

Equalities, Human Rights and Civil Justice Committee Budget Scrutiny 2023/24: Human Rights Budgeting

Evidence submitted by CIH Scotland: September 2022

1. Housing as a human right

Human rights and the right to adequate housing are guaranteed by various legally binding international standards. However, they are now gaining particular significance because the Scottish Government has embarked on an ambitious programme to incorporate the full spectrum of civil, political, economic, social, cultural and environmental human rights into Scots Law.

As housing providers begin to think about how the right to adequate housing could affect their business and ensure they can influence the emerging Bill, this response sets out some of the considerations that the Scottish Government will need to reflect on to ensure that human rights budgeting is both recognised and realised as a core component of the seven characteristics of adequate housing as defined by the United Nations (UN) ahead of the legislative requirements.

The seven dimensions of adequate housing

Security of tenure: legal protection from forced eviction, harassment by landlords and other threats to having a settled home.

Habitability: A dwelling in a decent state of repair that provides a dry, warm home and adequate living space.

Availability of services: A dwelling has the facilities that makes it habitable, such as sanitation and waste disposal facilities, washing facilities, cooking facilities, storage, heating and lighting.

Affordability: Housing costs are not so high that people struggle to pay for food, fuel and other basics.

Accessibility: Suitable housing is available to those who require it, including housing that maximises the capacity of individuals with a disability or limiting illness to live independently.

Location: Housing is situated in areas that allow access to services (e.g., education, health, shops), paid work and participation in civic society. Housing should not be in an environment that is hazardous to health.

Cultural adequacy: Housing and its allocation should allow people to live in ways that express their cultural identity and does not disrupt their cultural affiliations.

2. Budget process

The aspirational and open nature of the seven elements of adequate housing and the absence of internationally defined minimum core obligations for

adequate housing means that the Scottish Government has a lot of scope to decide how adequate housing should be interpreted and progressed.

Our initial impression is that the seven elements of the right to adequate housing are reflected in the Scottish Government's Housing to 2040 strategy. The incorporation of the right to adequate housing into law is therefore unlikely to necessitate any radical shifts in the policy aims and commitments set out in Housing to 2040. On the other hand, there are questions that are very likely to impact on how these commitments are progressed, the obligations (or duties) this would place on housing providers, and associated resource implications.

Discussions on the interpretation and implementation of the right to adequate housing would benefit greatly from the experience of housing providers as well as the views of tenants and the wider public. We therefore urge the Scottish Government to work with housing providers to understand how it could be interpreted from a practical and operational perspective, and the practical steps that could be taken to progress it in light of available resources. Of particular importance will be how best to ensure human rights can be progressed in a way that tenants, including those from vulnerable or disadvantaged social groups, are not left behind, as well as developing an agreed understanding of what the minimum core of adequate housing should include.

To inform and shape the Budget from a human right perspective we recommended that the Scottish Government:

- works with housing providers and other stakeholders to prepare an action plan to secure more and better official data so that policy and related budgetary decisions are transparent and open to scrutiny;
- measures the impact of new housing standards as well as the cost of development, and sets budgets that meet these outcomes, ensuring that they are practical standards that are easy to adjudicate;
- assesses the degree to which resource allocations are consistent with reducing the numbers of people who fall short of adequate housing, and closing the gaps in adequate housing experienced by different social groups;
- provides supporting guidance, clarifies the current obligations of housing providers with regards to human rights and how they should assure themselves;
- prepares guidance for social and private landlords that explains their negative obligations to not interfere with someone's human rights, their positive obligations to progress adequate housing and other human rights, and offers advice on how to balance competing rights; and
- prepares guidance for local authorities on engaging different social groups (especially protected equalities groups) on housing related

matters and the use of this evidence to inform housing need and demand assessments and local housing strategies.

3. Budget content

A human rights-sensitive approach as detailed above has the potential to assist the Scottish Government budget process, prioritise human rights realisation, and specifically the right to adequate housing. Landlords will also have to exercise extra vigilance in monitoring human rights risks and outcomes to ensure the right is progressively realised.

The 2020 report from the Association of Local Authority Chief Housing Officers (ALACHO) sets out clearly the failures in Scottish housing policy from a human rights perspective. While the report in its entirety is too detailed to repeat here, its main conclusions are:

- The living conditions of over 1.8 million households (74 percent) fall short of the standards implied by the right to adequate housing.
- Even using the more stringent indicator definitions, around 41 percent of households and 37 percent of Scotland's population would be at risk of falling short of adequate housing standards.
- The large majority of households falls short on just one element, typically energy efficiency. In the case of the central estimate, over 1.2 million households fall short solely due to this measure.
- Single person households are at greater risk of living in non-adequate housing than other households. In particular, over 40 percent of single adult households under the age of 65 years that are inadequately housed fail for two or more reasons.
- The proportion of private renters that live in homes that fall short of being adequate is higher than for all other tenures, with almost half of private renters living in homes that fall short of providing adequate housing for two or more reasons.
- Couples where both partners are in work are significantly less likely to occupy inadequate housing than households where only one person is in work or no-one is in work.
- Those living in rural areas are at greater risk of residing in non-adequate housing.
- Problems of affordability and energy inefficiency are experienced in parallel by around 275,000 households, of which over half are owners (34 percent) or privately renters (25 percent).

Given the detail and thoroughness of this assessment, it does lead itself to some conclusions and determination with regards to ensuring the housing budget is developed in a human rights sensitive way.

- If Scottish Government priorities to improve energy efficiency standards in all tenures progress as planned, the numbers of households that fall short of fully realising adequate housing will decline very considerably in

the decade ahead. It is vital that the Scottish Budget entails the necessary funding to ensure that we meet our ambitious climate change and poverty targets.

- It also suggests the right to adequate housing can only be realised if the shortage in social and affordable housing supply is addressed. However we also know [feedback from social landlords](#) last year suggested that the majority of projects will not be delivered at or below this subsidy benchmark. This was the view before the recent inflationary hikes across 2022 all of which puts the target of 110,000 affordable and social homes at risk. This suggests a reappraisal of how we fund and deliver the required numbers of social housing stock is required.
- The [Scottish House Condition Survey 2019](#) shows that around 40,000 homes were Below Tolerable Standard in Scotland, 1 in 10 households were affected by dampness or condensation (or both) during this period, 613,000 households were in fuel poverty and 52,000 households were overcrowded. We acknowledge that Housing to 2040 outlines the Scottish Government's commitment to modernising standards of both new and existing homes across all tenures, including a new Housing Standard to replace the existing Tolerable Standard. However, ahead of meeting more ambitious plans for housing standards, it is crucial that existing standards are delivered by sufficient investment from the Scottish Government so that landlords can improve housing conditions without the cost of improvement falling on the tenant.
- As our population continues to age, so too will the demand for accessible housing and adaptations. However, there has only been a minor increase to the Scottish Government's adaptations budget last year, from £10m to £11m a year, despite [research](#) from the Scottish Federation of Housing Associations (SFHA) noting an annual funding shortage of £7m a year. There is a need for greater clarification on funding for the development of specially designed new homes and adaptations for older and disabled people, which continue to lack policy coherency and is out of step with UN minimum core obligation requirements for people with a disability.

About CIH

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