



The Scottish Parliament
Pàrlamaid na h-Alba

Officeholders – Draft Strategic Plans 2024-2028

22 February 2024

Reference: SPCB (2024) Paper 13

Executive summary

1. The SPCB is invited to consider the draft strategic plans for 2024-2028 received from—
 - (a) the Scottish Human Rights Commission, and
 - (b) the Scottish Public Services Ombudsman.
2. Their draft Strategic Plans are attached at Annexes A and B.
3. This is the second of three papers covering the officeholders draft Strategic Plans.
4. The SPCB recently met with the Ombudsman and will be meeting the members of the SHRC on 7 March 2024.

Background

5. The officeholders have a statutory duty to lay Strategic Plans before the Parliament for each 4-year period setting out how they will perform their functions. Before a plan can be laid, the officeholders must provide a draft of their plan and invite comments from the SPCB and any other body or person the officeholder considers appropriate, including a committee of the Parliament.
6. The officeholders have been laying plans before the Parliament since 2010. The attached draft plans cover the period 1 April 2024 to 31 March 2028. Each plan is required to set out (a) the objectives and priorities for the 4-year period, (b) how they will be achieved, (c) a timetable and (d) estimates of the costs.

Officeholders' Draft Strategic Plans

Scottish Human Rights Commission (the Commission)

7. The Commission is a body corporate, and its general duty is to promote human rights and, in particular, to encourage best practice in relation to human rights. For the purposes of its general duty the Commission may-

- (a) **publish information or ideas**
- (b) **provide advice or guidance**
- (c) **conduct research**
- (d) **provide education or training**
- (e) **review and recommend changes to any areas of the law of Scotland (subject to first consulting with the Scottish Law Commission) or any policies or practices of any Scottish public authorities or conduct an inquiry into the policies or practices of Scottish public authorities.**

8. **The Commission may also, with the leave of the court or at the invitation of the court, intervene in court proceedings for the purpose of making a submission on an issue arising in the proceedings.**

9. The Commission must seek to ensure, as far as practicable, that any activity it undertakes does not duplicate unnecessarily any activity undertaken by any other person under any other enactment.

The Commission is the National Human Rights Institution (NHRI) for Scotland. The Commission is one of over 100 NHRIs around the world.

10. In the Commission's foreword, it mentions the calls that have been made to establish a range of new public bodies to uphold the human rights of particular groups of people and that the need to advance enjoyment of rights, for instance, for disabled people, ethnic minority communities, and older people is indisputable. The Commission believes it has a crucial role to play but that they can only deliver effectively as Scotland's human rights watchdog if they have the mandate, powers and resource they need.

11. The Commission's strategic objectives for 2024-2028 are set out in the table below.

Strategic Theme	Strategic Objective
Purpose	Deliver and extend our mandate to improve accountability for human rights in Scotland; and inform the Scottish Parliament on the human rights implications of proposed legislation.

People	Ensure that the Commission is informed by, and works alongside, people and communities throughout Scotland who have direct knowledge of how human rights are being experienced; and use our mandate to focus on poverty, detention and access to justice
Performance	Monitor and report on how human rights are being experienced in Scotland, and play our part in embedding a stronger human rights culture

12. The Commission has outlined how it will deliver its 3 objectives.

Strategic Objective No 1 - Purpose

- they will keep under review law and practice that impacts on the protection of human rights in Scotland.
- they will provide advice to the Scottish Parliament on the human rights at stake in respect of proposed legislation for the benefit of everyone in Scotland.
- they will place a particular focus on strengthening the human rights legal framework in Scotland through work to influence and scrutinise the proposed Human Rights Bill.
- they will engage with the United Nations and Council of Europe Treaty Monitoring cycles, participate in the UK National Preventative Mechanism, as a member of the United Kingdom Independent Mechanism (UKIM) reporting to the United Nations under Article 33 of the United Nations Convention on the Rights of Persons with Disabilities
- build on the internationally recognised Belgrade Principles for National Human Rights Institutions and will explore opportunities to deliver training to MSPs and their staff on a human rights based approach
- they will engage strategically with civil society networks
- they will pursue interventions in cases progressing through the Scottish courts on issues which impact on the human rights of people in Scotland and they may ask Parliament for resource to use their current power of inquiry
- they will advocate for the Commission’s effectiveness as an NHRI and explore and advise Parliament on opportunities to extend the mandate of the Commission to align with those of other NHRIs operating in the UK context, building on learning from international NHRI networks.

