

Summary

1. This submission is focused on the human rights of people who live in Scotland. Whilst the UK is the state party, many decisions impacting people's human rights are made at a devolved level. Housing policy is devolved and recommendations are for the Scottish Government, unless stated otherwise.
2. There has been some progress in realising the right to adequate housing in Scotland, but further work is required to fully protect the right to adequate housing in Scots law, and for structural changes to be made to enable duty bearers to deliver their obligations and rights holders to realise their rights; namely, increasing the supply of socially rented housing.
3. The Scottish Parliament has committed to introduce a new human rights bill within this parliamentary term, incorporating the right to adequate housing as part of the International Covenant on Economic, Social and Cultural rights and three other conventions. The human right to adequate housing is not currently protected in Scots law.
4. The Scottish Government has committed to secure delivery of 110,000 affordable homes over the next ten years, with at least 77,000 for social rent.
5. Over the last decade, we have seen the lack of social homes, the impact of austerity on local services and the reduction of protection for people through the social security system leave people trapped, sometimes for years, in the homelessness system. The pandemic has since exposed and exacerbated the housing emergency.
6. 1.5 million people in Scotland are living in overcrowded, dangerous, unsafe or unaffordable homes.ⁱ
7. If you have a disability, receive social security benefits, are a refugee, or a person of colour you are even more likely to face discrimination or struggle to find a decent home.
8. Recent independent estimates showed in fact that the living conditions of 1,154,000 households (47% of households in Scotland) fall short of the standards implied by the right to adequate housing.ⁱⁱ
9. Recommendation 1: The Scottish Government needs to deliver on its commitment to secure delivery of 110,000 affordable homes over the next ten years; at least 77,000 should be for social rent.
10. Recommendation 2: The Scottish Parliament must take forward commitments to a new Human Rights Bill in Scotland by 2025, fully incorporating the right to adequate housing into Scots law with robust access to justice.

Homelessness in Scotland

11. Homelessness is a symptom of Scotland's broken and biased housing system – a housing system in which 1.5 million people are negatively affected.ⁱⁱⁱ
12. In 2020-21, 27,571 households became homeless in Scotland.^{iv} This is the equivalent of a household losing their home every 19 minutes during the worst public health crisis in living memory. This is an emergency.

13. The immediate pandemic response from the Scottish Government, local government and third sector organisations to the public health emergency in March 2020 was quick, decisive and vital to protect life. By putting money in the hands of third sector organisations, rough sleeping and sofa surfing was tackled at the beginning of the pandemic, and extra legal protections were put in place for tenants to ensure evictions could not proceed.
14. However, while welcome, many of these important initiatives were masking the wider systemic problems with Scotland's housing system and the reality of homelessness in Scotland. The mobilisation of government and agencies to tackle rough sleeping did not end all homelessness in Scotland. We will continue to see a rise in the numbers of people stuck in temporary accommodation and on housing waiting lists for years. Fighting homelessness remains a significant challenge for Scotland.
15. Despite the progress made in pushing forward the Scottish Government's Ending Homelessness Together action plan, there is a clear implementation gap between protections that exist in law and the rhetoric surrounding homelessness in Scotland, and what is actually being delivered on the ground.
16. Much of this issue comes down to insufficient resourcing, and there is a serious gap in local authority funding. Extra funding is needed to ensure local authorities can abide by their statutory duties and ultimately that everyone can access suitable temporary accommodation when they need it, and to be moved quickly into a safe, secure home that meets the needs of the household.
17. Under Scottish legislation, individuals who are believed to be homeless and eligible for assistance and who have nowhere else to stay are entitled to temporary accommodation while their homelessness is assessed, or when they have been assessed as unintentionally homeless and are waiting for permanent accommodation.
18. However, people's rights are routinely breached by local authorities. In 2020/21, there were 605 instances of households not being offered temporary accommodation when they were legally entitled to it.^v
19. People's legal rights to better quality temporary accommodation have improved since the last UPR cycle. Under an amendment to the Unsuitable Accommodation Order, local authorities can now only keep households in temporary homeless accommodation which is defined as unsuitable for seven days (previously it was 14 days). In addition, the Unsuitable Accommodation Order was extended from only pregnant women or households with a child to all homeless households.
20. A series of temporary exemptions related to the pandemic mean that this amended Unsuitable Accommodation Order only came into force in October 2021 and there are no official statistics on how well local authorities are complying with their legal duties. However, even prior to the extension local authorities were breaching the order and keeping people in unsuitable accommodation for too long, and from our frontline experience in providing advice and advocacy for individuals experiencing homelessness, we know that many local authorities are breaking the new law too.
21. In 2020/21 there were at least 490 instances where the local authority placed households in accommodation deemed unsuitable for too long, in breach of their legal duties.^{vi} Further, the government have since acknowledged that these statistics underreport the issue and there have been inconsistencies and inaccuracies in how local authorities have

reported their breaches, so the full scale of the issue is unknown.

