

All Our Rights In Law: views from the wider public

A report to the National Taskforce on Human Rights Leadership



 Human Rights
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Scotland


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A healthy environment is what we need,
For all in Scotland to succeed.
The seas are fuelled with pollution
And now we need to think of a big solution.
The winters are warmer, the snow falls less,
This shows that our planet is under a great big stress.
Flooding and drought is happening,
There is no doubt.
There are some changes we have made,
We need more, our planet is in aid.
To save our planet we need new law put in place,
These are the ideas we must embrace.

Pupil from Kintore Primary School, Aberdeenshire

All Our Rights In Law: views from the wider public

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Summary

All Our Rights In Law was a project to gather views from people around Scotland about proposals for a new human rights law being developed by the National Taskforce on Human Rights Leadership.

Around 430 people took part in around 35 community conversations, which took place online due to COVID-19 restrictions.

Across all conversations, people welcomed the idea of putting all of our human rights into Scots law. This was seen as a positive step.

However, across almost every conversation, people also spoke about their significant concern that this new law needs to be fully put into practice. People felt strongly that ensuring real improvements to their rights requires more than simply passing a new law.

Participants spoke about several elements that they saw as crucial for making sure that this new human rights framework is effective:



Introduction

The purpose of the National Taskforce on Human Rights Leadership is:

‘to design and deliver detailed proposals for a new statutory human rights framework for Scotland, together with leading the implementation of the associated requirements for a public participatory process and for capacity-building initiatives to ensure its effective implementation¹.’

The Taskforce was clear from the outset that its proposals should be shaped by the views, voices and experiences of people whose rights are affected in practice (“rights holders”). Therefore, in October 2020 – January 2021, the Scottish Human Rights Commission and Human Rights Consortium Scotland developed and facilitated a small-scale, targeted programme of conversations with rights holders as the first stage in engaging with the public around a new human rights framework.

The aim of these conversations was to listen and learn from key groups of rights holders about the ways in which their different rights are currently protected, barriers they experience to their rights being realised, and what is needed to ensure new human rights legislation makes a difference.

What we did

Our public engagement project was called All Our Rights In Law. We aimed to hear primarily from individuals and communities who are seldom-heard in human rights policy, and who are at particular risk of being denied their economic, social, cultural and environmental rights.

To support people to engage in conversations, we developed a set of accessible resources and a dedicated website². We developed five key questions to guide people’s conversations and input:

1. What difference do you think it would make to have these rights written into Scotland’s laws? Your answer can be about one of the rights, some of them, or all of them.
2. Are there any people or communities whose rights seem particularly at risk?
3. What does government need to do to make sure this new human rights law makes a real difference to people’s lives?
4. Everyone will be able to use this new law to claim their human rights. What kind of practical information, support or resources do you think people in your community will need to do this?

1. National Taskforce on Human Rights Leadership Terms of Reference, available at <https://www.gov.scot/publications/national-task-force-for-human-rights-leadership-terms-of-reference/>

2. See resources at www.allourrightsinalaw.scot including a short film with BSL

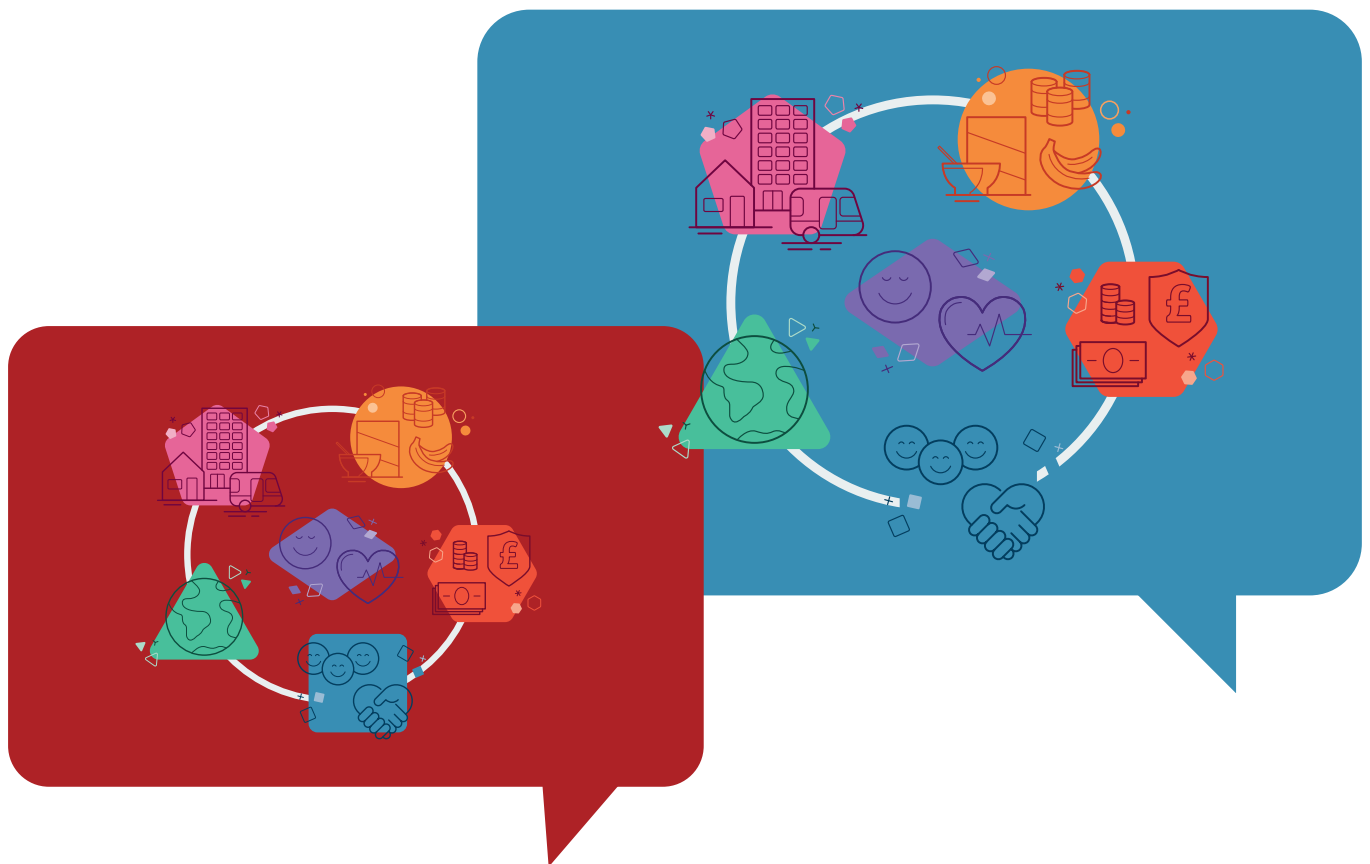


5. What is your final message to the National Taskforce and the Scottish Government?

We approached civil society organisations to ask if they could host All Our Rights In Law conversations with their members, people who use their services, and networks.

To help with hosting, organisations were offered facilitator training, facilitation and technical support from the Human Rights Consortium Scotland, and financial compensation

to cover their time and any accessibility costs. Hosts could provide feedback in whatever format was easiest such as a conversation recording or notes or video. Individuals could also submit views through an online survey. The Human Rights Consortium Scotland hosted three open online conversations that anyone could take part in.



