

Part I

What is the Human Rights Measurement Framework?

1 Introduction and overview

The Human Rights Measurement Framework (HRMF) is a new ‘analytical tool’ that brings together evidence for human rights analysis and assessments, and makes this information available to the Equality and Human Rights Commission (‘the Commission’), the Scottish Human Rights Commission (SHRC), regional and international human rights monitoring mechanisms, Government, public bodies and Non-Government Organisations (NGOs). It has been developed in order to begin to meet the need for a comprehensive evidence base for evaluating compliance with, and progress towards, the implementation of human rights in England, Scotland and Wales.

The HRMF panels and indicator set have been developed and agreed through a combined process of research and consultation with subject experts and stakeholders, as well as extensive discussion with an advisory group and a project management group. This approach, we believe, has resulted in a high quality and analytically focused output that builds on recognised international best practice while fully reflecting and incorporating particular human rights issues and concerns in England, Scotland and Wales.

Conceptually, the HRMF is anchored in the Indicators Framework developed by the United Nations Office of the High Commissioner for Human Rights (OHCHR) as a response to the growing international demand for indicators that can be used to promote and monitor the implementation of human rights and to make information about the progress that states are making in fulfilling the obligations that flow from human rights available to human rights monitoring bodies and civil society (OHCHR, 2008, 2006b, 2010).

The development of the HRMF has also built on a process of consultation with human rights stakeholders, subject experts and NGOs. The HRMF Specialist Consultation was undertaken from mid-June to mid-September 2010 with the principal aim of reaching maximum possible agreement on a set of indicators that should be used as a basis for evaluating compliance with, and progress towards, the implementation of human rights in England, Scotland and Wales. Participants were invited to comment on the nature and scope of the indicators that should be used to ‘populate’ the HRMF and to provide feedback on their legitimacy, validity and importance.

The HRMF covers both rights that have a clear basis for enforcement in domestic law through the Human Rights Act (HRA) (which incorporates many of the UK’s obligations under the European Convention on Human Rights (ECHR) and additional rights that are drawn from the international instruments that the UK has signed up to (such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC), and the Convention on the Rights of Persons with Disabilities (CRPD)). For the purposes of this report we describe the rights that are set out in the ECHR and incorporated into domestic law by the HRA, in the following way: Right to life, HRA, Article 2. The rights that are drawn from international instruments that the UK has signed up to, such as the ICESCR, are described as follows: Right to highest attainable standard of physical and mental health, ICESCR, Article 12.

The Framework brings together information about domestic human rights law and treaty ratifications with a broad range of other evidence including information about the regulatory and public policy framework for protecting human rights; information on case law outcomes (ie information on violations/breaches); information about concerns highlighted by domestic and international human rights monitoring bodies (for example, the Joint Committee on Human Rights (JCHR) and United Nations treaty monitoring committees); findings of investigations, inquiries and reviews; issues raised by regulators, inspectorates and ombudsmen; and allegations and concerns raised by NGOs and other civil society mechanisms such as media reports. The HRMF also draws on a wide range of statistical sources including administrative data and social surveys.

It is critical to understand that the HRMF is not intended as a violations counting system. Many of the indicators go beyond the concept of ‘legal enforcement’, ‘violations’ and ‘minimum compliance’. They aim to provide evidence of the incorporation of human rights standards into broader public policy and of the emergence of a so-called ‘culture’ of respect for human rights. Proactive public policy measures as well as broader societal developments can help to reduce the risks of legal breaches of human rights and may ultimately reduce the need for legal enforcement activities and case law. A key aim of the HRMF is to capture and convey evidence about broader progress of this type.

This first chapter provides an introduction and overview to the HRMF. It is organised as follows: Section 1.1 sets out the background to, and rationale for, the HRMF; Section 1.2 provides a conceptual overview of the HRMF and the process whereby an indicator set to ‘populate’ the HRMF has been developed and agreed; Section 1.3 makes recommendations on the next steps in taking the development of the HRMF forward; Section 1.4 provides an overview of this report.

1.1 Background to the HRMF

The background to the HRMF is the decision of the Equality and Human Rights Commission (‘the Commission’) in partnership with the SHRC to move ahead with the development of a set of indicators of the human rights position of individuals and groups in England, Scotland and Wales. The aim of the HRMF is to provide a systematic and rigorous basis for this exercise by:

- producing a credible and objective methodology with which to measure compliance with, and progress towards, the implementation of domestic and international human rights obligations
- providing the Commission, Government, public bodies, NGOs and others with an interest in human rights, with data against which to prioritise action on human rights
- meeting the statutory responsibilities of the Commission to monitor and report on progress in relation to equality and human rights.

The development of the HRMF should be understood in terms of the Commission’s general duty to encourage and support the development of a society based on equality and human rights (Equality Act 2006, Sections 3 and 9, Human Rights Duty) and specific

duties to monitor both the law and results (or ‘social outcomes’) by reporting on progress triennially to parliament, including by developing indicators and evaluating change (Equality Act 2006, Section 12). The Commission also has a statutory duty to consult with stakeholders (Equality Act 2006, Section 12 2(a)) and particular responsibilities to encourage public authorities to comply with their responsibilities under Section 6 of the HRA 1998 (c. 42) (Equality Act 2006, Section 9). The SHRC has a general duty to promote awareness, understanding and respect for all human rights, and a series of powers to protect human rights. The Commission and the SHRC are accredited as ‘National Human Rights Institutions’ (NHRIs) with A-Grade status. This means that, in addition to their domestic enforcement functions, both institutions have a responsibility to promote international human rights norms including the international human rights instruments that the UK has signed up to.

The HRMF builds on the Commission’s earlier work on indicator-based monitoring including the development of the Equality Measurement Framework (EMF). The EMF uses administrative and social survey data to monitor the position of individuals and groups across 10 critical domains of life with systematic disaggregation by key characteristics such as age, gender, disability, religion and belief, race/ethnicity, sexual orientation and social class and separate monitoring by transgender status (see Alkire et al., 2009; and EHRC, 2010a). Related work on the Children’s Measurement Framework (CMF) is discussed in Holder et al. (2011).

The HRMF also builds on the findings and recommendations of the Commission’s Human Rights Inquiry. Background research for the Inquiry concluded that public sector organisations are generally not collecting detailed information on the benefits of human rights activities in a systematic way (Office for Public Management (OPM), 2009). The Inquiry recommended that the Commission should work with regulatory bodies and inspectors to develop human rights indicators that measure the extent to which public bodies are adopting a human rights approach (EHRC, 2009b:184).

