

Universal Periodic Review Submission

**Signatories: HIV Scotland, National AIDS Trust, Terrance Higgins
Trust UK, Waverley Care**

UK

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1. HIV Scotland

1.1 HIV Scotland is the national HIV policy organisation for Scotland. We exist on behalf of all those living with and at risk of HIV to ensure that Scotland has responsive policies, quality services and a supportive environment that enable people living with or at risk of HIV in Scotland to live healthy and fulfilling lives. We speak out for people living with and at risk of HIV by:

- Ensuring that the lived experience and viewpoints of people living with or at risk of HIV inform the discourse on HIV issues, health and social policy and service provision in Scotland.
- Engaging with people living with and affected by HIV to shape policy in Scotland.
- Providing information, training and resources.
- Signposting to evidence, expertise and community experience.

1.2 Human rights are particularly important to people living with and at risk of HIV. Every person has the right to health. At its most basic level, this means every person has the right to services to prevent HIV transmission, and to treatment for HIV. In Scotland – as elsewhere in the world – people can face violations of their rights, which can result in them being put at increased risk of HIV and less able to cope with the impact of HIV. In Scotland, HIV disproportionately affects men-who-have-sex-with-men, people from African communities, people who inject drugs, sex workers and transgender people, many of whom already face discrimination.

1.3 In 2016, HIV Scotland brought together people living with HIV at an annual forum to reflect on their experiences, express the challenges they face and propose potential solutions. The Positive Persons' Forum is the only event of its kind in Scotland to be exclusively for people living with HIV. Following the event, a manifesto was published containing the views and ideas proposed by the attendees which identifies an array of issues intrinsically linked to human rights. The manifesto provides a solid evidence base on the rights-based issues that people living with HIV have identified to be priority areas for change that decision makers must act upon.

1.4 National AIDS Trust (NAT)

1.5 We provide fresh thinking, expertise and practical resources. We champion the rights of people living with HIV and campaign for change.

1.6 Our vision is a world in which people living with HIV are treated as equal citizens with respect, dignity and justice, are diagnosed early and receive the highest standards of care, and in which everyone knows how and is able to protect themselves and others from HIV infection.

1.7 We believe we make the most lasting and positive impact on the greatest number of lives by changing attitudes, behaviour, decisions and policies - and we seek to influence those whose actions have the biggest impact on the lives of people affected by HIV in the UK.

We listen to people living with, and affected by, HIV and those who support them and we put the needs and rights of HIV positive people at the heart of everything we do.

1.8 Terrence Higgins Trust

1.9 Terrence Higgins Trust is the largest voluntary sector provider of HIV and sexual health services in the UK, running services out of local centres across Scotland, England and Wales. The range and availability of services provided at any one centre depends on the needs of the community we serve and the requirements of our funders (usually local authorities and NHS organisations, sometimes voluntary funders).

1.10 Our local services fall into three areas: long term condition management; health improvement and clinical services. We are at the forefront of the fight against HIV and improving the nation's sexual health. We work in schools, colleges and other settings to deliver Sex and Relationship Education to young people. In addition we campaign and lobby for equality and justice for people living with HIV and AIDS, and for those at risk of poor sexual health.

1.11 Waverley Care

1.12 We are a community of people united by the same goal – to make a positive difference to the lives of people affected by HIV or Hepatitis C in Scotland. Our work is focused on prevention, education, testing and support. Throughout Scotland we're reducing new infections, getting people diagnosed, providing support and challenging stigma.

1.13 We're here to support anyone affected by HIV or Hepatitis C in whatever ways they need. This includes providing clear information and advice, supporting people to access testing and treatment and providing opportunities for one-to-one, group and peer support. People are at the heart of everything we do and we strive to make sure that everyone we meet feels respected and encouraged.

