



## SPICe briefing: Evidence session four

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## Today's meeting

Today's meeting is the fourth in a series of evidence sessions with the SPCB Supported Bodies. In this session, the Committee will hear from:

- Professor Angela O'Hagan, Chair, Scottish Human Rights Commission; and
- Jan Savage, Executive Director, Scottish Human Rights Commission

and then from

- Nicola Killean, Children and Young People's Commissioner Scotland;
- Gina Wilson, Head of Strategy, Children and Young People's Commissioner Scotland; and
- Nick Hobbs, Head of Advice and Investigations, Children and Young People's Commissioner Scotland.

The Committee has previously heard from:

30 January: The Commissioner for Ethical Standards in Public Life in Scotland and the Standards Commission for Scotland

6 February: The Scottish Public Services Ombudsman.

20 February: The Scottish Information Commissioner and the Scottish Biometrics Commissioner

## Introduction

The SPCB Supported Body Landscape Review Committee has been established in response to a recommendation in the Finance and Public Administration Committee's (FPAC) report on [Scotland's Commissioner Landscape: A Strategic Approach](#). The FPAC called for a review of the SPCB supported bodies, drawing on the evidence and conclusions set out in its report, and that the review should be carried out by a dedicated Parliamentary committee.

As agreed by motion S6M-15753, this Committee's remit is:

To consider, review and report on the SPCB supported bodies landscape in accordance with the Parliament's resolution of 31 October 2024 and develop a clear strategic framework to underpin and provide coherence and structure to the SPCB supported bodies landscape by the end of June 2025, including:

- (a) creating effective accountability and scrutiny mechanisms,
- (b) formalising strengthened criteria for creating new supported bodies; and
- (c) identifying and addressing any barriers to sharing services and offices.

To inform its inquiry the Committee is holding several evidence sessions with relevant experts including academics and SPCB supported bodies.

Additional background information can be found in the [SPICe briefing](#) from the meeting held on 30 January.

## **Supporting information for today's evidence session**

### **Scottish Human Rights Commission**

#### **Role and Responsibilities**

The [Commission](#) has a general duty to promote awareness, understanding and respect for all human rights – economic, social, cultural, civil, and political – to everyone, everywhere in Scotland, and to encourage best practice in relation to human rights. The Commission can recommend changes to law, policy, and practice; promote human rights through education, training, and publishing research; and conduct inquiries into the policies and practices of Scottish public authorities. The Commission is the only Scottish organisation that can make direct contributions to the UN Human Rights Council.

#### **Background**

The Scottish Commissioner for Human Rights Bill was introduced in the Scottish Parliament by the Scottish Government on 7 October 2005. The [Policy Memorandum](#) which accompanied this Bill provided information on the background to this Bill:

“In 1998, the European Convention on Human Rights was [ECHR] incorporated into Scots law through the Human Rights Act 1998 and the Scotland Act 1998. The Human Rights Act requires public authorities to comply with the ECHR, while the Scotland Act provides that actions of the Scottish Minister and Acts of the Scottish Parliament that do not comply with the ECHR are unlawful.

The incorporation of the ECHR into Scots law meant that the rights set out in it could be enforced through the Scottish courts. Incorporation made it significantly easier for individuals to seek legal redress for alleged breaches of their human rights under the ECHR, which in turn meant that ensuring compliance with the ECHR became a major issue for Scottish public authorities. This led to suggestions that Scotland should follow the example of a number of other countries by establishing a human rights commission to improve awareness of, and compliance with, human rights.

In March 2000 the Lord Advocate and the then Minister for Justice stated that the Executive was considering the establishment of a human rights commission. This was followed by a formal announcement in June 2000 that the Executive would launch a public debate on the issues involved. Public consultations were held in 2001 and 2003, and the Partnership Agreement of 2003 that set out the Executive's programme for the period to 2007 included a

commitment to establish a human rights commission for Scotland. It is that commitment that the Bill is intended to deliver.”

In the context of discussion around the proposed UK equality and human rights commission, the policy memorandum states that the creation of a separate Scottish human rights commission was regarded as necessary in part because the legal obligations in relation to human rights placed on Scottish Ministers and Scottish public authorities were considered more onerous than in the rest of the UK. Therefore, a distinctive Scottish commissioner was considered to be necessary to reflect that different legal framework.

## **Statutory powers**

The Commission’s duties and powers are set out in the Scottish Commission for Human Rights Act 2006. The Commission’s general duties and powers are to recommend changes to law, policy, and practice; promote human rights through education, training, and publishing research; and to conduct inquiries into the policies and practices of Scottish public authorities.

The Commission also has the powers to:

- conduct inquiries into the policies or practices of Scottish public authorities;
- enter some places of detention as part of an inquiry;
- intervene in civil court cases where relevant to the promotion of human rights and where the case appears to raise a matter of public interest.

Further supporting information is provided in the Commissioner’s written submission (annexe B)

## **Children and Young People’s Commissioner Scotland**

### **Role and Responsibilities**

The purpose of the Children and Young People’s Commissioner Scotland [is to](#) protect and promote the human rights of children and young people. The Commissioner and her team review law, policy, and practice in relation to the rights of children and young people, promote best practice, research issues around children and young people’s human rights, investigate some issues affecting children’s human rights, and report to the Scottish Parliament on its work. The Commissioner carries out participation work including listening to its Young Advisors, children aged 12-17 from across Scotland who meet online and in person to share their views.

### **Background**

The Commissioner was established by [the Commissioner for Children and Young People \(Scotland\) Act 2003](#). The [SPICe briefing](#) published as part of the Bill’s introduction sets out the background to the Bill being introduced:

- 2000: Following a memorandum from the Scottish Executive on the case for a Children's Commissioner, the [Education, Culture and Sport Committee](#) [agreed to conduct an inquiry](#) into the need for a Children's Commissioner in Scotland, and what the roles and responsibilities of a Scottish Children's Commissioner might be. The consultation period ran from May 2001 - February 2002. The [report](#) was published by the Education, Culture and Sport Committee on 4 February 2002. It recommended that "An office entitled "Commissioner for Children and Young People" should be established by statute."
- 2002: The Commissioner for Children and Young People (Scotland) Bill was introduced in the Scottish Parliament by the Education, Culture and Sport Committee on 14 February 2002. Under the Parliament's Standing Orders, the Bill was considered by a dedicated Committee called the Commissioner for Children and Young People (Scotland) Bill Committee.
- 2003: The Bill was passed on 26 March 2003 and became an Act on 1 May 2003.
- 2014: The Commissioner's powers were modified as part of the [Children and Young People \(Scotland\) Act 2014](#). Before the Act the Commissioner could only use the power of investigation to investigate cases involving the human rights of **groups** of children and young people. After the Act the Commissioner could also investigate cases affecting the human rights of an **individual** child or young person.

When considering the need for a Children's Commissioner in Scotland, one of the arguments put forward to the [Education, Culture and Sport Committee](#) was that there was no adequately comprehensive mechanism for monitoring Scotland's compliance with the United Nations Convention on the Rights of the Child (UNCRC).

Other arguments considered in the course of the inquiry included: the position of the child and their vulnerability to ill-treatment by adults; the lack of significant political, economic and social power in society for many children; the lack of a mechanism for co-ordination, monitoring and promotion of children's issues in a systematic way; public awareness of rights and welfare specific to children; the fact that no one office was responsible for collating children and young people's views and advocating for them at a national level; and insufficient direct mechanisms at that time for children and young people to be heard and to express their views in policy processes.

Regarding potential overlap with other public advocacy services, the 2002 Report ["Inquiry into the Need for a Children's Commissioner in Scotland"](#) addresses the roles of the Children's and Youth Parliaments, Children's Rights Officers, and the Scottish Child Law Centre's advice line. The Education, Culture and Sport Committee concluded, "...that extension of key information and advocacy services could address the issue of powerlessness to some extent, but that without a new office focussing exclusively on children and young people, there would be no mechanism to translate any additional power given to children and young people into action on their behalf."

## Statutory functions

The written submission from the CYPCS explained the Commissioner's broad powers and functions in more detail:

- “promote awareness and understanding of children’s rights
- keep under review law, policy and practice relating to the rights of children and young people with a view to assessing its adequacy and effectiveness
- undertake research on matters relating to children’s rights and promote best practice by service providers
- carry out investigations into the extent a service provider has regard to children’s rights
- power to intervene in legal proceedings or to bring proceedings in our own name on a range of different children’s rights issues
- consult children and young people on the work we do and pay special attention to groups of children and young people who have difficulty in making their views and experiences known”.

The submission suggests that the role and powers of the CYPCS allow them to work with children and young people in a way other offices cannot. It provides the example of the [Mental Health: Counselling in Schools investigation](#) as being the first time a commission or commissioner’s investigation powers have been directly exercised by children and young people (anywhere in the world).

Further supporting information is provided in the Commissioner’s written submission (annexe C)

## Theme One: Role of SPCB Supported Bodies

### The Scottish Human Rights Commission (SHRC)

The written submission provided by The Scottish Human Rights Commission (Annexe B), sets out the following key points:

- The Commission’s role is as Scotland’s UN accredited independent National Human Rights Institution (NHRI) as well as supporting Parliament as “the ultimate guarantor of human rights”.
- The Scottish model of the National Human Rights Institution (NHRI) as an office holder of Parliament rather than a body sponsored by a department of Government is the only NHRI in the UK established this way.
- The structure of the SHRC is distinct from most other officeholders, as it is a 'commission' model as opposed to a 'commissioner'. This is a requirement of the UN accreditation system, which requires a 'pluralist' membership to

“reflect diversity of representation and the experiences of all members of society”.

