

## **Introduction**

Scottish Families Affected by Alcohol and Drugs (Scottish Families) is a national charity that supports anyone impacted or concerned about someone else's alcohol or drug use in Scotland ([www.sfad.org.uk](http://www.sfad.org.uk)). Throughout this response, we may refer to people affected by someone else's alcohol or drug use simply as "family members". In responding to the consultation at hand, we aim to centre the voices and experiences of family members who often experience rights breaches in interacting with public services and bodies. Scottish Families seeks to empower family members to advocate for themselves and their loved ones through our My Family, My Rights course and advocacy service – by providing resources and advice that help families state and defend their rights. We believe that strong human rights legislation is important, but equally important is informing individuals and communities about their rights and how to use them.

## **Foreword**

Scottish Families Affected by Alcohol and Drugs welcomes this public consultation on a Human Rights Bill for Scotland. Scottish Families organised a focus group consisting of family members affected by a loved one's substance use, as well as staff, which has informed our response to the consultation. Our response has also been informed by the input of families in our "Families on the Frontline" conference report (<https://www.sfad.org.uk/families-on-the-frontline-2023-conference>). We have approached this consultation bearing in mind that family members are often the primary advocates for their loved ones' rights, but are also rights-holders themselves.

In the months leading up to our response, we have attended various information sessions and consulted different guides around the Human Rights Bill, all of which have been helpful in deconstructing the language of the consultation, the intended aims of the Bill, and what changes might look like in practice. However, considering how the Bill is complex and steeped in legal jargon, in our view more could have been done to make the consultation more accessible to the family members we work with. Considering that Participation is one of the key aspects for a human rights-based approach (based on the PANEL principles), we feel more could have been done to make meaningful participation more accessible for everyday communities across Scotland. Not only were there over forty questions for organisations and individuals to answer in responding to the consultation, but most of these questions required responders to have read the full consultation *and* navigate language, legislation, and processes of human rights. Policy officers, in addition to understanding the objectives and fine print of the consultation, had to undertake additional research around human rights legislation and processes – and this is a lot to ask for when it comes to family members and others who may not have the time or circumstances to do the same.

At Scottish Families, our My Family, My Rights course and self-advocacy programme embody the work we do around making rights accessible to families across Scotland. It wouldn't be fair if we submitted a consultation response that makes sense for government officials that are familiar with the Human Rights Bill consultation at hand, but lacks context and explanation for the family

members we support and whose rights we advocate for. Therefore, we've added the following section to provide background for people who are interested in reading our response, but may want some more context around this proposed Human Rights Bill for Scotland. That way, we can offer suitable explanation around the questions asked in the consultation, but also provide more concise answers under each question itself.

## Background Context Around the Proposed Human Rights Bill for Scotland

The first major development in international human rights law was in 1948, when the United Nations adopted the Universal Declaration of Human Rights; in its thirty articles, the declaration lays out various fundamental rights that *everyone* is entitled to and that must be protected<sup>1</sup>. If countries fail to protect these rights, they are in violation of international human rights law. Since then, more pieces of human rights legislation have been adopted on an international level, similar to the Universal Declaration of Human Rights. The legislation relevant to this consultation include the:

- International Covenant on Economic, Social and Cultural Rights (**ICESCR**)
  - This includes right to education, fair and just conditions of work, an adequate standard of living, the highest attainable standard of health, social security, and many more social, cultural, and economic rights.<sup>2</sup>
- Convention on the Elimination of All Forms of Discrimination against Women (**CEDAW**)
  - This works to eliminate discrimination against women in legal systems, education, employment, and in healthcare. In accepting this Convention, countries agree to take appropriate measures to ensure women have the same opportunities as men in exercising their human rights.<sup>3</sup>
- International Convention on the Elimination of all Forms of Racial Discrimination (**ICERD**)
  - This is similar to the previous convention, except it works to eliminate discrimination on the basis of race, ethnicity, or nationality.<sup>4</sup>
- Convention on the Rights of Persons with Disabilities (**CRPD**)
  - This convention is similar to the previous two in that it involves measures against discrimination towards people with disabilities. It *also* includes obligations countries have in ensuring people with disabilities have access to the same opportunities as everyone else, in accordance with people's needs.<sup>5</sup>

The Human Rights Bill for Scotland would also include **the right to a healthy environment**.

