

## **COVID-19: Implications for the Human Right to Adequate Housing in Scotland**

**July 2020**

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## Introduction

COVID-19 has put pressure on all areas of our society, with increased need for health and social care, rising unemployment, and an increasingly uncertain economic future. The pandemic has magnified the prevailing and persistent structural inequalities, providing a stark illustration of the effects of indirect discrimination that have been harmful for people and their human rights, especially their economic and social rights. This has resulted in the most vulnerable in society disproportionately suffering the most severe consequences of the virus. Death rates from COVID-19 are documented as being 2.3 times higher for those living in the most deprived areas of Scotland<sup>1</sup> and poverty is the greatest driver of homelessness in all of its forms.

Adequate housing is a universal human right, applicable to all without discrimination and plays an essential role in the realisation of the right to an adequate standard of living. It is also inextricably linked to the realisation of many other rights, including the rights to health, work, and education. The current crisis has highlighted the essential nature of adequate housing for all. Good quality, affordable housing aimed at those most in need can be the difference between good and bad physical health, the ability to pay for heating, buy nutritious foods and access education and employment.

Despite Scotland's wealth as a nation, attempts to eradicate homelessness and provide those in need with housing security have not yet fully succeeded.<sup>2</sup> Concern over both homelessness and the inadequate provision of housing have been repeatedly raised by a variety of United Nations (UN) Treaty Body Committees<sup>3</sup>, as well as by the UN Special Rapporteur on Extreme Poverty and Human Rights<sup>4</sup>. There is little doubt that as the pandemic financial support schemes end and the resulting job losses follow in the predicted economic downturn, many more people will require housing support.

At this moment in time, however, COVID-19 does appear to have had some positive impacts in terms of action to tackle and prevent homelessness. This has come as a direct result of some policy changes for example regarding evictions, as well as some expedited and

resourced action by the Scottish Government and local authorities, and significant community efforts<sup>5</sup> to protect the health and welfare of people in or at risk of a housing crisis. The government's response has highlighted that where there is political will to allocate adequate and necessary resources, outcomes can be improved. The question now, is whether this temporary funding can be translated into a more permanent commitment and to long term policy change. Placing Scotland's international human rights obligations at the centre of socio-economic recovery policy development could provide a catalytic change point for the future delivery of rights based goods and services, including housing provision and help to support the eradication of homelessness in Scotland.

This brief is designed to provide an overview of the right to housing, as set out in international law and insight into the current effect of COVID-19 on people's enjoyment of socio-economic protections, specifically their right to adequate housing.

## **The Right to Housing in International Law**

At the international level, the first formulation of the right to housing was contained within Art. 25 of the Universal Declaration of Human Rights (UDHR), adopted universally in 1948. Art. 25 of the UDHR sought to capture the rights of all to have an 'adequate standard of living', aiming to secure for everyone the essentials needed to survive 'including food, clothing, housing and medical care...'. Since the adoption of the UDHR, the right to housing has been laid down in subsequent binding treaties such as the Convention on the Rights of the Child (CRC Art. 27) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Art. 14(2)). The key international provision on the right to food is Art. 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) as set out in Box 1 below.

### **Box 1: Article 11 of the ICESCR**

The States Parties to the present Covenant recognise **the right of everyone to an adequate standard of living** for himself and his family, including adequate food, clothing and **housing**, and to the

**continuous improvement of living conditions.** The States Parties will take appropriate **steps to ensure the realisation of this right**, recognizing to this effect the essential importance of international cooperation based on free consent.

The right to adequate housing encompasses a lot of different elements and is thus broad in definition. The UN Committee on Economic, Social and Cultural Rights (the Committee) has further elaborated upon the right: ‘the right to housing should not be interpreted in a narrow or restrictive sense which equates with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity’.<sup>6</sup> In other words, the right to housing is not limited to the provision of four walls and a roof, but includes further essential entitlements such as security of tenure, non-discrimination, and participation in housing-related decision-making.<sup>7</sup> Additionally, the Committee have been keen to highlight the intrinsic, interrelated and interdependent nature of human rights protection, highlighting the key role the right to housing plays within the realisation of other rights, such as the right to health and the right to life. The Committee have outlined clearly that for housing to be considered adequate and thus satisfy and realise the right to housing, seven key conditions must be met as set out in Box 2 below.

### **Box 2: Seven key conditions of adequate housing**

**Security of Tenure** – Adequate housing must provide a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.

**Availability of Services, Materials, Facilities and Infrastructure** – Adequate housing must provide occupants with safe drinking water, adequate sanitation, energy, food storage, and refuse disposal.