## **The Children and Young People’s Commissioner Scotland (CYPCS)**

The written submission provided by The Children and Young People’s Commissioner Scotland (Annexe C), sets out the following key points:

- There is collaboration between the Children’s Commissioners for England, Scotland, Wales and Northern Ireland. This, it suggests, is especially important as the Children’s Commissioner for England has a UK-wide remit regarding non-devolved issues.
- The CYPCS is a full member of the European Network of Ombudspersons for Children achieved by fulfilling criteria as an independent children’s rights institution:
  - Established through legislation approved by parliament, providing independence.
  - Has the function established through legislation of protecting and promoting children’s rights.
  - The legislation does not contain provisions that limit the institution’s ability to set its own agenda in relation to this function, or which prevent it carrying out significant core functions suggested in the Paris Principles and ENOC’s Standards.
- It has a recognised role within the UN treaty body reporting cycles, particularly the UN Committee on the Rights of the Child.

## **Theme Two: Criteria for creating new supported bodies**

In previous evidence sessions, the Committee has discussed the criteria for SPCB supported bodies that was proposed by the Session 2 Finance Committee (annexe A). Key evidence and contributions include:

- The Session 6 Finance and Public Administration Committee (FPAC) inquiry into the SPCB Supported Bodies Landscape, found that the criteria were not being applied as intended.
- The Scottish Government is developing a framework designed to ensure that decisions around the creation of new public bodies are made based on evidence and value for money against the backdrop of significant pressure on public spending. The draft [Ministerial Control Framework](#) was shared with the FPAC as part of its inquiry.
- The Commissioner for Ethical Standards in Public Life in Scotland and the Standards Commission for Scotland suggested that the focus should be on the intended outcomes rather than simply addressing a need. They also

highlighted the importance of affordability, cost effectiveness, and the ability of existing bodies to address any gaps.

- The SPSO proposed three additional criteria that would “update and modernise” the proposed criteria:
  - the function or body should either logically sit with the existing functions of a current [SPCB supported body], or be a role that requires the direct relationship with Parliament either because of the nature of the role and/ or international standards.
  - what is the demonstrable gap in service/ oversight that the role will address. In oral evidence, the SPSO suggested conducting a “gap analysis” as part of the consideration for any new commissioner.
  - what other options for achieving independence from government have been explored and why are they not suitable.
- These views are echoed in the written evidence from the Scottish Biometrics Commissioner (SBC) and the Scottish Information Commissioner (SIC):
  - The SIC states that the original approach of the Session 2 Finance Committee “makes intrinsic sense”, and the SBC agreed that criteria were correct, however, it believes that before looking at criteria, there should “be a presumption against creating a new commissioner and ... SPCB funding permanent staff headcount growth within existing supported bodies unless Parliament significantly alters their remit.”
  - The SBC also stressed the importance of objectivity in decision making. highlighting the potential difficulties of politicians making decisions solely on merit, impartially and without discrimination or bias.
  - The SBC also “encourages the Parliament to put budgetary control measures in place to ensure that the landscape does not grow exponentially over this parliamentary session and beyond.”

The SHRC suggests in its written response that the “criteria could be improved”, and that the following should be considered when looking at criteria for new SPCB supported bodies:

- Assessment of any gaps in existing office holder mandates and resources
- Multi-Committee scrutiny process for proposals, which involves the lead policy Committee, the Public Finance and Administration Committee and the Scottish Parliament Corporate Body
- whether the proposed function could be delivered by amending the mandate/resources of existing office holders
- Applicable shared services



The written response from the CYPSC also proposed several suggestions “intended to improve the scrutiny of alternative options to the creation of a new Parliamentary Supported Body” including:

- determining whether the role requires a direct relationship with parliament, either because of the nature of the role or to comply with international standards.
- evidencing what other options for achieving independence from government have been explored and why are they not suitable.
- demonstrating what gap in service or oversight the role will address.
- enhancing the powers and resources of existing officeholders, rather than creating new ones.
- a detailed focus on the legislation that creates these new bodies to ensure that any new duties do not duplicate or inhibit the essential independence of existing bodies.
- robust financial modelling and sufficient resource to enable meaningful delivery of the statutory remit and functions of new bodies, ensuring the body also represents an effective use of public resources.

Both the SHRC and CYPSC highlight in the written statements that they believe the recent increase in calls to create new SPCB supported bodies derives from failings in how people exercise their rights within public services.

The CYPSC said: “the rapid increase in calls to create new policy, interest-group or rights-based Commissioners highlight serious failings in the way people currently experience their rights within public services. There are clear implementation gaps in Scotland between policy and practice. We have a collective responsibility to better understand and address ineffective policy implementation.”

The SHRC said: “[...], whilst there are many factors which have resulted in the calls for new Commissions/ers, in the main, persistent lack of access to justice, at individual and systemic level, is the driving reason behind the calls for the creation of new public bodies to address these issues.”

### **Theme Three: SPCB supported bodies model**

In the previous evidence sessions, the Committee considered the current landscape of SPCB supported bodies and is exploring alternative models.

These discussions were informed by a question posed to the SPCB supported bodies in their written submissions, which asked them to describe the optimal model and structure for commissioners, including the key features such a model should encompass.

Previous witnesses have varied in their responses however all acknowledged the difficulty in creating “an optimal model for Commissioners” due to the variety of functions that they each hold.

In previous evidence sessions the Committee also explored the idea of a “one-stop shop” or an office of public trust. This could help people identify which SPCB supported body to approach for help through a ‘front end’ which could signpost people to the information they need.

The Scottish Biometrics Commissioner also provided six specific recommendations for the Committee to consider:

- 1) “There should be no full-scale mergers of any of the existing seven independent officeholder functions supported by the SPCB.
- 2) Consideration should also be given to alternative ‘sector-specific’ shared services models and collaborative working
- 3) An SPCB supported bodies estates strategy should be developed to significantly minimise the property rental footprint
- 4) There should be a presumption against the appointment of any new Commissioners/ Commission/ Ombudsman by the Parliament.
- 5) As a general theme, the frequency of scrutiny should be improved by committees and the SPCB, and both should continue to intrusively probe any non-salary growth bids.
- 6) Scottish Ministers and the Parliament should review the functions of all SPCB supported bodies every 5 years.

## **The Scottish Human Rights Commission**

During its related inquiry, the FPAC heard evidence from SHRC that suggested an expansion in functions to include ‘rapporteurs’ for specific groups. The FPAC’s Report on Scotland’s Commissioner Landscape: A Strategic Approach states:

“The Committee notes a proposal from the SHRC that its functions should be expanded to include ‘rapporteurs’ to represent and support the rights of specific groups of society. Those in favour of the approach argued that this intersectional ‘champion’ approach could prevent people “falling through the gaps”, and the ALLIANCE, who said it is “... quite taken with the model” as it “might address some of the concerns about not having a dedicated voice” Others, such as the [National Autistic Society Scotland]”

The written submission from the SHRC to the SSBLR Committee explained elements of shared approaches could be further encouraged:

“While we cannot comment on other organisations, we have reflected on the role of the SHRC with the general duty of promoting human rights in Scotland, and whether this role is operating optimally within the current office holder model. Our 2023 report ‘[At a Crossroads](#)’ and our [submission to the Scottish Government proposed Human](#)

[Rights Bill consultation](#) (October 2023) makes clear that there is an international evidence base of more pluralist Commissions with a greater number of members, supported by enhanced monitoring teams, and enabled by more powers to enforce legal action, compel information, or issue binding guidance. Adjustments to the SCHR Act 2006 on these elements would secure a more comprehensive and cohesive national human rights institution in the office holders' landscape, with greater agility to meet emerging human rights priority areas or groups of people whose rights are most at risk.”

The SHRC submission also highlighted that:

- functional independence, decision making are critical to SPCB supported bodies and should be protected.
- elements of commissioning of services, audit and oversight, and structural services such as human resources support that might be provided by the SPCB
- The SHRC already works closely with other scrutiny bodies including the Scottish Housing Regulator, Audit Scotland, and the Mental Welfare Commission

## **The Children and Young People’s Commissioner Scotland**

During its related inquiry, the FPAC explored whether the CYPCS should be part of any SHRC ‘rapporteurship’ rights-based model. The FPAC report highlights the following responses to this question.

- the Convener of the Education, Young People, and Skills Committee suggested that “having a commissioner that large with a remit as broad as that, would not allow for advocacy for young people, who often feel unheard at the best of times without their perspective being diluted by all those other things”
- the CYPCS said “... merging the Children’s Commissioner into an adult-focused organisation would be a backward step for Scotland”.
- Other arguments for retaining the CYPCS as a separate entity included children having no democratic or economic rights, and the office being recognised by the UN as an Independent Children Rights Institution.

The CYPCS written submission discusses the importance of its position as an independent body:

- “Promoting human rights requires CYPCS to be critical of existing practices, policies and legislation which means being able to challenge those who make them, including the Government, Local Authorities and other Public and Private Bodies. It is of paramount importance that we are able to maintain our independence.”

- It describes the joint working model with other UK Children’s Commissioners through which it “shares learning across the jurisdictions, collaborate and discuss issues of mutual concern which affect the rights of children and young people.” It also highlighted the importance of the relationship with the Children’s Commissioner for England when it comes to non-devolved issues.
- The submission also draws on evidence from other UK Children’s Commissioners to highlight the role of the CYPCS. The NI Commissioner for Children and Young People urges against merging offices as it would be taking “retrogressive steps in relation to the CYPCS” and “distract from the focus on the rights of children and young people.”

## **Theme Four: Effective functioning**

This theme focuses on the suitability of the existing remit and powers of the SPCB supported bodies, and whether the current reporting mechanisms are suitable in demonstrating effectiveness. It also covers potential improvements to the SPCB supported body landscape such as the effective sharing of services.

Contributions to date regarding powers and reporting mechanisms include:

- Ethical Standards Commissioner: confirmed its legislative remit is adequate but again noted the importance of independence in his role.
- Standards Commission: suggested the Commission has a tight remit and suggested potential changes to its powers to improve efficiency, such as the ability to dispose of cases without a full hearing.
- Scottish Public Services Ombudsman: In written evidence said “I am limited to investigating the complaints made to me. While I can ‘research’ emerging themes and trends, without own initiative powers I cannot require organisations (and individuals if necessary) to provide me with information.”
- Scottish Information Commissioner: Noted the current timeline allows for lag between annual reports and committee scrutiny.
- Scottish Biometrics Commissioner: Highlighted that there is a need to maximise officeholders, and this does not always require increased cost.

