

Submission to the United Nations Committee on Economic, Social and Cultural Rights in Support of its Review of the United Kingdom of Great Britain and Northern Ireland

January 2025

About Opportunity Green and The Shift

Opportunity Green is a UK based NGO (registered charity number 1199413). It uses legal, economic and policy knowledge to tackle climate change. Opportunity Green does this by amplifying diverse voices, forging ambitious collaborations and using legal innovation to motivate decision makers and achieve climate justice. www.opportunitygreen.org

The Shift is an international human rights organization focused on the realization of the human right to adequate housing for all, worldwide. The Shift was founded and is led by Leilani Farha, the former United Nations Special Rapporteur on the right to adequate housing (2014-2020). The Shift uses a diverse array of means to further the progressive realization of the right to housing, including developing new standards, influencing policy, and driving industry change. www.maketheshift.org

Executive Summary

This submission highlights the critical intersection between energy efficiency, the decarbonization of home heating, and the realization of economic, social and cultural (“ESC”) rights. It emphasizes the United Kingdom of Great Britain and Northern Ireland’s (“UK”) obligation to address fuel poverty, reduce greenhouse gas (“GHG”) emissions from the buildings sector, and ensure equitable access to sustainable energy solutions in line with non-discrimination principles and the best available scientific evidence.

The UK has an extremely poorly insulated housing stock, whilst heating homes accounts for a significant proportion of the UK’s GHG emissions. Energy inefficiency and reliance on fossil fuel heating contribute to fuel poverty, cold and damp living conditions, and adverse health and social impacts, particularly among vulnerable and marginalized groups, which is exacerbated by the lack of adequate tenant protections in the UK. While recent government initiatives like the Warm Homes Plan signal progress, they lack the scale and urgency required to address the severity of the issue.

Furthermore, the decarbonization of home heating is a vital step for the UK to reach its net zero target, yet evidence consistently shows that the existing energy efficiency and decarbonization policies in the buildings sector are insufficient for the UK to comply with its national and international obligations with respect to climate change. Evidence also shows that the UK’s policies on climate change adaptation fall short of what is needed to adapt the housing stock to climate impacts. Considering the well-established link between human rights and climate change, this signals a failure by the UK to progressively realize ESC rights.

To meet its obligations, the UK must adopt policies that prioritize energy efficiency improvements and the transition to sustainable forms of home heating. These measures should prioritize vulnerable groups, ensure affordability, and align with the best available scientific evidence. Furthermore, increased public investment and resource allocation are essential, alongside strengthened regulatory frameworks.

To this end, Opportunity Green and The Shift recommend the following:

Progressive Realization, Decarbonization and ESC Rights

The Government of the UK should:

- (a) Assess the efficacy of existing housing and decarbonization policies against their impact on human rights and climate change, in particular recognizing that the unbridled construction of housing is likely to generate significant levels of GHG emissions and would only be required by international human rights law when necessary to meet the needs of those at the lowest end of the income spectrum;
- (b) Take specific steps to effectively improve the energy efficiency of new buildings, as well as the existing housing stock, with a particular focus on the most vulnerable households;
- (c) Take all measures necessary to comply with the UK's obligations under international law, including human rights law, to lower its GHG emissions and ensure resilience to the shocks of climatic conditions, particularly by taking appropriate measures to decarbonize home heating in a manner that aligns with the best available scientific evidence and the precautionary principle; and
- (d) Implement all decarbonization measures in a manner which ensures that the right to housing of inhabitants, as defined in the Covenant, is not undermined and ensure that all policies related to decarbonization and ESC rights meet the Government's obligation to achieve the full realization of Covenant rights as expeditiously as possible, without discrimination.

Maximum of Available Resources

In line with its obligation to utilize the maximum of available resources for the realization of Covenant rights, the Government should identify and remediate policies that limit available resources to achieve Covenant rights and decarbonization. This includes, for example, policies which confer tax advantages, such as those which are afforded to REITs and other investors whose actions have been shown to undermine the enjoyment of the right to housing and other Covenant rights. The Government should also look to generate additional resources for the achievement of ESC rights and decarbonization, including through increased taxation of fossil fuel companies and greater levels of windfall taxation.

Business and Human Rights

Recognizing the integral role that business will play in the achievement of ESC rights and decarbonization in the UK, the Government should take immediate steps to guarantee Covenant rights in domestic legislation and ensure that the obligation to progressively realize Covenant rights in full, without discrimination, also extends to the private sector. Domestic courts should be empowered to receive petitions related to Covenant rights and hold any actor in breach of those rights accountable.

Introduction

1. This submission aims to contribute to the seventh periodic review of the UK's implementation of the International Covenant on Economic, Social and Cultural Rights ('ICESCR') by the United Nations Committee on Economic, Cultural and Social Rights ('the Committee'). It focuses on the connection between decarbonizing buildings and ESC rights in the UK.
2. Heating homes accounts for around 18% of all GHG emissions in the UK, making the buildings sector an essential target for decarbonization.¹ At the same time, decarbonizing residential buildings through improving their energy efficiency and providing sustainable home heating is vital from the perspective of a just transition and human rights.
3. This submission provides an overview of the impact of the buildings sector on ESC rights in the UK, in the context of: (i) household energy use; and (ii) climate change mitigation and adaptation.

Household energy use

Background and main issues

4. The UK has one of the worst-insulated housing stocks in Europe.² At the same time, fuel poverty (i.e., being unable to afford adequate energy use within one's home) is a significant concern in the country.³ National Energy Action estimates that 5.6 million households in the UK live in fuel poverty,⁴ and analysis from the Department on Energy Security and Net Zero ('DESNZ') indicates that energy (in)efficiency is a key driver of fuel poverty.⁵ DESNZ's latest fuel poverty statistics also show that, in 2023, in England alone, 36.9% of all fuel poor households had at least one dependent child (which amounts to 18% of all households with children),⁶ and that ethnic minority households were more likely to be in fuel poverty.⁷ Further data shows that older people, people with pre-existing health conditions, and those on low incomes are amongst the most affected groups,⁸ and that households which fall under multiple intersection categories of vulnerability are disproportionately affected.⁹
5. The cold and damp conditions resulting from inadequate heating in homes are known to lead to numerous physical and mental health issues, affecting respiratory health, mental wellbeing, and child development.¹⁰ Evidence also shows that cold temperatures at home can exacerbate pre-

¹ National Audit Office, 'Decarbonising home heating' (18 March 2024) online at: <https://www.nao.org.uk/reports/decarbonising-home-heating/>, p. 14

² Business, Energy and Industrial Strategy Committee, 'Decarbonising heat in homes' (3 February 2022) online at: <https://committees.parliament.uk/publications/8742/documents/88647/default/>, para. 12

³ House of Commons, 'Fuel poverty in the UK' (House of Commons Library, 19 February 2024) online at: <https://commonslibrary.parliament.uk/research-briefings/cbp-8730/>, p.4

⁴ National Energy Action, 'Fuel Poverty Statistics Explainer' (October 2024) online at: <https://www.nea.org.uk/energy-crisis/fuel-poverty-statistics-explainer/>

⁵ Department for Energy Security and Net zero, 'Annual Fuel Poverty Statistics in England, 2024' (15 February 2024) online at: <https://www.gov.uk/government/statistics/annual-fuel-poverty-statistics-report-2024>, p.2