**Affordability** – Adequate housing cannot have a cost which threaten or compromises the occupant’s enjoyments of other human rights.

**Habitability** – Adequate housing must guarantee physical safety alongside adequate space, as well as protection against the cold, damp, heat, rain, wind, and other threats to occupant’s health.

**Accessibility** – Adequate housing must take into account the specific needs of disadvantaged and marginalised groups.

**Location** – Adequate housing must not cut occupants off from employment opportunities, healthcare, schools, childcare centres and other social facilities. Further it must not be located in highly polluted or dangerous areas.

**Cultural Adequacy** – Adequate housing must respect and take into account the expression of cultural identity.

Further detail on the General Obligations set out by ICESCR relating to how to Respect, Protect, and Fulfil the Right to Housing are included in Appendix 1.

## **The Implications of COVID-19 on the Right to Housing in Scotland**

### **Poverty and increasingly financial Stress**

It will be some time before there is a full understanding of the extent of the economic ramifications of COVID-19. What is clear, is that the precarity of many households' finances prior to the pandemic have left many without the necessarily resilience to cope with further income reduction. A recent report exploring the impact of Universal Credit on both tenants and landlords prior to the pandemic highlighted the major increase in rent arrears in recent years, with examples such as East Lothian where 72 per cent of social housing tenants claiming Universal Credit were in arrears, in comparison to 30 per cent of all tenants<sup>8</sup>. Shelter Scotland have also seen a 24 per cent rise in social sector evictions in Scotland in recent years, most of which has been attributed to rising rent arrears due to welfare reforms including Universal Credit<sup>9</sup>.

At present 60 per cent of adults living in poverty in Scotland, live in working households<sup>10</sup>, many of whom have now seen a cut in household income due to being furloughed and only 80 per cent of their wages and/or reduced hours. Even more concerning, is the data highlighting that nearly half (49 per cent) of households with dependent children in

Scotland find themselves in the two most serious categories of financial stress<sup>11</sup>. With large-scale job losses likely in a wide range of sectors, it is inevitable that more people will need to claim and rely upon social security in order to secure their housing.

## **Homelessness**

Despite the core principle of non-discrimination, not all socio-economic rights are enjoyed equally throughout society. Homelessness is particularly at risk of violating principles of non-discrimination, with specific marginalised groups at a far greater risk of becoming homeless and struggling to access essential services<sup>12</sup>. Shelter reports that a household is made homeless every eighteen minutes in Scotland, with many being families with children<sup>13</sup>.

There are both individual and structural factors leading to homelessness in Scotland. Structurally, society sees levels of homelessness increase when there is a lack of affordable housing, rising poverty levels, and reduced welfare provision. Individually, financial problems, family or partner breakdown, domestic abuse, mental ill-health and leaving the care system or discharge prison are cited as most common causes for homelessness in Scotland<sup>14</sup>.

Since March 20<sup>th</sup>, it is clear that lockdown has both exacerbated the situation for many who were already at risk of homelessness as well as evidence of new groups at increased risk. Across Scotland there has already been a huge surge in applications for social security, increased unemployment, and increase in the use of emergency food bank provisions<sup>15</sup>. A recent Opinium survey suggested that a fifth of renters were currently having to make the decision between paying for food and bills or paying their rent.<sup>16</sup> Shelter have also noted that a fifth of private renters fear that they will lose their jobs following lockdown, leaving most unable to pay their rent.<sup>17</sup> These are all early warning signs for an increased pressure on people's ability to enjoy the right to adequate housing, as has been seen throughout the recent decade of austerity.<sup>18</sup>

Early indications have shown that in addition to those at risk of homelessness due to a change in financial wellbeing, those

experiencing specific pressures on relationships caused by lockdown are also at a particular risk of homelessness at this time<sup>19</sup>. In particular concerns have been raised by Scottish Women's Aid (SWA) about increased rates of domestic abuse during lockdown<sup>20</sup>. Calls to the Domestic Abuse and Forced Marriage Helpline have highlighted that abusers are using lockdown measures as a tool in their abuse, for example, reducing social interaction with others; increasing control of women's movement, threatening to expose them to the virus, discouraging seeking help, effectively creating a perceived inability to leave even a potentially life threatening situation<sup>21</sup>.

SWA has also raised concerns about the impact of coronavirus on children and young people experiencing domestic abuse, who are unable to attend the potentially safe space of nursery or school and in turn are no longer visible to potentially supportive adults or able to access support services provided through nursery or school<sup>22</sup>.

