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International Covenant on Economic, Social and Cultural Rights (ICESCR)



Human Rights

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List of abbreviations

ASP	Act of the Scottish Parliament
AWET	Agricultural Wages Enforcement Team
BSFs	Best Start Foods
BSL	British Sign Language
CAMHS	Child and Adolescent Mental Health Services
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CoE	Council of Europe
COSLA	Convention of Scottish Local Authorities
CRPD	Convention on the Rights of Persons with Disabilities
CSR	Capital Spending Review
DBI	Distress Brief Intervention
DEG	Disability Employment Gap
DHPs	Discretionary Housing Payments
ECHR	European Convention on Human Rights
ELC	Early Learning and Care
EU	European Union
FGM	Female Genital Mutilation
GAAR	Scottish General Anti-Avoidance Rule
GP	General Practice/General Practitioner
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IHRAR	Independent Human Rights Act Review
LBTT	Land and Buildings Transaction Tax
LIFT	Low-cost Initiative for First Time Buyers
MSP	Member of the Scottish Parliament
NCS	National Care Service
NHS	National Health Service
NPF	National Performance Framework
NRM	National Referral Mechanism
NRPF	No Recourse to Public Funds
RSHP	Relationships, sexual health and parenthood
SAWB	Scottish Agricultural Wages Board
SHRC	Scottish Human Rights Consortium
SHRC	Scottish Human Rights Commission
SWP	Season Workers Pilot
TARA	Trafficking Awareness Raising Alliance
UNCRC	United Nations Convention on the Rights of the Child

UNGPs United Nations' Guiding Principles on Business and Human Rights
UN United Nations

Ministerial Foreword



Much has happened since the Scottish Government last reported on Scotland's implementation of the rights set out in the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) in 2014, in concurrence with the UK's sixth State party review.¹

Scotland has endured over a decade of UK Government austerity measures, been forced to leave the European Union (EU) against its will, declared a climate emergency and experienced a global pandemic. We are now facing a cost of living crisis being made worse by experiencing the most severe economic upheaval in a generation due to the UK Government's actions. Throughout all of this change and turmoil Scotland has remained committed to making substantial and meaningful progress to ensure that economic, social and cultural human rights are respected, protected and fulfilled for everyone in Scotland.

The Scottish Government continues to focus on making human rights real for individuals and communities. Giving full and proper effect to internationally recognised economic, social and cultural rights is central to the Scottish Government's purpose and finds formal expression in our [National Performance Framework](#) (NPF) and in the specific [human rights National Outcome](#) which it contains. This outcome makes clear that Scotland's public authorities must "respect, protect and fulfil human rights" and that everyone in Scotland should be able to "live free from discrimination".

In line with that overarching ambition we are striving to embed human rights at the centre of everything we do. We have, for example, established the first social security system in the UK based on the statutory principle that social security is a human right, both in itself and because it is essential to the realisation of other human rights. Our consistent aim has been to create a social security system that is based on dignity, fairness and respect.

We have also set out in statute our ambition to significantly reduce child poverty, underpinned by ambitious interim and longer-term targets which we aim to achieve in

¹ In response to the UK periodic report, the UN Committee on Economic, Social and Cultural Rights presented a List of Issues in November 2015: [Treaty bodies Download \(ohchr.org\)](#). In March 2016 the Scottish Government published a standalone position statement responding to the List of Issues in respect of devolved matters in Scotland: [International Covenant on Economic, Social and Cultural Rights: position statement - gov.scot \(www.gov.scot\)](#)

2023 and 2030 respectively. The [Child Poverty \(Scotland\) Act 2017](#) sets out a robust framework for action, monitoring and scrutiny at both a national and local level. Across 2018-22 the Scottish Government is estimated to have invested nearly £8.5 billion to support low income households, of which almost £3.3 billion benefitted children.

We are taking action to incorporate the [UN Convention of the Rights of the Child \(UNCRC\)](#) into domestic law within the limits imposed by the current constitutional settlement. We intend to go further, by also incorporating economic, social, cultural and environmental rights, as far as possible within devolved competence.

Following the recommendations of the [National Taskforce for Human Rights Leadership](#) we have committed to establishing a new legislative framework for human rights in Scotland and to introducing a Human Rights Bill during this parliamentary session.

In addition to the economic, social and cultural rights in ICESCR, the proposed Human Rights Bill would incorporate into Scots law the [Convention on the Elimination of Discrimination Against Women \(CEDAW\)](#), the [International Convention on the Elimination of All Forms of Racial Discrimination \(CERD\)](#) and the [Convention on the Rights of Persons with Disabilities \(CRPD\)](#) as far as possible within our devolved competence.

We know that a safe, clean and healthy environment is fundamental to human dignity and fulfilment of other human rights. That is why we have committed to the inclusion of the right to a healthy environment within the Human Rights Bill. The Bill will also include provision to ensure equal access to everyone to the substantive rights contained in the Bill, including older people and LGBTI people.

Although Scotland has made significant progress in many areas since 2014, it is also true that the COVID-19 pandemic has exacerbated inequality, poverty and disadvantage. There is clear evidence that harm has been felt unevenly, including by people and communities who were already experiencing poorer outcomes. Such inequality will now be felt even more keenly as a result of soaring energy bills, predicted inflation in 2022/23 of [11%](#) and the cost crisis which is only likely to grow in scope and scale through the coming winter.

COVID-19 and the cost of living crisis are not the only threats to realising rights in Scotland, as we face other very real threats to many of the most fundamental protections we take for granted. Since 2016, the UK has left the European Union and with it the [EU Charter of Fundamental Rights](#). Decisions made by the UK Government have already removed important legal protections and safeguards in areas including civil liberties, employment law, consumer protection and gender and racial discrimination. Emerging UK proposals for the en masse repeal of retained EU legislation will deprive individuals and communities throughout the UK of further essential protections. Plans to repeal and replace the Human Rights Act have faced overwhelming opposition, but UK Government antipathy to the safeguards provided by the Act remains very real. The Scottish Government continues to view the Human Rights Act as one of the most important and successful pieces of legislation ever passed by the UK Parliament. The Act has a 20-year track record of delivering

fairness and justice, including for some of the most vulnerable people in UK society, and it enjoys [our explicit and unequivocal support](#).

It is therefore essential to acknowledge that Scotland has a human rights journey to complete, which at times will prove challenging and difficult, and hampered by the actions of the UK Government. This position statement sets out some of the many steps that we are taking to move forward in a fair and just way.

We must also be bold and resolute in confronting external threats to democracy, human rights and the rule of law. Russia's unprovoked and illegal war of aggression against Ukraine has highlighted the fragility of the post-1945 international order. Civil and political rights are under direct threat from dangerous dictatorial regimes around the world, and economic, social and cultural rights are also under increasing threat. Not only have the human rights of the people of Ukraine been violated, the consequences of Russia's criminal acts pose an unprecedented threat to global food security and to the stability of Europe's energy supplies. Hunger and cold will be the inevitable result, and as always it will be the most vulnerable who are worst affected.

One of the great frustrations of Scotland's current constitutional status is that progressive values and human rights ambition continue to be obstructed by the actions of regressive and inhumane UK Government policies. Nevertheless, both my ministerial colleagues and I are very clear that we will do all we can to implement and uphold internationally-recognised human rights in Scotland and to meet our duties and obligations in full.

This report records the progress which both the Scottish Government and Scotland as a nation have already achieved in putting human rights firmly at the heart of public policy and public administration in Scotland.

It serves also to signpost the actions which we, collectively, have yet to take. That challenge is one which this Government intends to meet in full. The issues addressed in our report are crucial to ensuring that everyone in Scottish society, including those who are vulnerable and at risk, are able to fully enjoy the human rights which belong to every one of us.

I look forward to the forthcoming examination of the formal UK State party report by the UN Committee on Economic, Social and Cultural Rights, and to receiving – and acting upon – the Committee's subsequent recommendations.

Christina McKelvie MSP, Minister for Equalities and Older People

Introduction

1. The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty which was adopted by the United Nations General Assembly on 16 December 1966.
2. The Covenant commits State parties to work to secure the full enjoyment of economic, social, and cultural rights by everyone under their jurisdiction. These rights include labour rights and the right to health, the right to education, and the right to an adequate standard of living (including adequate food and housing). They also include cultural rights. The UK signed the Covenant in 1968 and ratified it in 1976. There are a total of 171 State parties to the Covenant.
3. ICESCR, and its [Optional Protocol](#), are part of the [International Bill of Human Rights](#), along with the [Universal Declaration of Human Rights](#) and the [International Covenant on Civil and Political Rights](#), including the latter's [First](#) and [Second](#) Optional Protocols.
4. ICESCR has one Optional Protocol establishing complaint and inquiry mechanisms for the Covenant. It was adopted by the UN General Assembly on 10 December 2008 and entered into force on 5 May 2013. The UK Government is not currently a party to this Optional Protocol. The Scottish Government has welcomed the availability of mechanisms such as those provided for in the Optional Protocol and will continue to raise the issue of ratification with the UK Government.
5. The Covenant is monitored by the [UN Committee on Economic, Social and Cultural Rights](#). The Committee is a body of 18 independent human rights experts who are elected for four-year terms, with half the members elected every two years.
6. All States parties are required to submit regular reports to the Committee outlining the legislative, judicial, policy and other measures they have taken to implement the rights affirmed in the Covenant. A first report is due within two years of ratifying the Covenant and thereafter reports are due every five years. The Committee examines each report and addresses its concerns and recommendations to the State party in the form of '[Concluding Observations](#)'. The Committee typically meets every May and November in Geneva.
7. Under ordinary circumstances, State parties are obliged to submit reports on their implementation of international treaties to the UN every five years. The UK Government submitted the sixth State party report on [ICESCR in 2014](#) and as such the seventh report was due in 2019. However due to the global pandemic and the events of the past two years the UK's seventh report was delayed and published in [May 2022](#).
8. As part of that formal reporting process, the Scottish Government contributes to the UK State party report in relation to matters which fall within devolved competence in Scotland. The overall UK report is subject to a strict word-count limit and this limits the extent to which activity in Scotland can be addressed in detail. The Scottish Government therefore publishes a separate standalone position statement

to ensure that the Scottish Parliament, civil society and the general public have access to a full Scotland-specific account of human rights policies and delivery².

9. Publication of the position statement is explicitly intended to support informed debate and increased accountability on Scotland's compliance and promotion of international human rights obligations. It should be read in conjunction with the formal State party report submitted to the UN by the UK Government on behalf of the UK as a whole. The Scottish position statement does not itself form part of the formal treaty reporting process and is not, for example, presented to the UN for consideration by the Committee on Economic, Social and Cultural Rights.

10. The ongoing scrutiny exercised by international institutions, alongside domestic scrutiny by the Scottish Parliament and engagement with civil society, has continued to provide necessary constructive challenge to public authorities in Scotland and has helped to maintain a collective focus on respecting, protecting and fulfilling human rights.

² The Scottish Government produced a standalone position statement in March 2016 on the List of Issues published in November 2015 by the UN Committee on Economic, Social and Cultural Rights: [International+Covenant+on+Economic%2C+Social+and+Cultural+Rights.pdf \(www.gov.scot\)](http://www.gov.scot/International+Covenant+on+Economic%2C+Social+and+Cultural+Rights.pdf)

Implementation of ICESCR in Scotland – Overview

11. The Scottish Government is committed to creating a modern, inclusive Scotland which protects, respects and realises internationally recognised human rights. Within the limits of the current constitutional settlement established by the [Scotland Act 1998](#), Scotland’s devolved institutions play a key role in implementing and upholding human rights standards.

12. In those areas where Scotland already has powers to make legislation and to decide policy, the approach we have taken is distinctive and founded firmly in our commitment to progressive values. The Scottish Government works to embed and deliver the wider international human rights framework, which includes an array of UN and Council of Europe (CoE) treaties and conventions.

13. The Scottish Government’s formally defined [Purpose](#) is “to focus government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through increasing sustainable economic growth”. This purpose is measured by our National Performance Framework, which contains 11 National Outcomes and 81 National Indicators. The Human Rights National Outcome establishes the requirement that “we respect, protect and fulfil human rights and live free from discrimination”. All of the other National Outcomes are also of human rights relevance, either directly (by addressing specific substantive aspects of Scotland’s human rights obligations) or indirectly (by ensuring that the right conditions exist to support and promote realisation of internationally-recognised human rights). Progress is reported annually and published on the Scottish Government [website](#).

14. Equality and non-discrimination are also a central theme of Scottish Government policies and operational delivery. Our ambition for Scotland embraces the principles of equality, fairness and social justice and these are at the heart of the NPF’s vision for Scotland. We stand together to challenge unfairness and our equality legislation, law and practice are world leading. We uphold human rights, democracy and the rule of law, and our justice systems are proportionate, fair and effective. Equality is integral to delivery on our purpose of sustainable economic growth, to the public service reform agenda and to the increasing shift to preventative policies and services aimed at reducing inequalities. We collect, analyse and publish equality data, broken down by protected characteristics, on the National Indicators using our [Equality Evidence Finder](#).

15. In relation to fair work, the Scottish Government remains strongly opposed to the unnecessary and heavy-handed restrictions imposed by the UK Government [Trade Union Act 2016](#). Our approach in Scotland is instead to promote strong trade unions and an effective voice for workers. Doing so supports the delivery of our economic and fair work ambitions. The Scottish Government is absolutely opposed to the practice of blacklisting trade union members.

16. Whilst social security remains for the most part reserved to the UK Government, the Scottish Government is committed to creating a more equal society, and is utilising the powers of welfare to ensure that all our people living in Scotland receive fair and decent support so far as possible within the devolved settlement. This includes taking a long term, preventative approach to tackling

poverty across Scotland.

17. The Scottish Government remains committed to the incorporation of the UNCRC as far as possible within devolved competence and the majority of work in relation to implementation of the UNCRC can, and is, continuing. When enacted the United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Bill would incorporate the UNCRC and Optional Protocols 1 and 2³ directly into Scots law within the limits of devolved competence. The Bill would provide that public authorities, including health boards and councils, and the Scottish Government itself, would be legally obliged to respect the UNCRC requirements, as set out in the Bill. If they do not, children, young people and their representatives would be able to use the courts to enforce their rights.

18. Between 2021 and 2024, the Scottish Government is continuing to take forward its three year implementation programme to deliver a fundamental shift in the way children's rights are respected, protected and fulfilled in Scotland. The [Financial Memorandum](#) to the Bill sets out the high level plan for the three year implementation programme covering three strands which have been further developed and expanded into four. Actions in relation to these strands were included in the [Progressing the Human Rights of Children in Scotland: Action Plan 2021 to 2024](#).

19. The Scottish Government is implementing a national food and drink policy that seeks to address issues of quality, health and wellbeing, and environmental sustainability whilst recognising the need for access and affordability. On housing, the [Housing to 2040](#) strategy sets out our vision for housing from 2021 to 2040, and the steps required to make that a reality. Effective supply, choice and quality are our key priorities for homes that are warm, safe, affordable and energy-efficient.

20. The Scottish Government is also working to help people sustain and improve mental and physical health, particularly in disadvantaged communities, by ensuring better, local and faster access to healthcare.

21. In terms of education, we are committed to ensuring that every child and young person has the same opportunity to succeed in education, regardless of their background. We want all children and young people to get the support that they need to reach their full learning potential and achieve their aspirations and goals. To help achieve this we are investing £1 billion through the refreshed [Scottish Attainment Challenge](#) programme in this parliament.

22. Finally, we believe that supporting our creative communities, while creating the conditions to allow for meaningful access and participation, will enrich our lives, enhance our learning and strengthen both our society and our economy.

³ The First Optional Protocol means the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Second Optional Protocol means the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Scottish Government Response to the 2016 Concluding Observations

23. This section provides an update on action taken by the Scottish Government in relation to the matters specifically identified by ICESCR in the [Concluding Observations](#) issued by the Committee in June 2016 following its consideration of the sixth periodic report submitted by the United Kingdom.

24. A formal List of Issues has not been issued by the Committee in advance of its consideration of the UK's record as part of the seventh periodic reporting cycle. The UK Government [submitted a State Party Report](#) to the Committee in May 2022. That report includes information in relation to Scotland, but is not as detailed or comprehensive as this standalone position statement. This position statement does not form part of the formal treaty reporting process.

General

25. In 2016 the Committee commented favourably on a number of features of human rights implementation in Scotland, including:

(a) [Modern Slavery Act 2015](#)

26. The Scottish Government possesses its own legislation in relation to modern slavery and human trafficking. The [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) was unanimously approved by Scottish Parliament in 2015. The Act of Scottish Parliament (ASP) set out two new offences which both came into force on 31 May 2016:

- Human trafficking; and
- Slavery, servitude and forced or compulsory labour.

27. The ASP also sets out court orders to disrupt trafficking activity: Trafficking and Exploitation Prevention Orders and Trafficking and Exploitation Risk Orders.

28. The primary interactions in Scotland with regards to the Modern Slavery Act 2015 are the role of the [Independent Anti-Slavery Commissioner](#) and the part of the Act dealing with Transparency in Supply Chains for commercial organisations. The following sections are applicable in Scotland:

- Sections 36, 38 and 39 around maritime enforcement;
- Part 4 regarding the Independent Anti-Slavery Commissioner
- Section 53 on overseas domestic workers;
- Part 6 regarding Transparency in Supply Chains; and
- Part 7 Miscellaneous.