22. Recommendation 4: People's legal rights to housing should be upheld. Accurate monitoring should be put in place immediately and there should be greater accountability for when public bodies break the law. Adequate funding must be provided to local authorities to ensure people's housing rights are upheld, with quality affordable social homes delivered in areas where they are most needed.
23. The Scottish Government has just sought views on the development and implementation of homelessness prevention legislation and have signalled their intent to introduce new homelessness prevention legislation during 2022/23. Whilst the principles of preventing homelessness wherever possible are to be welcomed, the legislative proposals would actually reduce the right to housing of people experiencing homelessness by introducing the option for local authorities to discharge their homelessness duty into accommodation options with no security of tenure. Security of tenure is a key component of the right to adequate housing. We therefore strongly oppose this proposal and view it as a regression of human rights.
24. Recommendation 5: The Scottish Government should not progress with any legislative changes which would regress people's housing rights. Specifically, they should not progress proposals to enable local authorities to discharge their duty to people experiencing homelessness into accommodation options with no security of tenure.

Children and the right to adequate housing

25. There has been some progress within Scotland towards strengthening the rights of children and lifting children out of poverty, and therefore towards Recommendations 134.164, 134.168, and 134.191 from the previous cycle. These recommendations focused on eradicating the poverty of children across the United Kingdom, and suggest the creation of more social policies to assist disadvantaged families with children.
26. The Scottish Parliament passed the UNCRC (Incorporation) (Scotland) Bill unanimously on 16th March 2021. It seeks to make children's human rights under the UN Convention on the Rights of the Child part of the law in Scotland. However, in October 2021 the UK Supreme Court decided that four sections of the Bill go beyond the powers of the Scottish Parliament.
27. However, today children's rights to adequate housing are still at risk within Scotland:
 - a. 11,804 children were in households assessed as homeless in 2020-21.^{vii} This is equivalent to 32 children becoming homeless every day – more than the average primary school class in Scotland.
 - b. 7,510 children were living in temporary accommodation on 30 September 2021, more than 75% increase on 2014 figures.^{viii}
 - c. Families with children spend longer in temporary homeless accommodation than those without. In 2020-21, a couple with children spent an average of 341 days in temporary accommodation, compared to a couple without children spending on average 190 days in temporary accommodation.^{ix}
28. Recommendation 6: The UNCRC Incorporation Bill should be reviewed and passed within legislative competence as soon as possible.

29. Recommendations 1 and 2 should be taken forward to strengthen the housing rights of children and address the structural barriers to realise those rights, including a lack of social housing.

Proposal for a new UK Bill of Rights

30. The UK Government plans to overhaul the existing Human Rights Act by replacing it with a new Bill of Rights, which would weaken the protections already established in the Human Rights Act and put the UK in breach of its international obligations.
31. Scotland may be particularly affected by the complexity arising from the interrelationship between the HRA and devolution. The HRA is embedded into the Scotland Act, including in relation to the limits on the competence of the Scottish Parliament and Scottish Government. It is extremely unclear how the HRA could be replaced without unsettling the current devolution arrangements.

Access to justice

32. There are issues relating to access to justice for private tenants. The introduction of the First-tier Tribunal to hear housing cases was intended to provide an accessible route to justice for private tenants (and their landlords). However, our analysis shows that there are issues relating to equity of access to the First-tier Tribunal, where tenants often don't show up and rarely have representation at case hearings and landlords often have legal representation.^x
33. There is a lack of both legal advice and legal aid for people in court settings to defend evictions.
34. Recommendation 7: The Scottish Parliament must take forward commitments to a new Human Rights Bill in Scotland by 2025, fully incorporating the right to adequate housing into Scots law with strong access to justice elements.

Affordability

35. Housing costs push people into poverty and there is a lack of affordable housing in Scotland.
36. Around one in five people in Scotland live in poverty after taking account of housing costs and this figure has been rising since 2011–14. In 2017–20, almost one in four children (240,000) in Scotland were living in poverty.^{xi}
37. Recommendation 1: The Scottish Government needs to deliver on its commitment to secure delivery of 110,000 affordable homes over the next ten years; at least 77,000 should be for social rent.
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- ⁱ Shelter Scotland, [What is the housing emergency?](#) Last accessed March 2022
- ⁱⁱ Association of Local Authority Chief Housing Officers (2021) [The right to adequate housing: are we focusing on what matters?](#)
- ⁱⁱⁱ Shelter Scotland, [What is the housing emergency?](#) Last accessed March 2022
- ^{iv} Scottish Government (2021), [Homelessness in Scotland: 2020 to 2021](#)
- ^v Scottish Government (2021), [Homelessness in Scotland: 2020 to 2021](#)
- ^{vi} Scottish Government (2021), [Homelessness in Scotland: 2020 to 2021](#)
- ^{vii} Scottish Government (2021), [Homelessness in Scotland: 2020 to 2021](#)
- ^{viii} Scottish Government (2021), [Homelessness in Scotland: 2020 to 2021](#)
- ^{ix} Scottish Government (2021), [Homelessness in Scotland: 2020 to 2021](#)
- ^x Shelter Scotland (2020), [First-tier Tribunal \(Housing and Property Chamber\): data analysis and recommendations](#)
- ^{xi} JRF (2021), [Poverty in Scotland 2021](#)