

Submission to the United Nation's Committee on Economic Social and Cultural Rights

Pre-Sessional Working Group (PSWG)
Adoption of lists of issues (LOIs) for the
United Kingdom of Great Britain and Northern Ireland



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Executive Summary

The Scottish Human Rights Commission (the Commission) presents the following report to the Committee of Economic, Social and Cultural Rights to support the development of a list of issues (LOIs) prior to the review of the UK in 2023.

The report summarises the situation in Scotland up to December 2022 in areas within the scope of convention rights, organised by article. Since the last treaty review in 2016, progress on the protection and realisation of economic, social and cultural rights for people in Scotland has been affected by a number of major geopolitical and economic events – the present cost of living crisis being one. Data quality and assessment of progress has been made more challenging by emergency responses, especially during 2020-2021 where the COVID-19 pandemic was most acute.

Issues raised include:

- Proposed changes to the human rights legal framework in the UK and Scotland;
- The establishment of the new devolved social security system and agency;
- Poverty and socio-economic equality, the labour market and cost of living;
- Changes to housing policy and the impacts of rising costs;
- COVID-19 impacts for education and proposed reforms to Scottish education; and
- The impacts of the COVID-19 pandemic on healthcare accessibility and quality.

The evidence outlined in this report is intended to provide the committee with an overview of areas of concern or progress since the previous review. These areas have been identified through a process of desk-based research, our ongoing monitoring of human rights in Scotland and a roundtable for civil society organisations hosted by the Commission in November 2022. This roundtable supported the identification of priority areas raised throughout this submission. In particular, areas of unequal

outcomes or treatment were highlighted and have been outlined throughout this report.

This report includes supplementary information on our participatory research and views from civil society, devolution and the Committee's previous concluding observations, which are all referenced throughout the main report. Annex 1 also provides a list of questions we encourage the Committee to consider in developing the Lol.

The cover image for this report was taken from graphic illustrative minutes taken to capture the discussions at the roundtable by Graham Ogilvie, Ogilvie Design Limited.

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Introduction

The Scottish Human Rights Commission

1. The Scottish Human Rights Commission (the Commission), formed in 2008, was established by the Scottish Commission for Human Rights Act 2006. It is the National Human Rights Institution (NHRI) for Scotland, accredited with 'A' status by the Global Alliance of NHRIs and is one of three UK NHRIs. It has a general duty to promote to human rights and, in particular, to encourage best practice in relation to human rights.
2. The Commission is pleased to provide this submission to the UN Committee on Economic, Social and Cultural Rights (hereafter 'the Committee' or CESCR) in advance of the 72nd pre-sessional working group session (PSWG). We set out information on areas of particular note to support the Committee's dialogue with the state and development of a List of Issues Prior to the Review (LoI). A list of proposed questions that the Committee may wish to include in its LoI is provided at Annex 1 to this submission.
3. The Commission welcomes further engagement with the CESCR on the issues raised in this report, and seeks to attend the PSWG. We intend to provide an updated submission in advance of the full examination.

Devolution / Scope of this report

4. The Commission's mandateⁱ covers the promotion and protection of human rights in areas of law and policy devolved under the Scotland Act.ⁱⁱ All areas of law that are not explicitly reserved to the UK Parliamentⁱⁱⁱ are within the legislative competency of the Scottish Parliament, subject to compliance with the European Convention on Human Rights.^{iv} Scotland has a separate legal system, courts and tribunals, education system, National Health Service (NHS) and a range of public bodies responsible for public services.
5. Implementation of human rights treaties ratified by the UK falls within devolved competence, while accountability under international law for compliance with obligations remains with the UK Government. Understanding devolved law, policy and practice will be critical to a

meaningful understanding of UK compliance. In most cases it will be for Scottish agencies to implement relevant concluding observations.

6. An overview of devolved and reserved competences is included with this report at Annex 4.

Methodology

7. This report has been informed by evidence from the Commission's research database and our engagement with policy process and participatory work between 2016 and 2022. This builds on research undertaken for our report to the Universal Period Review – including a series of civil society workshops held between November and December 2021.
8. A civil society roundtable focused on the impacts of the 2022 economic situation for communities in Scotland helped focus the content of our report on key areas of most acute concern in the current social and fiscal climate. Further information on participation at these events is available as Annex 2 to this report.

Implementation and General Principles: (Articles 1-5)

Progressive realisation, retrogression and minimum core obligations (Article 2.1)

9. Since the Committee made its Concluding Observations in 2016, the UK has experienced the impacts of the global COVID-19 pandemic; climate change and geopolitical strains on international supply chains; has left the European Union, and continues to experience ongoing effects of the 'decade of austerity' instituted following the 2008 global economic crash. The Commission has raised concerns about the impact of such events and resulting responses^v for the progressive realisation of ESC rights.
10. Difficulty in assessing whether measures amount to impermissible retrogression under convention is exacerbated by the lack or questionable quality of impact analysis supporting subsequent policy responses, in particular for marginalised groups.^{vi} There remains

serious shortcomings in data availability¹, with acute gaps for some groups^{vii} and reliability has been worsened due to COVID-19.² There is no comprehensive system for monitoring human rights progress in Scotland.³

11. Some developments engage minimum core obligations protected by the convention. The Commission is concerned over the satisfaction of some minimum core obligations. In particular, high levels of food insecurity and homelessness in Scotland. Nonetheless, the lack of sufficient available data makes it difficult to determine the overall compliance with minimum core obligations, and the degree to which the state is prioritising compliance with such obligations. A cumulative analysis of the impacts of austerity has not been undertaken since 2017,^{viii} However, available research shows that many groups continue to be negatively impacted⁴ and around 20,000 excess deaths in Scotland were linked to austerity policies.^{ix}

¹ The Commission acknowledges the launch of the first phase of the Equality Data Improvement Programme (2021) - [https://www.gov.scot/groups/equality-data-improvement-programme-edip-group/#:~:text=In%20April%202021%2C%20the%20Scottish,the%20programme%20in%20late%202022.](https://www.gov.scot/groups/equality-data-improvement-programme-edip-group/#:~:text=In%20April%202021%2C%20the%20Scottish,the%20programme%20in%20late%202022.,) However, at present 'evidence-based' policy and the adequate assessment of whether Scotland is meeting its international human rights obligations is not possible. Concern has been raised repeatedly by UN treaty bodies. [Public sector - understanding equality data collection: main report](#) -

² COVID-19 required many data gathering processes to change or become de-prioritised. Additionally the impact of changes to lifestyle and employment status is difficult to account for in yearly trend analysis.

³ The Commission highlights the Committee's concluding observation E/C.12/GBR/CO/6 para 71. We welcomed links made to the SDGs and the inclusion of a specific National Outcome on human rights in Scotland's National Performance Framework (NPF), see: <https://nationalperformance.gov.scot/>.

The human rights outcome: "we respect, protect and fulfil human rights and live free from discrimination" is one of eleven National Outcomes. However, current NPF indicators, do not enable the meaningful measurement of human rights progress.

⁴ For example, Asian applicants are least likely to have their welfare / social security applications approved. Women are more likely to rely on social security than men and lone parents, survivors of domestic abuse, disabled and Black and minority ethnic women have been particularly disadvantaged by changes to tax and welfare systems. Gendered issues in the social security system long pre-date the pandemic; and cuts and policy changes since 2010 have increased children's, women's and in-work poverty.

12. Following Scotland's first National Action Plan for Human Rights (SNAP)^x, preparations for SNAP2 were delayed by COVID but are now nearing completion^{xi}. A multi-stakeholder independent Leadership Panel will oversee SNAP2. SNAP remains the only National Action Plan for human rights in the UK. SNAP continues to go underway to ensure a participatory process that can provide guidance and priority of how to progressively realise ESC rights.
13. This report notes a number of positive developments to support progressive realisation, for example new legislation such as the 'Good Food Nation' and the Scottish Government's commitment to incorporate ICESCR into Scots Law. However this report demonstrates that there has been a range of *de facto* retrogressive measures, as well as a lack of budgetary integration and insufficiently comprehensive impact analysis that may represent violations of ESC rights. The Commission encourages the Committee to seek information from the state that would enable greater understanding of how the Scottish Government has come to decisions.

Mobilisation and maximisation of available resources (Article 2.1)

14. Noting the present economic context, the Commission regrets that the National Strategy for Economic Transformation and Framework for Taxation in Scotland^{xii} do not engage with human rights obligations. While many fiscal levers are reserved to the UK, Scotland does have a range of economic competencies that could be explored (and better utilised) to mobilise resources, including Income Tax rates, reform of the property tax system and creation of new taxes.^{xiii}
15. The Scottish Budget is accompanied by an Equality and Fairer Scotland Budget Statement. This provides an assessment of how key budget decisions may affect equalities, but after decisions have been taken, rather than informing resource allocation.⁵ The Commission, third sector organisations and Scottish Parliamentary committees^{xiv}

⁵ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 17 recommending a human rights impact assessment and other measures to ensure fiscal policy is "adequate, processes and socially equitable and pm[proves] tac collection so as to increase resources."

have called for strengthening of this Statement to enhance human rights considerations in its preparation.

16. An Emergency Budget Review set out in September 2022 attempts to identify £615 million of savings and reprioritisations across in-year devolved spending. There is widespread concern about the likelihood of a recession linked to rising costs.^{xv} While not every budget reallocation will amount to a violation of the convention more information is needed to assess whether reallocation of available resources has prioritised compliance with minimum core obligations, and provision of affordable goods and services to those most vulnerable.

Equality and non-discrimination (Articles 2.2 and 3)

17. Equality law in Great Britain⁶ is primarily governed by the Equality Act 2010, which protects individuals from discrimination on the basis of nine protected characteristics.^{xvi} Scottish Parliament and Government have limited powers to support the delivery of the equality regime through additional obligations. Review of these Scotland Specific Duties has indicated limited success in furthering compliance and the Scottish Government is currently considering reforms.^{xvii} Scotland has also used devolved powers to introduce a socio-economic duty – the Fairer Scotland Duty^{xviii} – which came into force in 2018, however impact has not yet been fully evaluated.⁷
18. Despite these obligations, data demonstrates the persistence of systemic inequalities on the basis of socio-economic status and identity characteristics including gender, race, disability and others protected by articles 2.2 and 3. Fully disaggregated data availability and quality is an ongoing concern.
19. Since the last periodic review, the Scottish Parliament has legislated to introduce a 50 per cent gender representation objective for public boards.^{xix} Expert groups including the National Advisory Council on Women and Girls^{xx} and an Expert Reference Group for

⁶ Northern Ireland has a separate equality regime.

⁷ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 23

COVID-19 and Ethnicity have been established to support culture change.^{xxi} However activities to promote equality come after a decade of public spending cuts⁸ that have had disproportionate impacts on women,^{xxii} Black and minority ethnic communities^{xxiii} and disabled people.^{xxiv} COVID-19 and public health measures have exacerbated inequalities across communities of place and of interest.^{xxv} Ongoing and often worsening disparities are highlighted throughout the paper.

20. Coronavirus emergency powers legislation includes a duty to seek opportunities to advance equality and reduce discrimination.^{xxvi} However there is no evidence that this led to improved or mitigated negative outcomes.^{xxvii} The Scottish Government convened a Social Renewal Advisory Board^{xxviii} and an Advisory Group on Economic Recovery^{xxix} to advise on post-COVID-19 recovery and future socio-economic recovery. A range of policy measures were recommended and accepted by Scottish Government in 2021. No update on progress has been published, a potentially missed opportunity to prioritise ESC rights in recovery.

Legal Framework

21. The Scottish Government has committed to introducing a new Scottish legal framework,⁹ incorporating four international human rights treaties into Scots law, including ICESCR,¹⁰ in addition to legislation pending to incorporate the UN Convention on the Rights of the Child.^{xxx} These proposals would enable domestic courts to review compliance with international standards and Scottish Government has indicated this will include new obligations for public bodies, including Scottish Government and Scottish Parliament, to demonstrate compliance across devolved policy, such as duties to conduct human rights impact assessments. The Commission has

⁸ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 19

⁹ Progress in respect of the Committee's previous recommendation E/C.12/GBR/CO/6 para 6

¹⁰ The Bill will include specific rights, subject to devolved competence, from: the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Rights of Persons with Disabilities (CRPD) as well as rights for older people and LGBTI+ people and a right to a healthy environment.

called for the legislation to ensure the strongest protection possible for ESC rights, including ensuring that the duties contained in article 2.1 ICESCR are enshrined in the law.^{xxxii}

22. The UK Government has introduced a Bill to replace the UK-wide Human Rights Act with a new UK Bill of Rights. The Commission has deep concerns^{xxxiii} about the proposals¹¹ and does not consider that consultation has been adequately meaningful.¹² The UK has not ratified the Optional Protocol to allow individual communications to the CESCR where ESC rights are at issue. The UK has also completed its withdrawal from the EU and did not maintain the EU Charter of Fundamental rights in UK law, reducing sources of rights protection and opportunities to challenge rights violations in domestic arenas.

23. Public awareness of ICESCR remains generally low but has been strengthened across public bodies with the commitment to incorporation including an increased focus on taking a Human Rights Based Approach.^{xxxiii} CSOs working across Scotland have indicated growing interest in engaging with human rights.^{xxxiv} Scottish Government has accepted the importance of capacity building^{xxxv} around the new human rights framework. Sufficient resources must be ensured to realise ESC rights in practice.^{xxxvi}

The right to social security and social protection (Article 9)

Availability of social security

¹¹ The Commission considers that the UK Bill of Rights Bill threatens to damage Scotland's progress in developing a human rights culture, by undermining the European Convention on Human Rights (ECHR) protections available under the Human Rights Act and the Scotland Act, unsettling Scottish devolution and introducing confusion and uncertainty for Scotland's public authorities. If passed, the Bill of Rights will create additional hurdles for rights holders and restrict their access to justice. It will also designate some breaches of Convention rights as insignificant or undeserving, diluting protections and undermining the universality of human rights. If domestic courts interpret Convention rights distinctly from the (ECtHR), this will create legal conflict, confusion and uncertainty, and a likely subsequent increase in referrals.

¹² Contrary to the Committee's previous recommendation E/C.12/GBR/CO/6 para 10.

24. Social security in Scotland remains largely legislated for and administered at UK level, including the majority of income replacement benefits, including Universal Credit (UC), the UK's main income replacement support, and pension-related entitlements. Since 2016, Scotland has responsibility for around 15 per cent of total social security-spend, including disability support payments, and powers to create new benefits.
25. The new Social Security Scotland agency and system were established by the Social Security (Scotland) Act 2018.^{xxxvii} The legislation took a welcome human rights-based approach, citing rights to social security on the face of the Act¹³, but failed to include an obligation to comply with international standards or to demonstrate due regard.^{xxxviii} ¹⁴
26. A number of measures to include social security recipients in the design of new payments and administration have been established, including a co-designed Social Security Charter that emphasises human dignity and rights, and a lived experience reference group.^{xxxix} However there is widespread concern that the Scottish Government's understandable focus on "safe and secure transition" of responsibility has impeded innovative redesign and delayed transfer to the new agency.^{xi}

Benefit levels

27. Many concerns have been raised about the adequacy of entitlements.^{xli} ¹⁵ The Committee previously expressed concern about

¹³ One of the principles of social security in Scotland is that it should contribute to reducing poverty.

¹⁴ A due regard duty would have meant a significant additional step in strengthening this legislation and filling an accountability gap in relation to the right to social security.

¹⁵ Measures include the social security cap for more than two children, the so called "rape clause", where women can claim for a third or subsequent child if it was conceived "as a result of a sexual act which you didn't or couldn't consent to" or "at a time when you were in an abusive relationship, under ongoing control or coercion by the other parent of the child"; a five week wait for a claimants 1st payment of Universal Credit; the social security sanction regime and the so called "bedroom tax" - also known as under occupancy charge or spare

the adverse impacts of reforms¹⁶ and the Commission remains concerned that the two-child limit on UC and other entitlements and its exceptions present an ongoing challenge to women's and children's human rights.¹⁷ Early consideration of how a minimum income guarantee could be introduced in Scotland to ensure a minimum, adequate income for all is underway but timescales and options are currently unclear.

28. UC was temporarily increased by £20 per week during the pandemic and sanctioning was paused. The uplift was withdrawn in October 2021, despite analysis showing that the reduction would push 60,000 adults and 20,000 children into poverty.^{xiii} A freeze on the value of welfare payments was in place between 2015 and 2020, reducing the value of income from UK welfare payments.¹⁸ As a result, the typical claimant is 6 per cent worse off than they would have been without the freeze.^{xiii}

Access and take-up of social security

29. Scotland has limited flexibilities around the administration of UC; options to pay housing elements directly to landlords and to make payments fortnightly have already been introduced, which enable greater control over household budget management. Analysis shows that both measures are popular but undermined by low awareness.^{xiv} A third flexibility to split household awards between members of a couple has been in development since 2017.^{xiv} Anti-poverty groups and women's organisations argue that separate payments are necessary for women's financial independence.^{xvi}

room subsidy) means that you will receive less in Housing Benefit or Housing Costs Element in a Universal Credit claim if you live in a Housing Association or Council property and you are deemed to have one or more spare bedrooms.

¹⁶ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 41.

¹⁷ The two-child limit restricts the child element of UC to the first two children born in a family. Subsequent children are entitled to no financial support, unless one of three exceptions applies – multiple birth, kinship care or the child was conceived by coercion or force. This requires women to disclose rape and domestic abuse to receive income support for her child.

¹⁸ The UK Government has outlined plans to resume moving benefit claimants to Universal Credit by the end of 2024.