(b) Care Act 2014

29. In the [2020 Programme for Government](#) the Scottish Government committed to bring forward legislation to establish a [National Care Service \(NCS\)](#) with the aim of providing social care services on a universal basis (parallel to health services). An [Independent Review of Adult Social Care in Scotland \(Feeley Review\)](#) was taken forward in February 2021 with the principal aim of recommending improvements. The review took a human rights-based approach, recommending that “human rights, equity, and equality must be placed at the very heart of social care and be mainstreamed and embedded”. The review also recommended incorporation of human rights conventions to strengthen this approach.

30. In June 2022 the [National Care Service Bill](#) was introduced to the Scottish Parliament which proposed changes to how people access care and support in Scotland. The Bill was published on the Scottish Parliament website, together with the formal Accompanying Documents. On the same date the Scottish Government also published a range of supporting information relating to the Bill.

31. The NCS is to fundamentally reimagine social care in Scotland and presents an opportunity to change the way support and services are designed and delivered, placing human rights at the centre of our decision making. The NCS Principles⁴, laid out in the NCS Bill, clearly state that the Scottish Government recognises NCS services as essential to the realisation of fundamental human rights, and that these services will have equality, non-discrimination, and the dignity of the individual at their heart.

32. We are committed to developing the NCS using a human rights-based approach which will apply the PANEL principles (Participation, Accountability, Non-Discrimination and Equality, Empowerment and Legality) and will be delivered in a person-centred way that respects, protects, and fulfils the human rights of people accessing care support and their carers. In order to achieve this, the NCS will be designed together with the people who access and deliver social care support, including unpaid carers.

33. We will shift our emphasis to prevention, empowering people to engage positively with their own care, embedding fair work and ethical commissioning, and strengthening the commitment to integrating social care with community healthcare.

(c) [New Scots: Integrating Refugees in Scotland’s Communities \(2014-2017\)](#)

34. The Scottish Government is committed to supporting refugees, asylum seekers and Scotland’s communities through the pioneering and collaborative approach of the [New Scots refugee integration strategy 2018-2022](#). The strategy is led in partnership by the Scottish Government, the Convention of Scottish Local Authorities (COSLA) and the Scottish Refugee Council.

⁴ Further information on the National Care Service Principles can be found via the link to the National Care Service Bill in paragraph 34: [Stage 1 | Scottish Parliament Website](#).

35. The Scottish Government sees integration as a two-way process that involves positive change in both the individuals and the host communities, and which leads to cohesive, multi-cultural communities. The New Scots strategy includes a framework of actions across seven themes of integration:

- needs of Asylum Seekers;
- employability and welfare rights;
- housing;
- education;
- language;
- health and wellbeing; and
- communities, culture and social connections.

36. Delivery of the strategy is being enhanced through the New Scots Refugee Integration Delivery Project funded by the EU's Asylum, Migration and Integration Fund up to December 2022. The project includes a £2.8 million grant fund which is enabling over 50 projects to spread documented good practices and to support innovation in Scotland under the objectives of the strategy, including promoting employability, education, health and social and cultural connections for refugees.

(d) [Scotland's National Action Plan for Human Rights \(2013-2017\)](#) (SNAP)

37. SNAP is a co-produced initiative which is being further developed and delivered in partnership between the Scottish Government, the [Scottish Human Rights Commission](#) (SHRC) as Scotland's National Human Rights Institution, and Scottish civil society organisations. Its vision is for a Scotland where all can live with human dignity through the realisation of internationally-recognised human rights. SNAP fulfils key recommendations from the UN and CoE. Nearly 40 countries have now developed and adopted their own national action plans. SNAP is the first and only such initiative in any part of the UK.

38. Since late 2017, work has been taking place to develop [Scotland's second National Action Plan for Human Rights](#). This development work has drawn heavily on lessons identified from [an independent evaluation](#) of the first SNAP, and a [National Participation Process](#) in 2017 which involved over 1,000 people. From 2018 to 2019, planning was led by a [Development Working Group](#) of around 15 people from Scottish civil society and the public sector.

39. In October 2021, a SNAP Secretariat Lead was appointed for an interim period. This new role is hosted by the SHRC, with funding and resources provided by Scottish Government and SHRC.

40. In March 2022 members of a new [SNAP Leadership Panel](#) were appointed. This reflects the importance of partnership-working involving a breadth of stakeholder interests and the need for both input and ownership from rights-holders and duty-bearers. Members of the Leadership Panel work together on the development of SNAP and it is envisaged that the Panel will monitor and oversee its implementation.

Recommendations

41. The Concluding Observations issued by the Committee in 2016 made recommendations under the following headings. Progress made in Scotland in each of these areas is discussed in the sections which follow.

- Justiciability of economic, social and cultural rights
- Devolved administrations
- Bill of rights
- Business and economic, social and cultural rights
- International development cooperation
- Tax policies
- Austerity measures
- Legal aid
- Equality Act
- Asylum seekers
- Equality between men and women
- Unemployment
- Working conditions
- Working conditions of migrant workers
- National minimum wage
- Trade union rights
- Social security
- Childcare
- Violence against women with disabilities
- Poverty
- Adequate housing
- Homelessness
- Right to food
- Access to health
- Mental health
- Social care for older persons
- Termination of pregnancy
- Education
- Higher education
- Irish language
- Ratification of human rights instruments
- Indicators and assessment of progress
- Public awareness of human rights

Justiciability of economic, social and cultural rights

Recommendation 6: the Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para.13⁵) and urges the State party to fully incorporate the Covenant rights into its domestic legal order and ensure that victims of violations of economic, social and cultural rights have full access to effective legal remedies. The Committee draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.

Human Rights Bill

42. As part of taking forward the [recommendations](#) of the National Taskforce for Human Rights Leadership for a new human rights framework for Scotland, a new Human Rights Bill will be introduced to the Scottish Parliament during this parliamentary session.

43. The Bill will give legal and practical effect to a wide range of internationally recognised human rights and strengthen domestic legal protections by making these rights enforceable in Scots law. The Bill will incorporate, as far as possible within devolved competence, ICESCR, CEDAW, CERD and CRPD.

44. Ensuring access to effective legal remedy for victims of violations of human rights is important. As part of the development and implementation of the Bill, and further to the [report](#) of the National Taskforce for Human Rights Leadership, we are further exploring all aspects of access to justice related to the Bill with partners, stakeholders and other relevant organisations, including in relation to both judicial and non-judicial remedies.

UN Convention on the Rights of the Child (UNCRC)

45. The UNCRC sets out the civil, political, economic, social and cultural rights of all children and young people under 18 years of age and underpins key Scottish Government policies and legislation, for example, in relation to child and adolescent mental health, education, youth justice and measures to tackle child poverty.

⁵ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 13: "The Committee urges the State party to ensure that the Covenant is given full legal effect in its domestic law, that the Covenant rights are made justiciable, and that effective remedies are available for victims of all violations of economic, social and cultural rights. The Committee reiterates its recommendation that, irrespective of the system through which international law is incorporated in the domestic legal order (monism or dualism), following ratification of an international instrument, the State party is under a legal obligation to comply with such an instrument and to give it full effect in its domestic legal order. In this respect, the Committee again draws the attention of the State party to its general comment no. 9 (1998) on the domestic application of the Covenant."

46. On 16 March 2021, the Scottish Parliament unanimously passed the [United Nations Convention on the Rights of the Child \(Incorporation\)\(Scotland\) Bill](#) to incorporate the UNCRC and the First Optional Protocol and the Second Optional Protocol⁶ directly into Scots law subject to the limits of devolved competence.

47. On 12 April 2021, a reference of certain provisions of the Bill was made by UK Law Officers to the UK Supreme Court and a hearing before the UK Supreme Court took place on 28 and 29 June 2021.

48. On 6 October 2021, the UK Supreme Court delivered a judgment on the referral, finding each of the provisions referred by UK Law Officers to be outwith the legislative competence of the Scottish Parliament. On 24 May 2022, the Deputy First Minister made a [statement to Parliament](#) setting out how we propose to amend the Bill to address the Supreme Court judgment. It made clear that our intention is to address the Supreme Court's judgment by returning a revised Bill to Parliament via the Parliamentary Reconsideration stage. We hope to bring the Bill back to the Scottish Parliament with amendments, to address the judgment, as soon as practicable.

49. The Bill would deliver a proactive culture of everyday accountability for children's rights across public services in Scotland, and would ensure that public authorities take proactive steps to ensure compliance with children's rights in their decision making and service delivery. The Bill would apply to all public functions that it is possible for the Scottish Parliament to cover, including public functions which are 'contracted out' to non-State actors such as private or third-sector bodies.

50. The Bill contains specific measures to remove barriers that children and young people may face in realising their rights under the Bill and in accessing justice. These provisions would include giving the [Children and Young People's Commissioner in Scotland](#) and the SHRC the power to bring or intervene in proceedings where a person claims that a public authority has acted (or proposes to act) in breach of the 'UNCRC requirements' defined by the Bill.

51. The UNCRC Bill would also require the Scottish Ministers to create a Children's Rights Scheme, setting out the arrangements they have, or would have in place, to comply with the duties contained in the Bill and to secure better or further effect of the rights of the child. The Bill would require Scottish Ministers to report on the Scheme annually, including actions taken in the previous year and plans for taking forward children's rights in the year ahead. Scottish Ministers would be able to amend the Scheme or make a new scheme to replace it at any time.

52. The Bill would require Scottish Ministers to prepare and publish Child Rights and Wellbeing Impact Assessments for all new Bills being introduced by the Scottish Ministers in the Scottish Parliament, most Scottish statutory instruments made by the

⁶ The First Optional Protocol means the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The Second Optional Protocol means the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. There are some words or parts of these protocols which the Bill does not incorporate because they relate to reserved matters.

Scottish Ministers, and decisions of a strategic nature made by the Scottish Ministers relating to the rights and wellbeing of children.

53. The Bill would also place a reporting duty on certain 'listed public authorities'. Applicable authorities would need to report every three years on the steps they have taken, and would in future take, to be compatible with the incorporated UNCRC rights and obligations and to secure better or further effect of children's rights.

54. While the Supreme Court judgment means that the Bill could not receive Royal Assent in its current form, the majority of work in relation to implementation of the UNCRC can proceed and is continuing at pace.

Devolved administrations

Recommendation 8: in line with its previous recommendation (see E/C.12/GBR/CO/5, para.12⁷), the Committee reminds the State party of its ultimate responsibility for the implementation of the Covenant in all its jurisdictions, including the British Overseas Territories and Crown Dependencies, and recommends that the State party take all necessary measures to ensure the full enjoyment of economic, social cultural rights by all persons under its jurisdiction.

55. A new Human Rights Bill will be introduced to the Scottish Parliament during this parliamentary session, which will incorporate ICESCR into Scots law, as far as possible within devolved competence. The Bill will place duties in relation to the rights on public authorities. A multi-treaty Bill of this nature is innovative and ambitious and extensive engagement is being undertaken to develop the legislation and support implementation.

56. We are engaging with key stakeholders and partners who will have duties through the Bill or can provide relevant insight into key matters relating to the Bill. We have established three Boards as part of this engagement and to further support development and implementation:

- The [Executive Board](#) is comprised of senior decision makers from public authorities to ensure there is adequate capacity across the public sector to effectively implement the Bill.
- The [Bill Advisory Board](#) is comprised of a range of stakeholder groups representing different aspects of the Bill and serves as a sounding board in providing advice on complex issues arising out of Bill developments and other stakeholder engagements.
- The [Lived Experience Board](#) is comprised of three separate groups of individuals who face historic and ongoing barriers to realising their rights, as well as those from communities that are seldom heard in policy development processes. Through this collaboration with civil society partners, we are ensuring that the Lived Experience is a positive, inclusive and accessible experience for participants.

57. As part of the preparation of the Human Rights Bill, we will give further consideration to the development and strengthening of effective monitoring and reporting mechanisms at all levels, and duties at both national and local government levels. We will also facilitate appropriate capacity building for those with duties under

⁷ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 12: "Bearing in mind that it is that State party which is responsible for the implementation of the Covenant in all its territories, the Committee urges the State party to ensure the equal enjoyment of the economic, social and cultural rights by all individuals and groups of individuals under its jurisdiction, and recommends that the State party adopt a national strategy for the implementation of the Covenant throughout the State party's territories."

the Bill so that its implementation enhances delivery of human rights and contributes to creating a human rights culture across Scottish public life.

Bill of Rights

Recommendation 10: the Committee recommends that the State party undertake a broad public consultation on its plan to repeal the Human Rights Act 1998 as well as on the proposal for a new bill of rights. It also recommends that the State party take all necessary measures to ensure that any new legislation in this regard is aimed at enhancing the status of human rights, including economic, social and cultural rights, in the domestic legal order and that it provide effective protection of those rights across all jurisdictions of the State party. The Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para.10⁸) and urges the State party to take all necessary measures to expedite the adoption of a bill of rights for Northern Ireland.

58. The Scottish Government regards the Human Rights Act 1998 as one of the most important and successful pieces of legislation ever passed by the UK Parliament. It has a 20-year track record of delivering justice, including for some of the most vulnerable people in society, and it plays a critically important role in protecting human rights and fundamental freedoms throughout the whole of the UK. It is one of the principal ways that internationally-recognised human rights are given legal effect in the UK and it means that vitally-important safeguards set out in the European Convention on Human Rights are available to everyone. The Scottish Government has consistently made clear its support for the Human Rights Act 1998 [in response](#) to UK Government proposals for “reform”.

59. In December 2020, the UK Government established an Independent Human Rights Act Review (IHRAR) panel to consider whether changes should be made to the Human Rights Act 1998. In its response to the IHRAR’s call for evidence, the [Scottish Government made clear](#) that any attempt to erode or undermine the Human Rights Act 1998 would be robustly opposed. In its [own report](#) the IHRAR panel made a number of recommendations but found no convincing case for a radical overhaul of the Human Rights Act 1998.

60. The UK Government outlined its plans to repeal the Human Rights Act 1998 in a consultation document published in December 2021. Scottish Ministers subsequently [wrote to the Lord Chancellor](#) and met with him in person to reiterate their opposition to the UK Government’s proposals. [Scottish Ministers also wrote jointly with Welsh Ministers](#) to urge the Lord Chancellor to take seriously the strong and consistent support for the Human Rights Act 1998 that has been conveyed in Scotland and Wales. The Scottish Government then [formally responded](#) to the UK Government’s consultation in March 2022 and set out its robust opposition to the idea that the Human Rights Act 1998 should be replaced with a Bill of Rights, and our concern that the strong existing protections delivered by the Human Rights Act

⁸ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 10: “C. Factors and difficulties impeding the implementation of the Covenant”

and by the UK's status as a full state party to the ECHR, will be undermined and eroded.

61. The UK Government [introduced its Bill of Rights Bill to the UK Parliament](#) in June 2022. The Scottish Government's initial assessment of the restrictive and regressive effects of the Bill was set out in [a submission to the UK Parliament's Joint Committee on Human Rights](#) in August 2022.

62. The Scottish Government will continue to urge the UK Government to step back from their efforts to repeal the Human Rights Act 1998, to affirm their commitment to the ECHR, and to focus on making rights real for everyone across the whole of UK society.

63. Indeed, there is overwhelming support in Scotland not just for retaining the Human Rights Act⁹ but for going further by incorporating economic, social, cultural and environmental rights into Scots law. To that end, a new Human Rights Bill will be introduced to the Scottish Parliament during this parliamentary session, which will incorporate ICESCR into Scots law, as far as possible within devolved competence.

⁹ For instance, the Scottish Parliament passed motions in [2017](#) and [2014](#) expressing support for the Human Rights Act and calling on the UK Government to avoid actions that weaken international human rights.

Business and economic, social and cultural rights

Recommendation 12: the Committee recommends that the State party:

- a) Establish a clear regulatory framework for companies operating in the State party to ensure that their activities do not negatively affect the enjoyment of economic, social and cultural human rights;

64. The Scottish Government is working to implement the [UN Guiding Principles on Business and Human Rights](#) (UNGPs) and has established a Steering Group for the development of a Business and Human Rights National Action Plan. The UNGPs establish a good practice framework reflecting the State duty to protect human rights, the responsibility of business to respect human rights, and the shared requirement to ensure access to a remedy.

65. The [2017-18 Programme for Government](#) committed the Scottish Government to the development of a National Action Plan, following the delivery in 2016 of a [National Baseline Assessment](#) of how law, policy and practice in Scotland currently align with the UNGPs. Development of a National Action Plan is a cross-cutting exercise which interfaces with a range of existing portfolio interests within the Scottish Government, such as economic and labour market strategies (including those focusing specifically on equality groups), the [Fair Work Convention](#), the [Scottish Business Pledge](#), action taken to combat human trafficking and exploitation, action taken to achieve climate justice, and Scottish Government engagement on the UK Government's post-Brexit efforts to enter trade agreements with other States. A National Action Plan will emphasise the responsibility of Scottish businesses of different sizes, operating in different industries and under different circumstances, to respect human rights in their internal policies and processes.

66. Work to draft and consult on a National Action Plan was progressed throughout 2018 and 2019, supported by a Steering Group consisting of representatives of Scottish Enterprise, Highlands and Islands Enterprise, South of Scotland Enterprise and the Scottish Human Rights Commission. Due to COVID-19, this work was temporarily paused in order to resource other key priorities, however in 2021, officials began updating the existing draft of the National Action Plan to reflect policy developments over the last year.

- b) Adopt appropriate legislative and administrative measures to ensure the legal liability of companies domiciled under the State party's jurisdiction for violations of economic, social and cultural rights in their projects abroad committed directly by these companies or resulting from the activities of their subsidiaries;

67. The way that Scotland and Scottish businesses trade with partners around the world has implications that reach beyond our borders. As a good global citizen, Scotland seeks to contribute to addressing global challenges such as tackling the climate and nature crises, reducing global inequalities and building international cooperation.

