

The Equalities and Human Rights Committee - How the Scottish Parliament can enhance the way it considers human rights in its work: An Inquiry

Response from Audit Scotland, 19 April 2018

1. The Equalities and Human Rights Committee (the Committee) has invited a response from the Auditor General for Scotland to this inquiry. She has asked Audit Scotland to respond on her behalf.
2. Audit Scotland welcomes the opportunity to input to the inquiry being conducted by the Committee into how the Scottish Parliament can enhance the way it considers human rights in its work. In particular the Committee has sought views on human rights and working with Parliaments and civil society. The Committee has stated that it would be good to hear about the type of human rights issues that are raised in Scotland and the UK and the groups of people most affected and why. The Committee has also said it would welcome hearing about how Audit Scotland works with other organisations to support people to access their rights and how we raise awareness of human rights issues and the domestic and international human rights frameworks.
3. Firstly it might be helpful to set the context for this response through brief referral to public audit in Scotland.
4. The Auditor General for Scotland is responsible for the audit of most public bodies, except local authorities. This includes directorates of the Scottish Government, government agencies, NHS bodies, further education colleges, the Scottish Police Authority, the Scottish Fire and Rescue Service and most Non Departmental Public Bodies. The Auditor General is also the Accountable Officer for Audit Scotland, which provides audit services to both the Auditor General and the Accounts Commission.
5. The Accounts Commission is an independent public body appointed by Scottish ministers to hold local government to account. The Controller of Audit is an independent post established by statute, with powers to report directly to the Accounts Commission on the audit of local government.
6. The Auditor General, the Accounts Commission and Audit Scotland work together to deliver public audit in Scotland, providing independent assurance to the people of Scotland that public money is spent properly and provides value. We aim to achieve this by: carrying out relevant and timely audits of the way the public sector manages and spends money; reporting our findings and conclusions in public; and identifying risks, making clear and relevant recommendations.
7. Audit Scotland has an internal Diversity and Equality Steering Group to ensure we meet the requirements of the Equality Act 2010 and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. In April 2017, we refreshed our equality outcomes. We have two equality outcomes and the one of most relevance to this inquiry is: audit work will reflect how public

services meet the diverse needs of all citizens and communities. In arriving at this outcome our focus is on the protected characteristics of the Equality Act. We have said that we will do this by:

- consulting with stakeholders on how to reflect equality and diversity in audit work
 - ensuring that staff are sensitive to the diverse needs of stakeholders when performing audit work
 - analysing data to help understand who uses public services and use this to inform audit work
 - reflecting equality and diversity issues in audit work programmes, in a way which is consistent with the audit duties
 - publishing information and reports in formats that are accessible to all
 - reporting audit findings in a style that reflects the audience
 - reporting on diversity and equality issues where appropriate
 - supporting other public bodies in their scrutiny of diversity and equality.
8. We reviewed the remit of our internal Diversity and Equality Steering Group in January 2018 and are currently exploring how we might extend that remit to include consideration of human rights and socio-economic inequality, such that, where appropriate, we include consideration of these areas when we scope our audit work.
9. In developing our approach to promoting the advancement of equalities in our audit we have established an Equality and Human Rights Advisory Group, involving external representatives, to secure better engagement with equality and human rights organisations. We discuss our programme of performance audits and other work plans with this group. We also seek their input to learn where there are areas of significant concern that we need to take account of in the development of future work programmes, or the scoping of individual audits. Included in the membership of that group is the Chair of the Scottish Human Rights Commission, and we also meet separately with the Equality and Human Rights Commission.

Question 1 - It would be good to hear about the type of human rights issues that are raised in Scotland and the UK, and the groups of people most affected and why?

10. The programme of audit work that Audit Scotland delivers on behalf of the Auditor General for Scotland and the Accounts Commission includes:
- overview reports, which assess the overall performance of key parts of the public sector, such as the NHS, local government and colleges;
 - performance audit reports which focus on efficiency and effectiveness in the use of public resources;
 - Best Value reports which assess how well councils are meeting their statutory duty of Best Value; and
 - annual audits.

