

Consultation briefing: a Human Rights Bill for Scotland



Chartered
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Background

The Scottish Government has committed to introducing a Human Rights Bill (the Bill) during this parliamentary term. The Bill would build on the existing culture of human rights in Scotland by creating a legal framework to embed internationally recognised human rights within Scots law.

The consultation document acknowledges the difficulties posed by the devolution settlement and the fact that the UK Government has already successfully challenged a previous attempt by the Scottish Government to introduce the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill](#). The [Supreme Court ruled](#) that some provisions of the proposed legislation were outwith the legislative competence of the Scottish Parliament.

The Scottish Government is now consulting on their approach to developing and introducing the new Bill and what it should cover. The [consultation](#) is open until 5 October.

What will the Bill cover?

The Scottish Government is proposing to incorporate the following into the Bill, within the limits of devolved powers:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- The Convention on the Rights of Persons with Disabilities (CRDP)
- The International Convention on the Elimination of all Forms of Racial Discrimination (ICERD)

It would also recognise the right to a healthy environment and provide a clear set of duties for public bodies. This should ensure that as far as possible, all law, policy and decision making by public authorities and services contributes to the advancement of the human rights standards included in the Bill.

It is suggested that the duties set out in the Bill would apply to bodies carrying out functions of a public nature - this would include public bodies and also private organisations acting under a contract or other arrangement with a public body.



Housing as a human right

The right to adequate housing is set out in ICESCR and so would be included in the new Bill. It is likely that this would include a set of Minimum Core Obligations (MCOs) that would have to be met immediately but should also be built upon over time.

The United Nations (UN) sets out seven standards of adequate housing:

- **Security of tenure** - legal protection from forced eviction, harassment by landlords and other threats to having a settled home.
- **Habitability** - a dwelling in a decent state of repair that provides a dry, warm home and adequate living space.
- **Availability of services** - a dwelling has the facilities that makes it habitable, such as sanitation and waste disposal facilities, cooking facilities, storage heating and lighting.
- **Affordability** - housing costs are not so high that people struggle to pay for food, fuel and other basics.
- **Accessibility** - suitable housing is available to those who require it, including housing that maximises the capacity of individuals with a disability or limiting illness to live independently.
- **Location** - housing is situated in areas that allow access to services (e.g. education, health, shops), paid work and participation in civic society. Housing should not be in an environment that is hazardous to health.
- **Cultural adequacy** - housing and its allocation should allow people to live in ways that express their cultural identity and does not disrupt their cultural affiliations.

Some of these standards are already covered by legislation such as building standards, other MCOs would need to be developed.

[Research published by CIH Scotland](#) in 2022 sets out what the right to adequate housing could look like in practice, what challenges need to be overcome to achieve this, and steps that organisations can take now to start working towards meeting the standards. This was followed by the publication of the [Housing and human rights framework](#) to support housing organisations.

The CIH View

We welcome the Scottish Government's approach to building on existing human rights and efforts to incorporate internationally recognised standards into Scots law.

However, the legislative route will take time and we believe that organisations should be encouraged and supported to work towards progressive realisation of the right to adequate housing ahead of any new legislation being introduced. This could be achieved with guidance and strong leadership from Scottish Government, and with resources to ensure that we have an adequate supply of good quality affordable homes and the services needed to support people.

CIH Scotland will be responding to this consultation and we would welcome any feedback or comments from members. Please get in touch scotland@cih.org.