



ASKING SOME IMPORTANT QUESTIONS:

A COLLATION OF SCOTTISH CIVIL SOCIETY
QUESTIONS FOR UK AND SCOTTISH
GOVERNMENTS AFTER UK WITHDRAWAL
FROM THE EUROPEAN UNION



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Contributors to this report are:

- Health and Social Care Alliance Scotland (the ALLIANCE)
- Scottish Council for Voluntary Organisations (SCVO)
- Inclusion Scotland
- Human Rights Consortium Scotland
- Engender
- Scottish Environment LINK
- Citizens' Rights Project
- Scottish Universities Legal Network on Europe (SULNE)
- Youthlink Scotland
- Scottish Rural Action

This report is a collation of different questions raised by these contributor organisations. Whilst we share many common concerns, organisations have contributed in their area of expertise and the whole of the report does not necessarily represent their views.

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SUMMARY

The UK’s withdrawal from the European Union (EU) affects many of the people that we work with/for, and the issues that we care about.

Now, more than six months after the end of the transition period, we have many questions about what action is being taken by government to address our Brexit-related concerns.

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This report of collated questions provides a useful summary of these key concerns that should inform future work amongst, and with, Scottish civil society on the impacts of the UK’s withdrawal from the EU.

We will also send this report to the UK Government and Scottish Government to seek answers, and in coming months we will continue to monitor and seek to influence their response to these concerns.

For more information, see www.civilsocietybrexit.scot



INTRODUCTION

Throughout the Brexit process, Scottish civil society has been engaged in monitoring developments, scrutinising proposals and influencing debate as much as possible. We work with some of the most marginalised communities in Scotland, often those who live with poverty, discrimination and persistent disadvantage. It is these same communities who are likely to bear the brunt of any negative consequences arising from a changed relationship with the EU and so, we are concerned to make sure that their needs and rights are taken fully into account as the UK works out details of what this new relationship will look like.

Whilst the Trade and Cooperation Agreement is long and covers many different issues, there are many more matters not included that remain to be discussed and resolved between the EU and the UK, in the months and years ahead. As this new relationship emerges, and in order to accommodate it, changes to the internal constitutional landscape have become necessary, raising many questions about what this means for devolution as we know it. Question marks and uncertainties remain rife. Some of them relate directly to our future relationship with the EU and with European countries, whilst others are around the nature of post-EU rights and equality protections.

We know, particularly in the midst of COVID-19, that there is little certainty about what the future holds for our economy or society – however, we raise the questions below because of the potentially serious impacts of each of them on the equality and human rights of individuals and communities.

This is in no way a comprehensive collation of all questions or uncertainties arising in the post-EU policy landscape. However, we have produced this report of questions for two reasons:



firstly, in order to summarise and publicise some of our common concerns to inform and shape future debate and work amongst, and with, Scottish civil society; and secondly, to seek answers from government – both at UK and Scottish levels – to all of them, because response to each of the questions is important, and robust government accountability and transparent decision-making requires answers.

TRADE AND COOPERATION AGREEMENT

The Trade and Cooperation Agreement (TCA) is clear that civil society should be involved in informing monitoring of implementation of the Agreement. This should be done through domestic advisory groups with 'representation of independent civil society organisations including non-governmental organisations, business and employers' organisations, as well as trade unions, active in economic, sustainable development, social, human rights, environmental and other matters¹. These domestic advisory groups should feed into a Civil Society Forum, which will inform the Partnership Council. This role for civil society is also found in other UK trade agreements. We welcome the UK Government's consultation on the makeup and operation of these TCA engagement structures.

Question: Will the UK Government commit to a balanced make-up, for example one-third employer/business representatives, one-third trade union representatives and one-third civil society/third sector representatives or similar, for the Domestic Advisory Group and for UK representatives on the Civil Society Forum?

1. TCA, Article INST.7



Question: Will the UK Government work with the Scottish Government and SCVO to ensure good representation of the Scottish third sector in the Domestic Advisory Group and Civil Society Forum?

Question: Will the Scottish Government work closely with third sector organisations to ensure that they can bring their expertise and community knowledge and understanding to ongoing developments to monitor implementation of the TCA and other Brexit-related developments?

Question: Will the UK Government ensure that the Domestic Advisory Group and Civil Society Forum include NGOs with expertise in sustainable development, environmental and human rights matters?

Question: Will papers and minutes of the various Committees set up to monitor implementation of the TCA be published online?

