



## **Introduction**

UNISON is Scotland's largest trade union with members across the public, private and voluntary sectors, including local government. UNISON therefore welcomes the opportunity to take part in the consultation on incorporating the European Charter on Local Self Government into law in Scotland.

## **Response**

All of us rely on the services delivered by local government. From childcare to elderly care, to supporting vulnerable people, keeping our streets lit and emptying our bins, helping us to stay fit and our children to learn local government is at the heart of Scottish society. Councils and the collective provision of services did not arise by accident, they developed from an acknowledgement that private provision and markets could not deliver the services and facilities necessary to sustain a modern society. Councils represent more than service delivery bodies, they are also a tier in our democracy. They should have the capacity to take meaningful and accountable decisions about local areas, to make a real difference responding to the needs and wishes of their citizens.

Councils are losing their capacity to act, losing control of services and responsibility for their finances (with consequent underfunding). A combination of centralisation and austerity has made councils institutions where far from being drivers of wellbeing in their localities, they have often been more focused on limiting the damage of decisions taken elsewhere.

Local government has taken the brunt of cuts in Scotland. Of the 50,000 job cuts in Scotland, 40,000 have been in local government. A fairer more equal Scotland requires a greater investment in and expansion of the public realm – local government is key to that. Ensuring that councils are empowered, resourced and capable of meeting the demands placed upon them should be the priority for everyone in Scottish public life. Local authorities are directly elected bodies and must be empowered to make the decisions they need to enable people in their communities to flourish. They should not be mere delivery arms of central government policies.

UNISON therefore generally supports this proposal to incorporate the European Charter of Local Self Government into law in Scotland. We believe that it could offer the basis for rules that would maintain a strong relationship between local and national government which respects the mandate of both now and in the future. Most importantly it will strengthen local democracy and empower local authorities to work alongside their local communities to improve lives.

## **Equalities Impact Assessment**

UNISON is a leading human rights defender in day-to-day workplace situations. UNISON has also brought various direct challenges to the UK government in the Supreme Court and European Court of Justice through individual cases and judicial review. Having

invoked EU law, the European Convention on Human Rights and the Magna Carta to remove tribunal fees and restore access to justice, UNISON speaks with a degree of authority on the difficulties of tackling disadvantage and promoting human rights in the UK.

As we know from our work, many fundamental rights are remote and inaccessible to ordinary people, particularly people living with poverty and economic disadvantage. Many people do not have access to the level of legal services that trade unions provide for members.

While the consultation mentions the difficulties that people with learning difficulties may have in using the legal system to protect their rights it does not examine wider inequalities of access to justice that those with the other protected characteristics face. So while UNISON is supportive of this proposal, there will need to be a full Equalities Impact Assessment to ensure that changes do not worsen the already deeply imbedded equalities in our society. There must be an analysis of proposed changes on all of those with protected characteristics. Otherwise there is a risk of giving more powers to those who are already powerful and well connected at the expense to those who are already seldom listened to in Scotland policy making process.

As we know from our work, for those with protected characteristics discrimination also leads to many suffering socioeconomic disadvantage, so many struggle to fully realise their rights. Exclusion from justice isn't just about having the financial resources to fund a legal challenge but also the knowledge of your rights and where to find support to make a challenge. We know, for example that there is a much higher rate of pupils being identified with dyslexia (and therefore the extra support that brings in exams) in wealthier areas like East Renfrewshire than poorer areas<sup>1</sup>. It seems more likely that this is about power and ability to get a diagnosis of dyslexia than a geographical pattern of the incidence of this learning difficulty.

Equalities impact assessment must therefore be mainstreamed though out the whole Bill making process. It cannot be an add-on at the end of the process. UNISON would therefore welcome the publication of a full Equalities Impact Assessment as soon as possible.

Questions in the consultation

### **Aim and approach**

1. The Charter should be incorporated into Scots law. Do you agree with this statement?

Fully agree

Please explain the reasons for your response.

A fairer more equal Scotland requires a greater investment in and expansion of the public realm – local government is key to that. Ensuring that councils are empowered, resourced and capable of meeting the demands placed upon them should be the priority

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<sup>1</sup> Dyslexia identification briefing paper Dyslexia Scotland  
[https://www.dyslexiascotland.org.uk/sites/default/files/page\\_content/Dyslexia%20identification%20vs%20SQA%20referrals.pdf](https://www.dyslexiascotland.org.uk/sites/default/files/page_content/Dyslexia%20identification%20vs%20SQA%20referrals.pdf)

for everyone in Scottish public life. Local authorities are directly elected bodies and must be empowered to make the decisions they need to enable people in their communities to flourish. They should not be delivery arms of central government policies.

UNISON therefore generally supports this proposal to incorporate the European Charter of Local Self Government into law in Scotland. We believe that it could offer the basis for rules that would maintain a strong relationship between local and national government which respects the mandate of both now and in the future. Most importantly it will strengthen local democracy and empower local authorities to work alongside their local communities to improve lives.