68. Our [Vision for Trade](#) sets out our principles and values for the trading relationships we want Scotland to have in the future. This includes trade principles of inclusive growth, wellbeing, sustainability, net zero and good governance, as well as being a good global citizen and protecting human rights. We are clear about the kind of country we want to be and want to be seen as being, with strong values in place to guide how we do business around the world.

69. In projecting its trade principles internationally Scotland has a strong and enduring commitment to securing and supporting democracy, the rule of law and human rights in other parts the world. The Scottish Government is committed to an inclusive Scotland that protects, respects, promotes and implements internationally recognised human rights, including economic, social, cultural and environmental rights.

UN Guiding Principles on Business and Human Rights

70. The Scottish Government adheres to the UNGPs, which stipulate that companies must assess and address human rights risks and abuses arising in all aspects of their business. We are committed to supporting Scottish businesses to ensure they do not, consciously or inadvertently, become party to such human rights abuses and to remediate if breaches occur.

71. The Scottish Government recognises that the UNGPs should directly inform Scotland's trade policy, in a way that assists Scottish businesses to ensure that their own activities promote and uphold human rights.

72. As well as upholding our commitment to the UNGPs, the support of our enterprise agencies for businesses that operate in defence industries is predominantly focused on helping firms to diversify and develop non-military applications for their technology. Scotland will not turn a blind eye to the potential of exports which harm human rights. Where we have the power to act we have done so, for instance introducing essential safeguards such as human rights due diligence checks, which are now a normal part of the Scottish Enterprise business support application process.

Due Diligence

73. In Scottish Government activity related to trade, we are committed to implementing human rights obligations, such as through due diligence, procurement and in any actions taken by the Scottish Government to improve the trading environment for goods and services and investment, as well as exploring further options on the connections between human rights and trade.

74. The Scottish Government is committed to maintain alignment with EU regulation, focusing on effective and proportionate regulation and robust enforcement to ensure businesses are held to high standards and consumers are protected.

c) Conduct thorough risk assessments prior to granting licences for arms exports and refuse or suspend such licences when there is a risk that arms could be used to violate human rights, including economic, social and cultural rights.

75. Defence and arms policy, with the exception of air weapons, is reserved to the UK Government. We would of course condemn any business interactions where a threat to human rights might arise. We would encourage the UK Government in the strongest terms to refuse or suspend licenses when there is a risk that arms could be used to violate human rights, including economic, social and cultural rights.

76. The Scottish Government adheres to the UNGPs, which stipulate that companies must assess and address human rights risks and abuses arising in all aspects of their business. We are committed to supporting Scottish businesses to ensure they do not, consciously or inadvertently, become party to such human rights abuses.

77. We recognise that the aerospace, defence and shipbuilding sectors in Scotland play a legitimate role in supporting our armed forces and those of like-minded countries, but we also recognise the critical importance of ensuring that arms exports do not contribute to human rights abuses and other violations of international law. As well as upholding our commitment to the UNGPs the support of our enterprise agencies for businesses that operate in defence industries is predominantly focused on helping firms to diversify and develop non-military applications for their technology. Scotland will not turn a blind eye to the potential of exports which harm human rights. Where we have the power to act we have done so, for instance introducing essential safeguards such as Human Rights due diligence checks, which are now a normal part of our enterprise agencies application process.

78. We call on the UK Government to abide by the principles of the 'UK Arms Trade Treaty' which it ratified in 2014, and formally align with the [EU Common Position](#) on the arms trade, ending arms exports to countries where there is concern they will be used to commit war crimes and human rights violations.

79. The Scottish Government is opposed to the possession, threat and use of nuclear weapons and is committed to pursuing the safe and complete withdrawal of all nuclear weapons from Scotland.

International development cooperation

Recommendation 15: the Committee calls upon the State party to adopt a human rights-based approach in its international development cooperation by:

- (a) Undertaking a systematic and independent human rights impact assessment prior to decision-making on development cooperation projects;
- (b) Establishing an effective monitoring mechanism to regularly assess the human rights impact of its policies and projects in the receiving countries and to take remedial measures when required;

80. The Scottish Government undertook a [review of its international development work in 2021](#). The COVID-19 pandemic necessitated a refresh of the Scottish Government's approach to international development and this refresh aims to ensure that our programme is future-proofed against an ever-changing global outlook. The Review also included a consideration of issues highlighted by the Black Lives Matter Movement.

81. Our international development programme will continue to evolve in line with the review. Our new [Principles](#), co-developed with input from civil society and academics in our partner countries and Scotland, will lie at the heart of how Scotland seeks to set an example in addressing the issue of systematic racism and inequality, sometimes referred to as 'white gaze', in international development. As part of this, discussions have focussed on how to support a shift in power to partner countries, towards increased localisation of development.

82. Our international development programme will help our partner countries, Malawi, Zambia and Rwanda, to build back fairer and stronger after the pandemic ends, by focusing our contribution on economic recovery, building institutional resilience, reducing inequalities, and applying our new principles to our programme. We will also continue to support women and girls access to education in Pakistan, through our holistic scholarships programme.

83. The international development fund will focus on the following areas:

- further focusing our offer in Rwanda and Zambia in line with thematic priorities, whilst maintaining our existing agreed themes in Malawi;
- refreshing our funding criteria;
- a new distinct Equalities Programme; and
- establishing a new Global South Programme Panel on International Development.

84. Through this change we aim progressively to shift the balance of power, and control over spending, to our partner countries. That includes adjusting our international development fund criteria to enable more partner country organisations to be the lead partner in applying to the Scottish Government for funding. Currently the only global south organisation which we fund directly is the Malawi Scotland Partnership in Lilongwe.

New Cross-cutting Equalities Programme

85. Adding to the two funding streams focussing on sustainable recovery and institutional resilience, we will introduce a new cross-cutting Equalities Programme across all four of our partner countries (Malawi, Zambia, Rwanda and Pakistan) with a particular focus on supporting the promotion of equality and empowerment of women and girls. This key outcome from the review recognises the finding of UN Women that COVID-19 “deepen[ed] pre-existing inequalities, exposing vulnerabilities in social, political and economic systems which are in turn amplifying the impacts of the pandemic. Across every sphere, from health to the economy, security to social protection, the impacts of COVID-19 are exacerbated for women and girls simply by virtue of their sex”.

86. The Scottish Government is a strong supporter of multilateralism, believing that by working with partners on shared interests in multilateral fora we can address our common challenges. Engaging with international institutions can also help us to better support national outcomes in our partner countries. Our recent £2 million grant to the UN’s Children’s Fund for our three African partner countries, Malawi, Zambia and Rwanda, ensured we could support all three partner country Governments to implement their COVID-19 national response plans and preparedness for COVID-19 vaccines. We will therefore consider how we might work through more international bodies in future, whether on health or equality for women and girls to maximise the impact of our development programme.

- (c) Ensuring that there is an accessible complaint mechanism for violations of economic, social and cultural rights in the receiving countries embedded in the framework for development cooperation projects.

87. All humanitarian assistance provided by the Scottish Government continues to be delivered through reputable and long-standing humanitarian aid agencies, including the UN.

Tax policies

Recommendation 17: the Committee recommends that the State party:

- (a) Conduct a human rights impact assessment, with broad public participation, of the recent changes introduced to its fiscal policy, including an analysis of the distributional consequences and the tax burden of different income sectors and marginalized and disadvantaged groups;

88. The Scottish Government publishes an [Equality and Fairer Scotland Budget Statement](#) alongside the budget each year which discusses the human rights, equality and social justice implications of the government's spending plans. An independently chaired Advisory Group has provided [recommendations](#) to improve these processes. A review of the [Scottish Government's Fiscal Framework](#) will also be undertaken by the Scottish and UK Governments in 2022/23.

89. Each year the Scottish Government publishes [distributional analysis](#) of its income tax policy proposals as part of the annual Scottish Budget. This analysis, which is based on taxpayer information from His Majesty's Revenue and Customs Survey of Personal Incomes, explores impacts across the income distribution, as well as across protected characteristics of gender, age and disability.

90. Revenue Scotland, Scotland's devolved tax management authority, publishes statistics on [Land and Buildings Transaction Tax](#) (LBTT) on a monthly and annual basis. This includes analysis of the LBTT declared by tax band, the number of LBTT returns received by month of submission, the types of transactions and the total consideration.

- (b) Ensure that its fiscal policy is adequate, progressive and socially equitable and improves tax collection so as to increase resources available for implementing economic, social and cultural rights;

91. [Scotland's Infrastructure Investment Plan](#) and five-year [Capital Spending Review](#) (CSR) provides a strong and coherent framework for directing, analysing, shaping and prioritising future capital commitments. The CSR delivers on our [National Infrastructure Mission](#) to raise Scottish infrastructure investment to internationally competitive levels, while also supporting employment and economic recovery through our large-scale infrastructure plans, moving us along the path to net zero carbon emissions, and underpinning the provision of quality public services into the future.

92. In December 2021 a [framework](#) for the Resource Spending Review was published, setting out the broad agenda and priorities for a [multi-year spending framework](#) that was published on 31 May 2022. An [Equality and Fairer Scotland Statement](#) was published alongside the document.

93. Since 2017-18 the Scottish Parliament has had the power to set the income tax rates and bands to the non-savings non-dividend income of Scottish taxpayers. In 2018-19, the Scottish Government introduced substantial reforms to Scottish income tax, with 1p added to the higher and top rates, and the addition of two new bands to split the previous basic rate band. The aim of this was to improve the fairness and progressivity of the income tax system and to raise additional revenue for public services in Scotland. A [policy evaluation](#) of these changes was published in December 2021. This demonstrated how these reforms to the income tax system had raised an estimated £239 million to invest in public services in Scotland, and due to the progressive nature of the reforms, contributed to a reduction in inequality as measured by the Gini coefficient (a fall of 0.3 percentage points).

(c) Take strict measures to tackle tax abuse, in particular by corporations and high-net-worth individuals;

94. The Scottish Government takes the toughest possible approach to tackling tax avoidance where it has the powers to do so. The [Scottish General Anti-Avoidance Rule](#) (GAAR) allows Revenue Scotland to take counteraction against arrangements which it considers to be artificial, even if the arrangements operate within the letter of the law. In this respect the Scottish GAAR is significantly wider than the corresponding UK [General Anti-Abuse Rule](#) which is based on a narrower test of 'abuse' rather than 'artificiality'. The general rule is complemented by a number of more specific and targeted anti-avoidance rules within the devolved taxes legislation.

95. Following the onset of the COVID-19 pandemic in 2020 the Scottish Government passed the [Coronavirus \(Scotland\) \(No. 2\) Act 2020](#) which contained a measure prohibiting businesses with certain connections to tax havens (as defined by the EU List of Non-Cooperative Jurisdictions for Tax Purposes) from receiving COVID-related grants through the financial support schemes offered. This provision was included in order to ensure public funds are not allocated to companies who choose to base themselves in uncooperative, tax haven jurisdictions.

(d) Intensify its efforts, in coordination with its Overseas Territories and Crown Dependencies, to address global tax abuse.

96. Scotland recently published its first [Framework for Tax](#) which sets out the principles that underpin the Scottish approach to taxation and includes our commitment to tackling tax avoidance activity. The Framework outlines that the design of the tax system should seek to minimise opportunities for tax avoidance practices and governments and tax authorities should respond quickly and proactively to tackle avoidance, should it occur.

Austerity measures

Recommendation 19: the Committee reminds the State party of its obligations under the Covenant to use the maximum of its available resources with a view to progressively achieving the full realization of economic, social and cultural rights. The Committee draws the State party's attention to the recommendations contained in its [open letter of 16 May 2012](#) to States parties on economic, social and cultural rights in the context of the economic and financial crisis, with regard to the criteria for austerity measures. Such measures must be temporary, necessary, proportionate and not discriminatory, must not disproportionately affect the rights of disadvantaged and marginalized individuals and groups and respect the core content of rights. In that context, the Committee recommends that the State party review its policies and programmes introduced since 2010 and conduct a comprehensive assessment of the cumulative impact of these measures on the enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups, in particular women, children and persons with disabilities, that is recognized by all stakeholders.

97. The Scottish Government has limited legislative and fiscal powers to mitigate the impacts of welfare reform with the majority of policy responsibility and spending remaining reserved to the UK Government. Despite this we have invested significant funds to mitigate the impacts with support targeted at the most vulnerable groups.

98. From the introduction of the [Scottish Welfare Fund](#) scheme in April 2013 until 31 March 2022, 470,170 individual households have received awards totalling £314.4 million. The fund supports Scotland's most vulnerable households, including lone parents, women and children leaving domestic abuse, people leaving prison and people with mental health problems, chronic illness or disabilities. Around one in five people in Scotland live in the 20% most deprived areas in Scotland, as defined by the [Scottish Index of Multiple Deprivation](#). In 2021/22 around half of fund awards were given to applicants living in these most deprived areas. A third of households receiving an award were families with children, while just over half were single person households with no children.

99. Ten years on from the Economic, Social and Cultural Rights Committee's May 2012 letter we are facing the most severe economic upheaval in a generation, which is already impacting people, businesses, public services and the third sector across Scotland. It is hard to overstate the gravity of the situation we face. This cost crisis puts livelihoods and lives at risk.

100. As a responsible government, in order to support people over the winter, we are determined to act to mitigate the impact of the crisis to the maximum extent possible within our limited powers and resources. The Scottish Government recognises that the principal powers and resources needed to tackle this crisis rest

squarely with the UK Government. In order to adequately respond to the current crisis committed action is required on the part of UK Ministers.

101. For our part, we will continue to do everything within our power to support Scotland through this crisis. In addition to the measures that are already in place in Scotland, we are introducing further measures to help us through the difficult autumn and winter that lie ahead. For example, from 14 November 2022, all children currently in receipt of Scottish Child Payment (a benefit only available in Scotland) will have it automatically increased to £25 per week. Bridging Payments were introduced in 2021 ahead of the extension of the Scottish Child Payment to 6-15 year olds. The final quarterly Bridging Payment, due in December 2022, will now be doubled to £260, meaning families will receive up to £650 per eligible child this year. We recognise the huge pressures the cost crisis is placing on households, particularly on those who rent their home. In addition, we have taken action to protect tenants by freezing in-tenancy rents and by introducing a moratorium on evictions with some specified exemptions at least until 31 March 2023.

102. At the same time we are continuing to take action that will help Scotland in the longer term, so that we emerge more resilient from this crisis and on a path toward achieving our ambitions for the economy and society, including our net zero ambition and our national mission to tackle child poverty.

Legal aid

Recommendation 21: the Committee recommends that the State party review the impact of the reforms to the legal aid system with a view to ensuring access to justice and the provision of free legal aid services, in particular for disadvantaged and marginalized individuals and groups. The Committee takes note of the information provided by the State party on the ongoing review of the employment tribunal fees and recommends the elimination of such fees.

104. An independent [review](#) of legal aid published in 2018 found that Scotland has a generous system of legal aid by international standards, with wide scope and no cash limit. Despite significant financial pressures, the legal aid system in Scotland is one of the leading jurisdictions in Europe in terms of scope, eligibility and cost, with 75% of people financially eligible to some form of civil legal aid assistance.

105. The Scottish Government is committed to ensuring that legal assistance is available to all those who require it and, over the course of 2021, a package of support at a cost of approximately £20 million was delivered to legal aid providers and £50 million to justice agencies to help ensure access to justice is maintained.

106. The Scottish Government is also committed in this parliamentary term to working with the legal profession to bring forward reforms in a Legal Aid Reform Bill. Reform will focus on a number of areas including providing more planned and targeted legal service interventions for those that require it, whether that be clients with particular legal issues (such as asylum and immigration) or clients based in specific geographical locations.

107. We want all workers to have fair access to justice and have made a commitment not to introduce employment tribunal fees for workers once Employment Tribunals are devolved to the Scottish Parliament.

108. People applying for legal aid funding through the Scottish legal aid system are not subject to a residency test, so as long as the issue was related to Scots law, immigration status is not a barrier that would prevent individuals from accessing justice. The legal aid system in Scotland has some flexibility in how it operates; namely, if an individual does not have a bank account or financial records, this does not necessarily mean that legal aid would be denied.

Equality Act 2010

Recommendation 23: the Committee recommends that the State party bring into force the relevant provisions of the Equality Act 2010 that refer to the public authorities' duty with respect to socio economic disadvantage, as well as with respect to the prohibition of intersectional discrimination, in order to enhance and guarantee full and effective protection against discrimination in the enjoyment of economic, social and cultural rights.

The Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para.16¹⁰) and urges the State party to provide the same access to an independent equality body and a similar level of protection to rights holders with regard to all grounds of discrimination for all individuals in all jurisdictions of the State party, including Northern Ireland. In this respect, the Committee draws the attention of the State party to its general comment No. 20 (2009)¹¹ on non-discrimination in economic, social and cultural rights.

109. The duty at Part 1 of the [Equality Act 2010](#), regarding socio-economic inequalities, came into force in Scotland on 1 April 2018. Scotland was the first part of the UK to introduce the duty, which in Scotland is known as the [Fairer Scotland Duty](#).

110. The Duty places a legal responsibility on certain public bodies in Scotland to have due regard to how they can reduce the inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions.

111. To support public bodies in implementing the Duty the Scottish Government revised its statutory [guidance](#). This draws on learning and practice since the Duty came into force in Scotland, with input from the [Equality and Human Rights Commission](#), the Duty regulator, public bodies covered by the Fairer Scotland Duty, and third sector poverty and inequality organisations.

