights monitoring and reporting, the Scottish NHRI has identified various challenges affecting access to justice and effective judicial protection.

In fact, Scotland's access to justice system is highly complex, fragmented, and often inaccessible. Complaints mechanisms rarely result in systemic change, and the legal framework is challenging to navigate. The Commission's 2023 review of complaints mechanisms for economic, social, and cultural rights highlighted issues with awareness, complexity, and ineffective remedies

(Access to Justice for Everyone).

Scottish Courts continue to operate with a significant backlog in cases due to delays related to the COVID-19 pandemic, which while reducing remain high in solemn cases (serious offences like assault, murder, and rape).([Criminal courts backlog | Audit Scotland](#)). Failures in the Scottish Court Custody and Prisoner Escort Service (SCCPES), run by private contractor GEOAmey, have compounded the issue as prisoner transport issues result in lost court time ([The 2022/23 audit of the Scottish Prison Service | Audit Scotland](#)).

A Victims, Witnesses, and Justice Reform (Scotland) Bill ([Victims, Witnesses, and Justice Reform \(Scotland\) Bill | Scottish Parliament Website](#)) aims to improve the handling of sexual offence cases, including by abolishing the "not proven" verdict. The Bill had also proposed the creation of a pilot specialist Sexual Offences Court, which would have heard solemn sexual offence cases with a single sitting judge and also reducing juries to 12 members with a two-thirds majority required for conviction. On 31 October 2024, the Justice Secretary confirmed these parts of the Bill would be removed at Stage 2 of the Bill process ([Letter from the Cabinet Secretary for Justice and Home Affairs to the Convener, 31 October 2024](#)). Some legal professionals – including the Law Society of Scotland and the Scottish Bar Association – had raised concerns that the cumulative impact of proposed reforms could undermine the accused's right to a fair trial ([Response 393332425 to Victims, Witnesses, and Justice Reform \(Scotland\) Bill - Scottish Parliament - Citizen Space](#))

A 2024 report from the Commission and the Children and Young People's Commissioner found that access to human rights-related advice and advocacy services in Scotland varies significantly by geography, with rural areas particularly underserved ([Factsheet: Human Rights Related Advice and Advocacy Services in Scotland](#); [Research Report: Human rights-related advice and advocacy services in Scotland](#)). Only 13 per cent of services offer comprehensive support, including advice, casework, advocacy and legal representation.

The Commission's spotlight on access to justice and monitoring of civil and political rights in 2023/2024 identifies significant concerns about the operation of Fatal Accident Inquiry Processes, which are utilised to investigate deaths in prison custody. It is very clear that the current FAI system is not providing what it should for families, nor is it delivering systemic change and improvement that is needed. There are frequently long periods elapsing between a death and an FAI being held. Additionally, more than 90 per cent of all FAIs make no findings of defect or recommendations. Families are rarely represented and there is no legal aid to facilitate their involvement when seeking justice for the deceased. The Scottish Government has announced a review of the FAI system, including a new, independent National Oversight Mechanism (Scottish Government (2025) [Deaths in prison custody](#).) The Scottish Government have

also committed to provide non means tested legal aid, a longstanding demand.

Legal Aid in Scotland is chronically underfunded against demand, despite an £11 million package announced in 2023 to increase fees for legal aid lawyers (Human Rights Consortium Report. A independent strategic review was commissioned by the Scottish Government in 2018 ([Rethinking Legal Aid](#)) which concluded that tensions surrounding the appropriate level of fee between the legal profession and the Scottish Government and Legal Aid Board 'dominates' these relationships. The Commission has expressed public concern about the future of criminal legal aid as the number of solicitors registered to provide legal aid has fallen ([Legal Aid Crisis: Demographics point to criminal law 'wasteland' | The Herald](#)).