⁶ Ibid., p.40

⁷ Ibid., p.41

⁸ Friends of the Earth, 'Britain's cold homes crisis affecting nearly 10m households' (23 February 2024) online at: <https://friendsoftheearth.uk/climate/britains-cold-homes-crisis-affecting-nearly-10m-households>

⁹ National Energy Action, 'The hardest hit: Impact of the energy crisis' (13 January 2023) online at: <https://www.nea.org.uk/publications/uk-fuel-poverty-monitor-2021-22/>, p. 44

¹⁰ Mind, 'Four in five people with mental health problems say their housing has made their mental health worse' (3 May 2018) online at: <https://www.mind.org.uk/news-campaigns/news/four-in-five-people-with-mental-health-problems-say-their-housing-has-made-their-mental-health-worse/>;

Bukky Balogun, Felicia Rankl, Wendy Wilson, 'Health inequalities: Cold or damp homes' (House of Commons Library, 16 February 2023) online at: <https://commonslibrary.parliament.uk/research-briefings/cbp-9696/>;

existing health conditions, including, but not limited to, conditions associated with ageing,¹¹ and contribute significantly to excess winter deaths.¹² Fuel poverty also affects educational attainment, with children in the UK being more likely than those in any European Union country to skip school days due to sickness associated with inadequately-heated housing.¹³

6. The issue of fuel poverty is particularly prevalent in the private rental sector, where 31% of people are unable to heat their home to a comfortable temperature, and 2.7 million households are living in cold, damp or moldy homes.¹⁴ A significant proportion of renters report having to cut back spending on food or household goods to heat their homes.¹⁵ In its Concluding Observations on the previous periodic report of the UK, the Committee has already expressed concern in relation to the lack of social housing in the UK forcing households into the private rental sector.¹⁶
7. Inadequate efforts to reduce energy poverty over previous years have been exacerbated by UK economic and energy policy, in particular the privatization of household energy services. This has created a situation wherein energy prices have risen to hugely unaffordable levels, yet due to the continued poor housing energy efficiency characteristics of most UK homes, households must use larger amounts of energy to sufficiently heat their homes, generating increased energy costs and increasing poverty. The UK Government was made aware of the significant issues caused by privatization in the energy sector following the visit of the Special Rapporteur on extreme poverty in 2019, wherein he clearly noted that the widespread privatization of public services, including water and energy had led to excessive price rises and low-income households having their access to these services restricted.¹⁷ However, in the years since the Special Rapporteur's final report, little has been done to de-privatize the energy sector and UK energy bills have continued to rise whilst energy firms have generated enormous profits. From April 2020 to August 2024 alone, the 20 largest energy companies in the UK generated £457 billion in profits.¹⁸ As of 2024, UK household energy debt totaled £2.9 billion and researchers have found that in winter 2023/24, 2 million households were likely forced to disconnect their gas and electricity as they did not have the means to pay their bills.¹⁹ Whilst the UK's energy price regulator has acted to reduce the cost of energy in recent years,²⁰ the average household gas and electricity bill remains well above the level at which it was

Institute of Health Equity, 'Local action on health inequalities: Fuel poverty and cold home-related health problems' (September 2014) online at: <https://www.instituteofhealthequity.org/resources-reports/local-action-on-health-inequalities-fuel-poverty-and-cold-home-related-health-problems>;

Ali Cooper and Patrick McNulty, 'Empty plates and cold homes: What it's like to grow up in poverty in 2024' (Barnardo's, 11 September 2024) online at: <https://www.barnardos.org.uk/research/empty-plates-and-cold-homes-what-its-grow-poverty-2024>, pp. 13-15

¹¹ Angela Donkin and Michael Marmot, 'Left out in the cold: The hidden health costs of cold homes' (UCL Institute of Health Equity, 02 February 2024) online at: <https://www.instituteofhealthequity.org/resources-reports/left-out-in-the-cold-the-hidden-impact-of-cold-homes>, p.16

¹² Citizens Advice, 'Home Advantage: Unlocking the benefits of energy efficiency' (20 June 2023) online at: <https://www.citizensadvice.org.uk/wales/policy/publications/home-advantage-unlocking-the-benefits-of-energy-efficiency/>, p.6

¹³ Ali Cooper and Patrick McNulty, 'Empty plates and cold homes: What it's like to grow up in poverty in 2024' (Barnardo's, 11 September 2024) online at: <https://www.barnardos.org.uk/research/empty-plates-and-cold-homes-what-its-grow-poverty-2024>, p. 15

¹⁴ Citizens Advice, 'Damp, cold and full of mould: The reality of housing in the private rented sector' (February 2023) online at: <https://www.citizensadvice.org.uk/wales/policy/publications/damp-cold-and-full-of-mould1>, p.6

¹⁵ Ibid., p.5

¹⁶ CESCR, 'Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland' (14 July 2016) UN Doc E/C.12/GBR/CO/6, para. 49

¹⁷ UN Special Rapporteur on extreme poverty, Report on the Visit to the United Kingdom of Great Britain and Northern Ireland (2019) UN Doc A/HRC/41/39/Ad.1, online at: <https://documents.un.org/doc/undoc/gen/g19/112/13/pdf/g1911213.pdf>, para 44

¹⁸ See, <https://www.endfuelpoverty.org.uk/energy-giants-see-457-billion-profits-as-consumers-bills-rise/>

¹⁹ Citizens Advice, 'more than two million people will be cut off from their gas and electricity this winter because they can't afford to top up, Citizens Advice warns' (23 January 2024) online at: <https://www.citizensadvice.org.uk/wales/about-us/media-centre/press-releases/more-than-two-million-people-will-be-cut-off-from-their-gas-and-electricity-this-winter-because-they-cant-afford-to-top-up-citizens-advice-warns>

²⁰ See, <https://www.ofgem.gov.uk/energy-price-cap>

set five years ago and again increased from 1 January 2025.²¹ A recent report from the UK's Committee on Fuel Poverty highlighted that there has been no real decrease in fuel poverty in England over the past five years.²²

8. Until 2014 the UK Government had an effective scheme in place to provide subsidized energy efficiency upgrades (particularly the installation of insulation) for poorly performing homes whose residents had lower incomes.²³ At its peak, this policy led to around 80,000 efficiency upgrades being undertaken per month.²⁴ Yet due to rising energy bills, in 2014 the Government reduced energy supplier upgrade targets, without putting in place any alternative measures to maintain current efficiency installation rates.²⁵ This led to a significant drop in the number of upgrades being implemented per month, to an average of less than 20,000 per month between mid-2016 and mid-2020.²⁶ As a result, as of 2024, 5.1 million UK homes with space for cavity wall insulation lack such insulation, 90% of homes with solid walls have no solid wall insulation, and 31% of homes with lofts have insufficient levels of loft insulation.²⁷
9. In July 2024 the UK welcomed a new Government which announced its Warm Homes Plan, due to commence in 2025.²⁸ Under this plan, the Government will partner with local authorities and other agencies to “deliver insulation measures and other improvements such as solar panels, batteries and low carbon heating to cut bills for families, slash fuel poverty, and reduce carbon emissions.”²⁹ The Government intends to spend £13.2 billion over the next five years to install efficiency upgrades including solar panels and heat pumps in 5 million homes,³⁰ whilst requiring all private rental properties to reach a minimum EPC rating of Band C by 2030.³¹ It will also seek to expedite uptake of heat pumps by ending existing planning rules which require households to obtain planning permission to install them and introducing incentives for manufacturers to sell more heat pumps.³² Government projections state that the EPC requirements for rental properties alone will help to lift up to 1 million people out of fuel poverty by 2030,³³ with many more assisted through the other aspects of the plan. However, the issues identified above are still acute at present (see paragraphs 14-15). In particular, fuel poverty has been significantly exacerbated by the ongoing energy crisis,