The main premise of the proposed Human Rights Bill for Scotland is to incorporate the human rights outlined in these laws into domestic Scottish law. Incorporating these rights into Scottish law aims to embed human rights into the decision-making and service-provision of Scottish public bodies. It also

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<sup>1</sup> United Nations Human Rights Office of the High Commissioner. International Bill of Human Rights. <https://www.ohchr.org/en/what-are-human-rights/international-bill-human-rights#:~:text=In%201948%2C%20for%20the%20first,of%20international%20human%20rights%20law.>

<sup>2</sup> United Nations (1966). International Covenant on Economic, Social and Cultural Rights. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights#:~:text=Article%2012-,1.,of%20physical%20and%20mental%20health.>

<sup>3</sup> United Nations (1979). Convention on the Elimination of All Forms of Discrimination against Women. <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

<sup>4</sup> United Nations (1965). International Convention on the Elimination of all Forms of Racial Discrimination. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>

<sup>5</sup> United Nations (2006). Committee on the Rights of Persons with Disabilities. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>

aims to make seeking justice for human rights breaches more accessible to people in Scotland, through courts and complaints procedures.

The proposed model for incorporating these pieces of international legislation into Scottish law involves directly inserting them into a Scottish Human Rights Bill – word for word. However, they must be incorporated within the limits of devolution. There are some matters that are reserved to the UK Government, and one of these include (most) legislation around equality. Therefore, some features in the international human rights laws would be omitted from Scottish domestic law if they depart from UK legislation such as the Human Rights Act 1998 or the Equality Act 2010. For example, there would be parts of Convention on the Rights of Persons with Disabilities (CRPD) that would be left out of the Scotland's Human Rights Bill, because they are not present in either UK legislation or in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which the UK has signed and ratified. This only-partial inclusion of CRPD is an issue we raise in Question 5 of our response, as it could have repercussions for people with disabilities.

There is also a difference between incorporating rights into Scottish law and embedding those laws into the practice of public bodies, which affects communities on a daily basis. The consultation outlines two kinds of duties public bodies would have in incorporating international human rights into the work they do, and each duty would have a different impact on public bodies and the people that interact with them.

A *procedural duty* is a duty for public bodies to *take into consideration* ICESCR, CEDAW, ICERD, CRPD, and the right to a healthy environment when making decisions about their services – such as service priorities and budget-making. This procedural duty *does not* require public bodies to report how they are realising people's rights and doing so progressively – meaning that they are always taking concrete steps to further improve on people's rights in their services.

A duty to comply is a duty for public bodies to show how they are always improving on people's rights in their services, through reporting mechanisms and demonstrating how they are delivering Minimum Core Obligations (MCOs). MCOs are "the basic minimum standard of delivering economic, social and cultural rights" that must always be met by public bodies, regardless of resources or if there is an ongoing crisis.<sup>6</sup> If public bodies are not meeting this standard, they would be violating human rights law in Scotland. It should be noted that what these MCOs would entail are not identified in the consultation, which states they would be agreed upon through "participatory processes" involving people with various lived experiences.

According to the consultation, Scottish public bodies would have a procedural duty and a duty to comply when it comes to the rights outlined in ICESCR (economic, cultural, and social rights). After the Bill is enacted, only the procedural duty would be put into place. Sometime later (this is not specified in the consultation), the duty to comply would be put into force, requiring services to report and demonstrate how they are progressively realising these rights for all people that interact with their services.

When it comes to the rights in CEDAW (non-discrimination against women), ICERD (non-discrimination based on race), and CRPD (rights for people with disabilities), public bodies in

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<sup>6</sup> Scottish Government (2023). A Human Rights Bill for Scotland: Consultation, pg. 31.  
<https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-paper/2023/06/human-rights-bill-scotland-consultation/documents/human-rights-bill-scotland-consultation-june/human-rights-bill-scotland-consultation-june/govscot%3Adocument/human-rights-bill-scotland-consultation-june.pdf>

Scotland would only have a procedural duty. There would not be a duty to report and demonstrate accordance to these laws. This is also something we bring up in our response.