The Social Security Protocol to the Trade and Cooperation Agreement co-ordinates fewer benefits than the Withdrawal Agreement. Almost no devolved society security benefits are included in the Protocol and this affects their portability and how people can meet the residence requirements to be able to claim them. This affects both EU citizens who are disabled or are carers moving to the UK after 1 January 2021, as well as disabled people and carers who move from the UK to EU countries.

Question: What consideration is the Scottish Government giving to reviewing social security residence requirements to ensure that all disabled people and carers, including EU citizens who move here, can access the devolved benefits that they need?



Question: Will the UK Government provide a definitive statement on the social security benefits that disabled people or carers from Scotland would be able or unable to access if they move to an EU country?

PROTECTION ACROSS BORDERS

Brexit has, unquestionably, reduced the scope of criminal justice cooperation between the UK and EU countries. Where the UK, and Scotland within it, were once full parties to Europol, Eurojust and the European Arrest Warrant amongst other justice-related mechanisms, they now sit outside of these arrangements. The TCA goes some way to establishing new arrangements between the EU and the UK as a third country.

In particular, from 1 January 2021, it was no longer possible for orders that were made by UK courts to safeguard an individual against a criminal act, to be recognised and enforced in an EU country, even if the person is only there temporarily. This means that European Protection Orders that provided added protection for women experiencing violence are no longer available to UK women who travel to the EU. This reduction in protection is highly regrettable.

Question: We note that the Scottish Government has previously said that they 'would want to retain access to the European Protection Order²'. What steps is the Scottish Government taking to enable alternative arrangements to EPOs to protect women at risk of violence?

Question: What is the UK Government doing to negotiate bilateral equivalent arrangements to the EPO with countries in the EU?

2. Scottish Government, Scotland's Place in the world: Security, Judicial Cooperation and Law Enforcement, 2018, available at: <https://www.gov.scot/publications/scotlands-place-europe-security-judicial-co-operation-law-enforcement/pages/4/>



Question: How will the UK Government ensure that the rights and needs of victims are taken into account in the work of the Specialist Committee on Law Enforcement and Judicial Cooperation?

Question: Will there be Scottish representatives on the Specialist Committee on Law Enforcement and Judicial Cooperation?

AFTER ERASMUS+

There have been proportionately more young people who have gone abroad through Erasmus+ from Scotland than from anywhere else in the UK. The UK Government has chosen no longer to be part of Erasmus+ but instead to set up the new Turing Scheme. This Scheme will be a similar exchange programme with institutions in countries across the world, aiming to enable 35,000 students to take part, and will include additional funding for students from disadvantaged backgrounds.

However, the Turing Scheme is not available to young people who are not in higher education. 10% of Erasmus+ funding was for a youthwork strand, rather than through colleges or universities. Youthlink Scotland state:

*'We had hoped, given all the clear evidence around the life changing benefit for young people in more disadvantaged communities, that any replacement scheme would have included the current youth strand element of Erasmus+... the Erasmus+ programme benefits young people much wider than merely those within higher education. In fact, it's often those young people who are furthest away from university, who benefit most.'*³

3. Youthlink Scotland, accessed 30/7/21, at <https://www.youthlinkscotland.org/news/january-2021/youthlink-scotland-calls-for-clarification-on-erasmusplus-alternative/>



The Scottish Parliament's Culture, Tourism, Europe and External Affairs Committee recommended that, if the UK did not remain party to Erasmus+, **that the Scottish Government should explore whether it would be possible to use existing institutional structures to develop the framework for a national authority and managing agency for Scotland that could support Scotland's continued participation as a programme country beyond 2020.** The SNP manifesto for the 2021 Scottish Parliament elections states that:

'We remain committed to Erasmus, and will continue to advocate for Scotland's inclusion in the programme. Until then, we will create a Scottish programme of exchange to provide mobility and cooperation opportunities in higher education, vocational education and training, school education (including early childhood education and care), adult education, youth and sport⁴.

Question: What plans does the UK Government have to ensure that disadvantaged young people and those who are not students are able to participate in international exchanges?

Question: It has been widely trailed that the Turing Scheme will be one-way only (i.e. it is not an exchange scheme), so puts at risks existing collaborations and exchanges we had with other countries and institutions in the past – can the UK Government clarify if this is indeed the case and confirm that students on the Turing Scheme cannot be charged fees?

