

Parallel Report of the Scottish Human Rights Commission to Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues in relation to its seventh periodic report to the Committee on Economic Social and Cultural Rights

January 2025

About the Commission

The Scottish Human Rights Commission ('the Commission') is Scotland's National Human Rights Institution (NHRI) and a public body created by the Scottish Commission for Human Rights Act 2006. We are an independent, expert body that works with and for the people of Scotland; we monitor, listen, speak up for all of our rights and respond when things go wrong. The Commission is independent of Government. We are accountable to the people of Scotland via the Scottish Parliament.

As an A-status NHRI, the Commission supports and cooperates with the international human rights system. We provide impartial evidence on the enjoyment of human rights in Scotland to international accountability mechanisms such as UN Committees, in line with the Paris Principles.

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1. Introduction and Overview

1.1. About this report

1. This report has been produced by the Scottish Human Rights Commission ('the Commission') to support the Committee on Economic, Social and Cultural Rights (CESCR) to review the seventh report of the United Kingdom of Great Britain and Northern Ireland, due to take place at the CESCR's 77th Session in February 2025. The Commission's report is intended to provide additional information and context to the State's evidence of economic, social and cultural rights (ESCR) protected by the International Covenant on Economic, Social and Cultural Rights (ICESCR) as they relate to our mandate.
2. In addition to supporting the strongest possible review by CESCR, this report reflects the Commission's strategic priority, as set out in its Strategic Plan 2024-2028, to focus on human rights and poverty in Scotland. The evidence that is highlighted throughout this report outlines the scale of financial and social exclusion presently - and too often increasingly - visible in Scotland. The Commission's monitoring, engagement and subsequent follow-up to this report intends to further support domestic bearers to engage with poverty as a cause and consequence of ICESCR denials.
3. As part of the drafting of this report, the Commission held two stakeholder events where both rights holders and duty bearers shared their views. Across these events participants reflected that it has become harder for many people to access support and both the State and voluntary organisations are doing more to support people, often with less money to spend. The concerns and sense of frustration or disappointment shared by many has been made worse by the failure of the Scottish Government to deliver on promises it has made, such as the Human Rights Bill. The Commission has made a number of recommendations aligned to each article in ICESCR to help the CESCR focus on how progress can be made in Scotland, reflecting that many of the articles in ICESCR are within the powers of the Scottish Parliament and Scottish Government.

4. Evidence for this report has been drawn from a range of qualitative and quantitative sources, as set out in Annex A. In addition, Annexes B, C and D summarise research undertaken by the Commission, namely evidence from engagement with statutory accountability bodies, from civil society and evidence from the Commission's monitoring of ESCR in the Highlands and Islands.

1.2. Scope and Devolution

5. The Commission's mandate¹ covers the promotion and protection of human rights in devolved areas. Under the Scotland Act² all areas of law that are not explicitly reserved to the UK Parliament³ are within the legislative competency of the Scottish Parliament, subject to compliance with the European Convention on Human Rights.⁴ Scotland has a separate legal system, education system, National Health Service (NHS) and a range of public bodies responsible for public services.
6. Further information on the constitutional framework is provided at Annex E.
7. Since the Commission's report to CESCR in 2023, there have been some political developments affecting policy and forthcoming legislation, some of which are set out in the State Report.
8. The Commission highlights crosscutting themes underpinning this report:
 - Relationships between people and organisations who work to advance human rights in Scotland ('human rights defenders') and the Scottish Government have deteriorated following failure to realise ambitious policy commitments, including a Human Rights Bill to incorporate ICESCR (and other treaties).
 - Some people, including some accountability bodies, suggest that some of the Scottish Government's priorities, focuses and ambitious are sometimes at real or perceived tension, and people or organisations can fall through the cracks. For example, the focus on tackling child poverty, which most people recognised as urgent, could conflict with or deprioritise the needs of other groups or human rights considerations such as non-retrogression. This evidence is described for the Committee in Annexes B and C of this report. Decisions are made with good intention but have consequences that should have been identified and avoided.

- Economic pressures, commonly termed 'the cost of living crisis', continue to pose a significant threat to rights and is undermining the potential impacts of Scottish Government efforts to advance ESC rights.⁵
 - Debates about the future of Scotland's public sector and financial constraints are not currently taking sufficient account of Scotland's human rights obligations. Human rights budgeting needs to be effectively embedded into government and public sector decision-making so that resources are utilised in support of the realisation of rights.
9. Specific recommendations for CESCR to consider in the preparation of its Concluding Observations are included throughout the report.

2. Response to the List of Issues Prior to Review

10. Given the volume of issues in the Committee's review, as well as the added complexity of the UK's devolved structure, not every concern that surfaced in our preparation of the report can be adequately considered here. For additional detail the Commission would refer CESCR to our previous comprehensive submission, submitted in January 2023 ahead of the meeting of the Pre-Sessional Working Group.

2.1.1. Incorporation and the Domestic Human Rights Framework (List of Issues Paragraph 2 ('Lol 2'))

11. Throughout the State Report, the Scottish Government refers to its commitment to incorporate ICESCR into Scots Law, along with rights for further marginalised groups.⁶ This potentially flagship legislation was subsequently omitted from the 2024-2025 Programme for Government⁷ and the Scottish Government has confirmed that while it remains committed to incorporation, a Bill will not be taken forward in the current parliamentary term.⁸ The Commission has expressed 'deep disappointment' at this decision.⁹ The delay and how it has been communicated has contributed to feelings of despair, frustration and a break down in trust

between civil society and the Scottish Government.¹¹⁰ The Bill is a significant - but not unique - example provided of lack of delivery.²

12. The Scottish Government has acknowledged the strength of feeling and stakeholder dissatisfaction with the Bill as proposed while emphasising the constitutional difficulties to be navigated.¹¹ They have committed to preparing the public sector for incorporation, including exploring tracker tools to support implementation of treaty body recommendations.¹²
13. Despite a majority of policy areas within the scope of ICESCR being devolved, there is only limited information provided by the Scottish Government in the State Report, undermining accountability both internationally and domestically. At present, there is no formal mechanism to monitor the response of duty bearers in Scotland towards accountability mechanisms under international law. The Commission is progressing options to strengthen both treaty compliance and implementation monitoring within our existing mandate, including through the production of an annual state of human rights report to the Scottish Parliament.¹³
14. The Commission's powers and resources have not been revisited since establishment in 2016, limiting access to justice for human rights violations.¹⁴
15. Since 2023, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 has come into force.¹⁵ This legislation provides domestic legal protection for children's ESCR in the UN Convention on the Rights of the Child. After the UK Government's challenge to the Bill at the UK Supreme Court in 2021 on constitutional grounds, the scope of the Bill was reduced, resulting in significant complexity for children and young people seeking enforcement of these rights.¹⁶

¹ Comments on this theme are summarised at Annex A, which provides a note of all comments provided to the Commission at a roundtable on the 13th November 2024.

² Other commitments mentioned by civil society at our engagement event included ending social care charging and banning LGBT conversion practices.

16. NGOs have highlighted concern that the interconnected nature of ESC rights is inadequately reflected in the priorities and policy frameworks intended to drive action across the Scottish Government and the programmes and organisations it funds.³ Furthermore this causes difficulties for organisations' funding and outcomes reporting and ultimately leads to the people they support falling between the cracks in services. Compounding rights denials complicate people's access to justice, considered further in paragraph 95.
17. Monitoring of the implementation and the enjoyment of ESCR remains difficult due to weaknesses in data collection, analysis, disaggregation and publication across the public sector,¹⁷ as described to the Committee in 2023.
18. The Scottish Government co-produced its second national action plan for human rights ('SNAP 2').¹⁸ However, since publication in March 2023, no updates have been published. In 2024, the Commission communicated its concern about delays to meetings, a lack of updates on progress and the failure to identify priority actions.¹⁹ The Scottish Government's response was limited and a year on, no priority actions have been identified, although we are aware that further discussions have been tabled.

The CESCR's Concluding Observations should draw attention to the failure to progress the commitment to a stronger human rights framework in Scotland through incorporation and make recommendations to prioritise incorporation and justiciability of ESC rights, strengthen the mandate and resource of the Commission, and improve the monitoring framework across Scotland.

2.1.2. Maximisation of Available Resources (Lol 8)

19. The Commission highlights that none of the data provided in the State's Response to paragraph 8 of the Lol concerns Scotland. Scotland-specific poverty

³ As described in Annex C of this report

figures (Lol 8(a)) are set out at paragraph 48 of this report. Economic data is essential to understand how the Scottish Government is using its revenue raising powers and the Scottish Budget to allocate resources in a way that considers the needs of disadvantaged groups and ensures rights-based service delivery, maximising the impact of available resources.

20. High inflation has caused significant challenges for individuals, Scotland's public finances and private and voluntary sector organisations in recent years.²⁰ ⁴ Audit Scotland has warned increased fiscal pressures will require the Scottish Government to prioritise public sector reform in a way that it has not yet done.²¹ The Scottish Government has balanced public sector pay deals by drawing down one off sources of income such as ScotWind.
21. The Scottish Government has already announced £500 million in-year in public sector budget cuts,²² including adopting emergency spending controls internally.²³ In year adjustments of the national budget are common in Scotland, limiting predictability. The Commission's work on the Open Budget Survey (OBS) in Scotland identified that while there has been some improvement in overall transparency, 'limited information' is available to support public engagement with the Budget, including in-year updates.²⁴
22. Scotland has powers to set its own rates of income tax.²⁵ Currently, the Scottish Income Tax is distributed between five bands (compared with three for taxpayers in the rest of the UK) with a slightly lower 'starter rate' which reflects lower levels of earned and paid income.²⁶ The personal allowance component of tax-free income is reserved. Budget documents reveal the disparity in income levels across the population with Scottish Government estimates that there are 1,647,000 non-tax payers, or 35.5 per cent of the adult population, and 40,000

⁴ Annex B and Annex C

top rate payers, or 0.9 per cent.²⁷ 51 per cent of Scottish taxpayers earn less than £28,850.

23. The UK Government suggests that the value of Treasury funding to Scotland will increase by £1.5 billion in the current year and £3.4 billion in the next. The Scottish Government disputes the net impact of the increased funding as a result of the wider economic context, which includes the impact of a rise to national insurance costs as set by the UK Government.²⁸
24. The challenging fiscal environment is compounding issues for the resourcing of Local Government in Scotland. Although the total budget for local authorities increased in 2022/23, an increase in ringfenced commitments means that the resource available to meet local priorities was reduced.²⁹ Political discussions on reforming Council Tax (one element of municipal revenue raising) have been ongoing for many years, including a Commission on Local Taxation in 2016-2017 which resulted in no changes by the Scottish Government. At present, the majority of homes are taxed in higher bands, including a sizable share of lower income households.³⁰
25. Reliability of funding for the voluntary sector has diminished at the same time as demand for support has risen and operating costs have increased.³¹

The CESCRR should recommend that human rights budgeting processes should be implemented in Scotland, including alignment with human rights legal standards, oversight, public participation and transparency, and be part of the processes and policies of revenue raising as well as resource allocation.

2.1.3. Equality and Non-discrimination (Loi 9, 10 and 11)

26. While equality law is reserved to the UK Parliament, broader equal opportunities measures are devolved. The Scottish Government has undertaken a range of

measures to address the needs to specific groups as they relate to ICESCR rights.⁵

27. Despite these steps, the Commission continues to observe a significant range of deep inequalities in the outcomes experienced for many groups' substantive human rights, including in some cases a failure to realise minimum core obligations.⁶ The Commission's 2024 State of the Nation highlights a range of inequalities in greater detail. While the report focused on civil and political rights, the Commission outlined the interconnected nature of rights denials and the range of inequalities shown across our wider monitoring work. For example:

- Scotland's ambitious approach to violence against women is not matched with sustainable funding and culture change required to meet obligations under the Istanbul Convention.
- Efforts to improve the realisation of rights for disabled people in Scotland, in particular the right to independent living, has not been sufficient especially as these groups have been disproportionately affected by other factors such as the impact of COVID-19 and the cost of living crisis.
- A lack of information and understanding among all stakeholders about how the Scottish Government is implementing its approach to anti-racism and human rights obligations.