Who took part?

The Consortium and Commission would like to thank the many organisations who responded so enthusiastically and with great commitment of time and energy to ensure that their members and contacts could take part in these conversations. This is testament to the strength of Scottish civil society, its deep commitment to raising the voices of those seldom-heard in policy-making, and to the growing culture and awareness around the importance of human rights for Scotland.

Organisations who hosted conversations include:

- Advocard
- Amnesty International Scotland Online
- Activism Group
- Citizens' Rights Project
- Cross Party Group on Families Affected by Imprisonment
- Deaf Scotland
- Dundee Federation of Tenants Associations
- Engender
- Equality Network
- Glasgow College ESOL class
- Glasgow Disability Alliance
- Glasgow Women's Voluntary Sector Network
- HMP Edinburgh
- Inclusion Scotland
- Migrant Voice
- Mongol Identity
- Nourish Scotland
- People First (Scotland)
- Poverty Alliance
- Quakers Scotland
- Scottish Community Development Centre
- Scottish Minority Ethnic Women's Network
- Scottish Youth Parliament
- Tenants Participation Advisory Service (TPAS)
- The Health and Social Care Alliance (the ALLIANCE)
- Together (Scottish Alliance for Children's Rights)
- VIA Scotland
- Who Cares Scotland

25 adults also responded directly via the online survey and other means, and we received over 40 responses from children and young people including poems and pictures.

Over 60 people took part in open conversations hosted by the Human Rights Consortium Scotland. Some of these participants represented organisations such as C-Change Scotland, Forth Valley Migrants Support, Ability Borders, and Mental Health Rights Scotland, whilst others took part in a personal capacity. In addition, several organisations contributed written submissions – these were from the Scottish Association of Social Work, Children in Scotland Young Ambassadors for Inclusion





Group, Don't Screen Us Out, Impact Funding Partners, and Deaf Equality and Accessibility Forum (South Lanarkshire).

It was not feasible to gather detailed demographic information about the people who took part in All Our Rights In Law. However, we do know that there were good levels of participation from the individuals and communities we wanted to reach – those who are seldom-heard in human rights policy, and who are at particular risk of being denied their economic, social, cultural and environmental rights. This included:

- Disabled people, and parents of disabled children
- Paid and unpaid carers
- Women
- Children and young people
- People who are Black and from ethnic minorities
- People born outside of Scotland
- People who knew very little about human rights before taking part in the conversation
- People living in poverty
- LGBTi people
- Older people
- People in prison and those affected by imprisonment
- People living in urban and rural areas
- Deaf/Deaf BSL users; Deafblind; Deafened; and Hard of Hearing
- People with learning disabilities
- People with experience of the mental health system

The participation of three groups is particularly of note:

- Together (Scottish Alliance for Children's Rights) was commissioned to produce child-friendly briefings and hold conversations on three specific areas: with Black and ethnic minority children; with disabled children; and around the right to a healthy environment. These were undertaken in partnership with Aberlour, the Scottish Refugee Council, The Scottish Commission for People with Learning Disabilities (SCLD) and Youthlink Scotland. The valuable points raised by the participants are within a separate report to the National Taskforce published by Together³.
- The Human Rights Consortium Scotland, with Amnesty International UK, coordinates a small project funded by the Paul Hamlyn Foundation around migrants' human rights⁴. As part of this project, specific conversations were held with migrants in partnership with the Citizens Rights Project in Spanish, Polish, Italian and Romanian, and with Migrant Voice and Glasgow College ESOL students. As well as forming part of a specific and fuller report due later in 2021, the views and concerns raised in these conversations are also included in this report.

3. Report available at www.togetherscotland.org.uk

4. Other partners include Forth Valley Migrant Support, JustRight Scotland, BEMIS and Migrant Voice. More information on the project is available at www.hrcscotland.org



- Who Cares Scotland members took part in extensive discussion in Autumn 2020 and produced a report⁵ with a wide range of strong messages for the Taskforce around the protection of human rights for care experienced people. Some of these members then met with the Taskforce in December 2020, following up with a further short additional report.

There are important voices that, to our knowledge, were not part of All Our Rights In Law conversations. In

particular, we highlight that there needs to be more and further engagement with people from different ethnic minority backgrounds, different cultural backgrounds, Gypsy Travellers, different faith groups, people with experience of detention of different kinds, and people who have been trafficked, amongst many others. It should be noted too, that civil society representatives of most of these groups have had conversations with the Taskforce in other ways.

Impact of COVID-19 on engagement

All Our Rights In Law took place in the midst of the COVID-19 pandemic. As well as delaying the programme's start-date from April to October 2020, it also necessarily meant that all of the conversations had to take place online. This regrettably meant that some individuals and groups could not take part in the programme due to digital exclusion, and some people could not take part because of the very significant practical and emotional toll of COVID-19.

However, the online nature of the conversations enabled many to take part who would not usually be able to

do so. For example, engagement was made easier and possible for many people living in rural areas, for some people living in poverty because transport and childcare costs were no longer a barrier to participation, for disabled people for whom transport, travel or physical meetings can be a barrier, and for some carers.



5. Who Cares? Scotland, Navigating the World of Rights, Dec 2020, available at: [Navigating-The-World-of-Rights-Full-Report-Dec-2020.pdf \(whocarescotland.org\)](https://www.whocarescotland.org/2020.pdf)

About this report

The purpose of this report is to provide insight into the big overarching messages that came up in many of the conversations, as well as specific comments and views related to particular groups. Where organisations produced a written report of their conversations or submitted other evidence as part of All Our Rights In Law, these are noted throughout the report and in the Endnotes. Participant quotes are included throughout the report.

As noted above, people were asked 'What is your final message to the National Taskforce and the Scottish Government?' We wanted to capture all of the responses to this question and so they are published separately and available at: www.hrcscotland.org

In some of the conversations, participants were asked about the words that they associate with human rights – these were:

Citizenship **Equity** **Choice** **Freedom**
Equality **Power** **Dignity** **Freedom from discrimination**
The right to live the life you want
Improving quality of life **Equality of opportunity**
Fair Law **Engaging with all sections of communities**
Accessibility **Parity** **Immigration**
For everyone **Humanity** **Necessary**
Freedom of opinion and religion **Inclusion**
Fundamental rights **Freedom of speech** **Justice**
Legal protections for all **Responsibilities**
Right to life **Respect** **Recognition**
Needs implementation **Safety** **Right to privacy**
Standards by which everyone should be able to live by
Universal **To live free from fear**
The right to make our own choices **Protections**
Upholding rights **The way forward for Scotland**
Tolerance **Security** **Living wage**
Amnesty for undocumented migrants
Wellbeing **Apply to everyone equally**
Refugees **Social policies** **Lived experience**



The big message

Across all conversations, putting all of our human rights into Scots law was welcomed and seen as positive. Indeed, several participants were surprised that they were not already there. Others commented that the question should be, 'Why are these not in our law already?', particularly as the UK ratified them many years ago. Rights holders spoke about the importance of these rights being in law rather than simply 'best practice' and the potential impacts of this on enforcement, empowerment and changing practice.