²¹ The Energy Price Cap was set at an average of £1,179 a year between October 2019 and March 2020. It rose to an average of £1,928 a year between 1 January 2024 and 31 March 2024, before falling to an average of £1,690 per year between 1 April 2024 and 30 June 2024. As of 1 January, it is set to rise again to an average of £1,738 per year. See, <https://www.ofgem.gov.uk/energy-price-cap>

²² Committee on Fuel Poverty, ‘Fuel poverty has not fallen ‘to any meaningful extent’ in 5 years’ (28 August 2024) online at: <https://www.gov.uk/government/news/fuel-poverty-has-not-fallen-to-any-meaningful-extent-in-5-years>

²³ Paul Bolton, ‘Research briefing: Energy efficiency of UK homes’ (11th December 2024) online at: <https://researchbriefings.files.parliament.uk/documents/CBP-9889/CBP-9889.pdf>, p. 5; these upgrades were paid for both through taxpayer funding and through a levy on household energy bills.

²⁴ Ibid.

²⁵ The UK does have some other housing efficiency requirements, such as requiring all private rental housing to meet at least a rating of EPC-C by 2030.

²⁶ Paul Bolton, ‘Research briefing: Energy efficiency of UK homes’ (11th December 2024) online at: <https://researchbriefings.files.parliament.uk/documents/CBP-9889/CBP-9889.pdf>, pp. 5-6

²⁷ Ibid., p.4

²⁸ Department for Energy Security and Net zero and Miatta Fahnbulleh MP, ‘Press release: Help to save households money and deliver cleaner heat to homes’ (21 November 2024) online at: <https://www.gov.uk/government/news/help-to-save-households-money-and-deliver-cleaner-heat-to-homes>

²⁹ Department for Energy Security and Net zero, ‘Warm Homes: Local Grant – Policy Guidance for Local Authorities’ (September 2024) online at: <https://assets.publishing.service.gov.uk/media/66f1573cbd3aced9da489bcf/Warm-Homes-Local-Grant-guidance.pdf>, p.3

³⁰ Department for Energy Security and Net zero and Miatta Fahnbulleh MP, ‘Press release: Help to save households money and deliver cleaner heat to homes’ (21 November 2024) online at: <https://www.gov.uk/government/news/help-to-save-households-money-and-deliver-cleaner-heat-to-homes>; See also, <https://www.elmhurstenergy.co.uk/blog/2024/10/14/new-warm-homes-funding-announced/>

³¹ Jenny Messenger, ‘Labour government confirms 2030 target for EPC C’ (Inside Housing, 12th August 2024) online at: <https://www.insidehousing.co.uk/news/labour-government-confirms-2030-target-for-epc-c-88028>

³² Department for Energy Security and Net zero and Miatta Fahnbulleh MP, ‘Press release: Help to save households money and deliver cleaner heat to homes’ (21 November 2024) online at: <https://www.gov.uk/government/news/help-to-save-households-money-and-deliver-cleaner-heat-to-homes>

³³ Ibid.

and a recent report by the Energy Crisis Commission has comprehensively shown that the lack of energy efficiency, as well as the slow pace of electrification of heating, are among the main reasons behind this.³⁴

Applicability of the ICESCR

10. The widespread inefficiency of UK housing generates significant human rights concerns, in particular impacting on the right to housing³⁵ and the right to health.³⁶ Many other human rights, such as the right to education³⁷ and the right to a healthy environment,³⁸ may also be impacted, directly and indirectly, by the failure of successive Governments to ensure the widespread efficiency of UK homes.
11. Under Article 11.1 of the ICESCR, adequate housing means housing that is, amongst other things, habitable (including being protected from cold, damp and other threats to health), affordable, and offers access to facilities essential for human health, including energy for cooking, heating and lighting.³⁹ This puts the assessment of access to energy and insulation measures within the scope of the Committee's periodic review. Indeed, the Committee has previously expressed concern about the prevalence of fuel poverty in the UK, particularly among children.⁴⁰ In the context of other States Parties, the Committee has explicitly referred to the impact of energy costs on household budgets,⁴¹ as well as recommending measures to set minimum standards for heating and insulation in rental homes.⁴²
12. Pertaining to the right to health under Article 12 of the ICESCR, States Parties cannot be expected to provide protection against every possible cause of health issues;⁴³ however, the Committee has affirmed that the right to health extends to the availability of 'underlying determinants' of health,⁴⁴ of which access to energy is one.⁴⁵ This is particularly significant considering the scale of health impacts that fuel poverty has in the UK, as outlined above (see paragraphs 4 to 5).
13. ESC rights must be realized in accordance with the principles set out under Article 2 of the ICESCR. In line with the Government's Article 2.1 duties, the UK Government must seek to reduce energy poverty in the shortest possible time, using all available means and all of the resources that can be made available to do so.⁴⁶ Equally, as per Article 2.2, the UK Government must ensure the realization of Covenant rights without discrimination, and must take steps to eliminate substantive

³⁴ Energy Crisis Commission, 'Protecting the UK from a future energy crisis' (October 2024) online at: <https://energycrisiscommission.uk/wp-content/uploads/2024/10/energy-crisis-commission-report-october-2024.pdf>, p.28

³⁵ International Covenant on Economic, Social and Cultural Rights, Article 11.1

³⁶ International Covenant on Economic, Social and Cultural Rights, Article 12

³⁷ International Covenant on Economic, Social and Cultural Rights, Article 13

³⁸ United Nations Human Rights Council, Resolution 48/13 (18 October 2021), A/HRC/RES/48/13; United Nations General Assembly, Resolution A/76/L.75 (26 July 2022)

³⁹ CESCR, 'General Comment No 4: The Right to Adequate Housing' (13 December 1991) U.N. Doc E/1992/23, para. 8.

⁴⁰ CESCR, 'Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories' (12 June 2009) U.N. Doc E/C.12/GBR/CO/5, para. 28;

CESCR, 'Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories' (5 June 2002) U.N. Doc E/C.12/1/Add.79, paras. 20, 39.

⁴¹ CESCR, 'Concluding observations on the fifth periodic report of Belgium' (26 March 2020) U.N. Doc E/C.12/BEL/CO/5 paras. 42, 43

⁴² CESCR, 'Concluding Observations on New Zealand' (1 May 2018) UN Doc. E/C.12/NZL/CO/4, para. 40(d).

⁴³ CESCR, 'CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health' (11 August 2000) U.N. Doc E/C.12/2000/4, para. 9

⁴⁴ CESCR, 'CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health' (11 August 2000) U.N. Doc E/C.12/2000/4, para. 11

⁴⁵ World Health Organization, 'Energy and health', online at: <https://www.who.int/health-topics/energy-and-health>

⁴⁶ International Covenant on Economic, Social and Cultural Rights, Article 2.1

discrimination.⁴⁷ The Committee has previously expressed concern about the “de facto discrimination experienced by some of the most disadvantaged and marginalized individuals and groups, such as ethnic minorities and persons with disabilities, in the enjoyment of their economic, social and cultural rights [...]” in the UK.⁴⁸ The Committee has further identified poverty rates in the List of Issues in relation to the present periodic review of the UK.⁴⁹ We note with concern the significant inequality in the impacts of fuel poverty (see paragraph 4).