NGOs have also highlighted hidden or ignored costs for certain groups, such as disabled people, unpaid carers and families supporting somebody in prison.⁷

⁵ Including the Gender Representation on Public Boards (Scotland) Act 2018 (77), specific commitments in the Fair Work Action Plan (79 and 119) the Anti-Racist Employment Strategy (107 and 119) the Women's Health Plan (303) and Improving the Lives of Scotland's Gypsy/Travellers (337)

⁶ More detail available at: [Scottish Human Rights Commission \(2024\) State of the Nation report 2024: Civil and Political Rights in Scotland](#)

⁷ As described in Annex C of this report.

28. Many stakeholders who drew attention to these inequalities highlighted the failure to realise routes to remedy through a Human Rights Bill. The Scottish Government's proposed reforms to devolved duties under the Public Sector Equality Duty (PSED) were also criticised by equality organisations as insufficient.³²

The CESCR should highlight the need for stronger human rights protections in domestic law to ensure access to justice for people from further marginalised communities and recommend measures to strengthen equality and human rights mainstreaming across the devolved public sector, including the devolved aspects of the Public Sector Equality Duty.

2.1.4. Conditions of work, workers' rights and wage inequality (LoI 12 to 21)

29. Employment law is reserved to the UK Parliament, although the Scottish Government can take non-legislative action to promote fairer employment. Its approach is set out in the Fair Work Framework and Action Plan,³³ and guidance to support specific groups, such as the Anti-Racist Employment Strategy.³⁴
30. Unemployment is near record low levels at 3.3 per cent.³⁵ At April 2024, gross median weekly earnings for full-time employees in Scotland were £739.70, compared to £728.30 for the UK average. However, the UK average rose faster than in Scotland.³⁶ Economic inactivity is also high in Scotland, at 23.7 per cent of adults aged 16-65.³⁷ This is higher than across the rest of the UK. The Scottish Government has conducted research to explore how employers can support disabled people and those with long-term health conditions to access and remain in employment.³⁸
31. The Scottish Government supports employability through its 'No One Left Behind' programme, which supported 21,702 people in Year 5 (2023/24).³⁹ However, The 2024-45 Scottish Budget reduced spending on employability by 23 per cent, leading to concern about impacts for the goals of reducing child poverty, in-work poverty and economic inactivity.⁴⁰
32. NGOs have raised concerns about exploitative employment practices. Certain groups are more vulnerable to the risks of exploitation, especially migrant

workers or those who are unable to work legally. The Scottish Government has proposed a pilot project enabling asylum seekers to take up employment in Scotland.⁴¹ The treatment of seasonal workers, such as those in agriculture was highlighted in our engagement work with civil society. Seasonal workers are at risk of being made immediately homeless if their accommodation is tied to their work.

33. Scotland's combined gender pay gap is lower than the UK average (9.22 per cent compared with 13.09 per cent,)⁴² potentially indicating some success of the Gender Pay Gap Action Plan.⁴³ However, the figures for 2024 indicate that the gender pay gap in Scotland has increased in the past year, as men's wages grew faster than women's.

The Scottish Government's aim to support access to quality work and conditions of work is not translating into outcomes for some groups who are further from the labour market. CESCR should recommend a more joined up approach to work-related human rights, with appropriate levels of funding and targeting of marginalised groups.

2.1.5. Devolved Social Security (LoI 22 - 23)

34. As outlined in the Commission's 2023 report,⁴⁴ since 2016 a number of the UK's welfare payments have been devolved to Scotland and Social Security Scotland was established to administer the payments.
35. Since that report, the Scottish Government has completed the rollout of two significant devolved payments - Adult Disability Payment (ADP) and Child Disability Payment (CDP), which replace Personal Independent Payment and Disability Living Allowance respectively. A review of ADP is underway,⁴⁵ and interim findings show people receiving the benefit want to move from 'safe and

secure' transition⁸ of responsibility towards "truly rights-based practice."⁹ Specific criticisms⁴⁷ include maintaining the '20 metre rule' for mobility, and the '50% rule'¹⁰ specifying for how long descriptors must be fulfilled.⁴⁸

36. Devolved social security is administered in line with a Social Security Charter,⁴⁹ that aims to align the administration of social security with human rights standards. The Charter has a statutory basis,⁵⁰ but no legal effect. Developed with people with experience of navigating the UK benefits system, it foregrounds social security as an investment in the people of Scotland and appears to enjoy popular support.⁵¹ The Scottish Government has prioritised promoting take-up of devolved social security payments through a Benefit Take-Up Strategy.⁵² Data on take-up levels shows significant variation by payment, although most payments are above 80%.⁵³
37. Certain groups are at risk of exclusion from social security due to limitations of digital connectivity⁵⁴ (including in remote and rural parts of the country such as the Highlands and Islands),⁵⁵ individual communication barriers and cultural needs.⁵⁶ Some rights-holders, particularly disabled people, find the application process overly complex. While a physical form is available, it often requires assistance from an adviser or independent advocate due to its length and

⁸ During the devolution of social security and establishment of Social Security Scotland, the Scottish Government prioritised a 'safe and secure transition' from the UK's administration to Scotland to minimise disruption to people's payment.

⁹ For further elaboration from civil society of what these expectations might include, see Scottish Campaign on Rights to Social Security (2020) Beyond a Safe and Secure Transition – A Long Term Vision for Disability Assistance in Scotland. Available at <https://www.cas.org.uk/publications/beyond-safe-and-secure-transition-long-term-vision-disability-assistance-scotland>

¹⁰ ADP replicates the rules under the UK Personal Independence Payment (PiP). These include the '20 metre rule, which means that if a person can walk more than 20 metres without aid they are ineligible for a higher rate of mobility support, and the '50% rule' which means that if a condition or disability affects the person more than 50 per cent of the time it is treated as affecting them all the time.

complexity. Challenges for some young adults navigating the transition between CDP and ADP have also been identified.⁵⁷

38. The Scottish Government argues that it spends a considerable proportion of its social security spending mitigating the impacts of UK welfare reforms (LoI 22).⁵⁸ All devolved benefits were uprated by 6.1 per cent in April 2024. In 2023-24 the total paid in devolved benefits was forecast to increase by around £1 billion from £4.2 billion in 2022-23 to £5.2 billion in 2023-24.⁵⁹ A further factor is the large increase in the value of the Scottish Child Payment, discussed at paragraph 53. Despite this increase in spending, the adequacy of social security payments remains a concern for many people. The value of individual awards of transferred benefits including ADP and Carer Support Payment have not significantly increased, however the Scottish Fiscal Commission suggests that the way in which ADP decisions are made has increased total spending as more eligible claimants apply and receive the benefit.⁶⁰
39. The majority of low income and out of work benefits have now been subsumed by Universal Credit (UC), which is reserved and therefore administered through the UK Department of Work and Pensions. 52,231 Scottish households are now in receipt of UC (LOI 23).⁶¹ Experts and campaigners have highlighted that the standard allowance of UC remains far too low to meet daily living costs⁶² (£393.45 a month for single claimants aged 25 or over)⁶³ and is frequently subject to deductions and sanctions.⁶⁴ As a result many experts and campaigners consider UC to be inadequate.⁶⁵
40. Scotland has some limited flexibilities around the administration of UC, known as the Scottish Choices.⁶⁶ Options to pay housing elements directly to landlords and to make payments fortnightly have already been introduced, which enable greater individual control over household budget management. Analysis shows that both measures are popular but are limited by low awareness.⁶⁷ A third flexibility to split household awards between members of a couple has been in development but not resolved since 2017.⁶⁸ Anti-poverty groups and women's organisations argue that separate payments are necessary for women's financial independence and to offer protection against financial abuse.⁶⁹

41. Cumulative impact analysis of welfare and social security reforms has shown a worsening of child poverty,⁷⁰ and in April 2024 the United Nations Committee on the Rights of Persons with Disabilities expressed deep concern about the financial stress disabled people were experiencing as a result of engaging with the welfare system, including "disturbingly consistent" accounts of suicides.⁷¹
42. Crisis funds are not managed by Social Security Scotland, instead the Scottish Welfare Fund (SWF) is administered by local authorities on a discretionary basis, underpinned by national guidance. In February 2024, the Coalition of Scottish Local Authorities (COSLA) noted that "some, (especially larger councils) are facing unprecedented high levels of SWF demand and are consequently taking longer to make Crisis Grant payments to vulnerable clients."⁷² Other reports indicate that some families wait up to 40 days for grants to be paid.⁷³ A review of SWF was published in March 2023, which identified a number of issues with how funds are managed.⁷⁴ The Scottish Public Services Ombudsman has highlighted issues with some local authorities adopting prioritisation criteria in order to manage claims.⁷⁵

The Committee should recommend that social security levels are reviewed for their adequacy in all parts other UK and that applications and payments are accessible to all people, regardless of communication needs or digital barriers.

2.1.6. Protection of the Family and Children's Rights (Lol 26 - 28)

43. Funded childcare (Lol 26) is devolved in Scotland, but no information has been provided on this in the State Report. Despite expanded provision of funded ELC in Scotland,⁷⁶ mapping of existing childcare provision has highlighted a decline in the childminding workforce and insufficient funding to cover costs.⁷⁷ One 2024 survey showed that 83.7 per cent of respondents reported that childcare costs are the same or more than their income.⁷⁸ A shortage of options outside traditional working patterns add to difficulties for single parents and parents who work irregular hours.⁷⁹ There are ambitions to expand provision to 13,000 more children and their families by May 2026,⁸⁰ but there is currently little detail on how

sufficient funding will be provided to address the existing shortfall in staffing across provider settings.⁸¹ Parents of disabled children often face significant barriers, including availability and the need for specialised support.⁸² Specific challenges also affect minority ethnic families, lone parents, and families with young children under one year.⁸³

44. The Scottish Government has made strong commitments to improve the lives of care experienced people, both through reform of the 'care system' and strengthening lifelong support. This set of policies, known as 'The Promise', is supported by a dedicated public body⁸⁴ and a six-year plan.⁸⁵ NGOs have highlighted concerns that lifelong support has not been sufficiently considered to address significantly poorer outcomes for care-experienced people.⁸⁶
45. The Scottish Government flagship social care reform, the National Care Service Bill,⁸⁷ had been criticised⁸⁸ on a number of grounds that call into question the Bill's ability to address the significant issues identified by the 2021 Independent Review of Social Care.⁸⁹ The Scottish Government has now delayed the legislative process in order to respond to some of the issues raised, including by local government, trade unions and NGOs.⁹⁰ It is unclear at the time of writing how the Scottish Government "will secure sufficient support to make progress."⁹¹ The Commission had highlighted its concern that human rights, in particular the right to independent living,⁹² have not been adequately considered in the proposals to date.⁹³
46. Both local and Scottish Government⁹⁴ have imposed cuts to social care in the past few years, exacerbating the reductions in care packages for older and disabled people in the pandemic. Adult unpaid carers who provide five or more hours of unpaid care per week report lower health and wellbeing.⁹⁵ Cuts to social care offset care from the state to the family, disproportionately affecting women. Financial support for unpaid carers in low or unpaid work⁹⁶ is provided via the Carer Support Payment, worth £81.90 per week, and research with carers in Scotland from 2022 found that 40% of carers on Carer's Allowance and/or with a household income of £1000 per month or were struggling to make ends meet, with 28 per cent struggling to afford the cost of food.⁹⁷

47. Since 2016, the Scottish Government has passed 'world-leading' legislation⁹⁸ on Domestic Abuse, which criminalises non-physical abuse. Despite human rights and gender-perspectives being integrated in the national strategy to eradicate violence against women, implementation and practice does not always accord with the Scottish Government's aims⁹⁹ or its stated intention to mainstream equality and human rights across all policy domains.