Some participants spoke about this new law as potentially bringing a step-change in human rights culture and realisation in Scotland. They identified the benefits of putting all our rights in law as including:

- much greater ability to hold the Government to account on rights implementation through the increased visibility on rights and progress to realise them;
- will make human rights more immediately tangible and relevant to people, making them feel closer to home;
- that the rights can be enforced which will lead to them being taken more seriously by all;
- will enable and lead to a more human rights-based culture where rights are embedded and respected in every part of society, some commenting that human rights would become more commonplace and 'normal';
- will give marginalised individuals and communities voice and increased power;
- will guard against any regression on rights particularly after Brexit and the removal of the EU underpinning to many rights, and the current review of the Human Rights Act 1998 and ongoing negative rhetoric around the Act's operation;
- will strengthen measures aimed at advancing equality and addressing inequality;

"This is about something bigger about our culture and who we are. Human rights as our North Star, that drives a really positive culture across our nation of social justice."





“There is nothing that isn’t good about having human rights in law. They weren’t created to not be respected. They were created so people could have these rights and make the world a better place.”

- will link our local experience with global scrutiny and developments;
- increase in active citizenship, people feeling able to be active contributors to rights being realised;
- will contribute to a shift in discriminatory attitudes towards individuals or certain groups;
- will turnaround any negative perception of human rights; and above all,

- will lead to more people having their rights protected in their everyday lives.

Some participants spoke about this being an important step for Scotland as a nation, particularly in light of experience during COVID-19 (see discussion below).

However, participants, across almost every conversation, also spoke about their significant concern that this new law is not only passed but is fully put into practice and brings change.

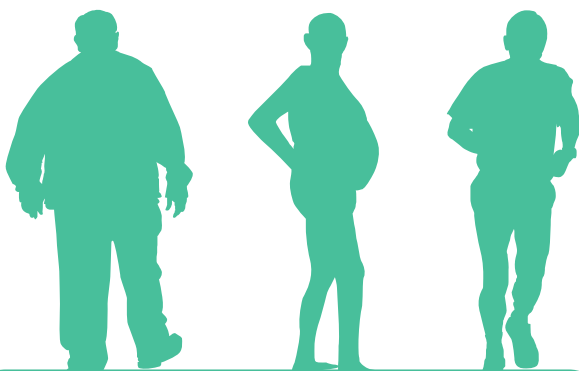
If the focus is not on implementation, the law will at best bring no appreciable change in culture or in people’s lives, and there may be damage to trust in government. Participants spoke about the current gap between what is in policy,

government rhetoric and law, with the reality of people’s lives. They gave examples of laws such as the Self-Directed Support Act as not having fulfilled its aims. Some of their concern was around the scale of ambition of this new human rights



framework. This ambition was greatly welcomed by many but also caused some concern around the extent of commitment and buy-in required across many stakeholders if it is to be fully implemented. Some participants were very sceptical that this new law would bring any significant change in culture or people's experiences. Others highlighted that international human rights feel quite abstract and far from everyday life and that it was difficult to anticipate what this law change might mean in practice.

"Make sure the law is not tokenistic or a flashy vote winner."



"Don't create a human rights law that will sit on the shelf."



"If you are going to do this, do it well and make something that will change people's lives in a meaningful way!"



Making these rights reality

Participants spoke about several elements that they saw as crucial for making sure that this new human rights framework is effective:

1. People need to know and understand their rights

Many respondents spoke about people not knowing that they have rights or what they are, and that the impact of not knowing your rights is that you cannot claim them, you cannot hold government to account, and your rights often remain unrealised. This is especially true for those who are marginalised or live in poverty. Many participants spoke about this as being the key implementation action that is required. Many of the conversations included specific actions for the Government around how they can make sure that we all know our rights:

- The Government should produce a range of resources around human rights that are accessible and understandable. An inclusive communications approach should be adopted, where resources are very deliberately designed and distributed with the needs of all different groups fully considered. These resources should not be written by civil servants or lawyers – they should be written by ordinary people, including those with experience of their rights being

denied. The accessibility of language used was frequently highlighted as being very important.

- Consideration should be given to a central Human Rights Hub, where clear, concise, and accessible information is available to anyone who needs it. We can learn from the experience of other countries who have developed such a resource.
- Information about rights should be full of practical, everyday examples and stories of human rights in practice.
- Information about rights should be available in other languages, as well as in BSL and accessible formats.
- Information about your rights should be available to you where you are. Information should be local, and not only national. The 3rd sector and community groups were highlighted as key ambassadors for making sure that people have information about their rights. These organisations will



need to increase their own capacity and understanding, and will require sustainable and adequate funding, training and support in order to do so. Participants in several conversations mentioned potential benefits of a Human Rights Champion approach as a way of cascading information.

- Public bodies should have a duty to provide information about rights at every point of interaction with individuals or communities. For example, this should be on the walls of GP surgeries, in baby boxes, in housing association offices. In each of these interactions, information about rights should be specific to that context to ensure that government bodies can be held to account. This is important for building a human rights culture, as further discussed below.
- There needs to be clear routes for signposting to more in-depth human rights advice where this is required.

“What rights are and how they should be upheld – people may know the gist of them but they need concrete examples and put into context so it can be applied in ways they may come across it.”
– Care experienced participant

“For an empowering of everyday people of their rights, you need to have that knowledge of your rights because knowledge is power – often you have no knowledge of what you are entitled to.”



“Enforcement, Enforcement, Enforcement! The law needs to be meaningful and enforceable – if the laws we already have worked, then we would not be having this conversation.”

“This is all paved with good intentions but where is the teeth? Fine words are not enough.”

2. The new law needs to have teeth

Having our rights written down in law was seen as major step towards accountability around rights, but participants also spoke about the importance of these rights being enforceable and actually enforced. They spoke about this framework needing to move beyond only words to having ‘teeth’ that enables ordinary people, and particularly marginalised people or those often discriminated against, to raise infringements of their rights and get the remedy that they seek.

All Our Rights In Law heard from many people who had experienced breaches, sometimes serious breaches, of their human rights or the rights of their family members, but felt that they had nowhere to turn to, to get anything done about them. We want to thank all those who shared their personal stories with us.

Many participants spoke about the need for the system of enforcement to be ‘easy’ to navigate – that is, to be actually accessible to ordinary people. We heard that this system must make access to enforcement and remedy cheap or free, easily understandable, as informal and ‘person-friendly’ as possible, and timely. This new human rights law should be accompanied by improvements in the system of legal aid.

Emphasis was placed, particularly within conversations with groups of migrants and with deaf people, that inclusive communications with all those affected should be a feature of human rights enforcement. This will ensure that enforcement of rights is an option for all who need it, including those for whom English is not their first language or who have particular communication needs.



Some rights holders, particularly those with prior experience of navigating routes to justice, spoke about the importance of having both judicial and non-judicial routes to remedy and enforcement. Some people mentioned the potential role of the SPSO in this, though others spoke about the length of time that this route can sometimes take. Participants spoke about the burden on individuals and the length of time taken if court was the only way to

enforce rights; however, they also recognised that enforcement in court was an essential element of the system to ensure that the rights in law are taken seriously.