The forecast legal aid draft budget for 2025-26 is £178.0 million ([Chapter 7 Justice & Home Affairs - Scottish Budget 2025 to 2026 - gov.scot](#)). In 2022, the Law Society of Scotland carried out research which found that the 139 most deprived communities in Scotland, equivalent to around 100,000 people, shared just 29 civil legal aid firms between them. There were no civil legal aid firms at all in 122 of the 139 areas ([Legal aid crisis hitting Scotland's most deprived families | Law Society of Scotland](#)).

Access to judicial review is hindered by a three-month time limit, which is often incompatible with other complaint mechanisms, such as the Scottish Public Services Ombudsman. Public-interest litigation is also rare due to restrictive standing rules and the high costs of legal action, and the Commission is unable to take cases directly or represent individuals.

While the [Redress for Survivors \(Historical Child Abuse in Care\) \(Scotland\) Act 2021](#) introduced a redress scheme for in-care abuse survivors, it excludes certain groups, such as those placed in short-term “respite” care.

The Police Investigations and Review Commissioner (PIRC) oversees investigations into police complaints, but concern persists regarding its effectiveness and the slow pace of policing reform. Police (Ethics, Conduct and Scrutiny) (Scotland) Bill was passed in early 2025, which implements some of the recommendations from the Angiolini Review including increasing the functions of the PIRC, introduce an advisory committee and develop a statutory code of ethics, which the Commission had called for.

Gender-specific challenges

The Commission’s research into the impacts of the justice system for women and girls – discussed below - suggests that gender-sensitivity, intersectionality, trauma and other considerations may not be adequate including within the judiciary. Our Istanbul baseline assessment parallel report specifically highlights evidence that “judges are not currently sensitive to the risks

involved or understand the ongoing impacts of domestic abuse for children and their mothers” ([Istanbul Convention Report](#)). The Scottish judiciary is responsible for its own judicial education ([the Judicial Institute for Scotland](#)).

The Commission’s research has highlighted the significant impact for victim-survivors of gender-based violence, the majority of which are women, and the primary and secondary impacts for children from the design and functioning of the Scottish justice system.

The Parallel Report to the Baseline Assessment of the Istanbul Convention published by the Commission in January 2024 provides comprehensive evidence across the full scope of the justice system ([Istanbul Convention Report](#)). This research was informed by focus groups with women who were victim-survivors of gender-based violence. The Commission reported that:

- A lack of gender-sensitivity displayed throughout the justice system, including in judgments and how they apply the law;
- Complexity of domestic abuse crimes and civil protection landscapes increasing the financial and human costs of justice;
- Victims of alleged crimes (‘complainers’) feel that they are dehumanised through the trial process, describing to the Commission the ways in which their experiences and feelings were delegitimised and that information was not shared in a way that was sensitive to their needs and trauma ([Its not a Story, Its What Happened](#));
- Insufficient capacity to meet the need at the Scottish Women’s Rights Centre, a funded law centre equipped to provide advice to women victim-survivors and a shortage of independent advocacy to support women through the criminal justice system;
- Stakeholders shared that family court procedures are highly traumatising for the women that they work with and are an area of deep dissatisfaction to a lack of understanding and support

Implementation of European Courts’ judgments

ECtHR statistics for 2023 show that there were three cases to which the UK was a party heard by the Court, of which one found a violation (of Article 8) and two were either struck out or subject to friendly settlement (i.e. the Court did not make a substantive judgment.) None of these cases originated in Scottish litigation. However, the Commission’s 2024 State of the Nation report ([Annex D](#)) considers the relevance and progress towards implementation in devolved areas (i.e. matters in the competence of the Scottish Parliament).

The Commission identified that of the four groups of judgments under the supervision of the Committee of Ministers implementation in two groups required devolved actions. In respect of Gaughran group cases, the Committee of Ministers has indicated that it is satisfied by steps taken in Scotland to address the Code of Practice and to keep under review the laws applicable to

indefinite retention of DNA, fingerprints and photographs by the police. For the V.C.L and A.N v United Kingdom group of cases, the elements of the ECtHR's judgment that remain under supervision are reserved, though the Commission suggests that more could be done in respect of criminal justice, including the training of and guidance for public bodies on human trafficking (see [State of the Nation report 2024: Civil and Political Rights in Scotland](#); Prohibition of Human Trafficking, Slavery, and Forced Labour).