At the international level, treaty monitoring bodies such as the United Nations Committee on the Rights of the Child (UNCRC), the United Nations Human Rights Committee and the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR) are increasingly emphasising the importance of disaggregated statistical information and indicators for human rights monitoring purposes. For example, the reporting guidelines issued by the UNCRC inform states about the annual disaggregated statistical data that they are obligated to collect and present to the Committee for its evaluations, alongside principal legislative texts and judicial decisions (UNCRC, 2005). Article 31 of the CRPD specifically obliges states to collect appropriate statistics and data. The UK has, on occasions, been criticised for having inadequate statistical systems for monitoring the human rights position of individuals and groups and for not making such information available to civil society and international treaty monitoring mechanisms. For example, the Concluding Observations of the UNCRC following its consideration of the UK’s Periodic Report include specific recommendations on the need for additional data to monitor the position of certain at risk children (UNCRC, 2008).

The OHCHR Indicators Framework has been developed in response to increased international emphasis on the use of indicators for monitoring and promoting human rights. The Framework provides a common conceptual and methodological basis for developing human rights indicators and has itself been through a process of extensive consultation and validation with United Nations treaty bodies, special rapporteurs and civil society. The Framework has been endorsed by the inter-committee treaty monitoring body and the use of the system is being encouraged by the human rights treaty monitoring bodies. The UN Human Rights Committee has adopted revised guidelines for state reporting and requires states to provide disaggregated statistics based on the OHCHR Indicators Framework when submitting reports under specific provisions of the International Covenant on Civil and Political Rights (ICCPR) whilst the UNCESCR requires states to identify indicators and related national benchmarks for each covenant right, taking into account the OHCHR Indicators Framework and list of illustrative indicators when submitting their reports (UN Economic and Social Council 2011; UNCESCR, 2009b).

The Human Rights Commissioner for the Council of Europe has also highlighted the important role of indicators in addressing ‘implementation gaps’ and evaluating progress towards the achievement of human rights in practice. He suggests that the OHCHR Indicators Framework provides a useful model for moving forward in this area based on the distinction between structural, process and outcome indicators (Hammarberg, 2009). The development of the HRMF has provided an opportunity to build on these developments and to address how human rights indicators can begin to be used to evaluate compliance with, and progress towards, the implementation of human rights in England, Scotland and Wales.

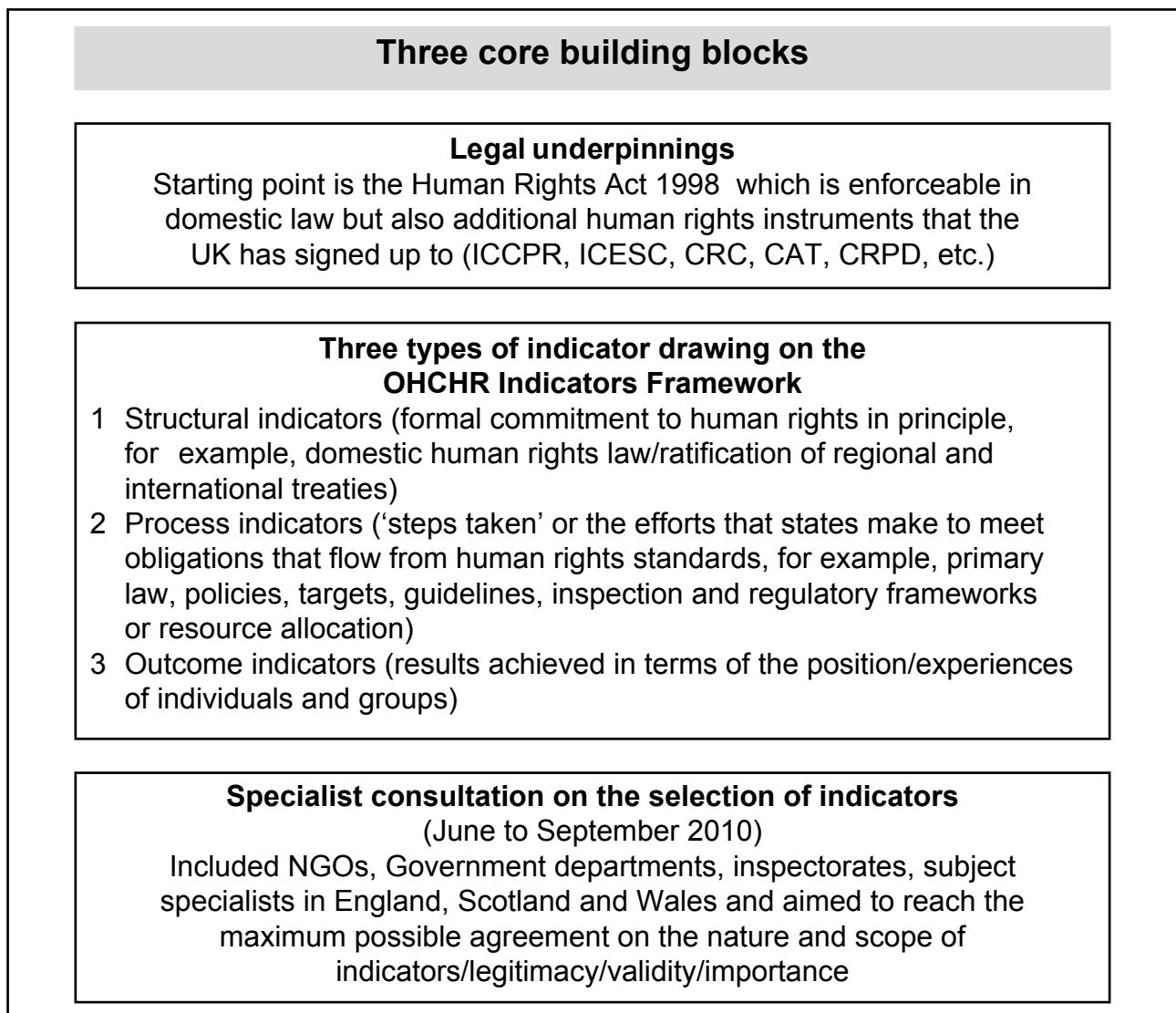
1.2 Building blocks of the HRMF

The HRMF draws on three key inputs (or ‘building blocks’) set out in Figure 1. The first building block is the framework for protecting and promoting human rights in England, Scotland and Wales – that is, the HRA 1998 together with other regional and international human rights instruments that the UK has signed up to (such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, the ICCPR and the ICESCR, the CRC), the Convention Against Torture (CAT) and the CRPD. Further details on the protection and promotion of human rights in England, Scotland and Wales are provided in Chapter 3.

The second building block is coverage of three types of indicators – structural indicators, process indicators and outcome indicators – based on the OHCHR Indicators Framework. This conceptual anchoring provides the basis for the development and agreement of a set of indicators that provide evidence on the human rights standards to which the UK is committed in principle (‘structural indicators’), the ‘efforts’ that are being made by duty holders to meet the obligations that flow from human rights standards (‘process indicators’) and the position and experiences of individuals and groups in practice (‘outcome indicators’). Further details of the OHCHR Indicators Framework and the ways these have been modified and refined for the English, Scottish and Welsh contexts are provided in Section 1.6.

