

## **Equate Scotland Response to the Scottish Government Consultation on 'A Human Rights Bill for Scotland'**

**October 2023**

### **Introduction**

Equate Scotland supports gender equality in the STEM and Built Environment sectors. Taking a holistic approach, we work with women and non-binary students, professionals, and returners, as well as employers, academia, and policymakers to effect change and make STEM a more inclusive space.

We do this through creating opportunities for women and non-binary people, supporting inclusive workplaces, and connecting women and employers. Our work includes providing training, experiential learning, and meet-ups between women and potential employers, producing resources, conducting research, and participating in industry networks and events.

Our focus is supporting women and non-binary people in their STEM careers and enhancing the equality, diversity, and inclusion of the STEM industries.

### **Incorporating Treaty Rights**

#### **Question 4: What are your views on the proposed model of incorporation?**

Stereotyping against women and girls begins very early, with interventions to prevent harmful stereotyping into specific roles or careers recommended as early as early years education<sup>1</sup>. Existing legislation purports to protect women from discrimination in society and in the workplace, and Scottish Government policy as set out in the STEM strategy for education and training<sup>2</sup> explicitly aims to tackle gender inequity in STEM learning and career. However, we know that women and girls are already missing out on equal access to education and skills, leading to discriminatory stereotyping and exclusion later in life.

Equate understands that the proposed bill does not include a duty to comply with the rights included in the Convention on the Elimination of All Forms of Discrimination

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<sup>1</sup> Gender Commission Report – Skills Development Scotland  
<https://www.skillsdevelopmentscotland.co.uk/what-we-do/apprenticeships/the-scottish-apprenticeship-advisory-board/gender-commission/recommendations/recommendation-3-engaging-young-people/>

<sup>2</sup> STEM strategy for Education and Training: third annual report 2021 – Scottish Government Publication  
<https://www.gov.scot/publications/stem-strategy-education-training-scotland-third-annual-report/pages/4/>

against Women (CEDAW) due to devolution limits. However, we would make the following policy recommendations:

- Ensure the current proposed model will place the greatest duty of compliance possible within existing constraints. Given the discrimination mentioned above faced by women and girls in Scotland, despite current legislation, stronger duties to protect women from all forms of discrimination are needed.
- These duties should include discrimination caused by exclusion from equal education, skills and training.

**Question 5: Are there any rights in the equality treaties which you think should be treated differently? If so, please identify these, explain why and how this could be achieved**

We ask the Government to ensure, and demonstrate transparently, that its proposed approach – of only placing a procedural duty, and not duty to comply, on the equality treaties (CEDAW, CERD and UNCRPD) – goes as far as possible within devolution limits.

There are specific articles within CRPD that are not featured within ICESCR (listed below). As an equalities organisation, Equate has a duty to uphold and promote the rights of disabled people, so we therefore believe the bill should include a duty to comply on these missing rights.

Missing rights:

- Article 5 Equality and non-discrimination including the requirement to make “reasonable accommodation”.
- Article 9 The right to accessibility of the physical environment, transportation, information and communication, and services open to the public.
- Article 19 The right to live independently and be included in the community.
- Article 17 The right to respect for physical and mental integrity.
- Article 11 Situations of risk.
- Article 12 Equal recognition before the law.
- Article 26 Habilitation and Rehabilitation.
- Article 20 Personal mobility.

- Article 13 Access to justice.
- Article 14 Liberty and security of the person.
- Article 16 Freedom from exploitation.
- Article 7(3) Participation of disabled children.
- Article 24 Inclusive education.

## Recognising the Right to a Healthy Environment

### **Question 8: What are your views on the proposed formulation of the substantive and procedural aspects of the right to a healthy environment?**

The recent report on a Feminist Just Transition<sup>3</sup> by the Scottish Women’s Budget Group highlights that the climate crisis is a feminist issue. A healthy environment in a society that replicates existing inequalities should not be the goal of progressive policy.

Equate therefore supports the explicit inclusion of the right to a healthy environment in the human rights act. We would like to highlight, however, that the right to a healthy environment should not infringe on any other rights, by ensuring that any action that is taken to transition to a healthier environment is just.

## Incorporating Further Rights and Embedding Equality

### **Question 16: Do you agree or disagree that the use of ‘other status’ in the equality provision would sufficiently protect the rights of LGBTI and older people?**

Disagree

### **Question 17: If you disagree, please provide comments to support your answer.**

Research by Equate<sup>4</sup> shows that older women and LGBTI women are more likely to feel that gender equality schemes are not fully inclusive to people who face multiple discriminations. It is therefore important for policy to be explicitly intersectional, and not to group multiple characteristics together, to uphold the rights of marginalised and

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<sup>3</sup> Introducing a Feminist Just Transition for Scotland – Scottish Women’s Budget Group 2023  
<https://www.swbg.org.uk/content/publications/FJT-Discussion-Paper.pdf>

<sup>4</sup> Women in STEM: An Intersectional Analysis of Multiple Discriminations – Equate Scotland 2022  
<https://equatescotland.org.uk/wp-content/uploads/2020/05/Women-in-STEM-report-2.pdf>

underrepresented people. As an inclusive and intersectional organisation, Equate therefore supports the naming of LGBTI+ people and older people specifically as protected groups within the Bill.