The Commission is currently considering how it can expand and embed this reporting activity in respect of both ECtHR and domestic court judgments.

The Commission is committed to including information on ECtHR judgments as relevant to devolved activities in its annual State of the Nation report. This is communicated to members of parliament, public bodies, media and civil society and shared publicly through the Commission's website.

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

The Commission recommends that:

- The Scottish Parliament formalises the monitoring of outstanding human rights judgments and treaty body decisions that concern the UK so that implementation is regularly assessed domestically
- That funding for legal aid is urgently reviewed for adequacy and a wider review of access to both criminal and civil legal aid is undertaken from the perspective of human rights and access to justice.
- That Scottish Government and Parliamentary consideration of proposed law and policy reforms consider the access to justice rights and experiences of all parties, including those who may be victims and witnesses, and that sufficient investment in support services exists to mitigate some of the challenges. For example, the recently announced review of the effectiveness of the FAI system for death in prison custody should be rooted in human standards and should consider the potential of the FAI to effect systemic change.

Scotland 2025

Information from: Scottish Human Rights Commission

Media freedom, pluralism and safety of

journalists

The Commission does not formally monitor the media in Scotland and the UK. We are aware of anecdotal instances shared with the Commission through other engagement that some journalists have been the subject of legal action that may amount to SLAPPs ('Strategic Litigation Against Public Participation') but have no ability to assess these claims. Other research that the Commission is aware of has identified issues with the sustainability of legacy media outlets and challenges with disinformation.

Campaigns to expand freedom of information law exists within and out the Scottish Parliament and the Commission frequently engages bilaterally with the Information Commissioner in Scotland.

The Commission has not been able to identify any direct reference to recommendations concerning media freedom issued by European actors from Scottish bodies. It should be noted that the regulation of broadcasting and the media are reserved matters in the UK, limiting Scottish public actors responsibilities in respect of the media.

In April 2024, the Scottish Government indicated that it had reversed its previous opposition to consultation on the regulation of SLAPPs. A [consultation](#) was expected to be carried out in Autumn 2024, however no further updates have been provided.

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

- The Scottish Government should consult of the nature and scale of SLAPPs in Scotland with a view to potential law reform, recognising that action taken in England and Wales may lead to forum shopping (the risk of legal proceedings previously brought in one jurisdiction moving to another to avoid legislation.)

Scotland 2025

Information from: Scottish Human Rights Commission

Other challenges to the rule of law and human rights

In the ENNHRI 2024 [report](#) focused on checks and balances, the Commission provided information concerning proposed reforms to the justice system in Scotland through both the Regulation of Legal Services Bill and the Victims, Witnesses and Justice Reform (Scotland) Bill. While each proposed legislation concerns different aspects of the legal system, common to both were concerns about fair trial rights from some in the legal profession.

The Commission subsequently advised Members of the Scottish Parliament that the margin of appreciation in respect of the national justice system is broad however tribunals must meet article 6 considerations, including impartiality and independence. The rights of complainers, including Article 8, 3 and 6 ECHR merited the Parliamentary exploration of new or novel proposals across the criminal justice system, but that Article 6 rights of the accused remain paramount. While the margin of appreciation is broad, the Commission [indicated](#) that proposals in the Victims, Witnesses and Criminal Justice Bill to make some these adaptations pilots overseen by the Scottish Government may weaken public confidence in the independence of the judiciary.

