

SCVO response to Scottish Parliament Finance and Constitution Committee

UK Withdrawal from the European Union (Legal Continuity) (Scotland) Bill 2016

05 August 2020

About SCVO

The Scottish Council for Voluntary Organisations (SCVO) is the national membership organisation for the voluntary sector. We champion the sector, provide services, and debate big issues. Along with our community of 2,000+ members, we believe that charities, social enterprises, and voluntary groups make Scotland a better place.

Scotland's voluntary sector

The Scottish voluntary sector encompasses an estimated 40,000+ organisations, from grassroots community groups and village hall committees to more than 6,000 social enterprises, nearly 25,000 registered national charities, and over 100 credit unions. Scotland's voluntary organisations are focused on delivering vital services and empowering some of Scotland's most marginalised communities. They also have a big role to play in protecting Scotland's environment as well as campaigning and advocating for change. Together, they employ over 100,000 paid staff, work with over 1.4 million volunteers, and have a combined annual turnover that reached £6.06bn in 2018. This includes a range of mixed-income sources such as contracts, grants, and fundraising.

Our position

In the run up to the EU referendum, and ever since the result was known, SCVO has been working closely and consistently with members to discover what Brexit means for them and the people and communities they support.

We've worked directly with the voluntary sector in an attempt to gauge concerns, identify risks and help ensure our collective voice is heard as negotiations proceeded. Through our 'State of the Sector' survey¹ (which received 400 responses), for example, we found that Scotland's voluntary sector felt it had benefited through our membership of the EU:

- 86% felt leaving the EU would negatively impact the Scottish economy
- 81% felt leaving the EU would negatively impact poverty & social exclusion
- 80% felt leaving the EU would negatively impact human rights & equalities
- 68% felt EU policy priorities had been good for the voluntary sector in Scotland.

We also found that the sector's key Brexit concerns could be grouped into these main areas:

- transfer of laws and repatriation of powers
- free movement of people and trade
- European funding (and what replaces it)
- human rights, social protections and environmental standards
- maintaining connections with European networks.

SCVO has been clear since the referendum took place in 2016 that membership of the EU is not just about the economy, single market membership and European funding. Instead, we have sought to focus on the human elements that membership of the EU has delivered – encompassing rights, protections, health, standards, movement, solidarity, networks, shared learning and partnerships.

Subsequent to this work, SCVO engaged our Policy Forum to produce *SCVO Policy Forum – Manifesto for the Future*² which outlines a number of future-focused recommendations that aim to address some of the most profound social, economic, political and environmental changes in living memory. The document aims to provide a 2030 blueprint for Scotland's future and identifies three areas of significant importance which require action:

¹ <http://nen.press/wp-content/uploads/2017/02/Scotland%E2%80%99s-Place-in-Europe-third-sector-concerns-1.pdf>

² <https://scvo.org.uk/policy/forum/manifesto-for-the-future#:~:text=Introduction,environmental%20changes%20in%20living%20memory.>

Planet: We want Scotland to secure environmental action and take responsibility for the planet and its future generations.

Humanity: We want Scotland to lead the world in supporting human rights, equality and wellbeing for all.

Citizenship: We want Scotland to foster a society which enhances citizenship, democracy and participation.

Naturally – while these are longstanding priority areas for the sector – it seems there will be serious implications for these priority areas as a direct result of our withdrawal from the EU.

At this advanced stage of the withdrawal process, SCVO remains focused on protecting as many advantages of EU membership as possible, retaining close links with continental partners, safeguarding human and environmental rights, standards and protections and ensuring there is a fair and effective successor to existing EU funding streams.

While SCVO looks at these over-arching issues of concern for the sector, we are aware that many organisations will be tracking concerns specific and relevant to them. SCVO offers any and all assistance in ensuring these are voiced, in order that decision makers are fully aware of the emerging situation. We would therefore recommend the committee continues to seek out voluntary sector expertise as they continue to look at issues related to EU continuity legislation and mitigation of the negative effects of our withdrawal from the EU.

Rights and Protections

Scotland's voluntary sector has voiced serious concerns about potential human rights regression in the UK as a consequence of the UK's withdrawal from the European Union.

Loss of oversight from, and recourse to, the European Court of Justice will remove a layer of rights protection from UK citizens, while rights gained through the Charter of Fundamental Rights of the European Union look set to be lost.

The use of statutory instruments (so called Henry VIII powers) in the process of disentangling from the EU is also of considerable concern. We anticipate that there is likely to be an unprecedented use of these powers by UK and Scottish Ministers, creating a risk that rights are accidentally or deliberately removed or weakened.

