

5th October 2023

A HUMAN RIGHTS BILL FOR SCOTLAND: CONSULTATION RESPONSE

LGBT Youth Scotland's vision is that Scotland is the best place it can be for LGBTQ+ young people to flourish and thrive. We play a leading role in the provision of quality youth work to LGBTQ+ young people that promotes their health and wellbeing, and we are a valued and influential partner in LGBTQ+ equality and human rights.

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1. Respondent Information

Are you responding as an individual or an organisation?

- Individual
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About you

Please tell us which of the following categories best describe you (select all that apply):

- Legal profession
- Organisation - Private
- **Organisation – Public**
- Rights holder
- Other – please specify

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name
- Publish response only (without name)
- Do not publish response

Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No

The Questions In This Document Refer To Information Contained In ‘A Human Rights Bill For Scotland: Consultation’

2. Questions 1 – 5 refer to Part 4: Incorporating the Treaty Rights
- 2.1 Question 1

What are your views on our proposal to allow for dignity to be considered by courts in interpreting the rights in the Bill?

Often LGBTQ+ young people expect a lack of dignity in their engagements with police and courts, based on their sexual orientation and / or gender identity. This is based on previous personal experience as well as experiences shared within the community.

Dignity does not simply have to be considered, it has to be shown to be a central thread throughout the experience of minority communities’ engagement with courts and associated services. Engagement work is required for examples of this to penetrate communities understanding of courts.

LGBTQ+ young people need to understand the universality of the concept of dignity – but this needs to be evidenced and come primarily from the system before it can influence individual experience.

2.2 Question 2

What are your views on our proposal to allow for dignity to be a key threshold for defining the content of MCOs?

Intentionally left blank.

2.3 Question 3

What are your views on the types of international law, materials and mechanisms to be included within the proposed interpretative provision?

LGBT Youth Scotland agrees that duty bearers, courts and tribunals should be able to read, apply and interpret the rights in line with international rights law, materials and mechanisms. These should be used as baselines and we encourage the Scottish Government to innovation to reach beyond what exists and ensure everyone in Scotland has access to their human rights.

2.4 Question 4

What are your views on the proposed model of incorporation?

We welcome the proposed model of incorporation of the suite of rights for women and disabled people, anti-racism and inclusion of economic, social and cultural rights. LGBTQ+ young people are not homogenous, and live intersectional lives as they travel through life.

It is unfortunate that there is no specific treaty that would afford such a level of protection to LGBTQ+ people, so therefore we welcome the ambitious approach taken by the Scottish Government to afford additional protections to this group through the equality clause and putting LGBTQ+ people (and older people) on the face of the Bill.

LGBT Youth Scotland join with the national LGBTQ+ organisations in Scotland to call for this group to be named on the face of Bill, and we support the calls from organisations that work with older people to be afforded the same level of consideration. Having these two groups expressly named in the Bill will ensure the legislative intent is clear. We believe that by setting this down in legislation, will emphasise that these are valued and protected groups in Scotland, despite not being covered by individual international UN treaties. This also ensures any future attempts at amendments to weaken the legal rights afforded would have much greater scrutiny than a change in policy or guidance. We currently see in many countries, where the rights of women and LGBTQ+ people were thought secured, an erosion of rights and regression on access to necessities such as health care. There could be no better reminder of the need to lock in these provisions to futureproof as far as possible these protections for vulnerable groups.

The proposed model of incorporation would make Scotland a world leader in going beyond the base treaties which sends a strong message of support for these minority populations, and of how Scotland respects its population.

LGBT Youth Scotland agrees that reproduction of the treaties (with the removal of any parts which fall within areas which are reserved to the UK Parliament) into the Bill is beneficial, and further agrees that any reserved competencies be removed from the Bill. We are aware that there may be some areas that cover both reserved and devolved issues, in these cases we believe that a maximalist approach to incorporation is taken to ensure that as many protections as are possible are afforded to the people of Scotland.