30. There is a lack of disaggregated data across the UK welfare system which limits the ability to determine the progressive realisation of the right.¹⁹ Because eligibility for many payments sits at household level it can be difficult to determine how individuals are affected. Social Security Scotland has introduced automatic data collection from 2019, however there are outstanding gaps, especially around race, that make it difficult to determine take up variation.^{xlvi}

Mitigation

31. The Scottish Government has undertaken some effort to mitigate the impact of inadequate benefit levels since devolution of powers in 2016. However take up of devolved benefits is inconsistent.^{xlvi} While new benefits offering additional income have been created, others replace existing UK-wide payments with no change to payment levels, such as disability assistance payments.

32. Scottish local authorities operate a Scottish Welfare Fund (SWF) that enables grants to be made to households in crisis. Applications increased sharply at the start of the pandemic (50 per cent between March 2019 and 2020). Scottish Government increased funding for the SWF in 2020, however a consistent underspend is present in a majority of local authorities.^{xlvi}

Work (Articles 6, 7 and 8)

Employment conditions

33. Employment law in the UK is largely reserved to the UK Parliament, including laws governing trade unions. However levers to protect employment rates and conditions can be identified in devolved policy. However, the limited opportunities for incentives and accountability to be strengthened to increase positive working conditions have not been fully grasped by Scottish Government. Measures such as the “Fair Work” policy and Business Pledge rely

¹⁹ See the Committee’s previous recommendation E/C.12/GBR/CO/6 para 41.

heavily on voluntary commitment and greater use of procurement and grant-making could be increased.²⁰

34. Unemployment rates in Scotland are amongst their lowest since records began,ⁱ however around 60 per cent of adults living in poverty in Scotland live in working households.ⁱⁱ 70 per cent of Scottish business report skills shortagesⁱⁱⁱ and some sectors have particularly high vacancies, such as the social care sector, which increases pressure on workers and services.^{liii} Migrant workers are over-represented in many of these sectors.
35. The UK Government introduced a furlough system²¹ during the pandemic, which demonstrated system capacity to act to protect incomes, and the UK did not see the high number of redundancies initially predicted. Despite preventative action, economic inactivity has risen compared with pre-pandemic, especially due to reasons of disability.^{liv} Economic inactivity is higher among women^{lv} and minority ethnic communities.^{lvi}
36. The Scottish Government's most recent Economic Strategy (published February 2022) has highlighted the need to "*Take further steps to remove barriers to employment and career advancement for disabled people, women, those with care experience and people from minority ethnic groups.*"^{lvii} People seeking asylum in the UK are not allowed to work and are provided with £5.66 per day on which to support themselves,²² undermining their right to work and access to an adequate standard of living.^{lviii}

²⁰ The Fair Work First Guidance from 2021 asks recipients of Scottish Government grants, funds and contracts to commit to Fair Work Principles, but leaves discretion to how this is evaluated by internal decision makers and encourages a continuous improvement approach, largely built around self-reporting. For example, the standard procurement process indicates that "bidders for Scottish Government may be asked, when relevant and proportionate to what is being purchased, to describe how, in performing the contract they will meet the Fair Work First criteria" (see: [Fair Work First Guidance: Supporting the implementation of Fair Work First in workplaces across Scotland \(www.gov.scot\)](https://www.gov.scot))

²¹ This allowed employers to claim up to 80 per cent of a staff members wages up to £2,500 per month, provided that staff member was unable to fulfil a business need or was unable to work due to childcare / care responsibilities.

²² See the Committee's previous recommendation E/C.12/GBR/CO/6 para 25.

37. The prevalence of insecure work²³ has increased with the rise of the “gig-economy” including “zero-hours” employment contracts or temporary contracts. Analysis of minority ethnic workers’ experiences of the labour market found workers from minority ethnic backgrounds are around twice as likely as white workers to be on insecure contracts and less likely to get the hours they wanted.^{lix}
38. Wage-growth has not kept pace with inflation.^{lx} Public sector workers have seen limited pay increases since the economic crash and pay offers in 2022 have been substantially lower than inflation. A Living Wage Scheme is financially supported by Scottish Government,^{lxi} and has seen increasing voluntary commitment from employers, despite economic pressures^{lxii}
39. Many groups continue to face particular difficulties accessing work or favourable conditions,^{lxiii} although data quality impedes a rigorous analysis within the categories of race and ethnicity and disabled people. Women are four times more likely than men to give up paid work to provide unpaid care^{lxiv} and transgender people report high levels of discrimination and harassment at work, although only a minority formally report.^{lxv}
40. The gender pay gap for Scotland is 10.1 per cent.^{lxvi} Undervaluation remains a key driver, with women heavily over-represented in occupations that tend to be lower paid compared to those that are male dominated.^{lxvii} Women are under-represented in senior posts across all sectors^{lxviii} and women’s employment is concentrated in public sector positions. Pre-pandemic, young women experienced significant disadvantage in employment, with a gender earnings gap of 32.8 per cent for 18-21 age group and 19 per cent for 22-29 age group.^{lix} The issues affecting social care have contributed to an increase in unpaid carers, the majority (61 per cent) of which are women.^{lxx} 71 per cent of unpaid carers have not had any breaks from their caring role during the pandemic.^{lxxi}

²³ See the Committee’s previous recommendation E/C.12/GBR/CO/6 para 32.

41. The Gender Pay Gap Action Plan²⁴ was published in 2019 and refreshed post pandemic. It includes actions across eight policy areas.^{lxxii} However policy commitment is undermined by limited sanctions for employers who fail to comply with equal pay legislation and remedies for discrimination require lengthy and expensive legal action to challenge.²⁵ Pay gaps for race²⁶ and disability^{lxxiii} are also acute but lack political or policy commitment to address.^{lxxiv} Disabled women's employment has increased by 11.6 per cent in the past 7 years however they are more likely to be underemployed and in low-paid jobs.^{lxxv} Underemployment for ethnic minority workers was 15 per cent in 2019 but data does not allow analysis by ethnicity.^{lxxvi} A Race Equality Action Plan (2017-2021) set out actions on poverty and employment, each officially completed or ongoing,^{lxxvii} followed by a short term immediate priorities plan.^{lxxviii} It has been acknowledged that much more longer-term structural change is needed to address inequality.^{lxxix}

42. The Scottish Government has increased funded childcare provision²⁷ from 600 hours to 1,140 hours per year, for all 3 and 4 year olds and for eligible 2 year olds.²⁸ The full 1,140 hours entitlement is estimated to save families over £350 per child per month (£4,500 a year). However rollout was delayed due to COVID-19 and a number of childcare providers have reported concerns about their sustainability.^{lxxx} There are still significant gaps for older children, disabled children and a lack of flexible options, affecting parents who work atypical hours and in particular single parents.^{lxxxi} Parents who receive childcare cost support through the social security system must now pay upfront.^{lxxxii} Low-pay across the childcare sector affects

²⁴ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 27.

²⁵ There are no sanctions for employers who fail to comply with equal pay legislation and remedies, and it is lengthy and expensive legal action to challenge.

²⁶ In 2019, minority ethnic workers in Scotland were, on average, paid £10.99 per hour compared to white workers who were paid £12.25 per hour (£1.26 more per hour). For a full-time worker, working 35 hours a week, this would total a difference of £2,300 a year between the 'average' workers from a minority ethnic and white background. See: <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/ethnicitypaygapreferencetables>

²⁷ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 44.

²⁸ Around 25% of 2 year olds meet the criteria.

the largely female workforce^{lxxxiii} and is contributing to a decline in the Scottish childminder workforce.^{lxxxiv}

Employability and vocational training

43. A range of employability schemes exist in Scotland,²⁹ with Modern Apprenticeships an important mechanism to secure routes to employment for young people. Statistics indicate that the number of Modern Apprenticeship starts rose by 16 per cent over 2021.^{lxxxv} The success of MA continues to be undermined by significant gender segregation – in 2020, males represented 75.5 per cent of participants in STEM frameworks while women account for 97 per cent of childcare apprentices and 93 per cent of hairdressing apprentices.^{lxxxvi} Disabled people and ethnic minorities also appear to be underrepresented in a majority of streams.^{lxxxvii}

44. The Scottish Government's decision to cut £53 million in funding for employability support at the emergency budget^{lxxxviii} while identifying increased funds to cover negotiated public sector pay focuses limited monies towards workers already in (relatively secure) employment, and is likely to impact economically disadvantaged households. This may have particular consequence for programmes expected to support access to work for unemployed / underemployed parents in line with the Child Poverty Strategy. The Commission has queried what assessment was done to identify impacts and how support will be reinstated when possible.^{lxxxix}

Education (Articles 13 and 14)

Poverty and attainment

45. Addressing the poverty-related attainment gap remains the Scottish Government's priority in education.^{xc} Progress since 2016 has been inconsistent.^{xcii} Pre-pandemic there was evidence that exam performance was improving overall, local variation was acute across all measures. Education and skills spending was increased from £4.3

²⁹ In the strategic plan for employability support, first published in March 2016, the Scottish Government committed to a plan that “better support[s] its most vulnerable citizens into sustainable employment.”

billion to £4.15 in 2021/2022,^{xcii} however much of the real-terms increase has been targeted additions through the Scottish Government's Attainment Scotland Fund as opposed to general increase in education spending.^{xciii} An additional £215 million of targeted funding for the attainment gap was announced in 2021-22.³⁰

46. Although education spending has increased seen an increased investment in recent budgets with targeted funding for addressing the attainment gap - the reality of many pupils' lived experience is that impact on attainment requires a wider preventative focus. Children cannot learn when they are hungry at school and struggle to thrive when unable to afford basic equipment.^{xciv}

47. Schooling was disrupted by the COVID-19 pandemic and requirements to work from home. Education resources were moved online and scaled up progressively and return to in person learning was prioritised by Scottish Government's public health policies.^{xcv} However, children and young people had varying experiences of learning at home and upon return to school that have long term effects for learning and wellbeing.^{xcvi}

48. Wider concerns about the education system are multifaceted. An OECD report from 2021 indicated issues with short-termism, exam systems that are inconsistent with the voiced ethos of Scottish education^{xcvii}, a lack of robust performance data, teacher capacity and a lack of leadership.^{xcviii} In response to mounting concern about the lack of progress in closing the poverty related attainment gap and system bias excavated by emergency COVID-19 exam arrangements³¹ the Scottish Government has set out intentions for broad education reform. A "national conversation" on education reform is underway, seeking welcome and widespread public participation.^{xcix} Scottish Government is also considering an independent review of qualifications and assessments; reform of

³⁰ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 64.

³¹ In 2020, teacher estimated grades temporarily substituted in-person examinations. An invigilation system aimed to ensure consistency that was "fair and credible", but resulted in the Scottish Qualification Authority lowering grades in a quarter of cases, disproportionately affecting pupils at schools in the most deprived areas.

³¹ Grades were revised to reflect teacher estimates in all cases.

education bodies and post-school education and training.^c However, the content and aim of the reform agenda remains exceptionally vague at this time.

Barriers to education

49. Anti-LGBTI+,^{ci} racist bullying, sexism and misogynistic behaviours and other forms of prejudice-related harassment, including Islamophobia,^{cii} are prevalent in education settings across Scotland, failure to prevent and adequately respond to which represents discrimination under Article 2 of the Convention.^{ciii} As of 2021, Scottish schools must embed LGBTI-inclusive teaching across the curriculum^{civ}. Work is underway to replicate this in relation to race.^{cv} Scottish Gypsy/Traveller children and young people have the lowest attendance and highest exclusion record of any ethnic group. Transition to senior school is also low.^{cvi} Many disabled children and young people encounter physical and support barriers to education, affecting both mainstream and special schools.
50. There is a large attainment gap between pupils with Additional Support Needs (ASN)/ non ASN.^{cvi} In the past decade there has been a 24.6 per cent cut in cash terms³² in resources for pupils with ASN³³ and a 16.3 per cent decrease (an all-time low) in ASN staff, whilst numbers of pupils has escalated dramatically.^{cvi} The Education (Additional Support for Learning) (Scotland) Act 2004^{cix} requires education authorities to identify, provide for and review the additional support needs of all their pupils.^{cx}

³² Spend per pupil has decreased notably – with the 24.6% decrease in funding represents £4276 to £3224 in cash terms.

<https://www.heraldscotland.com/politics/19403336.per-pupil-funding-children-additional-support-needs-drops/>
<https://tfn.scot/news/cash-shortfall-sees-support-for-learning-disabled-children-slashed-as-number-rise>

³³ Education (Additional Support for Learning) (Scotland) Act 2004 (as amended 2009) places duties on education authorities to identify, provide for and review the additional support needs of all their pupils. A statutory Code of Practice accompanies the Act.

Further and higher education and ongoing learning

51. Higher Education fees continue to be paid for by the state for Scottish domiciled students at Scottish Universities.³⁴ Following a successful judicial review of the policy,^{cx1} the Scottish Government must amend the law to prevent discrimination against on the basis of immigration status under the Human Rights Act. Efforts to widen access to further and higher education have been supported by a Commissioner on Fair Access since 2016.^{cxii} Statistics show that in 2020/2021, 16.7 per cent of Scottish domiciled full-time first degree students at Scottish universities came from the 20 per cent most deprived³⁵ areas in the country, a disproportionately low figure.^{cxiii}

The right to the highest attainable standard of health **(Article 12)**

Standards of physical health

52. Progress to implement a range of health policies has been significantly disrupted by the pandemic. NHS Scotland undertook a massive redeployment of staff and services, which was no doubt necessary but has left a range of legacies. In 2020 and 2021 there were more deaths than usual cancer, heart disease, digestive system diseases (e.g. liver disease) and external causes of death (e.g. drug-related deaths).^{cxiv} The biggest risk factor across health issues, including death, is deprivation.^{cxv} Other inequalities are acute for groups who experience discrimination in ESC rights.³⁶ Scottish Gypsy Travellers experience a life expectancy estimated to be as low as 55 years.^{cxvi} Life expectancy for people with learning disabilities is lower than the general population and people with learning disabilities were more than three times more likely to die from COVID-19.^{cxvii}

³⁴ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 66

³⁵ A number of definitions of deprivation are used in Scottish policy context. An overview of how poverty is measured in Scotland can be read here:
<https://www.gov.scot/binaries/content/documents/govscot/publications/statistics/2020/01/poverty-methodology/documents/summary-on-how-sg-measures-poverty/summary-on-how-sg-measures-poverty/govscot%3Adocument/Summary%2Binformation%2Bon%2Bhow%2Bthe%2BScottish%2BGovernment%2Bmeasures%2Bpoverty.pdf>

³⁶ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 56

53. The obligation to take measures to prevent, treat and control epidemic and endemic diseases and obligation to ensure the right of access to health facilities, goods and services on a non-discriminatory basis has been called into question by response to the COVID-19 pandemic. Life expectancy in Scotland decreased in 2019-2021, with COVID-19 deaths accounting for much of the fall.^{cxxviii} Data shows that 46 per cent of COVID-19 deaths registered relate to deaths in care homes^{cxxix} and questions remain over whether the approach in care homes was sufficient and appropriate.^{cxx} A programme of action to improve access to healthcare in care homes has been announced.^{cxxi}
54. Those with certain underlying health conditions, men, those in the most deprived areas, some minority ethnic groups (deaths of people of Chinese ethnicity and people of Indian ethnicity were almost twice as likely to involve COVID-19 than deaths of people of White Scottish ethnicity^{cxxii}) and disabled people were also at a higher risk. People living in the most deprived areas of Scotland were 2.4 times more likely to die of COVID-19 than those in the least deprived areas.^{cxxiii}
55. Morbidity rates have increased post-pandemic, and resources have been allocated to support people with “long-COVID”, including funding for research.^{cxxiv} In 2021, one in 20 people (5 per cent) reported having symptoms of long COVID at least four weeks after first developing COVID-19.^{cxxv}
56. Concern about inappropriate use of Do Not Resuscitate (DNR) has previously been raised by the Commission^{cxxvi} and was the subject of concluding observations from the CRPD.^{cxxvii} During the pandemic, evidence of use at scale of DNR without consent from patients or family members was highlighted by a number of patient groups and civil society.^{cxxviii} The SHRC contributed to the Chief Medical Officer’s Directorate COVID-19: Clinical Advice and COVID-19: Ethical Advice and Support Framework explicit requirement not to apply blanket policies, including DNR.^{cxxix} However we are concerned at the apparent inappropriate use and highlight that the Care Quality Commission has reported that inappropriate notices caused potentially avoidable deaths.^{cxxx}
57. Scotland has the highest drug-related deaths rate in Europe and is 3.7 times that for the UK as a whole.^{cxxxi} Drug deaths in 2021 were the

second highest on record.^{cxxxii} Deaths have been increasing substantially since 1995 and people in the 20 per cent most deprived areas are more than 15 times as likely to have a drug misuse death as those in the 20 per cent least deprived areas.^{cxxxiii} In response, the Scottish Government has declared a “national mission”^{cxxxiv} to reduce drug-related harms, supported by £50 million per year for five years. However, it is very ‘reaction’ focused and not sufficiently focused on the social determinants of this issue, especially in areas of high deprivation. Challenges in workforce^{cxxxv} and financial resource^{cxxxvi} may also undermine the strategy.

