



Scottish Pensioners' Forum

Address: Margaret Irwin Centre

8 Landressy Street, Glasgow G40 1BP

Telephone: 0141 337 8113

Email: spf@stuc.org.uk

www.scottishpensioners.org.uk

This response may be published with the name of our organisation

This response may be shared with other Scottish Government policy departments

The Scottish Government may contact us again, if necessary, to discuss the details of our response

Scottish Pensioners' Forum: A Human Rights Bill for Scotland Consultation Response

The Scottish Pensioners' Forum (SPF) believes that a Human Rights Bill for Scotland is a key step to ensuring the rights of older people are protected and commends the Scottish Government for its foresight in moving to realise this.

At present, despite the establishment by the UN of an Open-Ended Working Group on Ageing in 2011, there is still no active Convention on the Rights of Older People although recent steps have been taken to remedy this post pandemic.

[13th Session UN Open-Ended Working Group, New York April 2023](#)

We ask that any developments on the UN's progress to establish free-standing legislation on the rights of older people be monitored closely by the Scottish Government and that any advancement therein be factored into the Human Rights Bill as it progresses through to its implementation.

1) The SPF acknowledges that within the [A Fairer Scotland for Older People: framework for action](#) report, published in April 2019, it states:

"The long-term vision is for a new Act of the Scottish Parliament that brings internationally recognised human rights into Scots Law and creates a new, devolved human rights framework for all of the people of Scotland. The rights of rights for older people and LGBTI (lesbian, gay, bisexual, transgender and intersex) communities are not currently the subject of specific, free-standing international human rights treaties, although they are mainstreamed through all other existing treaties. In order to demonstrate leadership and reflect international best practice, we will ensure that the proposed act explicitly refers to the rights of both older people and LGBTI communities. In doing so, it will cover civil, political, economic, social and cultural rights, including measures to protect against poverty and social exclusion."

However, despite this provision, it is disappointing to note that within the consultation itself, namely under **Equality Provision and Other Status**, older people and LGBTI people are not clearly or specifically defined.

We believe that grouping them within 'other status' is demeaning and contravenes the earlier reference to best practice by showing an inherent lack of understanding of their basic human rights or their protected status under the Equality Act 2010.

2) The SPF acknowledges that the Scottish Government is guided by the [United Nations Principles of Older Persons](#) however we must draw attention to the inconsistencies in age when defining the criteria for an older person within a Human Rights Bill for Scotland.

Under the Fairer Scotland for Older People framework, older people are defined as 50+ however under UN recommendations, older persons are defined as 60+. Moving forward, we believe that this anomaly could prove problematic and must be clearly defined from the outset.

3) The SPF acknowledges that the four treaties incorporated into the Human Rights Bill proposals: The International Convention on the Elimination of All Forms of Racial Discrimination (**ICERD**); The Convention on the Elimination of All Forms of Discrimination Against Women (**CEDAW**); The Convention on the Rights of Persons with Disabilities (**CRPD**) and The International Covenant on Economic, Social and Cultural Rights (**ICESCR**) will offer significant protection for many older people however for the purposes of this consultation response, we will consider more rigorously those protections offered under (**ICESCR**).

PART II

ARTICLE 7 (B) (II)

The right to work and to favourable conditions of work

The SPF asks that the Scottish Government give particular attention to recent reports undertaken by the Scottish Pensioners Forum and Scottish Hazards looking at older people in the workplace, both through their experiences of bullying and harassment in the workplace and in their experiences as frontline and essential workers during Covid-19. These reports clearly show that access to safe and healthy working conditions in the workplace may be somewhat lacking when considering provision for ageing workers. (Both reports can be made available on application.)

The SPF would also like to acknowledge that although any future increases to state pension age are reserved, and therefore out-with the competencies of the Scottish Government, in terms of human rights, this situation must still be closely monitored.

ARTICLE 9

The right to social security

As several social security benefits relating to older people have now been devolved to the Scottish Parliament, including winter fuel payment, carers allowance and pension age disability payment, the SPF asks that applications made to Social Security Scotland be dealt with expeditiously and through the preferred application process and channels of communication of the older person.

ARTICLE 11 (1)

The right to an adequate standard of living

In terms of accessible housing, the SPF asks that [the Age, Home and Community: a strategy for housing for Scotland's older people 2012-2021](#) be revisited as a matter of priority as the current housing crisis in Scotland in many way impinges on an older person's right to a safe and healthy environment.