The consultation brought forward by the Scottish Government is multi-faceted, also covering human rights issues around healthy and non-toxic environments, food, specific protections for LGBTQ+ communities and older people, participatory processes, reporting mechanisms and scrutiny bodies. Because of this, a plethora of third sector organisations around Scotland are responding to the consultation according to the kind of work they do. Because of the length and complexity of the consultation, Scottish Families, like other organisations, is responding to the questions mostly relevant to the work we do with families and to families' views on human rights within public services. The full consultation, titled "A Human Rights Bill for Scotland: Consultation" can be accessed in various versions on the Scottish Government website (<https://www.gov.scot/publications/human-rights-bill-scotland-consultation/>).

## **Consultation Questions**

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

Dignity should be considered by courts in interpreting the rights in the Bill.

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

Scottish Families supports dignity as a key threshold for defining Minimum Core Obligations. MCOs must be established through inclusive, participatory processes that includes views of family members affected by alcohol or drug use. They can provide first-hand experience of breaches of dignity in interacting with public bodies and suggestions for what upholding dignity looks like in practice. Families and Scottish Families staff have offered different ideas of what dignity looks like to them, such as having one's basic needs met and services seeing "the whole person". Other meanings of dignity include:

*"Treating people humanely.*

*"A presumed belief that you need and deserve treatment."*

*"Providing adequate time for people."*

*"An attempt to build a relationship with someone."*

As one focus group attendee stated, "there is a very low threshold for what people should be treated like". That threshold needs to be reconsidered to uphold families' inherent dignity and entitlement to respect. Inclusive discussions around what upholding dignity and neglecting dignity look like in practice could give public bodies a better idea of what steps need to be taken in order to make sure they are fulfilling their most basic duties. They will be vital in order to make real impact on families' experiences with public services and frontline staff.

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

We agree on the types of international law, materials, and mechanisms to be included within the proposed interpretative provision of the Bill.

In terms of ICESCR's right to highest attainable standard of physical and mental health, family members being able to name and claim this right could especially have positive impact on treatment and support provided to families within services.

According to the UN General Comment on the Right to Health (2000)<sup>7</sup>, health facilities, goods, and services must demonstrate: Availability, Accessibility, Acceptability, and Quality. Availability refers to public health facilities, goods, and services – as well as essential medicines – being available in sufficient quantity. Accessibility is categorised into non-discrimination, physical accessibility, economic accessibility (being able to afford treatment regardless of socio-economic status), and information accessibility (the ability to “seek, receive, and impart information and ideas” related to health issues). Acceptability refers to facilities, goods, and services being medically ethical, culturally appropriate, and respectful of specific needs for different genders, ages, or other characteristics. Finally, Quality refers to health facilities, goods, and services demonstrating good quality and being medically and scientifically appropriate. In each of these categories, families have been let down.

During a table discussion at our Families on the Frontline conference held in March 2023, families highlighted specific issues when it comes to the Availability, Accessibility, Acceptability, and Quality of health services<sup>8</sup>. Some included the following:

- Postcode lotteries of support and service provision according to location in Scotland
- Unsafe hospital discharge practices
- No same day access for essential treatment
- A lack of cover during times of high risk for families
- Not being able to provide information about their loved ones to services (i.e. being excluded from being partners in care)
- Access to treatment being dependent on abstinence from alcohol or drugs
- Blame and stigma by services, including the use of positive or negative drug tests as “a form of shaming”
- Waiting lists or time constraints
- Lack of choice, capacity, and quality for rural or island services
- Lack of clear signposting
- Jargon used by services
- Being made responsible for their loved ones and having to provide their own support to try to keep them safe and alive.

During a focus group, Scottish Families staff members said that negative interactions with services can impact families' health, through traumatic experiences that prevent family members from seeking treatment for themselves. In some cases, family members have difficulty eating, sleeping, or caring for themselves, because of the responsibilities they bear in caring for their loved one. A lack of adequate support for family members further contributes to feelings of isolation, anxiety, and demoralisation. Not to mention, problems in Availability, Accessibility, Acceptability, and Quality can pose a serious physical or mental health risk for their loved ones who are using drugs or alcohol.