¹⁰ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 16: "The Committee recommends that the State party take remedial steps to enforce existing legal prohibitions of discrimination and to enact, without delay, a comprehensive anti-discrimination law, guaranteeing protection against discrimination in the enjoyment of economic, social and cultural rights, as stipulated in article 2, paragraph 2, of the Covenant. It also recommends that the State party consider making such comprehensive anti-discrimination legislation applicable to Northern Ireland."

¹¹ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

General comment No. 20: "The Committee, while acknowledging the rate of employment in the State party, is yet concerned about the substantial number of persons unemployed, in particular the most disadvantaged and marginalized individuals and groups."

Asylum seekers

Recommendation 25: the Committee recommends that the State party increase the level of support provided to asylum seekers, including through the daily allowance, in order to ensure that they enjoy their economic, social and cultural rights, in particular the right to an adequate standard of living. The Committee reiterates its previous recommendation (see E/C.12/GBR/CO/5, para. 27¹²) and encourages the State party to ensure that asylum seekers are not restricted from accessing employment while their claims are being processed.

112. Asylum and immigration are reserved to the UK Government. This includes the operation of the asylum system, restricting right to work for people seeking asylum and processes to grant permission to work in certain circumstances. It also includes the provision of asylum accommodation and financial support to people seeking asylum who would otherwise be destitute while awaiting the outcome of their application and application of No Recourse to Public Funds (NRPF) policy.

113. The Scottish Government has called for the UK Government to allow people seeking asylum to work. Currently there are very limited circumstances in which people seeking asylum may be granted permission to work while awaiting a decision on their asylum application. Granting permission to work would benefit people's wellbeing by allowing them to use and develop skills, make connections in work environments, help to support themselves and their families, contribute to our economy, and restore dignity.

114. The Scottish Government has urged the UK Government to ensure that the financial element of support provided to people seeking asylum reflects the real costs of daily life, including digital access and travel costs. These are essential to ensure that people can access support services, legal advice and information, including health guidance. The Home Office should reflect the cost of living in support that they provide, whether by increasing support rates, or through the provision of essential services such as WiFi in asylum accommodation and bus passes.

115. The Scottish Government and COSLA published the [Ending Destitution Together strategy](#) in March 2021. The strategy aims to improve support for people who are at risk of destitution because they are subject to a NRPF condition. The strategy's vision is that "No one in Scotland is forced into destitution and everyone has their human rights protected, regardless of their immigration status".

¹² [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 27: "The Committee encourages the State party to ensure that asylum-seekers are not restricted in their access to the labour market while their claims for asylum are being processed. It also recommends that the State party review section 4 of the Immigration and Asylum Act 1999 on support and provision regulating essential services to rejected asylum-seekers, and undocumented migrants, including the availability of HIV/AIDS treatment, when necessary."

116. The UK Government are currently running two pilots with [Talent Beyond Boundaries](#) that seek to support people displaced in migrant camps to come to the UK through skilled migration routes. There are two pilots in the UK: a displaced talent mobility scheme, and a route focusing on the skills needs of the National Health Service.

117. The First Minister has committed £83,000 to Talent Beyond Boundaries to support approximately 50 displaced individuals to make their home in Scotland. These complementary pathways are an essential component to the international community's response to the global displacement crisis. This pilot increases the availability of safe and legal routes to the UK for people in need of protection and affords refugees the dignity of being able to work to support their families and contribute to their new communities.

Equality between men and women

Recommendation 27: the Committee recommends that the State party:

(a) Intensify its efforts to increase the level of representation of women in decision-making positions, in both the public and private sectors;

118. The Scottish Government introduced the [Gender Representation on Public Boards \(Scotland\) Act 2018](#) to ensure women's equal representation on public boards in Scotland. The ASP, which commenced on 29 May 2020, sets a "gender representation objective" for the boards of listed Scottish public authorities that 50% of the board's non-executive members are women, and it requires appointing persons and public authorities to take certain steps towards achieving the objective.

119. The Scottish Government is committed to improving the representation of women and other under-represented groups in leadership roles, including a commitment to make Ministerial appointments more diverse and reflective of Scotland's population.

120. The refreshed 2017 [Women in Enterprise Framework and Action Plan](#) established a Women's Enterprise Action Group which identified priority areas of action. Under that framework we support partner organisations to deliver programmes supporting the Framework's key themes, including 'Women's Enterprise Scotland's Ambassadors Programme', the 'Accelerate Her Programme' delivered by Investing Women, and the 'Programme for Growth' delivered by Business Women Scotland.

121. We have committed £50 million over the course of this parliament which will allow us to build on these existing programmes, and to identify and support additional measures to unlock the full potential of Scotland's female entrepreneurs.

122. The Cabinet Secretary for Finance and the Economy has invited experienced entrepreneur Ana Stewart, (founder of i-design Group plc and now an investor and Non-Executive Director) to lead an independent short-life review of the support landscape for women-led businesses in Scotland. The review will identify the specific actions required to address the needs of women-led businesses in Scotland, encompassing the established business support system as well as any gender specific measures that may be needed. The review is reaching its conclusion following a period of intensive consultation, engagement and data gathering ahead of publication.

123. To tackle workplace inequalities for women, including the motherhood penalty¹³ and discrimination such as age, ethnicity or disability, we are delivering a [Women's Returners Programme](#). 11 projects have received funding in 2022/23 building on the good work and momentum gained in the previous six month programme in 2021/22.

¹³ The Motherhood Penalty can be described as the systematic disadvantages that women encounter in their careers once becoming a mother.

124. Projects will continue to provide women (including disabled women, minority ethnic women and those transitioning through menopause) with activity that develops confidence, skills, work experience and networking that suits their own personal needs, timescales and circumstances for returning to work.

125. We have also set up a [Commission](#) to undertake a review of learning for Scotland's land-based and aquaculture sectors, from early years to adulthood, to provide opportunities and qualifications for more people, and specifically more women, to work with and on the land, particularly in green skills. The Commission will provide independent, evidence-based advice and recommendations to Scottish Ministers.

126. In early 2021 our [Women in the Rural Economy Training Fund](#) provided 100% funding for training up to the value of £500 per course to give women in rural Scotland with greater opportunities for land based and aquaculture training, to help address the current gender imbalance within the sectors, helping to address the gender pay gap. The fund was very well received, with women applying for a diverse range of training across these sectors.

(b) Adopt effective measures to eliminate the persistent gender pay gap, including by addressing the significant vertical and horizontal gender-based segregation in the labour market, which results in women occupying lower-paid positions and facing obstacles to their enjoyment of career opportunities on an equal footing with men;

127. The Scottish Government continues to tackle the gender pay gap and give full consideration to the gendered impact and implications on the labour market. Building on the response to our recent [Becoming a Fair Work Nation](#) consultation, we are in the process of developing a refreshed, integrated Fair Work Action plan, which will bring together our work to support Scotland becoming a Fair Work nation by 2025.

128. This new plan will incorporate our commitments in our [Fairer Scotland for Women: Gender Pay Gap Action plan](#) to reduce the gender pay gap, commitments in our Fairer Scotland for Disabled People Employment Action Plan to at least halve the disability employment gap by 2038, and actions emerging from our new Ethnicity Pay Gap strategy. The refreshed plan will also consider the intersection with age.

129. This approach will enable us to better align collective action across these interrelated agendas where there is clear synergy (e.g. conditionality, real Living Wage, effective voice), whilst still addressing the discrete structural inequalities that perpetuate labour market inequalities. The action plan will be published in Autumn this year, allowing time for appropriate engagement with stakeholders, including those with lived experience of barriers to employment.

130. Scotland's gender pay gap for full-time employees increased from 3.0% in 2020 to 3.6% in 2021. However, this is still below the gap of 7.2% in 2019 (pre-pandemic) and has been lower than the UK's since 2003. The gender pay gap for all employees in Scotland (including part-time and full-time) continues to be lower than the UK gap (11.6% v 15.4%) and is still below the gap of 14.4% in 2019 (pre-

pandemic) so continuing the longer-term downward trend. The gender pay gap for all employees has been lower than the UK's since the series began in 1997.

131. The [Gender Pay Gap Measurement Framework](#) was published on 24 March 2021 and outlines the outcomes we seek to achieve, mapping these to the data sources that can be used to measure progress. On 18 December 2020 we published Scotland's first [Gender Equality Index](#), setting a baseline against which Scotland will be able to measure its progress towards equality between men and women through time. Our flagship [Fair Work First](#) approach includes criteria for "action to tackle the gender pay gap and create more diverse and inclusive workplaces" and the promotion of flexible working.

132. The Scottish Government funds [Equate Scotland](#) to support the recruitment, retention, return and success of women into jobs where they are significantly under-represented. As part of their work, the Scottish Government funds Equate Scotland to deliver the [CareerWISE](#) programme, which offers female undergraduates paid work placements with science, technology, engineering and maths employers. The Scottish Government funds [Close the Gap](#) to change employment practices and workplace cultures to support gender equality and tackle the pay gap.

133. The [Equality and Human Rights Fund](#), managed by [Inspiring Scotland](#), expects to distribute £7 million per annum from October 2021 to September 2024 and aims to promote equality and tackle discrimination and prejudice.

(c) Increase its efforts to ensure equal remuneration for work of equal value, without distinction of any kind.

134. The Equality Act 2010 requires men and women in the same employment performing equal work to receive equal pay, unless any difference in pay can be justified. The Scottish Government is clear that all employers must adhere to the law on equal pay between men and women.

Unemployment

Recommendation 30: recalling its previous recommendations (see E/C.12/GBR/CO/5, paras. 20 and 21¹⁴), the Committee recommends that the State party review its employment policies to address the root causes of unemployment and include in its action plan time-bound goals with a specific focus on groups disproportionately affected by unemployment, such as young people, persons with disabilities and persons belonging to ethnic, religious or other minorities.

Minority Ethnic Groups

135. We published a [Minority Ethnic Recruitment toolkit](#) in September 2020, which draws on identified effective practice and aims to support employers to improve the recruitment of minority ethnic people. The toolkit gives advice on the importance and use of workforce data to help determine approaches for recruitment campaigns when looking to improve recruitment of minority ethnic groups into the workforce. This will help employers create more diverse workplaces and be reflective of the communities they serve.

136. We are developing an ethnicity pay gap strategy, which will support employers to evidence how different minority ethnic groups are represented in an organisation, across different pay bands. It will help employers to understand if there are unfair disparities and help drive strategies for the recruitment, retention and progression of minority ethnic groups.

Disabled People

137. When the Scottish Government published its [A Fairer Scotland for Disabled People – Delivery Plan](#) in 2016 we committed to work towards halving the disability employment gap (DEG).

138. In 2018 we published [A Fairer Scotland for Disabled People – Employment Action Plan](#), outlining initial action that would be taken, and identifying the timeframe within which we would seek to halve the disability employment gap in Scotland, namely by 2038. The Action Plan focused on three key themes: supporting

¹⁴ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 20: “The Committee recommends that the State party strengthen its measures to reduce the substantial number of unemployed persons and to counteract the impact of the economic downturn on employment in order to implement fully the right to work, in particular with regard to the most disadvantaged and marginalized individuals and groups. It also calls upon the State party to reinforce its measures aimed at ensuring that persons with disabilities, including those with learning disabilities, have equal opportunities for productive and gainful employment, equal pay for work of equal value, and provide them with improved, expanded and equal opportunities to gain the necessary qualifications, in line with its general comment no. 5 (1994) on persons with disabilities.”

Para 21: “The Committee recommends that the State party take immediate and appropriate measures to reduce unemployment among ethnic minorities and provide them with better employment opportunities.”

employers to recruit and retain disabled people; supporting disabled people to enter employment; and young people and transitions. Since then two progress reports have been published in [March 2020](#) and [March 2021](#).

139. Significant progress has been made, including:

- the development of the [Scottish Government Recruitment and Retention Plan for Disabled People](#) in August 2019;
- establishment of the [Public Social Partnership](#), which is designing, developing and implementing solutions to the barriers employers face in hiring and retaining disabled people; and
- support and funding made available to support unemployed disabled parents in poverty.

140. A refresh of the Employment Action Plan is currently underway, co-produced with disabled people and organisations that support them, as part of a new aligned Fair Work Action Plan. In addition the Scottish Government, in partnership with local government, are developing a new approach to local employability services: '[No One Left Behind](#)'. This is our strategy for placing people at the centre of the design and delivery of employability services, which promotes a strengthened partnership approach where the spheres of government work more collaboratively with the third and private sector to identify local needs and make informed, evidence based decisions on required support, flexing these to meet emerging labour market demands.

141. In 2016, our baseline year, the DEG in Scotland was 37.4 percentage points. The DEG has steadily decreased since 2016; from 35.9 percentage points in 2017 to 32.6 percentage points in 2019; meaning that the DEG fell year on year and by an annual average of around 1.5 percentage points. This progress reversed slightly in 2020, with the DEG widening to 33.4 percentage points likely due to the impacts of COVID-19. However, the latest figures show that the DEG decreased in 2021 to 31.0 percentage points.

British Sign Language (BSL)

142. The Scottish Government is committed to making opportunities for training and work available to all, including those who use BSL as their first or preferred language. A number of the 70 actions defined in the [BSL 2017-2023 National Plan](#) apply to the workplace, training for work, access and support for work, and social security. Significant progress has been made since the launch of the National Plan, such as inclusion of BSL in information shared by the Scottish Government, developing existing frameworks to make them available to BSL users, and the provision of the [Workplace Equality Fund](#) to support inclusion in the workplace for BSL users.

Working conditions

Recommendation 32: the Committee recommends that the State party:

- (a) Take all appropriate measures to progressively reduce the use of temporary employment, precarious self-employment and “zero hour contracts”, including by generating decent work opportunities that offer job security and adequate protection of labour rights;

143. Employment law is reserved to the UK Government, therefore the Scottish Government cannot currently legislate on this matter. We firmly oppose the inappropriate use of zero hours contracts and other non-standard types of employment that offer workers minimal job or financial security.

144. As an employer, the Scottish Government does not directly employ people on zero hours contracts. The inappropriate use of zero hour contracts is unacceptable and undermines our ambitions to grow the economy and tackle inequality in our society.

145. We are committed to mainstreaming fair work throughout Scotland and through our flagship [Fair Work First](#) policy we will continue to use the Scottish Government’s financial powers to drive fair work practice and continue to promote and enhance workers’ rights. The main mechanism for doing this is our ‘Fair Work First’ approach through which fair work criteria is being applied to public sector grants and contracts where it is relevant and proportionate to do so. The criteria includes no inappropriate use of zero hours contracts and offering flexible and family friendly working practice from day one of employment.

146. Additionally, in August 2021 we launched a new [Living Hours Employer Accreditation](#) scheme for Scotland, which requires employers to meet three elements of fair work in order to achieve accreditation. Through Scottish Government grant funding of £388,000 we support the [Poverty Alliance](#) to increase the number of employers in Scotland providing secure pay and contracts for their employees through the ‘Living Hours Scotland Employer Accreditation Scheme’, which commenced on 1 August 2021. This scheme recognises that in addition to payment of the real living wage, the number and frequency work hours are critical to tackling in-work poverty. In order to achieve accreditation an employer must meet the following standards:

- payment of the real living wage;
- provide a contract reflecting accurate hours worked and a guaranteed minimum of 16 hours a week (unless the worker requests otherwise); and
- ensure at least 4 weeks’ notice of shifts and guaranteed payment if shifts are cancelled within this period.

147. The [Fair Work Action Plan](#) is currently being refreshed and will consider the Scottish Government’s continuing priority for promoting high quality and fair work, with secure pay and contracts at their heart.

(b) Ensure that the labour and social security rights of persons in part-time work, precarious self-employment, temporary employment and 'zero-hour contracts' are fully guaranteed in law and in practice.

148. Work-related and income replacement social security benefits generally remain reserved to the UK Government and are delivered by the Department for Work and Pensions. Disability benefits and some low income benefits are devolved to the Scottish Government. The [Social Security \(Scotland\) Act 2018](#) sets out the Scottish Social Security principles which apply to the devolved benefits. The principles include:

- identifying social security as a human right;
- that the Scottish social security system contributes to reducing poverty in Scotland; and
- the social security system puts the needs of those who use the system first and advances equality and non-discrimination.

149. These principles apply to all who access the Scottish social security system, whether they are in or out of work.

Working conditions of migrant workers

Recommendation 35: the Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para. 22¹⁵) and urges the State party to:

- (a) Adopt all necessary measures to ensure that all migrant workers, including migrant domestic workers, enjoy the same conditions as other workers as regards remuneration, protection against unfair dismissal, rest and leisure, limitation of working hours, social security and maternity leave protection;

150. The Scottish Government's January 2020 paper [Migration: Helping Scotland Prosper](#) outlines our position on devolution of new powers on migration. The paper summarises the options for a tailored migration policy for Scotland and advances a reasonable, realistic approach, with devolution of some powers within a UK framework and joint working between the two governments on delivery. Tailored, responsive and humane migration policy can help contribute to Scotland achieving the [National Outcomes](#) with improved wellbeing and sustainable and inclusive economic growth at the heart of its purpose. The paper suggests seven principles that attempted to capture some of the many questions to consider and perspectives to reflect on when thinking about future migration policy.

151. If agreement was reached with the UK Government on a tailored migration policy for Scotland with new powers for the Scottish Parliament, the Scottish Government would undertake public consultation in designing and developing that policy. Such a consultation would include discussion with communities, migrants, employers, trade unions, public services and wider civic society about the values that would underpin policy. For example, some of the important values discussed through devolution of social security could also be relevant in the context of immigration policy.

