# WRITTEN STATEMENT

# BY

# THE WELSH GOVERNMENT

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| **TITLE**  | **UK Government Proposal to Reform the Human Rights Act 1998** |
| **DATE**  | **12 January 2022** |
| **BY** | **Jane Hutt MS, Minister for Social Justice & Mick Antoniw MS, Counsel General and Minister for the Constitution** |

Last month, the UK Government launched a 12 week [consultation](https://www.gov.uk/government/consultations/human-rights-act-reform-a-modern-bill-of-rights) on proposals to replace the Human Rights Act 1998 with a Bill of Rights. The consultation will close on 8 March.

The Welsh Government has not been consulted or involved in the preparation of the consultation. We are disappointed by the pejorative and leading nature of the report and the consultation questions. It remains our firm view that human rights are, and should continue to be, irreducible and apply equally to all persons. The consultation, in places, seems to veer off course from this important and fundamental principle.

The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the European Convention on Human Rights into domestic law. The Welsh Government is committed to defending the rights of the people of Wales against any diminution and is not convinced of the need to replace the Human Rights Act. We commissioned our own [research](https://gov.wales/sites/default/files/statistics-and-research/2021-08/strengthening-and-advancing-equality-and-human-rights-in-wales.pdf) on Strengthening and Advancing Equality and Human Rights in Wales and are currently developing our response to the recommendations which arose from this work.

Under the UK Government’s latest proposals, the UK would remain party to the Convention, which is welcome, but a Bill of Rights would not reflect some of the key principles and protections in the Human Rights Act. We do not agree with these proposed changed. There should be no dilution of human rights in Wales and it is essential that the United Kingdom remains a world leader in protecting and enabling people to exercise their human rights.

We have significant concerns about some of the proposals. For example, preventing a court from quashing certain secondary legislation found to be incompatible with a person’s human rights and the approach in respective of citizens’ rights and deportations.

The requirement that legislation passed by the Senedd must be compatible with the Human Rights Act means that the Act is fundamental to the Welsh devolution settlement (as it is to the other devolution settlements of the UK). As such, it would be a matter of the gravest concern if the UK Government was to contemplate acting in this area without the agreement of all of the UK’s national legislatures.

The consultation appears to raise significant issues with regard to accessibility to the courts, the rule of law and the role of the Courts in the application of the law relating to human rights.

It is also not clear how the specific legislative and socio economic interests of the devolved governments will be impacted by the review.

It is disappointing that the review will specifically exclude the opportunity to explore the possibility of increasing social and economic human rights.

Reference in the review to tackle the issue of ‘rights inflation’ causes us concern as does the tone of much of the review document and the suggestion that not all persons should have the same degree of rights. This is something we will want to give detailed consideration to.

The proposals have potentially wide-ranging implications in respect of our equality policies, support for refugees and asylum seekers, community cohesion and many other matters. All of this requires careful examination and discussion with our stakeholders.

We are by no means the only ones with concerns. The Deputy First Minister of Scotland, John Swinney MSP, has shared with us his [letter](https://www.gov.scot/publications/human-rights-act-letter-to-the-lord-chancellor/) to the Lord Chancellor Dominic Raab MP, setting out the Scottish Government’s objections to the UK Government proposals. Concerns have also been raised by, for example, [Liberty](https://www.libertyhumanrights.org.uk/issue/plans-to-reform-the-human-rights-act-are-an-unashamed-power-grab/), [Amnesty](https://www.amnesty.org.uk/issues/human-rights-act) and the [Law Society](https://www.lawsociety.org.uk/contact-or-visit-us/press-office/press-releases/reason-not-rhetoric-must-underpin-review-of-human-rights-rules).

Like others, we are disappointed that the UK Government seems to have ignored much of the evidence gathered during the [Independent Human Rights Review](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040525/ihrar-final-report.pdf), chaired by Sir Peter Gross, including our research on strengthening and advancing human rights, which affirmed the positive benefits that derive from the Human Rights Act and highlighted the potential negative impact around the world if the UK is seen to be regressing in the area of fundamental human rights.

The UK Government’s proposals raise significant concerns. We will engage in further dialogue with them, as well as other devolved governments and our own stakeholders to do everything possible to safeguard and advance human rights in Wales and the UK.