The above SPCB supported bodies acknowledged the importance of scrutiny and accountability, and in their written and oral evidence provided examples of their reporting mechanisms.

## **Functions and Powers**

As stated in the SHRC written submission, it has called for its powers and mandate to be strengthened to enable the SHRC to:

- “Provide legal advice

- Raise legal proceedings in its own name
- Conduct investigations
- Conduct inquiries in less limited circumstances
- Require and compel information
- Make unaccompanied and unannounced visits to any human rights duty bearer
- Hold public hearings and require duty bearers to be present
- Issue binding guidance
- Recruit more members of the Commission”

The CYPCS also highlighted several concerns in its written statement related to its role and powers:

- Due to its enabling legislation, it can be difficult to compel a response from duty bearers as only the formal investigation powers include a requirement to respond.
- There is currently no requirement for anyone to respond to recommendations from the CYPCS laid out in its Annual Reports
- The Scottish Government has declined to respond to the Commissioners recommendations for annual updates on the Children’s Scheme (UNCRC Incorporation Act),

### **Collaboration and Shared Services**

In the Committee’s previous evidence sessions witnesses gave evidence in support of the shared services at Bridgehouse.

- The SPSO highlighted that this arrangement is positive in efficiency terms as it creates savings through running one site instead of four.
- The SPSO also highlighted the benefit it brings to smaller SPCB supported bodies such as the Scottish Biometrics Commissioner, that now benefits from higher quality services including financial processing, HR, ICT support and facilities management services. The SBC re-iterated these points in its written submission, describing its function as “intentionally ‘lean by design’”.
- The SBC also suggested examining the potential of shared services outwith the SPCB supported officeholders to wider sector-specific shared-services opportunities including with the independent officeholders supported by Scottish Government.

This was echoed by the CYPCS and the SHRC submissions that detailed similar benefits to co-location in Bridgeside House. CYPCS also said that it leads on and is the holder of the joint contract for payroll services procured in partnership with the SPCB. It has also opened the joint contract up to other government bodies at no additional cost to the shared group

Key evidence around collaboration from the SHRC written submission:

- The [SHRC has a duty to](#): 'seek to ensure, so far as practicable, that any activity undertaken by it under this Act does not duplicate unnecessarily any activity undertaken by any other person under any other enactment.'
- The SHRC operates an established Memorandum of Understanding (MoU) with the Equality and Human Rights Commission (EHRC)
- As a result of the UNCRC (Scotland) Act 2024, a formal MoU between the Children and Young People's Commissioner (CYCPS) and the SHRC will be developed in 2025.
- Greater information sharing across mandates should be strengthened between SPCB supported bodies
- Shared services provide best value
- Shared Services Infrastructure should be explored further for current and future SPCB supported bodies

The SHRC also include the four ways it collaborates formally:

- Shared office accommodation and facilities management, managed by SPSO
- Shared Services Arrangement with SPSO, who provide financial transactions, payroll, HR advice, and some core learning and development
- Through the Officeholders Shared Services Network (OSSN) the SHRC Head of Corporate Services meets quarterly with equivalents from each of the other SPCB supported officeholders sharing insight on emerging policy and practice developments common to public bodies, such as accessibility, ICT, and procurement processes.
- Officeholders and accountable officers meet on a "regular basis" to discuss issues of mutual interest and to explore other opportunities to work together and pool resources.

## Theme Five: Accountability and scrutiny mechanisms

The Committee has been exploring the existing accountability and scrutiny arrangements of the current SPCB supported bodies.

Previous evidence gathered by the Committee suggests the following improvements to scrutiny:

- Scrutiny sessions should be held with the relevant officeholder annually as a minimum
- Scrutiny sessions should be scheduled in the period between November and March each year, after the relevant annual reports and accounts have been laid.
- The SPCB should take evidence from SPCB supported bodies twice annually
- One of those scrutiny sessions should be exclusively on budgets and should be sequenced between the submission of the budget bid for the following year.

### Performance Measurement

The SHRC explained its performance measurement procedure in its written submission:

- Uses KPI targets and thematic priorities to demonstrate progress to achieving the objectives of the three key strategic themes in its 2024-28 Strategic Plan.
- In 2024/25, for the first time the SHRC published an annual Operational Plan, outlining the activities it would deliver to achieve the objectives of the 2024-28 Strategic Plan.
- In 2025 SHRC will publish an outline Theory of Change and annual progress will be captured in its Annual Reports

In its written submission, the CYPSCS describes its reporting on performance:

- Creates a strategic plan every four years which SPCB is consulted on before the plan is laid to Parliament
- Its work is both proactive and reactive and therefore delivery and prioritisation of work is “by necessity dynamic”
- Measure outcomes via several avenues including a “Strategic Litigation Toolkit”, the passage of Bills in Parliament, and feedback from session participants
- Focusing on “how our work has contributed to change, rather than establishing direct causation. This involves creating case studies or records

on specific areas of our work in which we review our activity, outputs, recommendations and outcomes.”

- The CYPCS stress the importance of this because a “lack of action by those with the power to deliver change is not a reason for us to stop pressing for change where there are serious children’s human rights breaches.”

## The Scottish Human Rights Commission

The SHRC currently has five layers of scrutiny and assurance of its Governance functions and delivery to its mandate:

1. Audit and Risk Committee
  - a. Internal Audit four times per year
2. External Audit
  - a. Annual external audit reviewed by the Auditor General.
3. SPCB Scrutiny
  - a. Accountable Officer meets on a “regular basis” with SPCB staff to provide reassurances on how the Commission is meeting its statutory mandate and public body assurance requirements in broad terms
  - b. Submission of the annual budget and any contingency bids, and its strategic plan
  - c. Receives feedback on four year strategic plan
4. Equalities, Human Rights, and Civil Justice Committee (EHRCJC)
  - a. Annual evidence session with the SHRC. The three most recent in this parliamentary session were held on [6 December 2022](#), [16 January 2024](#), and [14 January 2025](#).
  - b. Areas covered during the sessions have included: the SHRC’s strategic priorities; annual accounts; budget for staffing and resources; powers and functions of the SHRC; monitoring of the SHRC’s performance; the SHRC’s work programme and priorities for the year, and the impact and engagement of its work.
  - c. The most recent [Annual Report](#) was 2023/24.
  - d. The most recent [Strategic Plan](#) was published in 2024 for the years 2024-28.



5. United Nations System

- a. Thoroughly evaluated with reference to the Paris Principles every four to five years

The SHRC also stated that “accountability arrangements in the Scottish Parliament about the impact, function and development of the SHRC would benefit from greater cross-Committee engagement”.

## **The Children and Young People’s Commissioner Scotland**

CYPCS is scrutinised by the Education, Children and Young People Committee, SPCB and its stakeholders including its Young Advisors Group. The more recent [Parliamentary Committee scrutiny session was held on 17 April 2024](#).

In its written submission, the CYPCS addresses the following:

- Historically it has not always had yearly scrutiny by its lead Committee
- It views Committee scrutiny as “a mutually beneficial engagement” to discuss progress and gaps
- There is a need to balance the importance of the CYPCS independence from government and effective scrutiny by Parliament

The CYPCS also undergoes both external and internal audits which it describes in its written response as follows:

- External Audit
  - Audit Scotland
  - Independent audit of the accounts and performance
  - Advisory Audit Board (AAB)
    - provides oversight, and the audit report and plan are approved via this mechanism and provided to the SPCB.
    - in accordance with the Accounts Direction from Scottish Ministers and
    - requires the office to produce an Annual Report and Accounts
- Internal Audit
  - The CYPCS also appointed an internal auditor on a three-year term,
  - this is a relatively new requirement within its governance and commenced in 2023-24.

- The office undertook two internal audits last year in addition to the requirements of external audit.
- Communication and Governance was audited in the first year and the outcome reports were provided to the AAB via its formal yearly meeting to approve the Annual Report and Accounts.
- It is currently in the process of auditing procurement and will soon start its audit on GDPR.

The CYPSC also publish [Annual Report and Accounts](#) on its website.

**Kelly Eagle, Senior Researcher, SPICe Research  
February 2025**

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The Scottish Parliament, Edinburgh, EH99 1SP [www.parliament.scot](http://www.parliament.scot)

## **Annexe A: Session 2 Finance Committee criteria for SPCB supported bodies**

The Session 2 Finance Committee proposed tests for the creation of future SPCB supported bodies; firstly, that any future bodies should not duplicate a role already being carried out, and secondly, for bodies to be designated as parliamentary commissioners, the following criteria or guiding principles should be met—

- **Clarity of Remit:** a clear understanding of the officeholder's specific remit,
- **Distinction between functions:** a clear distinction between different functions, roles and responsibilities including audit, inspection, regulation, complaint handling, advocacy,
- **Complementarity:** a dovetailing of jurisdictions creating a coherent system with appropriate linkages with no gaps, overlaps or duplication,
- **Simplicity and Accessibility:** simplicity and access for the public to maximise the “single gateway/one-stop shop” approach,
- **Shared Services:** shared services and organisational efficiencies built in from the outset; and
- **Accountability:** the establishment of clear, simple, robust, and transparent lines of accountability appropriate to the nature of the office.

## **Annexe B: Written submission, Scottish Human Rights Commission**

**Scottish Human Rights Commission written submission, dated 13 February 2025**

### **Executive Summary**

The Scottish Human Rights Commission (SHRC) welcomes the opportunity to submit written evidence to the SPCB Supported Bodies Landscape Review Committee. It is the Commission's assessment that:

Improved exploration of purpose and outcomes of the SHRC will support the Scottish Parliament and the people of Scotland understand the role of the SHRC in being an independent voice which a) promotes human rights for everyone, and b) supports the Parliament to discharge its duty as the ultimate guarantor of human rights in Scotland

Accountability arrangements in the Scottish Parliament about the impact, function and development of the SHRC would benefit from greater cross-Committee engagement

Greater information sharing across mandates could be encouraged through the office holder network

Office holder services within the Scottish Parliament Corporate Body are an essential part of ensuring good governance arrangements, and must be strengthened.