2. Which of the following best expresses your view on how the Charter should be incorporated into Scots law?

The Charter should be incorporated into Scots law in the manner outlined in the consultation document

3. What do you think would be the advantages and disadvantages of incorporating the Charter into Scots law?

Councils represent more than service delivery bodies, they are also a tier in our democracy. They should have the capacity to take meaningful and accountable decisions about local areas, to make a real difference responding to the needs and wishes of their citizens.

Councils are losing their capacity to act, losing control of services and responsibility for their finances (with consequent underfunding). A combination of centralisation and austerity has made councils institutions where far from being drivers of wellbeing in their localities, they have often been more concerned with limiting the damage of decisions taken elsewhere.

UNISON therefore generally supports this proposal to incorporate the European Charter of Local Self Government into law in Scotland. We believe that it could off the basis for rules that would maintain a strong relationship between local and national government which respects the mandate of both now and in the future. Most importantly it will strengthen local democracy and empower local authorities to work alongside their local communities to improve lives.

UNISON is concerned that without proper support to ensure access to justice for all that this risks further empowering those who are already powerful in Scottish public life. That is why the equalities impact assessment process is so vital to the development of this Bill. As we know from our work, many fundamental rights are remote and inaccessible to ordinary people, particularly people living with poverty and economic disadvantage. Scotland needs to empower excluded communities not add extra disadvantage. Exclusion from justice isn't just about having the financial resources to fund a legal challenge but also the knowledge of your rights and where to find support to make a challenge. We know, for example that there is a much higher rate of pupils being identified with dyslexia and therefore he extra support that brings in exams in wealthier areas like East Renfrewshire than poorer areas <sup>2</sup> it seems more likely that this is about

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power and ability to get a diagnosis of dyslexia than a geographical pattern of the incidence of this learning difficulty.

So while UNISON is generally supportive of this proposal further work is needed to ensure that this change does not add more power to the already powerful and increase inequality in Scotland.

4. Which of the following best expresses your view about where complaints about a breach of the Charter should be made?

Complaints about a breach of the Charter should be made through the courts

In order to ensure that the costs of such a process are not prohibitive to all but the wealthy UNISON believes that unlike the current judicial review process complaints should be heard in the Sheriff Court not the Court of Session. This will go some way to ensuring that those who are already marginalised within the policy making process are not further disadvantaged by the change..

5. What judicial remedies do you think should be available where an executive action (or proposed action) was found to be incompatible with the Charter?

The court should be able to overturn the action (but not punish the authority)

6. What judicial remedies do you think should be available where legislation was found to be incompatible with the Charter?

The court should be able to strike down the legislation

10: What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, race, religion and belief, sex, sexual orientation?

Slightly positive

Please explain the reasons for your response.

UNISON is a leading human rights defender in day-to-day workplace situations. UNISON has also brought various direct challenges to the UK government in the Supreme Court and European Court of Justice through individual cases and judicial review. Having invoked EU law, the European Convention on Human Rights and the Magna Carta to remove tribunal fees and restore access to justice, UNISON speaks with a degree of authority on the difficulties of tackling disadvantage and promoting human rights in the UK.

As we know from our work, many fundamental rights are remote and inaccessible to ordinary people, particularly people living with poverty and economic disadvantage.. Scotland needs to empower excluded communities.

So while UNISON is supportive of this proposal, there will need to be comprehensive Equalities Impact Assessment throughout the process to ensure that changes do not

worsen the already deeply imbedded equalities in this society. There must be an analysis of proposed changes on all of those with protected characteristics. It is notable that the question does not include the new Fairer Scotland Duty where socioeconomic status is now a protected characteristic. Otherwise there is a risk of giving more powers to those who are already powerful and well connected at the expense to those who are already seldom listened to in Scotland's policy making process.

While the consultation mentions the difficulties that people with learning difficulties may have in using the legal system to protect their rights it does not examine wider inequalities of access to justice that those with the other protected characteristics face. We know for example that diagnoses of dyslexia, and the extra support that brings in exams, are higher in wealthier areas like East Renfrewshire<sup>3</sup> than in deprived areas.

As we know from our work, those with protected characteristics where discrimination also leads to many suffering socioeconomic disadvantage struggle to fully realise their rights. Exclusion from justice isn't just about having the financial resources to fund a legal challenge but also the knowledge of your rights and where to find support to make a challenge.

Equalities Impact Assessment must therefore be mainstreamed throughout the whole Bill making process. UNISON would therefore welcome the publication of a full impact assessment as soon as possible. We would also welcome the opportunity to work with the Bill team to fully support this process.

9. In what ways could any negative impact of the Bill on equality be minimised or avoided?

By undertaking a comprehensive equalities impact assessment and then acting on the findings of the assessment. UNISON is supportive of this proposal and would welcome the opportunity to provide help develop this proposal further.

## **Conclusion**

UNISON is Scotland's largest trade union with members across the public, private and voluntary sectors. UNISON therefore welcomes the opportunity to take part in the consultation. UNISON therefore supports this proposal to incorporate the European Charter of Local Self Government into law in Scotland. We believe that it could offer the basis for rules that would maintain a strong relationship between local and national government which respects the mandate of both now and in the future. Most importantly it will strengthen local democracy and empower local authorities to work alongside their local communities to improve lives.

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**UNISON Scotland**  
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