LGBT Youth Scotland have also raised concerns with the Equality and Human Rights Commission of the increased risk of domestic abuse (and in turn homelessness) for LGBT people resulting from an increase in homophobia, biphobia and transphobia within the family home, exacerbated by lockdown<sup>23</sup>. In considering the additional impact of Coronavirus on homelessness, the Homeless Network Scotland and a specialist group of expert reviewers reported that LGBT young people are over-represented in youth homelessness figures, accounting for 24 percent of young homeless people. In addition, 69 per cent of homeless LGBT young people had experience of violence, abuse or rejection at home, expressing fear that this could be exacerbated by the current lockdown.<sup>24</sup>

The Homeless Network Scotland also reported that 80 per cent of transgender people have experienced abuse from a current or former partner and transgender young people who are not yet 'out' may struggle with increased stress during lockdown<sup>25</sup>.

Without additional housing, including temporary respite, for anyone suffering domestic abuse, Scotland runs the risk of forcing a choice between an abusive home and homelessness.<sup>26</sup> Starker still is when this

choice is forced upon families with children. Vulnerable groups in society must be afforded further protection in order to prevent more falling into homelessness and the costly health and wellbeing effects it coincides with.

Understanding the structural and individual factors which lead to homelessness, makes it absolutely clear that without short and long term action from the Scottish government, the realisation of even the core elements of the right to adequate housing will remain an aspiration for thousands in Scotland.

### **Evictions and security of tenure**

Alongside homelessness, security of tenure and protection from forced illegal evictions forms an essential, core element of the right to adequate housing. If the right to housing is to be realised, people in Scotland must feel secure in the tenure of their home. The COVID-19 pandemic has placed people's security of tenure directly under the spotlight, with hundreds of thousands of tenants across Scotland suffering financial hardship.

Young people have always been one of the groups at a higher risk of homelessness in normal times, something which has been exacerbated further by COVID-19<sup>27</sup>. Young people are more likely to be low wage earners, possibly with zero-hour contracts and working in the very sectors that have been most impacted on by the lockdown<sup>28</sup>. Young people are also in line to receive lower levels of social security during this period directly because of their age<sup>29</sup>.

Action has been taken and welcomed in this area (discussed further below), with all evictions banned by Scottish government.<sup>30</sup> However, this has apparently not prevented private landlords continuing with evictions using a range of methods which can be used to circumvent this ban, including short-assured tenancies, where landlords do not require any ground at all to evict tenants<sup>31</sup>, leaving thousands on short tenancies open to abuse.

Scotland's private rented sector already provides a power imbalance between those renting and landlords. This has become more acute over



the last few decades as Scotland has seen a huge tenure shift towards the private rented sector<sup>32</sup>. So much so, that the majority of homelessness since 2010 has been credited to the ending of assured shorthold tenancy in the private rented sector.<sup>33</sup>

The financial stress created by the pandemic is likely to increase this power imbalance with very little to compel private landlords to accept delayed payments or reduce rent. In conjunction with the Financial Conduct Authority, the UK Government has granted the potential for home owners (including landlords) to take a three month mortgage holiday. There is no obligation, however, for social or private landlords to pass this on to tenants through a rent holiday or rent reductions.

One reason proposed for Scotland's after housing poverty statistics not matching those of the rest of the UK is suggested to be the retention of some of its social housing stock<sup>34</sup>, with the pandemic highlighting the fragility of the over-reliance on a very fragile private rented sector. As noted recently by the Chair of the Affordable Housing Commission, Lord Best, *"while the social housing sector has the capability and organisation to rise to the challenges that the crisis brings, the position for many private tenants and private landlords is much more fraught"*<sup>35</sup>.

Due to lockdown and the lack of house building taking place, the Affordable Housing Supply Programme<sup>36</sup> has been temporarily suspended. However this will reduce the quantity of accommodation available which will most likely result in a delay in the allocation of housing to tenants. At the moment housing demand is on hold, (many local authorities and housing associations have suspended allocations and mutual exchanges<sup>37</sup>) but the lockdown has resulted in thousands of people being housed in unsuitable temporary accommodation. There is strong support behind ensuring that post lockdown, vulnerable people do not return to the streets and therefore, getting the affordable housing supply back on track is an important priority.

This will also be crucial if the Scotland Government is to deliver on its affordable homes commitments. However, Audit Scotland have already expressed concern that the government will not reach their 50,000 affordable homes target (of which 35,000 were to be for social rent). The

new SFHA, Shelter and CIH report Affordable Housing Need in Scotland Post-2021 has also made a timely and strong case for the Scottish Government to prioritise social housing with even more ambitious annual targets. They have called on the Scottish Government to commit to delivering 53,000 affordable homes over the next Parliament (2021–2026)<sup>38</sup>.

