**Human Rights**

**Consortium**

**Scotland**

**Consultation - How to create and maintain civil society space? What works?**

**A submission to the High Commissioner for Human Rights**

The HRCS is pleased to make a submission on practical recommendations on how to create and maintain the space for civil society to work freely and independently. The HRCS agrees that the exercise of public freedoms and the right to participate in public life are at the heart of civic activity.

The HRCS is a network of over 160 civil society organisations and individuals in Scotland. We work to increase understanding of and support for, human rights amongst civil society, brief politicians on ways to protect and better promote human rights and highlight where human rights practice can improve. The HRCS is an independent organisation and is non-party political. We happily work with international, UK and regional human rights organisations but we are ‘home grown’ rather than being a Scottish offshoot of a UK wide organisation.

The HRCS benefits from a respectful and inclusive working relationshop with the Scottish Government. For example Scottish Government Ministers have addressed our annual conferences in 2014 and in 2015. However we know that there are actions which could make our work easier so we asked members and supporters for their views at a session at our conference in Glasgow on 25th June 2015. The following are their suggestions.

**Space to work**

As a consortium of organisations that cover a wide variety of work (including equality, mental health, disability, access to information, migrant’s rights, children and prisons) our strength comes from coming together in collective action, sharing expertise and building capacity. We would suggest that:

* Human rights organisations can add value to the work of civil society by building knowledge and skills on human rights within organisations and amongst staff members. It is useful if human rights are integrated into the work of organisations on a variety of subjects rather than creating a super-sized, centralising human rights organisation.
* Human rights organisations can bring organisations together to find common ground on issues and instigate collective action, speaking with one voice.
* Human rights organisations can offer a shield for individual organisation that are afraid, for a variety of reasons, to speak out alone on an issue.
* It is important to be part of international networks to learn from other jurisdictions and build expertise.

**Necessary Laws and Rules**

There is room for improvement in the cultural, legal and political environment in

 which civil society operates in the UK. The UK Government has announced plans to abolish the Human Rights Act and replace it with a Bill of Rights. This sends out the wrong message about human rights domestically and internationally. Also, by passing “The Lobbying Act” the UK Government has limited our ability to exercise our civil and political rights both directly and indirectly.

The Scottish Government has failed to ensure that access to information rights remain strong in Scotland which impacts negatively on civil society’s ability to access information and make informed opinions on the delivery and funding of public services. There is concern that more explicit action to prevent and address cyberbullying of journalists is needed from Police Scotland and from prosecutors, to ensure we retain our free press.

1. **Human Rights are universal and should be promoted and respected**

In the UK and Scotland, the Human Rights Act (HRA) has still to reach its potential in everyday places and situations. There is too little evidence that the HRA is considered and applied in the design, delivery and funding of public services. Instead of promoting greater explicit compliance, the UK Government is attacking the operation of the HRA by planning to abolish it. The UK Government is demonising human rights and setting a bad example to other countries.

It is important to emphasise that there is no appetite for reform of the HRA in Scotland. For example the Scottish Parliament voted in support of the HRA and ECHR in November 2014, the Scottish Government has refused to support any such action and at the UK Parliament 58 out of Scotland‘s 59 MPs support the retention of the HRA.

1. **Enable active participation in public affairs**

The ‘Transparency of Lobbying, Non-party Campaigning and Trade Union Administration Act 2014’ sends out thw rong message to civil society organisations in our democracy.

The “Lobbying Act” amended legislation passed in 2000 that also proved problematic. Under part two, campaigning organisations such as charities must now register with the Electoral Commission as non-party campaigners if they spend more than a threshold of £20,000 in England and £10,000 in Scotland, Wales or Northern Ireland on certain regulated activities during the election period. The election period includes referenda, council elections as well as general elections and Scottish Parliament elections. The Act expands the list of regulated activities and lowers the upper spending limits. The impact has been various, e.g. there has been a chilling effect on the activities of some organisations and some have scaled back their campaigning activities. Voters will suffer as the amount of information publicly available may be reduced, making it more difficult to form an opinion. That is not good for our democracy.

The Scottish Council for Voluntary Organisations (SCVO) announced it will “ignore” the Lobbying Act and not register with the Electoral Commission, calling the Act a “direct attack on charities' right to campaign”.[[1]](#footnote-1)

1. **Robust access to information rights, transparency and accountability**

The Freedom of Information (Scotland) Act 2002 (FoISA) introduced an enforceable right of access to information but the value of the right has been diminished as the way that public services are delivered has changed. There is a need for legal reform to provide a right of access to information where public money is involved. Transparency and openness should be part of doing business with the public sector.

The Scottish Government’s consultation on extending the scope of FoISA, published in June 2015, is very disappointing as it fails to extend the enforceable right to access information to all arms-length organisations (ALEOs) running public-service facilities, to key organistaions such as the Convention of Scottish Local Authorities (COSLA)[[2]](#footnote-2) and to housing associations.

There needs to be a simple system so that people can assert their right to receive information from public bodies, rather than the current, confusing system where some bodies are covered and some are not.

1. **Ensure the free press is able to thrive**

Cyberbullying members of the media is having a serious effect on freedom of expression.  A survey into the extent of online abuse against journalists in Scotland has revealed cases where reporters have feared for their own personal safety as a result of cyberbullying[[3]](#footnote-3). In some cases it led to journalists retreating from the use of social media and worrying about what stories to cover and how to report them.  It should be noted that using social media is often part of the job which a journalist is required to undertake, in addition to writing copy or delivering broadcasts.

A survey, for the National Union of Journalists (NUJ), revealed that journalists were self-censoring material they were writing, as a result of online abuse, threats of violence and intimidation where journalists and/or their families had been threatened.   It is a major problem for freedom of expression in Scotland if journalists, acting as watchdogs for the public, develop tendencies towards self-censorship, avoiding contentious stories, undermining the fundamental human right to freedom of expression in order to avoid being threatened and abused. Overall we are concerned about protecting the public in Scotland from the ‘chill effect’ persistent abuse is having on individual journalists and workplaces. In addition to the NUJ's concerns for the health and wellbeing of its members and their families, such actions impact upon society's right to be informed and the public are therefore unable to make rational and well-informed decisions about what is happening in society.

**What civil society needs**

Although the HRCS works in a positive climate in Scotland which values our contributions, we do not have long-term financial resources. This is now severaly limiting our ability to act, just when human rights are particularly under threat. Although the Scottish Government suports equality groups, it does not fund any organisations soley working on huamn rights. It would be helpful if a recommendation to fund human rights orgainsations could be made by the the High Commissioner for Human Rights in his report.

Receiving a proportion of our income from government would not undermine our ability to act independently and we would continue to work in partnership and influence positive change in our communities. It should be noted that in the current climate of austerity in the UK, civil society is facing severe cuts and so our ability to raise money from members is limited.

For further information contact:

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1. See SCVO website <http://www.civilsociety.co.uk/governance/news/content/18871/scvo_says_it_will_ignore_the_lobbying_act> [↑](#footnote-ref-1)
2. COSLA is “the national voice for local government in Scotland”. For more information see http://www.cosla.gov.uk/ [↑](#footnote-ref-2)
3. Cyberbullying the Media survey of NUJ members in Scotland by Fiona Davidson of Glasgow branch NUJ and Dr Sallyanne Duncan, University of Strathclyde, available at <https://www.nuj.org.uk/news/cyberbullying-the-media-survey/> [↑](#footnote-ref-3)