“It is difficult for individuals to come up against the behemoth of the State and the onus is put on individuals who are often living in crisis and experiencing rights abuses. The weight of responsibility is on the citizen. This should shift so the duty is on duty bearers to equalise this relationship. We know that ‘fighting the system’ to achieve redress wears down the most capable lawyers in law centres. Imagine how hard that is if you don’t have that technical skill and are in crisis.”



3. Systemic change on human rights should not rely on individuals

Many of the All Our Rights In Law conversations included individuals who are used to having to fight to raise rights issues, many of whom were disabled people, care experienced people, LGBTi people, parents of disabled children, and migrants. Several respondents in different conversations spoke about people often being exhausted from having to frequently talk about and push for basic rights. They were tired of difficult conversations with duty bearers and having to navigate public authority decision-making systems. They therefore emphasised that it is

important that the new human rights system does not rely on individuals affected by infringements of their rights as a way of bringing change on systemic, structural issues. Change is sorely needed in many areas, but there should be ways built-in to the system where structural issues are picked up on and addressed, without relying on the actions or energies of those directly experiencing them.

Several participants also highlighted the great potential for change if the new framework enables increased test cases or class actions. This was particularly



“To the Scottish Government – make sure you make the action to access human rights simple, easy, cheap, and well known by everyone.”

raised by disabled people’s groups. Enabling court cases to be taken by groups such as charities or community organisations would take the weight off of individuals but would also enable a route to highlight and get action on systemic issues that affect many people. Test cases were seen as important for continuing to effect change and a way for marginalised communities to raise their voice.



4. In-depth advice should be available when you have a rights problem

Across all conversations, there was some uncertainty around where people can go for in-depth advice when they have a rights problem. Some possible sources of advice mentioned included Citizens Advice Bureau, Glasgow Disability Alliance and other grassroots organisations. Some people had sought, and some had found, lawyers who could provide advice on rights issues but some people also spoke about the difficulties in getting legal advice.

However, overall there was general comment that participants would not know where to go for in-depth advice on human rights and that, whilst third sector and community organisations may often be well-placed to provide such advice, most are not currently in a position to do so. Participants spoke about the considerable need to enhance advice provision around human rights, some suggesting the development of a service like that provided by the Citizens Advice Bureau to support citizens to access their entitlements that includes access to independent advocacy and access to legal advice/information. Such advice must be tailored to be accessible to people from all backgrounds.

“Frame every engagement with the State in human rights so that when you go to the Doctor, there is a sign that says - here’s your right to health, here’s what you can expect in relation to that right, here’s what you can do if that rights is not realised, and that the process of redress is easy to access, navigate and framed in a way that rights are central. If this is available for EVERY interaction a citizen has with the State this contract between state and citizen will become normalised.”

“The law is important but shallow if structures are not in place as the architecture to access basic information and redress on rights.”



5. Independent advocacy services should be available to all

It was marked that, whilst advocacy services were not highlighted particularly within the All Our Rights resources, many participants spoke about these services as being critical to making the new rights system work for marginalised people. Some spoke about advocacy services being currently patchy and available mainly to those in the mental health system. They also spoke about their concern around recent cuts in these services.

“[Advocacy services] should be totemic - they get funding because we can’t be our best without them. And that they don’t have to go through these nonsense bureaucratic hurdles that just take people’s energy away from the things that are most important.”

Who Cares Scotland said that independent advocacy was identified by participants as an important resource that can help someone to navigate formal processes, such as complaints mechanisms. One care experienced person said:



“Advocate was essential to me holding corporate parents to account! I would never have been able to do that otherwise. My advocate told me I could change things, could speak up against the bad things happening in my unit, etc⁶.”

Other groups who particularly spoke about advocacy services were people with learning disabilities and those who receive social care services.

Participants spoke about advocacy services enabling better participation of marginalised people in public authority

decision-making, and thereby avoiding many problems and rights gaps. Others spoke about the importance of advocacy being available to help people challenge where their rights are denied, both individually and collectively. The importance of this advocacy being independent of those challenged was mentioned by a few participants, including the Scottish Independent Advocacy Alliance and Who Cares Scotland.

6. We need a human rights culture across public authorities

Some participants spoke about their frustration that their interactions with duty bearers were not often rights-based, that they did not always know what their rights were in the situation, and that this sometimes left them feeling powerless. Many people talked about the importance of this new framework being accompanied by a shift towards a human rights-based culture in public authorities so that implementation does not become reduced to compliance with the letter of the law but goes beyond this to change people's everyday experience. They spoke about the need to increase understanding that human rights should underpin all public decision-making.

To this end, participants spoke about the need for training for public authority staff, particularly those in gate-keeper roles who control access to services. Some spoke about this training needing to change 'hearts and minds', to not be a one-off session, to be longer-term, intensive and shaped by the variety of experiences across

different groups of rights holders. For example, migrant groups spoke about it being important that duty bearers have understanding of their particular experiences. Many people also emphasised that this human rights culture is not something that can be narrow but that it is something that needs to be embedded across Scottish society, and therefore capacity building and rights training needs to be for all those who impact human rights implementation, whether courts, police, voluntary organisations, schools, care services and beyond. The Scottish Association for Social Work stated that:

“Any implementation programme will need to address information, skills, organisational capacities, leadership, and processes amongst other change areas – and clearly define the role of different professions within it. This will require realistic resource.”

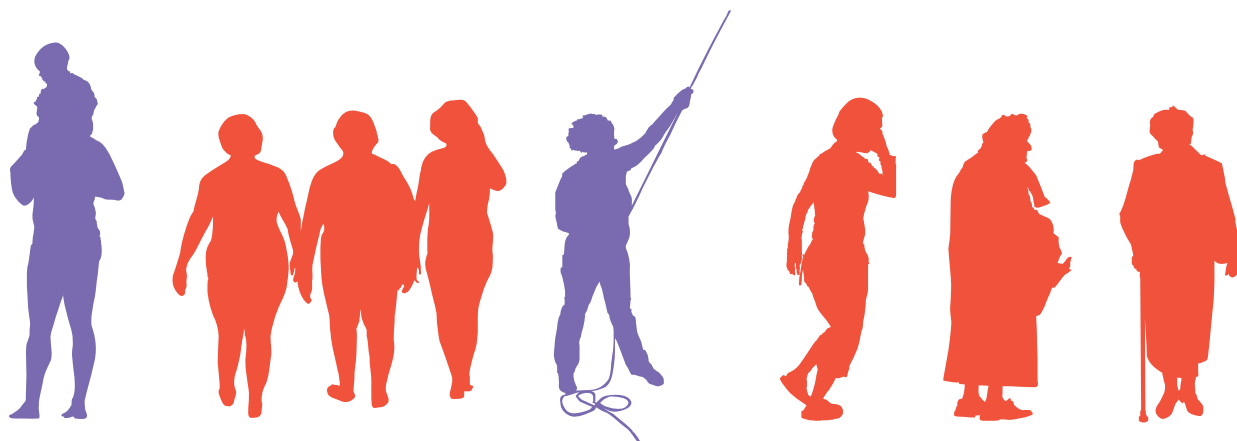
“We need a movement to change the law and to embed rights in everything. The legislation gives a structural framework to hang the culture change on. The new law will speed up the shaping of a culture where everyone has to think about rights in everyday situations.”