Given the experience with incorporation of the UNCRC, we believe that a scoping exercise should be completed and made public ahead of drafting of the Bill to examine all legislation that falls within scope of the Bill to help identify how a maximalist approach may be achieved.

Whilst we do believe that the reproduction of treaties is sensible way forward, we are disappointed that the Scottish Government has not proposed a methodology to ensure that the treaties will be modernised and are fit for purpose. For example, the definition of women in CEDAW has not been clear and requires clarification through accessing interpretations from the UN. We call on the Scottish Government to follow through on its ambition and to remove any ambiguity which may be played upon by those who do not wish to see equality of access to rights for people who face additional barriers when accessing their rights.

In our work with LGBTQ+ young people to gather information for this consultation¹, it is clear that they want the right to a healthy environment to be recognised and included in this Bill. They recognise that access to clean air and water for everyday health and

¹ For notes on this, see the 'additional information' question at the end of this consultation response paper.

recreation is essential, yet not currently afforded to many. Their calls for meaningful action on climate change have been loud and constant for years.

2.5 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.

This is not a question in which LGBT Youth Scotland is best placed to answer, therefore we defer to responses from respected organisations from our colleagues across the third sector.

However, it is important to note that inevitably there will be LGBTQ+ young people with intersectional identities who will be impacted by the equalities treaties (we note others also refer to these as the special protection treaties, partly because together they do not confer full equality for all minority groups).

We share concern raised by others such as the Scottish Human Rights Consortium that the equalities treaties are not written in the same manner and do not address the same issues or cover the same protections.

As stated, we believe that the role of the Scottish Government in implementation of rights is not to simply replicate what is set out in treaties as the ceiling of what can be achieved, but rather as the floor. We encourage ambition and innovation to ensure people covered by the equalities treaties are offered the maximum amount of protection possible.

3. Questions 6 – 11 refer to Part 5: Recognising the Right to a Healthy Environment

3.1 Question 6

Do you agree or disagree with our proposed basis for defining the environment?

To inform our response to this consultation, we worked with LGBTQ+ young people who attend our youth groups both in physical locations and digitally across Scotland². One of

² For more information, see our response to the additional information question at the end of this paper

the most notable recurring themes was concern for the environment – be that in terms of climate change, pollution or air quality.

LGBTQ+ young people have raised concern and called for action on climate change for through our work for a significant time. In particular they identify the impacts on minority groups in the global south who are paying the heaviest price for the impacts of climate change, despite not having been major contributors³. It is notable though that whilst impacts in the global south continue at pace, we now see increasing impacts on indigenous and poor people in the northern hemisphere such as those being evacuated from their land and homes due to wildfires and increasingly chaotic weather patterns. LGBTQ+ young people both express their solidarity with affected minorities and recognise their vulnerability as intersectional people and their status as a minority group.

3.2 Question 7

If you disagree please explain why.

Intentionally left blank.

3.3 Question 8

What are your views on the proposed formulation of the substantive and procedural aspects of the right to a healthy environment?

Intentionally left blank.

³ For example, see our Manifesto 2021-26, available on our website: <https://www.lgbtyouth.org.uk/media/2318/lgbtys-manifesto-2021-2026.pdf>

3.4 Question 9

Do you agree or disagree with our proposed approach to the protection of healthy and sustainable food as part of the incorporation of the right to adequate food in ICESCR, rather than inclusion as a substantive aspect of the right to a healthy environment? Please give reasons for your answer.

To inform our response to this consultation, we worked with LGBTQ+ young people who attend our youth groups both in physical locations and digitally across Scotland⁴. Of the people who responded to this question there was a clear theme that it would be aspirational for ‘basics’ to be free – basic food being freely available without need to evidence poverty or hunger was seen as fundamental. Furthermore the respondents stated that this should be as inclusive as possible – with dietary options and health requirements covered. For example, there should be provision of vegan / vegetarian and options for people with dietary requirements such as gluten free.

Respondents also used the opportunity to call for a ban on smoking in any enclosed spaces where children and young people are present – and more specifically that this should include private dwellings. Indeed some respondents called for a plan to phase out the selling of cigarettes altogether.