Asylum and Refugee Integration

152. Asylum policy is reserved to the UK Parliament. The Scottish Government position is that people seeking asylum should be allowed to work while awaiting a decision on their asylum claim, if they are able to do so. Currently, people seeking asylum are only allowed to work in very restricted circumstances where they have been waiting for a decision on their claim for more than a year and the Home Office does not consider the delay to be of their making. However, they are only allowed to take jobs which are on the shortage occupation list.

¹⁵ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 22: "The Committee encourages the State party to ensure that the conditions of work of all migrant workers comply with the provisions of article 7 of the Covenant and calls upon the State party to take all necessary measures to investigate the activities of companies employing migrant workers and ensure that employers contravening the law in this regard are prosecuted and sanctioned."

153. The Ending Destitution Together strategy aims to improve support for people who are at risk of destitution because they are subject to a 'No Recourse to Public Funds' condition. The principles of prevention, partnership and personalisation inform the strategy's approach, and it sets out a range of actions in the areas of essential needs, advice and advocacy, and inclusion.

154. Scottish Ministers have consistently pressed the Home Office on people who are at risk of destitution because they are subject to a 'No Recourse to Public Funds' condition. Most recently, the then Cabinet Secretary for Communities and Local Government, Aileen Campbell, wrote to the then Immigration Minister in March 2021. The then UK Minister for Immigration Compliance and Justice, Chris Philp MP, replied in April and as part of his reply noted that "asylum seeker right to work is a complex issue and is under review".

155. In addition, working with [Talent Beyond Boundaries](#), an organisation specialising in displaced talent mobility, the Scottish Government aim to match an initial 50 skilled but forcibly displaced people – often refugees – with prospective employers in Scotland. Complementary pathways are an essential component to the international community's response to the global displacement crisis. The use of labour mobility pathways for refugees to resettle based on their skills rather than their vulnerabilities is an innovative solution to the global displacement crisis. Through this initiative businesses will gain valuable skilled workers, and refugees and their families will have the chance to resume their careers, rebuild their lives, and contribute to their new communities in Scotland.

(b) Protect migrant workers and migrant domestic workers from all forms of exploitation and abuse, including through the effective implementation of the Modern Slavery Act 2015;

156. The Scottish Government published its first [Trafficking and Exploitation Strategy](#) in May 2017 which set out three action areas to focus work towards the overall vision of eliminating human trafficking and exploitation:

- Action area 1: identify victims and support them to safety and recovery;
- Action area 2: identify perpetrators and disrupt their activity; and
- Action area 3: address the conditions, both local and global, that foster trafficking and exploitation.

157. Each action area is supported by an implementation group with membership ranging across government, law enforcement, victim support, local authorities, business, non-governmental organisations and academia.

158. In October 2018, the Scottish Government [published guidance](#) for businesses on how to identify and prevent human trafficking and exploitation across their operations. This guidance will assist organisations in meeting their responsibilities under section 54 of the Modern Slavery Act 2015.

159. In October 2019, COSLA published [guidance](#) to support local authorities in developing good practice to identify, refer and support victims of human trafficking and exploitation, and disrupt and deter criminal activities.

160. In May 2020, the Scottish Government published the [Third Annual Trafficking and Exploitation progress report](#) and a statutory review of the Strategy, three years on from publication. We have since published the fourth annual progress report in [January 2022](#). Earlier [progress reports](#) are also available.

161. Since 2018 there have been legal requirements for support to be provided to victims of offences under the Human Trafficking and Exploitation (Scotland) Act 2015. This support can be provided for up to 90 days, or longer in some circumstances, and can include accommodation, assistance with day to day living, medical advice and treatment including psychological help, language translation and interpretation, counselling, legal advice, help accessing other services and, if the victim wishes, repatriation.

162. In addition, section 8 of the ASP places a duty on the Lord Advocate to prepare and publish instructions for prosecutors about the prosecution of suspected or confirmed victims of the offence of human trafficking and the offence under section 4 (slavery, servitude and forced or compulsory labour). In response to a [judgement \(V.C.L and A.N v the United Kingdom\)](#) from the European Court of Human Rights, the Lord Advocate's instructions have been updated to make explicit that:

- prosecutors should direct Police Scotland to refer all potential victims of trafficking or exploitation to the National Referral Mechanism (NRM) (although for adults this is only possible if they consent to the referral) if not already done so; and
- prosecutors should await the outcome of the NRM process, i.e. the 'Conclusive Grounds Decision', before making final decisions about prosecution of potential victims of trafficking or exploitation unless there is no alternative.

163. The Crown Office and Procurator Fiscal Service continues to apply the Lord Advocate's instructions, which include strong presumptions against prosecution of victims of trafficking, slavery, servitude and forced or compulsory labour in relation to offences committed as a consequence thereof.

164. Section 38 of the Human Trafficking and Exploitation (Scotland) Act 2015 places a duty on specified Scottish public authorities to notify the Chief Constable of Police Scotland of a person who appears to be the victim of human trafficking or of slavery, servitude and forced or compulsory labour. A public consultation opened on 16 June 2019 and closed on 6 September 2019. Overall there was strong support for the Scottish Government's proposals within the consultation and the [analysis report](#) was published on 30 April 2020. Legislative implementation of the duty has been delayed due to the ongoing response to COVID-19 and its impact on public services.

165. The Scottish Government has continued to fund the [Trafficking Awareness Raising Alliance](#) (TARA) and [Migrant Help](#) to provide specialist support to victims of

human trafficking and exploitation in Scotland. TARA support adult females trafficked for the purposes of commercial sexual exploitation and Migrant Help support all other adult victims.

166. The COVID-19 pandemic presented challenges and risks to potential victims of trafficking as lockdown restrictions took effect. Police Scotland's National Human Trafficking Unit undertook engagement with partners to gather and share experiences and emerging trends through the production of regular partner briefings. Human trafficking information and intelligence requirements were disseminated to Divisional Human Trafficking Champions and strategic partners and resilience development was carried out among businesses vulnerable to utilising exploited labour.

167. Police Scotland launched 'Operation Perceptive' as part of the response to labour exploitation during COVID-19, focussing on victims of trafficking who were potentially being exploited by organised crime groups. The operation targeted exploitation in the areas of agriculture, food processing and fisheries as part of a multi-agency response, with officers visiting over 50 premises covering in excess of 5,000 staff. Operation Perceptive was aligned to National Crime Agency and Modern Slavery Organised Immigration Crime Group work in this area. Additionally, Police Scotland provided a submission to the UN Special Rapporteur on contemporary forms of slavery, Mr. Tomoya Obokata, to inform his report¹⁶ on the role of organised criminal groups with regard to contemporary forms of slavery. It was published and presented to the General Assembly during its 76th session in October 2021.

168. The [Vulnerable Witness \(Criminal Evidence\) \(Scotland\) Act 2019](#) created a new rule for child witnesses under 18 to ensure that, where they are due to give evidence in the most serious cases, they will be allowed to have it pre-recorded in advance of the trial. The rule covers a number of charges including human trafficking. The ASP includes powers to extend the rule to adult witnesses deemed to be vulnerable, and also covers human trafficking in this connection.

169. A number of 'Action Area 1' partners and NRM First Responder agencies in Scotland commenced work in early 2020 to develop a NRM toolkit. The [toolkit was launched in March 2021](#) and provides First Responder organisations and their frontline teams with the local and global human trafficking and exploitation context, the legislative framework, the purpose of the NRM, guidance on how to best complete an NRM referral and advice on what to expect once a referral is submitted. The toolkit also takes a trauma-informed approach to identifying vulnerable adults and children and provides advice on how to provide a safe environment to encourage potential victims to disclose their experiences.

170. The Scottish Government part funded research conducted by [Focus on Labour Exploitation](#) and [Fife Migrants Forum](#) between March 2020-February 2021. This research was initiated in order to seek to understand the risk of human trafficking for forced labour for people coming to Scotland on the Seasonal Workers Pilot (SWP) in the horticultural sector.

¹⁶ See section A/76/170, 75(b), Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences: Note by the Secretary General: [OHCHR | Reports to General Assembly - 76th Session](#)

171. During the development and launch of the SWP the UK Government did not engage in meaningful discussion with worker representatives on the scheme, despite serious concerns raised by experts on human trafficking and modern slavery. The [report](#) aims to respond to these concerns and develop strategies that can be taken by the UK and Scottish Governments to tackle the risks of human trafficking for forced labour on the SWP and to protect current and future workers as well as identifying concerns from employers about the scheme.

172. The report also contributes directly towards two outcomes in the Scottish Government Trafficking and Exploitation Strategy: people at most risk get help to increase their resilience against trafficking and victims are aware of support and trust it enough to ask for help. Therefore we have established a worker helpline in partnership with the [Royal Scottish Agricultural Benevolent Institution](#) which includes language interpretation services and acts as an interface with partners such as the Modern Slavery Helpline and Police Scotland.

173. The Scottish Government are also currently exploring several solutions at present, such as reviewing information and guidance made available to farms and workers in relation to working conditions and pay; extending local authority inspection and enforcement capabilities; encouraging engagement between trade unions and the sector to agree fair workplace standards and increase migrant worker representation; aligning with ongoing Scottish Government initiatives to combat destitution amongst people with no recourse to public funds who are facing crisis situations.

(c) Improve the complaint mechanisms and legal assistance provided to migrant workers;

174. The Human Trafficking and Exploitation (Scotland) Act 2015 sets out court orders to disrupt trafficking activity: Trafficking and Exploitation Prevention Orders and Trafficking and Exploitation Risk Orders.

175. The definition of a trafficking offence is set out within Part 1 of the Human Trafficking and Exploitation (Scotland) 2015 Act. Trafficking victims are identified by a 'competent authority' which is currently provided for by two UK competent authorities known as the Single Competent Authority and Immigration Enforcement Competent Authority. Victim identification is a two stage process; an initial 'Reasonable Grounds' decision followed by a 'Conclusive Grounds' decision after more information has been gathered/reviewed.

(d) Ensure effective inspection mechanisms for monitoring the conditions of work of migrant workers and migrant domestic workers.

176. Seasonal migrant workers in the agricultural and horticultural sector in Scotland have their minimum conditions of service set by the Scottish Agricultural Wages Board (SAWB). The SAWB as an executive Non-Departmental Public Body was established under the [Agricultural Wages \(Scotland\) Act 1949](#) and is

empowered by law to make orders fixing minimum wage rates, holiday entitlement and certain other conditions of service for agricultural workers in Scotland.

177. The [Agricultural Wages \(Scotland\) Order](#) is enforced by Scottish Government Officials with investigations of any potential breaches of conditions within the order carried out by Agricultural Wages Inspectors and reported to the Agricultural Wages Enforcement Team (AWET). Where appropriate, the AWET will act on behalf of Scottish Ministers and invite the employer to remedy the position. If an acceptable solution cannot be agreed, then the matter may have to be referred to an Employment Tribunal for settlement.

178. There are approximately 120 control inspections carried out per annum in agricultural or horticultural businesses that employ workers covered by the Agricultural Wages (Scotland) Order.

179. The Scottish Government has also funded the establishment of a [Worker Support Centre](#) which offers vital advice and urgent practical support to seasonal horticultural workers in Scotland on the Seasonal Workers Visa in Scotland including those of Ukrainian nationality as a result of the ongoing conflict. This new service is focused on providing information and support through support workers, a project advisor and legal team. The Worker Support Centre follows models used around the world to offer temporary migrant workers advice and support which can help prevent workers ending up in situations of human trafficking. The service will seek to empower workers to consider ways to address issues affecting their wellbeing at work and ultimately to help develop worker leadership skills to educate and support other workers.

National minimum wage

Recommendation 37: the Committee recommends that the State party ensure that the national minimum wage is periodically reviewed and set at a level sufficient to provide all workers and their families with a decent standard of living. It also recommends that the State party extend the protection of the national minimum wage to those under the age of 25.

180. Employment law, including pay legislation, is reserved to the UK Government. However, promoting fair pay is a key element of the Scottish Government's [Fair Work](#) policy and Scottish Ministers believe that all workers should receive fair pay for the work they do, regardless of their age and status. Therefore the Scottish Government is using all the levers it has at its disposal to promote fair work practices across Scotland including payment of the real Living Wage.

181. The real living wage differs from the UK Government's national minimum wage as it is paid to all workers over 18, it is reviewed annually by the [Resolution Foundation](#) independent of government, and is calculated according to the basic cost of living, taking account of the adequacy of household incomes for achieving an acceptable minimum living standard.

Trade union rights

Recommendation 39: the Committee recommends that the State party undertake a thorough review of the new Trade Union Act 2016 and take all necessary measures to ensure that, in line with its obligations under article 8 of the Covenant, all workers enjoy their trade union rights without undue restrictions or interference. The Committee urges the State party to take all necessary measures to ensure the effective implementation of the Employment Relations Act 1999 and its Regulation 2010, which prohibit blacklisting of trade union members, and guarantee that all workers who have been blacklisted have access to effective legal remedies and compensation.

182. The [Trade Union Act 2016](#) and associated regulations are reserved legislation to the UK Government. The Scottish Government strongly opposed the Trade Union Act 2016. Our approach is to promote strong trade unions and effective worker voice to support the delivery of our economic and fair work ambitions.

183. The [Employment Relations Act 1999](#) and [Employment Relations Act 1999 \(Blacklists\) Regulations 2010](#) are reserved legislation, and any available remedies would be for the UK Government to determine and deliver through the employment tribunal system. The Scottish Government is absolutely opposed to the practice of blacklisting trade union members.

Social security

Recommendation 41: the Committee calls upon the State party to:

- (a) Review the entitlement conditions and reverse the cuts in social security benefits introduced by the Welfare Reform Act 2012 and the Welfare Reform and Work Act 2016;

184. The Scottish Government has consistently called on the UK Government to repeal key measures introduced in the Welfare Reform Acts ([2012](#) and [2016](#)), including the benefit cap. As of February 2022 around 3,900 households were affected by the benefit cap in Scotland, on average reducing the incomes of the affected households by around £47 per week.

- (b) Restore the link between the rates of State benefits and the costs of living and guarantee that all social benefits provide a level of benefit sufficient to ensure an adequate standard of living, including access to health care, adequate housing and food;

185. In the absence of action from the UK Government to restore the link between support offered by the State and costs of living, the Scottish Government is committed to commencing work to develop a minimum income guarantee for Scotland. This work is ground-breaking and Scotland will be leading the world with the design of a minimum income guarantee. It has real potential for transformational change which can be delivered through a combination of employment, tax relief and social security benefits and also through access to services, with an aim of reducing poverty and inequality, and ensuring everyone has enough money to live a decent life.

- (c) Review the use of sanctions in relation to social security benefits and ensure that they are used proportionately and are subject to prompt and independent dispute resolution mechanisms;

186. The Scottish Government is deeply concerned about the UK Government's current sanction processes for Universal Credit, in which any claimant can be sanctioned at any time at the discretion of Jobcentre staff. Organisations have warned against potential sanctions linked to the UK Government's 'Way to Work' campaign. A [report](#) by the National Audit Office found that "the effect of sanctions can be short-lived, lead to lower wages and increase the number of people moving off benefits into inactivity" rather than into work. [Research](#) carried out by the Child Poverty Action Group, the Trussell Trust, Oxfam and the Church of England found that sanctions accounted for 20-30% of food bank use in the UK.

187. We know that in order for people to be helped back into work, they need to be able to trust those who are providing this help, but sanctions are actively working against the UK Government's overall aim for the Universal Credit system.

Right to Social Security

Recommendation 42: the Committee draws the attention of the State party to its general comment No.19 (2007) on the right to social security.

188. The [Social Security \(Scotland\) Act 2018](#) was passed unanimously by the Scottish Parliament in April 2018. This established the first social security system in the UK based on the statutory principle that not only is social security a human right in itself but is essential to the realisation of other human rights. The overarching aim is to create a social security system that is based on dignity, fairness and respect. These key principles are the foundation of all our work on social security.

189. The ASP also required the Scottish Government to reflect them in [Our Charter](#), a document created collaboratively with people who have lived experience of the current benefits system, which sets out clearly and accessibly what people can expect from the new Scottish social security system, and how the principles in the ASP will be upheld.

190. The Scottish Government's proposal for a new Human Rights Bill would include incorporation of the International Covenant on Economic, Social and Cultural Rights into Scots law, as far as possible within devolved competence. That would include the right to social security in respect of the devolved social security system.

Childcare

Recommendation 44: The Committee recommends that the State party increase its efforts to ensure the availability, accessibility and affordability of childcare services throughout the State party, particularly in Scotland and Northern Ireland. The Committee also recommends that the State party review the system of shared parental leave and modify it with a view to improve the equal sharing of responsibilities within the family and in the society.

191. As set out in the [2016 SG Position Statement](#), we intended to increase funded 'Early Learning and Childcare' (ELC) by the end of the 2016-2021 parliamentary term. Due to the global pandemic, implementation was delayed by one year. As of August 2021, all councils have been offering 1,140 hours of funded ELC to all eligible children, making high quality ELC available to families. If eligible families were to purchase the funded childcare provided by the Scottish Government themselves, it would cost them around £5,000 per year.

192. Scotland is the only part of the UK to offer the equivalent of 1,140 hours to all eligible children regardless of their parents' working status, putting children first. That includes all 3 and 4 year olds and around a quarter of 2 year olds. The 2 year old offer is targeted at children with experience of socio-economic disadvantage and responds to evidence that children experiencing the most disadvantage have the most to gain from early access to high quality ELC.

193. We continue to work closely with local government to embed the benefits of the ELC expansion, ensuring that childcare is flexible, affordable, accessible, and high quality. We expect local authorities to consult with parents, families and providers to ensure that the local models of ELC meet local needs and demands.