The Commission encourages the Committee to examine the extent to which state provided care is resourced in Scotland and identify the potential for retrogression for service users. The state should also ensure family caregivers' access to mental health and respite support where needed.

2.1.7. Poverty and financial resources (Lol 29)

48. The annual rate of inflation peaked at 11.1 per cent in October 2022.¹⁰⁰ While this has fallen significantly recently, the costs of essential household items such as food and fuel remain high.¹⁰¹ As of September 2024, 61 per cent of Scottish adults believe that the cost of living crisis will have a long term impact on them and their families and 65 per cent do not think that the crisis is easing.¹⁰² Women are more likely than men to have reduced their spending, dipped into savings or taken steps to reduce their energy bills. Young adults were twice as likely as older adults to have relied on credit.

49. Most poverty data in Scotland is collected at household level, which can obscure intra-household inequalities, for example, in mixed-ethnicity households or households consisting of multiple disabled people.

50. The official poverty statistics for Scotland¹⁰³ show that in 2020-23:

- 21 per cent of Scotland's population (1,110,000 people each year) were living in relative poverty after housing costs.
- 17 per cent of the population (940,000 people each year) were living in absolute poverty after housing costs.
- 16 per cent of people lived in households with marginal, low or very low food security.

- 60 per cent of working-age adults in relative poverty after housing costs were living in a household where someone was in paid work.
- Poverty rates are higher for the youngest households (39 per cent), Asian or Asian British' and 'Mixed, Black or Black British and Other' ethnic groups (50 and 51 per cent) and for people in households with a disabled person (24 per cent)

51. In recent years, the Scottish Government has maintained a policy priority of tackling child poverty.¹⁰⁴ This was welcomed by many NGOs though some were concerned that a child's living standards as affected by those in their wider family and community is inadequately recognised. The Scottish Government has acknowledged that its 'six priority family types' analysis is not exhaustive and has published analysis by other forms of marginalisation.¹⁰⁵

52. Despite the existence of statutory targets and the second iteration of the Tackling Child Poverty Delivery Plan, the data for 2020-23 shows that 24 per cent of children in Scotland live in relative poverty and 21 per cent in absolute poverty.¹⁰⁶ Stakeholders who engaged with the Commission warned that the interim and final statutory targets were likely to be missed, and that measures to tackle child poverty rely heavily on social security via the Scottish Child Payment (SCP).¹¹

53. Since April 2024, the SCP is provided at £26.70 per child per week to all families on a qualifying benefit.¹⁰⁷ As of 30 September 2024, this equated to 325,790 children aged 0-15.¹⁰⁸ Civil society has called on the Scottish Government to increase SCP to £40 per week to make a more substantial impact on reducing child poverty.¹⁰⁹ To meet the 2030 child poverty targets through only the SCP, economic modelling from the Fraser of Allander Institute has suggested that SCP may need to increase to £130-135 per week per child under 16.¹¹⁰ Some stakeholders suggested that reliance on the SCP alone was unsustainable.

¹¹ Annex C

54. The impact of SCP is still difficult to assess given its recent introduction and changes to eligibility and levels, and it has no doubt been affected by changing external economic factors.¹¹¹ Relative child poverty in Scotland actually rose in 2022/23¹¹² and foodbank usage by families with three or more children remains consistently high.¹¹³ Preliminary data does however indicate a small but statistically significant decrease in food bank usage among households with children aged 5-16 and single-adult households with children aged 0-4 following the SCP's increase to £25 per week.¹¹⁴ Generally, the payment appears to be valued by those who receive it.^{115 116}
55. Despite the Scottish Government's initial policy intention, some low-income families, especially migrant families with No Recourse to Public Funds (NRPF) criteria are not eligible to receive the SCP. Families not in receipt of Universal Credit (or other qualifying benefit)¹¹⁷ cannot access SCP, and the frequent issues and UC's calculation can mean the families fall in and out of eligibility.¹¹⁸
56. Individuals subject to 'No Recourse to Public Funds' (NRPF) conditions under UK immigration laws are at significant risk of destitution. The Scottish Government has criticised NRPF and worked with the COSLA to produce a strategy to support people using devolved services to the extent possible.¹¹⁹ However research from organisations providing direct support to people with NRPF highlights extremely high levels of homelessness (93 per cent) and extremely low incomes (82 per cent reporting incomes of less than £60 per week and 33 per cent reporting no incomes at all).¹²⁰ It is extremely challenging for public and voluntary services to support people with NRPF in crisis because of the complexity, leading to increased risk of exploitation and people being forced to stay in dangerous living situations, such as abusive relationships.

CESCR should critically assess the extent to which the Scottish Government's approach to reducing poverty and destitution is reaching people at additional risk because of their identities or circumstances and recommend both governments use every lever they have to reduce poverty in Scotland.

2.1.8. Housing (Lol 30 and 32)

57. The Scottish Government has declared a 'national housing emergency',¹²¹ along with several local authorities.¹²² The declarations have no legal effect nor defined formula, although the framing makes visible the level of political concern about housing across the country. The Scottish Parliament's debate on the declaration surfaced issues such as demand for social housing outstripping supply, rent increases in the private rented sector and higher mortgage interest rates, as well as external factors, including high inflation and increases in the cost of living.¹²³
58. In June 2024, the Scottish Housing Minister set out the Scottish Government's approach to tackling the housing emergency,¹²⁴ however many of the actions were already in progress before the declaration.¹²⁵ Earlier in the year, housebuilders, and housing and anti-poverty NGOs criticised the Scottish Government for cutting the Affordable Housing Supply Programme by 26%, alongside other cuts to the housing and planning budgets.¹²⁶
59. The proportion of people living in the private rented sector is increasing and average private rents across Scotland are rising faster than inflation in 17 out of 18 areas. Average rents for one-bedroom flats rose 9.6 per cent in the last year and three-bedroom properties, more likely to be required by families, by 10.7 per cent.¹²⁷ Issues with conditions across the sector as a whole have also been identified.
60. The Scottish Government introduced a temporary rent cap and pause on enforcement of some evictions until 1 April 2024.¹²⁸ A Housing Bill, which is currently under consideration by the Scottish Parliament, aims to balance landlord's property rights with the need to ensure affordability for tenants, although there is limited detail about how a system of rent controls will be implemented.¹²⁹
61. The Committee requested a series of data connected to housing (Lol 30) from across the UK, only some of which has been provided in respect of Scotland. Data shows that:
- Completions for new social rental properties in 2023/24 fell by 15 per cent compared with the previous year.¹³⁰

- Across Scotland, 2.4 per cent of households could be considered overcrowded, but this rose to 4.5 per cent in Scotland's largest city, Glasgow.¹³¹
- In 2023/24 there were 40,685 homeless applications made to local authorities, households which included 15,474 children.¹³²
- On the 30th March 2024 there were 16,330 households living in temporary accommodation, the highest level ever recorded. This included 10,110 children (a 5 per cent increase from the previous year).¹³³
- 14,150 of the households were assessed as homeless or threatened with homelessness where the lead applicant was female.
- People from minority ethnic communities are also over-represented in homelessness applications.

62. The most recent homelessness statistics point to retrogression across housing rights as rates of homelessness increase.¹³⁴ Of note, 98 per cent of all homeless households were assessed as unintentionally homeless. Housing experts have warned that the housing crisis is creating a risk of loss of life this winter due to exposure to the elements, highlighting that 7 per cent of people who make a homelessness application have slept rough prior to their application.¹³⁵ These figures do not show the true scale of 'rooflessness' in Scotland, for example sofa sleeping or 'sex for rent' exploitation.

63. Despite strong legal protections on paper, there are longstanding failures of the legal duty to provide suitable temporary accommodation for homeless households. The Scottish Government has been encouraged to consider new duties to prevent homelessness from occurring.¹³⁶

64. Civil Society shared many examples of failures to provide appropriate temporary accommodation. Analysis of the Homelessness Statistics by Shelter Scotland highlighted at least 7,915 instances in 2023/24 where households requiring temporary accommodation were not offered temporary accommodation by the local authority, an increase of 1659 per cent on the previous year. An additional 7,400 cases were reported of households being placed in temporary accommodation which was deemed by law to be 'unsuitable', a 41 per cent increase on the previous year.¹³⁷ The proportion of households living in

temporary accommodation is more than twice the Scottish average in Edinburgh, with Glasgow and Shetland also very high. According to the Scottish Housing Regulator, homelessness services in ten local authorities are either in systemic failure or at risk of systemic failure.¹³⁸

65. The Commission's own research into ESCR in the Highlands and Islands identified a large number of barriers to the realisation of the right to housing in this part of Scotland. This includes evidence that a significant number of people across the Highlands and Islands are living in conditions of rooflessness (with no temporary accommodation or shelter). This includes individuals in temporary caravans, camping pods, and those 'sofa-surfing.' The cost of renting, building, or purchasing a home in the Highlands and Islands is a significant barrier, particularly for young people and higher fuel and transport costs are contributing to depopulation in the region.
66. Many participants who attended our engagement events highlighted the gendered inequalities in housing, some of which such as women's experience of homelessness are not fully captured in official data because they do not conform with traditionally male patterns.¹³⁹ Domestic abuse is the leading cause of women's homelessness,¹⁴⁰ yet temporary accommodation such as bed and breakfast, is not always family friendly or safe.¹⁴¹ Most refuge accommodation in Scotland is provided by the third sector and there are no official statistics covering numbers or waiting lists.¹⁴²
67. The culturally-appropriate accommodation needs of Gypsy / Traveller communities are not consistently met, with reported satisfaction data varying considerably between different sites.¹⁴³ Members of some communities have taken the initiative to apply a human rights monitoring framework to their accommodation, demonstrating the failure to meet the standards in the UN Convention on the Elimination of All Forms of Racial Discrimination¹⁴⁴ as well as ICESCR.¹⁴⁵ The Commission has regularly heard directly from some communities about the quality and acceptability of their accommodation¹⁴⁶ and witnessed¹⁴⁷ examples of degraded accommodation, including but not limited to mould and dampness, dilapidation and insufficient access to phone and internet connection.¹⁴⁸ In October 2024, the Scottish Housing Regulator found that one

site demonstrated "serious failings" by the local authority to meet the Scottish Government's Minimum Site Standards.¹⁴⁹

The Commission is deeply concerned that the rising rates of homelessness and shortages of affordable housing demonstrate not only failure to progress the realisation of rights but may amount to retrogression in Scotland. The Committee should inquire as to the extent of the Scottish Government's efforts to avoid and mitigate the risk to rights, including the maximisation of resources to ensure the right to shelter is effectively protected in all parts of Scotland, urban, suburban and rural.