“Law itself doesn't change culture – there is a huge role for everybody. Duty bearers need to live and breathe this to make sure rights are in place.”



“Where resources are unduly constrained there is a real risk that providers will at best fulfil the letter of the law but not its spirit, or at worst people will have their rights withheld.”

“It is so important that if we move to adoption that we really mean it and it’s not just to “tick the box” - there needs to be substance, finance and full support for implementation.”



7. Adequate resourcing is needed

A recurring theme across many conversations was the concern that, particularly because the new law is ambitious and affects all stakeholders, there must be a proper amount of resource allocated to make it effective. For example, the Cross Party Group on Families Affected by Imprisonment emphasised that cuts to public services have made it more challenging to ensure that the required support is in place such as adequate housing and financial support to protect human rights. One member stated:

“We know families affected by imprisonment lose jobs, lose housing, childcare is disrupted, their incomes are reduced, they are waiting in for phone calls, they are traveling a long way to prison, they are worried about the person in custody, what will happen to them when they come out – the amount that people have on their plates must be recognised and they have that all on their plates because of a state intervention in their lives – they didn’t ask for that, they didn’t want it, so to make their rights real in law, there has to be real resource put into it.”

Some participants spoke about the importance of human rights budgeting being rolled out, and the way in which rights-based budget decisions can make for better decisions and money savings

in the long-run. Others spoke about the important role of the third sector in making this law work for individuals, but that they were “choked by lack of funding” currently. For example, this was highlighted in relation to services for women who have experienced violence.

Overall, participants spoke about resource in relation to sufficient investment for: effective introduction of the new framework including public awareness campaign (discussed below); driving forwards a human rights culture; and enabling continual improvements in realisation of rights, such as investment in building new houses to ensure that all have adequate housing.



8. Voices of marginalised people should guide public decision-making

There was hope amongst many participants that the new human rights framework would lead to increased and better engagement of marginalised individuals and communities in decision-making about public authority priorities and services. Some spoke of their concern that this new law might only be used by those who already hold the greatest power, by those with the loudest voices and in the loudest movements. They raised the importance of there being strong challenge to government on human rights.

Some good examples of where people's views have been listened to and taken into account were raised, for example the Islands Act where consultation is built into the law, and examples of disabled people being involved in the design of a new sports centre. Less positive examples such as town centre planning ignoring the needs of people with visual impairments, and the lack of lived expertise in developments around social care were also raised.

Deaf Scotland highlighted that many:

“people affected by deafness would like to have the same opportunities as their hearing peers to be involved in the design, planning and delivery of goods, information and services in Scotland. They do not want “special” events that are just for deaf people; they want to be able to attend the same meetings and events as everyone else can⁷.”

Others spoke about the importance of women being at the decision-making table, particularly around CEDAW incorporation. Some spoke about the significant importance of people with lived expertise being engaged in decision-making, and that this must not be a token gesture or a tick-box exercise but engagement that affects decision-making. Such participation should not be reduced to a one-off consultation, and decisions should not be made by those far from the reality of any given issue. Public participation, and especially with marginalised seldom-heard people, should be the basis of all public decision-making.

7. Full Deaf Scotland report with BSL summary, available at: <https://deafscotland.org/news/all-our-rights-in-law-report-on-the-conversations-held-with-people-across-the-four-pillars-of-deafness/>

“How do we make sure that public bodies actually involve people in decision-making and not just a tickbox exercise? The right to participate is crucial. And how do we make sure that isn’t just a sense that because they have consulted once, that is enough?”

“A rights-based approach should be central to ANY engagement on improving services or policy, with rights holders central.”



9. Mechanisms for public accountability should be built-in

Better accountability was seen as one of the key purposes and opportunities of the new framework. Rights holders raised a range of practical measures that they thought would ensure that government can be held to account on rights:

- Public bodies should have processes in place to monitor progress on rights. This should include collecting more data or making better use of the data that already exists. The issues around the lack of published data were particularly highlighted by Black and ethnic minority people.
- There should be reporting requirements placed on all public bodies and the government so that they show to the Scottish people the progress they have made, or not made, on rights implementation. They should demonstrate what concrete steps they will take and demonstrate what outcomes have been achieved. This should include not only impact on the public as a whole but also on different groups. Migrant groups emphasised that such reporting should include the impact on them as well as those born in Scotland.
- All monitoring and implementation reports should be published and publicised widely. They should be written in Plain English with attention given to ensuring that they are accessible to all. Individuals wanted to be able to understand what progress there has been on rights without needing anyone to 'interpret' the reports for them.
- Reviewing all existing laws, strategies and policies to ensure that they comply with the new human rights law, including having the intended impact, taking steps to amend these where necessary.
- Human rights should be a core part of all public audits or inspections. School inspections were highlighted as crucial vehicles of ensuring rights implementation, including the extent to which the rights of disabled children are being realised.
- There was some discussion around the balance between national and local accountability. Participants spoke about discrepancy between these layers of government as sometimes being unhelpful to rights holders, and that accountability needs to be visible and comprehensive at all levels.
- Monitoring needs to be firmly based on people's actual experience of rights – it should be outcome and not process based. Social care was



“How this fits with current government policy and law is really important, so human rights should not just be tagged on at the end or an incidental part of this but should be the starting point and embedded throughout. The Scottish Government and local authorities will need to relook at all of their policies and think about the implications.”

“We can write things in law but if we don’t have means of checking implementation and where we are getting with implementation, then we do hear fine words a lot of the time.”

raised as an example in several conversations – if you want to know if your social care system is working, then you must ask those on the receiving end of the care.

- The Act itself should be subject to review to ensure that it is having the intended impact – if not, it should be amended.
- Participants spoke about the need for public procurement to embed human rights, that all those awarded contracts should be asked to demonstrate understanding and implementation of human rights across their services.
- The Scottish Human Rights Commission should have more powers to be able to really challenge government bodies to advance human rights.
- The government should publish guidance to accompany the Act in order to provide clarity and understanding, but also a basis for accountability on implementation.



10. Incorporation of specific rights for women, disabled people and on race

Participants across many conversations wanted to see the incorporation of the Convention for the Elimination of Discrimination Against Women (CEDAW) into Scots law for a number of reasons including:

- CEDAW incorporation would send a strong message about Scotland's, and particularly politicians', commitment to equality for women. Women would feel more able to speak out about their experiences and denial of their rights, without fear.
- Participants spoke about discrimination and the denial of rights for women often being normalised and not visible, and that it was not considered valid within policy and law development. Participants saw the incorporation of CEDAW as leading to a more gendered approach to policy and law making, and to monitoring and impact assessment.
- It would ensure that women are considered at the start of any new development across all areas of life and would be an important step towards ensuring women's equal participation. Such strengthened participation would in turn lead to better investment in women's

services and system change on key issues affecting women such as the low level of rape prosecutions.