The ambitious requests of the young people we work with show the ambition that is needed from Scottish Government go beyond the treaties they seek to incorporate.

⁴ For more information, see our response to the additional information question at the end of this paper

3.5 Question 10

Do you agree or disagree with our proposed approach to including safe and sufficient water as a substantive aspect of the right to a healthy environment? Please give reasons for your answer.

To inform our response to this consultation, we worked with LGBTQ+ young people who attend our youth groups both in physical locations and digitally across Scotland⁵. Of those who responded regarding right to water, there was consensus that this should be considered within this legislation. Furthermore, LGBTQ+ young people that we worked with considered this to be beyond the scope of drinking water, and consider that there should be access to safe water for recreational purposes too.

3.6 Question 11

Are there any substantive or procedural elements you think should be understood as aspects of the right?

Intentionally left blank.

⁵ For more information, see our response to the additional information question at the end of this paper

4. Questions 12 – 18 refer to Part 6: Incorporating Further Rights and Embedding Equality

4.1 Question 12

Given that the Human Rights Act 1998 is protected from modification under the Scotland Act 1998, how do you think we can best signal that the Human Rights Act (and civil and political rights) form a core pillar of human rights law in Scotland?

LGBT Youth Scotland agrees with the Human Rights Task Force’s recommendation to restate the UK’s Human Rights Act to further embed and secure the protections it affords. However, we also do not want to see any blockage to the Human Rights Bill for Scotland, which we understand is the driver for the Scottish Government choosing not to undertake this recommendation – ie to avoid the Bill being challenged in court by the UK Government.

If it is not possible to re-enforce the Human Rights Act in this Bill, then we would call for the Human Rights Act protections to be covered within the guidance associated with this Bill to ensure the full range of protections are available for all.

4.2 Question 13

How can we best embed participation in the framework of the Bill?

Participation, when done well, is transformational in making good decisions that do not negatively impact on minorities. Having affected communities’ perspectives and voices around the table and effectively listened to means public bodies can best serve the communities they work for.

Through our participation work we ensure the voices of marginalised or not often listened to young people are heard by decision makers. For example our Trans Rights Youth Commission has had a significant impact on the policy landscape in Scotland⁶.

⁶ For more information, see here: <https://www.lgbtyouth.org.uk/national-programmes/youth-activism/youth-commission-gender-recognition/>

Through our LGBT Charter⁷ programme and participation programmes we work directly with LGBTQ+ young people. We have expertise in effective ways to work with minority communities in a participatory approach to ensure that their experiences and needs are heard and considered. We already work with many public bodies through our LGBT Charter work to support them to engage with the LGBTQ+ community, for example through this work:

- ➔ Greenfaulds High School undertook consultation / focus groups with LGBTQ+ young people and took issues raised to their Pupil Parliament which led to a policy reviews, creation of an LGBT+ policy and greater curriculum inclusion.
- ➔ North Ayrshire Council had information sessions with young people and stakeholders, gathered views and input from the community on how to improve services to be more inclusive. This led to mandatory LGBTQ+ awareness training, new referral mechanisms and increased visibility.
- ➔ Edinburgh Children's Hospital Charity undertook consultation / focus group sessions with a youth group which led to a campaign challenging assumptions called "Ask, Don't Guess", updated policies staff and young people feeling more acknowledged and supported within the service.

This shows that participation is essential and incredibly impactful when looking to be inclusive and welcoming to people from minority populations.

4.3 Question 14

What are your views on the proposed approach to including an equality provision to ensure everyone is able to access rights in the Bill?

LGBT Youth Scotland agrees that everyone should be able to access their rights, and that in particular those from minority communities may more often face situations where they are not able to access their rights. In principle we agree that there should be an equality provision and that it should specify LGBTQ+ people and elderly people as there are no UN treaties which currently address these communities specifically.

See response to Question 16 for a fuller discussion.