2.1.9. Access to food (Lol 33)

68. Reliance on community provision of food in Scotland has increased significantly over the last two years. The Trussell Trust network of foodbanks provided 262,827 food parcels in 2022/23 and 262,479, in 2023/24.¹⁵⁰ Though the number of parcels fell very slightly, the number of people seeking support slightly increased. The Scottish Government's 'Cash First' approach to ending foodbank usage¹⁵¹ has been received positively but does not yet seem to be reducing the numbers.
69. Household food insecurity has been associated with more children going to school hungry¹⁵² and in February 2024, more than half of those receiving UC in Scotland reported running out of food in the past month.¹⁵³ The Commission has heard from rights holders about the impact of so called 'food deserts' which limit their practical access to fresh food locally.¹⁵⁴
70. The Commission's monitoring of ESCR in the Highlands and Islands found that action previously undertaken has been insufficient to fully mitigate and alleviate hunger in the region. Access to essential food for those who need it has mostly been provided through private initiatives (food banks and others), with only minimal support from duty-bearers. Cash-first approaches have not yet proven sufficient and a significant number of people in the Highlands and Islands are currently deprived of sufficient food due to high costs and general poverty conditions, undermining the minimum core obligations of the state. Issues with

affordability have been exacerbated by increasing living costs, jeopardising the progressive realisation of food adequacy.¹⁵⁵

71. The Scottish Government's Good Food Nation Bill did not include a statutory right to food. Campaign groups were assured that the Scottish Government's plans for incorporation of ICESCR via a Human Rights Bill would result in a justiciable right, however this is no longer being brought forward in the current parliament. A Private Members Bill on the right to food has been proposed.¹⁵⁶

2.1.10. Physical and mental health (Loi 34 - 37)

72. The Commission has previously provided a comprehensive description of inequalities across health outcomes in Scotland.¹⁵⁷ According to the 2023 Scottish Health Survey:¹⁵⁸

- 43 per cent of adult women and 32 per cent of adult men report having a limiting long-term condition.
- The proportion of adults meeting the recommended levels of physical activity has fallen (from 69 per cent in 2021 to 63 per cent in 2023), especially adults living in deprived areas (from 57 per cent to 50 per cent).¹⁵⁹
- There has been a slight improvement in self-reported mental health and wellbeing, which had declined over the pandemic, though this has not returned to pre-2020 levels.

73. The data gathered by this survey is illustrative of the state of general public health. However, as highlighted by civil society,¹² there are links between increased financial precarity and worsening physical and mental health outcomes.¹⁶⁰ In general, the state of mental health is concerning, with reports

¹² Annex B

from civil society that the cost of living, the Covid-19 pandemic and other trends have resulted in a sense of hopelessness and anxiety.¹³ Access to the necessary support such as talking therapies is under significant pressure,¹⁶¹ especially Child and Adolescent Mental Health.¹⁶² For the first time since records began, in 2023 the number of mental health inpatients increased compared to the previous year.¹⁶³

74. Despite significant financial investment to clear appointment and waiting times backlogs resulting from the pandemic, the latest figures show that only 63.9 per cent of outpatient appointments are attended within 12 weeks.¹⁶⁴ The Institute for Fiscal Studies suggests that the Scottish NHS is recovering more slowly than NHS England when compared against the same benchmarks.¹⁶⁵

75. The Commission has specific concerns about the accessibility of some health services, for example local and specialist services in the Highlands and Islands¹⁶⁶ and a lack of specialist equipment or screening services for disabled people.¹⁴ Access to healthcare in prisons, especially adequate mental health support, is also a challenge.¹⁶⁷

76. Women's health has been a priority for the Scottish Government, illustrated by the existence of a dedicated minister and the First Women's Health Plan.¹⁶⁸ There is a shortage of public data concerning health and female-specific health conditions that make it difficult to determine progress.¹⁶⁹ Some women's rights organisations have expressed concern at the lack of progress to improve access to reproductive healthcare and to modernise abortion laws.¹⁷⁰ Women in some remote and rural communities find it particularly difficult to access sexual and reproductive care across the board and changes to provision of maternity

¹³ Annex B

¹⁴ Annex B

services in some rural areas has resulted in women having to travel significant distances to receive care.¹⁷¹

77. Access to gender identity related healthcare, including mental health support, is very limited, with waiting lists for a first appointment for adults between two and five years, and four years for children and young people.¹⁷²

78. Scotland has the highest rates of deaths associated with drug use in Europe,¹⁷³ and rates continue to rise.¹⁷⁴ Rates of deaths due to drugs and / or alcohol are disproportionately high in areas of high deprivation.¹⁷⁵ In 2024, the death rates were reported as increasing by 12 per cent, despite the National Drugs Mission.¹⁷⁶

CESCR should recommend steps to improve the accessibility of healthcare in all parts of Scotland, ensuring that accessible, quality healthcare is available, including for marginalised communities. In addition, steps to improve the state of mental health should be prioritised, including state responses that recognise the impact of poverty and exclusion on the quality of mental health and as barriers to accessing appropriate mental health support.

2.1.11. Education (Lol 38 - 39)

79. An Education Bill was published in June 2024 as part of the Scottish Government's education reform programme.¹⁷⁷ Despite some positive commentary on greater independence for education bodies, some responses to the proposals suggest that they do not go as far as needed, nor as originally signalled in the Scottish Government comments on education reform.¹⁷⁸ The Bill has been criticised by the Children and Young People's Commissioner for failing to address the urgent need for fundamental changes to Scottish education.¹⁷⁹ Satisfaction with Scottish schools among people whose children use them has decreased since 2022 (85 per cent) and is the lowest recorded since this data has been tracked.¹⁸⁰ Research with children and young people themselves highlights the important impacts of teachers, concerns about bullying and gaps in schools' ability to fully meet the different needs of all pupils, including in the curriculum.¹⁸¹

80. A priority focus on reducing the poverty-related attainment gap has attracted significant investment (current commitments are worth £1 billion over the parliamentary term.)¹⁸² Despite this, the 2023 figures suggest that there has been only a small reduction in gaps between children from the most and least deprived areas achieving expected Curriculum for Excellence (CfE) levels.¹⁸³ A lower proportion of looked after¹⁵ pupils achieve CfE levels relevant to their stage compared with all pupils.¹⁸⁴ Care experienced children and young people are less likely to go onto positive education and are considerably less likely to go on to higher education (8.6 per cent compared to 40.3 per cent for all pupils). Likewise, there is a significant attainment gap for children with additional support needs (many of whom are disabled) with only 40 per cent of children with ASN achieving a qualification at SCQF (school leaving) level, compared to 70 per cent of all school leavers.
81. Evidence from civil society and from parents, children and young people indicates concern about levels of bullying within schools, including misogyny and racism.¹⁸⁵
82. Civil society has also raised concerns about cuts to additional support for learning for children with additional support needs.¹⁶

CESCR should examine the alignment between Scottish Government ambitions to ensure improvements in education outcomes for children from disadvantaged or marginalised backgrounds and the resourcing of targeted forms of support.

2.1.12. Cultural Rights (LoI 40 - 42)

¹⁵ The term 'looked after' refers to children who are in the care of their local authority under the Children (Scotland) Act 1995. Being 'looked after' covers children who live a range of settings, including residential care, foster care or kinship care where there is a written agreement between the local authority and the person related to the child.

¹⁶ Annex B

83. Since the Commission's List of Issues Report, there has been significant concern about proposed budget cuts for Creative Scotland, the public financing body for creative arts. Around £6 million in cuts were subsequently reversed,¹⁸⁶ and the Scottish Government has committed to increasing investment in arts and culture by £100 million by 2028-29.¹⁸⁷
84. Research with disabled people investigating disability and sport in Scotland in 2023 found that disabled people report higher levels of sedentary behaviour.¹⁸⁸ Many transgender people in Scotland (58 per cent) report feeling excluded from both individual and team sports (Lol 41). SportScotland, the national agency for Sports, has also identified barriers for people from minority ethnic communities, people with mental health conditions, older people and people from low income households.¹⁸⁹ In 2014, the Glasgow Games developed the first human rights policy for a mega sporting event.¹⁹⁰ This work positioned Scotland as a leader in integrating human rights into mega-events.¹⁹¹ Research examining the legacy of the 2014 Games has suggested that while celebrated at the time, little positive change in access to sport and physical activities levels has been identified since.¹⁹² Scotland will again host the (smaller scale) Games in 2026, providing an opportunity to learn from both the positive measures and failures.

CESCR should consider inequalities in access to culture and support for cultural output as described by the Commission in 2023 and recommend action to improve access to cultural activities and sporting activities for marginalised groups.

3. Additional Areas of Concern for the Commission

3.1. Lack of devolved policy information

85. The state report is unhelpfully vague on where devolved responsibilities or differences result in different barriers to the enjoyment of ESC rights across the UK. In general, information on Scottish policy lacks detail or is completely absent despite being a devolved responsibility. This risks undermining the effectiveness of the review process for rights in Scotland.

3.1.1. Climate Change (Lol 7)

86. In April 2024, the Scottish Government announced that it would scrap statutory annual and interim targets for cutting greenhouse gas emissions.¹⁹³ The Climate Change (Emissions Reduction Targets) (Scotland) Act 2024 replaces annual targets with 5-yearly carbon budgets, similar to those that exist in the rest of the UK.¹⁹⁴ During parliamentary debate, the Scottish Government claimed that the statutory target approach had been reflective of ambition but has not maintained enough flexibility to respond to unforeseen challenges.¹⁹⁵ A package of non-legislative measures was also announced.¹⁹⁶ Though many campaigners and experts acknowledged that the independent Climate Change Committee has said that the 2030 interim target was no longer "credible," some NGOs described the decision as the "worst environmental decision in the history of the Scottish Parliament".¹⁹⁷
87. The planned use of income from ScotWind to balance the public service budget would eliminate finite funding that had been earmarked to support climate mitigation and just transition. The Scottish Government have said that they will minimise any use of the long-term investment fund.¹⁹⁸

3.1.2. Covid-19 related policies

88. The State report includes limited information on COVID-19 and related mitigation policies and none from within Scotland. Given the extent to which COVID-19 and associated public health measures impacted on the enjoyment of rights, the Commission would have anticipated more information would be provided, though acknowledges that statutory public inquiries are still ongoing.
89. The Scottish COVID-19 Inquiry has divided its investigations into four portfolios - 1. 'Public sector response', 2. 'Financial and welfare support to businesses and individuals', 3. 'The provision of health and social care services', and 4 'Education, certification, impact on children and young people'.¹⁹⁹ The Inquiry has published a policy statement on taking a Trauma Informed and Human Rights-Based Approach.²⁰⁰ A significant body of evidence has already been received, heard and published by the Inquiry, although it is expected to last until at least 2025. Closing statements in relation to health and social care were heard in June

2024, during which Scottish Care suggested that "harms caused by visiting restrictions could have been mitigated had the Scottish Government undertaken a human rights-based assessment at an early stage of the pandemic."²⁰¹ An initial narrative of evidence from the inquiry is expected in 2025,²⁰² where findings from a human rights perspective may be identified.

3.1.3. Social Care for disabled people

90. The List of Issues published by the Committee requested information on social care for older adults but not for disabled people. While many of the issues raised in paragraph 46 apply to both groups, many disabled people experience cumulative financial and social marginalisation over a lifetime that must be recognised.¹⁷

91. In October 2024, national Disabled People's Organisations condemned the Immediate Priorities Plan (a short-term disability strategy) for having absorbed their "considerable time and energy to no avail."²⁰³ The impact of social care charging was described to the Commission as 'punitive' and 'completely unrealistic'.¹⁸

CESCR should encourage the state party to ensure that information from all parts of the UK is available to international and domestic scrutiny bodies.

3.2. Geographic inequality

¹⁷ The Commission's engagement sessions demonstrate a range of issues with additional energy costs of adaptive and essential apparatus, economic inactivity or employment discrimination and poorer mental health and wellbeing resulting from a lack of support to life independently and engage in community.

¹⁸ Annex B

92. In comparison to other parts of the UK, much of Scotland's landmass is more remote and rural, including a significant number of island communities. Nearly half of Scotland's landmass is located in the Highlands and Islands, inhabited by just 7.5 per cent of Scotland's population. Public bodies are obliged to have regard to island communities under the Islands (Scotland) Act 2018. There is no statutory obligation to consider the impact of decisions for other remote and rural communities (although some bodies do undertake an integrated Highlands and Islands assessment, for example Highland Council.²⁰⁴)

93. The Commission's localised monitoring of ESC rights in the Highlands and Islands demonstrates that living costs are substantially higher in some rural communities and therefore the cost of living crisis has exacerbated the significant existing barriers to the full enjoyment of economic, social and cultural rights in these areas. In particular, the Commission notes:

- Challenges in recruiting workers in essential services such as healthcare and education.
- Closures and centralisation of existing services, increasing the financial and human costs required for residents to access these when they are needed.
- A lack of affordable accommodation, exacerbated by tourism and second homes.
- Highly specific barriers to accessing food and clothing because of the distribution networks and difficulties in administering emergency or community provision.

