

Highland Senior Citizens Network Annual Meeting

23 April 2014, Lochardil Hotel, Inverness

Remarks by Duncan Wilson, Head of Strategy and Legal, Scottish Human Rights Commission.

Thank you to HSCN for the invitation to be here with you today, and for their support in making this happen.

Intro to SHRC

I am from the Scottish Human Rights Commission, an organisation which was set up by a law of the Scottish Parliament to promote and protect all human rights, for everyone in Scotland. We are completely independent of Government and we report to Parliament on how we spend public money.

Before we go any further, let me start by asking you a couple of questions:

Q - What do we think of when we think of human rights?

Q – What kinds of human rights problems do we think there are in Scotland?

What are human rights and where they come from

Human Rights are the fundamental entitlements which we all have – everyone in the world – to enable us to live with human dignity. They are based on principles of fairness, respect, autonomy, and dignity and they cover all aspects of our lives, everywhere we are – at home, at work, in school, in hospital, on the street.

They include civil and political rights like the right to vote, to free expression, to respect for our private life and economic, social and cultural rights like the rights to education, to an adequate standard of living, and to the highest attainable standard of health.

The concept of universal human rights emerged from the horrors of the early 20th Century – the Holocaust, the Great Depression – and were brought into international legal obligations on States (countries) all over the world, both at the United Nations and in regional standards like the European Convention on Human Rights.

Most of the 20th Century was focussed on standard setting, but in World Conference on Human Rights at end of the Century, the focus moved to implementation. The Vienna Declaration and Programme of Action which emerged from the World Conference on Human Rights 20 years ago focussed on two means in particular to advance the implementation of human rights at the national level: establishing national human rights institutions and developing National Action Plans (or roadmaps to realise rights).

Implementation in Scotland and the UK

Five years after Vienna, the UK Government introduced the Human Rights Act 1998. The Human Rights Act gives people in Scotland the opportunity to have their human rights legal case heard in a Scottish court. The Human Rights Act contains the rights which are included in the European Convention on Human Rights.

The Human Rights Act makes it unlawful for a public authority (such as a local authority or a court) to act, or fail to act, in a way that is incompatible with a Convention right - all public authorities must look through a lens of human rights when they are interpreting the law. If you feel that one or more of your rights have been breached by a public authority, you can raise the matter in a court. If you are unhappy with the decision and have pursued the issue as far as it can go in the UK, you can take your complaint to the European Court of Human Rights.

The Scottish Human Rights Commission was established in 2006 in law and has been operational since 2008 with vision to build a “human rights culture”. We tested the application of a human rights based approach in social care for older people through the Care about Rights? Project. This proved to be successful in independent evaluation where over 90 percent of care workers felt better able to deliver person centred care and balance rights and risks; and in health (lessons – e.g. better for staff, tailored etc).

SNAP is about implementing a human rights based approach across all areas of law, policy and practice over time.

- why?

(evidence and participation – pretty good legal and institutional structure for human rights but inconsistency in practice)

- how?

(working together in action groups to find solutions, independent monitoring, link to UN human rights reporting, Parliamentary reporting – John as Committee rapporteur, Leadership Panel)

What (and specifically what it may mean for older people)

Better Culture

- low knowledge of human rights – misrepresentations in media, people can't use their rights if they don't know what they are

- lack of ability of service providers to consistently uphold human rights/dignity

- accountability gaps – law, inspection, monitoring

Better Lives

- Health and Care: lots of opportunities, lots of urgency (Elsie Inglis, Ken Maitland, kinship carers, self-directed support/independent living)

- Standard of living:

welfare reform, headlines on “demographic timebomb” when we could be celebrating that we are living longer and healthier lives. Also risks reinforcing image/ stigma of older people as a “burden” or resource drain vs reality that people like Mandela, Picasso, Ghandi, Goethe made some of their greatest contributions in their 80s. We need to unlock the potential of older people in our societies

there is also unequal access to services in rural areas

- Justice and Safety: policing, access to justice many barriers, abuse prevention

Better World

- take obligations seriously, implementation, incorporation, business and HR, Climate Justice.

Also UN is currently developing a new Convention on the Rights of Older People. Based on experience from the recent UN Convention on the Rights of Persons with Disabilities, this could spell out in more detail what is required to realise the rights of older people and address some of the apparent gaps in existing human rights law. Issues such as social care, age discrimination, social protection and independent living are not hugely visible in existing human rights standards and this could therefore help clarify the rights and obligations related to ensuring the dignity of older people.

So, SNAP is important part of Scotland’s human rights journey and can pave way for others steps, such as incorporation of all human rights (including economic, social and cultural rights, ESC rights). If we had ESC rights in our laws it would allow people in this country to do what has been done in countless countries around the world – challenge the reasonableness of policies to realise rights to health, education, housing for all of us – to assess whether they were appropriately prioritising those who are more vulnerable and the immediate realisation of the minimum essential levels of nutrition, health care, sanitation, education that is required to enable everyone to live with dignity. In Germany and Latvia for example ESC rights have been used in domestic courts to challenge grossly inadequate social protection systems, including pensions policies which are insufficient to live with dignity.

This is what SNAP aims to achieve: a better culture, better lives and a better world, so that everyone can live with dignity. It is gaining international recognition as an example of best practice in the national implementation of human rights with the Council of Europe Commissioner for Human Rights and UN High Commissioner for Human Rights both promoting the process of developing SNAP as a model for other countries. But we are barely through the starting gate. The true test will be to return in four years and assess the progress that has been made.

This is where you come in, after the break, helping to shaping priorities and suggesting actions. Because the greatest asset for the realisation of human rights is the people directly affect. You know what is important, you know what works and what doesn’t and you are not listened to often enough. In SNAP we want to change that, and after the break I would ask you to discuss what your priorities and ideas for action are under the themes of health and care, standard of living and justice and safety. I will take back the outcomes of your discussions and ensure they are fed into the work of Action

Groups seeking to implement SNAP. Ideally we would like to come back at a later date and discuss what has happened as a result and hear your views on progress.

I look forward to working together to make human rights real for older people in Scotland.

Thank you.