Question: Can you confirm what the UK Government's position is on any potential membership of Scotland in the Erasmus+ programme?



Question: What steps is the Scottish Government taking to seek continued membership of Erasmus+ and to set up an alternative programme until that happens?

Question: What steps will the Scottish Government take to ensure that any replacement scheme that is set up enables international exchange for young people not in higher education?

VOLUNTARY SECTOR

Many voluntary sector organisations gained considerable benefit from being part of EU or European networks. These networks make possible valuable knowledge exchange as well as shared understanding of issues and responses that benefitted not only the organisations themselves, but also the causes that they work on. This is particularly true where the cause, issue or people group are cross-border, such as environmental pollution or refugee protection or victim protection. Where a network is specifically EU-related, some of these networks have positively welcomed continuing engagement from UK organisations in some way. However, this is not certain for all networks. We also highlight that much of the engagement in EU or European networks was made possible by EU funding and support.

Question: Will the Scottish Government make available new funding to enable Scottish voluntary sector organisations to continue to engage in European networks, replacing that which was available through streams such as DEAR and LEADER?

Question: Will Scottish Government existing grant funding to voluntary sector organisations include flexibility within the grant terms to enable them to use



the funding to engage in European networks and projects, such as for international travel?

Question: Will the Scottish Government use its contacts and European office to explore ways to enable continuing engagement by Scottish voluntary sector organisations in European and EU networks and developments?

EQUALITY OF TRAVEL

After UK withdrawal from the EU, UK citizens are no longer able to apply for the European Health Insurance Card that provides medical treatment equal to citizens of the country that you are in if you fall ill or have an accident. UK citizens can continue to use the EHIC until it expires but then have to apply for the new Global Health Insurance Card. EU citizens living in the UK can apply for the new EHIC. This access to healthcare in neighbouring countries is particularly important to many disabled people, without which they would not be able to travel.

Question: Unlike the EHIC, the GHIC is not currently valid in Norway, Iceland, Liechtenstein or Switzerland – what steps is the UK Government taking to negotiate this health coverage in those countries?

There are currently about 2.5 million people in the UK who have a Blue Badge parking permit, a permit that is essential for many disabled people being able to fully participate in society. This Blue Badge used to be valid across the EU but after the UK's withdrawal from the EU, it is no longer recognised in several countries, including France, Italy, Portugal and Croatia⁵. It is understood that the UK Government is negotiating bilaterally with EU countries for recognition of the Badge for

5. UK Government, Using a Blue Badge in the EU, accessed 20/8/21 at: <https://www.gov.uk/government/publications/blue-badge-using-it-in-the-eu/using-a-blue-badge-in-the-european-union>



disabled travellers. The UK recognises the EU/EEA equivalent parking permit.

Question: What steps is the UK Government taking to reach agreements so that the Blue Badge will be recognised in all EU countries?

PROGRESSING HUMAN RIGHTS REALISATION

One of the voluntary sectors' main concerns around being outside of the EU is that the UK might not keep up with progressive, positive developments around equality and rights emerge from the EU. For example, many of our employment rights such as maternity pay and working time restrictions arose from the EU. This concern is reflected in the Scottish Parliament's UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 that introduced 'keeping pace' powers. These powers enable the fast-tracking of secondary legislation through the Scottish Parliament where this would serve to maintain or advance rights or environmental standards through introducing elements of EU law. The Act requires the Scottish Government to publish a statement of their policy on the approach to be taken, the factors to be taken into account, and the process to be followed when considering whether to use the keeping pace powers. This statement must be laid in draft form in Parliament and must have regard to any representations made about it.

This 'keeping pace' was also a concern of the First Minister's Advisory Group on Human Rights Leadership which recommended the setting up of a National Monitoring Mechanism for Monitoring, Reporting and Implementation of



Human Rights. This Mechanism would 'monitor and report on any relevant developments in rights terms within the EU post-Brexit. Consideration could then be given as to whether and how it may be appropriate to adapt progressive rights developments within a devolved context.'⁶ This recommendation was reiterated by the National Taskforce on Human Rights in their report in March 2021⁷.

Question: When will a 'keeping pace' draft policy statement be laid in Scottish Parliament? What discussion will the Scottish Government have with stakeholders including civil society, to inform this draft policy statement?

Question: What internal processes and people has the Scottish Government put in place to monitor and consider EU law developments, so as to ensure that these 'keeping pace' powers are used effectively?