Shared Services are critical from a best value perspective. The SHRC has adopted this through a Shared Services Agreement with SPSO since April 2023, but we highlight that this aspiration for others requires a robust and agile infrastructure to be in place for new and existing office holders to adopt.

Building on current experience, an options appraisal around the Shared Services Infrastructure should be explored further, including consideration of whether this could become a function of an enhanced office holder services model within SPCB and/or develops further as a function of an existing office holder.

Consideration might be given to a multi-Committee scrutiny process for proposals for new Commissions, which involves the lead policy Committee, the Public Finance and Administration Committee and the Scottish Parliament Corporate Body. An additional criteria could be considered to require an options appraisal of whether the proposed function could be delivered by amending the mandate/resources of existing office holders.

Whilst there are many factors which have resulted in the calls for new Commissions/ers, overall, persistent lack of access to justice, at individual and systemic level, is the driving reason behind the calls for the creation of new public bodies to address these issues. Assessment of any gaps in

existing office holder mandates and resources in pursuit of access to justice for all must be a necessary part of the consideration of the optimum model for office holders.

We therefore invite the Committee to consider this within the context of its Inquiry, and we note the recent letter from the Convener of the Equalities, Human Rights and Civil Justice Committee to the Convener of the SPCB Supported Bodies Inquiry.

We highlight to the Committee that this has been a persistent recommendation of the Global Alliance of National Human Rights Institutions (GANHRI) in its accreditation of the Commission as an A status National Human Rights Institution (NHRI). The SHRC's next accreditation process is due in August 2025.

We also use this opportunity to provide Committee members with some wider context in relation to the SHRC, in particular:

our role as Scotland's UN accredited independent National Human Rights Institution,

our role in supporting Parliament as the ultimate guarantor of human rights; and

the areas where the SCHR Act 2006 could helpfully be amended to strengthen the SHRC's ability to deliver its general duty to promote the human rights of everyone in Scotland.

Whilst recent amendments as a result of the UNCRC (Incorporation) (Scotland) Act 2024 to enable the SHRC to intervene in more cases and to raise own name litigation are a welcome start; it is critical to extend these additional routes to access justice to all people in Scotland, beyond children and young people.

## **About the SHRC model**

The Scottish Human Rights Commission was created by the Scottish Parliament through the [Scottish Commission for Human Rights Act 2006](#), and its legislative mandate has not been substantially reviewed since. It is Scotland's National Human Rights Institution (NHRI), as accredited by the United Nations system. The SHRC is independent from Government and Parliament, but is accountable to the Scottish Parliament.

Office Holder model: The independence of the SHRC is essential to fulfilling its functions. The promotion of human rights may require it to be critical of existing practices or provide critical advice in relation to policies and legislation enacted by the Parliament or Government without fear or favour. The Scottish model of the NHRI as an office holder of Parliament rather than a body sponsored by a department of Government is considered gold standard in the international human rights community; and indeed, is the only NHRI in Great Britain and Northern Ireland which is established in this way.

Commission model: The structure of the SHRC is distinct from most other officeholders, noting that the Standards Commission is the other multi-member 'commission' model as opposed to a 'commissioner'. This is a requirement of the UN accreditation system, which requires a 'pluralist' membership to reflect diversity of representation and the experiences of all members of society. The SHRC comprises of a Chair, who is a Crown appointment, and up to four members Commissioners, all of whom are appointed by the SPCB on behalf of the Scottish Parliament. As a group, they set the strategic direction of the Commission and oversee the delivery of the Commissions' work through its staff team, led by an Executive Director, who is also Accountable Officer.

SHRC mandate and resource: The SHRC has a broad mandate, and modest resource to deliver it. Its general duty is to promote human rights for everyone in Scotland, and it does this by monitoring the enjoyment of the specific rights afforded to all people through:

the European Convention on Human Rights, given effect domestically through the Human Rights Act 1998 and the Scotland Act 1998;

the International Covenant on Civil and Political Rights;

the International Covenant on Economic, Social and Cultural Rights;

the UN Convention on the Rights of Persons with Disabilities;

the UN Convention on the Elimination of All Forms of Discrimination Against Women;

the UN Convention on the Elimination of All Forms of Racial Discrimination;

the UN Convention Against Torture;

the UN Convention on the Rights of the Child<sup>1</sup>

the European Social Charter; and

the Council of Europe Convention on Preventing and Combatting Violence Against Women and Domestic Violence.

## **National Human Rights Institutions**

The SHRC is accredited as Scotland's National Human Rights Institution (NHRI), and is part of a global network of NHRIs. As defined by the United Nations, NHRIs are a critical part of the human rights system; they are the cornerstone of domestic human rights protection systems and serve as a bridge between international human rights norms and the State. NHRIs are unique and do not resemble other parts of government or other public authorities. Of paramount importance for their functioning, NHRIs must be independent institutions. If the work and performance of NHRIs are regulated in law, such regulation must not compromise its ability to perform its role independently and effectively.

NHRIs are assessed and accredited based on the UN Principles Relating to the Status of National Human Rights Institutions (the “Paris Principles”). The Principles constitute a set of internationally recognised standards to assess the credibility, independence and effectiveness of NHRIs and were adopted by the United Nations General Assembly in 1993.

The key pillars of the Paris Principles are pluralism, independence and effectiveness. Overall, the Principles indicate that:

NHRIs should have a broad mandate to enable them to promote and protect all human rights;

They should have broad functions enabling them to deliver on their mandate;

Pluralism being a key pillar on which NHRIs are founded, the composition of NHRIs should reflect the “social forces (of civil society) involved in the protection and promotion of human rights”;

NHRIs should have adequate resources to ensure the funding, staffing, infrastructure and institutional capacity to perform their functions and discharge their responsibilities;

NHRIs should work cooperatively, recognising that effective human rights work requires NHRIs to collaborate with other state institutions, NGOs and civil society groups.

Since 2010, the UN system has accredited the SHRC as Scotland’s NHRI with an ‘A status’. This means that it has determined that it complies with all aspects of the Paris Principles given its structure of governance, accountability, and independence. It has however consistently made recommendations that the SHRC’s mandate should be strengthened, and that its resource be reviewed in line with the ambition of its current mandate. The Commission is next accredited in August 2025.

## **Working with Parliament**

The SHRC’s role as an NHRI supports the work of the Scottish Parliament in protecting people’s rights. Principles for effective working between NHRIs and Parliament have been supported by the Office of the High Commissioner for Human Rights and encouraged by the UN Human Council (the Belgrade Principles)<sup>2</sup> as well as by the Inter-Parliamentary Union.<sup>3</sup>

In line with these principles, the SHRC monitors parliamentary proceedings and provides advice intended to support effective parliamentary consideration of human rights law. As mentioned previously, NHRIs are often referred to as ‘bridge’ institutions. In this role, we provide insight from international human rights law and practice to support stronger domestic accountability and report on domestic human rights practice internationally to support accountability.

Almost all policy decisions raise a number of human rights standards from one or multiple treaties. The SHRC can provide Members of the Scottish Parliament and other decisionmakers with an independent analysis of which rights could fall within

the scope of legislative proposals. To assist MSPs in their deliberations, we provide an assessment of which tests apply, for example whether a right is absolute and therefore whether a threshold is or could be met, or whether and what factors have to balance against one another to prevent violations.

We also monitor how well people in Scotland are enjoying their rights as protected under the ECHR and the treaties listed above, and we provide evidence to the Scottish Parliament on our findings to inform Parliamentary business and Committee sessions. Over the period 2024-2025, the SHRC issued the following monitoring reports to the Scottish Parliament and its Committees:

- [Review, Recommend, Repeat](#) assessing progress over the last decade in implementing recommendations of international human rights bodies to improve compliance with human rights obligations in Scotland's places of detention
- [An assessment of Economic, Social and Cultural Rights across the Highlands and Islands](#)
- [State of the Nation report](#) - focusing on the status of rights protected under the International Covenant on Civil and Political Rights
- [Tick Tock - a human rights based assessment of progress towards moving from institutions to the right to independent living](#), in line with Article 19 of the UN Convention on the Rights of Disabled People

## Measurement and prioritisation of outcomes

### **How do you measure and demonstrate outcomes, and how are these outcomes selected and prioritised? What improvements could be made to this process?**

The SHRC's vision is for a fairer Scotland, where human rights are protected and understood, and there is justice when things go wrong. The Scottish Commission for Human Rights Act 2006 establishes that our statutory duty is to "promote human rights and, in particular, to encourage best practice in relation to human rights."<sup>4</sup>

Our legislation also requires the SHRC to develop a strategic plan for a 4 year period, setting out its objectives for the period to fulfil its general duty.<sup>5</sup>

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Our legislation also requires the SHRC to develop a strategic plan for a 4 year period, setting out its objectives for the period to fulfil its general duty.<sup>7</sup>

The SHRC is currently in Year 1 of its [2024-2028 strategic plan](#). As required by Section 7 of our enabling legislation, the Commission consulted with the Scottish Parliamentary Corporate Body on its content as a draft, which was informed by consultation with civil society and key stakeholders as follows:.

- Commissioned research: To help us understand what people think about human rights and how they access help and support we commissioned two
- new pieces of research: [Attitudes to Human Rights In Scotland](#); and; [Access to Justice for Everyone](#).
- Action research: We identified new [spotlight projects](#) in 2023-24 to deepen our understanding of key human rights situations in Scotland, including places of detention, the deinstitutionalisation of people who have learning disabilities and/or who are autistic, and the experience of people and communities in the Highlands and Islands in relation to their economic, social and cultural rights.
- Leading public debate: We prompted stakeholder discussions about gaps in accountability in the human rights system in Summer 2023 with our publication [At A Crossroads](#), which considered the themes emerging from the increasing number of proposals for new Commissions/ers to engage with human rights for specific groups, e.g. Older People's Commissioner, Disability Commissioner.
- Internal review: We commissioned an [Independent Governance Review](#) published in September 2023 and completed an internal review of participation with the Commission.