Strategic Objective No 2 - People

- The Commission will develop and embed a new Participation and Engagement model throughout 2024-28.
- They will build on the success of pilot work in the Highlands and Islands in 2023/24 to include monitoring and engagement activities across

Scottish regions to help to build a network of human rights defenders in communities across Scotland who have a direct link to the work of the Commission

In addition, the Commission has identified four areas of human rights concern it believes require prioritisation over 2024-28. These priorities will inform their annual operational plans, and how they make decisions about their work. However, we will also retain capacity to respond to emerging challenges to human rights in Scotland.

The four key priority areas of focus are -

- Impact of poverty on human rights in Scotland
- Human Rights in places of detention
- Access to Justice
- Specially-protected groups

Strategic Priority No 3 – Performance

- they will prioritise work to improve its evidence-base informing how human rights are being experienced in Scotland
- they will continue to raise issues with the UN treaty bodies and Council of Europe reporting procedure and through the Universal Periodic Review process
- they will produce an Annual State of the Nation report, which will outline the developments in respect of progressing human rights and relevant domestic and international judgements
- they will develop their role in monitoring the Scottish Government's implementation of SNAP2
- they will contribute as a member of the UK's Independent Monitoring Mechanism for the Convention on the Rights of Persons with Disabilities, and participate in the UK's National Preventive Mechanism under the Optional Protocol for the Convention Against Torture
- they will share outcome reports from the Commission's monitoring work with the Scottish Parliament in order to progress its roadmap towards becoming a guarantor of human rights including strengthening parliamentary scrutiny of the Commission's findings
- We will continue the work of our Highlands and Islands pilot spotlight in 2023/24. To support this we will make the case for extended resource to deliver regular local monitoring work.
- They will commission further research to enhance their ability to monitor how human rights are being experienced and understood.
- They will develop strategic partnerships with public sector representative bodies and regulators to embed human rights based approach at scale

through capacity building and training resources, while safeguarding their independence

- They will continue to promote human rights budgeting as a tool for public bodies and regulators to embed a human rights culture.

Through the proposed Human Rights Bill, they will inform the development of a new Human Rights Scheme for Scotland which will include exploration of options for an identified role for the Commission in the preparation for and delivery of the scheme and monitoring system.

Monitoring Progress

13. The Commission will monitor progress through a set of key performance indicators, approved and monitored by members of the Commission. Quarterly reporting at Commission level against these key strategic performance indicators will provide a robust Governance overview. Annual operational plans will be developed by the Commission team and will sit beneath the Strategy.

Funding and issues

14. The Commission will prioritise its resources via a decision-making framework and will plan to be flexible in order that it can maintain capacity to respond to issues which emerge and develop over the course of the strategic planning cycle.
15. The SHRC is anticipating funding as a result of the Rights of the Child (Incorporation) (Scotland) Act 2024. In the amended Financial Memorandum (FM), an estimate of up to £150k is anticipated for the SHRC.
16. The amended FM (on which the SPCB was not consulted) states *“amendments at stage 2 represented an expansion of the SHRC’s powers they are expected to entail additional costs. Indicative costs range between £100,000 and £150,000 per annum. Funding of the SHRC is a matter for the Scottish Parliamentary Corporate Body (SPCB) and any decision on budgets in respect of these additional powers would be for the SPCB to take in due course.*
17. As the above statement is not in keeping with the Memorandum of Understanding we have in place with the Scottish Government for funding additional functions, we have contacted Scottish Government officials to discuss the matter and request a transfer of funding in due course for any set-up and year one costs.
18. The SPCB will also wish to note that the SHRC states that it intends to undertake more proactive work to spotlight areas of concern and will make

a case for extended resources to deliver regular local monitoring work to evidence how rights are being experienced at constituency level and inform State of the Nation reporting, and it may also pursue interventions in cases progressing through the Scottish Courts and it may ask the Parliament for the resources to use their powers of Inquiry.

19. **The SPCB is invited to consider the Commission's draft Strategic Plan attached at Annex A and to note the financial implications discussed above and at paragraph 25 below.**

Scottish Public Services Ombudsman (the Ombudsman)

20. The Ombudsman's role is to investigate complaints about most organisations providing public services in Scotland where a member of the public claims to have suffered injustice or hardship as a result of maladministration or service failure. The Ombudsman is also the Scottish Welfare Fund Independent Reviewer and the Independent National Whistleblowing Officer for the NHS in Scotland.