The third building block is that of stakeholder consultation in the development and agreement of the set of indicators that is being used with the HRMF. In developing the HRMF we have built not only on the OHCHR Indicators Framework but also on an extensive process of consultation with human rights NGOs, subject experts, Government departments, regulators, inspectorates, etc. In order to ‘populate’ the HRMF a specialist consultation was undertaken from mid-June to mid-September 2010. The aim was to reach maximum possible agreement on the nature and scope of the indicators that are included in the HRMF as well as on their legitimacy, validity and importance. The views expressed in the HRMF Specialist Consultation are discussed in Chapter 2 and recorded in Appendix 4.

Figure 1: HRMF building blocks



Systematic disaggregation and separate monitoring of at risk/vulnerable groups

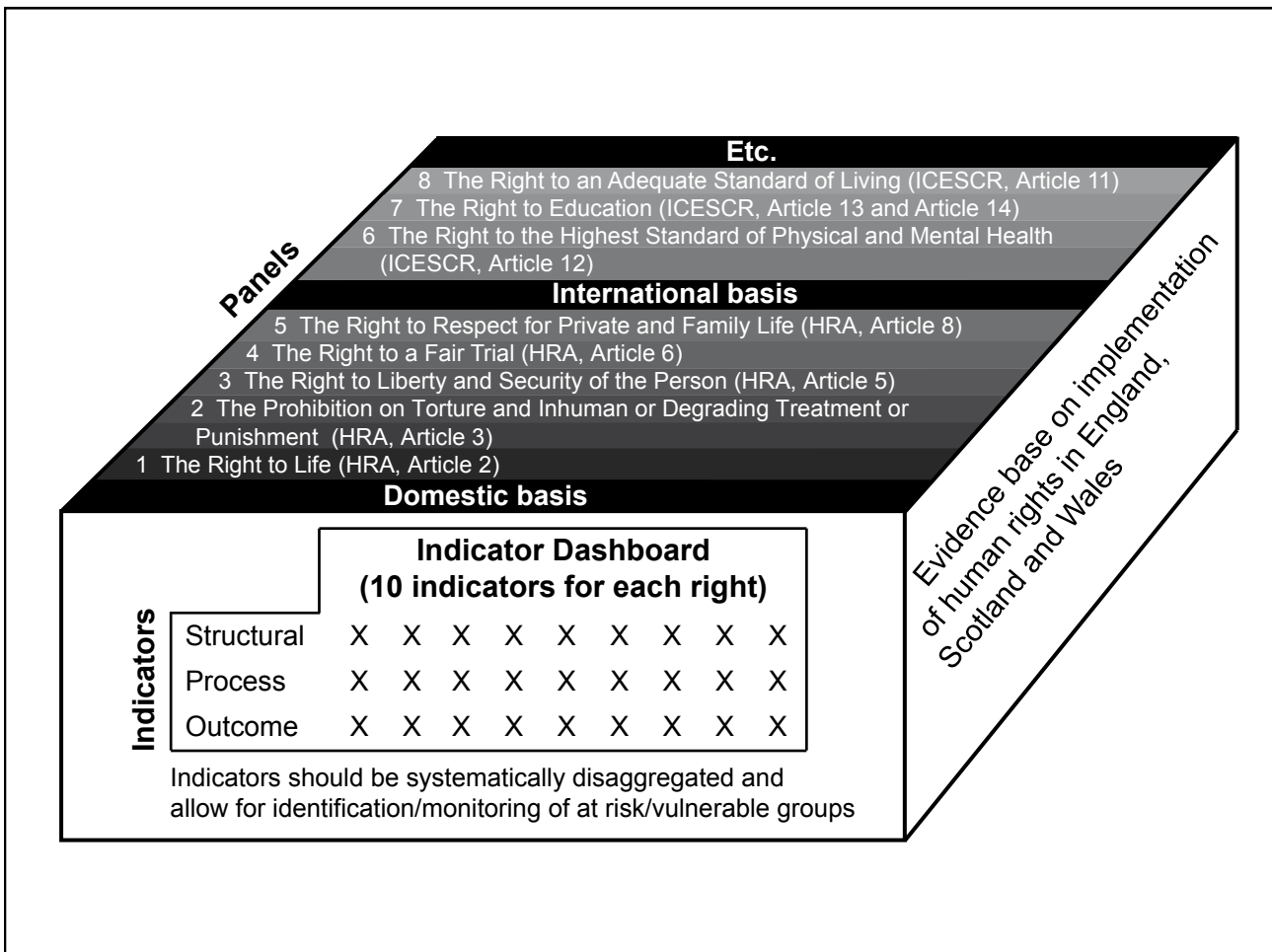
An important objective of the HRMF has been to identify and bring together administrative and social survey data sources that can be used for the purposes of monitoring and promoting human rights. Taking forward this objective has involved building on the principle of systematic disaggregation of data by key characteristics such as age, gender, disability, religion and belief, race/ethnicity, sexual orientation, transgender status and social class reflected in the earlier EMF. In addition, the HRMF has put particular emphasis on identifying and bringing together administrative and social survey data sources that provide evidence on the position of specific at risk/vulnerable groups such as Gypsies and Travellers, refugee and asylum seekers, people resident or detained in public and private institutions (for example, older people resident in care homes or individuals detained in prisons), 'looked after children' and 'children in need'. Participants in the HRMF Specialist Consultation were invited to comment on the at risk/vulnerable groups that should be monitored separately for the purposes of the HRMF as well as to make suggestions on the administrative and social survey data sources that might provide a basis for this exercise.

1.3 Conceptual overview of the HRMF

The HRMF is made up of a series of panels each of which focuses on a single right (for example, Panel 1 focuses on the Right to Life). Each panel includes a 'dashboard' of 10 indicators that has been developed and agreed through the Specialist Consultation process and by applying the project indicator selection criteria. These are discussed in more detail in Chapter 2.

The HRMF is represented as a '3-D matrix' in Figure 2. The layers of the matrix represent the HRMF panels (with one panel for each human right that is included within the system, for example, the first panel is the panel for the Right to Life). The rows of the matrix represent the different types of indicator in the system (ie structural, process and outcome indicators, based on OHCHR good practice). The importance of 'systematic disaggregation' and identification of the position of at risk/vulnerable groups is captured and specified at the bottom of the panel.