Internal consultation: Commissioners and staff participated in strategy away days in February 2023, October 2023 and November 2023.

Human rights monitoring: We reviewed available evidence including: Scotland's second National Action Plan for Human Rights (SNAP2); treaty monitoring cycles, particularly the International Covenant on Civil and Political Rights (ICCPR) (2019/20); the International Covenant on Economic, Social and Cultural Rights (ICESCR) (2022/23), and the Equality and Human Rights Commission (EHRC) 2023 Monitor.

Peer human rights organisations: We engaged with the European Network of National Human Rights Institutions (ENNHRI), the Global Alliance of National Human Rights Institutions (GANHRI) and other National Human Rights Institutions (NHRIs) including EHRC Scotland, and the office of the Children and Young People's Commissioner Scotland.

The SHRC measures performance through KPI targets and thematic priorities which demonstrate progress to achieving the objectives of the three key strategic themes in its 2024-28 Strategic Plan: People, Purpose and Performance. Progress is monitored quarterly via reports to the independently chaired Audit and Risk

Committee, and to meetings of the Commission, up to nine times a year. This informs the development of our Annual Report.

In 2024/25, for the first time the SHRC published an annual [Operational Plan](#), outlining the activities it would deliver to achieve the objectives of the 2024-28 Strategic Plan. This publication contained the decision making framework which the Commission applies to guide use of its limited resource to priority areas of policy to engage with, or human rights concerns to spotlight.

To improve our ability to monitor and measure the impact of the SHRC, we are developing a Theory of Change to track our contribution and gather data to evidence our impact on improving human rights outcomes across Scotland over time. By using this structured approach, we aim to ensure ongoing accountability and continuous improvement in our human rights work. Over the coming years, the outcomes we capture will provide a comprehensive analysis of our impact, guiding future strategies, including our 2028-2032 plan. Our outline Theory of Change will be published on our website in 2025, and annual progress will be captured in our Annual Reports.

## **Scrutiny**

### **How has Parliamentary committee scrutiny worked in practice and how has this impacted performance? How could scrutiny be improved and/or standardised?**

As a responsible public body we welcome parliamentary scrutiny, working to a range of domestic and international standards. We actively encourage the Scottish Parliament and its Committees to undertake effective scrutiny of our functioning and outputs on the status of rights in Scotland. The SHRC currently has five layers of scrutiny and assurance of its Governance functions and delivery to its mandate; as a group, the members of the Commission also fulfil a governance function, monitoring performance to Strategy:

#### 4.1 Audit and Risk Committee

The SHRC has an Audit and Risk Committee which meets four times per year as a sub Committee of the Commission, and is Chaired by an independent member of the SPCB's Audit Advisory Board (AAB).

The SHRC Executive Director is the Accountable Officer, and reports to both the Commission meetings and the Audit and Risk Committee. The minutes of all Commission meetings and Audit and Risk meetings are published on our website.

The Commission has an annual internal audit programme to provide assurance on our corporate governance.

#### 4.2 External Audit

The SHRC is subject to an annual external audit reviewed by the Auditor General.

#### 4.3 SPCB Scrutiny

The SHRC's Accountable Officer meets on a regular basis with SPCB staff to provide reassurances on how the Commission is meeting its statutory mandate and public body assurance requirements in broad terms, submission of the annual budget and any contingency bids, and its strategic plan more specifically. As explained above, the SHRC receives feedback from the SPCB on its four year strategic plan before laying it in Parliament.

Members of the Commission meet annually with SPCB members.

#### 4.4. Equalities, Human Rights, and Civil Justice Committee (EHRCJC)

As acknowledged by the Committee itself, the EHRCJ holds an annual evidence session with the SHRC. The three (3) most recent in this parliamentary session were held on 6 December 2022, 16 January 2024, and 14 January 2025.

These sessions are held after the SHRC has published its annual report and are an opportunity for the Committee to scrutinise the Commission informed by that report. Areas covered during the sessions have included: the SHRC's strategic priorities; annual accounts; budget for staffing and resources; powers and functions of the SHRC; monitoring of the SHRC's performance; the SHRC's work programme and priorities for the year, and the impact and engagement of its work.

It is notable that the Commission does not routinely engage with other Committees, such as the Public Finance and Administration Committee, however, members of the SPCB do report on the Commission's budget and financial performance in this context on the basis of our budget bids, and audited accounts.

#### 4.5 United Nations System

In accordance to international regulation, as Scotland's NHRI, the SHRC is also periodically reviewed and accredited before the Sub-Committee on Accreditation (SCA) of the Global Alliance of NHRIs. Every four to five years, the SHRC is thoroughly evaluated with reference to the Paris Principles. If the SHRC does not meet the strict requirement of independence, or does not adequately deliver its mandate, it can lose its status as a UN accredited NHRI.

The SHRC has been accredited and reaccredited on three occasions. On all three occasions, most recently in 2021, the Committee has determined that it is in full compliance with the Paris Principles (A status).

However, the SCA has previously noted its concerns in relation to the resourcing levels of the SHRC and the limitations on its mandate.

The SHRC is preparing for its next accreditation process in August 2025.

## **Working with other bodies**

**How do you work in practice with other public bodies or services and what are the main barriers faced? How can these barriers be overcome to improve efficiency and reduce costs while ensuring that shared services maintain high standards of quality and accountability?**

As required under Section 5 of the Scottish Commission for Human Rights Act 2006, the SHRC must: 'seek to ensure, so far as practicable, that any activity undertaken by it under this Act does not duplicate unnecessarily any activity undertaken by any other person under any other enactment.'

The SHRC operates an established Memorandum of Understanding (MoU) with the Equality and Human Rights Commission (EHRC) Scotland in respect of areas of potential overlap in our mandates as we operate jointly in Scotland. The cyclical review of this is underway in 2025 through a collaborative process which will be approved by the respective Commission Chairs.

Decisions by the Scottish Parliament have produced recent legislative changes via the UNCRC (Scotland) Act 2024, meaning the enabling powers of the SHRC are evolving. As a result, a formal MoU between the Children and Young People's Commissioner (CYCPS) and the SHRC will be developed in 2025. Should new Commissions/ers be established, similar arrangements would be sought to manage the impact of potential duplication and maximise the benefits of collaboration.

The SHRC is also strongly committed to working closely with other scrutiny bodies, to harness institutional impact and reach, with the objective of improving rights realisation. In the last decade, the SHRC has worked closely, for example, with the Scottish Housing Regulator, Audit Scotland, the Mental Welfare Commission, among other scrutiny bodies.

Currently, across the SPCB supported body network there exists a range of organisational structures and resourcing levels. Within this variation, we collaborate formally across four key operational areas:

Shared office accommodation and facilities management, managed by SPSO

Shared Services Arrangement with SPSO, who provide our financial transactions, payroll, HR advice, and some core learning and development

Through the Officeholders Shared Services Network (OSSN) the SHRC Head of Corporate Services meets with their equivalents from each of the other SPCB supported officeholders on a quarterly basis, sharing insight on emerging policy and practice developments common to public bodies, such as accessibility, ICT, and procurement processes.

Finally, the officeholders themselves and accountable officers meet on a regular basis to discuss issues of mutual interest and to explore other opportunities to work together and pool resources.

At a more strategic level, officeholders engage in collaborative ways of working across areas of shared concern in relation to ensuring effective remedy and access to public services including complaints procedures and access to information.

## **Criteria for the creation of new SPCB bodies**

**Criteria were developed by the Session 2 Finance Committee to help guide decisions on whether to create a new commissioner. These criteria (Clarity of Remit, Distinction between functions, Complementarity, Simplicity and Accessibility, Shared Services and Accountability) are considered by the Scottish Government and Members when proposing Commissioner related bills. Are these criteria currently adequate and how could they be improved?**

Given the variation in scale, mandate and enabling powers of new Commissions/ers which are being proposed and considered by the Parliament, it would appear that these criteria could be improved.

Consideration might be given to a multi-Committee scrutiny process for proposals, which involves the lead policy Committee, the Public Finance and Administration Committee and the Scottish Parliament Corporate Body to assess whether these tests have been met. If they have not, then Parliament may wish to consider a definitive position on whether a proposal should proceed, or make recommendations on alternative mechanisms to achieve the policy intent.

Taking a best value approach, an additional criteria could be considered to require an options appraisal of whether the proposed function could be delivered by amending the mandate/resources of existing office holders.

Shared services should rightly be a critical consideration for the establishment of any new office holder, and the rationale for this was well explored in the previous Committee Inquiry; however it is critical that there is an effective and scalable shared services infrastructure in place to underpin and deliver on this expectation.

This inquiry is an important opportunity to consider the role of the SPCB in supporting shared services and functional requirements across the SPCB Officeholders. There are elements of commissioning of services, audit and oversight, and structural services such as human resources support that might be provided by the SPCB if its support services were to be reconfigured and resourced. Such changes could also result in more efficient use of budgeted resources.

## **Optimal model of Commissions**

**What should the optimal model and structure for commissioners look like, and what key features should it include?**

This Inquiry is an important opportunity to review the models for supporting the organisational and structural functions of independent officeholders/Commissions and the role and relationship with the SPCB.

Functional independence, decision making and autonomy are critical to office holders, and must be maintained, but there are elements of shared approaches which could be further encouraged. However, the independence of functions of officeholders must be protected, and the nature of this interaction must be transparent and easily understandable to the public.

The function of office holder services within the SPCB is essential to supporting the office holder infrastructure, and due to retirement of key personnel, is at a key point for review. The shared services model has developed and evolved through the sharing of functions through office holders themselves, and there may be merit in exploring how the SPCB office holder function could be evolved to provide consistent shared support on training, public body compliance, internal audit, communications and accessibility, HR support, ICT and other functions.