14. The UK Government’s Warm Homes Plan has the potential to remove households from fuel poverty and improve the adequacy of homes. However, given the number of households currently experiencing fuel poverty in the UK it is questionable whether this plan goes far enough and moves fast enough to be regarded as meeting the Government’s obligation to progressively ensure the full realization of human rights in the shortest possible time. Additionally, information has not yet been made available as to who will be specifically prioritized under the Warm Homes Plan, meaning it is not possible to assess whether the Government will meet its obligation to realize ESC rights without discrimination.
15. To give the Warm Homes Plan the greatest chance of successfully contributing to the realization of ESC rights, including the rights to housing and health, the Government must both ensure that those with the highest levels of need are afforded priority access to assistance whilst also taking steps to expand the reach of the Plan so as to ensure all those who are experiencing, or may experience, fuel poverty are assisted by it. Equally, in order to protect the efficacy of the Warm Homes Plan, the Government must act to reduce and eliminate other conditions within the UK that may undermine its potential to realize households’ human rights. In particular, the Government should consider the potential impact of the recent increase in the energy price cap and take immediate measures to effectively reduce this impact, particular on low-income and already fuel poor households. One such scheme currently exists; however, its application is limited to a one-off payment of £150⁵⁰ and it has faced criticism for excluding some particularly vulnerable groups.⁵¹ In line with its obligation to use the maximum of available resources to achieve ESC rights, and given the significant profits that they are making, the UK should consider further taxing energy providers to fund additional programs designed to reduce energy costs and alleviate fuel poverty. Although, since May 2022, the UK has had in place a windfall tax on oil and gas providers related to the increased cost of fuel following Russia’s invasion of Ukraine,⁵² it has been suggested that this was introduced too late, allowing major providers to significantly benefit from the initial price rises.⁵³ The new Labour Government has committed to maintaining the windfall tax and has increased the levy to 38%, up from 35%. It has also extended the dates of operation for the tax from 31 March 2028 to 31 March 2030,⁵⁴ and has removed a significant loophole that was present in the previous iteration of the tax whereby oil and gas companies could offset investment in new operations against their tax

⁴⁷ CESCR, ‘General Comment No 20 : Non-discrimination in economic, social and cultural rights’ (2 July 2009) U.N. Doc E/C.12/GC/20, p.3

⁴⁸ CESCR, ‘Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories’ (12 June 2009) U.N. Doc E/C.12/GBR/CO/5, para. 16

⁴⁹ CESCR, ‘List of issues in relation to the seventh periodic report of United Kingdom of Great Britain and Northern Ireland’ (23 March 2023) U.N. Doc E/C.12/GBR/Q/7, paras. 8, 29

⁵⁰ See, <https://www.gov.uk/the-warm-home-discount-scheme>; The government also provides financial support to older persons to assist with the payment of energy bills in the winter months, however this scheme was recently significantly scaled back to only cover those who have reached pension age and are in receipt of means tested benefits. See, <https://www.gov.uk/winter-fuel-payment>

⁵¹ Zoe Wood, ‘Warm home discount scheme leaves people in Britain out in the cold’ (The Guardian, 9 January 2023) online at: <https://www.theguardian.com/money/2023/jan/09/warm-home-discount-scheme-britain>

⁵² Antony Seely and Andrew Keep, ‘Research briefing: Taxation of North Sea oil and gas’ (House of Commons Library, 29 November 2024) online at: <https://commonslibrary.parliament.uk/research-briefings/sn00341/>

⁵³ Uplift, ‘The way the UK taxes oil companies needs to change’ (14th November 2024) online at: <https://www.upliftuk.org/post/the-way-the-uk-taxes-oil-companies-needs-to-change>

⁵⁴ (n52)

liability.⁵⁵ Whilst positive, the Government must clearly evidence how it intends to use these additional funds to alleviate household fuel poverty and should commit to imposing even greater levels of windfall and other taxation on fossil fuel companies to fund vital household energy cost reduction and efficiency programs in line with its Article 2.1 obligations.

Climate change mitigation and adaptation

Background and main issues

16. Heating homes accounts for a significant proportion of GHG emissions in the UK.⁵⁶ It is generally agreed that the improvement of energy efficiency standards in buildings is an essential part of decarbonizing the sector; however, it is recognized that this by itself is not sufficient, and the sources of domestic heating must be decarbonized.⁵⁷ In the UK, improving the energy efficiency of the housing stock (together with the decarbonization of heating) is seen as a key measure necessary to meet the State Party's net zero target.⁵⁸
17. Whilst the UK Government and the devolved administrations in Scotland, Wales and Northern Ireland have each implemented policies designed to decarbonize the built environment, these efforts have been recognised as lacking in both efficacy and expediency. In this regard, independent experts have noted that the Future Homes Standard, due to be introduced in England from 2025, is "insufficient to significantly improve the performance of new homes"⁵⁹ and that a "further iteration" of the Standard will be required to ensure new buildings have better low-carbon specifications by 2028.⁶⁰ Equally, the Commons Environmental Audit Committee has noted that the UK's existing plans fail to set targets for embodied carbon,⁶¹ whilst the Government's own climate advisory body, the Climate Change Committee ("CCC"), have stated that there is a lack of planning for the reduction of Whole Life Carbon in new homes.⁶²
18. Crucially, the CCC recently emphasized that the pace of emissions reduction in the buildings sector is insufficient to meet the UK's 2030 Nationally Determined Contribution, or its net zero target.⁶³ Among the gaps identified by the CCC in decarbonizing the sector are missing or incomplete policies on energy efficiency.⁶⁴ Indeed, the UK's net zero policy has recently been ruled by the High Court to fall short of the standard set by the UK's climate law,⁶⁵ and the State Party's planning

⁵⁵ See, HM Treasury, 'Policy paper: Changes to the Energy (Oil and Gas) Profits Levy' (29 July 2024) online at: <https://www.gov.uk/government/publications/july-statement-2024-changes-to-the-energy-oil-and-gas-profits-levy/changes-to-the-energy-oil-and-gas-profits-levy>

⁵⁶ National Audit Office, 'Decarbonising home heating' (NAO, 18 March 2024) online at: <https://www.nao.org.uk/reports/decarbonising-home-heating/>, p. 14

⁵⁷ International Energy Agency, '7th Annual Global Conference on Energy Efficiency: The value of urgent action on energy efficiency' (2022) online at: <https://www.iea.org/reports/the-value-of-urgent-action-on-energy-efficiency>; IPCC, 2023: 'Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change' [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 35-115, doi: 10.59327/IPCC/AR6-9789291691647

⁵⁸ Nuala Burnett, Suzanna Hinson, Iona Stewart, 'The UK's plans and progress to reach net zero by 2050' (House of Commons Library, 26 September 2024) online at: <https://commonslibrary.parliament.uk/research-briefings/cbp-9888/>, p.16

⁵⁹ See, Georgia Rowe and Felicia Rankl, 'Research briefing: Housing and net zero' (8 July 2024) online at: <https://researchbriefings.files.parliament.uk/documents/CBP-8830/CBP-8830.pdf>

⁶⁰ See, Letter to Michael Gove MP from Sue Riddlestone, Lynne Sullivan, Simon McWhirter, and Clara Bagenal George (27 March 2024) online at: <https://goodhomes.org.uk/wp-content/uploads/2024/04/Future-Homes-Standard-Consultation-response-FAQ-The-Rt-Hon-Michael-Gove-MP.pdf>