Figure 2: HRMF Panels, Indicator Dashboards and Evidence Base



The HRMF panels

Due to time and resource constraints, it has not been possible to develop and agree panels for all the human rights incorporated in the HRA and/or reflected in regional and international human rights instruments within the scope of the current project. The project has resulted in the development of eight prototype panels, five with a clear basis in domestic legislation (the HRA) and three drawn directly from the UK's obligations under the ICESCR. These are:

Domestic basis:

- The Right to Life (HRA, Article 2)
- The Prohibition on Torture and Inhuman or Degrading Treatment or Punishment (HRA, Article 3)
- The Right to Liberty and Security of the Person (HRA, Article 5)
- The Right to a Fair Trial (HRA, Article 6)
- The Right to Respect for Private and Family Life (HRA, Article 8)

International basis:

- The Right to the Highest Attainable Standard of Physical and Mental Health (Universal Declaration of Human Rights (UDHR), Article 25; ICESCR, Article 12)
- The Right to Education (UDHR, Article 26; ICESCR, Article 13/14; CRC, Article 28 and Article 29; HRA, Protocol 1, Article 2)¹
- The Right to an Adequate Standard of Living (CRC, Article 27; ICESCR, Article 11).
- It is anticipated that the HRMF will be expanded over time to incorporate the full range of human rights that are protected and promoted in domestic, regional and international instruments.

The HRMF ‘indicator dashboards’

Each of the HRMF panels is populated by a corresponding ‘dashboard’ of 10 indicators with a total of 80 indicators currently included within the HRMF indicator set (ie 10 indicators for each of the eight panels). It is anticipated that the number of indicators in the overall set will increase as additional HRMF panels are developed. It is important to understand that we do not regard the HRMF indicator set as a ‘fixed’ or ‘final’ list but as one that will be periodically reviewed and updated (for example, every three years). It is also important to understand that the limit (or ‘cap’) on the number of indicators in each dashboard is essentially an arbitrary one. The indicators are intended to put the spotlight on key issues and concerns rather than as providing a complete evidence base under each human right.

The definition of a human rights indicator that has been used in the development of the HRMF is the definition suggested by OHCHR: ‘[H]uman rights indicators are specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that address and reflect the human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights’ (OHCHR, 2006b). This definition was subjected to scrutiny and ultimately agreed on through the HRMF Specialist Consultation (see Chapter 3). It draws on the definition used by Special Rapporteur Paul Hunt in his various reports to the Commission on Human Rights (for example, Hunt 2003, Hunt 2006).

Structural, process and outcome indicators

The dashboard of 10 indicators for each panel includes a balance of structural, process and outcome indicators (based on the OHCHR model). This balance ensures that the evidence base under each panel incorporates information relating to the formal commitment to the human right in question in principle (through the HRA and additional regional and international instruments), the steps being taken by duty holders to discharge the obligations that flow from human rights (for example, primary law, policy and guidance, and regulation, inspection and complaints handling) and the results achieved in practice (in terms of the position and experiences of individuals and groups).

Each indicator dashboard begins with two structural indicators that capture and convey information about the formal commitment to human rights in the UK. This includes information on the protection of human rights in domestic law (including in 'higher' law) and the status of the ratification of regional and international human rights instruments; and information about precedents in legal judgements and principles established in international standard-setting processes.

Two process indicators are also included within the indicator dashboard for each right. These capture and convey information about the steps that duty holders are taking to fulfil the obligations that flow from human rights. This includes information about the public policy framework for the protection of human rights (including primary legislation, policies, plans, targets, codes, guidance and resource allocations) as well as information about key regulators, inspectorates, ombudsman and related mechanisms.

Finally, each indicator dashboard also includes a series of outcome indicators. These capture and convey qualitative and quantitative information about the realisation of human rights and the position and experiences of individuals and groups in practice.

The HRMF 'evidence base'

The HRMF 'evidence base' is the qualitative and quantitative information that we have identified against each indicator within the scope of the current project. The evidence that has been gathered to date under each indicator is presented in this report in a series of tables. It is important to understand that we do not regard this evidence base as complete and that follow-up projects will be required not only to extend the HRMF in terms of the number of human rights covered by the system, but also to extend the evidence base itself.

The HRMF evidence base brings together different types information for human rights analysis and assessments including:

- information about domestic human rights law and treaty ratifications
- information about human rights case law outcomes (ie violations/breaches)
- information about the public policy framework for protecting human rights
- concerns highlighted by domestic and international human rights monitoring bodies (for example, the JCHR and United Nations treaty monitoring committees)
- findings of investigations, inquiries and reviews
- issues raised by regulators, inspectorates and ombudsmen
- allegations and concerns raised by NGOs and other civil society mechanisms such as media reports
- statistical information drawing on a wide range of administrative and social survey sources.

It is critical that in using and interpreting the HRMF indicators and evidence base adequate attention is given to distinguishing between these different types of information. Part II of this report provides guidance and clarification and is essential reading. Chapter 3 provides further guidance on the legal underpinnings of the HRMF and the protection of human rights in domestic law and the international instruments which the UK has signed up to. Chapter 4 provides further guidance on using and interpreting the qualitative and quantitative indicators and the HRMF evidence base. A worked example (focusing on the right to life) is also provided.

1.4 Next steps in the development of the HRMF

The current project has resulted in the development and agreement of eight prototype panels and an associated indicator set. It is anticipated that the HRMF will be expanded over time to incorporate the full range of human rights that are protected and promoted in domestic, regional and international instruments. This will involve developing and agreeing additional panels and the associated indicator dashboards.

The HRMF indicator set is not intended as a definitive ‘fixed’ and ‘final’ list and will need periodic review and revision as data availability changes and because new human rights concerns will emerge. We suggest that the indicator set is reviewed and revised every three years.

It is anticipated that the HRMF evidence base will expand as the overall system is expanded. In addition, the evidence set out in this report is the evidence that we have been able to gather to date. However, there are some important gaps in the evidence base that will require dedicated follow-up work. For example, it has not been possible, within the current project, to map human rights standards to primary law. This work will require a specific follow-up project.

The HRMF would ideally be continuously maintained and updated. Case law is continuously evolving, new investigations reviews are regularly concluding, inspections and complaints-handling mechanisms are constantly being undertaken, and new social survey and administrative data is continuously being collected and made available. Ideally, the HRMF would be viewed as a ‘living document’ and additional evidence would be regularly added to the system.

It is also anticipated that the HRMF will be made available on the web. Alongside a user-friendly, web-based system, there needs to be both a plain English summary of the HRMF and an accessible version, in order to maximise the use of the Framework by a broad range of individuals and groups.

Ideally, in addition to making the report generally available, a web tool would be developed that would provide access to the indicators and data contained in the HRMF. One model would be to develop an interactive web tool which allows organisations (including civil society organisations) to upload their own data to widen the evidence base and keep it current.