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<sup>7</sup> United National Committee on Economic, Social, and Cultural Rights (2000). CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12). <https://www.refworld.org/pdfid/4538838d0.pdf>

<sup>8</sup> Scottish Families (2023). Families on the Frontline Conference Report, pg. 7-12.

It's important these breaches in families' rights are addressed by incorporating ICESCR and therefore the right to the highest attainable standard of health into Scottish law. But that also requires holding public bodies to higher standards through MCOs, a duty to comply, and active engagement with the communities they serve, in order to make sure what is stated in policy is felt in practice.

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

We agree with the proposed model of incorporation – the four treaties outlined in the consultation should be reproduced in the Bill. Text that relates to reserved matters of the UK Parliament will then have to be omitted from the Bill, but all rights outlined in international human rights law should be incorporated as far as possible within the limits of devolution. The Bill should also cover the right to a healthy environment.

We want to highlight issues around unclear timescales and the inconsistent application of procedural duty and duty to comply. When it comes to the rights outlined in ICESCR and the right to a healthy environment, it is proposed that a procedural duty for services precedes a duty to comply. Along with a few other aspects of the Bill, such as MCOs and participatory processes, that have been allocated discussion at a further date, the timescale for a transition between this procedural duty and the duty to comply is not specified. We believe this timescale should be confirmed as soon as possible, to prevent delays in reporting, to achieve a progressive realisation of rights, and to allow the public to potentially hold services to account for not protecting their rights. The Human Rights Consortium Scotland has proposed a transition period of no more than two years. Furthermore, when it comes to these two duties, the consultation implies duty to comply will replace procedural duty after a certain amount of time. Human rights should always be at the centre of decision-making within public services; after two years of adhering to their procedural duty, public bodies should continue being held to a procedural duty *as well as* a duty to comply. The two are not mutually exclusive.

Furthermore, as highlighted in the next section, there are issues that come with the proposal that only a procedural duty will be placed onto services in incorporating rights outlined in CEDAW, ICERD, and CRPD. For instance, some of the rights for people with disabilities outlined in CRPD are not included in ICESCR, which means that, while public bodies will have a procedural duty to consider the rights of people with disabilities in their decision-making, they will not have the duty to comply to particular standards for upholding these specific rights outlined in CRPD.

The Equality Act (2010) defines disability as having “a physical or mental impairment that has a ‘substantial’ and ‘long-term’ negative effect on your ability to do normal daily activities”<sup>9</sup>. Some family members we work with not only care for someone who has a disability – whether that be a disability due to the effects of their drug or alcohol use or another disability – but may also have a disability themselves. Therefore, it is important these family members are able to name and claim their rights protected by CRPD in order to access the same opportunities as everyone else.

There needs to be strong consideration around how the human rights of people with disabilities are protected and progressively realised– and that people are able to hold public bodies accountable if those rights are breached. A duty to comply is essential to enforcement; without mechanisms for compliance, the human rights of people with disabilities could easily be neglected without consequence.

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<sup>9</sup> UK Government (2010). Definition of disability under the Equality Act 2010. <https://www.gov.uk/definition-of-disability-under-equality-act-2010>

**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?**

Albeit vital to a human rights culture, the civil and political rights outlined in the Human Rights Act 1998 cannot be inserted directly to a new Human Rights Bill for Scotland without risking challenge from the UK Government and potentially endangering the Bill itself. It is necessary that public bodies' current duty to comply with the Human Rights Act is enforced, to make sure the rights outlined in the Act are being protected. As it stands, public bodies often do not uphold their duty to comply to the Human Rights Act. There is, as one family member put it, "a gulf between services as they are and rights to be ascribed"<sup>10</sup>. Family Members have reported various breaches, especially involving their right or their loved one's right to private and family life, home and correspondence (Article 8), as well as freedom from torture and inhuman or degrading treatment (Article 3), and protection from discrimination in respect of the rights and freedoms (Article 14) outlined in the Act. According to one family member:

"I was having a kind of awakening in terms of my understanding that rights – human rights – really played a huge role in how people have been treated, and that over the years I feel human rights have been breached on so many occasions. It's actually outrageous when I think about what they've gotten away with, and the excuses that they've gotten away with not intervening when we've sought help. I could tell you so many stories of when they've needed safeguarding and they've just been failed time and time again. The level of stigma and judgement that's involved in – 'they've chose to do that'. You know?"