⁶¹ House of Commons Environmental Audit Committee, 'Building to net zero: costing carbon in construction' (26 May 2022) online at: <https://committees.parliament.uk/publications/22427/documents/165446/default/>, para 2

⁶² Ibid., para. 22

⁶³ Climate Change Committee, 'Progress in reducing emissions: 2024 report to Parliament' (18 July 2024) online at: <https://www.theccc.org.uk/publication/progress-in-reducing-emissions-2024-report-to-parliament/>, p. 8

⁶⁴ Ibid., p. 71

⁶⁵ *Friends of the Earth v Secretary of State for Energy Security and Net zero* [2024] EWHC 995 (Admin)

policy with respect to the energy efficiency of buildings is currently being challenged in the Court of Appeal by several prominent civil society organizations.⁶⁶

19. Another issue surrounding the decarbonization of housing is the UK's upcoming decision on the strategic role of hydrogen. In 2026, the Government is due to make a final decision on whether hydrogen gas will have a role to play in decarbonizing home heating, and, if so, what this role will be.⁶⁷ To this end, the UK was initially planning to run a number of local 'Village Trials', whereby hydrogen gas would be used to supply a limited number of participating households.⁶⁸ However, many of the planned trials were subsequently cancelled, and the Fife trial in Scotland is the only one still going ahead as of January 2025.⁶⁹ At the same time, the National Audit Office recently reported that the existing uncertainty surrounding the role of hydrogen could slow the necessary progress in decarbonizing home heating.⁷⁰ A widespread view is that hydrogen gas should be preserved for use in sectors which have no other decarbonization option, such as aviation and shipping,⁷¹ and that the electrification of heating (i.e., the use of heat pumps) is the preferred method to decarbonize the bulk of the housing stock in the UK.⁷² Furthermore, the existing evidence base of peer-reviewed research suggests that heating with hydrogen is not practical or scalable,⁷³ and direct comparisons of hydrogen heating and electrification consistently show that electrification is the more feasible, efficient, and cost-beneficial option.⁷⁴
20. Additionally, the current lack of adequate tenant protections in the UK is a significant cause for concern and may negatively impact on the enjoyment of the human right to housing, particularly in the context of the ongoing need for decarbonization in the private rental sector. In particular, the UK Government has yet to pass legislation preventing the use of section 21 'no fault evictions', wherein no reason is required to be given by a landlord to evict a tenant once their fixed contract

⁶⁶ Leigh Day, 'Rights Community Action can appeal judgment restricting green planning ambitions' (19 November 2024) online at: <https://www.leighday.co.uk/news/news/2024-news/rights-community-action-can-appeal-judgment-restricting-green-planning-ambitions/>;

Green Alliance, 'Green Alliance granted permission to intervene in legal case threatening environmental principles' (18 November 2024) online at: <https://green-alliance.org.uk/press-release/green-alliance-granted-permission-to-intervene-in-legal-case-threatening-environmental-principles/>;

Office for Environmental Protection 'OEP has permission to intervene in appeal on how government departments should consider environmental issues' (19 November 2024) online at: <https://www.theoep.org.uk/news/oep-has-permission-intervene-appeal-how-government-departments-should-consider-environmental>

⁶⁷ Department for Energy Security and Net zero, 'Hydrogen heating: overview' (18 March 2024) online at: <https://www.gov.uk/government/publications/hydrogen-heating-overview/hydrogen-heating-overview--2>

⁶⁸ Department for Energy Security and Net Zero and Department for Business, Energy and Industrial Strategy, 'Energy Security Bill factsheet: Enabling the Hydrogen Village trial' (1 September 2023) online at: <https://www.gov.uk/government/publications/energy-security-bill-factsheets/energy-security-bill-factsheet-enabling-the-hydrogen-village-trial>

⁶⁹ Department for Energy Security and Net Zero, 'Hydrogen heating: overview' (17 December 2024) online at: <https://www.gov.uk/government/publications/hydrogen-heating-overview/hydrogen-heating-overview--2>

⁷⁰ National Audit Office, 'Decarbonising home heating' (18 March 2024) online at: <https://www.nao.org.uk/reports/decarbonising-home-heating/>, p. 7

⁷¹ Energy Crisis Commission, 'Protecting the UK from a future energy crisis' (October 2024) online at: <https://energycrisiscommission.uk/wp-content/uploads/2024/10/energy-crisis-commission-report-october-2024.pdf>, p.67

⁷² National Infrastructure Commission, 'Technical annex: hydrogen heating' (October 2023) online at: <https://nic.org.uk/app/uploads/NIA-2-Technical-annex-hydrogen-heating-Final-18-October-2023.pdf>, p.4

⁷³ Jan Rosenow, 'A meta-review of 54 studies on hydrogen heating' (Cell Press, 2024) <https://doi.org/10.1016/j.crsus.2023.100010>;

Paul Martin, Ilissa B. Ocko, Sofia Esquivel-Elizondo, Roland Kupers, David Cebon, Tom Baxter, Steven P. Hamburg, 'A review of challenges with using the natural gas system for hydrogen' (Energy Science and Engineering, 18 August 2024) <https://doi.org/10.1002/ese3.1861>

⁷⁴ Andrei David Korberg, Jakob Zinck Thellufsen, Iva Ridjan Skov, Miguel Chang, Susana Paardekooper, Henrik Lund, Brian Vad Mathiesen, 'On the feasibility of direct hydrogen utilisation in a fossil-free Europe' (International Journal of Hydrogen Energy, 26 January 2023), <https://doi.org/10.1016/j.ijhydene.2022.10.170>;

Till Weidner, Gonzalo Guillén-Gosálbez, Planetary boundaries assessment of deep decarbonisation options for building heating in the European Union (Energy Conversion and Management, 15 February 2023), <https://doi.org/10.1016/j.enconman.2022.116602>;

Johannes Giehl, Jeremias Hollnagel, Joachim Müller-Kirchenbauer, 'Assessment of using hydrogen in gas distribution grids' (International Journal of Hydrogen Energy, 15 May 2023) online at: <https://api-depositonce.tu-berlin.de/server/api/core/bitstreams/4c6b38f5-6600-463c-a244-d8c6d4f2e95d/content>

has ended.⁷⁵ This makes it extremely easy for landlords to remove households and replace them with new tenants paying inflated rents. In the context of decarbonization, UK housing law allows tenants to remain in properties which are being renovated, unless there is no possible way to do the renovation works with the tenant in situ.⁷⁶ However, once fixed-term contracts have ended, landlords are able to utilize section 21 evictions to remove tenants, renovate their properties, and rent them out at higher prices, using their new ‘green’ qualities as justification for increased rents. Similarly, the UK lacks any form of rent regulation, meaning that tenants are left to the whims of their landlords and the market when seeking housing. Whilst the authors welcome the Government’s proposed introduction of a Renters’ Bill of Rights, which, amongst other protections, bans no-fault evictions,⁷⁷ this is unlikely to be passed into law until mid-2025,⁷⁸ and a lack of interim protections has led to a rise in section 21 evictions as landlords seek to remove tenants whilst they can do so easily.⁷⁹ No fault evictions are known to be one of the leading causes of homelessness in the UK.⁸⁰