In terms of access to food, the SPF believes that this is becoming increasingly problematic for many older people across Scotland in both urban and rural communities. Although the SPF acknowledges that much of the incidences of pensioner poverty during the current cost of living crisis are due to inadequate state pension provision, with remedies falling out-with the competencies of the Scottish Government, we do feel however that many of the charities and voluntary organisations working on food poverty for older people should be more robustly funded to enable them to carry out their work more effectively.

Article 12

The right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The SPF asks that [Palliative and end of life care: strategic framework for action](#) be reconsidered as a matter of priority. It would seem that despite initially making some progress in realising the vision set out in the framework by 2021, it currently falls well short of its targets.

In 2023, many people in Scotland are still experiencing inequality and inequity when engaging with, and accessing, palliative care services, especially among certain demographics, such as those dying with non-cancer conditions, older people and women. The pandemic has intensified the complexities associated with terminal illness and shows the distinct lack of access to palliative care when it is needed most.

Despite this, the SPF welcomes the fact that the Scottish Government are moving towards the implementation of a National Care Service.

Article 15

(i) The right of everyone to take part in cultural life

The SPF acknowledges that the Scottish Government is some way ahead in many ways through the implementation and retention of the concessionary travel scheme for younger, older and disabled people. However, access to services such as libraries, community facilities and museums to name but a few have been severely compromised post pandemic leading to much higher incidences of loneliness and isolation.

(ii) The right of everyone to enjoy the benefits of scientific progress and its applications

The SPF believes that scientific progress includes digital advancement and many older people are severely compromised in this area with over 41% of over 60s either digitally excluded or digitally avoidant. (A

[Connected Scotland Phase 1](#)). In many instances, this is due to the exorbitant costs often associated with digital connectivity.

In addition to the points highlighted under Articles 7-15 of ICESCR, the SPF would also like to draw attention to Part 6 of the Scottish Government's own consultation document, entitled **'Incorporating Further Rights and Embedding Equality.'**

The SPF recommends that:

1. **The Civil and Political Rights** within the [Human Rights Act 1998](#) be restated and in addition to this, the United Nations Convention Against Torture (UNCAT) and International Convention on Civil and Political Rights (ICCPR) provisions and terms should also be incorporated into the Scottish Governments Human Rights Bill.
2. **Participation.** Principles and practices of participatory democracy could potentially be outlined within the Scottish Government's Human Rights Bill. Rights to extend democracy within workplaces and communities and the incorporation of citizen's assemblies would also be a major step forward.

The Scottish Pensioners' Forum has welcomed the opportunity to have been involved in the proposals for a Human Rights Bill for Scotland from the outset, through taskforce phases, lived experience panels and in an engagement and advisory capacity and asks that the points highlighted in our Dignity and Rights of Older People in Scotland policy, ratified by our conference in 2017, serve as a blueprint for the realisation of human rights practices for older people in Scotland.

Our policy sets out that any movement towards denying older people their basic human rights on issues affecting their everyday lives on the basis of age is unacceptable and to this end calls for:

- Respect for older people to take charge of their own affairs, or if necessary, by their chosen representative if they are no longer able to do so for themselves.
- That older people have the opportunity to actively participate, and to speak, for themselves on decisions affecting their overall wellbeing.
- That older people have access to information through language and methods of communication that they fully understand.
- That older people have the right to access proper health care benefits and treatments which could enhance their quality of life.
- That advanced statements expressing the personal choices of older people on their health care in later life be taken into consideration when they can no longer express themselves clearly.
- That care packages in later life be adapted to cater for individual needs and not on a standardised 'one size fits all basis'.

- The right for older people not to be abused or disrespected in any way or being made to feel invisible or incompetent when carrying out everyday tasks.
- The right of an individual to be free from the threat of violence due to their age or vulnerability.
- Support for older people to allow them to maintain a good standard of personal hygiene and appearance.
- That comfort, consideration, inclusion, participation, stimulation and a sense of purpose be considered on all issues affecting an older person which could help to enhance their quality of life.
- That there be no barriers to participation for older people, if desired.
- That there is respect for an individual's preferences, routines, customs, faith, cultural differences, disability, sexual orientation and all other needs appertaining to their sense of self.
- A proper mechanism for older people to address concerns and make complaint without fear of recrimination.
- Older people have the right to privacy.
- Older people have access to educational opportunities which could help improve their quality of life.
- Older people have the right to employment opportunities, both paid and voluntary.
- The right of older people not to be discriminated against in the workplace as a consequence of age.
- The right of older people to be afforded dignity and respect in all verbal and written communications.
- That the rights of older people, as set out under the UN Universal Declaration of Human Rights are respected and adhered to as standard practice.

Eileen Cawley
 Scottish Pensioners' Forum
 4th October 2023