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Executive Summary:

- The rehousing of rough sleepers under COVID-19 implicates the right to adequate housing and associated human rights.
- The Committee ought to seek evidence specifically on rights-related dimensions to effectiveness of the Government's rehousing program, including the extent to which: the safety of particularly vulnerable groups has been prioritised; the numbers of rough sleepers are being adequately monitored; and the program is capable of providing long-term rights protections.

1. Housing rough sleepers as a matter of human rights protection

1.1 The United Kingdom is a party to the International Covenant on Economic, Social and Cultural Rights.¹ Among other things, the Covenant protects the right to adequate housing.² The extent to which government responses to the COVID-19 pandemic work to protect individual rights, and particularly those rights most implicated in situations of homelessness or housing precarity, is a critical factor when considering the effectiveness of those responses. We draw the Committee's attention to the statement of the UN Committee on Economic, Social and Cultural Rights to the effect that:

The pandemic has profoundly negative impacts on the enjoyment of economic, social and cultural rights....States parties are under an obligation to take measures to prevent, or at least to mitigate, these impacts. Nevertheless, if States do not act within a human rights framework, there exists a clear risk that the measures taken might

¹ The United Kingdom ratified the Covenant in 1976.

² Article 11(1), International Covenant on Economic, Social and Cultural Rights: States parties "recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions".

violate economic, social and cultural rights and increase the suffering of the most marginalized groups.³

1.2 We note the recommendations of the House of Commons Housing, Communities and Local Government Committee in *Protecting Rough Sleepers and Renters: Interim Report*⁴ and echo the Committee's call for urgent consideration and action of its recommendations. We note also the Government's response to the interim report.⁵ We recognise that the actions taken are significant in protecting, respecting, and fulfilling individual rights. However, we note also that neither the Committee in its interim report, nor the Government in its response, framed and recognised actions addressing the impact of COVID-19 on tenants, landlords, rough sleepers and the homeless through the lens of human rights.⁶ We also note this Committee's call for evidence does not refer to human rights, either in relation to the issue of rough sleeping or assessing the adequacy of the Government's rehousing program. We respectfully submit that human rights offer a valuable and important additional lens that allows for a more comprehensive consideration of the effects and effectiveness of government responses, and that a rights-based approach should inform future responses as the pandemic and its socio-economic and society effects develop further.

1.3 Taking the UK's international human rights law obligations into account, the effectiveness of the Government's rehousing scheme ought to be considered by this Committee as a matter of rights protection, as well as of social and economic policy and public health. We note in particular the state's international obligation to achieve progressively the realisation of rights protected by the International Covenant on Economic, Social and Cultural Rights⁷ and the international prohibition on retrogression.⁸ The combined effect of these doctrines is to obligate the state to ensure responses to the COVID-19 pandemic further the realisation of, and do not have the design or effect of reducing, the protection and enjoyment of socio-economic rights, including the right to adequate housing.

2. Rough Sleeping and Human Rights under the COVID-19 Pandemic

³ UN Committee on Economic, Social and Cultural, Rights, "Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights", UN Doc. E/C.12/2020/1, para. 2.

⁴ House of Commons Housing, Communities and Local Government Committee, *Protecting Rough Sleepers and Renters: Interim Report*. First Report of Session 2019-21. HC 309 (2020).

⁵ Government Response to the Housing, Communities and Local Government Select Committee Report on Protecting Rough Sleepers and Renters. CP 248 (2020).

⁶ The Government response makes no reference to human rights. The Committee report refers only to the property rights of landlords under Article 1, Protocol 1 of the European Convention on Human Rights (HC 309 (2020), para. 33).

⁷ Article 2(1), International Covenant on Economic, Social and Cultural Rights.

⁸ UN Committee on Economic, Social and Cultural Rights, *General Comment No 3: The Nature of States Parties Obligations*, 14 December 1990, at para 9; Committee on Economic, Social and Cultural Rights, *General Comment No 13: The Right to Education*, 8 December 1999, at para 45.

2.1 Protecting the right to adequate housing requires the fulfilment of a number of basic requirements. The UN Committee on Economic, Social and Cultural Rights has made clear that “the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity”.⁹ Furthermore, the right to adequate housing implicates other rights such as the right to equality and non-discrimination, the right to freedom of expression, and the right to association.¹⁰

2.2 Reflecting this, housing is not adequate unless its occupants have access to safe and adequate services including sanitation, heating and energy.¹¹ Adequacy also entails affordability,¹² habitability,¹³ accessibility,¹⁴ appropriate location,¹⁵ and cultural adequacy.¹⁶ The UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Leilani Farha, writes that homelessness should be understood as encompassing the absence of a home (i.e. of minimally adequate housing and of the social aspect of a secure place to establish relationships and participate in community life), and as a form of systemic discrimination and social exclusion.¹⁷

2.3 In order to ensure that its rehousing program respects, protects and fulfils the human rights of rough sleepers, it ought to be designed with these basic human rights obligations in mind. Furthermore, human rights requires the state to be

⁹ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 7.

¹⁰ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 9.

¹¹ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(b).

¹² UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(c).

¹³ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(d).

¹⁴ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(e).

¹⁵ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(f): “Adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants”.