11. Statutory reports may be drawn up to highlight a particular matter for the attention of the Scottish Parliament or the Accounts Commission, for example where there has been a governance failing, poor use of public money or a financial sustainability challenge.
12. Specific examples of recent reporting which has included equalities issues include the audit of Equal Pay in Scottish councils [report](#) (September 2017) and the audit of Self Directed Support (a follow-up [report](#), August 2017)
13. In drawing up the rolling programme of audits we consult widely, including, as referred to in paragraph 9, with an Equality and Human Rights Advisory Group, which we established in November 2016.
14. Poverty is a key threat to an individual's enjoyment of human rights in Scotland as it has a detrimental effect on health, access to education, housing and employment and consequently an individual's ability to live safely and in dignity. Addressing economic and other inequalities is therefore a top priority for many of our audited bodies.
15. Ineffective governance or service delivery can be detrimental to the enjoyment of human rights across Scotland where they, for example, reduce the amount of public facilities available to individuals who rely on them, or where they impact on resources and staff, which can slow the delivery of crucial services such as healthcare provision, housing and benefits.
16. Homelessness has been reported to be a serious human rights issue in Scotland and the rest of the UK. It is stated by Health Scotland to be 'both a cause and a result of social inequality', indicating that levels of poverty contribute to the likelihood of more people becoming homeless. We will be taking this, and other matters, into consideration as we scope the project plan for a housing audit, which features in our forward work programme. We also recognise the impact of mental health issues for users of services and are currently working on a performance audit of mental health services for young people.

Question 2 – Can the Committee learn anything from the work of Audit Scotland with other organisations as to how you support people to access their rights and how the organisation raises awareness of human rights issues and the domestic and international human rights frameworks?

17. Audit Scotland has been working to improve how we audit and report on equality and human rights issues in our work. Our role is to provide independent evidence on the effectiveness on the use of public funds. In social policy areas this is often difficult because of the complexity of measuring outcomes. We have found that working with other organisations and planning work over the longer term enables us to make the best use of our own resources in supporting independent scrutiny and public reporting on the use of public money. In this section we outline our existing audit work and also the changes that have been put in place for enhanced parliamentary scrutiny of the Scottish budget. A key aspect is that change is for the scrutiny of public finances to move towards a whole-cycle approach rather than the current annual one. This would provide more space and time for year-round scrutiny of value for money decisions and inform future spending proposals. We are currently considering how our work programmes can best support such scrutiny.

18. The public bodies we audit are primarily responsible for the protection and promotion of human rights in Scotland. Central and local government, health boards and other bodies are duty bound to use public funds in order to ensure that people are able to access health services, education, housing and other publicly provided facilities which relate to the rights covered by the International Covenant of Social, Cultural and Economic Rights. Protection of these socio-economic rights feeds into civil and political rights covered by a number of international frameworks, most notably the ECHR, as they have direct and indirect impact on, for instance, an individual's enjoyment of their right to private and family life, and freedom from discrimination. Because many of our audited bodies are directly responsible for implementing measures which protect and enhance rights, it is therefore essential that we provide robust financial audit and ensure accountability for the efficiency and effectiveness of public spending.
19. All public bodies have an independent auditor appointed by the Auditor General or the Accounts Commission, who report annually on the financial management of public bodies. In addition, for local government, a local scrutiny plan is developed for each council with other inspectors and regulators. Our work is reported in public and we regularly discuss audit findings with elected representatives and to audit committees.
20. As the public auditor in Scotland we often receive correspondence from concerned citizens, covering a broad range of topics. These can involve aspects such as weak financial management or a breakdown in governance arrangements in a public body that falls under the remit of the Accounts Commission or the Auditor General for Scotland.
21. We have found that issues of concern raised are often relevant to our work and could help by:
 - providing information that can help local auditors plan and target their audit work
 - identifying issues of concern that require further examination
 - providing evidence for us as part of a specific audit review.
22. As well as ensuring financial accountability, Best Value audits assess whether local councils are achieving continuous improvement against their Local Outcome Improvement Plans. These plans most often include improvement goals which are relevant to the socio-economic elements mentioned in the above paragraph, as well as the effects of economic inequality discussed at question 1. For example:
 - the high number of children in poverty is a key theme within Renfrewshire Council's LOIP;
 - Glasgow City Council have made transport a priority topic of their LOIP, citing concerns over accessibility and affordability for disabled persons as well as safety concerns of women and some ethnic minority groups.
23. Through our work we consider, assess and report on councils' progress against the improvement outcomes they have set for themselves, many of which are relevant to a wide spectrum of human rights. The evidence-based nature of our reporting on this type of progress provides an objective narrative, which could be a valuable tool in assessing the types of locally delivered measures likely to achieve desired improvements, and in informing practical discussion over human rights delivery and protection.