## The Duties

### **Question 19: What is your view on who the duties in the Bill should apply to?**

Equate agree with the proposals that the duties in the Bill should apply to private businesses that are providing public functions. However, we would like more clarity to be included in the Bill on what constitutes a public function, particularly with regards to the provision of public works. This is especially relevant in STEM sectors that may be providing public works such as civil engineering, construction or forestry. This additional clarity will be essential for individual rights holders and equalities organisations to understand who in the private sector is responsible for upholding human rights.

### **Question 22: Do you think certain public authorities should be required to report on what actions they are planning to take, and what actions they have taken, to meet duties set out in the Bill?**

We agree that public authorities are imposed with duties to report on action plans, and the actions that have been taken. The reporting should be on an annual basis, and should be impact and not narrative focussed.

### **Question 23: How could the proposed duty to report best align with existing reporting obligations on public authorities?**

Equate agree that there should be requirement for public bodies to report on how they are meeting, or plan to meet, the requirements of the bill. Attention should be paid to the outcome of the Lived Experience Boards<sup>5</sup> that highlight the importance of ensuring at risk rights holders are consulted during the development of these reports and that reporting should be accessible for people out with policy spaces.

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<sup>5</sup> Summaries of Lived Experience boards by Human Rights Consortium Scotland: [Human Rights Bill Lived Experience Board Reports - Human Rights Consortium Scotland \(hrcscotland.org\)](https://www.hrcscotland.org/)

## Ensuring Access to Justice for Rights-Holders

### **Question 33: What are your views on our proposed approach to 'standing' under the Human Rights Bill? Please explain**

The feedback given by the Lived Experience Boards<sup>5</sup> regarding the emotional and financial toll on individuals of seeking justice, indicates this is an inaccessible and unimpactful process. Equate therefore supports the proposed bill that existing Scottish rules on 'standing' should be retained within the Bill. Further clarification should be included on what is considered 'sufficient interest' to aid organisations or NGOs that are considering taking on a case.

## Implementing the New Scottish Human Rights Act

### **Question 38: What are your views on our proposals for bringing the legislation into force?**

We note that the substantive rights in the Bill are already in place - as they are included in international human rights laws - Equate therefore recommend that the Bill is implemented quickly. We second the Human Rights Consortium Scotland recommendations that reasonable timescales would be six months for bringing duty to consider legislation into force and two years for duty to comply.

### **Question 39: What are your views on our proposals to establish Minimum Core Obligations through a participatory process?**

Equate agree that the process for defining Minimum Core Obligations should be participatory, and ensure the inclusion of groups who are often left out of decision making.

Including marginalised voices in decision-making without ensuring that those voices are adequately listened to and supported can lead to retraumatisation and further disengagement of impacted groups. We recommend that this process should be facilitated by people who have substantial practice based and preferably lived experience understanding of equality and intersectionality.

**Question 40, page 50: What are your views on our proposals for a Human Rights Scheme?**

Equate agree with the proposal to have a Human Rights Scheme, to make it as easy as possible for individuals and organisations to understand how the Scottish Government is progressing with the realisation of human rights. In addition to the list of proposed requirements listed in the consultation, we would suggest that requirements around improvements to data collection and publication were also included. Current data sharing in STEM sectors is sufficiently poor that Equality and Diversity data is almost entirely lacking<sup>6</sup>, and this pattern of data sharing should not be replicated when dealing with the upholding of human rights within the STEM sector.

**Question 41: What are your views on enhancing the assessment and scrutiny of legislation introduced to the Scottish Parliament in relation to the rights in the Human Rights Bill?**

Equate agree that new legislation introduced to Scottish Parliament should have a statement of compatibility with the rights in this Bill. However, this statement should demonstrate that consultation with the rights holders who would be impacted by that legislation has been undertaken.

**Question 42: How can the Scottish Government and partners effectively build capacity across the public sector to ensure the rights in the Bill are delivered?**

Equate welcomes the development of a plan around human rights capacity building for government and public bodies. We would like to highlight that this should also include private companies carrying out public functions. Particular care should be given as to how to build human rights capacity in very small private organisations - the majority of STEM organisations are small- or micro-SMEs and will not have capacity to do this on their own. This plan should not need to wait for the Bill to be passed, as the rights in the Bill are already known due to existing in international human rights law.

**Question 43: How can the Scottish Government and partners provide effective information and raise awareness of the rights for rights-holders?**

Evidence from the lived experience boards indicates that people's knowledge about their own rights and how to claim them is not widespread. This is of particular concern to Equate when thinking about the STEM sector - 90% of STEM industry businesses are

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<sup>6</sup> Inquiry into Equality and Diversity in the STEM workforce - APPG on Diversity and Inclusion, 2021

small- or micro-SMEs that do not have the capacity for staff members dedicated to understanding public policy, and so will rely on individual knowledge of human rights when carrying out public works or services. Equate therefore agree with the proposal to implement a large-scale public awareness campaign to promote awareness of the new human rights framework. This should be implemented in consultation with at-risk rights holders to ensure it is widely accessible.

**Question 44: What are your views on monitoring and reporting?**

There needs to be accountability for upholding the rights described in the Bill, to ensure justice if the duty to comply with rights is infringed upon. Equate agree with the proposals set out by the Human Rights Consortium Scotland, that consideration should be given to a Scottish Parliament reporting duty. Reporting should be on activity or decisions that have led to the realisation of rights, as evidenced through participation of the most at-risk rights holders. We also recommend the monitoring and reporting is impact and outcome informed.