The Scottish Government has subsequently put forward legislative amendments to remove the piloting of a distinct sexual offences court and to remove the planned reduction in jury size. ([Victims, Witnesses, and Justice Reform \(Scotland\) Bill Stage 2 Amendments | Scottish Parliament Website](#)) The rest of the bill is continuing legislative scrutiny at time of writing.

Court judgments in Scotland are published on an ad-hoc basis and generally publication is not required. As a rule, judgments in the appeal courts are published, and judgments which the presiding Judge deems novel or significant may be published at his/her discretion. There is no requirement on judges to publish particular numbers of judgments and many judges in the regional first instance courts publish only rarely.

This creates transparency issues because the public does not know what percentage of judgments are being published, and whether the judgments which are published are representative of the types of cases being brought before the courts. The understanding that novel or legally significant decisions are most commonly published suggests that the majority of 'routine' cases are not. This means that certain issues will be over or underrepresented in the published judgments. Additionally, the judgments which are published are not

searchable by issue or topic on the Scottish Courts and Tribunals (SCTS) database, making it difficult to find judgments on similar issues.

Aside from transparency of decision making, there is also little transparency as to the issues flowing through courts, court cases are disaggregated by the disposals and types of action. This means that the topic of the case is not necessarily clear from the statistics, and for instance cases concerning human rights issues cannot always be identified.

The Commission is in the process of developing a project to examine the court data – including judgments – that are currently available, how this can be used to understand the prevalence of human rights issues that arise either explicitly or de facto in litigation and, more broadly, what improvements to data collection are needed to ensure that the value to be taken from court monitoring is maximised.

As part of the Commission’s State of the Nation project it is proactively researching and developing a proposal to understand what information can be gathered about court practices and decisions. This includes understanding how often human rights arguments are raised, are successful or the types of cases that may not raise direct human rights arguments, but which have human rights implications. In the Commission’s early assessment, this will be possible for superior courts, but at first instance the judiciary’s general approach to human rights cases is not easily accessible or sufficiently transparent.

The Commission has also highlighted to the Scottish Parliament the importance of the rule law as referenced through the ECHR preamble in the process of lawmaking. In a recent (December 2024) submission to the Scottish Parliament’s Delegate Powers and Law Reform Committee on the use of ‘framework legislation’ (i.e. Acts of Parliament which set broad policy intentions or outcomes, with the policy detail being filled in by secondary legislation after it has become law) the Commission notes concern about the use of such legislation to alter human rights entitlements ([Response 451878571 to Share your experiences and views of framework legislation - Scottish Parliament - Citizen Space](#)).

The Commission suggests that the Delegated Powers and Law Reform Committee could play a more active role in monitoring these powers, especially as regards human rights, which would help these processes to align better with international best practice for participation in public life. The Commission also suggests that framework legislation should not be used to negatively impact on rights. While framework legislation can enable more participatory consultation and design over time, it can also limit scrutiny and the transparency for interested parties to provide advice and analysis.

The Commission has most recently highlighted this challenge through the ongoing consideration of the National Care Service (Scotland) Bill:

"...given the lack of detail in the Bill and the reliance on regulations, opportunities to give more meaningful and robust specification to human rights duties are limited. In particular, the remedies and sanctions available in respect of complaints (s.15) are a key vehicle for human rights accountability, however their detail is left to regulations."

([national-care-service-bill-response-to-call-for-views-final.pdf](#))

NHRI's recommendations to national and regional authorities

NHRI's recommendations to national and regional authorities

- The Scottish Courts and Tribunal Service should improve the availability and disaggregation across identity characteristics and case type to support better understanding of case outcomes data
- That the Scottish Parliament set out the international human rights standards provided for by domestic legislation, especially where subsequent fulfilment is to be provided for through secondary legislation, so as to more proactively embed rights realisation in policy considerations, for example, by including specific articles from international treaties on the face of legislation.
- That the Scottish Parliament's Delegate Powers and Law Reform is given an enhanced scrutiny role in respect of 'framework legislation' and arising subordinate legislation and human rights compliance.