Questions have been raised<sup>39</sup> about the speed at which processing and repurposing empty properties could be employed for use as temporary and settled accommodation in response to COVID-19. However, whilst this could provide one potential addition to solving the inadequate housing allocation availability, ensuring that these properties are of an adequate quality (in a suitable state of condition and repair with appropriate levels of cleanliness and sanitation) is equally important. Increased availability must be matched with accessibility, adequacy and quality in order to fully realise people’s right to housing.

The Homelessness and Rough Sleeping Action Group (HARSAG)<sup>40</sup> (with wide consultation) has presented a revised set of recommendations to government for action, which set out the key areas the Scottish Government and local authorities should consider whilst developing future plans. These focus on:

- Continuing to respond to the ongoing coronavirus crisis;
- Ensuring nobody returns to rough sleeping or unsuitable temporary accommodation;
- Urgent activity and approaches to prevent homelessness happening in the first place; and
- Building on progress on the Scottish Government and COSLA ‘Ending Homelessness Together’ action plan.

## **Reduced access to support services**

With ‘lockdown’ and ‘isolation’ restrictions put in place, those without a home, despite direct action from government, charities, businesses and communities, have seen their support services reduced dramatically<sup>41</sup>. Community organisations focused on tackling homelessness have highlighted the severity of the situation, citing an increasing lack of food

provisions, clothing, washing and laundry facilities, alongside the weakening of social networks and a reduction in lifeline services due to stretched financial and staff resources<sup>42</sup>.

## **Housing issues faced by Scottish Gypsy/Travellers**

Scottish Gypsy/Travellers as a community are at an increased risk from COVID-19 due to their increased likelihood of experiencing a range of factors that are considered to increase risk. This includes: having pre-existing or underlying health conditions; experience of poverty, fuel poverty and food insecurity; overcrowding in and between trailers; hostile attitudes from settled communities towards encampments resulting in people moving on, contrary to current guidance; shared toilets, washing and kitchen facilities for many who live on sites; and a lack of available toilet/washing facilities due to lockdown for those living roadside (e.g. leisure centres and retail parks which are closed); having limited space to self-isolate; difficulties in accessing up to date information (due to literacy or digital exclusion issues). Although “health boxes”, toilets and other forms of support are now reported to be being provided through a £120,000 fund<sup>43</sup>.

Early in lockdown, the Scottish Government were quick to produce a comprehensive guidance document to support Scottish Gypsy Travellers during this period. The document set out a range of issues and intended supportive solutions including the protection from eviction of Scottish Gypsy/Travellers from bricks and mortar tenancies and those on local authority Traveller sites. As also recommended by the Equality and Human Rights Commission, it will be important that the effectiveness of the actions taken in line with this guidance are monitored by local authorities. The potential impact of families who would ordinarily be travelling, locating on sites during lockdown, should also be carefully monitored to ensure sufficient support is being received throughout this period. This learning will be especially important if there is a second or subsequent wave of the virus.

## Current Scottish Government action

### Resources

The Scottish Government has made additional funding available as part of a £350m package announced on 18 March 2020<sup>44</sup>. £100m of this funding was allocated to Local authorities<sup>45</sup> in Scotland to facilitate the provision of a range of relevant support, for example, the Scottish welfare fund (access to crisis grants); council tax reduction scheme; discretionary housing payments (in part to compensate for the ‘bedroom tax’) and free school meals<sup>46</sup>.

In recognition that mortgage holidays were not necessarily translating into comparable benefits for tenants and as an attempt to minimise financial hardship that might be caused by the extended notice periods outlined in The Coronavirus (Scotland) Bill 2020, the Scottish Government have introduced a fund for landlords whose tenants may be unable to pay the rent (effective from 5 May 2020)<sup>47</sup>. This is however, only available to landlords with up to five properties and the Scottish Association of Landlords have suggested that this should be available to all<sup>48</sup>.

### Relevant guidance and policy changes

Since the outbreak of the pandemic, the Scottish Government have provided a range of guidance for local authorities, social housing providers, and private landlords who have been required to respond quickly to a range of complex issues<sup>49</sup>, as shown in Box 3 below. This guidance is welcomed but it will be important that the effectiveness of the actions taken in line with the various guidance are effectively monitored, especially to be able to inform any further action required if there are subsequent waves of the virus.