- Participants spoke about the lack of improvement for women arising from equality law. Specific human rights law protections for women would strengthen and underpin equality provisions, more likely to lead to actual change in women's experience.
- There would be increased visibility and application of women's rights in court, bringing direct accountability and strong case law that would protect the most vulnerable women.
- Government would take better account of recommendations from the UN's CEDAW Committee, and there would be enhanced international scrutiny to progress women's rights in Scotland.

“Women themselves as a group experience discrimination on the basis of gender that is so normalised that we just don't see it. The aspirations of CEDAW are almost hidden in plain sight.”



Similarly, incorporation of the UN Convention on the Rights of People with Disabilities (UNCRPD) was welcomed across several conversations. It was considered that incorporation of UNCRPD would directly address and bring change on many of the infringements of human rights faced by disabled people. Disabled people spoke about there having been many warm government promises of action on many of these areas of rights in the past but little actual change in people's experiences – incorporation of UNCRPD would bring enforcement to ensure change. Participants also highlighted:

- Incorporation of UNCRPD would strengthen understanding and implementation of the social model of disability, where the focus would be on removing barriers that stop disabled people's full inclusion and equality. The new law should update the language and practicability of the ECHR and use the jurisprudence of UNCRPD to update and reimagine how a social model of disability can shape people's experiences of rights.
- Participants emphasised that Article 12 – the right to equal treatment before the law – must be fully incorporated, using the guidance and requirements outlined in General Comment 1 of the UN Committee. This would mean that there should

be no dissent from the position that no human being should ever have his or her legal capacity removed from them on the grounds of their impairment (or lack of mental capacity). Substitute decision-making such as guardianship must be abolished and give way to a system of support for decision-making, available to all, regardless of degree of intellectual impairment. People First (Scotland) state that:

“We think that is the biggest change that needs to happen to the legal framework in Scotland. We think there is not enough work happening to move towards support-for- decision-making or to think about what it should look like or who should do it. We would very much welcome being part of that discussion.”

- Incorporation of UNCRPD would impact law-making in the Scottish Parliament. Acts of the Scottish Parliament are not currently meeting the aspirations of the UNCRPD e.g. there is no right to inclusive education, only a right not to attend a 'special' school.
- In several conversations, participants spoke about people's experience of social care as being one where rights were often ignored or denied. They stated that incorporation of UNCRPD must include, and lead to substantive



change, on people's experience of social care. Some people spoke about there needing to be a specific right to social care in Scots law as well as care being a route to other rights. They emphasised that this is about choice and control over care, and people having a say over what the care looks like in their life.

- Young Ambassadors for Inclusion group spoke about their hope that incorporation of the UNCRPD could provide a legal basis for changes to practice and policy to provide greater emphasis on relationships and relationship-based practice, which will in turn ensure further realisation of young people with additional support needs' rights to education. They also raised that it might lead to more resourcing for additional support for learning staff, in order to make their right to education real.
- UNCRPD incorporation could strengthen current additional support for learning legislation and add weight to existing Scottish Government action plans related to disability such as Angela Morgan's Additional Support for Learning Review.
- (To note, the report by Together for the Taskforce includes views of disabled children and young people).

"I think the rights of disabled children and young people should be part of the new human rights law. I think this because it gives the vulnerable children a part to play in their future. I also think this would give them equality and insurance to a safe place. This right would give children a chance to be part of Scotland, giving new ideas and input to their world would help them understand the importance of our world and how to take care of it. Without this law in place, it makes it difficult for disabled and young people to challenge things if their rights aren't respected. Please think about how these children feel without this right in place."

– Abbie, school pupil



There was some support for incorporation of ICERD specifically but more generally, there were many conversations about the infringement of rights for Black and ethnic minority people – rights that are part of ICERD. All Our Rights In Law heard from many people from Black and ethnic minorities about their experiences of racism and discrimination in Scotland, and their persistent everyday experiences of inequality. We would particularly like to thank all those who shared their

personal stories with us. Particular risks to rights for Black and ethnic minority people are also included below.

Across discussions about UNCRPD, ICERD and CEDAW, participants spoke about the importance of specifically including people from these groups in law development and implementation with regards to the particular treaty.

“I recently found out that the enforcement of the rights of black and ethnic minorities and the United Nations International Convention on the Elimination of All Forms of Racial Discrimination is not in Scottish law, and personally I find this unbelievable. The fact that it makes it difficult for minorities to challenge things if their rights aren't respected, which is very unequal. Having ICERD as part of the law would mean that everything would be a lot more equal, and children would get better education about different cultures and ethnicities so racism through missed knowledge wouldn't be a common occurrence. Please make this part of the law, it would make a huge difference.”
– Luca, school pupil



11. Action needed to address economic, social and cultural rights and right to a healthy environment

In conversations about the difference that this new law might make, people spoke about many issues/concerns/-questions that they have around particular economic, social and cultural rights – these are summarised below. However, many also spoke about the obvious interrelations between the different rights, so for example the right to health directly relates to the right to take part in cultural life, the right to social protection directly relates to the right to food, and so on. They saw the different rights as a ‘package’ with each right detailed and specific, but not falsely separated, if they are to be fully realised.

• The right to take part in cultural life

Many of the comments around this right were about action that needs to be taken to address barriers to participation for particular groups. Deaf participants highlighted that too many cultural events are not accessible due to the cost of providing language/-communication support. Even when deaf people ask for this, it is too often cost that is quoted as being the reason for not making events accessible. People living in poverty can often not take part in cultural events because of the sheer cost, so subsidised entrance fees are important.



The Scottish Youth Parliament highlighted several areas where this right should change schools such as: having the right to learn any language pupils want to; make learning Gaelic in primary school accessible to everyone, not only those in affluent areas; making sure that schools have a place for pupils to pray; exposure to different forms of resources from outside of western/-European culture; ensure that school holidays are flexible for those of different faiths. People spoke about barriers to cultural life in rural areas such as community venues having fewer opening hours which restricts cultural opportunities.

People in conversations hosted by Deaf Scotland highlighted that the protected characteristic of race which gives equality of access to culture and

language does not apply to Deaf BSL users as they are not one ethnic group; and while disability allows for “reasonable adjustment”, no other group has to use “reasonable adjustment” to access their language and culture. Several participants across conversations spoke about the importance of Deaf Clubs and deaf schools to Deaf culture – with cutbacks of deaf organisations and because many Deaf children are now being taught in mainstream schools, they fear that their Deaf culture and history and sense of belonging will be lost.

• The right to education

Participants also spoke about rights for deaf people in education – they highlighted: the lack of choice to be taught in BSL or to be taught orally but with some BSL; the need for BSL for deaf children from pre-school stage; more teacher training at a higher level of BSL. People with learning disabilities spoke about the prejudicial assumptions about what they can do and the assumption that people with learning disabilities do not belong in the world of work. Families with disabled children spoke about the constant battle to remind schools and colleges of their child’s rights, to challenge assumptions about what they can/should do or not do, and to get the support that they

need for them to have an equal chance at success and full participation in education. One participant spoke about a significant lack of communication and speech therapy support for children with Down’s Syndrome which can lead to their discriminatory informal exclusion from mainstream schools.