Access to healthcare

58. Accessibility of healthcare settings and procedures in Scotland has worsened significantly since the last periodic review. Staff-shortages across the health service have been aggravated,^{cxxxvii} especially in rural areas,^{cxxxviii} and changes to immigration law are likely to make it more difficult to recruit essential non-medical NHS staff and social care workers impacting on physical and informational accessibility.^{cxxxix} Staff in care homes and hospitals were generally more exposed to mortality and morbidity associated with COVID-19, including deaths./, directly engaging the state’s obligation to protect the right to health.^{cxi}
59. Access to non-emergency health services has been made acutely problematic due to the resource requirements COVID-19 measures. Programmes including cancer screening, elective surgeries and fertility treatments were paused in almost their entirety for periods of months.^{cxli} The standard is for 100 per cent of patients to be seen within 12 weeks,^{cxlii} but in the quarter ending June 2022, just 61.6 per cent of patients were reported commencing treatment within target.^{cxliii}
60. An NHS Recovery Plan is in effect^{cxliv} and a resilience plan for winter 2022-2023,^{cxlv} which include plans to increase capacity by 10 per cent . Funding for Integrated Joint Boards^{cxlvi} increased in cash terms by 11.9 per cent to £10.6 billion in 2020/21 (9.8 per cent in real terms), largely reflecting an increase in funding to respond to the impacts of COVID-19.^{cxlvii} The recent Emergency Budget Statement Emergency Budget Statement included reallocation of £400 million in the healthy and social care budget – including £38 million previously allocated for mental health – to enable the fulfilment of pay deals. As

there are no published impact assessments to show how decisions were reached, the Commission is concerned that this could represent a retrogressive step for the Scottish Government.

61. Incorporation of a gender perspective in healthcare has been an area of some progress, although sexual and reproductive rights remain under-realised, especially for disabled women. Scottish Government frameworks to advance the human rights of disabled people do not include reproductive and sexual health.^{cxlviii} While low overall, black women and women from other minority groups face high rates of mortality and morbidity associated with pregnancy and maternity.^{cxlix} While the rate of teenage pregnancies continues to fall, there are large scale variations in rates according to deprivation.
62. The Scottish Government published the first Women's Health Plan in 2021, which includes strategic actions to advance health outcomes for women in the areas of menopause, menstruation and endometriosis, contraception and abortion, and cardiovascular health.^{ci} Endometriosis diagnosis and treatment is poor in Scotland, taking an average of 8.5 years to diagnose.^{cii} While the plan is a welcome effort to address systemic gaps in knowledge and care in the health service, it is narrow in scope and limited progress has been made.^{ciii}
63. Access to abortion care was ensured by the introduction of telemedical services that allowed women to self-manage abortion, where clinically appropriate.^{ciii} Permanently retaining the service is being considered^{civ} and the Scottish Parliament is due to consider proposals to restrict protest outside sexual health clinics that provide abortion.³⁷ Women in remote and rural communities find it particularly difficult to access sexual and reproductive care across the board and changes to provision of maternity services in some rural areas have resulted in women having to travel significant distances to receive

³⁷ The Scottish Government is considering supporting measures to restrict harassment outside abortion facilities on right to health grounds: ^{The Commission} responded to the proposals under consideration here: <https://www.scottishhumanrights.com/media/2324/safe-access-abortion-services-scotland-bill-consultation-final-web-version.pdf>

care, a potential violation of the state's obligation to fulfil the right to health^{clv}.

Mental health

64. Mental health services were already struggling to meet demand³⁸ and the pandemic has negatively impacted on the mental health of many, including groups already reporting higher prevalence of mental health issues - women^{clvi}, children and young people^{clvii} and older people,^{clviii} and adults living in deprived areas.^{clix} Treatment targets are consistently missed for children (33 per cent seen within 18 weeks) and for adults (13 per cent). A review by the national audit body of child and adolescent mental health services (CAMHS) concluded that:

“in practice... mental health services for children and young people are largely focused on specialist care and responding to crisis. The system is complex and fragmented, and access to services varies throughout the country. This makes it difficult for children, young people, and their families and carers to get the support they need”.

A high level of rejected referrals (23.5 per cent) was recognised but analysis of cause is limited due to data quality.

65. The probable suicide rate had been falling between 2011 and 2015 (from 16.6 down to 12.6 suicide deaths per 100,000 people), but rose to 15.0 per cent in 2019 and was recorded at 13.8 in 2021.^{clx} Probable suicides are over three times higher in the most deprived areas compared to the least deprived areas. A new ten-year suicide prevention strategy has been published by Scottish Government and local government and aims to focus on underlying social issues.^{clxi}

66. The Mental Health Strategy 2017-2027^{clxii} has been criticised as too general^{clxiii} and its weaknesses have been highlighted by the post-pandemic population needs, for example impacts of isolation for older

³⁸ E/C.12/GBR/CO/6 para 58

and disabled people.^{clxiv} A Mental Health Transition and Recovery Plan was published in 2021, including commitment to review and update the Mental Health Strategy. However the Spending Review of October 2022 reallocated money in the health budget designated for mental health to cover increasing costs.

67. The Commission continues to be concerned about the number of people in Scotland being held in excessive security for mental health treatment,^{clxv} which reflect inappropriate levels of security because of a lack of beds at all levels.^{clxvi} Data also indicates differences in how the Mental Health (Scotland) Act is applied for involuntary treatment. Individuals from black or of mixed or multiple ethnicity were perceived as a greater risk to themselves and others, one of the criteria that must be met for authorising involuntary treatment.

68. Having been concerned for a number of years^{clxvii} about the application of the Mental Health (Scotland) Act in these instances,^{clxviii} we have welcomed publication of recommendations from an Independent Mental Health Review in 2022.^{clxix} The report adopts a human rights based approach and is responsive to lived experience, recommending a new purpose for mental health and capacity law: “to ensure that all the human rights of people with mental and intellectual disability... are respected, protected and fulfilled”, including the rights set out in ICESCR.

Social care

69. The pandemic had a profound impact on social care delivery, leading to significant gaps in the realisation of human rights for people who rely on such support,³⁹ including both users and unpaid carers.^{clxx} There were reports of reduction and/or removal of care packages during the pandemic^{clxxi} resulting in people being left without essential care^{clxxii} The full scale of the cessation or reduction of care packages is not known because several Health and Social Care Partnerships failed to provide data, and others provided it in a form that was not comparable. In Glasgow, where only people with

³⁹ See the Committee’s previous recommendation E/C.12/GBR/CO/6 para 60

‘critical’ needs were receiving support, almost 2000 people’s care packages were affected.^{clxxiii}

70. The social care system faces a number of crises – inadequate resourcing,^{clxxiv} high levels of vacancies,^{clxxv} and geographical variations in care costs.^{clxxvi} Localised frameworks increase complexity when individuals move. A review of National Care Standards in 2014 recognised the importance of human rights to ensuring universal high quality care, regardless of how that care was being delivered.^{clxxvii} The Scottish Government is pursuing legislation to create a National Care Service that would restructure social care provision under a national framework.^{clxxviii} It is therefore concerning that the commitment to human rights has not been embedded into the proposals, and there are widespread concerns about adequacy of resource.^{clxxix}

71. Concern has been raised about out-of-area placements and delayed discharge to community-based services for people with a learning disability or autism, due to lack of funding and/or suitable accommodation or care providers. A 2018 report found that more than 700 people with learning difficulties and autism were in out-of-area care.^{clxxx}

Adequate standard of living (Article 11)

Poverty

72. Poverty rates in Scotland are rising and being met with sharp increase in living costs.⁴⁰ ONS data for the UK shows that 91 per cent of adults have experienced an increase in the cost of living in the past year.^{clxxxii} Analysis of the impacts on poverty rates and experiences is affected by the rapid and recent changes and disruption to data-gathering between 2020 and 2022. The lack of hard data was noted as a problem for measurement even before COVID-19.^{clxxxii} Available data however shows a clear impact on households, with nearly two in three (65 per cent) have cut back on an essential, while one in four

⁴⁰ See the Committee’s previous recommendation E/C.12/GBR/CO/6 para 48.

(26 per cent) have cut back on three or more essentials.^{clxxxiii}
Experiences poverty and inflation are not universal.^{clxxxiv}

- Between 2017 and 2020 the poverty rate in Scotland was highest for single women with children and 20 per cent of single female pensioners were living in relative poverty.^{clxxxv}
- In 2019, 25 per cent of people living in the least deprived quintile had a limiting longstanding illness, compared with 46 per cent in the most deprived quintile.^{clxxxvi}
- People with a limiting longstanding illness are less likely to leave school with qualifications^{clxxxvii}, are more likely to be unemployed^{clxxxviii} or to earn less^{clxxxix} than people with no limiting longstanding illness.
- Women are more likely to be in working poverty than men^{cxc} and more exposed to rising inflation.^{cxc}

73. Scotland has statutory targets to reduce child poverty⁴¹ to under 18 per cent by 2023/24 per cent to under 10 per cent by 2030.^{cxcii} The Child Poverty Action Plan 2022, outlines support for six priority family groups as at highest risk of child poverty^{cxciii} However analysis indicates, even prior to 2022, that Scottish Government is not on track to meet the targets and that rates may in fact rise without significant policy change.^{cxciv} The most recent available official data indicates that that 24 per cent of children (240,000 children each year) were living in relative poverty after housing costs in 2017-20.^{cxcv}

74. The relative cost of housing in Scotland indicates slightly lower child poverty rates in Scotland relative to the rest of the UK,^{cxcvi} however analysis shows that 49 per cent of households with dependent children in Scotland find themselves in the two most serious categories of financial stress.^{cxcvii} Nearly half of minority ethnic children live in poverty.^{cxcviii}

75. The Scottish Government has utilised devolved social security powers to introduce a Scottish Child Payment, which provides a payment for each child in households eligible for UC and other low

⁴¹ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 48.

income benefits.⁴² The Scottish Government has increased the payment to £25 per week per eligible child and extended the age eligibility from six at launch. Modelling suggests that meeting the interim targets through social security would require an SCP of £40 per week and to meet the final targets an estimated £165 per week at a cost in the region of £3 billion a year.^{cxciix} The escalating cost of living renders these figures already behind the CPI increase.

76. Other measures including availability of affordable childcare, action to address high housing costs and employability support are also noted in the Child Poverty Strategy. 68 per cent of children in poverty live in households where one, or both, parents are working. Addressing child poverty requires intervention at devolved and UK levels, such as welfare and employment..

Housing Costs

77. There is a significant lack of affordable housing across Scotland in private and social rental sectors.⁴³ Rental prices increasingly extend beyond available support, in 15 out of the 18 rental markets in Scotland there is a monthly shortfall between rents and the amount of LHA tenants can receive.^{cc} In the immediate term, 1.5 million people in Scotland report that they struggle with the condition, security, suitability, or affordability of their home.^{cci} Over half (51 per cent) of minority ethnic people living in poverty are in unaffordable housing, which means they are spending more than 30 per cent of their income on their housing. This is compared to 44 per cent for white people in poverty.^{ccii}

78. An eviction moratorium was instituted in response to the COVID-19 pandemic.^{cciii} This has been followed by a short term (6 to 18 month September 2022) prohibition on private rent increases and evictions in response to the rapid escalation in living costs. The current Scottish Government has indicated plans to bring forward new legislation on private rents to increase private rental security and

⁴² The two child limit does not apply to the Scottish Child Payment nor other Social Security Scotland Entitlements

⁴³ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 50

affordability. There are strong calls from civil society to ensure that incorporation of ICESCR and a rights-based approach to the rental sector.^{cciv}

79. In order to maximise supply of affordable housing,⁴⁴ Scottish Government has committed to increase social and affordable housebuilding with 110,000 affordable homes, including 70 per cent for social rent by 2032.^{ccv} Shortages of affordable housing across all tenures are particularly acute in urban areas^{ccvi} but are also affecting rural areas, with 76 per cent of those in the Highlands and Islands reporting a shortage of rental properties.^{ccvii}

80. A national Housing to 2040 strategy^{ccviii} sets out Scottish Government's long term approach to improving housing affordability, security and quality, including common housing standards across all tenures. While this is welcome, enforcement is intended to come into effect progressively between 2025 and 2030. In the immediate term, legal standards vary by tenure and include a range of exceptions. In 2019, around 2 per cent of all homes (around 400,000) fell below tolerable standards.^{ccix} Disrepair to critical elements stood at 52 per cent.

81. The availability of accessible and culturally adequate housing is particular limited.⁴⁵ There are 61,000 properties awaiting adaption, with 10,000 people on the waiting list for adapted houses. Only 1 per cent of housing is wheelchair accessible.^{ccx} Gypsy/Traveller communities experience significant barriers to culturally appropriate housing,⁴⁶ including due to stigma and discrimination.⁴⁷

Homelessness

82. The shortage of homes contributes to unaffordability and the homelessness rate.⁴⁸ One household is made homeless every 19 minutes,^{ccxi} many being families with children.^{ccxii} The majority of

⁴⁴ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 50

⁴⁵ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 50

⁴⁶ [Gypsy/Travellers - accommodation needs: evidence review - gov.scot \(www.gov.scot\)](http://www.gov.scot/resources/documents/2019/06/Gypsy-Travellers-accommodation-needs-evidence-review-gov-scot-20190606.pdf)

⁴⁷ [Improving Gypsy/Traveller sites: progress summary - gov.scot \(www.gov.scot\)](http://www.gov.scot/resources/documents/2019/06/Improving-Gypsy-Traveller-sites-progress-summary-gov-scot-20190606.pdf)

⁴⁸ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 52

homelessness since 2010 has been credited to the ending of assured short-hold tenancy in the private rented sector^{ccxiii} while the most common cause of homeless for women is domestic abuse. In addition to shortages of accommodation, the impact of welfare reforms leading to rent arrears has been linked to evictions.^{ccxiv}

83. 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^{ccxv}. Homelessness particularly affects young people,^{ccxvi} especially LGBT+ young people.^{ccxvii} 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.^{ccxviii}
84. Scotland has progressive housing and homelessness legislation, but practice often fails to match policy.^{ccxix} Earlier this year, *X v Glasgow City Council* confirmed that local authorities are under an absolute legal duty to provide suitable temporary accommodation for homeless households in Scotland, and must meet the needs of disabled children.^{ccxx} However there remains longstanding failures to meet the statutory duty to offer temporary accommodation to all those entitled to it.^{ccxxi}
85. Concern over both homelessness and the inadequate provision of housing have been repeatedly raised by a variety of United Nations (UN) Treaty Body Committees^{ccxxii}, as well as by the UN Special Rapporteurs on Extreme Poverty and Human Rights^{ccxxiii} and Adequate Housing.^{ccxxiv} An estimated 256 people died while experiencing homelessness in Scotland in 2020, an increase of 40 deaths when compared to the previous year.^{ccxxv}
86. Emergency response in the pandemic included providing temporary accommodation for individuals sleeping rough.^{ccxxvi} While the intention was positive, it is clear that some of the temporary

accommodation provided, including hotel rooms, was unsuitable for medium-term habitation, causing mental stress.⁴⁹

Fuel poverty and habitability

87. Rising energy costs undermine the right to adequate housing habitability. Even before recent energy price rises began to bite, six in 10 households on low incomes (62 per cent) reported that their costs increased during the pandemic.^{ccxxvii}

88. The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 introduced statutory targets for Scottish Ministers on fuel poverty reduction and introduced a new definition of fuel poverty which better aligned fuel poverty with relative income poverty.⁵⁰ However since the targets were introduced, affordability of energy has decreased,^{ccxxviii} and research has warned will worsen over the next year.^{ccxxix}

89. A price cap freeze from October 2022 is extremely welcome (household bills are capped at an average at £2,492) but due to end in April 2023. Long term measures to lower energy prices remain to be set out. In Scotland, a new payment through social security will be available from February 2023,^{ccxxx} worth £50 for low income households. With average energy bills capped at £4,279 without the freeze, there is scope to do much more to target support for low income households.^{ccxxxi}

Access to food

90. The right to food is not realised for everyone in Scotland today.⁵¹ Household food insecurity is unacceptably high and a large number of the people who are food insecure are children. Pre-pandemic, food insecurity levels were at 9 per cent , higher among younger adults (13 per cent)^{ccxxxii} and single parents in particular (21 per cent). There

⁴⁹ Although Scottish Government did not collect separate data on the numbers accommodated on this basis, key stakeholders reported that around 600 people were accommodated in emergency hotels in Glasgow alone at the peak.

⁵⁰ It also requires Scottish Ministers to produce a comprehensive strategy to show how they intend to meet the targets.

⁵¹ See the Committee's previous recommendation E/C.12/GBR/CO/6 para 54.

has been legislative progress on improving access to food with the Good Food Nation (Scotland) Act,^{ccxxxiii} although limited in scope to progressively realise the right to food.^{ccxxxiv}

91. For households with a disabled person who were advised to take additional precautions to manage their risk of catching COVID-19 (“shielding”) access to food was particularly precarious between 2020 and 2022. One survey of 800 disabled people in Scotland found that 67 per cent had had problems accessing food either for themselves or the people that they cared for.^{ccxxxv}
92. However the Commission is concerned that the ability to realise progressively the right is hindered by the cost and availability of nutritious foods. Prices of food are rising sharply the average cost of bread up 10 per cent in a year.^{ccxxxvi} Food price inflation hit 16.2 per cent in the year to October 2022, up from 14.5 per cent in September. Climate change is also having an impact on food production and imports.^{ccxxxvii} This risks exacerbating lack of nutrition where none of Scotland’s dietary goals have been met since their introduction in 1996.^{ccxxxviii}
93. Reliance on charitable food provision increased steadily between 2008 and 2020.⁵² Scottish Government has introduced a draft strategy to end foodbank reliance, noting that they are “not an appropriate or long term response to poverty.”^{ccxxxix} Access to culturally or medically appropriate food cannot be assured through charitable provision. However most recent data shows that although foodbank use in Scotland dropped dramatically in 2021^{ccxli} demand between April and September 2022 increased by 34 per cent.⁵³
94. The use of No Recourse to Public Funds (NRPF) conditions for those with temporary migration status limits causes particular risk of poverty and destitution for some migrants.^{ccxli} They were ineligible for most coronavirus financial support and cannot access UC and other

⁵² There has been a 43% increase in the number of food parcels distributed 2016-2020 in Scotland

⁵³ 34% increase in the total number of parcels distributed compared to the same period in 2021/22,

income-related benefits.^{ccxlii} Women with NRPF and their children who's immigration status is contingent on an abusive partner are unable to access support necessary to ensure their safety. The pandemic however demonstrated clearly that there is room for collaboration between Scottish Government, third sector and local authority partners to minimise risk of homelessness and destitution even where immigration status presents a challenge.

