



A Human Rights Bill for Scotland

October 2023

1. Introduction

The General Teaching Council for Scotland (GTC Scotland) is the teaching profession's independent registration and regulation body. We were established to ensure standards for the teaching profession in Scotland. We work to maintain and enhance trust in teaching. Our role is to register and regulate teachers and college lecturers. We do this by keeping a public register and setting and regulating the standards for entering and remaining in the teaching profession. Our work is funded by the fees teachers and college lecturers pay.

We welcome the opportunity to respond to the Scottish Government's consultation on a Human Rights Bill for Scotland and have the following comments to make.

2. General Comments

Our statutory functions are set out in the [Public Services Reform \(General Teaching Council for Scotland\) Order 2011](#), which among other things, places a duty on us to perform our functions in a way that *encourages equal opportunities and in particular the observance of the requirements of the law for the time being relating to equal opportunities*¹. The convener of our Council, Dr Khadija Mohammed, chairs the government's Anti Racism in Education Programme (AREP), and we are also represented on the *diversity in the teaching profession and education workforce* sub-group. We recently set up [equality and diversity](#) and [health and wellbeing](#) hubs to support professional learning and raise awareness among the profession and in September 2021, we established the Saroj Lal Award to recognise pioneering work by a teacher in the field of equality and diversity. Further information on our diversity work is available in our annual report².

¹ Article 8(c)

² <https://www.gtcs.org.uk/wp-content/uploads/2022/11/annual-report-and-financial-statements-to-31-March-2022.pdf>

As an employer, we adhere to the general duty imposed on us under the public sector equality duty, as well as the terms of our own equality, diversity and inclusion policy. Since the beginning of this year, we have made all of our appointments using a recruitment platform that operates an applicant tracking system purpose-built for making unbiased recruitment decisions.

We are aware of the constitutional limitations on the Scottish Government when legislating in the area of human rights and believe that there are others better placed to comment on how the aims of this legislation can be achieved in practice. However, we welcome the opportunity that the bill provides to examine our own operations in the context of the international human rights standards that the bill seeks to place on a statutory footing and we will focus on the questions that are relevant to our work.

3. Specific comments

Part 7: The Duties

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

We note that the Scottish Government's view is that the duties should apply, so far as possible, to bodies carrying out devolved public functions. We also note the intention to apply the duties to bodies carrying out functions of a public nature, including private bodies acting under a contract or other arrangements with a public body. We would welcome clarification on, and suggest that thought should be given to, whether the duties would apply universally or vary dependent upon the nature of who it is to be applied to. We are an independent regulatory body established by statute. We have been treated as a public authority for the purposes of some but not all legislation. We therefore share some but not all of the obligations placed on public bodies. For example, the public sector equality duty already places obligations on public bodies in Scotland but while some, such as GTC Scotland, are only covered by the general duty, others have more specific reporting (among other) obligations under the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

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

The proposals as currently framed are quite high-level and so it is difficult to assess what the extent and impact of the duties placed would be. That said, it would be sensible to build in sufficient time for the government to produce resources to support implementation. Time will also be required for organisations to put the necessary measures in place to ensure compliance, and the resource implications of compliance will require to be assessed and understood.

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

We note that the compliance duty only extends to the core [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) rights and the right to a healthy environment. From the model of incorporation set out in part 4, we assume that this relates to legislative competence, although we are unclear how the duty will interact with the rights included in the ICESCR that would not fall within devolved competence.

Part 4 also highlights the need to make clear how the protections across all the treaties – which are often overlapping in nature – should be read, interpreted and applied consistently and coherently with one another. The limitations of devolved competence in relation to the rights concerning discrimination and equal opportunities and some of the rights contained within the ICESCR, and how the bill will interact with reserved compliance duties and remedies for rights-holders in respect of non-compliance, potentially add another layer of complexity. This will need to be fully examined and explained so that duty-bearers fully understand their responsibilities.

22. Do you think certain public authorities should be required to report on what actions they are planning to take, and what actions they have taken, to meet the duties set out in the Bill?

If it is considered desirable that certain public authorities should be required to report on their actions under the bill, it would seem out of step if the criteria for identifying which ones were very different to the existing arrangements under the

public sector equality duty. On the basis that some authorities were placed under such a duty, support would be required to minimise the administrative burden that this would place on already limited resources.

23. How could the proposed duty to report best align with existing reporting obligations on public authorities?

As highlighted in the consultation paper, we are of the view that there should be no unnecessary duplication of labour. Bodies with existing reporting obligations under the public sector equality duty could be expected to incorporate the bill's reporting requirements into the reports they publish under that duty. Should the duty be extended further to include those covered by the general duty, then based on our own practice, we would suggest that it could be incorporated into other existing reporting mechanisms. In GTC Scotland's case, we are required by our Order to produce an annual report on our performance for the Scottish Parliament.

24. What are your views on the need to demonstrate compliance with economic, social and cultural rights, as well as the right to a healthy environment, via MCOs and progressive realisation?

It is difficult for us to respond to this question based on the information provided, which focuses on what the core content of the ICESCR right to health could be. We will be better placed to comment once we have a better idea how MCOs relating to other [devolved] rights contained in the ICESCR that are more relevant to our core functions, in particular the right to education set out in Article 13, could potentially be framed.

Part 8: Ensuring Access to Justice for Rights Holders

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

29. What are your views in relation to our proposed changes to the Scottish Public Services Ombudsman's remit?

While we strongly support effective access to justice for rights-holders, the government should be careful to ensure that available resourcing can meet the

level of potential demand, and that rights of redress do not impose a disproportionate level of scrutiny or administrative burden on the duty-bearer.

Part 9: Implementing the New Scottish Human Rights Act

We have nothing to add to what has been recommended by the Task Force in relation to implementing the new legislation, specifically under *guidance and capacity building* and *information and awareness raising*.

GTC Scotland

Comhairle Choitcheann Teagaisg na h-Alba

We are the teaching profession's independent registration and regulation body. We work to maintain and enhance trust in teaching.

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