94. The Commission's analysis has been summarised for the Committee at Annex D.

CESCR should consider the Commission's findings and highlight that policies should be adaptable to the specific needs of remote and rural areas. Programmes should be tailored to address local challenges. Human rights considerations must be embedded in all policy assessments, with parliamentary scrutiny to ensure laws and policies take into account the needs of the Highlands and Islands.

3.3. Access to justice

95. With the exception of the UNCRC, the legal position on international treaties in Scots law is fundamentally the same as in other UK jurisdictions²⁰⁵ and the Commission is not aware of any cases where the Covenant has been used to support interpretation of domestic legal obligations (LoI 2). It remains to be seen how the courts will approach ESCR as protected by the UNCRC.
96. Many stakeholders have spoken to the Commission about the difficulties in navigating the judicial and non-judicial complaints processes in Scotland. Research published by the Commission found that, without incorporation, there are a number of barriers to access to justice for breaches of ESC rights,²⁰⁶ including a lack of awareness of rights; lack of legal, financial and emotional resources; complexity of different complaints procedures, and weak mechanisms to promote system-level learning from past mistakes and violations.²⁰⁷ As highlighted in the Commission's State of the Nation report to the Scottish Parliament on civil and political rights, access to justice and routes to remedy for ESC rights under 'sectoral legislation'¹⁹ is complex and impossible to monitor systematically as the court service does not publish an analysis of decisions.²⁰⁸
97. Views from our engagement with rights holders and civil society and from domestic accountability and advice bodies indicate the tension between the interconnected nature of rights in ICESCR (and other human rights) and siloed routes to remedy. Legal aid is commonly considered to be in crisis across Scotland,²⁰⁹ with some areas described as legal aid deserts.²¹⁰
98. Some regulators and inspection bodies have told the Commission that they had seen increases in the numbers of complaints that they handle in recent years.²⁰

¹⁹ Used to mean legislation that gives effect to part of an ICESCR right domestically without direct incorporation. This includes a range of housing and social security entitlements provided in legislation, workers' rights and statutory obligations for providers such as health, social care and education, among others.

²⁰ See further information provided at Annex B

They reflected that some of the increases were not about specific failures but a result of difficulties in meeting public needs and expectations amid diminished capacity across the public sector.

CESCR should emphasize that a domestic legal framework that enforces ESC rights is necessary to ensure accountability and justice. The Scottish Government should incorporate ICESCR to the fullest extent possible and ensure that court and non court complaint mechanisms for ESC rights are accessible, affordable, timely, and effective, including the provision of quality, affordable legal advice.

4. Conclusions and Recommendations

The Commission encourages the Committee to ensure that its recommendations are actionable in Scotland and take into account the constitutional make up of the UK.

In particular, the Commission recommends that:

The CESCR's Concluding Observations should draw attention to the failure to progress the commitment to a stronger human rights framework in Scotland through incorporation and make recommendations to prioritise incorporation and justiciability of ESC rights, strengthen the mandate and resource of the Commission, and improve the monitoring framework across Scotland.

The CESCR should recommend that human rights budgeting processes should be implemented in Scotland, including alignment with human rights legal standards, oversight, public participation and transparency, and be part of the processes and policies of revenue raising as well as resource allocation.

The CESCR should highlight the need for stronger human rights protections in domestic law to ensure access to justice for people from further marginalised communities and recommend measures to strengthen equality and human rights mainstreaming across the devolved public sector, including the devolved aspects of the Public Sector Equality Duty.

The Scottish Government's aim to support access to quality work and conditions of work is not translating into outcomes for some groups who are further from the labour market. CESCR should recommend a more joined up approach to work-related human rights, with appropriate levels of funding and targeting of marginalised groups.

The Committee should recommend that social security levels are reviewed for their adequacy in all parts other UK and that applications and payments are accessible to all people, regardless of communication needs or digital barriers.

The Commission encourages the Committee to examine the extent to which state provided care is resourced in Scotland and identify the potential for retrogression for service users. The state should also ensure family caregivers' access to mental health and respite support where needed.

CESCR should critically assess the extent to which the Scottish Government's approach to reducing poverty and destitution is reaching people at additional risk because of their identities or circumstances and recommend both governments use every lever they have to reduce poverty in Scotland.

The Commission is deeply concerned that the rising rates of homelessness and shortages of affordable housing demonstrate not only failure to progress the realisation of rights but may amount to retrogression in Scotland. The Committee should inquire as to the extent of the Scottish Government's efforts to avoid and mitigate the risk to rights, including the maximisation of resources to ensure the right to shelter is effectively protected in all parts of Scotland, urban, suburban and rural.

CESCR should recommend steps to improve the accessibility of healthcare in all parts of Scotland, ensuring that accessible, quality healthcare is available, including for marginalised communities. In addition, steps to improve the state of mental health should be prioritised, including state responses that recognise the impact of poverty and exclusion on the quality of mental health and as barriers to accessing appropriate mental health support.

CESCR should examine the alignment between Scottish Government ambitions to ensure improvements in education outcomes for children from disadvantaged or marginalised backgrounds and the resourcing of targeted forms of support.

CESCR should consider inequalities in access to culture and support for cultural output as described by the Commission in 2023 and recommend action to improve access to cultural activities and sporting activities for marginalised groups.

CESCR should encourage the state party to ensure that information from all parts of the UK is available to international and domestic scrutiny bodies.

CESCR should consider the Commission's findings and highlight that policies should be adaptable to the specific needs of remote and rural areas. Programmes

should be tailored to address local challenges. Human rights considerations must be embedded in all policy assessments, with parliamentary scrutiny to ensure laws and policies take into account the needs of the Highlands and Islands.

CESCR should emphasize that a domestic legal framework that enforces ESC rights is necessary to ensure accountability and justice. The Scottish Government should incorporate ICESCR to the fullest extent possible and ensure that court and non court complaint mechanisms for ESC rights are accessible, affordable, timely, and effective, including the provision of quality, affordable legal advice.

5. Annex A - Methodology and Sources of Evidence

The Commission's parallel report builds on evidence the submitted to the Committee in January 2023 and the two should be read together. The 2023 report provides a considerable body of detail on the operation of Scottish laws, policies and practice as relevant to the substantive ICESCR rights. In the interest of usability, this report does not restate this evidence, and instead focuses on three priorities:

- Describing and analysing developments between January 2023 and December 2024.
- Critically analysing the information provided in the state response to the list of issues.
- Demonstrating the human impacts of rights denials in Scotland, especially for further marginalised groups and communities.

Information is organised to respond to the List of Issues Pending Review²¹¹ (LoI). This supports the Committee's interactive dialogue with the UK. This was cross referenced with themes determined from the Commission's civil society engagement event, which is summarised at Annex B.

The evidence for this report consists of:

- A secondary analysis of findings from the Commission's evidence, data and analysis collected through research and monitoring activities.
- New analysis of official data. This includes official statistics, parliamentary business, and Scottish Government publications.
- Supporting research from credible non-official sources including NGOs and academic research.

Of particular note, we highlight two important publications from the Commission in 2024:

- Scottish Human Rights Commission (2024) Report to the European Social Rights Committee Ad Hoc Report on the Cost of Living Crisis²¹²
- Scottish Human Rights Commission (2024) Economic, Social and Cultural Rights in the Highlands and Islands²¹³

The Commission's research findings were then interrogated against findings from consultation events, summarised at Annex B and Annex C. Several organisations submitted further evidence or resources to support the Commission's research.

6. Annex B - Summary of Evidence from Statutory Accountability Bodies

Key findings

In anticipation of its report to the Committee on Economic, Social and Cultural Rights, the Commission hosted a discussion with accountability bodies in Scotland focused on embedding ESC rights in their work. Over a wide-ranging discussion, three main cross-cutting themes emerged:

- The scale of poverty in Scotland, the increased vulnerability of some households to external shocks and exhaustion of public sector resilience to crisis, all potentially contributing to increases in demands for assistance or complaints across many complaints handling bodies.
- A desire to explore mutually beneficial accountability body collaboration in support of greater human rights implementation.
- Areas of possible real or perceived tension between the human rights agenda and the anti-poverty agenda that merit further discussion.

Background and context

The Commission hosted a roundtable discussion with senior representatives from a range of arms-length statutory bodies. These included organisations with advisory and / or regulatory and investigatory functions.

Methodology

The event was held on the 18th of November 2024 and attended by twelve people. An invitation list was agreed with the Chair on the basis of the overlap between the organisation's mandate and ICESCR and the nature of the organisation as independent public accountability body.

- Agencies that were part of the Scottish Government or the state's executive functions (such as the NHS or Local Authorities) were not included in this list so as to maintain distinction between the government's obligation to consult with the National Human Rights Institution in the review process and National Human Rights Institutions' commitment to working with other accountability bodies.

In advance general discussion prompts were shared with all registered attendees:

Where, in your own work, do you see challenges in progress (the 'progressive realisation' of human rights)?

What are the resource challenges / where should resources be prioritised? What kind of resource is needed?

How easy is it for the populations affected by the issues you see to raise complaints?

What trends are you seeing in complaints or applications that you handle?

What issues should the Commission highlight to the Committee as part of the review process?

How can the Commission support human rights being further embedded in your work?

Chair of the Commission, Angela O'Hagan, welcomed attendees to the discussion and thanked them for their time and contributions. Professor O'Hagan then outlined the Commission's strategic plan priority on tackling poverty and the role of the Commission in convening inter-sector discussions on human rights.

Policy and International Officer, Eilidh Dickson, presented a short overview of the treaty monitoring process and the purpose of shadow reports, both within the reporting process internationally and wider domestic uses. There was then opportunity for questions and clarifications.

The rest of the meeting was an open discussion which is summarised below. Discussions were held according to 'the Chatham House Rule' i.e. comments have been recorded in this note but not attributed to any one speaker.

Organisations present:

- Audit Scotland
- Care Inspectorate
- Care Inspectorate
- Consumer Scotland
- General Teaching Council

- Poverty and Inequality Commission
- Scottish Commission on Social Security
- Scottish Housing Regulator
- Scottish Human Rights Commission
- Scottish Land Commission
- Scottish Public Services Ombudsman
- Scottish Social Services Council

Rationale

The Scottish Human Rights Commission is committed to working alongside the people of Scotland in pursuit of our mandate to promote and protect human rights.

The Scottish Government and other executive state bodies have the primary obligation under international and constitutional law to implement international treaties to which the UK is a party. The Committee on Economic, Social and Cultural Rights encourages the Scottish Government to consult with stakeholders including the NHRI in the production of their reports in the periodic monitoring process. The Commission then submits an independent report, often known as a shadow or parallel report to support the Committee's assessment of progress.

The Commission is committed to working with others to support a credible and pluralistic assessment of the state's compliance with its treaty obligations, while guarding the independence of our findings.

Arms length public sector bodies such as Commission, regulators and ombudsmen play an essential role in implementing human rights and ensuring accountability for rights denials. They do this according to specific 'sectoral legislation' that relates to human rights standards, including substantive ICESCR rights.

In Scotland, some of these bodies explicitly embed a human rights-based approach into their work or assessment criteria, while others take a narrower lens to delivering against their sectoral obligations. Each organisation works across one or more substantive rights, but this is not always related back to any specific treaty article(s).

The Commission's aims for this roundtable were both to gather evidence and analysis from the individual organisations and to generate initial discussion about how human rights, in particular ICESCR, could be further realised through individual and joint work in each organisation's sectoral specialty.