Question: What steps is the Scottish Government taking to monitor environmental, equality and rights developments from the EU but not in EU legislation, such as developments in case law, soft law developments including under the European Pillar of Social Rights, or policy developments?⁸ In particular we note Commission Recommendation (EU) 2020/1563 on energy poverty and ask what consideration has been given to the relevance and usefulness of its contents for helping to address energy poverty in Scotland?

Question: Will the Scottish Government establish the National Mechanism for Monitoring, Reporting and Implementation of Human Rights?

6. First Minister's Advisory Group on Human Rights Leadership, available at www.humanrightsleadership.scot

7. National Taskforce for Human Rights Leadership, details available at: <https://www.gov.scot/groups/national-taskforce-for-human-rights-leadership/#:~:text=%20%20%20Name%20%20%20Position%2F0rganisation%20,Health%20Scotla%20...%20%208%20more%20rows%20>

8. Lock, T. Academic Advisory Panel paper to National Taskforce on Human Rights Leadership, 2020, available at: <https://www.gov.scot/publications/national-taskforce-for-human-rights-leadership-academic-advisory-panel-papers/>



Question: How will the UK Government ensure that we not only keep the rights protections that we have, but also develop and increasingly realise human rights for all?

EUROPEAN ACCESSIBILITY ACT

*'The EU Accessibility Act is a major attempt at improving the accessibility of certain products and services for disabled people. Even though, it is technically an instrument to improve the functioning of the internal market for accessible products and services, by harmonising rules, its overall purpose is to create a more inclusive society and to facilitate independent living for disabled people.'*⁹ The Accessibility Act will result in businesses having to comply with certain accessibility requirements – these requirements are on digital products and service providers such as ATMs, self-service machines (for ticketing or check in), smartphones, banking services, e-books. *'This would increase the availability of accessible products and services in the (EU) internal market and improve the accessibility of relevant information. It thereby contributes to the fulfilment of the EU's and its Member States' obligations under the UN Convention on the Rights of Persons with Disabilities.'*¹⁰

The period for EU countries to transpose this Act into their own law ends in June 2022, and therefore does not directly affect the UK. However, unless the UK adopts the same or higher accessibility requirements within our internal market, we will fall behind the EU on disabled people's right to access these products.

Question: Will the Scottish Government use its 'keeping pace' powers to introduce elements of the EU Accessibility Act that are within areas of devolved competence?

9. Lock, T Keeping Up with the EU, briefing for the Civil Society Brexit Project, March 2021, available at www.civilsocietybrexit.scot

10. Lock, T Keeping Up with the EU, briefing for the Civil Society Brexit Project, March 2021, available at www.civilsocietybrexit.scot



Question: Will the UK Government introduce regulations to require the same high accessibility requirements that are imposed on EU products and service providers within the EU Accessibility Act, on related UK products and services?

THE ISTANBUL CONVENTION

The EU institutions have called for all EU member states to ratify the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). There are also plans for the EU to directly accede to the Convention which is the first legally binding international instrument on preventing and combating violence against women and girls at international level. It establishes a comprehensive framework of legal and policy measures for preventing such violence, supporting victims and punishing perpetrators. However, the UK, as with six EU member states, has yet to ratify the Convention and there is concern that not doing so will entrench existing weaknesses in the national legal framework and leave it vulnerable to regression over time, reducing current protections.

Question: When will the UK Government ratify the Istanbul Convention?

HUMAN RIGHTS LEGAL PROTECTIONS

The Human Rights Act 1998 is a successful protection and guarantor of human rights in the UK. The Act incorporates the European Convention on Human Rights into UK law, and is



interwoven into the devolved landscape by the Scotland Act 1998. We welcome the UK Government's explicit commitment to remaining party to the ECHR, and further note that the Convention and 'the importance of giving effect to the rights and freedoms in that Convention domestically' is a key element of the law enforcement and judicial cooperation part of the EU-UK Trade and Cooperation Agreement.

The current Independent Review of the Human Rights Act (IHRAR) is not considering the substantive rights within the Act. However, IHRAR is looking at two crucial elements: firstly, the extent to which UK courts have regard to case law from the European Court of Human Rights, and secondly the role of the courts in protecting human rights vis a vis Parliament and Government. The overwhelming evidence to IHRAR from across Scotland and from across civil society is that the Human Rights Act should not be amended¹¹ – it is working well in enabling people to hold government to account on human rights and to ensure that there is no unintended or negative impact on an individual's human rights through government law and policy. Indeed, any amendment to the Human Rights Act would risk destabilising and negatively impacting developments to strengthen and expand human rights incorporation law in Scotland (discussed further below).