A consistent approach to induction for office holders and accountable officers could also be developed, as could documentation of Governance frameworks.

While we cannot comment on other organisations, we have reflected on the role of the SHRC with the general duty of promoting human rights in Scotland, and whether this role is operating optimally within the current office holder model. Our 2023 report '[At a Crossroads](#)' and our [submission to the Scottish Government proposed Human Rights Bill consultation](#) (October 2023) makes clear that there is an international evidence base of more pluralist Commissions with a greater number of members, supported by enhanced monitoring teams, and enabled by more powers to enforce legal action, compel information, or issue binding guidance. Adjustments to the SCHR Act 2006 on these elements would secure a more comprehensive and cohesive national human rights institution in the office holders landscape, with greater agility to meet emerging human rights priority areas or groups of people whose rights are most at risk.

## **Necessary further reform**

The SHRC has already indicated that, whilst there are many factors which have resulted in the calls for new Commissions/ers, in the main, persistent lack of access to justice, at individual and systemic level, is the driving reason behind the calls for the creation of new public bodies to address these issues. The Commission shares those concerns. Many people in Scotland still experience denials of their basic human rights and dignity every day – and lack effective access to the mechanisms and means to challenge them.

Access to justice is a core foundation of the internationally accepted human rights legal framework. Human rights remain an aspiration without accountability, monitoring, and routes for people to access justice when things go wrong. Yet, research published by the SHRC has confirmed that the majority of people in Scotland do not know where to turn if they have a human rights problem.

Given such context, in the last few years the SHRC has undertaken a significant programme of work to ensure that the development and potential expansion of its mandate is guided firmly by the experience of rights holders in Scotland, and international NHRI best practice.

The SHRC aspires to fulfil its mandate to the highest standard for rights holders and wants to ensure it is part of the solution to addressing violations of human rights faced by people in Scotland. For these reasons, since 2023, the SHRC has called for its powers and mandate to be strengthened to enable us to:

Provide legal advice

Raise legal proceedings in its own name

Conduct investigations

Conduct inquiries in less limited circumstances

Require and compel information

Make unaccompanied and unannounced visits to any human rights duty bearer

Hold public hearings and require duty bearers to be present

Issue binding guidance

Recruit more members of the Commission

- Recent amendments as a result of the UNCRC Incorporation Act 2024 to intervene in more cases before the Courts and to raise own name litigation are a welcome start; it is critical to extend these additional routes to access justice to all people in Scotland, not just children and young people. Beyond legislative change, the SHRC also highlights to the Committee that alternative models of dedicated monitoring teams by treaty, in line with international examples in other NHRIs, may provide for more focused protection of the human rights of groups of people which are specially protected by UN Treaties, or any other group of people where rights may be most at risk. Any such changes would have resource implications for the SHRC, but not necessarily legislative implications for its founding mandate.

## **Conclusions**

The SHRC welcomes this Committee Inquiry as an opportunity to strengthen independent scrutiny and accountability mechanisms which are aligned to the Scottish Parliament, and which share the ultimate aim of ensuring that everyone's rights are protected. The SHRC has provided insight into the operation of the current office holder landscape as requested, and has highlighted that the criteria for new office holders should consider how the mandate of existing office holders could be amended to reflect the identified need, even on a time limited basis. We have outlined specific ways in which the SCHR Act 2006 could be amended to enhance the current domestic mechanisms of human rights scrutiny, improve pluralism in the membership of the Commission, and increase access to justice for all. The SHRC calls on the Committee to consider such proposal within the scope of its review recommendations.

## **Annexe C: Written submission, Children and Young People's Commissioner Scotland**

**Children and Young People's Commissioner Scotland written submission, dated 13 February 2025**

The Commissioner has broad powers and functions:

- promote awareness and understanding of children's rights
- keep under review law, policy and practice relating to the rights of children and young people with a view to assessing its adequacy and effectiveness
- undertake research on matters relating to children's rights and promote best practice by service providers
- carry out investigations into the extent a service provider has regard to children's rights
- power to intervene in legal proceedings or to bring proceedings in our own name on a range of different children's rights issues
- consult children and young people on the work we do and pay special attention to groups of children and young people who have difficulty in making their views and experiences known

### **How do you measure and demonstrate outcomes, and how are these outcomes selected and prioritised? What improvements could be made to this process?**

#### **Selecting and prioritising outcomes**

The Children and Young People's Commissioner Scotland (CYPCS) must create a strategic plan every 4 years. To create this plan, extensive consultation takes place to ensure that the priorities and outcomes are informed by the views of children and young people. The SPCB is consulted on the draft plan before it is laid in parliament.

For the most recent (2024 to 2028) strategic plan<sup>1</sup>, the CYPCS team undertook a desk-based review of more than 130 consultations involving children and young people in Scotland from the previous 5 years, launched a data-gathering survey for children and young people (with accompanying resources to support them to be involved) and undertook targeted qualitative sessions with 20 different groups of children and young people. The Commissioner also hosted 3 consultation sessions with representatives from the children's sector, and invited responses from parents of babies and disabled children.

From the outset, the CYPCS team worked collaboratively with our Young Advisors Group to design the process of consulting on the strategic plan and determining priorities. We spent time matching desired outcomes for the priority issues, to the Commissioners functions and powers. High-level objectives are set within the



strategic plan, and these are then converted into detailed strands of work set within a two-year delivery plan.

The delivery and prioritisation of the work of the CYPSC office is by necessity dynamic, and proactive work set out by the strategic and delivery plan is constantly balanced with reactive work that comes into the office from a variety of sources. Reactive work includes responding to parliamentary activity or emergent issues which could be addressed by using our powers and functions (up to and including legal intervention).

Within the office, progress of work outlined in the delivery plan is tracked and monitored at quarterly Governance Meetings. Minutes of all Governance meetings are published on the CYPSC website. The Commissioner's Young Advisors Group meets monthly, and progress is provided on specific thematic pieces of work during these monthly settings, with opportunities for questions, suggestions and challenge.

CYPSC is accountable for outcomes to the SPCB, is scrutinised by parliamentary committees and held to account by our stakeholders, including our Young Advisors Group (YAG).

### **Measuring outcomes**

Some aspects of our work lend themselves more easily than others to measuring and demonstrating short-term outcomes. For example, our Strategic Litigation Toolkit prompts us to identify what we are seeking to achieve when taking a case and a judgment represents a definable outcome that can be assessed.

In our policy work to influence change during the passage of Bills, we define our outcomes (usually in the form of amendments we are seeking) and can assess the extent to which our work has been cited and related amendments adopted.

Participation sessions we run with children and young people are evaluated, usually on the day they happen, and feedback from children and young people is collated and considered by the team at our regular meetings. Activities and our ways of working are continually adapted in response. We encourage groups of children we have met with to stay in touch with the office and share any follow up activities they take forward after working with us. This allows us to assess impact beyond initial awareness raising.

For other areas that require a longer-term view we take a different approach to understand our impact.

### **Demonstrating outcomes: contribution analysis**

We often review our impact through the lens of contribution analysis, a focus on how our work has contributed to change, rather than establishing direct causation. This involves creating case studies or records on specific areas of our work in which we review our activity, outputs, recommendations and outcomes. We also consult with key stakeholders involved in the issue, to help us understand how our role has been viewed and whether the outcomes we have control over have been achieved. Some of our stakeholders have shared their views below for the committee to consider.

Using the example of UNCRC incorporation, our office played a key role over a prolonged period. If we were to unpick all the elements involved, it would take us all the way back to the establishment of the office of Children's Commissioner.

Key stakeholder view: Juliet Harris, Director at Together:

“Together and the Children and Young People's Commissioner Scotland worked side by side to campaign for and shape the UNCRC (Incorporation) (Scotland) Act 2024. By working in partnership, we brought together civil society, academic expertise, and the lived experiences of children and young people to draft proposals that shaped the Bill. The Commissioner's independence provided a powerful, authoritative voice that reinforced the calls from children and civil society, while CYPSC staff contributed legal and policy expertise that, combined with Together's broad membership, strengthened the case for full incorporation. It was only through our collaboration and our joint efforts that children and young people were truly listened to and taken seriously at the highest levels—meaning their rights are now protected in Scots law.”

Our work on issues can be long-standing. The protection of children's rights and best interests in youth football has straddled the remit of all four Scottish Children's Commissioners and five parliamentary sessions. Lack of action by those with the power to deliver change is not a reason for us to stop pressing for change where there are serious children's human rights breaches.

Key stakeholders view: Willie Smith and Scott Robertson, RealGrassroots:

“Our Petition and the issues it raised received overwhelming support from every political party in the Scottish Parliament. But the SFA and SPFL have ignored everyone's concerns. The involvement of the Commissioner's office over many years, with its focus on children's human rights, has been pivotal and we are so grateful to them for their support. The recent complaint to the CMA is evidence of the office's dogged determination to find ways to solve problems and protect children.”

Our work on some issues is high profile, restraint and seclusion is an example, in part as it was on this issue we first used our investigation powers. The investment of our staff capacity in work on this issue has been significant. We still haven't achieved the desired outcome of statutory guidance, although we have influenced improvement action. It remains a priority for us to continue to work on this issue as it has a disproportionate impact on some of the most vulnerable children and young people.

Key stakeholders view: Beth Morrison and Kate Sanger, unpaid carers:

“As unpaid carers, we are dedicated to advocating against the misuse of restraint and seclusion of children. Our years of experience, in dealing with issues relating to our own children and in supporting many hundreds of families across almost all of Scotland's Local Authority areas, have highlighted that the systems in place that should protect children's rights in our country are largely ineffective. The one significant and important

exception is the professionalism, dedication, steadfastness and empathy of the excellent team at the CYPCS. We can say that without doubt, without the help of the CYPCS, many children in Scotland would still be suffering unacceptable practices that harm both their physical and mental health. The impact of the CYPCS has been significant and important for so many families directly, and so many more indirectly. Many parents have been bullied and threatened by Local Authority staff in an effort to silence them. The help given to them and the knowledge that the CYPCS has their back has given them the courage to fight for their children's wellbeing and seek acceptable solutions that recognise the child's Human Rights.

