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11 October 2022

RE: Human Rights Incorporation Bill

Dear all

Thank you for your letter of 27 September to the First Minister, on the Scottish Government's plans for a new Human Rights Bill. The First Minister has asked that I respond given my portfolio responsibilities.

I am grateful to you for the support expressed for this Government's ambition to be world leading on human rights. I can assure you that our commitment to introducing a new Human Rights Bill within the lifetime of the current parliament remains undiminished and we will continue to prioritise this work.

Like you, I want to ensure the Bill is as strong and effective as possible and that we take the time to get things right. The scope and complexity of this area necessitates some further focus on developing the Bill's policy prospectus. Our proposals must also be clear and accessible, and demonstrate that we have made sufficient progress in building on the recommendations of the National Taskforce for Human Rights Leadership. This will lay the foundations for a better and more robust legislative process. We will use the next period to take forward this further development, before consulting formally on proposals in the first half of 2023. This includes consideration of access to justice issues, raising awareness and plans for implementation.

I recognise that further delay is a source of frustration and disappointment but hope you can appreciate the reasons for this.

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I am grateful for the patience and understanding that has been shown, as well as a continued commitment to bringing your expertise to the table, to inform the best possible Bill and outcomes for those we are seeking to improve the lives of.

I will now turn to the various asks in your letter.

Resource

The creation of a standalone Directorate for Equality, Inclusion and Human Rights in 2020 reflects the Scottish Government's continued emphasis on equality and human rights policy and practice. Delivery of the Human Rights Bill is a top priority within the directorate and as such the Bill team will be resourced accordingly.

Cross-government engagement

Recognising, as you do, the foundational importance of human rights I can confirm that work is underway to embed the development and policy thinking pertinent to this Bill across Government at official level. Whilst at Ministerial level, along with the Cabinet Secretary for Social Justice, Housing and Local Government, I will continue to engage with my colleagues on this work, and Cabinet will have an opportunity to consider and feed into the developing consultation.

Implementation

You emphasise the importance of preparing for implementation. I agree that this is crucial. The Bill's Executive Board, made up of senior figures from across Scottish public authorities, continues to be a key forum for exploring these important matters. Within that forum, we are exploring the establishment of an Implementation sub-group, drawn from organisational membership of the Executive Board and government colleagues working on rights-based implementation projects, to help lay the groundwork for more effective Bill implementation.

Our hope is that – by focussing on implementation at this early juncture in the legislative journey – it will create the necessary paradigm shift to foster increased human rights realisation in Scottish public life.

Wider engagement

Here the Bill Advisory Board will continue to be a vital arena that raises constructive challenge as the Bill is developed and consulted upon.

We will also continue to utilise the significant human rights technical and legal expertise that exists outwith government, to ensure that our thinking is routinely and robustly tested and to help inform proposals in advance of the consultation going live.

Furthermore, the Lived Experience Boards continue to produce invaluable work, underlining the importance of making the rights contained within a Human Rights Bill real.

Additional legislation

You ask that we do not hesitate to bring forward additional legislation that will support the realisation of the Human Rights Bill for the most marginalised groups of people.

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The Scottish Government is committed to improving the lives of people in these groups and the pursuit of a more equal and just Scotland, where human rights are protected, promoted and fulfilled.

UNCRC (Incorporation) Bill

Finally, you reference progress of the UNCRC (Incorporation) (Scotland) Bill.

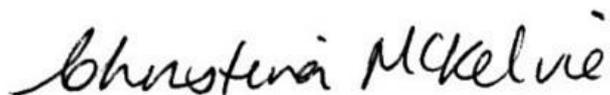
We have drafted amendments to the Bill to resolve the legislative competence issues and are working with parliamentary officials regarding the timetable and process for Reconsideration Stage. We are in the process of engaging with UK Government to give them the opportunity to discuss any concerns they might have about the proposed amendments. We would ideally like to have the reconsidered Bill passed before the end of the calendar year, but that will depend on whether the relevant Committees wish to scrutinise the amendments, and when the Parliament determines that the reconsideration stage itself will be held.

Discussions on all these aspects of the process remain ongoing given this is the first time a Bill has been reconsidered by the Scottish Parliament.

More widely, the ongoing work to build capacity for implementation of the UNCRC Bill is providing useful learning for implementation of the Human Rights Bill, with close working between the teams on these two vital pieces of legislation.

Thank you once again for your constructive letter. I hope this response is helpful and I look forward to our close and continued engagement.

Yours sincerely,



Christina McKelvie MSP
Minister for Equalities and Older People