194. Within the [2021 Programme for Government](#) we further committed to:

- work to expand funded early learning and childcare for children aged 1 and 2, starting with low income households within this parliament; and
- build a system of wraparound school age childcare, offering care before and after school and in the holidays, which will be free to families on the lowest incomes.

Violence against women with disabilities

Recommendation 46: the Committee requests the State party to include in its next periodic report information on the impact of the implementation of the national strategy on gender-based violence, particularly with regard to violence against women and girls with disabilities.

195. We are undertaking work to refresh [Equally Safe](#), our strategy to tackle violence against women and girls. The previous Equally Safe Delivery Plan ran from 2017 to 2021. The Scottish Government and COSLA have published a new short-life [Equally Safe Delivery Plan early in 2022](#) and it will run until Autumn 2023, with a new Equally Safe Delivery Plan to be drafted over the course of 2023.

196. The short life plan will consolidate existing commitments and continue to be anchored by Equally Safe's four key priorities:

- Scottish society embraces equality and mutual respect, and rejects all forms of violence against women and girls;
- women and girls thrive as equal citizens socially, culturally, economically and politically;
- interventions are early and effective, preventing violence and maximising the safety and wellbeing of women, children and young people; and
- men desist from all forms of violence against women and girls and perpetrators of such violence receive a robust and effective response.

197. We are investing significant levels of funding and within the first 100 days of the new term of government (2021-2026) new funding totalling £5 million went to rape crisis centres and domestic abuse services to deal with increasing waiting list demand.

198. As part of manifesto commitment to tackling violence against women and girls, the Delivering Equally Safe Fund (£19 million per annum) supports 121 projects from 112 organisations working to provide services and prevent gender-based violence. We opened a 'Victim-Centred Approach Fund' on 18 October 2021 to support victims of crime which is worth at least £30 million over three years.

199. We have made improvements to the law. The [Domestic Abuse \(Scotland\) Act 2018](#) creates a specific offence of domestic abuse that covers not just physical abuse but also other forms of psychological abuse and coercive and controlling behaviour. The ASP commenced on 1 April 2019 accompanied by a public campaign to raise awareness. This new offence brings clarity for victims so they can see explicitly that what their partner or ex-partner has done to them is wrong and can be dealt with under the law. The ASP reflects the fact that children are harmed by domestic abuse by providing for a statutory aggravation in relation to children.

200. The [Scottish Commission for People with Learning Disabilities](#) created a working group in recognition of the fact that disabled women and girls are at greater

risk of violence than non-disabled women and girls, and women with a learning/intellectual disability are more likely to experience sexual abuse than other disabled people.

201. Through the [Learning/Intellectual Disabilities and Autism: Towards Transformation Plan 2021](#) the Scottish Government and our partners have established a Gender Based Violence Steering Group to reduce incidences of violence and empower women with learning/intellectual disabilities and/or autistic women to have safe and loving relationships.

202. This Steering Group are implementing an action plan, working with learning disability organisations to lead and support efforts to eliminate gender-based violence for people with learning disabilities, working across sectors including health, education and social care. The action plan focuses on the involvement of lived experience, educating on safe and healthy relationships for people with learning disabilities, access to protection and support and research, monitoring and evaluation.

203. Furthermore, existing teaching resources for relationships, sexual health and parenthood (RSHP) education support teachers to deliver meaningful learning and teaching to their pupils to ensure they have safe and healthy relationships. Available resources were designed to support pupils with mild to moderate additional support needs. Additional resources were recently published to support older pupils and a suite of [resources](#) are now available to support learning and teaching of RSHP education to pupils with severe and complex additional support needs.

Misogyny

204. The Scottish Government established an independent [Working Group on Misogyny and Criminal Justice](#) in Scotland, chaired by Baroness Helena Kennedy KC tasked with evaluating how the Scottish criminal justice system deals with misogyny, including looking into whether there are gaps in the criminal law.

205. The working group held its inaugural meeting on 12 February 2021 and gathered evidence from research, written evidence from stakeholders and 930 responses to a lived experience survey, all of which were used to develop a report on its findings and recommendations.

206. The Working Group completed its work and published its report [Misogyny: a human rights issue](#) on 8 March 2022. The First Minister welcomed the Working Group's report in principle stating that "the report highlighted ways in which the law was currently failing women and girls, and it gave powerful voice to the stark reality of the misogyny faced by women in everyday life" and that "its recommendations are bold and they are far reaching".

207. The Working Group made a number of recommendations based on its findings and conclusions. The Scottish Government published its [response](#) to the report on 21 April 2022, announcing that it will consult on draft provisions to implement the recommendations for criminal law reform contained in the report. The timing of introduction of a final Bill into the Scottish Parliament will be considered as

part of wider legislative planning and the Government's future legislative programme will be set out in the Programme for Government. Prior to introducing a Bill we plan to hold a public consultation on draft legislative provisions.

208. The 2021-2022 Programme for Government includes a commitment to develop a model for Scotland which effectively tackles and challenges men's demand for prostitution. The aim is to reduce stigma and criminalisation experienced by any adult selling or exchanging sex and encourage better access to support services. This also forms part of our response to tackling misogyny.

209. A working group of [key stakeholders](#) have helped inform the design of principles to underpin a future Framework, which will set out Scotland's approach to tackling prostitution and supporting the recovery and sustainable exit of those with experience of prostitution. The principles will be published later this year. This has been informed by [lived experience research](#), undertaken to better understand the support needs of those with experience of prostitution.

Forced Marriage and Female Genital Mutilation

210. We are committed to tackling so called 'honour based' violence. In 2016, we published [Scotland's National Action Plan to Prevent and Eradicate Female Genital Mutilation](#) (FGM) which is supported by a National Implementation Group. On 8 November 2019 we published our [year three progress report](#) on the national action plan. Our new short-life (2 year) 'Equally Safe Delivery Plan' will include our approach to FGM and other forms of honour based violence. We will be taking forward engagement on this over the course of this year.

211. In 2017, we published multi-agency [guidance](#) setting out how agencies, individually and together, can protect girls and young women from FGM, and how to respond appropriately to survivors.

212. On 29 May 2019 we introduced the [Female Genital Mutilation \(Protection and Guidance\) \(Scotland\) Bill](#) which became an Act in April 2020 and which sought to strengthen the existing legislative framework for the protection of women and girls from FGM. The Bill included two main policies: FGM protection orders and statutory guidance. We are now working with stakeholders on the implementation of the Act and to consult on statutory guidance.

Virginity Testing and Hymenoplasty

213. Virginity testing and hymenoplasty are both forms of gender based violence and honour based violence. We took steps to criminalise these practices in Scotland with the Scottish Parliament consenting to the provisions in the UK Government [Health and Care Act](#), which criminalised the practices, being extended to Scotland.

214. To date, we have found no evidence of such practices taking place in Scotland, however there are clear benefits to all four nations in the UK having a joined-up approach to the issue of virginity testing and hymenoplasty. We are clear that testing to show virginity is a myth and that there is no medical exam that can be undertaken to prove if a woman has had sexual intercourse or not. Alongside

legislative steps, the Scottish Government will over time, following the Covid pause and continuing management of the situation, work with stakeholders to develop awareness raising measures to educate and tackle the beliefs and norms that perpetuate all forms of honour based violence. This will include looking into the concept of 'virginity' itself and the female anatomy, the hymen, and how it is not an indication of 'virginity'.

Poverty

Recommendation 48: the Committee recommends that the State party take steps to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, in particular persons with disabilities, persons belonging to ethnic, religious or other minorities, single-parent families and families with children, and adopt an anti-poverty strategy in Northern Ireland. The Committee also urges the State party to develop a comprehensive child poverty strategy and reinstate the targets and reporting duties on child poverty. In that regard, the Committee draws the attention of the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001 ([E/C.12/2001/10](#)).

Social security and welfare reform mitigation

215. The Social Security (Scotland) Act 2018 was passed in April 2018. When fully operational, our new public service – Social Security Scotland – will administer 17 benefits in total.

216. During the height of the pandemic we introduced four new benefits. This included the “[game-changing](#)” Scottish Child Payment, which is a key part of our national mission to eradicate child poverty and provides vital financial support to low income families. We have also launched our complex disability benefits, Child Disability Payment, which rolled out across Scotland on 22 November 2021 and Adult Disability Payment, which replaces UK Government’s Personal Independence Payment, and rolled out nationally on 29 August 2022.

217. The Scottish Government is committed to using devolved social security powers to effectively abolish the bedroom tax, budgeting £71 million in 2021-22 and £68.1 million in 2022-23 to fully mitigate the bedroom tax to help over 91,000 households in Scotland to sustain their tenancies.

218. By the end of this year, we will begin awarding Best Start Grant, Early Learning Payment and School Age Payment automatically to eligible families in receipt of Scottish Child Payment without the need to apply.

Food insecurity

219. The [Good Food Nation \(Scotland\) Act 2022](#), which was passed by the Scottish Parliament on 15 June 2022 and received Royal Assent on 26 July 2022, will require the Scottish Government, local authorities and other public bodies to publish plans to set out the food related outcomes which they want to be achieved in relation to Scotland and how they will achieve them. Our aim is that the plans will set out what the Scottish Government, local authorities and other public bodies are doing to give effect to a right to adequate food, and to ensure that reliable access to nutritious, locally sourced, locally produced, good quality food is a practical everyday reality for everyone in Scotland.

220. The Scottish Government will introduce legislation this parliamentary session to incorporate ICESCR into domestic law, as far as possible within the current limits of devolved competence. This includes the right to adequate food, as an essential part of the overall right to an adequate standard of living. As a result the right to food will be made directly justiciable in the Scottish courts.

221. The Scottish Government has adopted a human rights approach to tackling household food insecurity. Across 2018-22 we are estimated to have invested almost £8.5 billion to support low-income households, of which nearly £3.3 billion benefitted children. In October 2021 we published a [consultation on a draft plan](#) to end the need for food banks as a primary response to hardship.

222. We are committed to funding the expansion of universal free school lunches to all children in primary and special schools over the course of this parliamentary term. We will continue to work with our partners in local authorities to plan for the continued expansion of free school lunch provision over the 2022/23 academic year. This work will ensure the expansion can be delivered equitably across all schools, in all areas, whilst maintaining high quality lunch provision for pupils. The policy of providing universal free school meals saves families an average of £400 per child, per year.

Child Poverty Strategy

223. The Scottish Government has set in statute its ambition to significantly reduce child poverty in Scotland. The Child Poverty (Scotland) Act 2017 sets out a robust framework for action, monitoring and scrutiny at both a national and local level, requiring Scottish Ministers to publish Tackling Child Poverty Delivery Plans and [annual progress reports](#), and for local authorities and health boards to jointly prepare and publish annual progress reports. Scottish Ministers established a statutory [Poverty and Inequality Commission](#) in 2018 to provide advice and scrutiny on progress to meet the targets.

224. The first [Tackling Child Poverty Delivery Plan, Every Child, Every Chance](#) covering the period 2018-22, was published in March 2018. The Plan set out concrete action to tackle and reduce poverty and outlined the government's overall approach. This includes a focus on three drivers of poverty reduction, the need to mitigate the impacts of poverty on children and to focus efforts on six priority family types at greatest risk of poverty.

225. The most recent [annual report](#), published in June 2022, highlights that across 2018-22 the Scottish Government invested almost £8.5 billion to support low income households, of which nearly £3.3 billion benefitted children. The report shows the Scottish Government delivered upon all of the actions committed within the first Delivery Plan. This includes bringing in the statutory duty for eligible children to receive 1,140 hours of fully funded ELC, achieving our ambitious target to deliver 50,000 affordable homes and providing increased financial support to families including through Scottish benefits such as our Scottish Child Payment, Best Start Grants and Best Start Foods.

226. As per the terms of the Child Poverty (Scotland) Act 2017, we published our second Tackling Child Poverty Delivery Plan [Best Start, Bright Futures 2022-26](#) in March this year. We are working across government, and with our partners in the public, private and third sectors, to implement the actions contained within the new Plan to significantly reduce child poverty in Scotland and meet the statutory child poverty targets.

227. Key actions include extending the Scottish Child Payment to children under 16 on 14 November 2022 and providing immediate support through the £520 a year bridging payments in 2021 and 2022, reaching over 145,000 children in receipt-free school meals as of Spring 2022, further investment through our No One Left Behind approach to strengthen our employability offer to parents, our commitment to develop a new Parental Transition Fund to tackle financial insecurity for families when parents and carers enter the labour market, and investing £50 million of [Whole Family Wellbeing Funding](#) this year, focused on ensuring families can access the support they need, where and when they need it.

228. We are currently refreshing our Disability Employment Action Plan, together with disabled people's organisations, local government representatives, and other third sector and business community representatives. Child poverty is a cross cutting theme for the refreshed Disability Employment Action Plan (which will be published in Autumn 2022 as part of a wider Fair Work Action Plan also focusing on the gender pay gap and including the ethnicity pay gap strategy), focusing on those who are furthest away from the labour market, and/or are in in-work poverty and low paid jobs. Specific actions and commitments for this plan will be co-produced with disabled people.

229. The Race Equalities Immediate Priorities Plan includes an action committing to reporting on the publication and implementation of the Child Poverty Delivery Plan, starting in March 2022, in particular action taken on the priority group minority ethnic families.

Adequate housing

Recommendation 50: the Committee recalls its previous recommendation (see E/C.12/GBR/CO/5, para. 29¹⁷) and urges the State party to:

- (a) Adopt all necessary measures to address the housing deficit by ensuring a sufficient supply of housing, in particular social housing units, especially for the most disadvantaged and marginalized individuals and groups, including middle and low income individuals and households, young people and persons with disabilities;
- (b) Take specific measures to deal with the inability of renters in the private rental sector to pay rents on account of the limits imposed on housing allowance and effectively regulate the private rental sector, including through security of tenure protection and accountability mechanisms;
- (c) Take corrective measures to address bad housing, including substandard housing conditions and uninhabitable housing;

230. Scotland's first long-term housing strategy, 'Housing to 2040', was published in March 2021. It sets out the Scottish Government's ambition that by 2040, everyone in Scotland has access to a safe, warm, affordable, good quality and energy-efficient home that meets their needs in the place they want to be. The strategy outlines a range of policies and commitments that will help to realise that ambition. These include taking action to realise the right to an adequate home, continuing to deliver affordable homes and making best use of existing housing stock.

231. A new rented sector strategy will seek to address a range of issues around affordability, accessibility and standards, with legislative aspects being taken forward in a new Housing Bill to be introduced in 2023. This Bill will strengthen the rights of tenants with greater protections from unreasonable rent increases and unfair evictions and improve the rights of victims of domestic abuse.

232. A new 'Housing Standard' set in law will require that all homes, new and existing, regardless of tenure and including agricultural properties, mobile homes and tied accommodation, meet the same standards, with an aim to ensure that there will be no margins of tolerance, no exemptions and no 'acceptable levels' of sub-

¹⁷ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para: "The Committee calls upon the State party, in line with its general comment no. 4 (1991) on the right to adequate housing, to intensify its efforts to ensure that everyone has access to housing and to review its policies and develop effective strategies, including a gender impact assessment, aimed at increasing the levels of affordable housing, including social housing. The Committee also recommends that the State party take into consideration the Homelessness etc. (Scotland) Act 2003 as best practice, especially its provision relating to the right to housing as an enforceable right."

standard homes in urban, rural or island communities, deprived communities or in tenements.

233. Scotland has led the way in the delivery of affordable housing across the UK with 111,750 affordable homes delivered since 2007, over 78,000 of which were for social rent, and is committed to continuing to support the delivery of more social and affordable homes going forward. The [Programme for Government 2022-23](#) reaffirms the commitment to delivering 110,000 affordable homes by 2032, of which at least 70% will be available for social rent and 10% will be in our remote, rural and island communities. Homes for social rent are let through a 'Scottish Secure Tenancy' or a 'Short Scottish Secure Tenancy'. Delivering this ambitious 110,000 affordable homes target would support a total investment package of around £18 billion and up to 15,000 jobs each year.

234. The Scottish Government will invest £3.6 billion in affordable housing in this parliamentary term, continuing to ensure the right homes in the right places. Keeping social rents lower than market rents benefits approximately 110,000 children in poverty each year. We will place the prioritisation of tackling child poverty at the heart of the [Affordable Housing Supply Programme](#) through further strengthening housing planning processes to ensure larger family homes are delivered where they are needed.

235. Total investment in the Affordable Housing Supply Programme in 2022-23 will be maintained at £831 million, so we can continue the important work we started in 2007 of ensuring that everyone in Scotland has a warm, safe and affordable place to live. Council areas across Scotland have already been allocated a share of more than £3.2 billion in grant funding over five financial years to 2025-26, an increase of more than £541 million on the previous five year allocation, an uplift of more than 20%. [Scottish Government Quarterly Affordable Housing Supply Statistics](#) show that the previous 50,000 affordable homes target has been met and we have started to deliver against our commitment to 110,000 affordable homes by 2032.

Housing for disabled people

236. We want disabled people in Scotland to have choice, dignity and freedom to access suitable homes, built or adapted to enable them to participate as full and equal citizens. The 'Housing to 2040' Strategy includes housing and independent living for disabled people. As part of this we are reviewing our [Housing for Varying Needs](#) design guide, with an aim to publish a new guide in 2023.