A wider understanding of human rights is invaluable to recognising rights breaches, holding public bodies accountable, and building a human rights culture in Scotland. As mentioned by the family member, challenges for families affected by alcohol and drug use include rights breaches and stigma or discrimination, and are further complicated by a lack of knowledge around their human rights. It is nearly impossible for families to name and claim their rights and hold duty-bearers accountable if they aren't aware that they have human rights. Many families do not realise they have rights as family members and as carers (with many not recognising themselves as carers in the first place).

However, issues around understanding human rights and what they look like in practice are not limited to families affected by alcohol or drug use. This is a society-wide issue that needs to be addressed in order to progressively build a human rights culture in Scotland. According to a 2018 Scottish Human Rights Commission report, only 42% of surveyed adults were "supportive" of messages around human rights in Scotland, while the rest were "conflicted", "opposed", or "disengaged"<sup>11</sup>.

The report cites a lack of knowledge around human rights as one contributing factor to negative or apathetic attitudes towards human rights. Jargony language and people not seeing their own situations in examples of human rights in Scotland are also a part of the problem. Public bodies need to engage in community awareness and public campaigning around human rights – and this also includes awareness and education for frontline staff as well. They also need to provide accessible

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<sup>10</sup> Scottish Families (2023). Families on the Frontline Conference Report, pg. 9.

<sup>11</sup> Scottish Human Rights Commission (2018). Building a human rights culture in Scotland: insights from audience research, pg. 6.  
[https://www.scottishhumanrights.com/media/1754/building\\_a\\_human\\_rights\\_culture\\_scotland.pdf](https://www.scottishhumanrights.com/media/1754/building_a_human_rights_culture_scotland.pdf).

resources around human rights and what accessing those rights looks like in their services. In promoting human rights, public bodies need to meet communities where they're at, involving an understanding of the barriers those communities may face and actively working to break them down. In the case of people affected by alcohol or drug use, this includes addressing stigma and discrimination within services through training and learning from the experiences of families.

Therefore, while the Human Rights Act 1998 cannot be directly inserted into the proposed Human Rights Bill for Scotland, there is more that can be done to signal how existing legislation can have real-life impacts in practice.

### **13. How can we best embed participation in the framework of the Bill?**

Families affected by alcohol and drug use have described an “us vs. them” culture within services, in which families are excluded from decision-making. As a result, the physical, mental, and financial health of families is impacted. Participation is one of key aspects of what a human rights-based approach looks like in practice, so it's necessary for participation to be embedded in the framework of the Bill and the practices of public bodies. Both families and Scottish Families staff have reported that are they “not often” able to meaningfully participate in decisions that affect them.

“I think it's about that idea of families *meaningfully* participating in decision-making.”

For family members, participatory processes must not be tokenistic; they must actively incorporate views and needs into strategies for change. It is crucial that family members participate in the defining of Minimum Core Obligations. When it comes to the proposed Human Rights Scheme, families should be consulted in the development of the Scheme and Scottish Ministers' reporting against it. Participation should also be embedded in the purpose clause of the Bill as well.

### **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?**

The Bill should include an equality provision to ensure everyone is able to access their rights. However, the Scottish Government needs to be transparent in how it will define the “other status” and who would be included or excluded from this. People who use drugs and alcohol and their families often face discrimination within services. They should have their own protected characteristic, considering they face specific barriers and injustices. Alternatively, they should be explicitly defined as being a part of this “other” status, if protected characteristics cannot be amended. Families should not have to continue relying on loopholes in legislation to access their human rights.

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

The duties in the Bill should apply to all public and private actors delivering devolved public functions.

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



Public bodies will need to have some time to embed human rights into their decision-making, as this involves changes in budgeting, training, resource provision, and public authority planning<sup>12</sup>. However, for a procedural duty to effectively work towards upholding the rights of family members affected by drug or alcohol use, the following must be considered.