It is anticipated that over time a high quality narrative will be developed to accompany the HRMF. A narrative of this type would set out how compliance with, and progress towards, implementing human rights in England, Scotland and Wales can be evaluated against the agreed indicators. A model for this is provided in Chapter 4 (which provides a worked example based on the right to life).

1.5 Overview of this report

Chapter 2 discusses the HRMF research framework and methodology, including the HRMF Specialist Consultation.

Chapter 3 provides guidance on the protection of human rights in UK domestic law and in the regional and international human rights instruments that the UK is signed up to.

Chapter 4 provides a worked example of an HRMF panel and essential guidance on interpreting and using the HRMF indicators.

Chapters 5-12 set out the HRMF panels, indicators and evidence. Each chapter includes a:

- panel (one panel per right)
- dashboard of 10 indicators that has been developed and agreed for each panel
- qualitative and quantitative evidence base against each of the HRMF indicators.

Details of participation in the HRMF specialist consultation are provided in Appendix 3 and feedback from the consultation is recorded in Appendix 4.

Chapter notes

- ¹ The right to education is also set out in the ECHR, Protocol 1, Article 2 and is incorporated into domestic law in the HRA. This is a more limited right than the broader right to education derived from the ICESCR.

2 Research framework and methodology

This chapter sets out the methodology that has been used to develop and agree the Human Rights Measurement Framework (HRMF); Section 2.1 provides an overview of the research framework; Section 2.2. provides details of our conceptual starting point, the Office of the High Commissioner for Human Rights (OHCHR) Indicator Framework; Section 2.3 provides details of the HRMF Specialist Consultation; Section 2.4 sets out the Indicator Framework selection criteria adopted in the HRMF.

2.1 How has the HRMF been developed?

Developing and agreeing the HRMF has been a multi-stage process which involved:

- a preliminary literature and data review
- developing a provisional HRMF set of panels based on international good practice (by modifying and orientating the OHCHR panels)
- ‘road-testing’ and revising the provisional HRMF conceptual grid with the project Advisory Group
- developing a ‘long-list’ of human rights indicators based on the literature and data review including sources such as:
 - OHCHR good practice indicators
 - United Nations General Comments
 - the Equality Measurement Framework (EMF)
 - the Children’s Measurement Framework (CMF)
- developing a provisional short-list of ‘spotlight’ indicators based on the long-list (by applying the provisional project ‘selection criteria’ below)
- specialist consultation with human rights stakeholders and subject specialists aiming to reach maximum possible agreement on the HRMF conceptual grid and indicator set (including one-day events, web consultation and one-to-one meetings with specific organisations)
- refinement of a set of indicator selection criteria based on discussions and feedback from the Specialist Consultation, the Advisory Group and the Project Management Group
- revising the panels and short-list of spotlight indicators in the light of comments, feedback and recommendations from participants in the Specialist Consultation and the project selection criteria
- developing an evidence base under each right by ‘populating’ the HRMF with the agreed indicators and measures using administrative, social survey and other data
- securing necessary agreements with data providers and commissioners.

The development and agreement of the HRMF panels and the associated set of indicators has been an iterative process, reflecting these discrete research phases. After initial desk research, the provisional HRMF panels were revised in line with comments from the Project Management Group and subjected to a road-testing exercise with the Advisory Group. A provisional short-list of indicators was developed and the provisional panels/ short-list of indicators were subjected to scrutiny through a specialist consultation exercise, to establish:

- the extent to which the:
 - panels had been modified and refined correctly
 - correct short-list of indicators had been identified, and
- whether supplementary or alternative indicators were necessary.

As discussed below, the consultation process involved three main one-day events (one each in England, Scotland and Wales), a 12-week web consultation and a series of in-depth one-to-one meetings and discussions. The panels have also been presented at two events convened by the Ministry of Justice (MoJ), the Human Rights Senior Champions (SCs), and the Regulators, Inspectorates and Ombudsmen (RIO) Forum on Human Rights, with opportunities for discussion and feedback. The consultation feedback was analysed and the panels and indicators were revised for a final time and evidence using the indicator set for each panel was produced.

2.2 The OHCHR Indicators Framework

An illustration of one of the OHCHR panels (for the right to life) is given below in Figure 3. The 'attributes' of the right to life (arbitrary deprivation of life, disappearances of individuals, health and nutrition and death penalty) are specified in the columns of the panel. The different types of indicators covered in the OHCHR system (ie structural, process and outcome indicators) are specified in the rows. The principle of 'systematic disaggregation' is specified in the final row of the panel, reflecting the emphasis of the OHCHR on systematic disaggregation and separate identification of the position of vulnerable/at risk groups. Illustrative indicators are included within the panel cells.

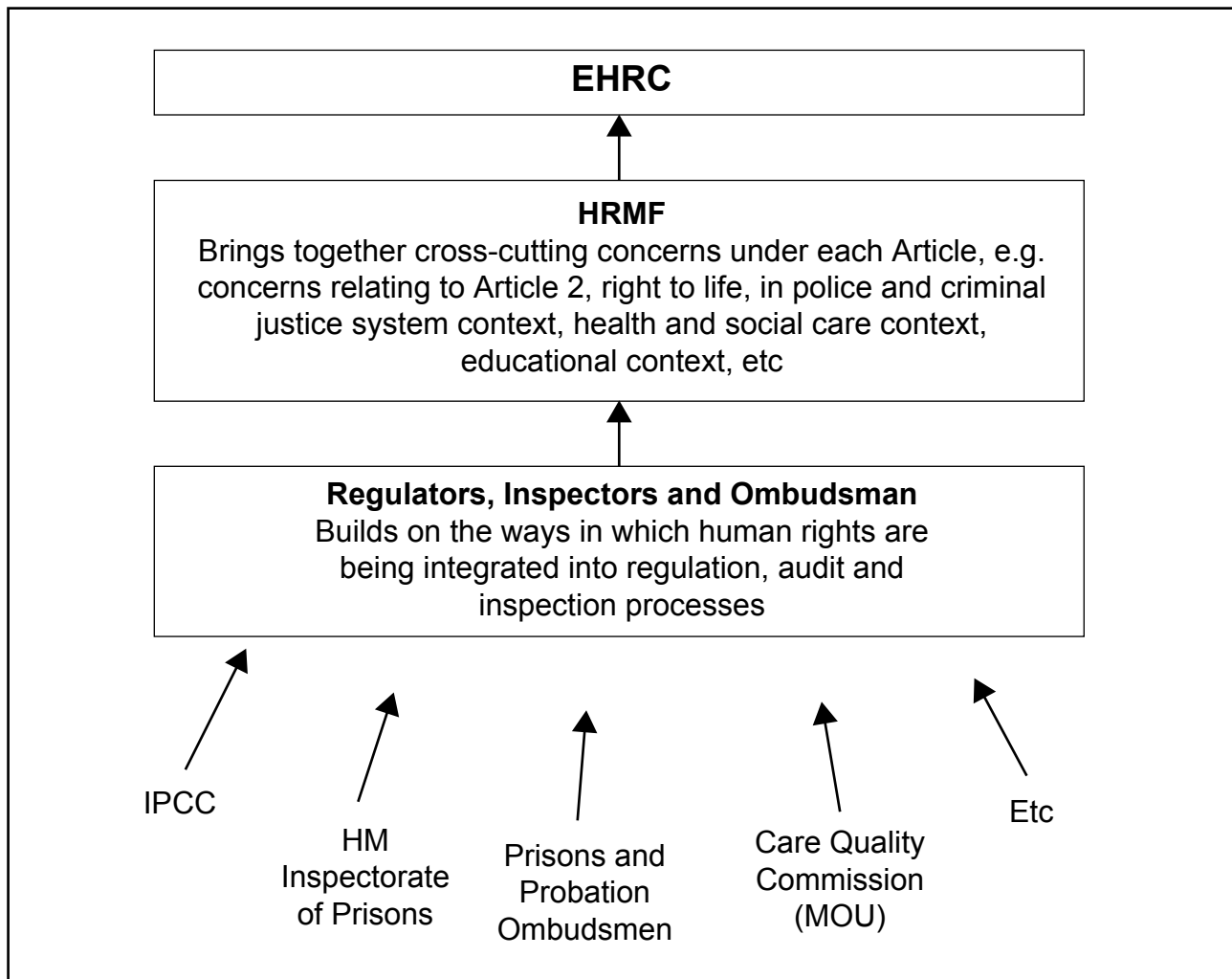
Figure 3: OHCHR panels: Example of the right to life²