2: National Framework

2.1 The Scotland Act 1998 established the Scottish Parliament in law, with the Scottish Government as the national executive responsible for many policy issues, including health, education and justice. Scottish Ministers are accountable to the Scottish Parliament. Scotland also has 32 local authorities who are responsible for the delivery of local services and are tasked with meeting outcomes set by the Scottish Government. Since the creation of the Scottish Parliament in 1999, additional powers have been devolved from the UK Government following the passing of the Scotland Act 2012 and most recently the Scotland Act 2016. The Scotland Act 2016 will devolve some welfare powers, including some disability benefits. However, the UK Government will continue to have responsibility for all policy areas not devolved, including equal opportunities, immigration and the majority of social security.

3: Summary

3.1 In 2011 the Scottish Government published the first joint strategy designed to address both sexual health and blood borne viruses in Scotland. The strategy outlined the ambition of *“improving sexual health and blood borne virus outcomes”* through high quality treatment, care and support whenever and wherever it is needed. Education featured heavily throughout the strategy, with a commitment to *“improved availability”* of sexual health and relationships education as a means to ensuring young people in Scotland have access to information about HIV. The Scottish Government also noted the importance of addressing HIV-related stigma and to create a society where no one is stigmatised for their health status, their life choices or lifestyle.

3.2 In 2015 the Scottish Government published the Sexual Health and Blood Borne Virus Framework 2015-2020 Update which contained information on progress made since the initial framework was published. The update recognised the changing political landscape across the UK, with cuts to public spending resulting in social security reforms which cause *“exacerbating problems”* for vulnerable people. In a similar vein to the 2011 document, the Scottish Government highlights the importance in the availability of Relationships, Sexual Health and Parenthood (RSHP) Education. Moreover, it notes the continued challenge of addressing stigma and prejudice experienced by people living with HIV.

3.2 Health Protection Scotland data indicates that there are currently 5,111 people diagnosed HIV-infected persons living in Scotland. An estimated 17% of people living with HIV in Scotland are undiagnosed and since 2001 the number of people living with HIV in Scotland has doubled.

Specific comments

The comments below correspond to three recommendations made to the UK Government during the 2012 UPR cycle. Our submission will assess the current human rights situation in Scotland and make recommendations regarding; access to sexual health education, impact of welfare reform, HIV-related stigma.

4 Access to Sexual Health Education

Guarantee the enjoyment of economics, social and cultural rights, particularly health, education and adequate housing. (110.103 – Cuba)

4.1 The inconsistencies in the provision of sexual health education in Scotland can perpetuate stigma due to a lack of understanding and awareness of HIV. Comprehensive sexual health education is a fundamental tool in addressing the risk of HIV and other sexually transmitted infections. The UN Special Rapporteur on the Right to Education has made clear that the right to education includes the right to sexual education, which is both a human right in itself and an indispensable means of realising other human rights, such as the right to health, the right to information and sexual and reproductive rights.¹

4.2 In paragraph 16 of its General Comment No. 3, the Committee on the Rights of the Child has emphasised that: *“Consistent with the obligations of States parties in relation to the rights to health and information children should have the right to access adequate information related to HIV/AIDS prevention and care... effective HIV/AIDS prevention requires States to refrain from censoring, withholding or intentionally misrepresenting health-related information, including sexual education and information, and that... States parties must ensure that children have the ability to acquire the knowledge and skills to protect themselves and others as they begin to express their sexuality.”* Which is also consistent with the specific state obligations stated in paragraph 34 in the Covenant on Economic, Social and Cultural Rights General Comment No.14: The Right to the Highest Attainable Standard of Health (Art.12).

4.3 Currently in Scotland sexual health education is taught as part of Relationships, Sexual Health and Parenthood education, however this is not a compulsory element of the national curriculum in schools. This presents a real challenge to ensure all young people can have access to information about HIV, better able to protect their sexual health and to make informed decisions. We believe the fact that there remains no compulsory requirement for a programme of sex education in Scotland raises a number of serious concerns. This is both an individual human right and as an indispensable means realising other human rights, such as the right to health.

4.4 In 2013 the Scottish Government published its updated guidance on sex education, which failed to include a legal requirement for children to participate in this important subject area. As highlighted within the 2016 HIV Scotland Positive Persons’ Manifesto, people living with HIV believe ensuring young people have access to comprehensive RSHPE education is part of the solution to

¹ [Report of the United Nations Special Rapporteur on the right to education](#), submitted to the General Assembly in 2010

addressing HIV-related stigma and discrimination.² One attendee, who is living with HIV stated: “We are withholding key information from young people.”