21. The Ombudsman's draft Strategic Plan for 2024-2028 has four strategic themes and below each theme are strategic objectives as follows -

Access to justice through everyday rights

1. We will develop and adopt rights-based approaches to complaints handling; updating and monitoring Model Complaints Handling Procedures and Model National Whistleblowing Standards to ensure rights are reflected in accessibility to public bodies complaints handling
2. We will make our own service as accessible, and rights based as they can be, promoting awareness of the right to complain
3. We will continue to develop stakeholder relationships to contribute to development of fair, accessible Scottish public services, and wider access to justice environment
4. We will push for legislative change to enable us to make our services and those of other Scottish public bodies accessible and rights based

Agile capacity

5. We will build and maintain our capacity, financial, human and infrastructure, to implement and deliver our statutory functions, taking an agile and flexible approach
6. We will be acknowledged for having well-trained, properly supported people who have the tools they need to deliver our services

7. We will review and develop the support, guidance and training we offer to public bodies, complainants, and whistleblowers to enable them to develop their own capacity, to handle service complaints, whistleblowing concerns and applications to the Scottish Welfare Fund

Standards and impact

8. We will monitor Scottish public bodies' complaints handling Scottish Welfare Fund applications and whistleblowing handling, holding them to account for poor performance and giving credit for good performance
9. We will review the Model Complaints Handling Procedures and National Whistleblowing Standards to ensure they remain fit for purpose
10. We will contribute to the development and/or review of other standards and guidance to ensure they deliver services to the standards required
11. We will develop our capacity to gather and share information and data to enable us to make efficient and impactful interventions when complaint, and Scottish Welfare Fund services handling falls below accepted standards
12. We will promote good practice to drive efficiency in public sector complaints and Scottish Welfare Fund applications handling to ensure learning is captured and applied to service delivery improvements.

Efficiency

13. We will manage the organisation to deliver our statutory functions within budget in line with our legislative requirements, our published customer service standards and our performance targets
14. We will keep our approach under review to drive efficiency and ensure business continuity, taking an agile and open-minded approach to business and process developments.

Reporting Progress

22. The Ombudsman will report achievements against plans annually through her Annual Report and Financial Statement and other statutory reports. The Ombudsman will also on a quarterly basis, publish an update providing an overview of progress against the business plan. Achievement and progress will also be reported through other mechanisms including, parliamentary scrutiny, special reports and ad hoc reports.
23. The Ombudsman has highlighted the most strategic risks facing her office which includes having inadequate, inflexible and unsustainable funding levels to deliver statutory functions; the unpredictability of work volumes;

building or adapting capacity given the time taken to train staff and cyber security.

24. The Ombudsman's approach to resource planning assumptions includes maintaining the baseline budget apart from pay awards and cost of living increases, shared services with other officeholders and ensuring project work focusses on development that impacts on the office's ability to absorb workload fluctuations and/or constructively influences demand for their services.

25. The SPCB is invited to consider the Ombudsman's draft Strategic Plan attached at Annex B.

Governance

26. Seeking comments from the SPCB prior to the laying of a strategic plan is a statutory requirement. The officeholders have until the end of March 2024 to lay their plans.

Resource Implications

27. The officeholders' budgets are subject to annual approval by the SPCB. The SPCB commenting on a draft plan does not guarantee future funding and this is made clear when we respond to the officeholders.

28. As mentioned above, the Scottish Human Rights Commission is anticipating funding as a result of the Rights of the Child (Incorporation) (Scotland) Act 2024. In the amended Financial Memorandum (FM), an estimate of up to £150k was anticipated for the SHRC. We are actively discussing a transfer of funding for this with the Scottish Government as we have not budgeted for it.

29. In addition, the SPCB will wish to note that the Commission states that it intends to undertake more proactive work to spotlight areas of concern and will make a case for extended resources to deliver regular local monitoring work, and it may also pursue interventions in cases progressing through the Scottish Courts and it may ask the Parliament for the resources to use their powers of Inquiry

30. As the SPCB will be aware, as part of the annual budget process for 2024/25, it approved contingency funding for a number of officeholders and any further calls on the Contingency Fund will have to be carefully managed and prioritised to ensure there is funding available to cover e.g., temporary staff for maternity and sickness cover.

31. With the SPCB's agreement, we will let the Commission know that there are limited contingency funds available, and that any calls will have to be prioritised. While what the Commission is proposing is important, we do have some concerns about additional funding being sought so soon after the annual budgetary process and also with the Finance and Public Administration Committee's Inquiry having just started.

Publication Scheme

32. This paper may be published once we have written to the officeholders.

Decision

33. The SPCB is invited to –

- (a) consider and provide any comments on the draft Strategic Plan of the Ombudsman, and
- (b) consider and provide any comments on the draft Strategic Plan of the Scottish Human Rights Commission and note the financial implications and agree that officials should write to the Commission about available contingency funding in 2024/25.

Officeholder Services

February 2024