Question: Will the UK Government provide assurance that it will make no changes to law that would water down government accountability on human rights?

Question: Research shows that when people know about and understand human rights protections, they support them and value them. What will the UK Government and the Scottish Government do to increase public awareness of human rights and specifically of the benefits of the Human Rights Act?



INCORPORATION OF INTERNATIONAL HUMAN RIGHTS

In March 2021, the Scottish Parliament unanimously voted to directly incorporate the UN Convention on the Rights of the Child (UNCRC) into Scots law, a move that was widely welcomed across civil society and by many children and young people. We greatly welcome the Scottish Government's commitment to implement recommendations of the National Taskforce on Human Rights Leadership, including incorporation of ICESCR, CEDAW, UNCRPD and ICERD, as well as the right to a healthy environment and rights for older people and LGBTi people. We consider that this ambitious human rights law reform is an appropriate, timely and important response to the regression on rights protections in law arising from Brexit as well as from the impacts of COVID-19.

Question: What plans does the Scottish Government have around implementation of National Taskforce Recommendation 27 to take an innovative and human rights-based approach towards engaging the public in developing the framework?

Question: What is the Scottish Government timescale for a pre-legislative consultation and introduction of a Bill for the new human rights statutory framework for Scotland?

Question: It is vital that the new human rights statutory framework applies to all who live in Scotland, no matter where they were born. What assurance can Scottish Ministers give that the new framework will improve migrant rights in Scotland, particularly including those of EU citizens?



KEEPING UP SCOTLAND'S ENVIRONMENTAL AMBITION

Before Brexit, almost 80% of Scotland's environmental protections were derived from EU law. The Scottish Government's EU Continuity Act, passed in December 2020, ensures that foundational EU environmental principles are incorporated into Scots law and gives Scottish Ministers the power to remain aligned with advances in environmental protection at the EU level. The Act has also enabled the creation of Environmental Standards Scotland, a new environmental watchdog which will take up the oversight of Scottish environmental law and agencies, a role formerly undertaken by the EU Commission. In order to meet this remit, it is crucial the new watchdog is sufficiently funded to be able to assess public bodies' compliance with environmental law and investigate public complaints.

Although the legislation has addressed these key 'environmental governance gaps' that have arisen since Brexit, there remain a number of uncertainties around how exactly the Scotland will 'keep pace' with European environmental ambition, particularly as the EU pushes ahead with its new ambitious 2030 Biodiversity Strategy. There also remain questions as to how Scotland will cooperate with other UK nations where there is no keeping pace ambition – common frameworks developed collaboratively by the UK and devolved nations have been promised for a number of years but the process has been beset by delays. Scotland's ambition to keep pace with European developments also face an additional hurdle of meeting the new rules governing UK internal trade set out by the UK Internal Market Act.



Question: How does the Scottish Government plan to 'keep pace' with developments in EU environmental law?

Question: How will the Scottish Government ensure Environmental Standards Scotland is sufficiently funded to carry out its role of investigating the application of environmental law?

Question: Does the Scottish Government plan to 'keep pace' with the ambitions of the EU Biodiversity Strategy to 2030 to ensure action to reverse biodiversity decline progresses post-Brexit?

Question: What is the UK Government doing to deliver jointly agreed common frameworks on environmental matters with Scotland and other UK nations?

IMPACT ON CARE AND CARERS

There is a chronic shortage of staff working in social care in Scotland. Given that, before the UK left the EU, over 5% of staff in adult social care and childcare in Scotland were from other countries in the EU, there is significant concern about less EU staff availability when outside of the EU¹². The UK Government gave a commitment in the House of Lords that it would implement an independent review of the impact of Brexit and the new points-based immigration system upon the health and social care sectors across the UK.

Question: When will the UK Government launch this independent review?

Question: What steps is the Scottish Government taking to assess and mitigate the impact of leaving the EU on social care staffing levels?



FUNDING

The UK Government has committed to at least matching funding from EU Structural Funds through a new UK Shared Prosperity Fund, expected to disburse around £1.5 billion a year and to be launched in 2022. This new Fund will have a focus on local projects, lesser bureaucracy, and will have a focus on both place-based support and people in need. There is a strong emphasis on levelling up' through the whole of the UK, with 11 Scottish local authority areas being in the top 100 places prioritised for funding in the tester, preparatory funding pot available in 2021-2022¹³.