237. We are also looking to establish an inclusive programme of retrofitting social homes to make them more accessible; streamlining and accelerating the adaptations system and providing help to older and disabled homeowners who want to move to a home that better meets their needs. We are embedding a person-centred approach that aligns housing and health and social care services. We have also issued [guidance](#) for local authorities to deliver more wheelchair-accessible housing where it is needed. Good progress is being made with 29 of the 32 local authorities having in place wheelchair housing targets for the delivery of affordable housing. We are working with all local authorities through Scotland's Housing Network to have targets in place for the delivery of all tenure wheelchair accessible homes. Local authorities

will be required to include information in future Strategic Housing Investment Plans on what has been delivered to date against their wheelchair accessible housing targets.

Help available for first time buyers

238. We continue to support home-ownership through our [Low-cost Initiative for First Time Buyers](#) (LIFT) scheme, which helps people on low-to-moderate incomes to buy their first home and has delivered priority access to disabled people. Since 2007, over 20,000 households have been helped into ownership through LIFT. Our first-time buyer relief for Land and Buildings Transaction Tax has the effect of raising the nil-rate threshold from £145,000 to £175,000, saving first-time buyers up to £600.

(d) Ensure adequate access to culturally appropriate accommodation and stopping sites for the Roma, Gypsy and Traveller communities, as appropriate; take steps to avoid all forms of discrimination in the provision of accommodation; and repeal the Unauthorised Encampments (Northern Ireland) Order 2005;

239. The Scottish Government and COSLA's joint [Action Plan Improving the Lives of Scotland's Gypsy/Travellers](#) includes a key commitment to review housing and investment programmes, to ensure that the needs of Gypsy/Travellers are included going forward. As a result of this, the 'Housing to 2040 Strategy' announced a £20 million [Gypsy/Traveller Accommodation Fund](#) available over five years from 2021-26 for more and better Gypsy/Traveller accommodation. This builds on the £2 million short term funding provided in 2020/21 to make immediate improvements on public sites, representing a sustained investment.

240. To drive a significant improvement in the quality of sites going forward, we have published an [Interim Site Design Guide](#) for Gypsy/Traveller sites, developed in conjunction with residents and local authorities. This will set the standard for new accommodation, in keeping with key principles of 'Housing 2040' such as accessibility and energy-efficiency, which are important for all our homes.

241. There is a need to build experience and skills in Gypsy/Traveller site development and therefore funding will initially be focused on a number of demonstration projects that can establish examples of model sites to provide information to refine and finalise the site design guide.

242. Three local authorities have been selected to receive funding for demonstration projects from the 2021-23 allocation of the fund. Funding is available for both permanent and transit provision. As part of the Action Plan, COSLA has been working with local authorities to explore new ways of ensuring Gypsy/Travellers have access to safe stopping places and essential services when they are needed. This has included piloting the 'negotiated stopping' approach to managing roadside encampments with three local authorities. Research will be undertaken in 2022 to capture learning from local delivery and with Gypsy/Travellers living roadside.

Homelessness

Recommendation 52: the Committee urges the State party to take immediate measures, including by allocating appropriate funds to local authorities, to reduce the exceptionally high levels of homelessness, particularly in England and Northern Ireland, and to ensure adequate provision of reception facilities, including emergency shelters and hostels, as well as social rehabilitation centres. The Committee urges the State party to adopt all necessary measures to avoid the criminalization of rough sleeping in the State party and to develop appropriate policies and programmes to facilitate the social reintegration of homeless persons. In this respect, the Committee draws the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing.

243. Our homelessness strategy, [Ending Homelessness Together](#), is backed by a £100 million fund which has enabled us to implement major improvements to homelessness policy in recent years. We have consulted on plans to introduce new homelessness prevention duties, which will build on Scotland's existing strong homelessness rights. The new measures, scheduled to be introduced in the forthcoming Housing Bill, will require public services to ask about someone's housing situation and offer them the help they need. Local authorities have provided more than 1,000 Housing First tenancies across Scotland, offering settled homes to those with multiple and complex needs. We have demonstrated that, with the right approach and funding, local authorities and their third sector partners have the means to end rough sleeping in Scotland. We have kept night shelters closed by providing better quality rapid access accommodation. We have introduced hardship schemes, including a £10 million tenant grant fund, to support those struggling to pay their rent. We have helped people with No Recourse to Public Funds to avoid destitution. We have amended legislation so that no homeless household has to stay in unsuitable accommodation for more than seven days and so that people in housing crisis have the freedom to settle where they choose with access to the support they need.

244. We are increasing investment in discretionary housing payments (DHPs) to support people who are struggling with their housing costs, including energy bills, and help mitigate the most harmful impacts of UK Government welfare reform. In 2022/23 the Scottish Fiscal Commission has forecast DHP spending of £83.2 million including £7.2 million to mitigate the UK Government's benefit cap, as far as we are able within devolved powers. We will be investing a further £5 million so that local authorities can help people on low incomes who are struggling with rising energy bills. That means in total we will be investing up to £88.2 million in DHPs in 2022-23.

Affordable Housing

245. There have been significant changes to the private rental sector over recent years helping to protect tenants and improve standards. The [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) commenced on 1 December 2017 and introduced the new 'private residential tenancy'. The tenancy is open-ended and will last until the tenant wishes to leave the let property or the landlord uses one (or more) of 18 grounds for eviction. This should allow tenants to assert their rights, for example to repairs, without fear of arbitrary eviction.

246. In response to the COVID-19 emergency, legislation was introduced from 7 April 2020, to temporarily extend the notice leave periods required for ending a tenancy in the private rented sector by up to 6 months, providing unprecedented protection from eviction for tenants during unique emergency circumstances.

247. Careful consideration will need to be given to the impact of addressing the cost crisis, which we will do by introducing emergency legislation planned to protect tenants by freezing rents and imposing a moratorium on evictions until at least 31 March 2023.

248. A new deal for tenants is the focus of a new draft 'Rented Sector Strategy' which was recently [consulted](#) on. This includes how we plan to put in place greater restrictions on evictions over winter and the introduction of national rent controls to deal with unreasonable rent increases, providing additional security for tenants.

Right to food

Recommendation 54: the Committee recommends that the State party develop a comprehensive national strategy for the protection and promotion of the right to adequate food in order to address food insecurity in all jurisdictions of the State party and to promote healthier diets. This should include policies in support of breastfeeding in accordance with the resolutions of the World Health Assembly, including breastfeeding breaks or breastfeeding facilities in educational institutions and workplaces. The Committee also recommends that the State party introduce higher taxes on junk foods and sugary drinks and consider adopting strict regulations on the marketing of such products, while ensuring improved access to healthy diets. The Committee refers the State party to its general comment [No. 12 \(1999\)](#) on the right to adequate food and the Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security adopted by the Food and Agriculture Organization of the United Nations as well as to the International Code of Marketing of Breast-milk Substitutes.

250. The [Good Food Nation \(Scotland\) Act 2022](#) was passed by the Scottish Parliament on 15 June 2022 and received Royal Assent on 26 July 2022. One of the principles set out in the Act is that, when preparing good food nation plans, Scottish Ministers and relevant authorities must have regard to the fact that adequate food is a human right (as part of the right to an adequate standard of living set out in Article 11 of the International Convention on Economic, Social and Cultural Rights) and essential to the realisation of other human rights.

251. The Scottish Government published a [Diet and Healthy Weight Delivery Plan](#) in 2018, which sets out a vision for everyone to eat well and have a healthy weight and the actions to support this.

252. [Parent Club](#) issues up-to-date guidance from the Scottish Government on children's health and education. The site also promotes a range of tips, recipes and advice to help families choose and prepare healthier, affordable food dishes.

253. [Eat Well Your Way](#) is an online resource developed by [Food Standards Scotland](#) and endorsed by Scottish Government. It helps consumers understand what a healthy balanced diet looks like in real life by translating the eat-well plate into meaningful, practical advice and tips to help people in Scotland make healthier food and drink choices when planning, shopping and eating out. The [resource](#) was launched in February 2022.

254. The Scottish Government has adopted a human rights approach to tackling household food insecurity, as outlined in our position statement on ['Food insecurity and poverty - United Nations: Scottish Government response'](#) which was published

in February 2021 and shared with Professor Fakhri, the UN Special Rapporteur on the right to food. We recently consulted on a [draft plan](#) on ending the need for food banks as a primary response to hardship, underpinned by a human rights based approach.

255. We prioritise action that prevents poverty, through fair work, social security and reducing the cost of living. Where financial hardship does occur, our cash-first approach through the 'Scottish Welfare Fund' and other discretionary support, alongside holistic support services, seek to ensure that households have emergency income to choose food that meets their needs and preferences and that they receive money advice to prevent future hardship. In the 2021-22 financial year, it is estimated that nearly £2.6 billion was invested across a range of programmes targeted at low-income households. Of this, we estimate that over £1.1 billion directly supported children.

256. The Scottish Government replaced the 'UK Healthy Start Voucher' with [Best Start Foods](#) (BSFs) which was launched on 12 August 2019. BSFs provides pregnant women and families with children under the age of three, who receive low income benefits under a certain amount, with a minimum of £4.50 a week via a payment card to purchase healthy foods. BSF provides £18 every four weeks throughout pregnancy, £36 every four weeks from birth until a child turns one to support breastfeeding mothers or help with the costs of providing infant formula milk, then £18 every four weeks from one until a child turns three. We will widen eligibility for BSF by legislating to remove all income thresholds from Best Start Foods in 2023-24, supporting an [additional 20,000 parents](#).

257. We have provided more than £6 million additional investment over the past four years to National Health Service (NHS) Boards and third sector partners for breastfeeding support in order to improve the quality of the support and the breastfeeding experiences of mothers helping them to breastfeed for longer. We provide free Vitamin D to all breastfeeding mothers and children under a year old. Since April 2017 we have provided free Healthy Start vitamins to pregnant women for the duration of their pregnancy.

Access to health

Recommendation 56: the Committee recommends that the State party take steps to ensure that temporary migrants and undocumented migrants, asylum seekers, refused asylum seekers, refugees and Roma, Gypsies and Travellers have access to all necessary health-care services and reminds the State party that health facilities, goods and services should be accessible to everyone without discrimination, in line with article 12 of the Covenant. The Committee draws the State party's attention to its general comment No.14 (2000) on the right to the highest attainable standard of health.

258. Access to Healthcare cards were created in 2019 following engagement with refugees, people seeking asylum, Gypsy/Travellers and people experiencing homelessness. The cards are designed to support people to register with a General Practice/Practitioner (GP), understand their rights to healthcare in Scotland and make people aware of key health information including the [NHS Inform](#) and [Health Literacy Place](#) websites and the [NHS Scotland Patient Charter](#). The cards have been distributed to GP practices and are also available to request or download on the 'NHS Inform' website.

259. Meeting people's health literacy needs and communicating in meaningful ways is key to delivering person-centred care. The refreshed health literacy action plan [Making it Easier](#) was published in 2017 and supports improved navigation of the health and care system, including for refugees and asylum seekers. We are currently working to prepare an interim update, with the aim of ensuring that changing health needs in the pandemic landscape are addressed.

COVID-19

260. Legislation came into force on 30 January 2020 to amend the principal overseas visitors charging regulations to exempt both the diagnosis and treatment of COVID-19 from being chargeable. Therefore anyone in Scotland, regardless of nationality or residence status, is entitled to access NHS services for the diagnosis and/or treatment of COVID-19 at no charge.

261. [NHS 24](#) worked with the Scottish Government, [NHS Lothian](#), [NHS Greater Glasgow and Clyde](#) and [Public Health Scotland](#) to regularly create and update the latest COVID-19 guidance in 17 languages and alternative formats including British Sign Language, Audio and Easy Read. All of these translated and accessible resources are published on [NHS inform](#).

262. This information had over 1.8 million page views during 2021 and helped to reduce the inequalities people can experience, either because their preferred language is not English, or because they require an alternative format.

Asylum Seekers and Refugees

263. The Scottish Government fully recognise that asylum seekers have been through very traumatic experiences and often require specialist treatment and care. Therefore asylum seekers in Scotland, including those people whose claim for asylum has been refused, are entitled to register with a GP to receive general medical services, access emergency health services, register with a dentist and have eye tests at no charge. They can also access specialist healthcare if needed, on the same basis as any other resident patient, often through a GP referral. This includes maternity care, mental health services and any other services for specific conditions. Asylum seekers who attain refugee status have the right to continue to access the full range of NHS services without restriction.

Afghanistan

264. A number of people from Afghanistan have arrived in Scotland under the Afghan Relocation and Assistance Policy scheme. Although many of the people coming to the UK speak good English, this is not universal, particularly among family members. COVID-19 health information is available on NHS Inform in the two main languages used in Afghanistan; Dari and Pashto. We have also created Dari and Pashto versions of the 'Right Care Right Place' Mailer and the [COVID-19 Vaccine Explainer Video](#).

Ukraine

265. A number of people from Ukraine have arrived in Scotland and we have looked to produce relevant guidance in Ukrainian and Russian. The native language of 67.5% of Ukraine's population is Ukrainian and Russian is the native language of 29.6% of Ukraine's population and the rest (2.9%) are native speakers of other languages.

266. The [NHS Scotland Services Guide for displaced people from Ukrainian](#) arriving in Scotland land was launched on 7 April 2022 and was created in English/Ukrainian and English/Russian dual languages versions. Ukrainians arriving in Scotland have the same entitlements to NHS care as Scotland residents, however individuals may not know how the NHS works. The NHS Scotland Services Guide has been created to explain the range of NHS services available. Translated 'COVID Sense' posters were also made available in [Ukrainian and Russian](#). Moving forward we will continue to create Ukrainian and Russian language versions of key health information.

Human Trafficking

267. Any person resident in Scotland who the United Kingdom authorities have reasonable grounds to believe are victims of human trafficking are exempt from NHS charges during the recovery and reflection period recognised in Article 13 of the Convention. NHS Boards in Scotland do not seek payment prior to the commencement of treatment provision where it has been determined by statute that the patient is liable to pay for treatment.

Mental health

Recommendation 58: the Committee recommends that the State party ensure the effective implementation of the duty introduced by the Health and Social Care Act 2012 and allocate sufficient resources to the mental health sector. The Committee urges the State party to continue its efforts to guarantee the effective implementation of the mental health legislation in all jurisdictions of the State party and to ensure the accessibility, availability and quality of mental health care, including for persons in detention.

268. Everyone has the right to be treated with respect and dignity, without discrimination and to access appropriate mental health care when it is needed. The rights of those with mental health illness are also enshrined specifically in the Equality Act 2010 where a mental health condition is considered a disability if it has long-term effects on normal day-to-day activity. The Scottish Government are working to ensure these rights are realised and continue to increase our investment in crucial services and infrastructure.

269. We will publish our new Mental Health and Wellbeing Strategy by the end of 2022. The strategy will outline actions for addressing the underlying reasons why people may experience poor mental health, helping create the conditions for people to thrive, and challenging the stigma around mental health, through to providing specialist help and support for people with mental illness. The Strategy will also include our approach to workforce planning.

270. The Mental Health [Transition and Recovery Plan 2020](#) outlines our response to the mental health impacts of COVID-19 and addresses the challenges that the pandemic has created and will continue to have in years to come. The Plan was backed by a £120 million 'Recovery and Renewal Fund' in 2021-22 to help transform services, with a renewed focus on prevention and early intervention, and we will continue to invest in 2022-23 and beyond. Recognising that the pandemic has exacerbated pre-existing structural inequality in society and had a more adverse impact on the mental health of some groups of the population, the Plan has a particular focus on addressing health inequalities. It commits to working with stakeholders to look at the causes of mental health inequality at a structural and individual level. An 'Equality and Human Rights Forum' has been established to provide advice on the implementation and delivery of mental health policy and to ensure equality and human rights are at the heart of our response.

271. A range of activity has been undertaken to help people deal with the mental health effects of the pandemic and increase access to support and services. In 2021/2022, £21 million was made available for a 'Communities Mental Health and Wellbeing Fund' for adults to help tackle the impact of social isolation, loneliness and mental health inequalities, particularly for vulnerable and disadvantaged groups. A further £15 million has been made available for 2022/2023. Mental health assessment services for unscheduled mental health presentations were established across health boards during the pandemic to fast-track patients to appropriate

support. The Scottish Government has worked with local authorities to establish more than 200 new community mental health and wellbeing supports and services for children and young people.

272. The Scottish Government also remains committed to meet the standard that 90% of patients start treatment within 18 weeks of referral to Child and Adolescent Mental Health Services (CAMHS) and Psychological Therapies. Additional investment in mental health staffing in recent years has increased access to specialist provision and the level of investment in services more generally has increased, for example, in 2021/22 an additional £40 million funding was provided to CAMHS.

273. Looking after the health and wellbeing of new parents is vitally important to breaking the cycle of poor outcomes from early mental health adversity. In 2019, the First Minister announced a programme of investment over 4 years to improve perinatal and infant mental health services across Scotland. Since March 2019, the Scottish Government has invested over £18 million in perinatal and infant mental health, including funding for community specialist mental health services in every health board in Scotland and inpatient services for women and families with the highest level of need.

274. In March 2019 it was announced that there would be a review of mental health and incapacity legislation. The aim of the Review, chaired by Lord Scott, was to consider and make recommendations to ensure that mental health, incapacity and adult support and protection legislation continued to promote equality and uphold human rights. The Review's final [report and recommendations](#) were published on 30 September 2022.

Self-Harm

275. The Scottish Government is taking decisive action to improve our responses for people who self-harm. We are already investing in new services to support people who self-harm and will use the learning from these services to inform the development of our first dedicated self-harm strategy and action plan.

276. During the course of 2022 we will be working with people with lived experience of self-harm, and those who support them, to develop our approach further and this will culminate in producing our self-harm strategy and action plan in 2023. The new strategy will be separate, but linked, to Scotland's [Suicide Prevention Strategy, Creating Hope Together](#).