The Human Rights Consortium Scotland (HRCS) has developed a series of useful briefings covering a range of matters relating to human rights protections and the potential threat posed to these by the UK's withdrawal from the EU:

- [Brexit and EEA Citizen Rights](#)
- [Brexit and Equality Rights](#)
- [Brexit and Human Rights](#)
- [Brexit and Employment Rights](#)
- [Brexit and the Environment](#)
- [Brexit and Transition](#)
- [Brexit and Women's Rights](#)

Along with HRCS, SCVO would like to see the Scottish Parliament explore every avenue to ensure these hard won rights are, firstly, safeguarded and, secondly, monitored and expanded to ensure that Scotland does not become 'frozen in time' if and when the European Union seeks to enhance rights and protections in the future.

To mark the 70th anniversary of the Universal Declaration of Human Rights, SCVO worked with HRCS and other partners to draft and promote the [Scotland Declaration on Human Rights](#) – which calls for rights to be protected and advanced, whatever the Brexit outcome. To date, some 200 civil society organisations have added their support; showing the strength of feeling on these matters and the desire for rights and standards in Scotland to be maintained at the very highest level.

Our natural environment

The drive to improve our natural environment, prevent species decline, improve animal rights and welfare, reduce global temperatures, reach net zero emissions and improve air quality are key concerns for many of Scotland's voluntary organisations.

Through our membership of the EU, Scotland has been bound by a raft of treaties, directives and single market rules which we believe, on the whole, have had a progressive impact in many of these areas.

While the UK Government has promised to maintain high environmental standards and will remain committed to certain international obligations – such as the Paris Agreement and Aarhus Convention – there appears to be a real risk that the UK will weaken environment standards and protections to either achieve a competitive economic advantage, or as the price of future trade deals.

Of course, obligations can become meaningless without proper oversight, scrutiny and enforcement. Withdrawal from the auspices of the European Court of Justice and the EU's enforcement mechanisms could see the UK backslide on its commitments. We therefore welcome the discussion the committee is having as to how the Bill can *"continue the role and functions of the European*

institutions in ensuring the complete and effective implementation of environmental law”.

Scottish Environment LINK have also highlighted the important connection between a sustainable environment and access to environmental information - allowing people to participate in decision-making and have access to justice in environmental matters. They point out:

“The UK will still be legally bound by the Aarhus Convention, but without the strong enforcement mechanisms of the EU, there will be fewer consequences for deviating from it, so it may become harder, even for people in Scotland, to obtain environmental information from UK-wide public bodies.”³

Given that the UK and Scottish Governments introduced separate secondary legislation to allow right of access to environmental information held by all public bodies in the UK, we would like the committee to explore how this crucial advancement can be protected in Scots Law.

Again, SCVO is fully supportive of the work of the committee in exploring how Scotland can continue to benefit from the high environmental and animal welfare standards we currently enjoy, particularly given the strong devolved competencies in this area.

Conclusion

Like most sectors, institutions and industries, Scotland’s voluntary sector will be forced to grapple with the reality of our withdrawal from the European Union. As the exact terms of our withdrawal and future relationship with the EU and the world remains unknown, we find ourselves in a position where we can only offer our views on what *could* happen and what the consequences of this will be.

Since the referendum, we have worked closely with our membership to listen to their concerns and keep them abreast of the latest developments on this front. It is through this continuous interaction that we have developed a broader understanding of what these consequences might be and it has become a key feature of our work to ensure organisations are aware of the risks, can attempt to mitigate these and to advocate for policy change that will secure key benefits that stand to be lost.

While, after 40 years, the EU has become ingrained in our laws and society, key areas of concern have emerged:

³ https://www.scotlink.org/wp-content/uploads/2020/05/ERCS_Access_to_environmental_information_European_framework.pdf

- transfer of laws and repatriation of powers
- free movement of people and trade
- European funding (and what replaces it)
- human rights, social protections and environmental standards
- maintaining connections with European networks.

Though some promises and reassurances have been offered, there is little known about how these areas will truly be impacted by Brexit. The lack of certainty on offer is of serious concern to many organisations who are unable to make plans for the future and who believe their core causes could be damaged by new and unknown policy directions.

SCVO has long been supportive of devolution and the enhancement and use of powers to create tailored responses to Scottish concerns. As such, we are very supportive of the work of the committee, as it explores how many of the benefits gained from our membership of the EU can be secured in Scots Law. We believe that by working with the sector, this affords an opportunity to deliver much needed certainty for the voluntary sector and can help ensure Scotland secures, develops and enforces the very highest standards, protections and commitments possible.

Contact

Craig Wilson, Public Affairs Officer, craig.wilson@scvo.org.uk, 07950 837 670