Our focus group around the consultation agreed that the Scottish Government needs to provide a specific timeline when it comes to both a procedural duty and a duty to comply coming into effect. This is to prevent processes from languishing for a long time without an ability to hold public bodies to a real standard. Human Rights Consortium Scotland proposes that a procedural duty placed on public bodies should be put into effect no later than six months after Royal Assent, and the subsequent duty to comply should be applied no more than two years after that<sup>13</sup>. There is little point in introducing a Human Rights Bill for Scotland if human rights do not feel real for within communities across Scotland. Ensuring that public bodies know that their decision-making will be fully held to compliance at a reasonable and definite point in the future is vital to making sure policy is put into practice.

Furthermore, in order to make changes to uphold people's human rights, public bodies also need to consider the barriers people face in accessing human rights within their services. These barriers may look different for different communities or groups of people in Scotland. Understanding these barriers will inform public bodies on what they must do to make sure everyone's human rights are considered. Family members affected by alcohol or drug use often experience rights breaches – especially that related to the right to family and private life, home, and correspondence – that arise from stigma or direct discrimination by association, or from staff's lack of knowledge around human rights policy. It is important for services to recognise the barriers family members may face in accessing care and support, and to have a transparent dialogue with family members on how these can be addressed, leading to changes in decision-making. Therefore, stigma and discrimination when it comes to drug and alcohol-use and being a family member caring for someone who uses drugs or alcohol needs to be addressed in order to fully recognise the barriers families face within services. In addition, services should incorporate families' participation in their decision-making and this participatory process should be more clearly laid out and made accessible to the families they serve.

## **21. What is your view on the proposed duty to comply?**

A duty to comply is necessary for making rights real for families in Scotland, as it will allow family members to name and claim their rights in interacting with public bodies and hold those public bodies to account if their rights are not being upheld in practice or progressively realised. The Scottish Government should be specific in terms of when this duty to comply will come into effect, and it is important it comes into effect in a timely manner.

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<sup>12</sup> Human Rights Consortium Scotland (2023). Human Rights Consortium Scotland's Guide to responding to the Human Rights Bill for Scotland Consultation, pg. 40. <https://hrcscotland.org/wp-content/uploads/2023/08/Final-HRCS-Guide-to-responding-to-Human-Rights-Bill-for-Scotland-consultation-August-2023-1.pdf>

<sup>13</sup> Human Rights Consortium Scotland (2023). Human Rights Consortium Scotland's Guide to responding to the Human Rights Bill for Scotland Consultation, pg. 40. <https://hrcscotland.org/wp-content/uploads/2023/08/Final-HRCS-Guide-to-responding-to-Human-Rights-Bill-for-Scotland-consultation-August-2023-1.pdf>

A bill allowing rights-holders to name and claim their rights requires rights-holders to know that they have rights to name and claim. There is lots of work being done by third sector and community organisations to help people recognise that they do indeed have human rights. However, public bodies should also make such information more accessible for rights-holders to make naming and claiming human rights a reality for all.

Overall, a duty to comply is important to bridging a gap between policy and practice, but holding duty-bearers accountable to standards of implementation. As one Scottish Families staff member stated:

*“It comes down to the implementation of these things.”*

**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?**

Yes, but public authorities must also outline gaps in service delivery and realising people’s rights. This would promote transparency and show that they are working to progressively realise people’s rights rather than tick a box. Reporting should also be inclusive and accessible. Necessary changes should be made to eliminate jargon and provide adequate explanations that can be understood by families across Scotland – to make holding public bodies accountable more feasible for more people.

Furthermore, as suggested by Human Rights Consortium Scotland, public bodies should be required to report on the “lived experience of rights”<sup>14</sup>. In other words, they must report what people who are interacting with services are saying about their rights being realised or not. Both of these suggestions fit into the notion that public bodies should be held to account via external, independent scrutiny – part of which should come from the people affected by public decision-making.

Participation should be incorporated into the reporting mechanisms put forward through a Human Rights Bill. This could work to prevent reporting processes from excluding the lived experience of family members.