Since launching our parliamentary petition in 2015, asking for National Guidance on the use of restraint and seclusion in schools, the CYPCS has provided invaluable support and assistance, significantly enhancing our work. This includes the Commissioner's formal investigation and subsequent report "No Safe Place" in 2018 and the judicial review in 2019, which led to the new "human rights-based" Physical Intervention Guidance published in November 2024. No other organisation we have dealt with has had the will, stamina, or ability to take on an issue such as this over such a long-term period and work and support us through the many barriers that have been placed in front of us in that time. That this has been done over the tenure of 3 different commissioners is a testament to the offices ability to see things through over the long term and facilitate real and lasting change for the better.

Kate and I have worked with all four of the UK Children's Commissioners on the issue of Restraint & Seclusion in Schools. Whilst all are active in this area, our discussions with them lead us to conclude that the other three Children's Commissioners learned a lot from the work of the CYPCS. Whilst of course the Scottish Parliament should be focused on the impact of the CYPCS in Scotland, they should also take pride in the leading role that CYPCS has had on influencing the rest of the UK.

CYPCS's unwavering commitment to listening to children and families has made them a steadfast, reliable and independent safeguard for children. They have consistently served as a voice for those who have been overlooked or disregarded even by those other elements in society that are supposed to protect them but have regrettably failed in their duties."

The role and powers of our office enable us to work with children and young people in ways which are unique to our office. Our Mental Health: Counselling in Schools investigation was the first time a commission or commissioner's investigation powers have been directly exercised by children and young people (anywhere in the world).

Key stakeholder view: Lewis, former CYPCS Young Advisor:

"The powers of the Commissioner allowed the office to easily request the required information, such as the surveys for each local council, so that we could successfully conduct the investigation. If it weren't for the fact that the Children and Young People's Commissioner Scotland was seen as an independent body, I doubt we could have facilitated talks between the

Scottish Government and COSLA to discuss discrepancies and solutions to the problems identified.”

## **Audit**

As a public body, CYPSC is required to engage in external and internal audit and reports to the SPCB quarterly outside of these audit mechanisms on specific governance matters. These mechanisms amongst others, are how CYPSC demonstrates strong governance and appropriate use of public funds while working towards delivery of outcomes.

Through external audit, annual assurance is provided by Audit Scotland. Appointment of external auditors is made by the Auditor General for Scotland and the Accounts Commission who secure the independent audit of the accounts and performance of public sector bodies in Scotland. The costs of our audits are not negotiable at Officeholder level. Our Advisory Audit Board (AAB) provides oversight, and the audit report and plan are approved via this mechanism and provided to the SPCB. This is a financial and wider scope audit in accordance with the Accounts Direction from Scottish Ministers and requires the office to produce an Annual Report and Accounts which are in line with the Government Financial Reporting Manual, to illustrate that the office possesses established governance mechanisms and complies with various legislation. This ensures that the office accounts for its budget formally, details how public money was used in the year and what was achieved. Our view is that while audit is an important and essential exercise which provides reassurance, in its current form it is disproportionate to the size, function and staffing complement of our organisation. My office would welcome further exploration of proportionality in external audit and internal audit.

We publish our Annual Report and Accounts on our website, this is a lengthy and technical document. We also produce an activity focussed Annual Report which we lay in the Scottish Parliament, and a child-friendly version.

In addition to external audit CYPSC also appointed an internal auditor on a three-year term, this is a relatively new requirement within our governance and commenced in 2023-24. The office undertook two internal audits last year in addition to the requirements of external audit. Communication and Governance was audited in the first year and the outcome reports were provided to the AAB via its formal yearly meeting to approve the Annual Report and Accounts. We are currently in the process of auditing procurement and will soon start our audit on GDPR.

The results of our audits have always been positive and have consistently illustrated the office’s commitment to achieving our aims and objectives while ensuring good governance.

## **Improvements – impact framework for children and young people**

We recognise the challenge parliamentary committees face in trying to hold officeholders to account when they are working from annual reports and are not sure what ‘indicators of success’ they should be looking for.

It is the role of parliament to scrutinise and hold us to account for the quality of work delivered by CYPCS in relation to the statutory functions parliament voted to give the Commissioner. Children and young people must be central to determining whether we have delivered the work well.

To support parliament's scrutiny of our work against meaningful criteria determined by children and young people, we are developing an Impact Framework with indicators against each of our statutory functions. We are developing this framework with our Young Advisors and intend to make this available on our website to improve transparency, raise awareness of the way we work and provide a means by which other children and young people can scrutinise our work and hold us to account.

We will pilot this Impact Framework and welcome the involvement of children and young people not already working with our office; to help us continually improve the way we measure, describe and share evidence of our impact. We intend for the Impact Framework to be accessible and child-friendly so that children and young people can continue to be involved each year in helping to scrutinise our work.

We look forward to discussing this proposal with the Scottish Parliament's Education, Children and Young People's Committee.

Furthermore, we are planning to update our approach to the next Annual Report we will lay in parliament. We will more closely align the activity reporting to our strategic plan and provide a number of impact case studies, chosen to demonstrate the variety of our activities and functions. Case studies will reflect the non-linear process of influence. We may work on issues for many years before there is a clear 'story' to tell about the cumulative impact of our work.

### **Improvements – requiring a response from key duty bearers**

While the implementation of the UNCRC (Incorporation) (Scotland) Act in July 2024 has given us another powerful tool to drive change in the shape of strategic litigation, it remains the case that our structure (our legislation) leaves a gap which over time is increasingly having a negative impact on our ability to monitor impact or affect change. In practice, it can be very challenging for the Commissioner to compel any response from duty bearers. Only our formal investigation powers include a requirement to respond.

At present, the Commissioner must lay an Annual Report in parliament. This can include recommendations based on our work with children, but there is no requirement for anyone to respond to those recommendations. We would welcome a requirement to respond to the our Annual Report recommendations from the Scottish Parliament and the Scottish Government. This would improve the process by which we can measure and demonstrate the outcomes of our work and improve efficiency in work undertaken to try to elicit clear responses.

Our office had hoped that a commitment from Scottish Government to respond to the Commissioners recommendations might have been included in the annual updates on the Children's Scheme (UNCRC Incorporation Act), but this option has been declined by the Scottish Government on the basis they can't commit to updating on progress with an unquantified number of issues in the annual update on the Scheme.

## **How has parliamentary committee scrutiny worked in practice and how has this impacted performance? How could scrutiny be improved and/or standardised?**

Parliamentary officeholders have differing experiences of committee scrutiny. In 2009, the (then) Review of SPCB Supported Bodies Committee recommended that “the Scottish Parliamentary Corporate Body supported bodies should be subject to committee monitoring and scrutiny on the exercise of their functions on at least an annual basis.” In practice, although we have been scrutinised annually by the SPCB, historically our office has not always had an annual session with our lead committee, currently the Education, Children and Young People Committee.

The Commissioner welcomed our strategic plan scrutiny session with the Education, Children and Young People Committee in 2024 and we are pleased to see a further scrutiny session being planned in the coming months. We hope this will continue annually. This session provides both CYPCS and the parliament with an increased and wide-ranging opportunity to discuss the office’s work, to provide challenge and seek answers.

We view it as a mutually beneficial engagement, an opportunity for parliament to scrutinise the way in which we are working on behalf of children and young people, discuss where we feel we are making progress, and where there are the gaps. It provides an opportunity to highlight children’s right issues and concerns with MSPs.

It is essential that balance is maintained in committee scrutiny, acknowledging the parliament’s legitimate interest in ensuring that the CYPCS is operating effectively and robustly, while respecting the office’s independence and particularly the provisions set out in Schedule 1 of the 2003 Act which state that (except for specific purposes) the Commissioner is not subject to the direction or control of the government, any MSP or the SPCB. Commissioners are apolitical, they must be resistant to popular trends and short-term thinking and have the time and independence to continue to identify the foundational changes that are required to progress change.

CYPCS regularly gives both written and oral evidence to parliamentary committees on Bills and in relation to inquiries, which provides an opportunity for committee members to understand, be informed by, and to some degree interrogate, the office’s position and work on a particular area. However, this is based on issues that are live in the parliament at the time. This means that significant pieces of proactive work undertaken by the office may have very little formal parliamentary visibility unless they intersect with existing committee workplans.

Our experience of engaging in parliamentary evidence or scrutiny sessions has been positive and productive. They have provided a degree of constructive challenge to the office. They impact performance by requiring the Commissioner and staff to articulate and publicly justify their decisions and activity prioritisation, this encourages reflective practice and evaluation.

**How do you work in practice with other public bodies or services and what are the main barriers faced? How can these barriers be overcome to improve efficiency and reduce costs while ensuring that shared services maintain high standards of quality and accountability?**

We have a strong history of collaboration with other officeholders and public bodies to identify savings and efficiencies and have a strong commitment to the shared services agenda. This model is already established and is working well to ensure that public funds are used effectively and economically.

We explore shared services first, prior to single sourcing across functions, through the work of the Officeholders Shared Services Network Group (OSSN). We also use government framework agreements in procurement where practicable and available such as for corporate legal advice, printing etc.

The OSSN was established to formalise the ongoing work on shared services of corporate services teams across parliamentary officeholders. The OSSN has the following remit:

- Continual driving of efficiencies through joint procuring, co-hosting, joint contracts, and combining resources where applicable.
- Acts as a knowledge hub for Heads of Corporate Services and the wider organisation and shares best practice

The OSSN meets quarterly, the most recent meetings have focused on combining resources to update HR policies where analogous, identifying cost savings in updating BSL plans, interpretation and translation services and accessibility requirements and shared good practice in IT arrangements.

My office is co-located with three other parliamentary officeholders in Bridgeside House and we share building and facilities management. This prevents duplication in all aspects of building maintenance, management, facilities and health and safety.