277. A separate self-harm strategy is needed to recognise that, for most people, self-harm is not linked to suicide; but is instead a way of responding to their situation or emotions. However, connecting the two strategies is important given that self-harm is a key risk factor for people who go on to attempt or die by suicide

Mental Health Distress

278. The [Distress Brief Intervention](#) (DBI) is a ground-breaking, award-winning programme which provides a fast, personalised and compassionate response to

people in emotional distress who do not need an emergency clinical intervention. Since it launched in 2016 in four pilot areas it has expanded into many new areas and we are committed to ensuring that it is available in all parts of Scotland by 2024. DBI is available as standard to people 16 years and over and we are also carrying out a limited test of change to assess its appropriateness for supporting children aged 14/15.

279. Since it launched in 2016 the DBI programme has provided support to over 32,000 people, including over 10,000 via the DBI NHS24 pathway (figures correct as at 30 September 2022). An [evaluation](#) of the pilot stage of the programme was published in May 2022.

Suicide Prevention

280. The Scottish Government committed in its 2021-22 Programme for Government to double annual spending on suicide prevention to £2.8 million by the end of the parliamentary term. This also enhances support for local suicide prevention activity.

281. In September 2022 a new 10 year strategy '[Creating Hope Together](#)' and its first 3 year action plan, was jointly published by the Scottish Government and COSLA. This strategy builds on Scotland's strong legacy of suicide prevention strategy and delivery. Creating Hope Together is a 10 year outcome focussed strategy and will continue to be shaped and informed by the voices of people with lived experience, along with practice and research insights.

282. The strategy takes a whole of Government and society approach. This ensures the social determinants, or causes, of suicide are tackled; this can be seen by the action plan connecting into wider Government policies such as child poverty, homelessness, and debt advice. The approach also ensures there is a proactive approach to suicide prevention, including for people who may have a higher risk of suicide, such as people who are LGBTI or neurodiverse.

283. The strategy is aimed at anyone affected by suicide. It recognises the important role of communities and services alike in providing compassionate responses to people who are suicidal to support their wellbeing and recovery. Other new elements of the strategy include peer support, safety planning, and improving media reporting of suicide.

Social care for older persons

Recommendation 60: the Committee reiterates its previous recommendation (see E/C.12/GBR/CO/5, para. 34¹⁸) and urges the State party to take all necessary measures to ensure adequate pension benefits, care and treatment of older people, including by carrying out training programmes for doctors and health - care professionals about the rights of older persons and the treatment of dementia and Alzheimer's disease.

284. In 2018 the Scottish Government convened the [Older People's Strategic Action Forum](#). In 2019 the Scottish Government published [A Fairer Scotland for Older People: framework for action](#), which contains the strategic plan to raise awareness of issues older people face and break down barriers across multiple areas, including housing, transport and health and social care.

285. In December 2020 in response to the COVID-19 pandemic, the Scottish Government published the [Dementia and Covid National Action Plan](#). The plan outlines how the Scottish Government will work with the COSLA and a range of stakeholders to strengthen community resilience and support people with dementia and their families to continue to get the right care, treatment and support at the right time as we live with, and come through and recover from, the COVID-19 pandemic.

286. The Scottish Government plans to develop a new dementia strategy for Scotland, which is currently out for consultation and extensive engagement. We will engage with stakeholders and people with lived experience of dementia to develop the strategy. We will also work with our National Dementia Lived Experience Panel to develop responses from consultation into a fully formed outcomes focussed strategy, with a target publication date of April 2023.

287. On 24 March 2021 we published our Statement of Intent setting out our plan to develop a new integrated health and social care strategy for older people. We committed to developing the strategy with older people and the people and organisations which support them. This strategy will build on the work which has already been undertaken across Scotland to deliver integrated, person centred health and social care for older people, address gaps, and develop any new priorities from emerging areas of work from, for example, the impact of COVID-19.

288. The [consultation](#) forms part of the engagement to develop the new health and social care strategy for older people. As well as this consultation we will also carry out an extensive public engagement exercise where we will meet with a wide range

¹⁸ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 34: "The Committee recommends that the State party undertake:

- (a) training programmes for doctors and health-care professionals about the State party's Covenant obligations, as well as with regard to the prevention and treatment of dementia and Alzheimer's diseases;
- (b) awareness-raising campaigns about these diseases among the public at large."

of older people, the organisations that support them and clinicians and health professionals who are involved in the provision of health and social care.

Standards of Equality, Diversity and Inclusion Training

289. We are working to ensure that equality, diversity and inclusion training for health and social care staff incorporates up to date messaging and relevant information on equality including anti-racism, sexual harassment, ageism, LGBTI equality, and identifying/reporting incidences of equality based harassment. We are working with third-sector partners to develop anti-racist specific training for health and social care staff.

290. Improved training around equality will help staff better meet the needs of our diverse work force and the diverse communities they work with. Improved incidence reporting will provide more accurate information on where issues like sexual harassment are happening in the workplace and improved incidence reporting will help us better combat it and support individuals who have been victims of it.

Education

Recommendation 64: the Committee recommends that the State party take all necessary measures to reduce the attainment gaps, particularly among children belonging to low-income families, including by reconsidering the austerity programmes adopted and effectively implementing measures aimed at reducing de facto discrimination and segregation of students based on their religion, national or social origin, as well as their economic background.

291. The Scottish Government is committed to ensuring that every child and young person has the same opportunity to succeed in education, regardless of their background. We want all children and young people to get the support that they need to reach their full learning potential and achieve their aspirations and goals. To help achieve this we are investing £1 billion through the recently refreshed [Scottish Attainment Challenge](#) programme in this parliament. This represents a substantial increase on the previous parliamentary term's £750 million funding, with targeted support empowering our schools and local councils to accelerate progress to substantially eliminate the poverty related attainment gap by 2026. COVID has had a negative impact on the attainment gap, not just in Scotland but all over the world, and the cost of living crisis will not help, so we need a relentless focus to address that gap, to reduce it, and ultimately to close it.

292. The next phase of the Scottish Attainment Challenge programme has been developed in partnership with and agreed by COSLA and builds on the evidence set out in the Scottish Government and Education Scotland [5 year report](#) on progress towards closing the poverty related attainment gap, the [Equity Audit](#), the [Audit Scotland report](#) on educational outcomes, and the [Organisation for Economic Co-operation and Development review](#). In recognition of the impact of both the pandemic and poverty across all of Scotland, the refreshed 'Scottish Attainment Challenge' programme sees funding reach all 32 local authorities for the first time. A framework for recovery and accelerating progress has been developed with the system requiring local authorities to develop ambitious stretch aims to support greater progress in tackling the poverty-related attainment gap and improve outcomes for children and young people impacted by poverty. There is the continued empowerment of head teachers through Pupil Equity Funding and funding for care-experienced children and young people too will help support local authorities to target additional programmes to help raise the attainment and improve the wellbeing of care-experienced young people.

293. The [International Council of Education Advisers](#) has acknowledged our progress on closing the poverty-related attainment gap and recognises the effort and resources going into narrowing attainment gaps and strengthening the teaching profession. Head teachers are positive about the impact of our measures, have a clear understanding of what is working, and are optimistic about improvements continuing.

294. The Scottish Government believes that there is no place in Scottish schools for prejudice or discrimination and that everyone deserves to be treated fairly. Bullying of any kind is unacceptable and must be addressed quickly whenever it arises. In November 2017 the Scottish Government published updated anti-bullying guidance [Respect for All: The National Approach to Anti-bullying for Scotland's Children and Young People](#). This provides the overarching framework for all adults working with children and young people to address all types of bullying. We have fully funded [respectme](#), Scotland's anti-bullying service, since its inception in March 2007 and in 2022/23 we will provide over £373,000. Including the 2022/23 monies, 'respectme' has received over £5.3 million since its inception. 'Respectme' provides support to all adults working with children and young people to give them the practical skills and confidence to deal with all types of bullying behaviour.

Higher education

Recommendation 66: the Committee recommends that the State party take all necessary steps to reduce higher education fees, with a view to making higher education equally accessible to all, in accordance with capacity, and by progressively introducing free higher education.

295. Believing that access to higher education should be based on the ability to learn and not the ability to pay, the Scottish Government pays tuition fees for eligible full-time Scottish domiciled students studying for their first undergraduate degree at Scottish higher education institutions. These students are also eligible to access free funded university places. Bursaries and student loans are available to ensure that Scottish-domiciled university students are able to support themselves. A minimum income guarantee provides living-cost support (through a mixture of bursaries and loans) of up to £8,100 to students from the poorest households.

Irish language

Recommendation 67: The Committee remains concerned about the lack of effective measures adopted by the State party to promote the use of the Irish language in Northern Ireland (art. 15). 68. The Committee reiterates its previous recommendation (see E/C.12/GBR/CO/5, para. 37¹⁹) and recommends that the State party adopt an Irish language act.

296. While Recommendation 67 refers to the use of the Irish language in Northern Ireland, minority languages are also spoken in other parts of the United Kingdom and in other devolved administrations, including Welsh in Wales and Gaelic and Scots in Scotland. We have therefore included information within this report on the work being taken forward in Scotland to promote, respect and celebrate minority languages and cultures.

297. There is a legislative framework in place, supported by formal guidance, to ensure that those who wish to use the Gaelic and Scots languages are afforded the opportunity to do so. The [Gaelic Language \(Scotland\) Act 2005](#) was commenced in February 2006 and contains a number of statutory provisions designed to secure the status of Gaelic in Scotland, giving the Gaelic language equal respect to English.

298. In particular, it established a public body ([Bòrd na Gàidhlig](#)) to promote Gaelic issues, required the preparation of a [National Plan for Gaelic](#), and it empowers Bòrd na Gàidhlig to require public bodies in Scotland to prepare their own statutory Gaelic Language Plans setting out how they will promote the use of Gaelic.

299. The current National Plan is being renewed and will set out a comprehensive overview of the development needs of Gaelic and act as a blueprint for all those bodies in Scotland which have a role to play in Gaelic development.

300. Bòrd na Gàidhlig also prepared formal guidance under the 2005 ASP to assist public bodies in the preparation of statutory [Gaelic Language Plans](#). This guidance is being renewed and will go out for further consultation during 2022.

301. The Scottish Government recognises, respects and celebrates the Scots language as an integral part of our cultural heritage. Scots is a living language and is still widely spoken across Scotland. We have grown our support for Scots language bodies and doubled the budget to circa £520,000 in 2021/22. This has allowed the development of Scots educational support and resources, through bodies such as [Scots Hoose](#), which allow teachers and young people to access the learning they want.

¹⁹ [Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant : \(un.org\)](#)

Para 37: “The Committee recommends that the State party, or the devolved administration in Northern Ireland, adopt an Irish Language Act, with a view to preserving and promoting minority languages and cultural heritage, and invites the State party to provide detailed information on the progress made in its next periodic report.”

302. In 2015 the Scottish Government, published a [Scots Language Policy](#). The policy sets out the Scottish Government's position on Scots, our aims for the language, and the practical steps we will take towards fulfilling these aims. As part of our 2015 policy, Education Scotland also produced a number of practical steps that they would take. This policy has been refreshed and is being prepared for consultation over the course of 2022/23.

303. Gaelic and Scots both feature in the 2022 Census and this information will help us to better identify and target resource to help the languages. The Scottish Government is committed to equality for all and does not have any restrictions which would impact on the rights of Gaelic and Scots speakers who wish to live in a particular area.

304. In addition, we have a range of manifesto commitments which are currently being considered. These are wide-ranging and will impact all levels of the language communities and are in the early stages of development, however the language communities will be encouraged to engage with the Scottish Government on our proposals during the consultation period which began in summer 2022. As we take forward the current manifesto commitments, consideration will be given to the status of Scots. This reflects requests from the Scots language community.

305. Our language communities have long-standing relationships with similar communities across national and international frontiers. Many of these partnerships are as a result of the links with the language diaspora. The Scottish Government is happy to support this activity.

306. The Scottish Government is a committed participant of the British Irish Council's [Indigenous, Lesser Used and Minority Languages](#) work stream. We work closely with other jurisdictions and crown dependencies to ensure that our languages benefit from best practice and co-operation. We have hosted a number of language seminars on a variety of issues at which our language communities can come together to learn from each other.

Other recommendations

Recommendation 69: the Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

307. The Scottish Government has continued to urge the UK Government to ratify the three remaining Optional Protocols dealing with communications procedures to which the UK is not yet a party, they are:

- First Optional Protocol to the International Covenant on Civil and Political Rights;
- Optional Protocol to International Covenant on Economic, Social and Cultural Rights; and
- Third Optional Protocol to the Convention on the Rights of the Child.

308. The Scottish Government has previously proposed that competence for deciding whether to ratify these protocols in Scotland should be devolved to the Scottish Ministers. It has also welcomed the Third Optional Protocol in principle and confirmed that Scottish Ministers would be minded to offer their measured support for its signature and ratification in the future. We will continue to raise the issue of ratification with the UK Government.

Recommendation 70: the Committee encourages the State party to consider ratifying the core human rights instruments to which it is not yet party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

309. The Scottish Government has continued to urge the UK Government to ratify the remaining core human rights instruments to which it is not yet party. An independent Scotland could decide to accede to treaties such as the [Convention of the Protection of All Persons from Enforced Disappearance](#). In addition, Scotland would be able to sign up to Optional Protocols which enable individuals and groups to raise concerns and complaints directly with UN committees. As a newly-independent State, Scotland would also be able to decide whether to carry forward any of the UK's declarations and reservations which qualify the extent to which the provisions of some treaties currently apply.

Recommendation 71: the Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In this context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).

310. Scotland's National Performance Framework (NPF) is our vision for the nation we want to be, supported by National Outcomes for Scotland's wellbeing, in the context of global challenges and uncertainty. The NPF provides a clear long-term purpose and set of improved outcomes for Scotland's future wellbeing that we all want to see and goes beyond the important but narrow economic measures of success. The National Outcomes are for everyone and they show the type of country we want to be, including our purpose and our values. The NPF also gives Scottish expression to the [United Nations Sustainable Development Goals](#).

311. Scotland's NPF has human rights embedded at its heart and includes an explicit human rights National Outcome: 'We respect, protect and fulfil human rights and live free from discrimination'. Specifically we recognise and protect the intrinsic value of all people and are a society founded on fairness, dignity, equality and respect. We demonstrate our commitment to these principles through the way we behave with and treat each other, in the rights, freedoms and protections we provide, and in the democratic, institutional and legal frameworks through which we exercise power.

312. The Human Rights National Outcome is measured using four National Indicators: 'Access to justice', 'Influence over local decisions', 'The quality of public services' and, 'Public services that treat people with dignity and respect'. The Human Rights indicators were chosen and quality assured by the National Performance Framework Technical Advisory Group (NPFTAG) as part of the 2018 National Performance Framework review. Information on trends and development in indicator performance is available on the [National Indicator Performance page](#) of the [National Performance Framework website](#).

313. In addition to the specific Human Rights Outcome, the NPF also embeds social, cultural and economic rights, and other relevant international treaties such as the [European Social Charter](#), across the framework. For example, the Fair Work and Business Outcome, and associated indicators (for example pay gap and contractually secure work), align with ICESCR Articles 6 and 7; these are also reflected in the Education Outcome which focuses on workplace learning and skills at a population level. The Poverty Outcome in particular responds to Article 11, with indicators such as 'cost of living', 'satisfaction with housing' and 'food insecurity'. Access to a cultural life (Article 15), is represented by the Culture Outcome and corresponding indicators that identify access to cultural events, places and activities, as well as the role of culture in the wider economy.

314. Scottish Ministers are required by the [Community Empowerment \(Scotland\) Act 2015](#) to review the National Outcomes within five years of their previous publication. The Deputy First Minister confirmed to the Scottish Parliament that the next statutory review is set to start its public engagement this year and conclude during the third term of Parliament (2023). The review will meet the statutory requirement to review the National Outcomes with the intention of building upon the significant refresh undertaken in 2018 (when a set of National Indicators was developed). The review will also build on the findings of the recent [Citizen Assemblies](#) and [consultations carried out to advance COVID recovery](#).

315. While the purpose is to review the set of National Outcomes for Scotland, the National Indicators that underpin the revised National Outcomes will also need to be assessed by the NPF Technical Advisory Group, to ensure these continue to provide effective measurement of progress. The review is led by a Project Board with three groups providing advice: an internal Policy Advisory Group, the NPF Technical Advisory Group, and an Expert Advisory Group. The final parameters of the review will be confirmed by Scottish Ministers soon. The review will, as a minimum, include an online 'Call for Evidence', which will provide an opportunity for organisations, communities and others to provide their views and evidence on what matters for wellbeing and achieving impact. We will also explore how to ensure the interests of future generations are taken into account in decisions made today.

316. Further to the recommendations from the [National Taskforce for Human Rights Leadership](#), as part of the development and implementation of the new Human Rights Bill, we will give further consideration to the development and strengthening of effective monitoring and reporting mechanisms at all levels, and duties at both national and public authority levels.

317. The Scottish Government is working collaboratively with the Scottish Human Rights Consortium (SHRC) to progress the successful delivery of a second National Action Plan for Human Rights in Scotland (SNAP). This includes the Scottish Government providing funding to SHRC to host a Secretariat Lead to progress this work. A Leadership Panel has been established and is jointly co-chaired by the Scottish Government and SHRC and brings together other duty bearers, civil society, and people with lived experience of human rights issues to collaborate on bringing forward a new set of actions across structure, process and outcomes in line with the Office of the United Nations High Commissioner for Human Rights methodology.



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