**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?**

Public bodies must demonstrate compliance with economic, social, and cultural rights – as well as the right to a healthy environment – via MCOs and progressive realisation.

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

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<sup>14</sup> Human Rights Consortium Scotland (2023). Human Rights Consortium Scotland’s Guide to responding to the Human Rights Bill for Scotland Consultation, pg. 43. <https://hrcscotland.org/wp-content/uploads/2023/08/Final-HRCS-Guide-to-responding-to-Human-Rights-Bill-for-Scotland-consultation-August-2023-1.pdf>

Scottish Ministers should be required to publish a Human Rights Scheme – which is ultimately a list of key requirements regarding the implementation of rights outlined in the Human Rights Bill. Scottish Ministers will have the duty to report progress according to these key requirements, but in doing so they should consult with people with lived experience of their rights being breached within public services– such as family members affected by alcohol and drugs. Accountability for adhering to human rights standards should not remain solely within local, or even national, services, but should also apply to Scottish policymakers as well.

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

Front-line complaints handling mechanisms in public bodies should include the duties and rights laid out in the Bill.

**38. What are your views on our proposals to establish Minimum Core Obligations through a participatory process?**

We agree that MCOs should be established through a participatory process. Family members must be included in the defining of MCOs.

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

See our response to Question 26. Participation must be embedded in the reporting against a Human Rights Scheme, with family members being consulted on their experience being empowered by services to use their rights or having their rights breached.

**40. 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?**

Scrutiny around legislation coming from Parliament should be made more accessible to various communities across Scotland. For instance, while this consultation is essential to the developing of a Human Rights Bill for Scotland, it has not been made accessible for individuals who may have a lot to say about human rights in Scotland but may not have the time to respond to a 44-question consultation or have a deep understanding of human rights terminology and legislation.

The consultation suggests Government Bills, Members' Bill, and Committee Bills coming from Parliament should be accompanied by statements of compatibility, showing that they comply with rights laid out in the proposed Human Rights Bill. In addition, the Human Rights Consortium Scotland suggests that Scottish Ministers should conduct Human Rights Impact Assessments for any Bill introduced to Parliament<sup>15</sup>. Both of these would be a step in the right direction in terms of centring human rights within the decision-making of policymakers.

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

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<sup>15</sup> Human Rights Consortium Scotland (2023). Human Rights Consortium Scotland's Guide to responding to the Human Rights Bill for Scotland Consultation, pg. 67. <https://hrcscotland.org/wp-content/uploads/2023/08/Final-HRCS-Guide-to-responding-to-Human-Rights-Bill-for-Scotland-consultation-August-2023-1.pdf>

In the discussions Scottish Families participated in leading up to this response, the lack of public knowledge around this Human Rights Bill consultation – let alone human rights themselves – was brought up. Ensuring that human rights are accessible to everyone, regardless of who they are or where they come from, is necessary, to prevent people being treated differently based on their perceived power to easily impact change. This includes people who are not familiar with service jargon or procedures, people whose first language may not be English, people in the criminal justice system, people who are homeless, people who are stigmatised or discriminated against, and many more. Community awareness and campaigning in partnership with organisations that understand the needs of communities they work with is important for disseminating information around human rights. Investing in human rights training for communities and for frontline staff working within services is also vital. Human rights should be embedded in the initial training and continuing professional development of, for example, nurses, social workers, and police officers. The Charter of Patients' Rights and Responsibilities, along with various human rights legislation like the Human Rights Act 1998 and the proposed Human Rights Bill for Scotland, should be made readily available in waiting rooms and facilities. People interacting with services should be asked if they understand the rights they have. Raising awareness around various forums – such as carers forums – could serve to make links between people who may have similar experiences when it comes to their human rights.

#### **44. What are your views on monitoring and reporting?**

Monitoring and reporting of services should not rely on self-review or internal review. Public bodies and their service delivery should be monitored and reported through independent, external scrutiny. As one focus group attendee indicated, third sector organisations have to demonstrate compliance with how their work fulfils community needs, adheres to objectives, and upholds people's rights, and public bodies and officials should also be held to those standards through an external review process.

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