We have a Memorandum of Understanding with the Scottish Parliament's Head of Information Governance and the parliament's Data Protection Officer provides valued expertise and oversight of our obligations and responsibilities as a public body in this area. We also have a shared accountant resource with other officeholders who assists us with preparation of our yearly accounts.

Further examples of current joint contracts are payroll and internal audit. My office leads on and is the holder of the joint contract for payroll services procured in partnership with the SPCB. This has created savings and efficiencies for other officeholders and other public bodies. We have recently worked with the commercial provider to open the contract up to other government bodies at no additional cost to the shared group. We also joined with SPSO and SHRC to procure internal audit services and continue to make use of joint opportunities.

We have attempted to mitigate the main obstacles to improving efficiency and reducing costs through the OSSN and collaborative working. In practical terms though, all of the SPCB supported officeholders are independent bodies and have different ways of working, different break points in contracts, differing needs in relation to their operations and differing mandates to fill. Shared services must not negatively impact on the independence, or public perception of independence, of the office.

There is a continued willingness on our part, and all the officeholders, to continue to explore if further shared services can bring increased efficiencies and support. One barrier is capacity to assess this thoroughly to ensure that any change is considered in-depth with short- and long-term benefits considered. There are costs involved in undertaking feasibility work, planning for any change and ongoing management and maintenance of any shared service contracts.

Sharing services may not always create efficiencies and may inadvertently lead to the dilution of the quality of that service or function. We must prioritise being as child-friendly as possible, through all of our work. That isn't necessarily a priority focus for others.

Where there are multiple joint collaborations, officeholders require management of these which is a human resource cost. It is our view that it would be appropriate and prudent to fully assess the impact of any further cost saving measures before a blanket approach is pursued.

We have focused our response to this question on the way in which we work with other public bodies and services in relation to business related operational matters. We would be very happy to provide additional examples about the we work with officeholders and other public bodies. These include co-commissioning research; regular meetings to share insights and avoid duplication; providing children's rights advice; contributing to working groups and collaboration to maximise use of complementary powers.

**Criteria were developed by the Session 2 Finance Committee to help guide decisions on whether to create a new commissioner<sup>2</sup>. These criteria (Clarity of Remit, Distinction between functions, Complementarity, Simplicity and Accessibility, Shared Services and Accountability) are considered by the Scottish Government and Members when proposing Commissioner related Bills. Are these criteria currently adequate and how could they be improved?**

We recommend that enhancements are made to the existing criteria for agreeing new 'Commissioner' bodies. These suggestions are intended to improve the scrutiny of alternative options to the creation of a new Parliamentary Supported Body.

Additional considerations:

- determine whether the role requires a direct relationship with parliament, either because of the nature of the role or to comply with international standards.



- evidence what other options for achieving independence from government have been explored and why are they not suitable.
- demonstrate what gap in service or oversight the role will address.
- enhance the powers and resources of existing officeholders, rather than creating new ones.
- detailed focus on the legislation that creates these new bodies to ensure that any new duties do not duplicate or inhibit the essential independence of existing bodies.
- robust financial modelling and sufficient resource to enable meaningful delivery of the statutory remit and functions of new bodies, ensuring they also represent an effective use of public resources.

In our view, the rapid increase in calls to create new policy, interest-group or rights-based Commissioners highlight serious failings in the way people currently experience their rights within public services. There are clear implementation gaps in Scotland between policy and practice. We have a collective responsibility to better understand and address ineffective policy implementation.

### **What should the optimal model and structure for commissioners look like, and what key features should it include?**

We believe that there is no one size fits all model for SPCB supported bodies. Distinct remits and differing functions require flexibility rather than consistency across their structures.

We will answer this question focusing primarily on the optimal model for the Children and Young People's Commissioner Scotland, as an Independent Children's Rights Institution (ICRI).

We believe that the current structure of our office works well.

The most important features of our model:

- independence
- child-centred specialist organisation with ability to involve children and young people in all aspects of our work
- priorities informed by the views of children and young people
- delivery of our statutory functions, allowing us to be proactive as well as reactive
- our work is grounded in the UNCRC
- multidisciplinary staff team with skills to deliver the functions and remit

Our functions are broad and are listed at the start of this document. Promoting human rights requires CYPCS to be critical of existing practices, policies and legislation which means being able to challenge those who make them, including the Government, Local Authorities and other Public and Private Bodies. It is of paramount importance that we are able to maintain our independence.

“Independence is the defining feature of human rights institutions for children. It is their main strength and their source of legitimacy and authority. It is the quality that allows them to keep child rights front and centre regardless of political trends. The degree of independence is pivotal in determining the success or failure of institutions”. - UNICEF<sup>3</sup>

An important and unique aspect of the way our office operates is the way we embed children and young people’s participation within our work, across all our functions, including our governance and the recruitment of staff. We prioritise the agenda of children and young people. All our staff are expected to work in child friendly ways, with participation skills mainstreamed throughout our office. Children and young people tell us they often find their voices drowned out in adult-centred organisations.

The Nolan principles of public life are the standards that all holders of public office should follow. Our office is also guided by another set of values, developed from the office’s work with children and young people across Scotland:

- leadership,
- participation,
- independence,
- bravery, and
- respect.

### **Our role within the UK**

Within the UK, the Children’s Commissioners for England, Scotland, Wales and Northern Ireland work closely together. The UK Commissioners share learning across the jurisdictions, collaborate and discuss issues of mutual concern which affect the rights of children and young people. The Children’s Commissioner for England has a UK-wide remit regarding non-devolved issues and her team liaises with our office, helping to ensure representation of the interests and experiences of Scottish children in their work.<sup>4</sup>

The UK Children’s Commissioners have offered the following comments to share with members of the SPCB Support Bodies Landscape Review Committee:

Dame Rachel de Souza, Children’s Commissioner for England:

“As Children’s Commissioner for England, I know how vital it is that children have a specialist, independent office to listen to and represent their views. That is particularly true for the most vulnerable children in society – those living away from home, in care, in the justice system, or relying on health services.

My office works in close collaboration with the Children and Young People's Commissioner Scotland, Nicola Killean. This has given me the chance to see firsthand how vital the role of her office is to all children across Scotland. In particular, the vital role she and her office played in supporting the implementation of the UNCRC in Scotland. I strongly encourage this review to acknowledge the Commissioner's vital role in upholding children's rights in Scotland and ensuring their voices influence policy development. As an office with expertise in children's rights, the Children and Young People's Commissioner Scotland must play a central role in advocating for the full implementation of the United Nations Convention on the Rights of the Child. It is crucial that the Commissioner's office retains its full capacity and remit to continue advocating for children's rights across Scotland."

Chris Quinn, Northern Ireland Commissioner for Children and Young People:

"You will be aware that for more than 20 years all four regions of the UK have had dedicated, independent Children's Commissioners. These were established in recognition of the importance of an independent, specialist office focussing on children and young people, providing advice and challenge to government in relation to their rights. While our remits vary slightly across the jurisdictions, our independence from government, according to the Paris Principles is critical, as well as the participation of children and young people in informing and advising the work of the office. Over the past two decades, offices of Children's Commissioners or Children's Ombudsmen have become accepted best practice in terms of ensuring children's rights implementation by governments.

I am alarmed at the potential for this Review to take retrogressive steps in relation to the Children and Young People's Commissioner in Scotland. Any steps to merge the office with other offices is likely to, at best, distract from the focus on the rights of children and young people. Many of us working to progress children's rights in other jurisdictions, and indeed internationally, have been drawing on the example of Scotland leading the way in relation to the incorporation of the UN Convention on the Rights of the Child, and other key progressive steps over recent years. However, any downgrading of the Children and Young People's Commissioner in Scotland would be a move in the wrong direction, and would raise concerns at the commitment of the Scottish Government and Scottish Parliament to promote and protect children's rights."

Rocio Cifuentes MBE, Children's Commissioner for Wales:

"In Wales the Commissioner is appointed by the First Minister and funded solely by the Welsh Government. It has always been our position that the Commissioner should be appointed by the legislature and not the Executive, in line with international best practice, as this has the potential to compromise independence when holding the Government to account on their delivery and actions.

Wales was the first country in the UK to have a Children's Commissioner, and children have a direct input into our work and priorities, which is a vital

safeguard to hear and protect the voices who are otherwise not represented and cannot cast their own votes in the democratic process. There is also huge value for us in working collaboratively with Children's Commissioners across the UK and beyond, to learn from each other and share good practice to make sure children's rights are respected and realised to the fullest extent; the Scottish Commissioner's office are a regular collaborator and contributor for us and we hope that they also benefit from the work here in Wales."

### **Our international role**

The Commissioner is a full member of the European Network of Ombudspersons for Children (ENOC). To hold this membership, the Commissioner must fulfil certain criteria as an independent children's rights institution (ICRI). These criteria mandate that:

- The institution is established through legislation approved by parliament, which provides for its independence.
- The institution has the function of protecting and promoting children's rights. This function is established through legislation.
- There are no provisions in the legislation which limit the institution's ability to set its own agenda in relation to this function, or which prevent it carrying out significant core functions suggested in the Paris Principles and ENOC's Standards.

ICRIs serve an important function to stand 'in the middle' between local and global human rights perspectives – a two-way process which translates global rights into local systems and ensures the local to the global transfer of knowledge and experiences. One important way in which ICRIs facilitate this is by working so closely with children and young people and feeding back to a global level on those experiences and voices.<sup>5</sup>

The Commissioner has a recognised role within the UN treaty body reporting cycles, particularly the UN Committee on the Rights of the Child, ensuring that the voices and experiences of children in Scotland are considered and rights issues identified. We regularly engage with the UN Committee when new General Comments are being created. The Convention on the Rights of the Child is a living instrument, guidance on its interpretation and implementation evolves over time. Through incorporation the UNCRC is recognised and will increasingly be drawn upon within Scotland's courts, it is important to continue to influence the convention's international development.