The National Performance Framework

24. The Scottish Government is committed to an outcomes-based approach to its policies, underpinned by the National Performance Framework (NPF). The NPF was introduced in 2007 and refreshed in 2011 and 2016. It aims to set out a clear, unified vision for Scotland including an overarching Purpose and a number of broad policy aims that the Scottish Government intends to work towards achieving, known as the National Outcomes. A range of indicators have been identified to assess progress towards this vision. These provide a broad measure of national wellbeing, incorporating a range of economic, social and environmental indicators and targets.
25. The Community Empowerment (Scotland) Act 2015 embeds the outcomes approach, placing a duty on Scottish Ministers to establish a set of National Outcomes, and public bodies must 'have regard to' in carrying out their devolved functions. The Scottish Government is currently reviewing its National Outcomes, and is consulting the Scottish Parliament and community representatives in line with the requirements of the Act. It is also carrying out a wider review of the NPF as a whole. Draft National Outcomes were laid before the Parliament on 29 March 2018, alongside a description of the wider consultation process, representations received and how the Scottish Government has taken these into account. The Parliamentary consultation period ends on 24 May 2018.
26. The review of the National Outcomes provides an opportunity to embed the Scotland's National Action Plan for Human Rights (SNAP) in the NPF. On the basis of the findings from the review, 11 new National Outcomes have been developed including one that covers human rights explicitly: we respect, protect and fulfil human rights and live free from discrimination.
27. The NPF provides a framework for public policy in Scotland, aiming to ensure policy coherence. The inclusion of human rights within the framework has the potential to underpin different policy areas working together towards the stated wider societal goal of respecting, protecting and fulfilling human rights (or at least making sure that they do not undermine, or conflict with each other).
28. A common theme in the audit reports we publish is the potential for greater alignment of resources and actions of the Scottish Government and other public organisations to the NPF. For example, the [report](#) on Supporting Economic Growth found that the NPF measures overall progress towards economic targets and outcomes but it does not measure the specific contribution of policies and initiatives to delivering these outcomes. We have also reported that policy implementation plans often lack indicators or measures to monitor progress and that in embarking on reforms, more work is needed at the outset to define milestones and indicators of planned progress, to support the assessment of progress, performance reporting and accountability. Such issues will also be considerations as the Scottish Government and public bodies look to address the new national outcome on human rights.

Scottish Parliament's Budget Process

29. In 2016, the Finance and Constitution Committee established a Budget Process Review Group to carry out a fundamental review of the budget process in light of the Scottish

Parliament's new financial powers. The Group consisted of parliamentary and government officials alongside a panel of external experts including the Auditor General. The Group published its final [report](#) in June 2017, making detailed recommendations to significantly change the existing budget process. This included a recommendation that the revised process should:

- have a greater influence on the formulation of the Scottish Government's budget proposals;
- improve transparency and raise public understanding and awareness of the budget;
- respond effectively to new fiscal and wider policy challenges;
- lead to better outputs and outcomes as measured against benchmarks and stated objectives.

30. The Group recommended a revised framework for the Scottish Parliament and Government to agree a new budget process. This centres on a full-year approach with continuous scrutiny allowing for a better understanding of the impact of decisions over a number of years. It also recommends there should be a greater focus on outcomes and the interdependencies and prioritisation of policies considering both financial constraints and an increased demand for public services.
31. We welcome and support the Group's findings and recommendations, which are consistent with themes we have reported to Parliament in recent years. A key aspect is that the scrutiny of public finances moves towards a whole-cycle approach rather than its current annual focus that follows the publication of the draft budget. This would provide more space and time for year-round scrutiny of value for money decisions and inform future spending proposals.
32. Expectations are increasing for the Scottish Government and public bodies to produce more detailed and transparent performance reporting, that better links spending with outcomes. The Budget Process Review Group recommended that the Scottish Government and public bodies strengthen their performance planning and reporting to provide a greater focus on the delivery of outcomes. This includes providing better information about what activity public spending will support, its aims, and the contribution it expects to make to national outcomes. This should include the new outcome relating to human rights.
33. Work is continuing to implement the new budget process for the 2019/20 Scottish budget. The Group recommended that Parliamentary scrutiny of the effectiveness of public spending in achieving outcomes should be a cumulative process and that committees should build up an evidence base throughout each session of the Parliament through, in particular, the evaluation of the impact of previous budgets and progress in achieving objectives. The Group also makes a number of recommendations which seek to ensure that scrutiny and setting of equalities objectives and public engagement are integral to the budget process. Such approaches are likely to be equally applicable to human rights.
34. The Group also recognised the contribution that audit can make to outcomes based scrutiny. It concluded that there is scope for committees to make better use of audit reports as part of this basket of evidence available to them in support of their evaluation of public spending. This

includes performance audit reports and annual audit reports on individual public bodies. These reports provide objective information and independent assessment on the public finances, performance and value for money. Audits often examine whether public money is being used to best effect to support the delivery of improved outcomes.

35. There is an ongoing programme of work undertaken on behalf of the Auditor General and the Accounts Commission (which covers local government) that can be drawn from to support outcomes-based scrutiny by committees. As the new budget process plays in we will look to continue to ensure that our work programme supports parliamentary scrutiny, and continue to develop our approaches as required.