21. Institutional housing investment, discussed at paragraph 33, has also been shown to generate negative effects on climate due to investors engaging in significant levels of non-climate friendly construction of unnecessary market rate housing in order to satisfy shareholder’s profit expectations.⁸¹
22. The UK’s failure to ensure its decarbonization plans are capable of meeting, temporally and substantively, targets which are, themselves, tied to globally mandated deadlines to limit global temperature increases to the 1.5c necessary to protect human rights and well-being, represents a clear failure of the UK to progressively realize ESC rights and ensure the sustainability of buildings in line with its international obligations. In the meantime, the impacts of climate change are already being felt today.⁸² The impacts of heatwaves include declining physical and mental health, excess deaths (particularly amongst vulnerable groups), increased risk of injury, reduced maternal health, reduced productivity and other economic activity, reduced educational attainment.⁸³ The UK’s latest climate change adaptation policies are set out in the Third National Adaptation Programme (“NAP3”).⁸⁴ The NAP3 includes measures to address the impacts of climate change on the built environment, including reducing the risk of overheating.⁸⁵ The CCC has repeatedly raised concerns about the UK’s adaptation strategy being insufficient, most recently with respect to the NAP3 in March 2024.⁸⁶

Applicability of the ICESCR

⁷⁵ See, <https://www.gov.uk/evicting-tenants/section-21-and-section-8-notice>

⁷⁶ See, https://england.shelter.org.uk/housing_advice/repairs/moving_out_during_repairs

⁷⁷ Ministry of Housing, Communities & Local Government, ‘Guidance: Guide to the Renters’ Rights Bill’ (26 September 2024) online at: <https://www.gov.uk/government/publications/guide-to-the-renters-rights-bill/82ffc7fb-64b0-4af5-a72e-c24701a5f12a>

⁷⁸ See, <https://www.trowers.com/insights/2024/september/the-renters-rights-bill>

⁷⁹ Archie Mitchell, ‘Landlords rush to force out tenants ahead of Labour’s no-fault eviction ban’ (14th November 2024) The Independent, online at: <https://www.independent.co.uk/news/uk/politics/housing-eviction-section-21-labour-b2647154.html>

⁸⁰ Ibid.; See also, <https://www.shp.org.uk/homelessness-explained/section-21-no-fault-eviction-and-the-renters-rights-bill>

⁸¹ See, Julieta Perucca, Sam Freeman and Leilani Farha, ‘The True Cost of Financialization: Housing, Human Rights, and Climate Change’ (2023) 21:1 Journal of City Climate Policy and Economy 20, online at: <https://utppublishing.com/doi/pdf/10.3138/jccpe-2023-0201>

⁸² Department for Environment, Food and Rural Affairs, ‘The Third National Adaptation Programme (NAP3) and the Fourth Strategy for Climate Adaptation Reporting’ (DEFRA, 2023) online at: <https://www.gov.uk/government/publications/third-national-adaptation-programme-nap3>, p.14

⁸³ Ibid.

⁸⁴ Ministry of Justice, ‘the United Kingdom’s Response to the Committee on Economic, Social and Cultural Rights’ List of Issues Report’ (12 September 2024), p.11

⁸⁵ Department for Environment, Food and Rural Affairs, ‘The Third National Adaptation Programme (NAP3) and the Fourth Strategy for Climate Adaptation Reporting’ (DEFRA, 2023) online at: <https://www.gov.uk/government/publications/third-national-adaptation-programme-nap3>, p.77

⁸⁶ Climate Change Committee, ‘Independent assessment of the Third National Adaptation Programme’ (13 March 2024) online at: <https://www.theccc.org.uk/publication/independent-assessment-of-the-third-national-adaptation-programme/>

23. The link between the climate crisis and the enjoyment of human rights is well-established in international human rights law,⁸⁷ and climate change is accepted to have a significant effect on ESC rights.⁸⁸ Therefore, States Parties have an obligation to “adopt and implement policies aimed at reducing emissions, which reflect the highest possible ambition, foster climate resilience and ensure that public and private investments are consistent with a pathway towards low carbon emissions and climate resilient development”.⁸⁹ States have a further obligation to adapt to climate change in a manner that ensures the continuous enjoyment of human rights.⁹⁰ Indeed, climate change mitigation and adaptation have been identified in the List of Issues in relation to the present periodic review of the UK.⁹¹
24. In particular, the recognition of an obligation to minimize GHG emissions in the housing sector to ensure the enjoyment of ESC rights is in line with recent developments in international human rights law, as observed, among others, by the Committee itself.⁹² In his 2022 report, the UN Special Rapporteur on adequate housing concluded that realizing the right to adequate housing required States to reduce the carbon footprint of buildings. This includes energy efficiency measures and transitioning away from using fossil fuels for heating, which is consistent with the reference in paragraph 22 of the Committee’s Draft General Comment on ESC rights and the environmental dimension of sustainable development (‘GCSD’) to “a just and rapid energy transition”. Indeed, the GCSD recognizes that standards for the construction and renovation of homes must be adapted to minimize emissions,⁹³ reflecting the Committee’s appreciation of the nexus between mitigating GHG emissions in the housing sector and ESC rights.
25. At the same time, care must be taken to ensure that any GHG reduction measures comply with the UK’s Article 2.1 and Article 2.2 obligations to progressively realize ESC rights in full, using the maximum of available resources and all available means, without discrimination.⁹⁴ In the context of the buildings sector, any decarbonization measures implemented in the buildings sector must not negatively impact other aspects of housing adequacy, including the affordability of housing (i.e., green gentrification).⁹⁵
26. Separately, States Parties have an obligation to reduce GHG emissions in a manner that is consistent with the best scientific evidence available.⁹⁶ Indeed, in the GCSD, the Committee affirms that “with regard to new technologies with unknown adverse effects on human rights [...] States have a particular duty of care and obligation to rigorously apply the precautionary principle.”⁹⁷ Applied to

⁸⁷ United Nations General Assembly, ‘The human right to a clean, healthy and sustainable environment’ (26 July 2022) U.N. Doc A/76/L.75

⁸⁸ Committee on the Elimination of Discrimination Against Women, Committee on Economic, Social and Cultural Rights, Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, Committee on the Rights of the Child, Committee on the Rights of Persons with Disabilities, ‘Joint statement on “Human Rights and Climate Change”’ (16 September 2019) online at: <https://www.ohchr.org/en/statements/2019/09/five-un-human-rights-treaty-bodies-issue-joint-statement-human-rights-and>

⁸⁹ Ibid., para. 2

⁹⁰ CESCR, ‘Climate change and the International Covenant on Economic, Social and Cultural Rights’ (31 October 2018) U.N. Doc. E/C.12/2018/1, para. 7

⁹¹ CESCR, ‘List of issues in relation to the seventh periodic report of United Kingdom of Great Britain and Northern Ireland’ (23 March 2023) U.N. Doc E/C.12/GBR/Q/7, para. 7

⁹² CESCR, ‘Climate change and the International Covenant on Economic, Social and Cultural Rights’ (31 October 2018) U.N. Doc. E/C.12/2018/1, para. 9

⁹³ CESCR, ‘Draft General Comment on economic, social and cultural rights and the environmental dimension of sustainable development’ (05 November 2024), para. 68.

⁹⁴ (n92) para. 4

⁹⁵ Jesse M. Keenan, Thomas Hill and Anurag Gumber, “Climate gentrification: from theory to empiricism in Miami-Dade County, Florida”, *Environmental Research Letters*, vol. 13 (2018)

⁹⁶ CESCR, ‘Climate change and the International Covenant on Economic, Social and Cultural Rights: Statement of the Committee on Economic, Social and Cultural Rights’ (8 October 2018) online at: <https://www.ohchr.org/en/statements/2018/10/committee-releases-statement-climate-change-and-covenant>, para. 5

⁹⁷ CESCR, ‘Draft General Comment on economic, social and cultural rights and the environmental dimension of sustainable development’ (05 November 2024), para. 36

hydrogen heating, in the absence of scientific consensus on the ability of this nascent technology to effectively and safely support the decarbonization of domestic heating, it is incumbent on the UK to ensure that the role of such technology in the net zero policy is minimized to the extent possible.