Cultural Rights

95. Participation in cultural, social and economic activities is not enjoyed equally⁵⁴ despite culture being one of Scotland's National Performance Outcomes.^{ccxliii} Certain demographics are over-represented in the media and arts. In 2020 5.9 per cent of major newspaper editors in Scotland were women, up from 0 per cent in 2017, and account for 16.7 per cent of directors of major museums and art galleries.^{ccxliv} Black and minority ethnic people, disabled people and LGBTI+ people are under-represented in arts and cultural output, however, there is a chronic lack of data to support a rigorous analysis of exclusion in cultural output and commissioning.^{ccxlv} Gypsy / Travellers in Scotland are significantly under-represented in cultural institutional output and where they are included continue to be subject to largely negative social representations.^{ccxlvi}
96. Access to cultural activities has been negatively affected by rising cost of living for households and the economic climate's impact for cultural institutions. While many cultural activities are free to access, associated costs such as travel must be considered. Reduced expenditure on cultural activities risks the sustainability of the sector, with jobs in the sector decreasing by 3.3 per cent between 2019 and 2020.^{ccxlvii}

⁵⁴ Data shows that in 2019 around eight in ten adults (81%) in Scotland had had attended or visited a cultural event or place of culture in the last 12 months, however attendance was higher among women, younger people, those with degrees or professional qualifications, those with no long-term physical or mental health conditions, those living in less deprived areas and those with a higher household income.

97. During the Pandemic, many arts and history bodies made digital participation available at low or no cost available online. While this expanded access to cultural events for some, for others, a lack of digital literacy, access to technology or poor internet connectivity (especially in rural areas) have reduced access. The impacts of harassment online, often highly gendered and prejudiced-based, restricts the ability of some groups to participate on equal terms in online spaces for cultural expression.^{ccxlviii} The additional cost of providing online access and the reduction in expenditure at venues has been highlighted by many providers concerned about their sustainability.^{ccxlix}

98. Reflecting the close interdependence of education and cultural rights and in an effort to better realise appropriateness or cultural acceptability of institutions,^{cccl} there has been increased awareness in some cultural settings of the legacies and structural inequalities perpetrated by Scotland's colonial history. The Commission has worked with Museums and Galleries Scotland to develop a human rights based approach to their Empire, Slavery and Scotland: Addressing our Colonial Legacy project.^{cccli} The project proposes recommendations for how Scotland's involvement in empire, colonialism, and historic slavery can be addressed using museum collections and museum spaces.^{ccclii}

Family Life (Article 10)

99. Scotland has the highest rates of looked after children in the UK at 131 per 10,000 children.^{cccliii} In 2021, 13,255 children were Looked After, 76 of whom were in secure accommodation. The Commission highlights the work of The Promise, the national programme in response to the Independent Care Review published in 2020.^{cccliv} The review found that despite good intentions, far too many children and families within the care system have experienced a fractured system that operates only when facing crisis.^{ccclv} A supporting report, Follow the Money, demonstrates the social and economic cost of failing adequately resource the care system.^{ccclvi}

100. The Commission welcomes legislation to incorporate the UN Rights of The Child, which was unanimously supported by the Scottish Parliament. Changes are required to bring the law into effect following a reference to the UK Supreme Court and the Commission calls on Scottish Government to make the necessary changes as soon as

possible.^{cclvii} When passed, the law will include positive duties across law and policy to support proactive implementation in devolved areas.

General matters of concern to the Committee

Business and ESCR

101. In 2018 the Scottish Government published guidance for public authorities on human rights due diligence to be performed within their procurement activities.^{cclviii} However, such guidance is not binding and no other relevant legislation has been put in place. The Commission has also welcomed stronger regulation for private actors providing services related to children’s rights within the UNCRC Incorporation Bill.⁵⁵
102. Since 2018 the Commission has worked closely with the Scottish Government and other stakeholders to support the creation of a National Action Plan on Business and Human Rights (NAP).^{cclix} However, the NAP process has had considerable delays, with no further indications from the Scottish Government on when will the NAP be approved and published. In 2018 the Scottish Government also created an initiative called the Scottish Business Pledge.^{cclx} It consists of voluntary agreements made by business which want to ensure their actions are based on “fairness, equality, opportunity and innovation.” No further actions to regulate such voluntary agreements have been made.
103. Specified public authorities in Scotland are obliged to notify the Home Office about all potential victims of human trafficking and slavery.^{cclxi} The Scottish Government has also introduced guidance for businesses to identify and prevent human trafficking and exploitation across their operations^{cclxii} and has recently consulted on extending obligations to Scottish public bodies for the publication of modern slavery statements as part of work to improve transparency in

⁵⁵ Section 6 (3A) reads: “For the purposes of subsection (3)(a)(iii), “functions of a public nature” includes, in particular, functions carried out under a contract or other arrangement with a public authority.”

supply chains.^{cclxiii} However despite a national Trafficking and Exploitation Strategy,^{cclxiv} 172 trafficking cases were referred to the National Reporting Mechanism in the three months between July and September 2022, 52 of which were associated with labour.^{cclxv} There are opportunities under the Human Trafficking and Exploitation (Scotland) Act 2015^{cclxvi} to maximise protection for survivors^{cclxvii} following the passage of the UK Nationality and Borders Act.^{cclxviii}

Climate change and ESCR

104. The commitment to introduce a new Scottish human rights framework includes a justiciable right to a healthy environment. However, Scotland's legal system is currently inconsistent with the Aarhus Convention due to the excessive costs and difficulty of taking legal action to challenge polluting and other damaging activity.^{cclxix}
105. COP 26 was held in Glasgow in 2021 where the Commission and Global Alliance of National Human Rights Institutions co-hosted a Symposium on the role of National Human Rights Institutions in bridging the accountability gap in the climate emergency.^{cclxx} The Commission strongly recognises the need embed human rights approaches to climate action policies, including focus on the role of non-state actors. The Scottish Government also launched a £1 million Loss and Damage Fund allocated from the Scottish Government's Climate Justice Fund, the first developed nation to make such a commitment.^{cclxxi}
106. However much more needs to be done to protect biodiversity in Scotland and meet national targets – Scotland is far from on track to meet its own statutory targets.^{cclxxii} Scotland's biodiversity is now more depleted than in 88% of 240 countries and territories across the world^{cclxxiii} and risks from climate change have increased.^{cclxxiv} The Climate Change Committee has warned that the Scottish Government lacks a clear delivery plan and has not offered a coherent explanation for how its policies will achieve the ambitious emissions reduction targets.^{cclxxv}

Annex 1 – Questions suggested by the Commission

The Commission encourages the Committee to include in the List of Issues Prior to Review for the Government of the United Kingdom of Great Britain and Northern Ireland questions that asks the State Party to provide information on the following:

Implementation and General Obligations

- What are the deliberate, concrete and targeted steps taken by the state party to progressively realise ESC rights in Scotland?
- How the UK Government and Scottish Government will work to incorporate ICESCR in Scotland to the maximum extent possible under the devolution settlement and ensure clarity and effectiveness across Scottish service delivery.
- Whether the Scottish Government explored all possible measures to prevent retrogression of ESC rights within its allocated budget before its Emergency Budget Statement?
- Whether the state party has allocated its maximum available resources in order to meet its minimum core obligations, as a matter of priority?
- Whether and how equality and human rights impact assessments of budgetary decisions was undertaken by Scottish Government to ensure that the best possible decisions were made and that all other less regressive alternatives had been explored?
- How will key Scottish economic and taxation strategies engage with human rights obligations?
- What measures are being applied to improve access to disaggregated data to support human rights monitoring across ESC standards outlined by the Convention?

Social security and social protection

- How will the state party, including in Scotland where devolved, ensure the adequacy of benefit and social security entitlements for all in Scotland?
- How has the ‘safe and secure transition’ and emphasis on mitigation of reductions considered ESC rights in Scotland?
- How have negative impacts on disabled people, women and minority ethnic communities’ rights have been responded to in social security design and implementation in Scotland?

Work

- How will the gender pay gap reporting system and sanctions for non-compliance be strengthened in Scotland?
- What consideration has the Scottish Government given to strengthening procurement and grant-making procedures to advance human rights obligations?
- What considerations did the Scottish Government apply before deciding to reduce funding for employability support at the 2022 emergency budget? Did it ensure that such decision took a human rights based approach?
- How are outstanding gaps in childcare provision in Scotland being addressed?

Education

- What measures will the Scottish Government take to improve educational attainment in Scotland, including non-exam related measures?
- How will proposed reforms of the Scottish education system and education bodies advance the human rights of children and young people? Or: How will the Scottish Government involve children and other rights holders in the development of reforms to the Scottish education system?

Health and social care

- What action is being taken in Scotland to ensure a gender perspective in delivery of healthcare and ensure no discriminatory access to healthcare and health outcomes for women - including but not exclusively in relation to sexual and reproductive health - LGBTI+ people and people from minority ethnic communities?
- What consideration is being given to the social determinants of health, and the particular effects that they have to women, LGBTI+ people and people from minority ethnic communities in Scotland?
- What measures are being implemented to ensure the physical accessibility of health services, particularly those in rural and island communities in Scotland?
- How will the Scottish Government ensure a human rights based approach to its plans for a National Care Service, including adequate funding, through both policy and implementation? Additionally, how will the implementation gap between the law and

delivery of Self-Directed Support be reduced, ensuring the human rights of all who require social care, as well as the rights of carers and the social care workforce?

- How will recovery in NHS Scotland and the social care services ensure access to quality care, including reducing backlogs? How will services and Scottish Government ensure accountability for and non-recurrence of retrogressive measures, such as inappropriate use of Do Not Resuscitate and cessation of care packages?
- What concrete and targeted measures are being implemented to reduce the deaths related to drug and alcohol consumption in Scotland?
- What measures are being adopted to address the persistent failure to meet self-imposed targets for appropriate mental health services? Has there been an analysis on the reasons behind high levels of rejected referrals, and is there any data that can be provided?

Adequate standard of living

- What measures has the Scottish Government implemented to achieve its interim and final statutory Child Poverty targets?
- Is Scottish Housing policy and legislation being met in practice and are they ensuring the progressive realisation of the right to housing?
- Does the policy and legislation ensure that significant number of individuals are prevented from being deprived basic shelter?
- What measures are being applied to ensure the affordability, accessibility and sustainability of the right to food? In particular, what measures are being implemented that guarantee access to minimum essential food that ensures freedom from hunger?
- What measures is the Scottish Government taking or intending to take to improve access to affordable, high quality and culturally appropriate food, especially during a period of rising costs?

Cultural rights

- How will measures to support the sustainability of cultural institutions reflect the cultural rights of all demographics in Scotland, particularly for disabled people, older people and people from socio-economically disadvantaged backgrounds, including participation in and enjoyment of cultural expression?
- What measures are being implemented to ensure the accessibility and affordability of cultural services in Scotland? Has there been any

specific measures implemented to ensure that those in rural and island communities can have access to national cultural services?

Family life

- To what extent the UNCRC incorporation and proposed human rights framework will give effect to ESC rights of children and young people in Scotland?
- How will all human rights of children, young people and their carers and /or families be protected by any reforms of the Scottish care system?

Businesses and ESC rights

- What measures are being implemented in Scotland to protect everyone's ESC rights from adverse business activities? Has there been measures to ensure that privatised services are being adequately provided and progressively realised?
- What measures are being implemented in Scotland to ensure that business enterprises comply with their responsibilities to respect and remedy human rights breaches caused or contributed by their activities?
- Are there any advancements in relation to the proposed National Action Plan for Business and Human Rights in Scotland?

Environment and ESC rights

- What measures is the Scottish Government pursuing to ensure that ESC rights protected by the Convention are not undermined by climate change?

Annex 2 – Participation

The Commission hosted a workshop on 8th November 2022 to discuss the cost of living crisis. This roundtable was an opportunity for civil society organisations who work with communities across Scotland to learn about treaty monitoring and share issues currently affecting them that should be reflected in our report, as well as ideas for change. The event had two primary aims:

- To gather evidence about the cost of living and implications for civil society organisations (CSOs) and their networks;
- To gather up-to-date evidence and a sense of general priorities to inform the structure and content of our report to the International Covenant on Economic, Social and Cultural Rights.

Commission staff provided an introduction to the Convention, its content and the reporting process and highlighted examples of civil society participation in the ICESCR process. Six conversations were independently facilitated in the following themes:

- Social security and social protection
- Education, skills and culture
- Equality and non-discrimination
- Work, employability and just and favourable conditions of work
- Highest attainable standard of physical and mental health
- An adequate standard of living - food, clothing and housing

Participants were free to choose two discussions to participate in. Contributions were anonymised. Key themes that emerged were (summarised by the Commission):

1. The impacts on marginalised communities of changes since 2016 has been broad ranging, and for many felt in every area. Impacts of economic and social events have been cumulative and extreme.
2. Disabled people and older people feel isolated and excluded because of health risks, but there are a range of different needs to consider when accessing services. Many people regret the move

away from digital-first approaches, however others warned that digital skills in some communities were lacking and that preferences should not be assumed.

3. There was a clear and shared frustration about lack of progress to tackle socio-economic and discriminatory treatment. It was commonly voiced that groups had been repeating their concerns for many years.
4. Concern about issues such as malnutrition, near-total social exclusion and homelessness that affect the state's minimum core obligations were raised by a number of participants as real and escalating problems.
5. Mental health concerns came up in several groups, not limited to the health conversation. There was a clear view that mental health had dramatically worsened for all groups and that access to support was increasingly stretched. Several participants noted the long delays in access to treatment as evidence that services were not adequately resourced or capable of responding to the increased demand.
6. There were mixed views on policymaking and current priorities for human rights. It was noted that there are clear positive stated ambitions from the Scottish Government to respect, protect and fulfil economic and social rights through the incorporation agenda. However other participants reflected that too much weight was placed on the difference incorporation would actually make. Gaps between policy and practice were said to be common, particularly in homelessness, social security, the Fair Work agenda and mental health.
7. Another common view was dissatisfaction with consultation processes. Several participants noted that there was an increased emphasis on 'lived experience' in policymaking while also creating insufficiently accessible routes to participate, including lack of peer support. A possible tension between lived experience and social movements or structural analysis was noted, while others commented on a feeling that their voices were not adequately heard or considered at the wrong stage to be reflected in the consultation process.

The range of issues raised by participants included the cost of rents, waitlists for gender identity services, cost of food, changes to care packages, online harassment, digital exclusion, town planning and physical accessibility for disabled people, rise of long term conditions, delayed diagnoses, lack of palliative care, cuts to mental health services,

violence against women, lack of health and housing support for women experiencing domestic abuse, rising suicide rates, rural services struggling to recruit, links between child poverty and disability, lack of financial security for civil society, lack of follow up care as services under too much pressure, COVID-19 reduction in services still affecting patients, reproductive and sexual health, need for person-centred systems, the role of human rights training for social security delivery, focus on work as poverty reduction tool, impacts of Brexit, shortages of transport, care workforce and unpaid carers and discriminatory practices in relation to work.

The Commission recognises that these issues are not exhaustive and may not necessarily reflect universal experiences. We are grateful to all participants for sharing their insights and perspectives and have endeavoured to reflect the range of issues highlighted throughout our submission. We continue to explore ways to support and encourage the capacity of civil society to participate in the treaty review process.

Attendees

- Equality Network
- PKAVS
- Environmental Rights Centre for Scotland
- One Parent Families
- Together Scotland
- Scottish Independent Advocacy Alliance
- Advocacy Highland
- Sight Scotland and Sigh Scotland Veterans
- Scottish Refugee Council
- People First
- Scottish Care
- Health and Social Care Alliance
- People First
- Together Scotland
- Energy Action Scotland

- Engender
- Human Rights Consortium Scotland
- Equality Network
- Scottish Families Affected by Alcohol per cent Drugs
- The Well, Multicultural Resource Centre
- C-Change Scotland
- Scottish Women's Convention
- Food Train
- Glasgow Disability Alliance



Annex 3: Reserved and Devolved Matters

General overview

The UK's unwritten constitution leaves some matters open to political, legal and academic debate. In simple terms, The UK Parliament maintains legislative sovereignty, and in principle retains the power to legislate on any matter of its choosing. However the status of the Scottish Parliament is recognised as constitutionally significant. The Parliament was created by the Scotland Act 1998, which was amended in 2016 to provide a clause recognising the permanence of the institution.⁵⁶

The Scottish Parliament has power to create primary legislation in the form of Acts of the Scottish Parliament. The scope of the Scottish Parliament's legal powers – known as devolved powers or competence – is provided on a general basis⁵⁷ subject to three main limits:⁵⁸

- Legislation must not be incompatible with the European Convention on Human Rights;
- The Scottish Parliament cannot modify “protected statutes”; and
- Legislation that “relates to” matters reserved to the UK Parliament is incompetent, and therefore “not law”.