4.5 Leading countries in progressive approaches to sexual health education include Finland and Sweden, the latter having had compulsory sex and relationship education since 1955. Finland offers comprehensive SRE at all levels of the school curriculum across different subjects, although until the obligatory Health Education policy was renewed to include sex and relationship education in 2004, up to 20% of schools provided no SRE. Of note in the case of Finland is the fact that teachers (of all subjects) receive training on the delivery of SRE.

4.6 Other countries where sexual health education is compulsory (or generally considered comprehensive) include: Austria, Czech Republic, Denmark, Estonia, France, Germany, Greece, Iceland, the Netherlands, Norway and Portugal.

4.7 In 2016 alone various calls have been made for RSHP to become compulsory. At the UK Parliament, four Select Committee chairs wrote to the UK Government urging policy makers to make the subject compulsory. The UN Committee on the Rights of the Child published a review of children’s rights in June 2016 which included a recommendation for more consistent sex and relationships education. Furthermore, following an inquiry by the UK Parliament Women and Equalities Committee on sexual harassment in schools, a report called for the compulsory teaching of sex and relationships education.

Recommendation

4.8 For the reasons outlined above, we therefore call on the Scottish Government to establish RSHP education as a compulsory subject within the Scottish curriculum so all young people can enter the world with information they need about HIV and prevention. Moreover, RSHP education must be inclusive and meet the needs of young LGBT people.

² HIV Scotland, [Positive Persons’ Manifesto](#), May 2016

5 Impact of Welfare Reforms

Provide more resources for reforming the welfare system in order to make it better able to tackle poverty and worklessness, and reduce negative impact on social vulnerable groups. (110.101: Vietnam)

5.1 HIV continues to be poorly understood in the context of welfare and people living with HIV are already being disproportionately impacted by welfare reform.³ Some people living with HIV experience rejection by partners, families and friends, and are therefore unable to rely on traditional support networks for help during times of trouble. This makes it even more crucial that there is appropriate welfare support for times of illness and personal financial crisis.

5.2 Since the UK's 2014 mid-term report, the UK Government has proceeded to continue making wide-ranging reforms to the welfare system. This comes despite the Government stating it supported UPR recommendation 110.101 that included a commitment to *"reduce negative impact on social vulnerable groups"*.⁴

5.3 Evidence published by the Scottish Government detailing the impact of welfare reform in Scotland highlights concerning trends, in particular for people who are being transitioned from Disability Living Allowance (DLA) to the Personal Independence Payment (PIP).⁵ For people living with HIV and accessing benefits, DLA was historically one of the main sources of income, however the introduction of PIP now means they are expected to undergo a stricter mobility test and in some cases a face-to-face assessment. This causes significant distress and can result in a reduction in income for claimants who are either placed on a lower rate of PIP support or are unsuccessful when applying for PIP due to being transitioned from DLA. DLA was an essential form of income for those with serious health problems or disability relating to HIV, who otherwise struggle to overcome barriers to participation. In addition the Scottish Government has identified that particular support is needed for drug users who have been affected by the changes to the welfare system.⁶ However this work was commissioned on a pilot basis and must be extended nationally to ensure the most vulnerable people, and in particular individuals who lead chaotic lifestyles and do not engage through mainstream service provision, are protected from continued welfare reforms.