⁷ For more information, see here: <https://www.lgbtyouth.org.uk/the-lgbt-charter/>

4.4 Question 15

How do you think we should define the groups to be protected by the equality provision?

LGBT Youth Scotland calls for LGBTQ+ people and elderly people to be protected on the face of the bill.

See response to Question 16 for a fuller discussion.

4.5 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? If you disagree, please provide comments to support your answer.

LGBTQ+ young people experience unique barriers to accessing their rights. Our research⁸ shows that they do not have equal access to education due to the high levels of bullying and discrimination resulting on them having poorer experiences and leaving education at a younger age. In the workplace, our research shows that LGBTQ+ young people do not feel safe to come out, with nearly half of respondents to our survey reporting they do not feel safe being out in the workplace. Around 1 in 5 participants experienced verbal abuse in the workplace, around the same numbers reported being ignored or socially excluded.

LGBT Youth Scotland supports the views of the Human Rights Task Force, the Human Rights Consortium, all the national LGBTQ+ organisations in Scotland and those representing elderly people that there should be an equality provision and that LGBTI and older people should be specifically named in the Bill. In doing so leaves no room for interpretation of legislative intent and sends a strong message that these groups require and deserve adequate protection. This step also future proofs the incorporation work from any future governments who may have different views on the need to protect LGBTQ+ and elderly people.

⁸ Cronie, K., (2022) Life in Scotland for LGBT Young People. LGBT Youth Scotland. Available online: www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf

We note the alternative proposition to use ‘other status’ instead of specifically naming the two groups. This would not be an adequate response as it would leave ambiguity about who is covered and would require case law to be established to provide adequate protections. Given that these groups have been identified as being in need of additional protections due to the frequency of their rights being violated, it would be an additional barrier put in place for these groups to realise their rights.

4.6 Question 17

If you disagree, please provide comments to support your answer.

Intentionally left blank.

4.7 Question 18

Do you think the Bill framework needs to do anything additionally for LGBTI or older people?

See our response to Question 16.

5. Questions 19 – 26 refer to Part 7: The Duties

5.1 Question 19

What is your view on who the duties in the Bill should apply to?

LGBT Youth Scotland is a registered charity in Scotland, as such we receive funding in a variety of different funders, to achieve outcomes across the country both locally and nationally. Some of the money that we receive is from public funds, for example NHS boards, local authorities and the Scottish Government. We recognise the value of and advocate for human rights for all, and in particular for LGBTQ+ young people. We take a human rights-based approach in our work internally and influence partners and stakeholders to do the same.

Although we run the LGBT Charter programme and have a policy, participation and research function, the main purpose of our organisation is to provide youth work to

LGBTQ+ young people in sessions across the country both online and in person. However, funding for both third sector organisations and in particular youth work have become increasingly more difficult to secure, and with the cost-of-living crisis funding we do receive covers less of the essential work.

So whilst we recognise and advocate for increased transparency from recipients of public funds, we also recognise that this must not come at the detriment of services we and others provide. Our services have been called lifesaving by young people. If funding received by us and others in the third sector falls within capacity of the legislative change, we would require additional funding to ensure that we are able to comply and continue to deliver our award-winning youth work services.

5.2 Question 20

What is your view on the proposed initial procedural duty intended to embed rights in decision making?

LGBT Youth Scotland agrees with HRCS that there should be a procedural duty placed on public bodies, this should be the duty to have due regard.

5.3 Question 21

What is your view on the proposed duty to comply?

We agree that all public bodies should be given a duty to comply with rights in the Bill.

5.4 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 the duties set out in the Bill?

Intentionally left blank.

5.5 Question 23

How could the proposed duty to report best align with existing reporting obligations on public authorities?

Intentionally left blank.

5.6 Question 24

What are your views on the need to demonstrate compliance with economic, social and cultural rights, as well as the right to a healthy environment, via MCOs and progressive realisation?

ICESCR could be increasingly important for LGBTQ+ older people as they would have a right to social security and social protection. Often this group has not been able to receive the same rights as heterosexual married couples, eg in benefits, pensions, etc.