Reserved matters are listed in schedule 5 of the Scotland Act 1998. However

Identifying the limits of devolved competence is not always simple.⁵⁹ While the whole policy area is reserved, many areas are subject to exceptions and sometimes the phrasing of such exceptions is subject to interpretation. Schedule 4 lists “protected statutes” that cannot be

⁵⁶ [Scotland Act 2016 \(legislation.gov.uk\)](https://legislation.gov.uk)

⁵⁷ Scotland Act 1998 s.28(1)

⁵⁸ Scotland Act 1998 s.29A

⁵⁹ “Relates to” requires more than a merely loose, incidental or consequential connection with a reserved matter (*Martin v Most* [2010] UKSC 10; *Imperial Tobacco v Lord Advocate* [2012] UKSC 61)

modified by Scottish law – whether expressly or in substance – even if the Scottish Parliament has power to legislate in that area. The Human Rights Act 1998 is a protected statute.

“Observing and implementing international obligations,” is an exception to the general reservation of international relations.⁶⁰ Scotland may choose how to implement and protect international human rights obligations to which the UK is a party, but cannot accept formal legal obligations as a separate party (The Scottish Government has made several voluntary commitments with international and regional bodies). The Scottish Parliament has elected to legislate for domestic incorporation of the UN Convention on the Rights of the Child, and while the legislation was successfully challenged for relating to reserved matters, the majority of the provisions of the Bill were found to be in the scope of devolved competence.⁶¹

The Scottish Parliament has established the Scottish Human Rights Commission as a National Human Rights Institution with power to promote and protect human rights in devolved areas of law and policy. The Equality and Human Rights Commission is established by the UK Parliament, and has a mandate to regulate equality law in England, Wales and Scotland and operate as NHRI in respect of reserved areas in Scotland.

Scotland has a number of standalone state institutions, many of which pre-date the establishment of the Parliament in 1998. These include a separate legal system and judiciary, education system, health service and property and land registration system.

⁶⁰ Sch.5, Pt1, para 7(2)(a)

⁶¹ See [REFERENCE by the Attorney General and the Advocate General for Scotland - United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill - The Supreme Court](#)

Summary of reserved and devolved areas

Devolved area	Reserved area
agriculture, forestry and fisheries	benefits (some aspects)
benefits (some aspects)	betting and gambling
consumer advocacy and advice	broadcasting
economic development	constitution (some aspects)
education and training	consumer protection policy
elections to the Scottish Parliament and local government	currency
energy (some aspects)	data protection
environment	defence and national security
equality legislation (some aspects)	equality legislation (most aspects)
fire services	energy (most aspects)
freedom of information	elections to the UK Parliament
health and social services	employment law and industrial relations
housing	financial services
justice and policing	foreign affairs
local government	immigration, asylum and visas
planning	nationality and citizenship
sport and the arts	postal services
taxation (some aspects)	taxation (some aspects)
tourism	telecommunications

transport (some aspects)	trade and industry transport (some aspects)
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Specific devolved competence in respect of ICESCR

Article	Content	Competence
Part 1, Articles 1 – 5	General principles and implementation	Both UK and Scotland. Scotland has devolved responsibility for the implementation of international obligations in Scotland. The Scottish Government is responsible for a Scottish Budget, approved by the Scottish Parliament annually. However the majority of the Scottish Budget is received from the UK Treasury and Scotland has limited borrowing powers to enable multi-year balancing. Equality and non-discrimination is almost exclusively reserved.
Article 6	The right to work	Mostly UK; some Scottish responsibility largely in the scope of Article 6.2 (technical and vocational guidance and training programmes). Decisions of Scottish public bodies should not be inconsistent with Article 6.1, for example the application of administrative or criminal rules.

Article 7	Just and favourable conditions of work	Mostly UK , but Scotland has responsibility for agricultural wages and public holidays
Article 8	The right to form and `be a member of a trade union; the right to strike	UK . Industrial relations are reserved. However Scottish public bodies and policies such as fair work may support UK legislation.
Article 9	The right to social security/social insurance	Shared responsibility in UK and Scotland . Social security is reserved but there are significant exceptions relating to National insurance is reserved.
Article 10	Protection of the family/maternity/children and young persons	Shared responsibly between UK and Scotland . Employment protection relating to pregnancy and maternity is reserved, as is discrimination on grounds of pregnancy/maternity/marital status.
Article 11	Adequate standard of living	Shared responsibly between UK and Scotland . Scotland has devolved responsibility for housing, land use, agriculture, fisheries and food policy. Social security is largely reserved but Scotland has extensive powers. International relations and international trade are reserved.
Article 12	Right to the highest possible standard	Mostly Scotland . Some issues are reserved - medicines and some

	of physical and mental health	aspect of regulation of healthcare professionals are not). Some issues which may have a bearing on physical and mental health are reserved (e.g., health and safety at work). Environmental protection is largely devolved, but to the extent that this requires international co-operation, it is reserved.
Article 13	Right to education	Scotland.
Article 14	Compulsory primary education	Scotland.
Article 15	Cultural rights	Both UK and Scotland. Scientific research, broadcasting and intellectual property are reserved, entertainment licensing, education, arts funding, and others are devolved. ⁶²

⁶² With thanks to Prof. Aileen McHarg, adapted from research commissioned by the SHRC

Annex 4 – Concluding Observations made by the Committee in 2016⁶³

E/C.12/GBR/CO/6 para. 6	The Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para. 13) and urges the State party to fully incorporate the Covenant rights into its domestic legal order and ensure that victims of violations of economic, social and cultural rights have full access to effective legal remedies. The Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.
E/C.12/GBR/CO/6 para. 8	In line with its previous recommendation (see E/C.12/GBR/CO/5, para. 12), the Committee reminds the State party of its ultimate responsibility for the implementation of the Covenant in all its jurisdictions, including the British Overseas Territories and Crown Dependencies, and recommends that the State party take all necessary measures to ensure the full enjoyment of economic, social cultural rights by all persons under its jurisdiction.
E/C.12/GBR/CO/6 para. 10	The Committee recommends that the State party undertake a broad public consultation on its plan to repeal the Human Rights Act 1998 as well as on the proposal for a new bill of rights. It also recommends that the State party take all necessary measures to ensure that any new legislation in this regard is aimed at enhancing the status of human rights, including economic, social and cultural rights, in the domestic legal order and that it provide effective protection of those rights

⁶³ Available at:

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2FGBR%2FCO%2F6&Lang=en

	<p>across all jurisdictions of the State party. The Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para. 10) and urges the State party to take all necessary measures to expedite the adoption of a bill of rights for Northern Ireland.</p>
E/C.12/GBR/CO/6 para 12	<p>The Committee recommends that the State party:</p> <ul style="list-style-type: none"> (a) Establish a clear regulatory framework for companies operating in the State party to ensure that their activities do not negatively affect the enjoyment of economic, social and cultural human rights; (b) Adopt appropriate legislative and administrative measures to ensure the legal liability of companies domiciled under the State party's jurisdiction for violations of economic, social and cultural rights in their projects abroad committed directly by these companies or resulting from the activities of their subsidiaries; (c) Conduct thorough risk assessments prior to granting licences for arms exports and refuse or suspend such licences when there is a risk that arms could be used to violate human rights, including economic, social and cultural rights. <p>13. The Committee draws the attention of the State party to its statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights (E/2012/22-E/C.12/2011/3, annex VI, sect. A)</p>
E/C.12/GBR/CO/6 para 15	<p>The Committee calls upon the State party to adopt a human rights-based approach in its international development cooperation by:</p> <ul style="list-style-type: none"> (a) Undertaking a systematic and independent human rights impact assessment prior to decision-making on development cooperation projects; (b) Establishing an effective monitoring mechanism to regularly assess the human rights impact of its policies and projects in the receiving countries and to take remedial measures when required; (c) Ensuring that there is an accessible complaint mechanism for violations of economic, social and cultural rights in the receiving countries embedded in the framework for development cooperation projects.

<p>E/C.12/GBR/CO/6 para 17</p>	<p>The Committee recommends that the State party: (a) Conduct a human rights impact assessment, with broad public participation, of the recent changes introduced to its fiscal policy, including an analysis of the distributional consequences and the tax burden of different income sectors and marginalized and disadvantaged groups; (b) Ensure that its fiscal policy is adequate, progressive and socially equitable and improves tax collection so as to increase resources available for implementing economic, social and cultural rights; (c) Take strict measures to tackle tax abuse, in particular by corporations and high-net-worth individuals; (d) Intensify its efforts, in coordination with its Overseas Territories and Crown Dependencies, to address global tax abuse.</p>
<p>E/C.12/GBR/CO/6 para 19</p>	<p>The Committee reminds the State party of its obligations under the Covenant to use the maximum of its available resources with a view to progressively achieving the full realization of economic, social and cultural rights. The Committee draws the State party's attention to the recommendations contained in its open letter of 16 May 2012 to States parties on economic, social and cultural rights in the context of the economic and financial crisis, with regard to the criteria for austerity measures. Such measures must be temporary, necessary, proportionate and not discriminatory, must not disproportionately affect the rights of disadvantaged and marginalized individuals and groups and respect the core content of rights. In that context, the Committee recommends that the State party review its policies and programmes introduced since 2010 and conduct a comprehensive assessment of the cumulative impact of these measures on the enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups, in particular women, children and persons with disabilities, that is recognized by all stakeholders.</p>

E/C.12/GBR/CO/6 para 21	The Committee recommends that the State party review the impact of the reforms to the legal aid system with a view to ensuring access to justice and the provision of free legal aid services, in particular for disadvantaged and marginalized individuals and groups. The Committee takes note of the information provided by the State party on the ongoing review of the employment tribunal fees and recommends the elimination of such fees.
E/C.12/GBR/CO/6 para 23	The Committee recommends that the State party bring into force the relevant provisions of the Equality Act that refer to the public authorities' duty with respect to socioeconomic disadvantage, as well as with respect to the prohibition of intersectional discrimination, in order to enhance and guarantee full and effective protection against discrimination in the enjoyment of economic, social and cultural rights. The Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para. 16) and urges the State party to provide the same access to an independent equality body and a similar level of protection to rights holders with regard to all grounds of discrimination for all individuals in all jurisdictions of the State party, including Northern Ireland. In this respect, the Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.
E/C.12/GBR/CO/6 para 25	The Committee recommends that the State party increase the level of support provided to asylum seekers, including through the daily allowance, in order to ensure that they enjoy their economic, social and cultural rights, in particular the right to an adequate standard of living. The Committee reiterates its previous recommendation (see E/C.12/GBR/CO/5, para. 27) and encourages the State party to ensure that asylum seekers are not restricted from accessing employment while their claims are being processed.

E/C.12/GBR/CO/6 para 27	The Committee recommends that the State party: (a) Intensify its efforts to increase the level of representation of women in decision-making positions, in both the public and private sectors; (b) Adopt effective measures to eliminate the persistent gender pay gap, including by addressing the significant vertical and horizontal gender-based segregation in the labour market, which results in women occupying lower-paid positions and facing obstacles to their enjoyment of career opportunities on an equal footing with men /6 6 (c) Increase its efforts to ensure equal remuneration for work of equal value, without distinction of any kind.
E/C.12/GBR/CO/6 para 28	The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.
E/C.12/GBR/CO/6 para 30	Recalling its previous recommendations (see E/C.12/GBR/CO/5, paras. 20 and 21), the Committee recommends that the State party review its employment policies to address the root causes of unemployment and include in its action plan time-bound goals with a specific focus on groups disproportionately affected by unemployment, such as young people, persons with disabilities and persons belonging to ethnic, religious or other minorities.
E/C.12/GBR/CO/6 para 32	The Committee recommends that the State party: (a) Take all appropriate measures to progressively reduce the use of temporary employment, precarious self-employment and “zero hour contracts”, including by generating decent work opportunities that offer job security and adequate protection of labour rights; (b) Ensure that the labour and social security rights of persons in part-time work, precarious self-employment, temporary employment and “zero-hour contracts” are fully guaranteed in law and in practice.
E/C.12/GBR/CO/6 para 33	The Committee draws the attention of the State party to its general comment No. 23 (2016) on the right to just and favourable conditions of work.

E/C.12/GBR/CO/6 35	The Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para. 22) and urges the State party to: (a) Adopt all necessary measures to ensure that all migrant workers, including migrant domestic workers, enjoy the same conditions as other workers as regards remuneration, protection against unfair dismissal, rest and leisure, limitation of working hours, social security and maternity leave protection; (b) Protect migrant workers and migrant domestic workers from all forms of exploitation and abuse, including through the effective implementation of the Modern Slavery Act 2015; (c) Improve the complaint mechanisms and legal assistance provided to migrant workers; (d) Ensure effective inspection mechanisms for monitoring the conditions of work of migrant workers and migrant domestic workers.
E/C.12/GBR/CO/6 para 37	The Committee recommends that the State party ensure that the national minimum wage is periodically reviewed and set at a level sufficient to provide all workers and their families with a decent standard of living. It also recommends that the State party extend the protection of the national minimum wage to those under the age of 25.
E/C.12/GBR/CO/6 para 39	The Committee recommends that the State party undertake a thorough review of the new Trade Union Act 2016 and take all necessary measures to ensure that, in line with its obligations under article 8 of the Covenant, all workers enjoy their trade union rights without undue restrictions or interference. The Committee urges the State party to take all necessary measures to ensure the effective implementation of the Employment Relations Act 1999 and its Regulation 2010, which prohibit blacklisting of trade union members, and guarantee that all workers who have been blacklisted have access to effective legal remedies and compensation.
E/C.12/GBR/CO/6 para 41	The Committee calls upon the State party to: (a) Review the entitlement conditions and reverse the cuts in social security benefits introduced by the

	<p>Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016; (b) Restore the link between the rates of State benefits and the costs of living and guarantee that all social benefits provide a level of benefit sufficient to ensure an adequate standard of living, including access to health care, adequate housing and food; (c) Review the use of sanctions in relation to social security benefits and ensure that they are used proportionately and are subject to prompt and independent dispute resolution mechanisms; (d) Provide in its next report disaggregated data on the impact of the reforms to social security on women, children, persons with disabilities, low-income families and families with two or more children. 42. The Committee draws the attention of the State party to its general comment No. 19 (2007) on the right to social security.</p>
E/C.12/GBR/CO/6 para 44	<p>The Committee recommends that the State party increase its efforts to ensure the availability, accessibility and affordability of childcare services throughout the State party, particularly in Scotland and Northern Ireland. The Committee also recommends that the State party review the system of shared parental leave and modify it with a view to improve the equal sharing of responsibilities within the family and in the society.</p>
E/C.12/GBR/CO/6 para 46	<p>The Committee requests the State party to include in its next periodic report information on the impact of the implementation of the national strategy on genderbased violence, particularly with regard to violence against women and girls with disabilities.</p>
E/C.12/GBR/CO/6 para 48	<p>The Committee recommends that the State party take steps to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, in particular persons with disabilities, persons belonging to ethnic, religious or other minorities, single-parent families and families with children, and adopt an anti-poverty strategy in Northern Ireland. The Committee also urges the State party to develop a comprehensive child poverty strategy and reinstate the targets and</p>

	<p>reporting duties on child poverty. In that regard, the Committee draws the attention of the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001 (E/C.12/2001/10).</p>
<p>E/C.12/GBR/CO/6 para 50</p>	<p>The Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para. 29) and urges the State party to: (a) Adopt all necessary measures to address the housing deficit by ensuring a sufficient supply of housing, in particular social housing units, especially for the most disadvantaged and marginalized individuals and groups, including middle- and low-income individuals and households, young people and persons with disabilities; (b) Take specific measures to deal with the inability of renters in the private rental sector to pay rents on account of the limits imposed on housing allowance and effectively regulate the private rental sector, including through security of tenure protection and accountability mechanisms; (c) Take corrective measures to address bad housing, including substandard housing conditions and uninhabitable housing; (d) Ensure adequate access to culturally appropriate accommodation and stopping sites for the Roma, Gypsy and Traveller communities, as appropriate; take steps to avoid all forms of discrimination in the provision of accommodation; and repeal the Unauthorised Encampments (Northern Ireland) Order 2005; (e) Intensify its efforts to address the challenges to overcoming persistent inequalities in housing for Catholic families in North Belfast, including through meaningful participation by all actors in decision-making processes related to housing.</p>
<p>E/C.12/GBR/CO/6 para 52</p>	<p>The Committee urges the State party to take immediate measures, including by allocating appropriate funds to local authorities, to reduce the exceptionally high levels of homelessness, particularly in England and Northern Ireland, and</p>

	<p>to ensure adequate provision of reception facilities, including emergency shelters and hostels, as well as social rehabilitation centres. The Committee urges the State party to adopt all necessary measures to avoid the criminalization of rough sleeping in the State party and to develop appropriate policies and programmes to facilitate the social reintegration of homeless persons. In this respect, the Committee draws the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing.</p>
<p>E/C.12/GBR/CO/6 para 54</p>	<p>The Committee recommends that the State party develop a comprehensive national strategy for the protection and promotion of the right to adequate food in order to address food insecurity in all jurisdictions of the State party and to promote healthier diets. This should include policies in support of breastfeeding in accordance with the resolutions of the World Health Assembly, including breastfeeding breaks or breastfeeding facilities in educational institutions and workplaces. The Committee also recommends that the State party introduce higher taxes on junk foods and sugary drinks and consider adopting strict regulations on the marketing of such products, while ensuring improved access to healthy diets. The Committee refers the State party to its general comment No. 12 (1999) on the right to adequate food and the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security adopted by the Food and Agriculture Organization of the United Nations as well as to the International Code of Marketing of Breast-milk Substitutes.</p>
<p>E/C.12/GBR/CO/6 para 56</p>	<p>The Committee recommends that the State party take steps to ensure that temporary migrants and undocumented migrants, asylum seekers, refused asylum seekers, refugees and Roma, Gypsies and Travellers have access to all necessary health-care services and reminds the State party that health facilities, goods and services should be</p>

	accessible to everyone without discrimination, in line with article 12 of the Covenant. The Committee draws the State party's attention to its general comment No. 14 (2000) on the right to the highest attainable standard of health
E/C.12/GBR/CO/6 para 60	The Committee reiterates its previous recommendation (see E/C.12/GBR/CO/5, para. 34) and urges the State party to take all necessary measures to ensure adequate pension benefits, care and treatment of older people, including by carrying out training programmes for doctors and health-care professionals about the rights of older persons and the treatment of dementia and Alzheimer's disease.
E/C.12/GBR/CO/6 para 62	The Committee recommends that the State party amend the legislation on termination of pregnancy in Northern Ireland to make it compatible with other fundamental rights, such as women's rights to health, life and dignity. In this respect, the Committee draws the attention of the State party to its general comment No. 22 (2016) on the right to sexual and reproductive health.
E/C.12/GBR/CO/6 para 64	The Committee recommends that the State party take all necessary measures to reduce the attainment gaps, particularly among children belonging to low-income families, including by reconsidering the austerity programmes adopted and effectively implementing measures aimed at reducing de facto discrimination and segregation of students based on their religion, national or social origin, as well as their economic background.
E/C.12/GBR/CO/6 para 66	The Committee recommends that the State party take all necessary steps to reduce higher education fees, with a view to making higher education equally accessible to all, in accordance with capacity, and by progressively introducing free higher education.
E/C.12/GBR/CO/6 para 68	The Committee reiterates its previous recommendation (see E/C.12/GBR/CO/5, para.