5.4 In 2014, HIV Scotland and Hepatitis Scotland undertook a survey of people living with HIV and hepatitis, to help identify the impact of the welfare reforms in Scotland.⁷ The survey revealed that changes to welfare being implemented at a UK level are having a negative impact on people living with HIV. Findings included: 58% described having poorer mental health; 48 % described having poorer physical health; 45% struggled to pay for gas/electricity and 39% struggled to buy food. One respondent stated: *"I live with AIDS, Dementia, Crohn's Disease, and Irritable Bowel Syndrome. Stress and anxiety really affects my illness. I live hand to mouth each week financially"*.⁸

³ Ibid

⁴ UK Government, [UN UPR Mid Term Report](#), 2014

⁵ Scottish Government, [Welfare Reform \(Further Provision\) \(Scotland\) Act 2012: Annual Report – 2016](#), June 2016

⁶ Scottish Government, [Financial Impact of Welfare Reforms on Disabled People in Scotland](#), August 2014

⁷ HIV Scotland & Hepatitis Scotland, [Welfare Reform in Scotland: The impact on people living with HIV and viral hepatitis](#), July 2014

⁸ Ibid

5.5 Since the 2014 mid-term report by the Scottish Government, there has been a significant change in the social security landscape in Scotland.⁹ Following the passing of the Scotland Act (2016), the Scottish Government will be responsible for several areas of welfare policy, most notably for people living with HIV the Scottish Government will oversee disability benefits for the first time.

Recommendation

5.6 We therefore call for a new approach to social security in order to protect and support people living with HIV in Scotland. The devolution of new powers to the Scottish Parliament presents Scotland with an opportunity to embed a human rights based approach in the centre of future welfare policy. Policies should be designed to ensure people can live healthy lives with dignity, respect and without stigmatising attitudes as a consequence of accessing welfare.

6 HIV-related Stigma and Discrimination

Strengthen measures aimed at reducing serious inequalities in access to health, education and employment, which still exist despite the adoption of the Equality Act. (110.102 – Spain)

6.1 HIV-related stigma is still a problem in Scotland. The Scottish Government stated in the Sexual Health and Blood Borne Virus Framework 2015-2020 that they are committed to raising awareness around HIV as a public health issue; both in relation to important health messages (prevention, testing and diagnosis) but also as a means of tackling and reducing stigma. Stigma is often the result of fear, a lack of knowledge or understanding, and stereotypes. Stigma is the greatest barrier to HIV prevention, treatment, care and support. For Scotland to reach its UNAIDS 90-90-90 goals, it must address HIV-related stigma. Presently an estimated 83% of people living with HIV in Scotland have been diagnosed, however this short of the 90% UNAIDS target. For this to be achieved and surpassed, greater efforts must be made to tackle HIV-related stigma.¹⁰

6.2 The Stigma Index UK 2015 survey revealed that whilst most people in Scotland who had disclosed their HIV status to someone generally felt well supported by those aware of their status, around half of respondents reported feelings of internalised stigma. 41% had a negative self-image in relation to their status, compared to 37% of the UK population living with HIV. Other concerns raised in the survey findings included negative attitudes by health care professionals and fear of rejection by potential partners.

Recommendation

6.3 We call for the Scottish Government to protect the human rights of people living with and at risk of HIV, and ensure that they can enjoy their rights on an equal basis with others, in order to address HIV-related stigma. Stigma can be combatted by protecting a human rights framework for our laws, policies and services. People living with and at risk of HIV must also be empowered to make choices about their own lives and to participate fully in their communities.

⁹ Scottish Government, [Scottish Government Position Statement – UPR](#), July 2014

¹⁰ Health Protection Scotland, [HIV infection and AIDS: Quarterly report to 31 March 2016 \(ANSWER\)](#), May 2016

7 Conclusion

7.1 Human rights are a key tool in monitoring and shaping Scotland's response to HIV. There is an urgent need to increase the understanding of the needs of people living and at risk of HIV within a human rights context. We believe that human rights form the bedrock of empowerment, enable people to advocate for themselves and have meaningful involvement in policy decision making.

7.2 The manifesto commitment by the UK Government to scrap the existing Human Right Act (1998) presents a unique set of challenges in terms of maintaining current human rights protections.¹¹A number of organisations have expressed significant concern at any erosion of existing rights and called on the UK Government to abandon this plan.

7.3 In this submission, we have highlighted three key areas and actions which we believe should be a priority for the UK and Scottish governments. We call upon the Human Rights Council to make these recommendations in order to ensure that all people living with and at risk of HIV can enjoy healthy lives with dignity and free from stigma.

¹¹ Conservative Party, [2015 manifesto](#), April 2015