Findings

Several organisations reflected that they had observed increases in the volume of complaints received in recent years. The levels of increases varied, but in some cases were significant. These organisations reflected that in many cases the complaints they were seeing were not about individual fitness to practice, individual officer's actions or a specific systemic failure but a result of diminished service capacity due to reductions in public funding. Complaints about quality of service delivery/practitioners are in effect rooted in other issues such as access to other support services, and family food security and nutrition and activity levels, for example.

There was no single definitive reason identified for these increases, but attendees reflected the possibility of some combination of greater awareness of complaints processes, inter-organisation signposting and wider trends in public sector service capacity. In particular, it was suggested that some individuals are experiencing ever greater barriers to accessing the services they need and possibly coming to complaints bodies feeling that they have nowhere to go. The diminished availability of legal aid is a further contribution to pushing people further from access to advice and support for rights realisation.

As regulators and systemic complaints handling bodies, it was noted that the present bodies were generally at least one step removed from frontline service delivery. As important as it is to hold these services accountable there were both organisational limitations and public economic considerations to manage. Some participants commented that capacity constraints impede a deeper and / or human rights analysis of the issues being raised in complaints.

The characteristics of multi-level governance and the multiple agencies involved in service delivery can present additional challenges for ensuring consistent approaches to service design and evaluation. New charters and codes of practice within public bodies present new and positive opportunities to integrate a focus on rights realisation and compliance.

Some attendees reflected that the commitment of senior leadership to human rights was essential in making the system work, especially without incorporation and associated public sector duties that could drive compliance. These leaders had limited power to ensure a human rights-based approach continued once their term of office was over, reinforcing the need for collective action across public bodies to drive a shared perspective, or lens, on human rights.

It was noted that the actions of one body frequently impact on the work of another, reflecting the interconnected nature of both the public sector and ESC rights. Many participants indicated a desire to collaborate so as to maximise the value of work. One participant highlighted ongoing discussions around Scottish public sector reform²¹ as being highly relevant for this conversation.

The Chair highlighted obligations under ICESCR to maximise the total resources available to realise human rights and the Commission's work on human rights budgeting. The Chair suggested that greater promotion of this work across the public sector would be beneficial. Other participants also questioned whether 'standing still' amounted to human rights retrogression, and the Chair highlighted the role of minimum core obligations, which could be used to assess the fundamental requirements of policy interventions.

It was suggested that a way to add value as oversight bodies was to embed human rights prompts and questions into the oversight process and influencing standards setting. Positive examples were provided from some of the bodies of success in embedding equality and human rights in their work, including the work of SPSO on Child Friendly Complaints and the embracing of equality and human rights as corporate values across performance audits undertaken by Audit Scotland. The utility of having human rights, especially ESC rights, embedded into the Scottish Land Rights and Responsibilities Statement 2022²¹⁴ had created opportunities to set protocols and issue advice. It was suggested that the Scottish Government was demonstrating greater comfort in managing its obligations under ICESCR with its property rights obligations under the ECHR, potentially due to greater awareness of these rights.

An additional example of the role of the Social Security Charter in driving delivery was highlighted, though it was also noted that there has not yet been judicial testing of the Charter's interpretative value. Although individual breaches of the Charter do not themselves give rise to legal action, there was potentially some role for a bigger picture integration of the Charter's successes and failures.

²¹ Inquiry into the Scottish Government's Public Service Reform programme | Scottish Parliament Website

There remains for some attendees a wider challenge about the gulf between mandates and powers.

Many contributions across the meeting indicated concern about financial and resource pressures for individuals. It was noted that the combined challenges of the last decade had 'made things even worse for more people', expanding the number of people who were seeing barriers to an adequate standard of living and exacerbating the pressures for households who were already struggling.

Several highlighted the challenges of navigating the No Recourse to Public Funds (NRPF) rule, and the human rights, moral, legal and constitutional and resource implications that all had to be considered. The Commission acknowledged that this was a commonly shared priority in many discussions and highlighted that several human rights bodies had been interventions on this subject. The Commission committed to sharing a note of these.

The Scottish Welfare Fund was also discussed. Some attendees were involved in oversight and noted that the review Committee had warned that Statutory SWF Guidance did not reflect human rights and that the way SWF was being delivered was contributing to inequality. It was also noted that the SWF is a form of crisis support not replicated in other parts of the UK and one attendee reflected that this demonstrated the challenge of demonstrating different levels of compliance in one state.

It was suggested that a focus on eradicating poverty may lead to tension with human rights-based approaches, especially the principle of non-retrogression. Some participants suggested that there was a need for an open debate about the viability of universal public goods. With the Scottish Child Poverty Targets looking increasingly likely to be missed (both the interim and 2030 targets), radical measures were needed. The Scottish Child Payment had been hugely impactful and in Scotland social housing does a significant amount 'of the heavy lifting'.

On the one hand, it was suggested that there is unexplored potential for the Scottish Government via devolved social security to do more while on the other hand, concerns about the financial and constitutional constraints were also advanced. It was noted that the Scottish Fiscal Commission has forecast increased spending on devolved social security even where the eligibility criteria have not widened. This could indicate that changes in how services are delivered encourage higher take up rates that need to be met.

The need for significant household and public investment in major projects such as climate change adaptation was suggested to be an unavoidable reality, but more

needed to be done to protect people in positions of increased vulnerability from exposure to hardship. Challenges included the up front cost of improvements to home insulation, the cost implications of fuel price increases for high energy users such as disabled people who require lifesaving equipment and upgrades to the water supply network.

All of these indicated a needed for the accountability bodies to be 'pointing in one direction rather than pushing competing demands.

A range of existing and upcoming work was mentioned throughout the discussion, such as shared interests in a range of access to justice issues across civil and political rights, and current and forthcoming research and advice on economic and social rights including:

- Restrictive practices in residential care settings
- Alcohol and drugs services
- Digital exclusion
- The Social Security Charter
- The Adult Disability Payment
- Accommodation conditions for Gypsy / Travellers
- Community resilience and flooding
- Fiscal Sustainability and Public Sector Reform
- Sustainable transport

Conclusions

Three cross-cutting themes emerged from across the present organisations:

- The scale of poverty in Scotland, the increased vulnerability of some households to external shocks and exhaustion of public sector resilience to crisis, all potentially contributing to increases in demands for assistance or complaints across many complaints handling bodies.
- A desire to explore mutually beneficial accountability body collaboration in support of greater human rights implementation.
- Areas of possible real or perceived tension between the human rights agenda and the anti-poverty agenda across Scottish public policy that merit further discussion.

Attendees broadly indicated a desire to continue the conversations and think across the full reporting cycle to promote implementation of ICESCR. However at least one organisation felt they had limitations in their mandate to be fulsomely involved and others highlighted gaps in who was in attendance.

The Commission thanks all participants for their reflections and the evidence shared and signposted and will reconvene a discussion based on the concluding observations from the Committee focused on taking forward implementation and monitoring.

7. Annex C - Summary of Evidence from Civil Society

Key findings

To inform the Commission's engagement with the seventh report of the UK under the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Commission hosted an event to hear from rights holders and civil society on 13th of November 2024.

The Commission's analysis of the meeting notes highlights that:

- The cost of living crisis continues to have a broad range of negative impacts on rights across ICESCR, especially acute for people in marginalised groups and communities, e.g. included personal debt, food quality, fuel poverty and inadequate housing and compounding health issues.
- Noted negative trends in accessibility and availability of services to support people experiencing these challenges.
- Concern about a lack of joined up thinking at decision-making level and a shortage of accountability.
- Voluntary services plugging the gaps in support.
- Intrinsic, inseparable and cyclical impacts across ICESCR rights appear to be creating a ripple effect and culminating in pervasive feelings of insecurity and anxiety, contributing to poor health and wellbeing.

Methodology

The event was attended by 39 participants. Invitations were shared via the Commission's mailing list and social media, with invitations managed through an online microsite. The majority of participants were associated with a third sector organisation, although the event was open to anybody to attend.

The first half of the event consisted of two presentations. The first, delivered by the Chair of the Commission, concerned the Commission's Strategic Plan and its priority focus on poverty in Scotland. The second presentation provided an overview of the ICESCR reporting process and the Commission's approach to producing its shadow

report. There was then opportunity for participants to raise questions and clarifications.

The rest of the session proceeded in smaller discussion groups, facilitated by a member of the Commission's staff. Participants were encouraged to share their priorities across ESC rights without being concerned about which substantive rights in the Covenant were engaged. Broad questions were proposed to start the discussion:

1. What in your view are the biggest issues affecting ESC rights in Scotland today (health, social security, education, work, culture and adequate standard of living)?
2. Are there areas where things have gotten worse or improved since we last spoke to the Committee in 2023?
3. What could the Scottish Government do more or less of that would have the biggest positive impact for the rights of the people you work with?

This summary represents the Commission's best efforts to accurately capture and analyse the input from individuals. Views expressed have not been attributed and have been summarised into themes using an inductive approach.²² Comprehensive notes were taken by Commission staff and then these write ups were coded by the report author based on key terms or sentiments as follows:

- Rising costs, affordability and adequacy of financial support (including social security)
- Work and wage sufficiency
- Complexity or cross-cutting issues
- Healthcare accessibility or adequacy
- Things getting worse / no realisation / broken promises / hopelessness
- Food / nutrition

²² [Inductive Approach \(Inductive Reasoning\) - Research-Methodology](#)

- Housing / homelessness
- Public spending decisions, (human rights) budgeting and maximising state resources
- Risks to physical safety or life
- Intersectionality and further marginalisation of people and communities
- Physical or informational access and communication
- Education
- Service design and centralisation
- Access to justice

Not all opinions will be universal, although we found there to be considerable agreement among participants' stated views (a semantic approach). The inputs summarised below have, alongside the other sources of evidence referred to, informed the Commission's analysis in our wider report, but all findings and recommendations are ours alone.

The Commission welcomed further written inputs shared by several organisation who attended the event and some who were unable to attend.

Rationale

The Scottish Human Rights Commission is committed to working alongside the people of Scotland in pursuit of our mandate to promote and protect human rights. We do this through participation and engagement aligned to our participation strategy.

For human rights monitoring and international reporting, we commit to consulting with rights holders in the development of our submissions and engagement.

Findings

The contributions spanned a wide array of sectors and communities. It was immediately apparent that many issues were complex and cross cutting, however the themes and trends identified were almost universal across all four groups.

Cost of living crisis

"There are a lot of financial barriers to people enjoying their human rights".

The most common theme to emerge from the discussions was the impact of rising costs and the gap between meeting essential costs and incomes. The impacts of high inflation have been severe, with costs of food and fuel particularly impacted. This was affecting everybody but some comments suggested that the scale of poverty and financial hardship was far greater than acknowledged in public discourse. Terms suggesting struggle, inadequacy of income and impossibility of meeting basic needs were commonly used. Rising levels of personal debt were also being seen in case work.

The Scottish Government's commitment to tackling child poverty was raised frequently. There was some reflection that stronger delivery of this priority would deal with many of the wider concerns discussed. While many attendees reflected positive views of the commitment, some participants were concerned that the intersection between children's poverty, and their primary carer (women's poverty), family and community was not sufficiently recognised in public policy.

On social security, interventions suggested dissatisfaction with the levels of benefits, especially non-means tested benefits, to meet the costs of day-to-day living. Examples of people being told to use payments meant to cover the additional costs of disability for day-to-day living were provided by some organisations. Other issues raised were the 'old problems' of sanctions, the benefit cap and bedroom tax. The freeze of Local Housing Allowance was specifically raised. Issues with Universal Credit were highlighted, including the alignment of payment dates with wages and the single household payment, especially for women. There was a call to improve the link between benefits and the consumer price index to mitigate the gap between inflation and incomes for the poorest households.