	37) and recommends that the State party adopt an Irish language act
E/C.12/GBR/CO/6 para 69	The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. 70. The Committee encourages the State party to consider ratifying the core human rights instruments to which it is not yet party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.
E/C.12/GBR/CO/6 para 71	The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In this context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).
E/C.12/GBR/CO/6 para 72.	The Committee requests the State party to disseminate the present concluding observations widely among all levels of society, at national, provincial and territorial levels, particularly among parliamentarians, public officials and judicial authorities, and to inform the Committee, in its next periodic report, about the steps taken to implement the recommendations contained herein. The Committee also encourages the State party to engage non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the

	<p>process of consultation at the national level prior to the submission of its next periodic report.</p> <p>Furthermore, the Committee requests the State party to ensure effective coordination with all devolved administrations, particularly Northern Ireland, and with its Overseas Territories and Crown Dependencies at all stages of the implementation of the recommendations contained in the present concluding observations and in the preparation of its next periodic report.</p>
E/C.12/GBR/CO/6 para 73	<p>The Committee requests the State party to submit its seventh periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 June 2021. It also invites the State party to update its common core document as necessary and in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).</p>

ⁱ [Scottish Commission for Human Rights Act 2006 \(legislation.gov.uk\)](http://legislation.gov.uk)

ⁱⁱ Scotland Act, see sch. 5 at [Scotland Act 1998 \(legislation.gov.uk\)](http://legislation.gov.uk)

ⁱⁱⁱ Full list is available at sch. 5 of the Scotland Act 1998.

^{iv} See Scotland Act s.29(2)

^v See:

- [20_05_fincom_covid_publicfinances_humanrights_vfinal.pdf \(scottishhumanrights.com\)](http://scottishhumanrights.com)

- [covid-19-ehric-submission.pdf \(scottishhumanrights.com\)](https://www.scottishhumanrights.com/media/1864/evidence-briefing-to-the-eu-justice-sub-committee-20-may-2019-final.docx)
- [cop26-ganhri-open-letter.pdf \(scottishhumanrights.com\)](https://www.scottishhumanrights.com/media/1278/submissiontowelfarereform-committeemay2013.doc#:~:text=The%20Scottish%20Human%20Rights%20Commission%20%28SHRC%29%20welcomes%20this,rights%20impacts%20of%20the%20recent%20welfare%20reform%20measures.)
- <https://www.scottishhumanrights.com/media/1864/evidence-briefing-to-the-eu-justice-sub-committee-20-may-2019-final.docx>
- <https://www.scottishhumanrights.com/media/1278/submissiontowelfarereform-committeemay2013.doc#:~:text=The%20Scottish%20Human%20Rights%20Commission%20%28SHRC%29%20welcomes%20this,rights%20impacts%20of%20the%20recent%20welfare%20reform%20measures.>

^{vi} https://consult.gov.scot/mainstreaming-policy-team/public-sector-equality-duty-review/supporting_documents/reviewoperationpsedsotlandstageonereport.docx; [The Fairer Scotland Duty – SPICe Spotlight | Solas air SPICe \(spice-spotlight.scot\)](https://www.spice.scot/) and

^{vii} Including Ethnic minorities, see:

https://www.jrf.org.uk/file/58804/download?token=O_MIJydOpercentfiletype=briefing and Religious minorities, see: (<https://sp-bpr-en-prod-cdnep.azureedge.net/published/EHRiC/2021/3/24/93abd7c0-1d12-40b8-bd41-d4356ecf62a4/EHRiC2021R3.pdf>), and Disabled people (<https://sp-bpr-en-prod-cdnep.azureedge.net/published/EHRiC/2021/3/24/93abd7c0-1d12-40b8-bd41-d4356ecf62a4/EHRiC2021R3.pdf>)

^{viii} See: [cumulative-impact-assessment-report.pdf \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/research/cumulative-impact-assessment-report)

^{ix} See: <https://medicalxpress.com/news/2022-10-excess-deaths-great-britain-attributed.html#:~:text=The%20study%2C%20led%20by%20the%20Glasgow%20Centre%20for,Scotland%2C%20England%20and%20Wales%20between%202012%20and%202019>

^x For an independent evaluation of SNAP, see:

<http://www.snaprights.info/evaluation2>. For further information on SNAP, see: <https://www.scottishhumanrights.com/projects-and-programmes/scotlands-national-action-plan/> and <http://www.snaprights.info/>

^{xi} See: <http://www.snaprights.info/national-participation-process>

^{xii} See: [Scotland's National Strategy for Economic Transformation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scotland-s-national-strategy-for-economic-transformation/pages/1-1-introduction.aspx) and [Framework for Tax 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/framework-for-tax-2021/pages/1-1-introduction.aspx)

^{xiii} See: <https://www.scottishhumanrights.com/media/2235/tax-policy-and-the-budget-a-framework-for-tax-shrc.pdf>

^{xiv} Social Justice and Social Security Committee report on pre-budget scrutiny 2022; [ehrcj-committee-prebudget-scrutiny-letter-10-november-22.pdf \(parliament.scot\)](https://www.parliament.scot/ehrcj-committee-prebudget-scrutiny-letter-10-november-22.pdf)

^{xv} See: <https://fraserofallander.org/scotland-likely-to-enter-recession-as-costs-continue-to-rise/>

^{xvi} The Protected characteristics under the Equality Act 2010 are: Age, Race, Disability, Religion or belief, Sex, Sexual orientation, Gender reassignment, Marriage or civil partnerships and Pregnancy and maternity

^{xvii} See: [Public sector Equality Duty in Scotland: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/public-sector-equality-duty-in-scotland-consultation/pages/1-1-introduction.aspx)

^{xviii} The Fairer Scotland Duty places a legal responsibility on particular public bodies in Scotland to pay due regard to (actively consider) how they can reduce inequalities of outcome, caused by socio-economic disadvantage, when making strategic decisions. Bodies are required to publish a written assessment showing how they have done this.

^{xix} See: [Gender Representation on Public Boards \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2018/12/section/1)

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- xx See: [Homepage - NACWG \(generationequal.scot\)](http://generationequal.scot)
- xxi See: [Expert Reference Group on COVID-19 and Ethnicity: recommendations to Scottish Government - gov.scot \(www.gov.scot\)](http://www.gov.scot)
- xxii See: [The impact of austerity on women - Womens Budget Group \(wbq.org.uk\)](http://wbq.org.uk)
- xxiii Reed and Portes, The Cumulative Impact on Living Standards of Public Spending Changes, p. 10
- xxiv See: [CRPD/C/15/R.2/Rev.1 Treaty bodies Download \(ohchr.org\)](http://ohchr.org)
- xxv See: [Social Mobility Barometer 2021: public views on social mobility - GOV.UK \(www.gov.uk\)](http://www.gov.uk)
- xxvi [Coronavirus \(Scotland\) Act 2020 \(legislation.gov.uk\)](http://legislation.gov.uk)
- xxvii See: [Written question and answer: S5W-31806 | Scottish Parliament Website](http://www.gov.scot)
- xxviii See: [If not now, when? - Social Renewal Advisory Board report: January 2021 - gov.scot \(www.gov.scot\)](http://www.gov.scot)
- xxix See: [Towards a Robust, Resilient Wellbeing Economy for Scotland: Report of the Advisory Group on Economic Recovery - gov.scot \(www.gov.scot\)](http://www.gov.scot)
- xxx See: [Children's rights - Human rights - gov.scot \(www.gov.scot\)](http://www.gov.scot)
- xxxi See: https://www.scottishhumanrights.com/media/2343/2022_09_14-shrc-hr-bill-legal-framework-executive-summary.pdf
- xxxii See: [Submission: Review of the Human Rights Act \(scottishhumanrights.com\)](http://scottishhumanrights.com)
- xxxiii For example:
- New Health and Social Care Standards were published in June 2017 which incorporated a human rights based approach.
 - HMIPS is implementing a human rights based approach to prison inspections. In 2018 HMIPS launched a new set of inspection standards with human rights embedded throughout.
 - During 2018-19 the Care Inspectorate worked to embed human rights within their inspection of self-directed support in Scotland. They engaged in training for Care Inspectorate staff, and inputted into their own training materials.
 - The Scottish Housing Regulator has undertaken capacity building training for their staff team, with a view to supporting the longer term development of a human rights based approach to housing.
 - Audit Scotland has undertaken a [PANEL assessment](#) of their organisation to support internal capacity building on taking a human rights based approach to their work.
- xxxiv See: [Increasing number of Scottish civil society organisations engaging with human rights](#)
- xxxv See: [Introduction - National Taskforce for Human Rights: leadership report - gov.scot \(www.gov.scot\)](http://www.gov.scot)
- xxxvi See: [SPICe briefing on human rights budgeting \(HRB\)](#).
- xxxvii See: [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](http://legislation.gov.uk)
- xxxviii See: [Commission calls for 'due regard duty' to advance right to social security Wednesday 31 January 2018](#)
- xxxix See: [Social Security Scotland - Our Charter; Social Security Experience Panels: publications - gov.scot \(www.gov.scot\)](http://www.gov.scot)
- xl See: [Scottish benefits roll-out successful but challenges remain | Audit Scotland \(audit-scotland.gov.uk\)](http://audit-scotland.gov.uk)
- xli See: [European Committee of Social Rights Conclusions XXII-2 \(2021\) -;](#)

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- xlii See: [Tackling poverty and building a fairer country - debate: Social Justice Secretary's speech - 8 June 2021 - gov.scot \(www.gov.scot\)](#)
- xliiii See: [The benefit freeze has ended, but erosion of the social security safety net continues • Resolution Foundation](#)
- xliiv See: [Introduction - Universal Credit Scottish choices: evaluation - gov.scot \(www.gov.scot\)](#)
- xliv See: [FOI-18-01007 - Paper shared with stakeholders prior to 15 December meeting.pdf \(www.gov.scot\)](#)
- xlvi See: Comments from UN Special Rapporteur on Extreme Poverty in 2018, including "If you got a group of misogynists together in a room and said 'how can we make a system that works for men but not women?' they wouldn't have come up with too many other ideas than what's in place." Reported at <https://www.telegraph.co.uk/news/2018/11/16/welfare-system-cruel-misogynistic-un-expert-warnsdamning-report/>
- xlvii See: [Ethnicity, poverty, and the data in Scotland | JRF](#)
- xlviii See: [Take-up rates of Scottish benefits: October 2022 - gov.scot \(www.gov.scot\)](#)
- xlix See: [Poverty and Inequality Commission Scottish Welfare Fund Briefing - Poverty per cent Inequality Commission \(povertyinequality.scot\)](#)
- l See: [Unemployment rate Scotland 2022 | Statista](#)
- li See: [Poverty in Scotland - Poverty per cent Inequality Commission \(povertyinequality.scot\)](#)
- lii See: [New report: Business Barometer reveals impact of UK skills shortage | Open University](#)
- liii See: [The 2021 Staff vacancies in care services report | Scottish Social Services Workforce Data \(sssc.uk.com\)](#);
- liv [Half a million more people are out of the labour force because of long-term sickness - Office for National Statistics \(ons.gov.uk\)](#)
- lv See: <https://www.closesthegap.org.uk/news/blog/why-do-we-need-a-gendered-approach-when-tackling-rising-economic-inactivity-/> 10 facts about women and caring in the UK on International Women's Day - Carers UK
- lvi See: Combined data for England, Wales and Scotland ([Economic inactivity by qualification level - GOV.UK Ethnicity facts and figures \(ethnicity-facts-figures.service.gov.uk\)](#)) shows that across all qualification levels, Asian, Black, Mixed and 'Other' population groups had a higher economic inactivity rate than the average. Economic inactivity for all population groups decreased with qualification level.
- lvii See: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2022/03/scotlands-national-strategy-economic-transformation/documents/delivering-economic-prosperity/delivering-economic-prosperity/govscot%3Adocument/delivering-economic-prosperity.pdf>
- lviii See: <https://www.scottishrefugeecouncil.org.uk/working-for-change/policy-campaigns/right-to-work/>
- lix See: [Ethnicity, poverty and the data in Scotland – JRF Oct 2021](#)
- lx See: [Low Pay Britain 2021 Resolution Foundation - Nye Cominetti, Charlie McCurdy per cent Hannah Slaughter June 2021](#)
- lxi See: [Living Wage Scotland - The Poverty Alliance](#)
- lxii See: <https://www.gov.scot/news/scotland-leads-on-the-real-living-wage/>.

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- lxiii See: <https://www.jrf.org.uk/report/review-poverty-and-ethnicity-scotland>;
<https://www.gov.scot/publications/improving-lives-scotlands-gypsy-travellers-2019-2021/documents/>; <https://www.lgbthealth.org.uk/wp-content/uploads/2021/08/Trans-People-and-Work-Survey-Report-LGBT-Health-Aug-2021-FINAL.pdf>;
<https://wbq.org.uk/wp-content/uploads/2021/03/Covid-19-and-economic-challenges-for-migrant-women.pdf>; <https://www.scottishrefugeecouncil.org.uk/working-for-change/policy-campaigns/right-to-work/>; <https://wbq.org.uk/wp-content/uploads/2021/03/Covid-19-and-economic-challenges-for-disabled-women.pdf>; <https://fraserofallander.org/wp-content/uploads/2021/03/Learning-disabilities-employment-final.pdf> etc.
- lxiv See: <https://www.fawcettsociety.org.uk/value-care-work>;
https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf and http://healthscotland.scot/media/3133/child-poverty-in-scotland_priority-groups_lone-parent-families_briefing.pdf
- lxv See: <https://www.lgbthealth.org.uk/wp-content/uploads/2021/08/Trans-People-and-Work-Survey-Report-LGBT-Health-Aug-2021-FINAL.pdf>
- lxvi See: [CTGBriefing24 \(closesthegap.org.uk\)](https://www.closesthegap.org.uk/CTGBriefing24)
- lxvii See: [Findings - International mechanisms to revalue women's work: research - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/Findings-International-mechanisms-to-revalue-women-s-work-research-gov.scot)
- lxviii See: [Engender Sex and Power 2020](https://www.gov.scot/publications/Engender-Sex-and-Power-2020)
- lxix See: <https://wbq.org.uk/wp-content/uploads/2020/11/young-women-with-cover.pdf>
- lxx See: [CW 2020 Research Report WEB.pdf \(carersuk.org\)](https://www.carersuk.org/images/CarersWeek2020/CW_2020_Research_Report_WEB.pdf)
- lxxi See: <https://fraserofallander.org/publications/learning-disabilities-and-the-value-of-unpaid-care/>
- lxxii See: [Annex A References - A fairer Scotland for women: gender pay gap action plan - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/Annex-A-References-A-fairer-Scotland-for-women-gender-pay-gap-action-plan-gov.scot)
- lxxiii See: <https://www.gov.scot/publications/fairer-scotland-disabled-people-employment-action-plan-year-2-progress-report/documents/> . The gap for disabled women is significantly higher at 36% (median earnings compared to a non-disabled man), equivalent to less £7,020 per year. See: <https://wbq.org.uk/wp-content/uploads/2021/03/Covid-19-and-economic-challenges-for-disabled-women.pdf>
- lxxiv See: <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2022/03/scotlands-national-strategy-economic-transformation/documents/delivering-economic-prosperity/delivering-economic-prosperity/govscot%3Adocument/delivering-economic-prosperity.pdf>
- lxxv See: [Covid-19 and Economic Challenges for Disabled women Pre Budget briefing from the UK Women's Budget Group](https://www.womensbudgetgroup.org.uk/wp-content/uploads/2020/11/Covid-19-and-Economic-Challenges-for-Disabled-women-Pre-Budget-briefing-from-the-UK-Women-s-Budget-Group.pdf)
- lxxvi See: <https://www.jrf.org.uk/report/review-poverty-and-ethnicity-scotland>
- lxxvii See: [3. Introduction and Context - Race equality action plan: final report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/3-Introduction-and-Context-Race-equality-action-plan-final-report-gov.scot)
- lxxviii See: [Annex B - Immediate Priorities for Race Equality 2021-23 - Race equality: immediate priorities plan - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/Annex-B-Immediate-Priorities-for-Race-Equality-2021-23-Race-equality-immediate-priorities-plan-gov.scot)
- lxxix See: [6. Beyond the Race Equality Action Plan 2017/21 – what next for race equality in Scotland? - Race equality action plan: final report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/6-Beyond-the-Race-Equality-Action-Plan-2017-21-what-next-for-race-equality-in-Scotland-Race-equality-action-plan-final-report-gov.scot)
- lxxx See: [Early Learning and Childcare Statistics 2021 \(careinspectorate.com\)](https://www.careinspectorate.com/early-learning-and-childcare-statistics-2021);
[Supporting long-term sustainability in the sector - Financial sustainability health check of the childcare sector in Scotland - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/Supporting-long-term-sustainability-in-the-sector-Financial-sustainability-health-check-of-the-childcare-sector-in-Scotland-gov.scot)

lxxxii See: [Child Poverty Action Group in Scotland Briefing for Social Justice and Social Security Committee Pre-Budget 2022/23 Scrutiny; Tackling Child Poverty Delivery Plan Third Year Progress Report \(2020-21\) Annex B: Child Poverty in Families with a Disabled Adult or Child](#)

lxxxiii See: [Universal Credit childcare costs - GOV.UK \(www.gov.uk\)](#)

lxxxiv See: <https://www.parlarnaid-alba.scot/~/media/committ/664>

lxxxv See: [Childminding workforce trends qualitative research report - gov.scot \(www.gov.scot\)](#)

lxxxvi See: [Statistics | Skills Development Scotland](#)

lxxxvii See: [Policymakers \(closethegap.org.uk\)](#)

lxxxviii See: [Modern Apprenticeships | Equality and Human Rights Commission \(equalityhumanrights.com\)](#)

lxxxix See: [Employability \(Budget Reduction\): 2 Nov 2022: Scottish Parliament debates - TheyWorkForYou](#)

lxxxix See: [Official Report \(parliament.scot\)](#) per Dr. Ali Hosie: “I would want to know whether the Government envisages reinstating employability spending and who will be affected by the decision to change from an employability focus to one on wage enhancement. Who benefits from employability spend? Is it women, parents—including lone parents—or people with disabilities? Are those the same people who will benefit from wage increases?”