The Children in Scotland Young Ambassadors for Inclusion Group highlighted several of their rights that were at risk: the right to be treated fairly and respected; the right to make their own choices; the right to say what they think and for adults to listen; the right to be included.

Some EU citizens whose home is in Scotland spoke about the importance of maintaining equality in university fees for them as for students born in Scotland – they emphasised that they needed to have equal right to education at all levels.

• The right to adequate food

Many participants were concerned about the growth in use of foodbanks, particularly during COVID-19. They spoke about the embarrassment of having to ask for help with providing food for your family, and the direct link to the inadequacy of social security benefits and low-paid employment.





Some saw the right to food in law as important for ending the need for foodbanks altogether.

Other benefits highlighted included: healthier communities because food becomes available, adequate and accessible for all; better environment; developing local community economies; and recognition of the complexity of the food system.

People with learning disabilities spoke about their lack of access to healthy food because of lack of access to money, where you live and what shops have available, and lack of knowledge about how to prepare food. They said that many people who have support staff have freezers with pre-packed individual meal portions to be heated in a microwave rather than freshly prepared food as that would be much more costly of support staff time. Some migrant groups, particularly those taking part in the Italian conversation,

spoke about the dearth of easily accessible healthy food choices in Scotland and about the importance of food to their cultural life. It was highlighted that those with No Recourse to Public Funds must also have the right to food realised. Other people highlighted as at risk around the right to food were: children, especially those without good attendance at school or who live with people with addiction or are carers; people who are homeless and are staying in hotels with no cooking facilities and no social spaces to share food; people who rely on social security; food workers; those on zero hour contracts and in low paid work; disabled people; and older people.

Particular actions highlighted around the right to food included: a proposal to set up an independent food commission that ensures compliance with the law, and is independent from the government so that they can hold

“We need systemic change, not sticking plaster over problems. Food banks are a sticking plaster on a systemic problem around people’s right to food.”



“We hope it will change the conversation about food as our right rather than charity.”

the government accountable; particular consideration of the role of the private sector in enabling the right to food to be realised; clarity around role of the State in providing food support in crises.

• **Right to highest attainable level of physical and mental health**

Participants spoke about the need for this right to be clearly defined so that you can know what to expect and can hold public authorities accountable. They spoke about current health complaints systems not being easy to access, timely or proactive in bringing change. This right in particular was seen as closely linked to many other economic, social and cultural rights. Issues for particular groups were raised: poor health outcomes for people with learning disabilities is closely linked to abusive and dismissive treatment,



negative attitudes, diagnostic overarching (seeing the learning disability as the reason for any problems); there are long waiting lists for gender clinics and a lack of access to puberty blockers where these are appropriate; migrants need to pay more for healthcare due to the immigration health surcharge; a lack of access for women to some diagnostic tests readily available in other countries.

• **Right to adequate housing**

Experiences of damp and sub-standard housing were talked about by many rights holders, including migrants when they first arrived in Scotland. People spoke about the impact of this on their physical and mental health, and on their family life. There were many comments that expressed surprise that this right is not already in Scots law, and clear support for making this right real. People wanted this right to be clearly defined so that they could claim it in practice and hold government accountable, including in private



housing. They spoke about the definition of the right to be both achievable and practical, and not theoretical.

Participants spoke about the gaps in this right for many Black and ethnic minority people and migrants where cultural and language differences and racism can impact housing options available. People with learning disabilities said they often had no choice over where to live or who to live with. Participants spoke about the importance of this right working in practice for Gypsy Travellers and their choice of accommodation. In general people talked about just having to accept whatever accommodation they were given with little say about it, even if it was in poor condition.



• Right to a healthy environment

It was very notable that many of the views and concerns raised around this right were from children and young people. For example⁸:

“A new human rights law would help me, my family and my community to live in a safer, happier and healthier environment. The new law HAS TO include rights to: clean water, healthy food (that does not harm the environment in any way,) live, work, study, play in a healthy environment, children should learn about the environment in school and most importantly EVERYONE should have a say in decisions about the environment.”

– Emily, Bearsden

8. You can find more examples of letters, poems and pictures from children and young people as part of All Our Rights In Law on Twitter @HRCScotland



“I am really worried that if we don’t act now this will affect me and my children’s life. Articles 3 and 24 of the UN convention on the rights of the child put the best interests of the child as a priority and Governments must provide a clean environment. The Scottish Government is doing a lot already to reduce emissions and protect the environment, but needs to do more and encourage other countries to do the same and sign up to the Paris Agreement.

It is absolutely vital we act now, the environment is under threat and will affect our future life if we do nothing. However, it’s not too late and I urge you to make the new law to a healthy environment!”

– Calum, Crombie Primary School, Aberdeenshire

To note, the report from Together (Scottish Alliance for Children’s Rights) also includes children and young people’s perspectives around this right.

In addition, participants spoke about policy decisions required such as: opening up more safe green spaces for everyone; moving towards renewable energy; reducing emissions; not building schools near major roads. Quakers Scotland highlighted that:

“It is also worth acknowledging the potential held within the proposals to recognise the rights of the natural world. As Quakers our understanding is that humans “do not own the world and its riches are not ours to dispose at will”. Traditional communities across the world have long recognised that humans are but one part of the natural world, that in turn has rights which we have a responsibility to protect.”



12. Action needed to protect rights of particular groups

“Migrants should benefit from human rights exactly the same as Scottish nationals.”

All Our Rights In Law asked ‘Are there any people or communities whose rights seem particularly at risk?’ In response, people highlighted the rights of: Gypsy Travellers; people who are homeless; carers, both paid and unpaid; people in prison or coming out of prison, and their families; faith groups; children and young people; people living in remote or rural areas; people in the mental health system; disabled people; older people. In addition, there was discussion around the rights of:

- People in the asylum system and refugees: it was notable that across most conversations, this group were highlighted as facing significant infringements of their human rights. People said that this new human rights law should apply to everyone regardless of asylum status and that the Government should dismantle or find ways around No Recourse to Public Funds.

“We would encourage the legislation to be as far reaching as possible, so that it is not simply concerned with citizens’ rights but with human rights. While we recognise there are practical and political considerations here, we believe there are important precedents, such as the recent decision to extend the right to vote in Scottish government and local authority elections to refugees and asylum seekers.”
– (Quakers)



- **People with learning disabilities:** the lack of access to rights to health, to food, to housing (in previous section); the biggest issue raised was about the need for substitute decision-making to end in Scotland and for action towards support-for-decision making – this was seen as getting to the heart of human rights and being treated with dignity and respect; the need for accessible information about rights; the mixing up of learning disabilities and mental health difficulties, leading to infringements of rights such as unfair and inappropriate detention; importance of this new law and the Mental Health Law Review informing each other. A specific issue related to the impact of prenatal screening on rights of people with Down's Syndrome was raised.