Some participants directly or indirectly referred to impacts of poverty beyond the financial, and that social isolation or mental and physical health consequences are common. The additional costs of charging medical equipment were stated to be putting disabled people's health and lives at risk.

Loss of hope

"It feels like we're gaslit rather than allowed to have a genuine conversation about how to progress something... it just seems like the last two years have been a bit of a waste".

Many people stressed the high level of anxiety, insecurity and hopelessness felt by people in their organisations and by those they support. Many comments reflected a sense of deterioration or things being harder to manage for more people.

Reasons given included the failure of the Scottish and UK Governments to deliver on perceived promises, such as the delay to the Scottish Government's Human Rights Bill, removing social care charges or a ban on LGBTI conversion practices. Other people reflected that economic hardship for individuals, households and third and public sector organisations had been long lasting and cumulative. No longer were some of the present organisations working on the 'nice to haves' or 'advancing progress' or even short-term hardships, but instead managing crisis after crisis and losing faith that things would improve.

Organisations had been investing significant personal and financial resource into working with the Scottish Government to improve things and many interventions reflected some regret about the opportunity costs. Existing statutory targets and ambitious policy commitments felt far removed from the realities of daily life or unlikely to be delivered. Future ambitions such as a Minimum Income Guarantee or Basic Income were acknowledged in a number of interventions, but often without optimism that these would be realised, with one participant observing this work had been in train for three years with no sign of movement.

Complexity and Cross-cutting Issues

"Every First Minister has said that they will eradicate poverty, eradicate child poverty - it never happens. They don't have the levers or the financial resources to make it happen".

All of the discussion groups commented on the interconnected nature of ESC rights denials in some way. Several priority frameworks for policy ambition were highlighted including the tackling child poverty ambition, the incorporation of the UNCRC, human rights and / or equality mainstreaming and the delivery of the Scottish National Action Plan for Human Rights (SNAP 2). Despite these drivers co-existing, the narrowing of associated funding streams was causing issues for some organisations working between or across priorities and leaving other gaps in support available. Another challenge frequently mentioned was that policy levers are split between the UK Government and the Scottish Government.

Attendees who worked with particular groups frequently observed that multiple issues were affecting the people they support at the same time, and this made it difficult to address the root causes of rights denials. Examples were given of rights breaches bleeding into wider issues. These include lack of gender affirming healthcare leading to social and cultural isolation for transgender people, especially transgender young people and damp and mouldy housing contributing to physical health conditions.

In several groups, examples of women's financial hardship making it harder to leave an abusive partner and therefore putting women in great physical danger were put forward. While the Scottish Government has established a pilot 'fund to leave', several participants expressed confusion about the status and eligibility criteria for this and suggested that some women had been denied other forms of crisis grants. For migrant women, concerns about immigration status and access to public funds were an additional complexity due to recent changes to immigration rules. Several participants referenced the impact of the No Recourse to Public Funds rule in making migrants and their families particularly vulnerable to exploitation and increased risks to their physical safety. A particular issue with the Domestic Violence Concession Scheme was noted, as this creates a short term right and a 'cliff edge' of state support.

Maximising and allocating resources

"If you're going to have all these pieces of legislation and Bills, you have to back that up with budgets and actual policies".

The barriers to providing and accessing support seemed to many people to have intensified, including over the two years since the Commission's previous report to the CESCR in January 2023. Comments on this theme suggested a lack of synergy between local and Scottish Government decision-making. A related issue mentioned was the centralisation of services, especially in remote and rural areas.

Several interventions reflected a feeling that resources were not provided to support the Scottish Government's rhetorical commitments on ESC rights realisation. Several comments concerned the state of public finances, public spending and cuts to the operational budgets of public services. Some organisations referenced in-year cuts and/or a lack of communication about the future of funding streams coming to an end, resulting in the withdrawal of services by local or voluntary organisations.

Resources were described as focused on the most acute crisis situations, which led to long-term complex issues, such as the institutionalisation of people with learning disabilities or mental health conditions.

Calls for a human rights budgeting approach to be operationalised were mentioned as a possible solution to some of these challenges, but no examples of current successful implementation were given. It was suggested that the ways in which government identified cuts was 'targeting vulnerable people instead of protecting them'.

Some comments highlighted that voluntary organisations are seeing increased numbers of people needing support, but that costs of providing that support are going up. Some voluntary sector organisations suggested that some of the ways in which funding is advertised and allocated are too narrow and not responsive to what is needed. For example, Disabled People's Organisations have indicated a need for more advice in accessible settings and for nurturing existing support that's available instead of looking for new projects.

Inequality and marginalisation

"We're not seeing steps being taken to understand the impacts on equality at both local and national level, it doesn't appear inequality is being considered by decisionmakers".

While many issues were described in quite general terms, it was often noted that particular groups have specific needs and risk factors that need to be considered. Examples from across the discussions included the hidden costs imposed on families supporting someone in prisons, which is often highly stigmatised, and the additional costs associated with being a disabled person. Research from the organisation SCOPE was highlighted which puts the average additional costs of disability at nearly £1000 per month. Research from the Glasgow Disability Alliance was also cited,²³ with the main issues including not having enough money to manage costs, being unable to afford fuel including charge for medical equipment and rising debt.

The impact of social care charging²⁴ was mentioned in several groups. It was noted that this had been committed to yet remains undelivered. Thresholds at which

²³ Disabled People Challenge Poverty - survey findings summary • Glasgow Disability Alliance

²⁴ In Scotland, Local Authorities may charge people for non-residential care provided under the Community Care & Health (Scotland) Act 2002. If the Local Authority charges for some social care services they will conduct a financial assessment to determine what level of contribution the person receiving the care must make. The Coalition of Scottish Local Authorities has developed national guidance on charges to support local policies which are "accessible, transparent, fair and equitable, and developed from a human rights perspective." See: COSLA Charging Guidance

charges begin to apply were described as 'completely unrealistic' and 'punitive'. Several groups also highlighted the rights of unpaid carers, the majority of which are women. As health and social care packages have been reduced, more care is needed to be provided by family. Unpaid care was noted to be socially undervalued and social security support for unpaid carers very limited, exposing many to poverty. One participant described the distress among a group of disabled people not being able to attend the funeral of a friend because they had each been unable to secure the necessary social care support they needed to attend.

Particular issues for migrant communities, asylum seekers and refugees were often noted. These included the risks of exploitation, language barriers and lack of access to translation services to support access to services and the impact of visa conditions such as No Recourse to Public Funds (NRPF).

Inequality on the basis of race and ethnicity was highlighted in relation to high rates of poverty for some minority ethnic communities, including people from Bangladeshi and Pakistani background. Concerns about women from minority ethnic communities were also discussed, especially around work and housing. Intersectionality was described as an important priority.

Gendered inequalities and trends were frequently mentioned across a range of issues, especially in relation to housing. The impacts of gender-based violence, sexism and misogyny were highlighted in a number of interventions. One organisation that works with women and girls reflected that some in their network felt that women had no rights, and that "the whole system is against them", citing the design of social security and the legal system as have particularly gendered impacts.

Discrimination for LGBTI+ people, especially transgender people and gender diverse people, was highlighted in many spheres including work, engagement with the UK Government Department for Work and Pensions and benefit application and healthcare. These interventions emphasised significant impacts for mental health and wellbeing levels across this community.

Finally, connections between rights realisation for care-experienced people of all ages and the importance of successful implementation of 'The Promise'²⁵ were highlighted. It was said that people with a background of care experience face significant rights denials, with survey data showing that the top issues are housing, finance, belonging and connection, access to services and health.²⁶ It was stressed that this group lacks familial support to manage crises, leading to issues such as rent arrears.

Physical or informational exclusion

"There's no consideration of the physical ability to use a computer".

Many examples given highlighted barriers to accessing physical premises or other forms of support. These included language barriers and digital skills. More than one participant referenced the cost of running a computer or owning a smart phone as an additional barrier. As more services shift to online applications and delivery, some people are locked out. However, it was also noted that some groups can potentially benefit from enhanced virtual connectivity where physical attendance is more difficult.

Other issues on this theme included a lack of appropriate utilities for disabled people. This included a shortage of adapted homes, reductions in parking places needed for disabled people's vehicles and a lack of medical equipment needed to ensure disabled people can access some forms of treatment.

It was also said that consultation processes are not sufficiently participatory to enable people's voices to be heard. The importance of access to decisionmakers and transparency about decisions was highlighted in comments on the importance of freedom of information laws as a tool to support rights realisation.

Work and wage adequacy

²⁵ <https://thepromise.scot/>

²⁶ Lifelong Rights Campaign - Who Cares? Scotland

"The root issue is income inadequacy and low wages - the minimum wage needs to be highlighted".

Comments on work noted that unemployment rates were low and yet earnings are often insufficient to cover bills or deliver an adequate standard of living. In some areas competition for roles was high, while in other sectors there were large numbers of vacancies. Attendees were frequently worried about the vulnerability of people to exploitation, where the cost of being out of work means that they must tolerate poor conditions. In-work poverty was said to be a huge issue for many communities.

Seasonal migrant workers were identified as a group particularly vulnerable to exploitation and social and economic rights denials. It was noted that many of these workers have no access to worker representation in the form of trade unions and will never accrue access to employee protections because of the length of the contract. Their immigration status and even housing is linked to their worker status.

Many migrants and refugees are unable to work at all due to the immigration rules and state support is limited. As a result, organisations told us that they were concerned that some people were working 'under the books' for below minimum wage and were therefore extremely vulnerable to exploitation. Specific difficulties in accessing work for trans young people were also highlighted.

Access to [affordable] childcare was noted as a significant barrier to women's employment and therefore a significant contributing factor to women's poverty and other forms of exclusion.

Housing

"We know it's a housing crisis, but it's like there's nothing being done about it".

Housing was generally seen as an area that had deteriorated since the Commission's last submission to the CESC in 2023. A wide range of issues were raised relating to affordability, security of tenure, overcrowding and conditions. A couple of participants referenced the housing supply targets and the disconnect between these and the cuts to the housing budget. Housing was frequently associated with mental health and wellbeing issues.

Issues for women in accessing safe, appropriate housing for themselves and their children were cited. Organisations who undertake work with women experiencing domestic abuse are finding it difficult to identify refuge accommodation. Women who

accessed refuge accommodation were unable to leave when they were ready because of a shortage of appropriate social housing. In some cases, they were aware of instances where women had been taken in by a 'foster family' to avoid homelessness or women and children were being placed in hotel accommodation.

It was also noted that housing associations are seeking to increase the social housing stock, however, the funding is not in place. New housing that is being built is often expensive and too small for families, or is luxury student accommodation. Mid-market rentals²⁷ are unaffordable for a lot of people. Rates of homeless was a concern for some participants, yet it was also noted that rough sleeping had been eradicated during the pandemic, showing that it was possible to address this when there is will to do so. However, homelessness emergency derogations open to local authorities were described as 'problematic.'

In all housing sectors, conditions were a problem. Examples of mould and damp contributing to ill health were provided from handled case work. It was noted that there is not enough accessible housing for disabled and older people who require adaptations. A specific issue with the accommodation provided to seasonal workers was also raised. In some places accommodation is tied to seasonal worker's employment conditions and there are no enforceable standards for this. Where the work contract is precarious this can lead to very short notice eviction, such as three days notice.

Food

"We need a greater emphasis on 'good food', things like public restaurants. Our food supply system depends on treating people really badly".

Positive examples of community efforts to support people with access to food were described, and the Scottish Government's approach to ending reliance on foodbanks was commended. Foodbanks were acknowledged as a temporary fix that are not

²⁷ Mid-Market Rent refers to properties which are available to low or middle income households who do not qualify or are not a priority for social rented accommodation but cannot afford to buy their own property or rent on the open market. Different landlords will apply different earnings and other criteria.

helping to tackle the significant challenges of food affordability and quality of nutrition. Previous Concluding Observations from CESCR in 2016 has focused on the right to food and positive dietary policy but this has not been acted upon.