xc See: <https://www.gov.scot/publications/closing-poverty-related-attainment-gap-report-progress-2016-2021/pages/9/> and https://policyscotland.gla.ac.uk/wp-content/uploads/2020/06/Black_ScottishAttainmentandCovid_20200904.pdf

xcii See: [Audit Scotland joint report Improving outcomes for young people through school education](#)

xciii See: [Scottish Budget 2022-23 \(www.gov.scot\)](#)

xciv For further information on the Attainment Challenge Fund, see [Attainment Scotland Fund evaluation: fifth interim report - year 6 - gov.scot \(www.gov.scot\)](#)

xcv See: [published](#)

xcvi See: [Coronavirus \(COVID-19\): Scotland's route map through and out of the crisis - gov.scot \(www.gov.scot\)](#)

xcvii See: [Scotland's Wellbeing: The Impact of COVID-19 - Chapter 5: Children, Education | National Performance Framework](#)

xcviii See: [What is Curriculum for Excellence? | Curriculum for Excellence | Policy drivers | Policy for Scottish education | Scottish education system | Education Scotland](#)

xcix See: [Improving Schools in Scotland: An OECD Perspective - OECD](#)

c See: [National Discussion Scottish Education - Scottish Government - Citizen Space \(consult.gov.scot\)](#)

ci See: [Education reform - Schools - gov.scot \(www.gov.scot\)](#)

cii See: <https://www.stonewallscotland.org.uk/scotland-research/education/school-report-scotland>

ciii See: <https://www.tes.com/magazine/news/general/intensification-islamophobia-scottish-schools>
<https://anassarwar.co.uk/islamophobia-public-inquiry/>

civ Scotland's national approach to addressing bullying makes little reference to misogyny or gender based harassment. See: [https://archive2021.parliament.scot/S5_Equal_Opps/General%20Documents/Children in Scotland - commissioned by EHRiC.pdf](https://archive2021.parliament.scot/S5_Equal_Opps/General%20Documents/Children_in_Scotland_-_commissioned_by_EHRiC.pdf)

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- civ See: <https://www.gov.scot/news/milestone-for-equality-in-schools/>
- cv See: <https://www.gov.scot/publications/race-equality-and-anti-racism-in-education-programme-stakeholder-network-group-minutes-november-2021/?msclkid=8827005ea6d811ec80e7f03e6448e235>
<https://education.gov.scot/education-scotland/news-and-events/news/race-equality-resource-launched-by-the-cabinet-secretary-for-education/?msclkid=8826dfe7a6d811ec9f53f7505e2af2f5>
- cvi See: <https://www.gov.scot/publications/scotland-sustainable-development-goals-national-review-drive-action/>; <https://www.gov.scot/publications/gypsy-travellers-scotland-comprehensive-analysis-2011-census/pages>
- cvi See: <https://www.gov.scot/publications/summary-statistics-attainment-initial-leaver-destinations-no-3-2021-edition/>
- cvi See: [Children and young people who need additional support for learning | Audit Scotland \(audit-scotland.gov.uk\)](https://www.audit-scotland.gov.uk/children-and-young-people-who-need-additional-support-for-learning)
- cix See: Education (Additional Support for Learning) (Scotland) Act 2004 (legislation.gov.uk)
- cx See: [Supporting Children's Learning Code of Practice - Scottish Government - Citizen Space \(consult.gov.scot\)](https://www.consult.gov.scot/supporting-childrens-learning-code-of-practice)
- cx See: [2022csoh64.pdf \(scotcourts.gov.uk\)](https://www.scotcourts.gov.uk/2022csoh64.pdf)
- cxii See: [Commissioner for Fair Access - gov.scot \(www.gov.scot\)](https://www.gov.scot/commissioner-for-fair-access)
- cxiii See: <https://www.sfc.ac.uk/publications-statistics/statistical-publications/2022/SFCST062022.aspx>
- cxiv See: [Scotland's Population 2021 \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/scotland-s-population-2021)
- cxv See:
- <https://www.nrscotland.gov.uk/files/statistics/avoidable-mortality/2019/avoidable-mortality-19-report.pdf>
 - <https://www.nrscotland.gov.uk/files/statistics/drug-related-deaths/20/drug-related-deaths-20-pub.pdf>
 - <https://www.nrscotland.gov.uk/files/statistics/probable-suicides/2020/suicides-20-report.pdf>
 - <https://www.gov.scot/publications/long-term-monitoring-health-inequalities-march-2022-report/>

People living in the most deprived areas of Scotland were 2.4 times more likely to die of COVID-19 than those in the least deprived areas. See:

<https://www.bbc.co.uk/news/uk-scotland-58391579#:~:text=The%20report%20said%20the%20general,early%20stages%20of%20the%20pandemic.>

<https://www.ed.ac.uk/usher/anaesthesia/news-views/study-shows-that-poverty-is-linked-to-higher-risk>

There are substantial inequalities in child unhealthy weight where risk of overweight or obesity has increased in the most deprived areas but decreased in the least deprived areas. See:

<https://www.isdscotland.org/Health-Topics/Child-Health/Publications/2019-12-10/2019-12-10-P1-BMI-Statistics-Publication-Summary.pdf>

cxvi See: [Gypsies and Travellers: simple solutions for living together | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/gypsies-and-travellers-simple-solutions-for-living-together)

cxvii See: [Coronavirus \(COVID-19\) - disabled people: health, social and economic harms - research report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-disability-report)

cxviii See: [Scotland's Population 2021 \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk/scotland-s-population-2021)

^{cxix} See: <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/weekly-and-monthly-data-on-births-and-deaths/deaths-involving-coronavirus-covid-19-in-scotland>

^{cxx} In summer 2020, SHRC carried out monitoring research into the impact of the COVID-19 pandemic, and how it has been managed, on people's rights in the context of care at home and support in the community. The report makes 24 recommendations, some of which call for urgent action to resolve immediate human rights concerns. See:

- <https://www.scottishhumanrights.com/media/2102/covid-19-social-care-monitoring-report-vfinal.pdf>
- <https://www.scottishhumanrights.com/media/2211/coe-european-social-charter-2021-shrc.pdf>

^{cxxi} See: for example: ['Care home coronavirus deaths in Scotland overtake hospitals', The BBC, 3 June 2020](#); [Age UK response to DNR forms during COVID-19 crisis: Official Report, Meeting of the Parliament \(Hybrid\) 3 June 2020, First Minister's Question Time](#); [Official Report, Meeting of the Parliament \(Virtual\) 27 May 2020, First Minister's Question Time](#); [Official Report, Meeting of the Parliament \(Hybrid\) 24 June 2020, First Minister's Question Time](#)

^{cxxii} See: [Scotland's Population 2021 \(nrscotland.gov.uk\)](#)

^{cxxiii} See: [Deaths involving coronavirus \(COVID-19\) in Scotland | National Records of Scotland \(nrscotland.gov.uk\)](#)

^{cxxiv} See: [£3 million awarded to long COVID projects - gov.scot \(www.gov.scot\)](#)

^{cxxv} See: [The Scottish Health Survey 2021 - Volume 1: Main Report \(www.gov.scot\)](#)

^{cxxvi} See: <https://www.scottishhumanrights.com/media/1731/crpd-shadow-report-august-2017.pdf>; <https://www.scottishhumanrights.com/media/1690/united-kingdom-main-submission-to-crpd-uk-loi-ukim.doc>

^{cxxvii} See: [Committee on the Rights of Persons with Disabilities Concluding Observations 2017 Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland \(www.btinternet.ohchr\)](#)

^{cxxviii} See: [New data shows rise in numbers of guardianship orders in Scotland | Mental Welfare Commission for Scotland \(mwscot.org.uk\)](#)

^{cxxix} See: [2020_04_09_clinicalguidance_vfinal.pdf \(scottishhumanrights.com\)](#)

^{cxxx} See: [Do Not Attempt Cardiopulmonary Resuscitation \(DNACPR\) notices \(guardian.com\)](#) and <https://www.ageuk.org.uk/scotland/latest-news/2020/november/watch-serious-concerns-over-dnar-forms/?skey=a571870602f34e27b32126366682798a>; and

[MWC Scotland Authority to discharge: Report into decision making for people in hospital who lack capacity - Business Plan 2020-21 Investigations May 2021](#)

^{cxxxi} In 2021, there were 1,330 drug misuse deaths registered in Scotland, a decrease of 1% from 2020 but the second highest drug misuse death figure on record. National Records of Scotland (

^{cxxxii} See: [Scotland's Population 2021 \(nrscotland.gov.uk\)](#)

^{cxxxiii} The ratio has widened over the past two decades. Men are 2.4% more likely to die from misuse of drugs. See: [Drug-related deaths in Scotland in 2021, Report \(nrscotland.gov.uk\)](#)

^{cxxxiv} See: [National Drugs Mission Plan: 2020-2026 \(scot.gov\)](#)

^{cxxxv} See: Committee Correspondence and 'Scotland's Alcohol and Drugs Workforce: A Compendium of Mixed-Methods Research'

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- cxxxvi See: [Scotland's Drug Death Taskforce has published its final report \(gov.scot\)](#)
- cxxxvii See: [Urgent action needed to address critical issues in delivery of social care services | Audit Scotland \(audit-scotland.gov.uk\)](#)
- cxxxviii See: [Safe staffing legislation in Scotland | Royal College of Nursing Scotland | Royal College of Nursing \(rcn.org.uk\)](#)
- cxxxix See: [Migration Advisory Committee has published a report \(gov.uk\)](#)
- cxli See: <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/vital-events/general-publications/weekly-and-monthly-data-on-births-and-deaths/deaths-involving-coronavirus-covid-19-in-scotland>
- cxlii [Health screening programmes paused - gov.scot \(www.gov.scot\)](#); [Coronavirus \(COVID-19\): fertility treatment - plans for restarting treatment - framework - gov.scot \(www.gov.scot\)](#)
- cxliii As set out by (The Patient Right's (Scotland) Act 2011 ([Patient Rights \(Scotland\) Act 2011 \(legislation.gov.uk\)](#))
- cxliiii See: [Treatment time guarantee - NHS Scotland performance against LDP standards - gov.scot \(www.gov.scot\)](#)
- cxliiv See: [NHS RECOVERY PLAN 2021-2026 August 2021](#)
- cxliv See: [Health and Social Care Winter Resilience Overview](#)
- cxlvi An Integration Joint Board (IJB) is a separate legal entity with powers delegated to it by local authorities and health boards and which is responsible for planning and overseeing the delivery of community health, social work and social care services.
- cxlvii See: [Integration Joint Boards: Financial analysis 2020/21 Financial analysis 2020/21 \(audit-scotland.gov.uk\)](#)
- cxlviii See: https://www.engender.org.uk/content/publications/1557327269_Engender-note-on-Equally-Safe-A-consultation-on-legislation-to-improve-forensic-medical-services-for-victims-of-rape-and-sexual-assault.pdf
<https://www.scottishhumanrights.com/media/2211/coe-european-social-charter-2021-shrc.pdf>
- cxlix See: MBRRACE https://www.npeu.ox.ac.uk/assets/downloads/mbrance-uk/reports/maternal-report-2022/MBRRACE-UK_Maternal_MAIN_Report_2022_v10.pdf
- cl [Women's health plan](#)
- cli [Endometriosis in the UK – Time for Change, Inquiry Report of APPG on Endometriosis, October 2020](#)
- clii See [Women's Health Plan: implementation plan - year one - gov.scot \(www.gov.scot\)](#), published one year into the lifespan of the plan.
- cliii See: [Abortion: Covid-19: Approval for Mifepristone to be taken at home and other contingency measures \(scot.nhs.uk\)](#)
- cliv See: [Early medical abortion at home - future arrangements: consultation analysis - gov.scot \(www.gov.scot\)](#)
- clv See General Comment No. 14 para 36 "Public health infrastructures should provide for sexual and reproductive health services, including safe motherhood, particularly in rural areas."
- clvi See: <https://www.gov.scot/publications/scottish-health-survey-2019-volume-1-main-report/pages/5/>
- clvii See:
- <https://nationalperformance.gov.scot/scotlands-wellbeing-impact-covid-19-chapter-1-introduction>

- <https://www.mentalhealthtoday.co.uk/news/therapy/one-in-three-say-they-don-t-have-the-skills-to-deal-with-their-mental-health-finds-mind>
- <https://digitalpublications.parliament.scot/ResearchBriefings/Report/2021/10/15/ff1f3d0e-f5db-4d5b-a3e1-ca8e9de6f7db>
- <https://spice-spotlight.scot/2021/06/23/life-in-the-pandemic-for-lesbian-gay-bisexual-transgender-lgbt-people-in-scotland/>

clviii See: <https://www.ageuk.org.uk/globalassets/age-scotland/documents/policy-and-research/high-4967-scotinfrom-age-scotland-big-survey---summary.pdf>

clix Adults living in the most deprived areas in Scotland are approximately twice as likely to have common mental health problems as those in the least deprived areas (22% versus 11%); See:

- http://www.parliament.scot/S5_HealthandSportCommittee/Inquiries/201609_MH029_NHS_Health_Scotland.pdf

Major risk factors for mental health problems include poverty, poor education, unemployment, social isolation/exclusion and major life events. See:

- <https://www.scotpho.org.uk/comparative-health/burden-of-disease/overview/>

clx See: [Suicide statistics for Scotland - Update of trends for the year 2021 - Suicide statistics for Scotland - Publications - Public Health Scotland](#)

clxi See: [Suicide Prevention Strategy – ‘Creating Hope Together’ - gov.scot \(www.gov.scot\)](#)

clxii See: <https://www.gov.scot/publications/mental-health-strategy-2017-2027/>

clxiii See: https://www.audit-scotland.gov.uk/uploads/docs/report/2018/nr_180913_mental_health.pdf

clxiv See: [Age Scotland's Big Survey- to capture older people's experiences and research how COVID-19 has impacted their lives.](#) The survey found that in addition to the 15% of respondents who had been asked to shield during lockdowns, a further 46% had made the decision to limit their interactions with other people. 53% of older people surveyed said that the pandemic had left them feeling more lonely. A third (34%) of older people felt their mental health had gotten worse in the past 5 years. See <https://www.ageuk.org.uk/globalassets/age-scotland/documents/policy-and-research/high-4967-scotinfrom-age-scotland-big-survey---summary.pdf>

clxv The SHRC has raised this issue in its submissions to the UN Committee on the Rights of Persons with Disabilities and the CoE European Social Charter reviews. See: <https://www.scottishhumanrights.com/media/2211/coe-european-social-charter-2021-shrc.pdf> Concern has also been raised by the UN Committee on the Rights of Persons with Disabilities. See <https://www.mwcscot.org.uk/news/scotlands-medium-and-low-security-forensic-wards-good-care-concerns-over-human-rights> ; <https://www.gov.scot/publications/independent-forensic-mental-health-review-interim-report/pages/12/>

clxvi See: <https://www.gov.scot/publications/independent-forensic-mental-health-review-interim-report/pages/12/>

clxvii See: [Forensic Mental Health Review: Human Rights Briefing December 2020](#)

clxviii See: https://www.mwcscot.org.uk/sites/default/files/2021-10/YP-Monitoring-2020-21_October2021.pdf