Question: How will the UK Government ensure that the right data/right metrics are used to identify geographic communities most in need of investment?

Question: How will the new UKSPF target the root causes of inequality? Will the UKSPF ensure a focus on everybody having access to what they need to live and work by resourcing targeted/specialised services where mainstream services do not work for certain groups?

Question: What steps will be taken to ensure that gender mainstreaming is applied to the design and decision-making of the UKSPF?

Question: What steps will the UK Government take to ensure that civil society and marginalised communities are engaged in informing the design and roll-out of the UKSPF?



Question: Many sectors relied upon EU funding – in particular we highlight youthwork services¹⁴, refugee services¹⁵ and domestic abuse services¹⁶. What is the Scottish Government doing to monitor and mitigate the impact of any loss of funding on vital services in these sectors?

ECONOMY AND POVERTY

Withdrawal from the EU has impacted, and will impact, the UK economy. We are very concerned that Brexit could lead to those currently living in poverty experiencing deepening poverty due to factors such as increased food prices, higher unemployment, and fall in wages. Combined with COVID-19 impacts, these factors could lead to more families brought into poverty for the first time. The TUC states that ‘both crises combined will have a broader impact on the UK than either would have done in isolation. The nature of both are likely to lead to a long and protracted restructuring of the UK economy, the impact of which will be felt for many years to come.’¹⁷ The impacts on certain communities such as rural communities is of particular concern¹⁸.

Question: The Joseph Rowntree Foundation states: *‘Poverty rates are not predicted to be greatly affected by Brexit; but this depends on future governments protecting low-income families from the effects of rising*

14. Children & Young People’s Panel on Europe: https://childreninscotland.org.uk/wp-content/uploads/2020/11/CYP_Panel_on_Europe_Report_Final.pdf

15. Scottish Refugee Council, Resilient, Adaptive and Agile, accessed at https://www.scottishrefugeecouncil.org.uk/wp-content/uploads/2021/03/SRC_Participative_Funding_v3b_spreads_i.pdf

16. Engender, Equality and Socioeconomic Impacts of EU Exit, accessed at <https://www.engender.org.uk/content/publications/Engender-submission-to-the-Scottish-Government-on-equality-and-socio-economic-impacts-of-EU-Exit-Brexit.pdf>

17. TUC, Impact of COVID-19 and Brexit for UK Economy, Dec 2020, accessed at <https://www.tuc.org.uk/research-analysis/reports/impact-covid-19-and-brexit-uk-economy>

18. See for example, Neal et al, Don’t forget the countryside, accessed at <https://blogs.lse.ac.uk/brexit/2021/04/19/dont-forget-the-countryside-the-social-impact-of-brexit-in-rural-communities-must-not-be-overlooked/>



inflation by uprating benefits and tax credits to cover rising costs¹⁹.

What steps is the UK Government taking to assess and mitigate against the impacts of Brexit on the economy, and particularly on people or families living in poverty, including uprating benefits and tax credits?

Question: What steps is the Scottish Government taking to assess and mitigate against the impacts of Brexit on the economy, and particularly on people living in poverty and on rural communities?

Question: What assurances can the UK Government offer that new funding to replace European Structural Funds will be accessible to help those furthest from the labour market access employment skills and opportunities?

PROTECTING EU CITIZENS

As of 31 March 2021, over 260,000 EU citizens living in Scotland had applied to the EU Settlement Scheme, with over 6 million applications across the UK. However, we know there are still potentially many people who missed the deadline of 30 June 2021, and are at risk of all the consequences of unlawful residency in the UK such as on their right to live, work, rent and access healthcare and benefits in the UK. We know too, that many of them will be from the most vulnerable groups in society.

Question: We welcome some changes to Home Office guidance that have clarified grounds for late applications. What more will the UK Government do to ensure that no



EU citizen will unfairly face negative immigration consequences simply for failing to apply on time?

Question: Given the continuing need for support and advice from EU citizens both already living here and those who newly arrive, will the Scottish Government and the Home Office continue funding organisations to provide support to EU citizens living in Scotland at the same level as before?

Question: There is a significant lack of immigration legal advice in Scotland, particularly in rural areas. What steps is the Scottish Government taking to address this gap?