#### **Box 3: Guidance about coronavirus (COVID-19) relating to housing**

- emergency accommodation and guidance for rough sleepers to self-isolate and receive medical support<sup>50</sup>

- guidance for landlords to support those at risk of domestic abuse<sup>51</sup>
- guidance to support migrants with no recourse to public funds<sup>52</sup>
- a framework for supporting Gypsy's/Travellers<sup>53</sup>
- guidance for landlords to conduct gas safety checks safely<sup>54</sup>
- guidance for private landlords and letting agents<sup>55</sup>
- guidance for social landlords<sup>56</sup>
- cleaning and hygiene advice for multi-storeys and high-density flats<sup>57</sup>
- information for homelessness services<sup>58</sup>
- guidance on allocations for the housing sector<sup>59</sup>

As part of existing duties on local authorities as well as the broader public health efforts to limit to spread of COVID-19 and preserve health and life, anyone who is: currently homeless; in unsuitable accommodation; or placed at risk in their current accommodation, should be allocated safe and suitable temporary accommodation.

The COVID-19 crisis has also meant that the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2020<sup>60</sup> has come into force earlier than anticipated (on 6 May 2020). This requires that local authorities ensure no homeless person spends more than seven days in Unsuitable Accommodation (i.e. Bed and Breakfast accommodation)<sup>61</sup>. However, local authorities are also given the potential to breach this Order, if necessary to ensure households are housed, until 30 September 2020. This could result in homeless people remaining in bed and breakfast accommodation for longer than they should be, something which should be monitored by local authorities.

As referred to above, in the early stages of lockdown, the Scottish Government brought in new rules to protect people from eviction at a time when reduced finances were likely to place many households at

risk. From 7 April 2020 an extension was granted to the notice period<sup>62</sup> required to be given to tenants before landlords can start legal action to obtain an order for eviction. In the first instance, these new rules apply until 30 September 2020.

The Housing and Property Chamber also announced that all hearings and case management discussions would be postponed from 19 March 2020<sup>63</sup>. In practice this means that there can be no new eviction orders granted for private rented tenancies until 9 July 2020 at the earliest.

## **Build Back Better**

The concern for a post-pandemic spike in homelessness is growing, with the Homelessness Network highlighting the threat of deep and lasting damage caused by lessened movement into settled housing during the lockdown period, coinciding with new households needing help with housing and significantly fewer who would otherwise have exited the system into mainstream housing<sup>64</sup>. While short term action has been taken to ensure people are in temporary accommodation, if this is to have a lasting and meaningful impact of homelessness in Scotland, this action must be followed up with medium and longer term measures transitioning people into permanent housing.

Fundamentally what happens next in this area, as with many other public services, will come down to policy and in turn budgetary choices. The Commission has previously advocated for the Scotland Government to fulfil its legal obligation to *respect, protect and fulfil human rights*, by placing Scotland's international human rights commitments at the heart of those processes. Human rights budgeting ensures that decisions taken are transparent, fair, participative and accountable and are based on wide international agreement of what has already been deemed necessary for a life of dignity. This process ensures that the most marginalised are prioritised first when resources are scarce, but also supports the progressive improvement over time, as the economy recovers.

Adequate housing underpins an adequate standard of living and it is therefore appropriate to explore how housing in Scotland can be at the

heart of that recovery. COVID-19 has created a pause in the housing sector, and this has created a window of an opportunity to consider if there are better ways of building back, that can also stimulate a focus on low carbon / renewably focused affordable housing.

While COVID-19 has been devastating for the most vulnerable in society, the response of the Scottish Government in addressing homelessness has paved a potential path to eradicating homelessness in the future. The adoption of the Coronavirus bill has provided an essential lifeline to those already suffering homelessness as well as those at risk of becoming so. An unprecedented effort has gone into ensuring those without a home during the pandemic are provided for and while this has not provided the right to adequate housing for everyone, it has provided a vast improvement on the housing situation highlighted in recent UN Treaty Body reviews of recent years.

Focus now, as the full economic impact of COVID-19 becomes apparent, needs to be directed towards the prevention of homelessness, realised through the provision of security of tenure, affordable housing, and accessible schemes for transitioning into permanent housing. Organisations throughout Scotland see a key opportunity for change. The efforts made during the pandemic must now be capitalised on, with further funding for those working on the ground, transparent and accessible information for those in need, and a redressing of the unjust power imbalance within private renting in Scotland.