We often see that older people's rights are abused in care homes, and this happened on a national scale with decision making in the pandemic. Although much good was done, these were extremely difficult times and the experiences of LGBTQ+ older people were not adequately captured.

Right to cultural life is an important example of where LGBTQ+ young people do not get to access the communities' cultural tapestry, for example Drag Queen Story Time has become a focus for the right wing and people who do not wish LGBTQ+ people to be able to live freely within society. In certain flashpoints, the right to privacy has been denied to performers who have been shared and demonised across social media.

We note that ICESCR only states a right to primary education, however we advocate for this to be extended to secondary and higher or further education. Our research shows that LGBTQ+ young people do not have a good time in school, and that many leave due to homophobic, biphobic or transphobic bullying⁹. It is therefore of increased importance the LGBTQ+ young people get access to secondary and higher or further education so they can reach their potential.

⁹ Cronie, K., (2022) Life in Scotland for LGBT Young People. LGBT Youth Scotland. Available online: www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf

5.7 Question 25

What are your views on the right to a healthy environment falling under the same duties as economic, social and cultural rights?

Intentionally left blank.

5.8 Question 26

What is your view on the proposed duty to publish a Human Rights Scheme?

We agree with the proposed duties on Scottish Ministers to publish a Human Rights Scheme, similar to the one for the UNCRC.

6. Questions 27 – 37 refer to Part 8: Ensuring Access to Justice for Rights Holders

6.1 Question 27

What are your views on the most effective ways of supporting advocacy and/or advice services to help rights-holders realise their rights under the Bill?

Our research shows¹⁰ that many LGBTQ+ young people are not aware of their existing rights or how to realise them. Providing free and independent advocacy would help LGBTQ+ young people engage with their rights and ensure they are able to live their lives as freely as possible. This should be part of the Human Rights Scheme so it can be monitored and evaluated. Although there may be cases where group advocacy is appropriate, for many LGBTQ+ young people this may be a blocker as they may not feel comfortable having to be outed in these settings.

¹⁰ Cronie, K., (2022) Life in Scotland for LGBT Young People. LGBT Youth Scotland. Available online: www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf

Whilst we support the potential to expand both the remit and capacity of the SHRC and the CYPCS – we recognise that there a lot of LGBTQ+ young people who would benefit further still from an LGBTQ+ Commissioner. We note that in its discussion paper *At a Crossroads*¹¹, the SHRC state that recently there have been calls for around 10 Commissioners in Scotland:

- ➔ Women’s Commissioner
- ➔ Disability Commissioner
- ➔ Learning Disability, Autism and Neurodiversity Commissioner
- ➔ Older People’s Commissioner
- ➔ Victim’s Commissioner
- ➔ Future Generations Commissioner
- ➔ Wellbeing and Sustainable Development Commissioner
- ➔ Patient Safety Commissioner
- ➔ LGBT (Conversion Practices) Commissioner
- ➔ Commissioner of Violence Against Women and Girls

At the time of responding we are aware that the Patient Safety Commissioner for Scotland Bill is making it’s way through the Parliamentary stages in Holyrood¹², a point which we will return to.

LGBTQ+ young people live intersectional lives and may find themselves in situations where one or a number of the above and already in place Commissioners in Scotland could be source of support and advocate for situations in which they find themselves. We know that LGBTQ+ young people appreciate working with members of their own community and value things like visibility which would be a considerable step for Commissioners which they could potentially work with. For that reason we would support the calls for all of the above Commissioners.