	Arbitrary deprivation of life	Disappearances of individuals	Health and nutrition	Death penalty
Structural Indicators	<ul style="list-style-type: none"> International human rights treaties, relevant to the right to life, ratified by the State Date of entry into force and coverage of the right to life in the Constitution or other forms of superior law Date of entry into force and coverage of domestic laws for implementing the right to life 	<ul style="list-style-type: none"> Date of entry into force and coverage of habeas corpus provision in the Constitution 	<ul style="list-style-type: none"> Time frame and coverage of national policy on health and nutrition 	<ul style="list-style-type: none"> Number of sub-national administrative entities that have abolished death penalty
Process Indicators	<ul style="list-style-type: none"> Date of entry into force and coverage of formal procedure governing inspection of police cells, detention centres and prisons by independent inspection agencies 	<ul style="list-style-type: none"> Proportion of received complaints on the right to life investigated and adjudicated by the national human rights institution, human rights ombudsperson or other mechanisms and the proportion of these responded to effectively by the government 	<ul style="list-style-type: none"> Proportion of population using an improved drinking water source Proportion of births attended by skilled health personnel 	<ul style="list-style-type: none"> Number of convicted persons on death row in the reporting period
Outcome Indicators	<ul style="list-style-type: none"> Number of homicides and life threatening crimes, per 100,000 population Number of deaths in custody per 1,000 detained or imprisoned persons, by cause of death (e.g. illness, suicide, homicide) 	<ul style="list-style-type: none"> Proportion of communications sent by the UN Working Group on Enforced or Involuntary Disappearances responded to effectively by the government in the reporting period Reported cases of disappearances (e.g. as reported to the UN Working Group on Enforced or Involuntary Disappearances) 	<ul style="list-style-type: none"> Infant mortality rates life expectancy at birth Prevalence of and death rates associated with communicable and non-communicable diseases (e.g. HIV/AIDS, malaria* and tuberculosis*) 	<ul style="list-style-type: none"> Proportion of death penalty sentences commuted Number of executions (under death penalty)
All indicators should be disaggregated by prohibited grounds of discrimination, as applicable and reflected in metasheets				

It was decided at the outset of the current project that whilst the HRMF would be conceptually anchored in the OHCHR panels, a number of modifications and refinements would be necessary in order to ensure adequate 'contextualisation' of the OHCHR panels for England, Scotland and Wales. These panels and 'attributes' (column headings) as well as the indicators have been modified and refined in order to achieve this.

For example, some of the attributes highlighted in the OHCHR panels (for example, disappearances of individuals or the death penalty under the right to life) are not key human rights concerns in England, Scotland and Wales. In addition, it was felt that there was a need to put more emphasis on the standards set out in the Human Rights Act (HRA) 1998. The HRA provides a clear basis for the legal enforcement of human rights in the British context and includes explicit provisions under Section 6 for public bodies to comply with human rights. An important priority from the outset was to view the HRA – the legal instrument that individuals can use to enforce their human rights in Britain – as the starting point for the development of the HRMF and to ensure that this priority was reflected in the conceptual framing of the panels and 'attributes'. A further priority was to give prominence to the role of regulators, inspectorates and ombudsmen in implementing and promoting human rights (building on the recommendations of the Equality and Human Rights Commission's ('the Commission') Human Rights Inquiry) and on the incorporation of human rights standards into public policy.

It is important to understand that in making these modifications and refinements our motivation has been to maximise the potential of the HRMF as a practical tool for promoting and monitoring the implementation of human rights in England, Scotland and Wales. For example, it is envisaged that the Scottish Human Rights Commission (SHRC) and the Commission, as human rights institutions, have an over-arching role in bringing together information that flows to them from other regulators, inspectorates and ombudsmen, and in identifying and reporting on any human rights issues that emerge. Hence, in England, information about the position of individuals and groups that is of potential relevance to the right to life flows from bodies such as the Independent Police Complaints Commission (IPCC), HM Inspectorate of Prisons, the Prisons and Probation Ombudsman and the Care Quality Commission. The Commission is in a position to take an overview of the findings that emerge from these regulatory, inspection and complaints-handling processes and to identify and report on human rights concerns (including cross-cutting human rights concerns that relate to the work of more than one of these bodies and processes). With this function in mind, an important priority in developing the HRMF has been to identify the monitoring systems that are used by regulators, inspectorates and ombudsmen and relate (or 'map') these to the HRMF. For example, the IPCC has an established process and procedure for monitoring deaths within custody, and the data arising from this established system is included within the HRMF evidence base on the right to life.

Figure 4: Model of human rights regulation and inspection

Another priority has been to ensure that the HRMF covers qualitative as well as quantitative indicators, and non-official as well as official data sources. A range of qualitative indicators (for example, case law indicators, indicators capturing and communicating the concerns expressed by human rights monitoring bodies and in investigations, inquiries and reviews, as well as information gathered by regulators, inspectorates and ombudsmen) were suggested by participants in the HRMF consultation. Participants also suggested that it was critical that independent human rights monitoring exercises do not only rely on official data sources and that it would be important to include indicators that draw on information generated by civil society, for example, by Non-Government Organisations (NGOs) and through media reporting.