## Recommendations

1. The Government must follow the UN's COVID-19 guidance on homelessness, and immediately provide accommodation to all homeless people living in 'rough' or on the streets with a view of transitioning them to permanent housing so that they do not return to a situation of homelessness once the pandemic is over.<sup>65</sup>
2. Government and local authorities must ensure provisions are made to specifically help particularly vulnerable groups realise their right to housing. This includes ensuring the provision of adequate and safe alternative accommodation and access to support services for anyone suffering from domestic abuse.
3. The government should consider a continuation of the protections against evictions especially while household incomes remain under stress as Scotland recovers from the COVID-19 pandemic.
4. As a result of pre-existing inequalities, particularly in health, income and housing, Scottish Gypsy/Travellers are potentially especially at risk from COVID-19. Government guidance was produced at an early stage of lockdown to support Scottish Gypsy/Traveller communities. The effectiveness of the actions taken in line with this guidance should be monitored.
5. There is a need to restart affordable housing supply and increase the proportion of socially rented to privately rented housing available. The Committee should also ask the government if it is exploring all options including the repurposing of empty properties and the development of low-carbon, energy efficient new homes.
6. A human rights based approach to Scotland's socio-economic recovery must be taken to ensure that decisions are transparent, participative and based on Scotland's legal human rights commitments.
7. Maintaining progress towards a new Act of Scottish Parliament that protects people's economic social, cultural and environmental rights



and ensures policy and decision-making has everyone right at its heart.

This briefing has been supported by research input from Aidan Flegg, Doctoral student on a SHRC/Universities of Glasgow and Stirling Collaborative PhD.

## Appendix 1: General Obligations in Relation to the Right to Housing

The general obligations set out by the ICESCR are contained in Art. 2(1). It provides, 'Each State Party to the present Covenant undertakes to take steps... to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.'<sup>66</sup> This confers both immediate obligations 'to take steps' as well as progressive obligations to realise the right over time. Furthermore, the Committee have noted that non-discrimination, as contained in Art. 2(2) of the ICESCR, applies uniformly throughout the rights contained within the Covenant.<sup>67</sup>

In order to aid States in understanding their commitments to the ICESCR, the Committee adopted the legal framework of protect, respect and fulfil. The commitment of States to respect, protect, and fulfil applies to all human rights, whether civil and political or socio-economic, and enables governments and civic organisations alike to break down human rights into clear and tangible government obligations. In respect of the right to adequate housing, the meaning of respect, protect, and fulfil is set out in Box 4 below.

### Box 4: Respect, Protect, and Fulfil the Right to Housing

**Obligation to Respect** – Requires States refrain from interfering directly or indirectly with the enjoyment of the right to housing. States must abstain from carrying out or otherwise advocating forced evictions; demolishing homes; denying security of tenure to particular groups; imposing discriminatory practices that limit women's access to and control over housing, land and property.

**Obligation to Protect** – Requires States prevent third parties, such as landlords or property developers, from interfering in any way with the enjoyment of the right to housing. It obligates the adoption of necessary and effective measures aimed at conferring legal security of tenure upon all persons and households within society who lack such protection.

**Obligation to Fulfil** – Requires states parties to adopt the appropriate legislative, administrative, budgetary, judicial, promotional and other measures to fully realize the right to adequate housing. States must, for instance, adopt a national housing policy or a national housing plan that defines the objectives for the development of the housing sector.

Furthermore, States parties must also, progressively and to the extent allowed by their available resource, prevent and address homelessness.

In addition, as provided by the Committee, ‘States parties have a core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights enunciated in the Covenant’<sup>68</sup>. These are immediate obligations and apply irrespective of a States resources, in times of war, and in health pandemics. Under the ICESCR, a State party in which any significant number of individuals is deprived of basic shelter and housing is, failing to perform its core obligations in relation to the right to housing. Furthermore, there is increasing consensus security of tenure and legislative measures for the restriction of illegal or forced evictions form a core element of the right to housing and thus must be met immediately<sup>69</sup>.