“We expect to be treated as adult citizens of our country and not as children, not as poor unfortunates who need looked after, not as people who are dangerous to the community. We are impatient that it is taking so long for our citizenship rights to be recognised and for the UN Convention requirements to be met by our country... We very much welcome the Scottish Government's commitment to secure a Human Rights Framework for its citizens. We do not want to be left behind again.”
– (People First Scotland, The National Disabled People's Organisation of Adults with a Learning Disability in Scotland)

- **People from Black and ethnic minorities:** the lack of data collected about their experiences of rights or where data is collected it is not used

or published; a lack of concern or consideration of cultural differences in service design and delivery; everyday experience of systemic and structural racism and discrimination; urgent need for more and better engagement with the diversity of BAME people to inform public decision making, particularly by Black or brown-led organisations. (To note, the report by Together for the Taskforce includes views of Black and ethnic minority children and young people).



- **People in care or with care experience:** the particular need to protect the rights of this group given the much-enhanced role of the State in their lives and the long term consequences for their economic, social and cultural rights. Rights holders as part of Who Cares Scotland highlight: action needed to address gaps in rights knowledge; that rights education is needed for children and professionals; the importance of lifelong rights protections for Care Experienced people; new strong accountability measures to be in place; the importance of independent advocacy for this group; amongst other points. More detail available at ['Who Cares Scotland: Navigating the world of rights'](#).

- **Deaf/Deaf BSL users; Deafblind; Deafened; and Hard of Hearing** – a wide range of issues were raised that affect rights of people affected by deafness including: greater understanding of the four pillars of deafness; discrimination/negative attitudes/stigma experienced by deaf people; lack of services that are needed for people affected by deafness; health & safety being ignored for deaf people/ truly accessible buildings; poor access to transport; lack of access to information; lack of choice. More detail available in Deaf Scotland reports of their [4 All Our Rights In Law](#) conversations.

- **LGBTi people:** people spoke about historical marginalisation, and their own experiences of discrimination and bullying; non-binary rights and acknowledgment of non-binary existence in law; action to address difficulties for Trans people in proving their identity.



“People do not fit neatly into boxes. Take an intersectional lens, that ensures laws and services consider people’s often overlapping yet distinct identities and experiences.”

A number of participants said that the new human rights framework must take account of intersectionality because this significantly impacts the ways in which rights are experienced in everyday life. It was further noted that incorporation of specific treaties for women, disabled people and on race, alongside incorporation of rights for children and young people, could help drive an intersectional approach to policy making.

13. Learning should be applied from experience of rights during COVID-19

All Our Rights In Law did not specifically ask questions around COVID-19 but given this was the immediate context of the conversations, many participants raised points related to the pandemic. Overall, participants spoke about the increase in visibility and understanding of the importance of economic and social rights, and the lack of these for particular groups, during COVID-19. They spoke about the exacerbation of inequalities. The disproportionate impacts on Black and ethnic minorities, deaf people, older people and disabled people were spoken about in many conversations. Young people with additional support needs spoke about the lack of support available for them during home learning.

There were particular concerns about the reduction in services during COVID-19 without apparent consideration of the impact on people's lives, and there was concern that these services may not return. People spoke about the lack of funding that will be available post-COVID-19 as Scotland recovers, and concern about the impact of this on roll-out of the new human rights law. The right to cultural life was an area highlighted by some that would require resourcing to enable its realisation after the pandemic.

Many people expressed shock and concern about the blanket use and application of Do Not Resuscitate (DNR) orders during COVID-19, impacting older people, disabled people, people with learning disabilities and long-term conditions. It was emphasised by many that this was an infringement of human rights and dignity.

The necessary move to 'digital by default' of many services and interactions during COVID-19 was discussed by many participants. They flagged up that many people are not online due to poor internet connectivity, poverty leading to lack of devices or data, low education level, mental health issues, or other reasons. People are concerned that individuals and whole communities are missing out on participation in decision-making including All Our Rights In Law, access to information, and social interaction to boost mental health. The right to digital and information inclusion was raised by several participants, emphasising that digital access is crucial and a basic need in modern life -this is recognised as a right in some other countries such as Estonia.



14. Recommendations for next steps

• Public awareness campaign

Many participants said that there should be a large public awareness campaign around introduction of the new Act and to make sure people know that they have human rights. This campaign should be bold, positive, diverse so that it reaches every group, use media, be online and off-line, use everyday examples and challenge any negative framing around human rights. The campaign needs to be sustained, and particularly targeted at raising awareness of migrants as they arrive in Scotland. The campaign should directly link to where individuals can find out more detail about rights or get in-depth advice.

“There needs to be a big hype about it, so people are recognising that it’s a really important thing that’s happening.”

“When this law comes you need it right up there in the public eye. It needs a sustained and concerted information campaign, and to build on people testing it.”



“I would just like to say listen to what people are telling you. Actually listen and hear what tenants are saying and the people that are involved in the consultation. It’s all very well saying a consultation was carried out but unless the consultation was done in a meaningful manner, it’s a waste of time, it’s lip-service. So I think the Scottish Government need to listen to what is put in front of them.”

• Engagement in development of the Act and its implementation

Many participants spoke about involvement of those with lived expertise around everyday rights in shaping the Act and its implementation as being crucial for its effectiveness. They called for real engagement with a diversity of voices, with the diversity of Black and ethnic minority voices particularly emphasised. This should not be a one-off consultation but a model that builds participants’ understanding of human rights and the law, is clear about what can be influenced by them, and is based on practical examples. Engaging with children and young people was highlighted as important. Several people emphasised that co-production should be adopted as an approach, and that the third sector and community organisations are well-placed to facilitate engagement, though they need to be properly resourced in order to do so.

“Bring the concept of co-production front and centre to societal shifts – laws, engagement, inclusion, in a meaningful and relevant way. We live in a great country but there’s always room for improvement.”



Conclusion

We want to say again, thank you to all those who took part in All Our Rights In Law. We could not possibly have included every point raised here but the key messages in this report, together with rights holders' views collated as part of engagement in Scotland's National Action Plan for Human Rights⁹, provide extremely valuable insights to inform both the National Taskforce on Human Rights Leadership, and the Scottish Government at the next stage.

“Keep going! There has been so much progress made that we don't want to lose the momentum. There are laudable aspirations – let's not lose them during the legislation process.”

“Be bold. Be brave. Be courageous. This is a tremendous opportunity to shape a different future for people.”



9. There is more information on SNAP at: SNAP | Scottish Human Rights Commission, <https://www.scottishhumanrights.com/projects-and-programmes/scotlands-national-action-plan/>





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More information, and other report formats such as Easy Read, are available at:

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[@HRCScotland](https://twitter.com/HRCScotland)

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Ethan, aged 9, Crombie Primary School

NEW LAW!

It hurts my heart,
that this countries culture is so far apart!
It hurts that the world has something wrong,
that 'something' is that BAME children can't sing their song!
It hurts that it doesn't matter how hard Scotland try,
BAME children still have to cry!

Despite this problem there is one simple solution,
The government have to make a law to stop this racist pollution
Arrest the racists and leave them bare,
Educate the children to make them aware!
Change the law and promote Black Lives Matter,
You can choose to feed racism or stop it, I would choose the latter ^{when}
This country should be equal so let BAME dance,
Give this law a chance, so these people get a chance!

Daniel, aged 14, Aboyne Academy