The gendered nature of family food provision was also highlighted. It was also reflected that food and nutrition are linked to income and have direct impact on health. An example of this provided was the lack of access to food in some urban areas, such as the Castlemilk area of Glasgow, where thousands of residents have no local access to a supermarket. The interconnection between supply, affordability and workers rights, especially seasonal workers and agricultural and fisheries workers, was emphasised.

An example of a foodbank in West Dumbarton that had redeveloped its model of food provision to delivery was seen as a positive innovation for people who could not physically or financially afford to travel to foodbank sites. However, it was also noted that this had increased the costs of delivering the service as well as more and more people seeking support.

Health and healthcare

"... it all creates isolation and loneliness and severe mental health issues".

It was noted that life expectancy in Scotland is falling and that many of the issues discussed were having a direct negative impact on the state of Scotland's mental health and wellbeing. Higher rates of Disabled Living Allowance payments for care experienced adults were suggested to be a result of the connection between poverty, isolation and mental ill health. Access to support for mental health conditions was identified as an issue, especially for disabled people.

Some more specific issues were identified in healthcare delivery. These included gaps in reproductive health and gender affirming healthcare. Some organisations shared that current waiting lists for gender affirming healthcare for young people had reached four-five years . Although reforms were underway, waiting time targets were being missed and people were struggling. The legal and healthcare framework around abortion was also highlighted as causing delays and barriers to healthcare, contrary to ICESCR General Comments.

Access to physical healthcare appointments in the Highlands and Islands was a concern, especially for women's reproductive, maternity or gynaecological care. It was however also noted that women's healthcare is not limited to sexual and reproductive care. Participants highlighted reports of young women becoming reliant

on private mental healthcare. Another issue highlighted was access to healthcare for people in prison which was said to be a growing problem. In particular, the proportion of prisoners who should be receiving inpatient mental health support, especially among the female prison population.

Several participants highlighted the shortage of bespoke healthcare facilities for disabled people. Examples of disabled people unable to access medical tests because of a lack of hoists and disabled people being excluded from screening services because these were not sufficiently adapted. In some instances, participants had direct knowledge of people from their services who had died following delays to a cancer diagnosis because they had not been able to access screening.

Finally, the impact of alcohol and drugs was identified as a significant issue. It was noted that there is a lack of service provision locally and that this was contributing to Scotland's high drug deaths rates. People affected by drug use were noted to experience a wide range of issues connected to ICESCR rights including the highest attainable health, non-discrimination and adequate standard of living, but also their right to life. Awareness that their issues are human rights issues is low. Concern around the National Collaborative Charter²⁸ no longer being underpinned by a Human Rights Bill were described as a betrayal of promises and undermining accountability.

Education

"Local authority budget cuts have been really horrific over recent years - particularly with the recent drop in attainment, including literacy".

Issues relating to education were not explored in depth though did arise in quite general terms from some interventions. It was noted that parents were reporting difficulties in accessing additional support for their children in schools and that additional support is often the first thing to be cut. Particular issues were noted in Glasgow, where staff cuts including teacher cuts are being proposed. Cuts to

²⁸ Charter of Rights for People Affected by Substance Use - gov.scot

education were also linked to wider local authority cuts such as closure of local libraries which serve an important educational and social support function.

It was additionally highlighted that girls face difficulties in realising their education rights because of sexism, misogyny and gender-based violence. Girls are being removed from classrooms for their protection because schools are not tackling perpetrators. Positive comments were made about Education Scotland and the Scottish Centre for Conflict Resolution, who were said to be doing good work with teachers and practitioners.

Policy vs. implementation

"On a lot of things there is good legislation and policy but it's just not translating".

A significant theme across interventions was the gap between policies at national level and reality. Common terms seen included "is not translating" "not fulfilled" or "not being backed up". One example provided recognised that there was an increasing awareness in newer policy that imprisonment has a big impact on families but that isn't translated into targeting support on the ground.

Another example discussed in-depth by one group was the rollout of low emission zones in some towns and cities. It was acknowledged that the intentions behind these were positive, however the impact on residents had not been fully mapped out or sufficiently weighted. As a result, carers, disabled people and parents who depended on private transport were 'locked out' of city centres where access to employment and cultural events were concentrated. In one example, the requests for exemptions were only considered twice a year, meaning that fines were building up in the interim months. Additionally, traffic was being pushed into - often poorer - suburban areas, negatively affecting the air quality for residents in those areas.

Other examples given were in relation to child poverty and housing and the commitment to providing lifelong support for people who have care experience.

Access to Justice and Accountability

"It is not clear where accountability is for changes and the people on the ground who are impacted by them".

The Scottish Government's failure to realise its commitments to enhancing domestic enforcement of ESCR rights through a Human Rights Bill - which would include direct incorporation of ICESCR - was raised by many participants. Other examples

on this theme included the failures to action the recommendations of the Scottish Parliament Equality and Human Rights Committee to mainstream human rights in the Scottish Parliament and inaction on the Scottish National Action Plans for Human Rights.

However, there were other access to justice issues raised in some of the interventions. These included gaps in legal aid where 'sectoral legislation' creates a route to remedy. One participant highlighted that gap in legal aid and advice availability are particularly acute in deprived and rural communities, even where rights holders have resource to pay for solicitors. Funding for advocacy workers was also a concern.

In some cases, legislation had not been implemented (e.g. the Children (Scotland) Act 2020) and in others statutory duties were not adequately fulfilled and enforcement was difficult (e.g. the Mental Health (Care and Treatment (Scotland) Act 2003 duty to promote wellbeing and social development for people with mental disorders was highlighted.)

Other comments

Several comments did not relate to the identified themes:

- A participant noted the challenges of embedding human rights in campaigns in response to historic forced adoption.
- The interaction of the Illegal Migration Act 2023 and work to prevent and support victims of sexual abuse and human trafficking.
- The quality of public and private transport infrastructure in some areas

Conclusions

The Commission's analysis of the discussions across the attending groups suggests that what has been termed the 'cost of living crisis' of the past few years has, and continues to have, a broad and negative impact on rights across ICESCR. These negative impacts are even more acute for people in marginalised groups and communities. Examples were varied, but included personal debt, food quality, fuel poverty and poor housing and compounding health issues.

Negative trends in the accessibility and availability of services to support people experiencing these challenges were noted. This was affecting people's rights to dignity, independence and in some cases personal security or even life. Many

people indicated that there is a lack of joined-up thinking at decision-making level and a shortage of accountability. This is having personal and organisational impacts, with individuals and the voluntary having to plug the gaps to support themselves, families and communities.

The intrinsic, inseparable and cyclical impacts across ICESCR rights appears to be creating a ripple effect and culminating in pervasive feelings of insecurity and anxiety, itself contributing to poor health and wellbeing.

8. Annex D - Highlands and Islands Findings

The Commission published [Economic, Social and Cultural Rights in the Highlands and Islands](#) on the 27th November 2024.

The Commission undertook a targeted programme of work to assess the realisation of economic, social and cultural rights for people living across the Highlands and Islands, which concluded in early 2024. It created a new and innovative framework based on international human rights obligations to assess the compliance of economic, social, and cultural rights in the Highlands and Islands.

Based on the evidence received and analysed by the Commission, there are significant challenges in the current enjoyment of economic, social, and cultural rights for people in the Highlands and Islands. While this does not constitute an absolute or definitive assessment, it highlights areas where rights holders have expressed concern or frustration regarding their rights. The evidence from rights holders is consistent with some of the information the Commission has previously reported to the UN Committee on Economic, Social, and Cultural Rights.²⁹

Using the international standards developed by the UN Committee on Economic, Social, and Cultural Rights, the framework assesses compliance with each aspect of the obligations of: Minimum Core Obligations, Progressive Realisation, Non-Retrogression, and Adequacy (normative content).

The evidence collected relies primarily on testimonies from individuals regarding their lived experiences, meaning duty-bearers should consider any gaps between these reported experiences and their own data or policies.

²⁹ [icescr-pswg-for-publicationv2.pdf \(scottishhumanrights.com\)](#)

Below is a table showing compliance with international human rights standards on Economic, Social, and Cultural Rights in the Highlands and Islands. It uses a red, amber, green rating and compliance is also described in words.

	Minimum Core Obligations	Progressive realisation	Non-Retrogression	Adequacy
Work	Meets all obligations	Partially meets obligations	Meets all obligations	Partially meets obligations
Social security	Meets all obligations	Meets all obligations	Meets all obligations	Partially meets obligations
Food	Does not meet obligations	Partially meets obligations	Partially meets obligations	Partially meets obligations
Clothing	Not possible to determine	Does not meet obligations	Partially meets obligations	Partially meets obligations
Housing	Does not meet obligations	Partially meets obligations	Partially meets obligations	Partially meets obligations
Health	Partially meets obligations	Partially meets obligations	Does not meet obligations	Partially meets obligations
Social Care	Not possible to determine	Partially meets obligations	Does not meet obligations	Partially meets obligations

Education	Meets all obligations	Partially meets obligations	Does not meet obligations	Partially meets obligations
Culture	Partially meets obligations	Partially meets obligations	Does not meet obligations	Partially meets obligations

9. Annex E - Devolution

9.1. 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.³⁰

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 basis³¹ subject to three main limits:³²

- Legislation must not be incompatible with the European Convention on Human Rights;
- The Scottish Parliament cannot modify “protected statutes”; and

³⁰ [Scotland Act 2016 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2016/1)

³¹ Scotland Act 1998 s.28(1)

³² Scotland Act 1998 s.29A

- 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.³³ 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 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.³⁴ 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.³⁵

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.

³³ “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)

³⁴ Sch.5, Pt1, para 7(2)(a)

³⁵ 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](#)

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.

9.2. Summary of reserved and devolved areas

Devolved area	Reserved area
agriculture, forestry and fisheries	Benefits ('Social Security') (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)

9.3. 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 of physical and mental health	Mostly Scotland. Some issues are reserved - medicines and some 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. ³⁶

³⁶ With thanks to Prof. Aileen McHarg, adapted from research commissioned by the SHRC

10. Endnotes

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- 203 [Disabled People Demand Justice! • Glasgow Disability Alliance \(gda.scot\)](#)
- 204 [Impacts considered | Integrated Impact Assessment | The Highland Council](#)
- 205 [Replies of the United Kingdom of Great Britain and Northern Ireland to the list of issues in relation to its seventh periodic report E/C.12/GBR/RQ/7 - paragraph 9](#)
- 206 [Scottish Human Rights Commission \(2023\) Access to Justice for Everyone: How might a new Human Rights legal framework improve access to justice in Scotland today? A discussion paper](#)
- 207 [Scottish Human Rights Commission \(2023\) Access to Justice for Everyone: How might a new Human Rights legal framework improve access to justice in Scotland today? A discussion paper](#)
- 208 [Scottish Human Rights Commission \(2024\) State of the Nation report 2024: Civil and Political Rights in Scotland](#)
- 209 [Scottish Human Rights Commission \(2024\) Parallel Report to the United Nations Human Rights Committee on the 8th examination of the United Kingdom of Great Britain and Northern Ireland under the International Covenant on Civil and Political Rights \(ICCPR\)](#)
- 210 [The Herald \(2024\) Why are many Scottish towns 'legal aid deserts'?](#)
- 211 [Committee on Economic, Social and Cultural Rights List of issues in relation to the seventh periodic report of United Kingdom of Great Britain and Northern Ireland E/C.12/GBR/Q/7](#)
- 212 [Scottish Human Rights Commission \(2024\) Report on the cost of living crisis & the European Social Charter](#)
- 213 [Scottish Human Rights Commission \(2024\) Economic, Social and Cultural Rights in the Highlands and Islands](#)
- 214 [Scottish Government \(2022\) Scottish Land Rights and Responsibilities Statement 2022](#)