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<sup>1</sup> See <https://www.nrscotland.gov.uk/files/statistics/covid19/covid-deaths-report-week-19.pdf>

<sup>2</sup> <https://www.gov.scot/publications/foi-202000020177/>

<sup>3</sup> ICESCR 2016

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GBR/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GBR/CO/6&Lang=En)

CRC 2016

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En)

CEDAW 2019

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CRPD 2017

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- <sup>4</sup> P Alston, 'Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights' (OHCHR, 2018) as found at <[https://www.ohchr.org/documents/issues/poverty/eom\\_gb\\_16nov2018.pdf](https://www.ohchr.org/documents/issues/poverty/eom_gb_16nov2018.pdf)> (2)
- <sup>5</sup> Scotland's Homelessness Network – Briefing as found at <https://mailchi.mp/f25090e29ede/all-in-for-change-3904905>
- <sup>6</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23, [7].
- <sup>7</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)*, 13 December 1991, E/1992/23
- <sup>8</sup> <https://cdn.prgloo.com/media/dfa6e476060441c3b7d303de52401b8c.pdf>
- <sup>9</sup> <https://www.scottishhousingnews.com/article/uk-welfare-cuts-having-major-impact-on-rent-arrears>
- <sup>10</sup> Scottish Government, *Poverty and Income Inequality in Scotland 2016-19*, 26th March 2020, <https://www.gov.scot/publications/poverty-income-inequality-scotland-2016-19/>
- <sup>11</sup> <https://www.ippr.org/blog/covid-19-how-are-families-with-children-faring-so-far>
- <sup>12</sup> <https://homelessnetwork.scot/wp-content/uploads/2020/04/Equalities-Homelessness-and-Covid-19-v270420-PUBLISHED.pdf>
- <sup>13</sup> [https://scotland.shelter.org.uk/housing\\_policy/key\\_statistics/homelessness\\_facts\\_and\\_research](https://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research)
- <sup>14</sup> <https://www.housingrights.org.uk/news/research/causes-homelessness-rough-sleeping>
- <sup>15</sup> <https://www.povertyalliance.org/wp-content/uploads/2020/04/Covid-19-and-national-organisations-PA-briefing-22-April.pdf>
- <sup>16</sup> <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-on-economy-society-17-experts/>
- <sup>17</sup> Ibid.
- <sup>18</sup> <https://housingevidence.ac.uk/are-we-all-in-this-together-reflecting-on-the-continuities-between-austerity-and-covid-19-crises-in-the-uk/>
- <sup>19</sup> <https://housingevidence.ac.uk/are-we-all-in-this-together-reflecting-on-the-continuities-between-austerity-and-covid-19-crises-in-the-uk/>
- <sup>20</sup> <https://womensaid.scot/wp-content/uploads/2020/05/Equalities-and-Human-Rights-Committee-submission-final.pdf>
- <sup>21</sup> <https://womensaid.scot/wp-content/uploads/2020/05/Equalities-and-Human-Rights-Committee-submission-final.pdf>
- <sup>22</sup> <https://womensaid.scot/covid-19/>
- <sup>23</sup> [https://yourviews.parliament.scot/ehrc/impact-covid-19-pandemic-equalities-human-rights/consultation/view\\_respondent?uuld=9872869](https://yourviews.parliament.scot/ehrc/impact-covid-19-pandemic-equalities-human-rights/consultation/view_respondent?uuld=9872869)
- <sup>24</sup> <https://homelessnetwork.scot/wp-content/uploads/2020/04/Equalities-Homelessness-and-Covid-19-v160420.pdf>
- <sup>25</sup> Ibid.
- <sup>26</sup> <https://homelessnetwork.scot/wp-content/uploads/2020/04/Equalities-Homelessness-and-Covid-19-v270420-PUBLISHED.pdf>
- <sup>27</sup> <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-on-economy-society-17-experts/>
- <sup>28</sup> <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-on-economy-society-17-experts/>
- <sup>29</sup> Young people under 35 are only entitled to the Shared Accommodation Rate to cover housing costs, even if they live alone.
- <sup>30</sup> <https://www.scottishlegal.com/article/covid-19-scottish-government-to-ban-all-evictions-for-six-months>
- <sup>31</sup> [https://www.livingrent.org/coronavirus\\_banning\\_evictions](https://www.livingrent.org/coronavirus_banning_evictions)
- <sup>32</sup> <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-on-economy-society-17-experts/>
- <sup>33</sup> Ibid.
- <sup>34</sup> Ibid.
- <sup>35</sup> Ibid.
- <sup>36</sup> <https://www.gov.scot/policies/more-homes/affordable-housing-supply/#:~:text=Affordable%20Housing%20Supply%20Programme%20Information%20about%20the%20impact,of%20COVID-19%2C%20protect%20our%20NHS%20and%20save%20lives.>