We would like to note that the paper specifies a focus on conversion practices for the LGBT Commissioner – we would like to point out that whilst we would welcome this to be the case, this remit is only this narrow as the recommendation came from the Expert Advisory Group on Ending Conversion Practices¹³ – but we would call for an LGBT Commissioner to have a wider remit to cover the many areas where LGBTQ+ young

¹¹ At a Crossroads – Which Way Now for the Human Rights System in Scotland? Exploring the Human Rights Protection for the People of Scotland – A Discussion Paper. Scottish Human Rights Commission, June 2023. Available online: https://www.scottishhumanrights.com/media/2456/crossroads_what-next-for-human-rights-protection-in-scotland-shrc-june-2023.pdf

¹² Patient Safety Commissioner for Scotland Bill, see here for information on the Stages of this Bill: <https://www.parliament.scot/bills-and-laws/bills/patient-safety-commissioner-for-scotland-bill>

¹³ Expert Advisory Group on Ending Conversion Practices: Report and Recommendations. Scottish Government, 4th October 2022. Available online: <https://www.gov.scot/publications/expert-advisory-group-ending-conversion-practices-report-recommendations/>

people are not able to access their rights. This would include areas such as health care, education, the workplace, policing, hate crime and more.

However, as with the point on expanding the remit and capacity of the SHRC and CYPES we have concerns about budget for this – particularly if it meant taking budget from elsewhere for example organisations that support community members in other or wider ways. But we do continue to support the principle.

In the example noted above of the passage of the Patient Safety Commissioner for Scotland Bill we note that the Scottish Government / NHS Scotland will find themselves in a slightly different position as Dr Henrietta Hughes has been in post as Patient Safety Commissioner for England. Presumably this means that there will be a Barnett Consequential pot of funding for such a Commissioner in Scotland. However, the same is not the case for all of the proposed / sought after commissioners listed above.

In our consultation work with LGBTQ+ young people¹⁴ on this question, they advocated for anonymous reporting that was clearly sign posted.

6.2 Question 28

What are your views on our proposals in relation to front-line complaints handling mechanisms of public bodies?

To ensure they are compliant with the legally enshrined laws, public bodies should ensure that their complaints mechanisms take into account not just process, but also the perspective of the person and their rights.

6.3 Question 29

What are your views in relation to our proposed changes to the Scottish Public Services Ombudsman's remit?

Increasing the role of the SPSO is an important part of enabling people to realise their rights. The prospect of going to court will inevitably put many off and in particular this would be true for LGBTQ+ young people who we know in large do not trust police or the

¹⁴ For more information, see our response to the additional information question at the end of this paper

court systems. Therefore, having the smaller step of gaining a ruling from the SPSO on right infringement would offer a more favourable outcome for many.

Having an option to deliver evidence orally would be a significant set that will make it easier for people who struggle with literacy.

6.4 Question 30

What are your views on our proposals in relation to scrutiny bodies?

Scrutiny bodies will play an important role in holding public sector institutions to account. It is essential that their remit and capacity (and therefore funding) is increased to cover the relevant human rights that service users will have.

Data in relation to how this work is undertaken should be published publicly to identify systemic issues.

6.5 Question 31

What are your views on additional powers for the Scottish Human

The Scottish Human Rights Commission (SHRC) should be given additional powers to bring cases or intervene in rights-based cases where it sees fit. Furthermore, it should also have investigatory powers around systemic rights issues.

However, clearly there would need to be significant additional funding for the SHRC to accommodate these additional powers – see our response to Question 27 for our discussion on this issue.

We feel that if the SHRC had an expanded remit it should be able to work more independently of the EHRC which would be of particular benefit to the LGBTQ+ community in Scotland.

6.6 Question 32

What are your views on potentially mirroring these powers for the Children and Young People’s Commissioner Scotland where needed?

We agree that the Children and Young People’s Commissioner in Scotland (CYPCS) should also be given additional powers to match proposed powers for the SHRC. Again, for this to be realised, there would need to be significant additional funding for the CYPCS. See Question 27 above for full discussion on this issue.

6.7 Question 33

What are your views on our proposed approach to ‘standing’ under the Human Rights Bill? Please explain.

Creating case law for LGBTQ+ young people in Scotland is currently too burdensome due to overly tight guidance on who has standing. Young people who are discriminated against due to their sexual orientation and / or gender identity and not able to realise their rights are in difficult circumstances where they may have limited resources and understanding of the system – as well as an overarching distrust of organisations such as Police Scotland, the NHS, courts, etc. Often although they may wish to see systemic change, they just want to get on with their lives and not be identified.

