

Human Rights Bill for Scotland consultation – what did respondents say?

There were a massive 397 responses to the consultation on the Scottish Human Rights Bill, and almost half of these (187/ 47%) were from civil society organisations. The Scottish Government has published an independent analysis of these - you can read the detail, including an Executive Summary [here](#). Find out more about what the Bill is all about [here](#).

The consultation was LONG! It had 52 questions over 44 pages. We just pick out a few key aspects from the summary analysis of these here:

- **Most respondents supported the whole idea of the Bill** – incorporation of the 4 treaties and the right to a healthy environment into Scots law.
- There was **big support for an initial procedural duty on public authorities, and then moving to a duty to comply**. Many flagged that this staggered introduction should happen within 2 years. The analysis says ‘A few respondents pointed out that the duty to comply should not replace the procedural duty, but it should work as an additional provision’ – this is something that the Consortium thinks is important for strength and clarity of the framework. Some called for the procedural duty to be a ‘duty to have due regard.’
- Most respondents agreed with the proposals that the **duties should apply to the same bodies as in the UNCRC Bill** – that is, the duties should apply, so far as possible, to bodies carrying out devolved public functions” and, “private bodies acting under a contract or other arrangements with a public body”.
- The line between what is devolved to the Scottish Parliament or reserved to Westminster has always been a tricky bit of this Bill’s development. Respondents to the consultation spoke about the importance of **going as far as possible within devolution**, and that the Government need to be careful to get this right.
- An important area was the weakness in the Bill proposals around the **group rights treaties** (that is, CRPD on disabled people’s rights, CEDAW on women’s rights and CERD on rights related to race). A ‘large minority of the respondents’ urged for the duty to comply to apply to the equality treaties as a whole. Many organisations who responded said that the Bill needs to at least, put a **duty to comply on substantive rights in the CRPD**.
- There was **big support for the right to a healthy environment** in general, and most agreed with using the Aarhus Convention definition of environment. Many agreed with the Government that ‘safe and sufficient water’ be included as core elements of this right, but they also urged them to **go further by including adequate sanitation, and healthy and sustainable food**.

- **The majority supported an equality provision in the Bill** -this is the part of the Bill that says that public bodies need to deliver the rights equally and ensure no discrimination against named groups. Many said that named groups should include LGBTI people, older people, Care Experienced people, and 'people with physical or mental health issues, disabilities, autism or neurodiversity' as well as naming some other groups. The majority said that only including LGBTI and older people in 'other status' in the equality provision was not sufficient.
- Many people said that **participation of people whose rights are most at risk is important**. Some flagged that the Bill should include an explicit right to participation, and others said that participation needs to be embedded at key points of the Bill e.g. as an MCO (see more below).
- Most people agreed that dignity be considered by courts, and in fact, the majority of these people pointed out that the **courts should be required, not only allowed, to consider dignity**. This goes further than the Government proposal.
- Some – though the analysis does not say how many - supported a **Purpose Clause** being included, and spoke about the importance of **other human rights principles** like universality, interdependence, indivisibility, and intersectionality.
- Minimum Core Obligations are the baseline minimums that public bodies will need to deliver for everyone, all of the time, if the core Bill proposals go ahead. Most respondents supported the proposal for dignity to be the key threshold for defining these MCOs. They emphasised that they need to be **defined with the participation** of people whose rights are most at risk, with learning partners and experts.
- Respondents flagged the need for advocacy and advice services to be accessible and properly resourced. The online survey (mistakenly) included a question on legal aid! Which is helpful, because actually, fixing Scotland's crumbling legal aid system is really important for human rights justice. Most respondents said legal aid needs to be made more accessible, and many called for legal aid reform.
- There was in general support for **strengthening different aspects of how people get remedy**, such as complaints systems, scrutiny bodies, 'standing' to take a case to court, and SPSO, and more powers for the Scottish Human Rights Commission (SHRC), mirrored for the Children's Commissioner (CYPCS).
- There was **a lot said about implementation**. For example, people said that the Human Rights Act (this incorporates our civil and political rights) should be part and parcel of implementation. There was big civil society support for timescales being in the Bill, many supporting the Consortium's view that 6 months until procedural duty, and then 2 years to full compliance duty. There was general agreement with Ministers being required to publish a Human Rights Scheme for transparency and accountability, and that they should engage with rights-holders to write their reports. Some mentioned a specific Women's Rights Scheme.

In general, there were **loads of calls for more clarity** – more clarity on the specific terms used, on the plans, on the duties, just more...

And also big messages around the **importance of guidance, capacity building and government support** if it is to be implemented well, with proper attention given to safeguarding the rights of people and groups who everyday miss out on them.

This quick summary here does not include all issues raised – indeed, this Bill is so important and will underpin all making of law, policy and practice in Scotland for some time to come, so the detail is important.

But the big message from the consultation is clear – the Bill proposals in many aspects are not bad, but they need to be strengthened so that they can help to make all of our human rights a reality for all in Scotland.

If your organisation is not a network member of the Consortium, but you want to stay engaged around this Bill and other human rights developments in Scotland, [find out how to join here](#) Or get in touch to info@hrcscotland.org