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- <sup>37</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/04/coronavirus-covid-19-allocations-advice-and-information-for-the-housing-sector/documents/coronavirus-covid-19-allocations-advice-and-information-for-the-housing-sector/govscot%3Adocument/COVID-allocations.pdf>
- <sup>38</sup> <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-on-economy-society-17-experts/>
- <sup>39</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/04/coronavirus-covid-19-allocations-advice-and-information-for-the-housing-sector/documents/coronavirus-covid-19-allocations-advice-and-information-for-the-housing-sector/govscot%3Adocument/COVID-allocations.pdf>
- <sup>40</sup> See <https://www.crisis.org.uk/about-us/the-crisis-blog/the-homelessness-and-rough-sleeping-action-group-reconvenes/>
- <sup>41</sup> <https://mailchi.mp/2532d1145970/all-in-for-change-3914989>
- <sup>42</sup> <http://www.simonscotland.org/support-us/covid19-donation/>
- <sup>43</sup> Travellers in more danger - The Times - 26/06/2020 p13 News.
- <sup>44</sup> <https://spice-spotlight.scot/2020/04/01/coronavirus-covid-19-scottish-social-security/>
- <sup>45</sup> See [https://www.parliament.scot/S5\\_Local\\_Gov/20200421ACtoConvener.pdf](https://www.parliament.scot/S5_Local_Gov/20200421ACtoConvener.pdf)
- <sup>46</sup> In Scotland, every child who attends a local council school can access free school lunches in primary 1, 2 and 3, irrespective of a family's financial circumstances.
- <sup>47</sup> <https://spice-spotlight.scot/2020/05/21/the-impact-of-coronavirus-covid-19-on-the-housing-sector/>
- <sup>48</sup> Ibid.
- <sup>49</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2020/04/coronavirus-covid-19-allocations-advice-and-information-for-the-housing-sector/documents/coronavirus-covid-19-allocations-advice-and-information-for-the-housing-sector/govscot%3Adocument/COVID-allocations.pdf>
- <sup>50</sup> [https://hpspubsrepo.blob.core.windows.net/hps-website/nss/2973/documents/1\\_covid-19-guidance-for-non-healthcare-settings.pdf](https://hpspubsrepo.blob.core.windows.net/hps-website/nss/2973/documents/1_covid-19-guidance-for-non-healthcare-settings.pdf)
- <sup>51</sup> <http://www.cih.org/resources/PDF/Policy%2520free%2520download%2520pdfs/CV19%2520Scotland%2520Domestic%2520Abuse%2520guidance.pdf>
- <sup>52</sup> <http://www.migrationscotland.org.uk/migrants-rights-and-entitlements-0>
- <sup>53</sup> <https://www.gov.scot/publications/coronavirus-covid-19-supporting-gypsy-traveller-communities/>
- <sup>54</sup> <https://www.gassaferegister.co.uk/help-and-advice/covid-19-advice-and-guidance/landlords/>
- <sup>55</sup> <https://www.gov.scot/publications/coronavirus-covid-19-landlord-and-letting-agent-faqs/>
- <sup>56</sup> <https://www.gov.scot/publications/coronavirus-guidance-for-social-landlords/>
- <sup>57</sup> <https://www.gov.scot/publications/coronavirus-covid-19-physical-distancing-and-hygiene-advice-for-multi-storeys-and-high-density-flats/>
- <sup>58</sup> <https://www.gov.scot/publications/coronavirus-covid-19-homelessness/>
- <sup>59</sup> <https://www.gov.scot/publications/coronavirus-covid-19-allocations-advice-and-information-for-the-housing-sector/>
- <sup>60</sup> <http://www.legislation.gov.uk/ssi/2020/139/made>
- <sup>61</sup> This amends the [Homeless Persons \(Unsuitable Accommodation\) \(Scotland\) Amendment Order 2017](#).
- <sup>62</sup> The change in the length of notice depends on the type of tenancy and what ground is used.
- <sup>63</sup> <https://www.housingandpropertychamber.scot/news/important-information-%E2%80%93-impact-covid-19-pandemic>
- <sup>64</sup> <https://mailchi.mp/homelessnetwork/all-in-for-change-3976005>
- <sup>65</sup> [https://www.ohchr.org/Documents/Issues/Housing/SR\\_housing\\_COVID-19\\_guidance\\_homeless.pdf](https://www.ohchr.org/Documents/Issues/Housing/SR_housing_COVID-19_guidance_homeless.pdf)
- <sup>66</sup> Article 2(1) International Covenant on Economic, Social and Cultural Rights (herein after ICESCR).
- <sup>67</sup> Article 2(2) ICESCR
- <sup>68</sup> See General Comment No. 3: The Nature of States Parties' Obligations, UN Doc E/1991/23.
- <sup>69</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (Art.11.1): forced evictions, 20 May 1997, E/1998/22.