The HRMF panels and indicator set have been developed and agreed through a combined process of research and consultation with subject experts and stakeholders, as well as extensive discussion with an advisory group and a project management group. This approach, we believe, has resulted in a high quality and analytically focused output that builds on recognised international best practice while fully reflecting and incorporating specific human rights issues and concerns in England, Scotland and Wales.

The OHCHR has also provided support and input to the HRMF. At the end of the project the OHCHR expressed the view that the indicators identified on the eight universal human rights in the HRMF and their contextualisation for England, Scotland and Wales have highlighted the relevance and applicability of a common approach on statistical and other indicators that is consistent with OHCHR's conceptual and methodological framework on indicators for human rights (HRI/MC/2008/3), in particular by seeking to capture linkages between human rights commitments, efforts and results through a configuration of structural, process and outcome indicators (OHCHR, 2011).

2.3 The HRMF Specialist Consultation

In order to 'populate' the HRMF a specialist consultation was undertaken from mid-June to mid-September 2010. The principal aim of the Specialist Consultation was to reach maximum possible agreement on a shortlist of 'spotlight' indicators relevant for England, Scotland and Wales. In addition, feedback and comments on the panels and attributes; the development of a list of vulnerable groups; the types of data that are admissible (official, allegations-based, etc.); and other concerns and issues raised by participants are recorded and synthesised in this chapter.

The Specialist Consultation: Scope, process and participation

The following remit was specified for the Specialist Consultation:

- The primary aim was to develop and agree a set of indicators that put the 'spotlight' on key human rights concerns. Broader comments (such as comments on the project aims and objectives, on the panels, and on the use of language and terminology) were also invited.
- It covered three types of indicators (structural indicators, process indicators and outcome indicators, based on the OHCHR model).
- It covered both quantitative indicators (drawing on social surveys and administrative data sources) and qualitative indicators (covering case law, treaty ratifications, outcomes of investigations, data collected by NGOs, allegations of violations, etc.).
- It covered both official sources and non-official sources. It was envisaged that whilst some data sources would be covered by the National Statistical Standard system of quality control, other types and quality of data are also admissible).
- Its geographical scope covered Great Britain, England, Scotland and Wales.
- It covered children and adults.
- It covered stakeholders and subject specialists (ie it was not a full-scale public consultation).
- The emphasis would be on identifying and using existing data sources, although identifying data gaps was also an important concern.

Three all-day consultation events were held, one each in England, Scotland and Wales. The morning sessions included two presentations, the first of which introduced the consultation and consultation materials while the second provided an overview of the HRMF and the right to life panel. Break-out groups operated during the second half of the day, which ended in a plenary session where groups provided comments, feedback and recommendations from their discussions on the panels. Full details of participation in the Specialist Consultation are provided in Appendix 3. Details of comments, feedback and recommendations from the consultation events, along with feedback from the web consultation and in-depth one-to-one meetings, are provided in Appendix 4.

What did we ask participants?

Participants were invited to review the panels and input comments and feedback; to answer the consultation questions; and/or to provide us with information on related work. Participants were invited to respond to the consultation questions as well as for their general views, recommendations and reactions to the project.

Figure 5: Details of the HRMF Specialist Consultation questions

Definition of a human rights indicator

- We are proposing the following definition of a human rights indicator for the purposes of the project: [H]uman rights indicators are specific information on the state of an event, activity or an outcome that can be related to human rights norms and standards; that address and reflect the human rights concerns and principles; and that are used to assess and monitor promotion and protection of human rights. (UNOHCHR, 2006b). Do you have any feedback or comments on this definition?

Identification of good practice examples

- Are you aware of agreed lists of human rights indicators that are being used for monitoring purposes in England, Scotland or Wales?
- Are you aware of good practice use of human rights indicators within official statistical monitoring systems?
- Do you have examples of human rights indicators from your everyday work/organisation on which we could draw?
- Do you have any further suggestions or comments regarding statistical indicators that we could include in the short-lists of indicators in each domain, that are particularly important from a human rights perspective?
- Do you have an agreed definition of a human rights indicator that you use in your everyday work/organisation?

Continued

Figure 5: Details of the HRMF Specialist Consultation questions (*continued*)

Overall consultation questions

- Overall, do you think that the panels will make a useful contribution to human rights monitoring in England, Scotland and Wales?
- Do you think that dividing the panels by structure, process and outcome indicators is useful?
- Overall, are there any comments you would like to make about the focus, language or design of the panels (for example, coverage of the Human Rights Act, the international human rights framework, the rights covered in the first round of panel development, etc.)?
- Do you think we have got the language right for describing the HRMF?
- Indicators and measures for each panel
- Do you have any suggestions about indicators or measures that we could draw on for this panel?
- Do you have any suggestions about data sources that we could draw on for this panel?
- Is your organisation working with any indicators or measures that are relevant to the development of this panel?
- Are there any indicators or measures under this panel that you would remove?
- Do you have any comments about the way in which the design of this panel could be improved?
- Are you aware of any matching Scottish and Welsh sources that we could draw on for this panel?

Vulnerable groups

- We would like to define a list of 'vulnerable groups' to use with the HRMF project. Do you have any suggestions for who should be included in a list of vulnerable groups for children and adults?

Other suggestions and comments

- Do you have any other overall comments about the project, the panels or human rights monitoring that you would like us to record?
- Do you have any suggestions or comments about additional ways in which we could draw on human rights principles and standards in taking the development of the HRMF forward?

What were the outcomes of the Specialist Consultation?

The feedback from the HRMF Specialist Consultation was used by the research team to further develop the HRMF panels and to develop a revised list of indicators to use with the HRMF. Full details of the feedback from the HRMF Specialist Consultation are provided in Appendix 4.

A number of key strategic issues and dilemmas that fundamentally affect the general positioning of the HRMF were discussed in the Specialist Consultation. The first issue concerns the use of 'legalistic terminology' versus the use of 'plain English terminology' and 'accessible terminology'. One argument was that the HRMF is about monitoring the implementation of legal duties and that the language and terminology adopted should be based on legal definitions as much as possible. Another view was that the use of legal definitions and terminology should be avoided and that the need to use plain English and/or accessible language should prevail. We agree with many stakeholders that accessible and plain English versions of the Framework are developed so that the system can be used by a range of individuals and groups.

A related but distinct concern was whether the HRMF should be strictly anchored in/driven by case law versus a broader approach grounded in human rights 'values' such as freedom, respect, freedom equality, dignity and autonomy. The approach we have adopted here is to ensure that the panels are explicitly grounded in the legal framework, whilst formulating some indicators and measures in terms of human rights values. The legislative background underpinning values such as 'autonomy' and 'dignity and respect' are also emphasised.

