

Scottish Human Rights Commission

United Nations Open-ended Working Group on strengthening the protection of the human rights of older persons

Wednesday 20 April 2011

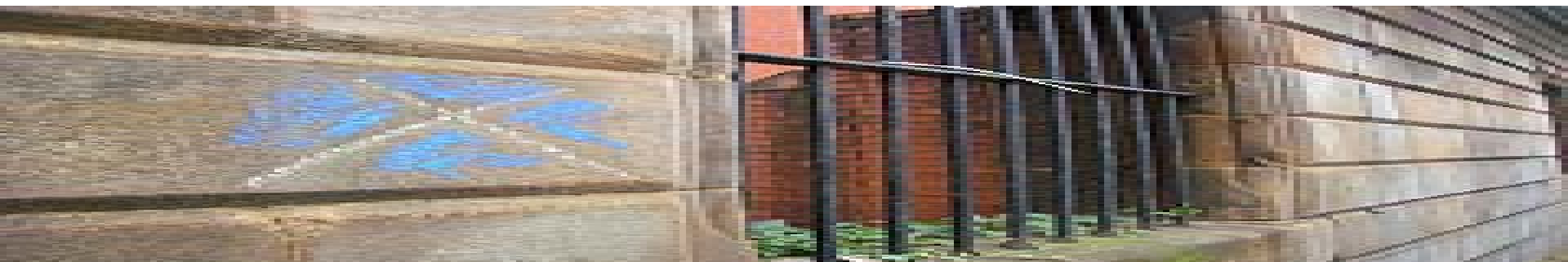
The logo for the Scottish Human Rights Commission (SHRC) features the letters 'SHRC' in a large, bold, blue serif font. The letter 'H' is stylized with a white silhouette of a person's head and shoulders inside its negative space.

Scottish
Human Rights
Commission

Scottish Human Rights Commission



- Scotland's National Human Rights Institution (NHRI), Established by Act of the Scottish Parliament 2006
- Accredited Category A status by International Co-ordinating Committee of NHRIs 2010
- Public consultation leading to strategic priority area 2008-2012 of "Dignity in Care" and the rights of older people



Human rights based approach to social care in Scotland



Programme of capacity building through training and awareness raising based on human rights framework

- Empowerment** of rights-holders → Older people, their families, carers and advocates
- Accountability** of duty bearers → Regulation and scrutiny bodies, policy makers
- Ability** of duty bearers → Private, voluntary and public care providers

Scottish Context



- Ageing demography- Over 65 increase of 62% and over 85 age group increase of 144% by 2031
- Challenges of perception of older people as passive recipients of care and a burden, not an asset to society
- Tension of public spending decrease and increase in demand for older people services
- Strengthening of older people's voices through advocacy and campaigning
- Shifting political agenda

Dignity in Care

Programme of work covering adult protection, human rights in healthcare and older people's rights in social care

Concerns from variety of sources about issues such as:

- Restraint
- CCTV and other “assistive technologies”
- Door locking
- Social isolation and mental health issues
- Inadequate provision personal care
- Covert and/or inappropriate medication
- Malnutrition
- Dementia care
- Elder abuse



Care about Rights project

- Resource pack of films, case studies and information
- Distribution to every registered service for older people's care in Scotland and online at www.scottishhumanrights.com/careaboutrights
- Extensive training for care providers
- Awareness raising with Regulator
- Partnership and capacity building with Age Scotland outreach groups



Human rights focus

European Convention on Human Rights



- **Article 8, ECHR- right to respect for private and family life, home and correspondence (ICCPR Art.17)**
- Potential widening scope relating to dignity and autonomy and positive and negative obligations applying to:
 - Privacy (e.g. personal privacy at home or in care home, use of personal information etc)
 - Family life (e.g. separation from spouse in residential care, social isolation)
 - Physical and psychological integrity (e.g. poor quality care not amounting to inhuman treatment)
 - Participation in decision making (e.g. decisions about treatment or care, consent to medical treatment etc)

Human rights focus

European Convention on Human Rights



- **Article 3, ECHR- prohibition of torture, inhuman or degrading treatment or punishment (ICCPR Art.7)**
- Prohibition on inhuman or degrading treatment
- Positive duty to take reasonable steps to prevent ill treatment, protect those at immediate risk of ill treatment and provide remedies where ill treatment occurs.
- Examples such as:
 - Abuse or neglect
 - Denial of essential medication or aids
 - Disproportionate use of force or restraint
 - Grossly inadequate personal care

Human rights focus

International instruments



- UN Convention on Rights of Persons with Disabilities:
 - Right to physical integrity (e.g. Art.16,17)
 - Right to participate in decision making (e.g. Art.19, 29, 21)
 - Right to live independently and be included in the community (e.g. Art.19)
 - Right to personal mobility (e.g. Art.20)
- International Covenant on Economic Social and Cultural Rights:
 - Right to highest attainable standard of physical and mental health
 - Right to adequate housing
 - Right to adequate food

Dignity and Participation



- Dignity as a means to interpret and communicate rights
- Transcending “categories” of rights and public/private sphere divide
- Emphasis on participation in daily decision making and at societal level
- Helpful in overcoming objectification of older people as passive recipients of care services

Concluding remarks

- Strengthening empowerment of rights holders, accountability and ability of duty bearers for older people
- Promoting full range of rights viewed through lens of human dignity
- Expanding understanding of relevance and potential of existing standards
- Conceptual and cultural shift in the realisation of older people's rights