LGBTQ+ young people may be in circumstances where they are not ‘out’ in certain places or with certain social groups, such as school – so raising complaints based on their sexual orientation or gender identity may not seem like a viable option.

If NGOs were able to take test cases, this could dramatically improve access to rights for the whole population of LGBTQ+ young people without them individually having to be central in the process.

This would also be the case if the remit for the SHRC and CYPCS were expanded to enable them to take on legal cases on behalf of groups of marginalised people in Scotland. If there was an LGBTQ+ Commissioner, they could also do so with a sharp focus acting on behalf of supporting the community through legal means.

6.8 Question 34

What should the approach be to assessing ‘reasonableness’ under the Human Rights Bill?

Intentionally left blank.

6.9 Question 35

Do you agree or disagree that existing judicial remedies are sufficient in delivering effective remedy for rights-holders?

Intentionally left blank.

6.10 Question 36

If you do not agree that existing judicial remedies are sufficient in delivering effective remedy for rights-holders, what additional remedies would help to do this?

Intentionally left blank.

6.11 Question 37

What are your views on the most appropriate remedy in the event a court finds legislation is incompatible with the rights in the Bill?

Intentionally left blank.

7. Questions 38 – 44 refer to Part 9: Implementing the New Scottish Human Rights Act

7.1 Question 38

What are your views on our proposals for bringing the legislation into force?

We agree with timeline set out by the Scottish Human Rights Consortium – commencement should be no longer than 6 months after royal assent, and that the duty to comply no more than 2 years later.

7.2 Question 39

What are your views on our proposals to establish MCOs through a participatory process?

Intentionally left blank.

7.3 Question 40

What are your views on our proposals for a Human Rights Scheme?

The introduction of a Human Rights Scheme is a tested and reasonable mechanism for scrutiny of the impact and ongoing commitment by the government on the Human Rights Bill. It is essential that the Scottish Government are held to account for embedding this new legislation – we know that implementation can often be an area that where well intended legislation does not have the intended impact. For this reason, it was welcomed when a similar scheme was introduced with the UNCRC.

That the scheme should require the Scottish Government to be cognisant and answerable to the newly emboldened institution such as the SHRC and CYPSC, as well as UN General Comments means a truly linked up, cross-cutting approach which should provide a suitable net to ensure the rights are truly afforded to all. Scrutiny of the

Human Rights Scheme by members in Holyrood, the third sector and wider society is an important step in ensuring inclusivity.

7.4 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?

LGBT Youth Scotland agrees with this proposal. It's important to note that if LGBTQ+ people are included in the Bill, it will allow for great consideration of their needs to be afforded protection by future work of the Scottish Parliament – a level of consideration that has not been legally guaranteed for the group in Scotland before. We would welcome the introduction of a Human Rights Impact Assessment for all Bills going forward.

7.5 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?

Intentionally left blank

7.6 Question 43

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

For people to be able to claim their rights, they have to know about them. It is essential that the Scottish Government commission large scale campaigns to let the general public know about the changes and what it means for them. It should be clear where they can find help, and what areas are covered. There should be additional funding

available for organisations that support minority groups so they can communicate specific rights that may be of use / interest for their own communities.

7.7 Question 44

What are your views on monitoring and reporting?

Intentionally left blank.

8. Additional Space for Answers

Additional Information

To gather information for this consultation, LGBT Youth Scotland engaged with 7 of our youth groups from across Scotland. We are grateful to Together and the Scottish Government for producing a *Facilitator's Guide*¹⁵ to the Bill for children and young people.

Youth workers at LGBT Youth Scotland took time to adapt these and create session plans that were ran across the country – specifically looking for the views of the community, and any unique impacts or insights that may arise.

The data was collated and analysed to produce themes which have been fed into the above response.

¹⁵ For example, see here:

https://www.togetherscotland.org.uk/media/3389/hrb_facilitator_detailed_final.pdf