27. Regarding climate change adaptation, the importance of insulation is recognized by human rights bodies, including the Committee itself.⁹⁸ With housing adequacy requiring housing to protect inhabitants from inclement weather conditions, including heat and cold,⁹⁹ the lack of appropriate insulation of the housing stock in the UK risks the State Party falling short of the standards with respect to climate change adaptation as set out in international human rights law.
28. It is the view of the authors that whilst the UK has taken some positive steps to push forward the decarbonization of the built environment, the State Party has not made, and is not likely to make, sufficient progress to limit global temperature rises within recognised time limits, is allocating insufficient resources to the endeavour, and is failing to adequately protect ESC rights in the process. Similarly, the State's continued engagement in housing policies which generate human rights and environmental harms represents a clear failure to progressively realize the ESC rights of those within its jurisdiction.

Inadequate resource expenditure and the misallocation of resources

29. As the State with the 6th largest GDP,¹⁰⁰ the UK holds significant economic power for the achievement of ESC rights and building decarbonization. However, UK Government expenditure is clearly misaligned with the obligation to use the maximum of available resources to realize the right to adequate housing whilst promoting sustainability and decarbonization.
30. As of 2024/25, the combined budgetary allocation for the central Government departments dealing with housing, communities, energy security, and achieving net zero amounted to £20.7bn.¹⁰¹ In 2022/23, £2.44bn was allocated to local authorities to help them tackle homelessness.¹⁰² These levels of expenditure are likely to be wholly inadequate to tackle climate change and promote the human right to adequate housing.
31. Estimates suggest that if the UK is to achieve net zero by 2050 it will require Government expenditure of between £50bn-£70bn per annum.¹⁰³ However, as of 2023/24, DESNZ had its real terms budget reduced from £20.6bn to just £6.4bn.¹⁰⁴ Even with projected annual increases, spending remains significantly below required levels and wholly insufficient to meet the UK's net zero target. Budget allocation for the creation of new social housing has amounted to an average of £2.5bn per annum between the funding period of 2021-2026, yet UK housing associations have made clear they need at least £6.6bn per year to meet affordable housing need and carry out essential

⁹⁸ Ibid., para. 67; CESCR, 'Climate change and the International Covenant on Economic, Social and Cultural Rights' (31 October 2018) U.N. Doc. E/C.12/2018/1, para. 9

⁹⁹ CESCR, 'General Comment No 4: The Right to Adequate Housing' (13 December 1991) U.N. Doc E/1992/23, para. 8(d)

¹⁰⁰ See, <https://www.investopedia.com/insights/worlds-top-economies/>

¹⁰¹ Philip Brien, 'Public spending: a brief introduction' (3 September 2024) online at: <https://researchbriefings.files.parliament.uk/documents/CBP-8046/CBP-8046.pdf>, p. 12. These figures are indicative of the weight the UK's central government gives to these budget lines. It should be noted that given housing is a devolved power in the UK with funding being allocated to housing projects from local government funds.

¹⁰² National Audit Office, 'The effectiveness of government in tackling homelessness', (Session 2024/2025), online at: <https://www.nao.org.uk/wp-content/uploads/2024/07/effectiveness-of-government-in-tackling-homelessness-summary.pdf>, p. 5

¹⁰³ The Climate Change Committee say £50bn, others say £70bn, see: <https://www.lse.ac.uk/granthaminstitute/news/costs-and-benefits-of-the-uk-reaching-net-zero-emissions-by-2050-the-evidence/>

¹⁰⁴ HM Treasury, 'Public spending statistics: July 2024' (30 August 2024) online at: <https://www.gov.uk/government/statistics/public-spending-statistics-release-july-2024/public-spending-statistics-july-2024>

upgrading on their aging housing stock.¹⁰⁵ Despite the need to increase funding for the creation of social homes, the UK Government continues to utilize vast levels of public funding housing often vulnerable, low-income tenants in private rental housing where they are frequently subject to poor housing conditions, heightened insecurity and predatory landlords (see paragraph 6). Analysis from 2023 by the Mayor of London found that across England, £1.6bn per year in public funds was being used to house low-income tenants in ‘non-decent’¹⁰⁶ private rental housing.¹⁰⁷ Investing in social housing would ensure that rental incomes are retained by local councils who can use these towards upgrades and increasing supply where necessary. Homelessness data also highlights the insufficiency of the UK’s expenditure on housing, with homelessness having increased significantly in recent years. In 2021/22, official statistics show that 278,110 people in England were assessed as being homeless.¹⁰⁸ In 2022/23, this had increased to 298,430 individuals.¹⁰⁹ In 2023/24, levels of homelessness had reached 324,990 people.¹¹⁰ Year-on-year increases have also been seen in Scotland,¹¹¹ Wales,¹¹² and Northern Ireland.¹¹³ Across the UK, 1-in-200 households are currently experiencing homelessness¹¹⁴ and between March 2023 and March 2024 the number of households living in temporary accommodation in England increased by 12.3%,¹¹⁵ with the number of children in temporary accommodation in this period rising by 14.7%.¹¹⁶

32. Despite not allocating sufficient resources to achieve decarbonization and realize the right to housing, the UK Government continues to spend a large proportion of its overall budget in areas unrelated to human rights and climate, in particular on defence where it exceeds the 2% of GDP spending commitment required as a result of its membership of NATO. In 2024/25 UK committed defence spending amounts to £56.9bn,¹¹⁷ or around 2.3% of total GDP. The Government has also recently pledged to work towards increasing defence spending to 2.5% of GDP.¹¹⁸ Increasing

¹⁰⁵ Joely Santa Cruz, ‘Raise funding for social homes or fail to meet building targets, housing sector warns government’ (Sky News, 26 October 2024) online at: <https://news.sky.com/story/raise-funding-for-social-homes-or-fail-to-meet-building-targets-housing-sector-warns-government-13241108>

¹⁰⁶ ‘Non-decent’ is a term used by the UK Government to describe homes that pose a risk to the lives, health and well-being of their inhabitants. See: Department for Communities and Local Government, ‘A Decent Home: Definition and guidance for implementation’ (June 2006) online at: <https://assets.publishing.service.gov.uk/media/5a7968b740f0b63d72fc5926/138355.pdf>, pp. 11-12

¹⁰⁷ Stephen Delahunty, ‘£1.6bn in housing benefit paid to private landlords for non-decent homes, research reveals’ (Inside Housing, 18 April 2023) online at: <https://www.insidehousing.co.uk/news/16bn-in-housing-benefit-paid-to-private-landlords-for-non-decent-homes-research-reveals-81194>

¹⁰⁸ Department for Levelling Up, Housing & Communities, ‘Statutory Homelessness Annual Report 2021-22, England’ (22 September 2022) online at: https://assets.publishing.service.gov.uk/media/632b1bf5d3bf7f75c989d925/Annual_Statutory_Homelessness_release_2021-22.pdf