A third key issue relates to the question of whether the focus of the HRMF should be on domestic law and the HRA, or the international human rights framework. Some participants argued that the focus of the HRMF should be the HRA which is legally binding and enforceable in courts within the UK. Another view was that the starting point should be international human rights law, with its emphasis on economic, social and cultural rights, as well as civil and political rights.

The approach we have adopted in the HRMF is to try to strike a balance between these two viewpoints, by adopting the HRA (with five of the HRMF panels having an explicit basis in domestic law) whilst also developing three panels that draw on the international human rights framework (the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has not been incorporated into UK domestic law, but which the UK is signed up to). We have also taken account of standard-setting by international human rights bodies in developing the HRMF indicator set. For example, General Comment 6 issued by the UN Human Rights Committee suggests that variations in infant mortality and life expectancy between individuals and groups can engage the right to life (UN Human Rights Committee, 1982). We have therefore included general population statistics on infant mortality and life expectancy (along with other general population statistics on mortality) under the Right to Life panel.

Fourth, a related issue was whether the HRMF should focus exclusively on developing indicators of 'minimal compliance' and violations or whether it should also be concerned with proactive public policy and the emergence of a human rights 'culture'. Our approach here has been to capture and incorporate both concerns. Some of the indicators in the HRMF system relate to minimal compliance and violations whilst others provide broader information about the emergence of a so-called human rights culture (for example, as evidenced by public attitudes and understanding of human rights and their self-reported experiences).

Fifth, there was much discussion of the need for an expansion of the qualitative indicators within the HRMF in the Specialist Consultation. At the consultation stage, whilst we included some qualitative human rights indicators in the draft HRMF panels, the vast majority of indicators in the system were of a quantitative nature. Many participants called for a significant expansion of the qualitative indicators in the overall indicator set to include not only case law but also the findings of human rights bodies; the findings of inquiries, investigations and reviews; the findings of inspectorates, regulators and ombudsmen; and so forth. A major change in approach resulted from this input and feedback, with a very significant expansion of the qualitative information included within the HRMF at the revision stage.

Finally, a number of participants emphasised the importance of including non-official (as well as official) data within the HRMF. It was argued here that a picture of the realisation of human rights in England, Scotland and Wales should not be reliant on the 'state's version of events' and official sources alone, and that non-official sources including press and media, advocacy and NGO data should also play a key role. Again, new indicators were introduced into the HRMF in order to address this recommendation.

2.4 HRMF indicator selection criteria

The selection criteria principles developed for the EMF (set out in Alkire et al., 2009) were modified in line with the requirements of the HRMF and synthesised into a practical and manageable checklist under the headings of admissibility criteria, criteria for selecting individual indicators, criteria that apply to the balance of indicators within each panel, and criteria that apply to the HRMF as a system.

General admissibility criteria

- **Indicator types:** Both qualitative and quantitative indicators are admissible.
- **Data sources:** Both official and non-official data sources are admissible.
- **Structures, process and outcomes:** Structural, process and outcome indicators are all admissible.
- **Individual-/institutional level:** Admissible indicators can relate to individuals, resources, and other units, such as prisons, hospitals and other institutions.

Selection criteria that apply at the HRMF level

Essential:

- The starting point for the development of the HRMF panels should be domestic human rights law (ie the HRA) but some indicators within the portfolio as a whole should also reflect and capture the international human rights framework.
- Indicators should be evenly balanced across panels.
- The portfolio of indicators as a whole should put the spotlight on the concerns of different individuals and groups (rather than an overemphasis on the concerns of any particular subgroup).

Selection criteria that apply to each panel (panel ‘balancing criteria’)

Essential:

- Within each panel there should be a balance between structural, process and outcome indicators.
- Within each panel there should be a balance between a case law driven approach (focusing on minimum compliance/‘violations’) and a focus on broader human rights principles/the emergence of a human rights culture.
- Within each panel there should be a balance between indicators that capture and reflect negative duties and those that capture and reflect positive duties.

Desirable:

- Within each panel there should be an emphasis on objective measures. However, it is also desirable that subjective measures (for example, perceptions of discrimination, self-reported treatment with dignity and respect, ‘voiced’ based indicators and attitudinal indicators) are included within the indicator dashboard for each right.

Selection criteria that apply to single indicators

Essential:

- An indicator is **valid** if it contributes to an information base for evaluating the human rights position of individuals and groups in England, Scotland and/or Wales.
- An indicator is **important** and represents a priority for inclusion in the HRMF if it captures and reflects concerns raised through the legal process, by human rights monitoring bodies (for example, the Joint Committee on Human Rights, United Nations monitoring committees, or as raised in United Nations General Comments), in independent investigations and inquiries, by relevant inspectorates/audit bodies, or by civil society, in media reports, etc.
- An indicator is **legitimate** if maximum possible agreement has been achieved in relation to its **validity** and **importance** within the overall portfolio by relevant stakeholders and subject experts, through the HRMF Specialist Consultation process.
- An indicator comes from a **credible** and **reliable** source.

Desirable:

- **Disaggregation.** The indicator is disaggregated by population subgroups and the non-private household population and vulnerable/at risk groups can be separately identified and reported on.
- **Frequency.** The indicator is collected reasonably frequently (at least every three years) for monitoring purposes.
- **Time series.** A time series that provides a basis for comparison over time and consistent evaluation of trends is available.
- **International comparability.** The indicator provides a basis for comparison, either regionally or internationally.
- **Robustness.** Standard statistical requirements of accuracy, reliability and validity, as well as the criterion of non-ambiguity, are desirable but not essential.³

Other considerations

- **Emphasis on existing sources.** Existing social survey sources and administrative sources should be used wherever possible.
- **Cost minimisation.** New data collection should only be proposed in cases where reasonably close alternatives or suitable proxy indicators are not available and the cost implications of data requests should be taken into account.
- **EMF indicators should be used where they are ‘fit for purpose’.** Indicators or measures already being used in other Commission Frameworks (the EMF, Children’s Measurement Framework or Good Relations Framework) should be used where they are fit for purpose. For example, if an indicator of domestic violence has been included in the EMF and is defined and specified in a way that is useful for the HRMF, it can reasonably be included in the HRMF. This methodology is intended to maximise overlap between the frameworks in order to capitalise on relevant previous and ongoing technical work on indicators; to build on existing agreements with data commissioners and providers; and to minimise cost burdens.

Chapter notes

- 2 This figure provides extracts from the OHCHR panel on the right to life. For the full version see OHCHR (2008). For the full panel see Chapter 4.
- 3 ‘Robustness’ was considered an ‘essential’ characteristic for the purposes of the EMF consultation. This approach was not adopted for the HRMF consultation since it was viewed as overly-restrictive – for example, it could potentially rule out relevant sources of data from non-official sources.