TRADE DEALS

For the first time in over 40 years, the UK is developing its own independent trade policy. International trade agreements can affect domestic policy making in many ways and can impact human rights, democratic engagement, environmental and equality protections. Transparency, scrutiny, participatory decision-making and full impact assessments are all crucial in ensuring that trade agreements work for all and do not damage rights realisation in the UK.

Making international agreements, including trade agreements, is a reserved matter, but implementing any deals that affect policy areas within devolved competence, such as food and environmental standards, is the responsibility of the Scottish Government and the Scottish Parliament²⁰. In 2018, the Scottish Government stated that there should be 'a guaranteed role for the Scottish Government and Scottish Parliament in all



stages of the formulation, negotiation, agreement and implementation of future trade deals.'

Question: What role will the Scottish Parliament and Scottish Government have in scrutinising trade deals? Are there representatives of the Scottish Government in trade negotiating committees?

Question: In what ways will the Scottish Government consult with civil society around their part in trade agreements?

Question: In what ways will the UK Government engage with civil society on the objectives, negotiations, content, implementation and review of trade deals?

Question: To what extent will trade deals be assessed for their impact on equality and human rights? In particular, how will consideration of the impact in Scotland on equality and human rights be built into these assessments?

Question: What assurance can the UK Government provide that they are committed to maintaining, and even advancing, high standards on things like food and toys?

RACISM

In the light of both COVID-19 as well as Brexit, we hear very concerning stories of racist abuse experienced by both EU and non-EU citizens, with BAME people being shouted at to 'go home' or 'go back to where you came from'. Many speak about Brexit and the related anti-immigration and isolationist rhetoric giving our culture and individuals a 'licence' to express



racism. This has only been exacerbated and increased due to COVID-19²¹.

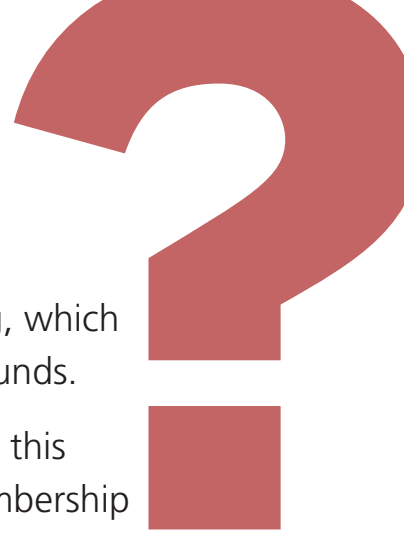
Question: Can the Scottish Government provide detail and assurance that they are monitoring and responding to any rise in racist discrimination or harassment as a result of Brexit, including racist bullying against children and young people in schools?

WOMEN AND EQUALITIES PROTECTIONS

The EU has been the source of many equality and employment provisions which have largely protected women because of gendered divisions in the labour market. For example, women have benefited more than men from developments such as the Part-Time Worker Directive (2000) and Fixed Term Worker Directive (2002), and protections for unpaid carers. The EU has also been the source of many protections specifically utilised by women, such as maternity leave, the right to time off from paid work for antenatal appointments, protections for breastfeeding mothers and protection against dismissal because of pregnancy discrimination.

Similarly, equality and non-discrimination laws in the UK are deeply rooted in EU law, which has provided a minimum floor for equality rights and protections. The Equality Act's anti-discrimination measures in employment and in the provision of goods, facilities, and services is underpinned by EU law. Furthermore, the EU Charter of Fundamental Rights has embedded equality and non-discrimination standards and women's rights across other areas of EU Law. Meanwhile the EU

21. See for example, The Lancet: <https://www.thelancet.com/journals/lancet/article/PIIS0140-6736%2820%2930792-3/fulltext>



has been an active proponent of gender mainstreaming, which has been integrated across EU-wide programmes and funds.

Future changes to employment or equality law may put this standard of protection originally guaranteed by EU membership at risk. Further, women in Scotland no longer stand to benefit from innovations in gender mainstreaming implemented by the EU.

Question: Will the Scottish Government maximise the potential of the proposed Scottish Human Rights Bill and incorporation of CEDAW to ensure women’s rights are robustly protected across devolved policy areas and to mitigate the loss of the Charter of Fundamental Rights?

Question: How will the Scottish Government use devolved regulations over the Public Sector Equality Duty to enhance gender mainstreaming in Scottish public policy?

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