¹⁰⁹ See, Department for Levelling Up, Housing & Communities, ‘Statutory homelessness in England: Financial year 2022-23’ (6 November 2023), online at: <https://www.gov.uk/government/statistics/statutory-homelessness-in-england-financial-year-2022-23/statutory-homelessness-in-england-financial-year-2022-23>

¹¹⁰ Ministry for Housing, Communities and Local Government, ‘Statutory homelessness in England: financial year 2023-24’ (3 October 2024) online at: <https://www.gov.uk/government/statistics/statutory-homelessness-in-england-financial-year-2023-24>

¹¹¹ See, <https://www.gov.scot/collections/homelessness-statistics/>

¹¹² See, <https://www.gov.wales/homelessness-statistics>

¹¹³ See, Homeless Connect, ‘Latest NI homelessness statistics show need for action from NI Executive’ (14th March 2024) online at: <https://homelessconnect.org/latest-ni-homelessness-statistics-show-need-for-action-from-ni-executive/>

¹¹⁴ See, John Burn-Murdoch, ‘Why Britain is the world’s worst on homelessness’ (Financial Times, 16 May 2024) online at: <https://www.ft.com/content/24117a03-37c2-424a-97ed-6a5292f9e92e>

¹¹⁵ See, <https://www.gov.uk/government/statistics/statutory-homelessness-in-england-financial-year-2023-24/statutory-homelessness-in-england-infographic-2023-24>

¹¹⁶ Liam Geraghty, ‘Homelessness facts and statistics: the numbers you need to know in 2024’ (The Big Issue, 29 November 2024) online at: <https://www.bigissue.com/news/housing/britains-homelessness-shame-cold-hard-facts/>; It should be noted that these figures are based on official data, which typically only counts those who have approached local authorities for housing assistance as homeless, and the true scale of homelessness in the UK is likely to be significantly higher.

¹¹⁷ Esme Kirk-Wade, ‘UK defence spending’ (4th December 2024) online at: <https://researchbriefings.files.parliament.uk/documents/CBP-8175/CBP-8175.pdf>, p. 4

¹¹⁸ Prime Minister’s Office and Rt Hon Sir Keir Starmer KCB KC MP, ‘Press release: PM says step up in defence spending can safeguard the future of NATO’, online at: <https://www.gov.uk/government/news/pm-says-step-up-in-defence-spending-can-safeguard-the-future-of-nato>

defence spending whilst allocating inadequate resources to improving the enjoyment of human rights and mitigating climate change breach the UK's Article 2.1 obligations

33. The UK Government may also be in breach of its Article 2.1 commitments through its ongoing failure to maximize the resources it could have available to realize human rights and achieve net zero. In this regard, the UK continues to encourage investors to act as housing providers across different tenures including social and affordable housing, market housing, student housing and long-term care homes, and has recently sought to increase investors' role in housing delivery.¹¹⁹ To encourage private housing investment, the UK has long provided tax advantages to housing investors. In this regard, the UK continues to allow the use of real estate investment trusts ("REITs") in order to hold and profit from housing, and provides these vehicles with significant tax advantages including a complete exemption from tax on profits and capital gains as long as qualifying conditions are met.¹²⁰ Whilst analysis of the cost of this exemption to the UK economy has not been undertaken, research on the same issue in Canada found the Government would net significant additional revenue from removing tax exemptions for REITs.¹²¹ Additionally, whilst the Government has tightened existing tax rules related to carried interest,¹²² it has only proposed increasing the tax on carried interest from 28% to 32%, which is still well below the UK's current higher and additional rates of income tax.¹²³
34. The loss of resources that results from these policies is particularly egregious given the evidence suggesting the negative impact investors have had on the enjoyment of the human right to housing and on the right to a healthy environment in the UK. Where institutional investors are involved in housing delivery this often leads to degraded housing habitability, growing unaffordability, increasing insecurity,¹²⁴ and a decline in housing availability as investors reposition affordable housing into market rate housing.¹²⁵ Failing to equitably tax investors on the profits they derive from housing therefore constrains the State's resources, prevents additional spending on the realization of human rights and environmental protections, whilst, in some cases, privileging those who are actively harming the UK housing system. To comply with its human rights duties to progressively realize the human rights of all people and to protect them from harm to their human rights caused by private actors, the UK Government must equitably tax housing investors and take immediate action to definancialize its housing sector. It must also ensure, in law, that all private housing actors and investors act in accordance with human rights.¹²⁶

¹¹⁹ HM Treasury and The Rt Hon Rachel Reeves MP, 'Speech: Chancellor Rachel Reeves is taking immediate action to fix the foundations of our economy' (8 July 2024) online at: <https://www.gov.uk/government/speeches/chancellor-rachel-reeves-is-taking-immediate-action-to-fix-the-foundations-of-our-economy>

¹²⁰ See, Pinsent Masons, 'UK tax treatment of REITs' (28 August 2024) online at: <https://www.pinsentmasons.com/out-law/guides/tax-treatment-of-reits>

¹²¹ Eskandar Elmarzougui, 'Cost of removing the tax exemptions for Real Estate Investment Trusts' (Office of the Parliamentary Budget Officer (Canada), 3 April 2023) online at: <https://www.pbo-dpb.ca/en/publications/RP-2324-001-M--cost-removing-tax-exemptions-real-estate-investment-trusts--estimation-couts-elimination-exemptions-fiscales-accordees-fiducies-placement-immobilier>

¹²² Carried interest is a fundamental aspect of private equity investing and represents the percentage of investment profits that fund managers take as personal income.

¹²³ Helen de Beer, 'What the UK carry tax increase means for private equity' (30 October 2024) Private Equity International, online at: <https://www.privateequityinternational.com/uk-pe-industry-reacts-to-carried-interest-rate-hike/>; Higher and Additional Rate income tax are set at 40% for income over £50,271 and 45% for income over £125,140 respectively.

¹²⁴ See, UN Special Rapporteur on the right to adequate housing, 'Report on the financialization of housing' (18 January 2017) UN Doc A/HRC/34/51, online at: <https://documents.un.org/doc/undoc/gen/g17/009/56/pdf/g1700956.pdf>

¹²⁵ See, for example, UN Special Rapporteur on the right to adequate housing, Communication to the Government of the United States of America, (22 March 2019) online at: https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Financialization/OL_USA_10_2019.pdf, pp. 3-4; Leilani Farha, Sam Freeman and Manuel Gabarre de Sus, 'The Shift Directives: From Financialized to Human Rights-Based Housing' (2022, updated October 2024) online at: <https://make-the-shift.org/wp-content/uploads/2024/10/The-Shift-Directives.pdf>, p. 5

¹²⁶ For details on how the UK Government can undertake this, see Leilani Farha, Sam Freeman and Manuel Gabarre de Sus, 'The Shift Directives: From Financialized to Human Rights-Based Housing' (2022, updated October 2024) online at: <https://make-the-shift.org/wp-content/uploads/2024/10/The-Shift-Directives.pdf>

Conclusion

35. Ensuring the decarbonization of the built environment whilst progressively realizing the human right to housing and other ESC rights must be a key priority for the UK Government. Whilst some progress has been made to this end, it has been too slow and disjointed, and inadequate resources are being assigned to the task. As long as the UK retains the capacity and resources to implement human rights-compliant housing and decarbonization policies and fails to do so effectively and expediently, it may be in breach of its human rights obligations. The UK must, therefore, urgently reevaluate its existing policies to ensure these comply with its human rights obligations and commit far greater resources and capacity to realizing ESC rights in full, for all, whilst decarbonizing its buildings.