Only 13% of young people had access to advocacy that is specialised in the particular needs and rights of young people See:

https://www.mwcscot.org.uk/sites/default/files/2021-10/YP-Monitoring-2020-21_October2021.pdf

clxix See: [Commission welcomes Scottish Mental Health Law Review \(scottishhumanrights.com\)](#)

clxx See: [COVID-19, Social Care and Human Rights: Impact Monitoring Report](#)

clxxi A Freedom of Information request showed that in the region of 4000 care packages had been ceased or reduced across Scotland compared to January 2020. Research in Glasgow found almost 2000 people's care packages were affected. See: <https://www.scottishhumanrights.com/media/2211/coe-european-social-charter-2021-shrc.pdf>

clxxii The report detailed how the removal of care plans during COVID-19 had a direct and detrimental effect on people's rights, including potential unlawful interferences and non-compliance with rights contained in the European Convention on Human Rights and the United Nations Convention on the Rights of Persons with Disabilities. See: <https://www.scottishhumanrights.com/media/2211/coe-european-social-charter-2021-shrc.pdf>

clxxiii See: [Supercharged: A Human Catastrophe Glasgow Disability Alliance \(gda.scot\)](#); More than half of the members of Glasgow Disability Alliance who took part in their lockdown surveys report that they were worried about food, money and medication.

clxxiv See: [Social care in Scotland \(bma.org.uk\)](#); [Demand and expenditure for adult social care in Scotland | FAI \(fraserofallander.org\)](#)

clxxv See: [The 2021 Staff vacancies in care services report | Scottish Social Services Workforce Data \(sssc.uk.com\)](#);

clxxvi See: [Independent Review of Adult Care in Scotland \(www.gov.scot\)](#)

clxxvii See: [National Care Standards Review - gov.scot \(www.gov.scot\)](#)

clxxviii See: [National Care Service Bill published - gov.scot \(www.gov.scot\)](#)

clxxix See: [ncs-consultation-response-vfinal.pdf \(scottishhumanrights.com\)](#); https://www.cosla.gov.uk/_data/assets/pdf_file/0025/28780/National-Care-Service-Consultation-Response-COSLA.pdf; <https://www.cih.org/media/vcnhhwga/national-care-service-consultation.pdf> and

<https://www.healthandcare.scot/default.asp?page=storyper cent story=291>;

clxxx See: <https://www.gov.scot/publications/coming-home-implementation-report-working-group-complex-care-delayed-discharge/#page-top>

clxxxi See: [Public opinions and social trends, Great Britain - Office for National Statistics](#)

clxxxii See: Poverty and Inequality Commission. (2019) Scrutiny of progress towards meeting the recommendations of the Independent Poverty and Inequality Advisor, <https://povertyinequality.scot/wp-content/uploads/2019/01/Shifting-the-curve-monitoring-progress-report.pdf>

clxxxiii See: [Poverty in Scotland 2022 | JRF](#)

clxxxiv See: <https://fraserofallander.org/effects-of-inflation-are-not-felt-equally-by-all-households/>

cxci See: [Tackling Child Poverty Delivery Plan 2022-26 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/tackling-child-poverty-delivery-plan-2022-26/)

Currently 8 in 10 children living in poverty belong to one of these groups: lone parents, minority ethnic families, families with a disabled adult or child, families with young mothers aged under 25, families with a child under one and larger families (3+ children)

cxci See: <https://www.resolutionfoundation.org/publications/wrong-direction-can-scotland-hit-its-child-poverty-targets/> and <http://uwsoxfampartnership.org.uk/wp-content/uploads/2019/06/On-Target-July-2019-Web-FINAL.pdf>

cxci See: [Poverty and Income Inequality in Scotland 2017-20 - A Scottish Government National Statistics publication Published on 25 March 2021](https://www.gov.scot/publications/poverty-and-income-inequality-in-scotland-2017-20-a-scottish-government-national-statistics-publication/)

cxci See: [Poverty in Scotland - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/poverty-in-scotland-2021/)

cxci See: <https://www.ippr.org/blog/covid-19-how-are-families-with-children-faring-so-far>

cxci See: [Poverty in Scotland 2021 | JRF](https://www.jrf.org.uk/report/review-poverty-and-ethnicity-scotland)

cxci See: <https://fraserofallander.org/wp-content/uploads/2021/06/Child-Poverty-Final.pdf>

cc See:

https://www.parliament.scot/S5_Social_Security/Inquiries/SSCS519SSH20_Crisis.pdf

cci At present an estimated 50,000 children live in poverty only after housing costs, therefore the cost of housing is locking these children into poverty. See:

- <https://www.parlamaid-alba.scot/~media/committ/663>

Over half (51%) of minority ethnic people living in poverty are in unaffordable housing, compared to 44% for white people in poverty. See:

- <https://www.jrf.org.uk/report/review-poverty-and-ethnicity-scotland>

Women's housing situation differs from that of men, and is generally poorer, in terms of affordability, ownership, safety and overcrowding. See:

- [https://wbq.org.uk/wp-content/uploads/2021/10/Housing -Autumn-2021-pre-Budget-Briefing-1-1.pdf](https://wbq.org.uk/wp-content/uploads/2021/10/Housing-Autumn-2021-pre-Budget-Briefing-1-1.pdf)
- https://scotland.shelter.org.uk/media/press_releases/scotlands_housing_system_failing_15million_people

One fifth of renters say they must decide between paying rent or bills/food. See:

- <https://fraserofallander.org/coronavirus-impact-on-economy-society-17-experts/>

ccii See: [Ethnicity, poverty and the data in Scotland – JRF Oct 2021](https://www.jrf.org.uk/report/ethnicity-poverty-and-the-data-in-scotland)

cciii See: [The Coronavirus \(Scotland\) Act 2020 \(Eviction from Dwelling-houses\) \(Notice Periods\) Modification Regulations 2020 \(legislation.gov.uk\)](https://www.gov.uk/government/consultations/the-coronavirus-scotland-act-2020-notice-periods-modification-regulations-2020)

cciv See: [A New Deal For Tenants - Rented Sector Strategy Consultation. Shelter Scotland Submission, April 2022](https://www.shelter.org.uk/scotland-submission)

ccv See: [Affordable Housing Supply Programme - More homes - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/affordable-housing-supply-programme-more-homes/)

ccvi See: Scottish Government (2021) Housing statistics quarterly update: June 2021. Edinburgh: Scottish Government. See: <https://www.gov.scot/publications/housing-statistics-scotland-quarterly-update-2/pages/8/>

ccvii See: ['My Life in the Highlands and Islands' survey](https://www.gov.scot/publications/my-life-in-the-highlands-and-islands-survey/)

ccviii See: <https://www.gov.scot/collections/housing-to-2040/>

ccix See: <https://www.gov.scot/publications/scottish-house-condition-survey-2019-key-findings/pages/8/>

ccx See:

<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2021/03/housing-2040-2/documents/housing-2040/housing-2040/govscot%3Adocument/housing-2040.pdf>

ccxi See:

https://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research

ccxii [11,804 children were in households assessed as homeless in 2020-2021](https://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research); See:

https://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research and <https://www.gov.scot/publications/homelessness-scotland-2020-2021/>

ccxiii See: <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-oneconomy-society-17-experts/>

ccxiv See: <https://www.scottishhousingnews.com/article/uk-welfare-cuts-having-major-impact-on-rent-arrears>

ccxv See: <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-oneconomy-society-17-experts/>

ccxvi See: <https://fraserofallander.org/fai-publications/fraser-economic-commentary/coronavirus-impact-oneconomy-society-17-experts/>

ccxvii See: <https://homelessnetwork.scot/wp-content/uploads/2020/04/Equalities-Homelessness-and-Covid-19v160420.pdf>

ccxviii See: <https://homelessnetwork.scot/wp-content/uploads/2020/04/Equalities-Homelessness-and-Covid-19v270420-PUBLISHED.pdf>

ccxix Shelter reports that a household is made homeless every eighteen minutes in Scotland, with many being families with children. See

https://scotland.shelter.org.uk/housing_policy/key_statistics/homelessness_facts_and_research

ccxx See: [2022csoh35.pdf \(scotcourts.gov.uk\)](https://www.scotcourts.gov.uk/2022csoh35.pdf)

ccxxi See: Scottish Government (2018) Homelessness in Scotland 2017-2018.

<https://www.gov.scot/publications/homelessness-scotland-2017-18/>; Scottish Housing Regulator (2018) Housing people who are homeless in Glasgow, <https://www.housingregulator.gov.scot/landlord-performance/national-reports/thematic-work/housing-people-who-are-homeless-in-glasgow> ; Shelter Scotland (2017)

Evidence of Gatekeeping in Glasgow City Council, https://scotland.shelter.org.uk/professional_resources/policy_library/evidence_of_gatekeeping_in_glasgow_city_council

https://scotland.shelter.org.uk/professional_resources/policy_library/evidence_of_gatekeeping_in_glasgow_city_council

ccxxii The CESCR in 2016, See:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GBR/CO/6per cent Lang =En; The CRC in 2016

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=RC/C/GBR/CO/5per cent Lang =En; CEDAW in 2019

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GBR/CO/8per cent Lang =En and CRPD in 2017

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GBR/CO/1per cent Lang =En

ccxxiii See: 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)

https://www.ohchr.org/documents/issues/poverty/eom_gb_16nov2018.pdf

ccxxiv See [UN Special Rapporteur on adequate housing concludes UK visit | UNA UK](#)

ccxxv See: [Homeless Deaths 2020](#)

ccxxvi See: [The Scotland Homelessness 2021 | Crisis UK](#)

ccxxvii [Poverty in Scotland 2021 | JRF](#)

ccxxviii [The rising cost of living and its impact on individuals in Great Britain - Office for National Statistics \(ons.gov.uk\)](#)

ccxxix It has been suggested that three-quarters of all households in Scotland could struggle with energy affordability in 2023 without significant work to lower the energy price – see: [Poverty Gap widens as low income families shoulder increasing household debts – TFN- 21st October 2021 by Robert Armour; https://www.dailyrecord.co.uk/news/politics/four-million-scots-face-being-27774717](#)

ccxxx See: [Low Income Winter Heating Assistance](#)

ccxxxi [Weekly update: energy costs and fuel poverty | FAI \(fraserofallander.org\)](#): almost all households (96%) with incomes below £200 per week were already in fuel poverty in 2019; but amongst households whose incomes were above £500 per week, fuel poverty rates were negligible.

ccxxxii See: <https://www.gov.scot/publications/scottish-health-survey-2019-volume-1-main-report/documents/>

ccxxxiii See: <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/good-food-nation-scotland-bill/introduced/bill-as-introduced.pdf>

ccxxxiv The Commission has argued that it is disappointing that the Bill is not framed in terms of the ambition to achieve a just transition to a fair, healthy and sustainable food system, and does not require that food plans set out the steps that will be taken to eradicate hunger and progressively realise the rights to food, health, equality, and a healthy environment. See: <https://www.scottishhumanrights.com/media/2269/gfn-response-final.pdf>

ccxxxv See: [Inclusion Scotland \(2020\), Covid-19 Initial Findings Report](#)

ccxxxvi See:

<https://www.ons.gov.uk/economy/inflationandpriceindices/articles/trackingthelowestostgroceryitemsukexperimentalanalysis/april2021toapril2022>

ccxxxvii The Independent Assessment used to help inform the third UK Climate Change Risk Assessment (CCRA3) assesses 61 risks and opportunities from climate change to Scotland, including to business, infrastructure, housing, the natural environment, our health and risks from the impacts of climate change internationally.

ccxxxviii See:

[https://www.foodstandards.gov.scot/downloads/Scottish Dietary Goals - Adapt it sheet.pdf](https://www.foodstandards.gov.scot/downloads/Scottish_Dietary_Goals_-_Adapt_it_sheet.pdf)

ccxxxix See: [Ending the need for food banks: consultation on a draft national plan – SG Consultation October 21](#)

ccxl See: [Mid Year Stats - The Trussell Trust](#)

ccxli See: <https://www.gov.scot/publications/ending-destitution-together/pages/9/>

ccxlii See: <https://wbq.org.uk/wp-content/uploads/2021/03/Covid-19-and-economic-challenges-for-disabled-women.pdf>

ccxlili See: [National Indicator Performance | National Performance Framework](#)

ccxliv See: [Engender Sex and Power 2020](#)

ccxlv One survey from 2017 with a sample of 1,558 suggests that BME, disabled and LGBTI+ people are slightly more represented in the arts than the population as a whole, however this was not analysed by seniority or financial investment. See: [138603 Creative Scotland Arts Project Final Report v12 12 june](#)

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- ccxlvii See: [gt_media_guide_final.pdf \(equalityhumanrights.com\)](#)
- ccxlviii See: [National Indicator Performance | National Performance Framework](#)
- ccxlviii See: Kish. C at [Gendered-online-harassment-of-women-journalists.pdf \(engender.org.uk\)](#)
- ccxlix See: [Hard times force cuts to Edinburgh International Book Festival | Scotland | The Times](#); [Accounts reveal six years of 'major risk' concerns over Filmhouse and Edinburgh International Film Festival | Edinburgh News \(scotsman.com\)](#); [National Galleries of Scotland issues closure warning over growing cash 'crisis' | The Scotsman](#)
- cccl See: General comment No. 21 Right of everyone to take part in cultural life (art. 15, para. 1 (a), of the International Covenant on Economic, Social and Cultural Rights)
- cccli See: [mgs-empire-slavery-and-colonialism-hrba.pdf \(scottishhumanrights.com\)](#)
- ccclii See: [Museums Galleries Scotland | Empire, Slavery per cent Scotland's Museums](#)
- cccliii See: [Looked After Children - Children's Social Work Statistics, Scotland 2020-21 - gov.scot \(www.gov.scot\)](#)
- cccliv See: [Independent Care Review – The root and branch review of Scotland's care system.](#)
- ccclv See: [The-Promise.pdf \(carereview.scot\)](#)
- ccclvi See: [Follow-the-money.pdf \(carereview.scot\)](#)
- ccclvii See: [Statement on Supreme Court judgment on UNCRC \(Incorporation\) Scotland Bill \(scottishhumanrights.com\)](#)
- ccclviii See: <https://www.gov.scot/publications/due-diligence-checks-good-practice-guidance/>
- ccclix See: https://www.scottishhumanrights.com/media/1841/shrc_bhr_nap_report_summary.pdf
- ccclx See: <https://scottishbusinesspledge.scot/>
- ccclxi See: [National referral mechanism guidance: adult \(Northern Ireland and Scotland\) - GOV.UK \(www.gov.uk\)](#)
- ccclxii See: [Slavery and human trafficking: guidance for businesses - gov.scot \(www.gov.scot\)](#)
- ccclxiii See: [Transparency in supply chains - extension: inclusion of Scottish public bodies - consultation - gov.scot \(www.gov.scot\)](#)
- ccclxiv See: [Trafficking and Exploitation Strategy – Fourth Annual Progress Report \(www.gov.scot\)](#)
- ccclxv See: [National Referral Mechanism and Duty to Notify statistics UK, July to September 2022 - GOV.UK \(www.gov.uk\)](#)
- ccclxvi See <https://www.legislation.gov.uk/asp/2015/12/contents/enacted>
- ccclxvii See <https://www.scottishrefugeecouncil.org.uk/scottish-parliament-votes-against-the-borders-bill/>
- ccclxviii See: [Nationality and Borders Act 2022 \(legislation.gov.uk\)](#)
- ccclxix Aarhus Meeting of the Parties (2011), Decision IV/9i on compliance by the United Kingdom of Great Britain and Northern Ireland, (2014), Decision V/9n on compliance by the United Kingdom of Great Britain and Northern Ireland Paragraph 2(a); (2017) Decision VI/8k concerning compliance by the United Kingdom of Great Britain and Northern Ireland with its obligations under the Convention; Aarhus Convention Compliance Committee (Aug 2021), Report of the Compliance

Committee on compliance by the United Kingdom of Great Britain and Northern Ireland – Part I and Part II.

cclxx See: [cop26-ganhri-open-letter.pdf \(scottishhumanrights.com\)](https://www.scottishhumanrights.com/cop26-ganhri-open-letter.pdf)

cclxxi See: [Case Study: Funding for loss and damage - Scottish Government at COP26: What was achieved? - gov.scot \(www.gov.scot\)](https://www.gov.scot/collections/case-study-funding-for-loss-and-damage-scottish-government-at-cop26-what-was-achieved/)

cclxxii See: [Climate Change \(Scotland\) Act 2009 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2009/12/section/1)

cclxxiii Official analysis by NatureScot, shows that Scotland has also failed to meet 11 of 20 agreed UN targets to protect the environment while one in five animals and plants deemed important to the nation by ministers are under threat. See: https://ww2.rspb.org.uk/Images/A%20LOST%20DECADE%20FOR%20NATURE_tc_m9-481563.pdf and <https://www.heraldscotland.com/news/19281510.bid-give-scots-legal-human-right-healthy-environment---ministers-miss-targets-stop-species-extinction/>

cclxxiv The 3rd UK Climate Change Risk Assessment show an increase the urgency scores for 25 risks from climate change in Scotland have increased since the previous CCRA five years ago. Only one risk has decreased and some new risks have emerged. See <https://www.theccc.org.uk/publication/independent-assessment-of-uk-climate-risk/>

cclxxv See: [Scotland's climate targets are in danger of becoming meaningless - Climate Change Committee \(theccc.org.uk\)](https://www.theccc.org.uk/publication/scotland-s-climate-targets-are-in-danger-of-becoming-meaningless/)