¹⁶ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(g).

¹⁷ Report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context (2015). UN Doc. A/HRC/31/54, para. 17.

attentive to the rights of those with particular vulnerabilities. As made clear by the UN Committee on Economic, Social and Cultural Rights:

States parties are under an obligation to devote their maximum available resources to the full realization of all economic, social and cultural rights, including the right to health. As this pandemic and the measures taken to combat it have had a disproportionately negative impact on the most marginalized groups, States must make every effort to mobilize the necessary resources to combat COVID-19 in the most equitable manner, in order to avoid imposing a further economic burden on these marginalized groups. Allocation of resources should prioritize the special needs of these groups.¹⁸

2.4 While the Government's rehousing program represents a crucial step towards ensuring that the right to adequate housing is protected in the UK, its adequacy and effectiveness must be understood against these human rights obligations. States are obliged to engage in effective monitoring of the situation with respect to housing.¹⁹ Indeed, this Committee's work contributes to the fulfilment of this obligation, reinforcing the importance of framing inquiries in a rights-based manner.

3. Effectiveness of the Government's Rehousing Program and Human Rights

3.1 Following from the preceding sections, we submit that full consideration of effectiveness requires engagement with questions of rights. In particular, it requires a consideration of the extent to which the support provided by the Government has:

- (a) Provided individuals not only with housing but adequate housing, which provides access to safe and adequate services including sanitation, heating and energy,²⁰ and is generally habitable,²¹ accessible,²² in an appropriate location,²³ and culturally adequate.²⁴

¹⁸ UN Committee on Economic, Social and Cultural, Rights, "Statement on the coronavirus disease (COVID-19) pandemic and economic, social and cultural rights", UN Doc. E/C.12/2020/1, para. 14.

¹⁹ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 13.

²⁰ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(b).

²¹ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(d).

²² UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(e).

²³ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 8(f): "Adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants".

²⁴ UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to

- (b) Given due priority to particularly vulnerable social groups;
- (c) Adequately monitored the numbers of rough sleepers in the country, identified their particular needs, and ascertained and adjusted the scheme by reference to the extent of their access to housing under the rehousing program;
- (d) Been adapted in response to rights-related gaps or shortcomings that have been identified by, *inter alia*, civil society, independent agencies, and Parliamentary inquiries;
- (e) Is sufficient to protect the right to housing of rough sleepers over the long-term, rather than as a temporary solution.

3.2 With respect of the protection of particularly vulnerable groups under the rehousing program, we note the National Audit Office's recent findings that certain vulnerable groups are faced with particular challenges under the program, and that those challenges are currently not being addressed.²⁵ For example, those with no recourse to public funds are faced with particular difficulties moving from emergency accommodation into the private rental sector, as they have no access to benefits. The NAO report states that almost half of those remaining in emergency accommodation in September last year were ineligible for benefits.²⁶

3.3 Recent figures published around the rehousing programme suggest there may be significant problems with the Government's monitoring of rough sleepers and access to the rehousing programme. The numbers of rough sleepers who have accessed the program are significantly higher than the number of rough sleepers originally recorded when the Government assessed rough sleepers' needs. In November 2019 the government's annual headcount of the number of rough sleepers estimated that there were 4,266 people sleeping rough on a single night.²⁷ However, by the end of November 2020 the number of people helped under Government's rehousing program was more than 33,000.²⁸ This raises serious questions regarding the particular methods currently being used to monitor the existence of, and support given to, rough sleepers.

3.4 We further note that the extent to which the rehousing program serves as a long-term solution for the protection of the right to adequate housing of rough sleepers is not yet clear. The recent NAO report on the program states that there is an 'ongoing need' for a review of the rehousing program as it is out of step with the Government's target to end rough sleeping by 2024.²⁹

Adequate Housing (1991). UN Doc. E/1992/23, para. 8(g).

²⁵See National Audit Office, 'Investigation into the housing of rough sleepers during the COVID-19 pandemic' (January 2021), available at: <https://www.nao.org.uk/wp-content/uploads/2021/01/Investigation-into-the-housing-of-rough-sleepers-during-the-COVID-19-pandemic.pdf>.

²⁶ Ibid, paras 2.10 to 2.13.

²⁷ Ibid, paras 2.1 – 2.4.

²⁸ Ibid.

²⁹ Ibid, page 10.

4. Conclusion

4.1 We urge the Committee to take account of the findings of the Joint Committee on Human Rights, although we note also that the Committee's report on *The Government's Response to COVID-19: Human Rights Obligations* did not engage with the full range of implications for socio-economic rights.³⁰ We stress that questions of rights-related impacts are not limited to the Joint Committee on Human Rights or other dedicated human rights-fora. Rather, they are relevant to the work of all of Government and, thus, to all parliamentary entities engaged in ensuring accountability for, effectiveness of, and legitimacy of Government action, including its responses to the COVID-19 pandemic. Reviews and inquiries that fail to take rights-implications into account risk missing an important part of the analysis of the in/effectiveness of pandemic responses, including financial and economic interventions.

4.2 We respectfully submit that the Committee ought to seek evidence on the rights-related impacts of Government rehousing program in order to make a comprehensive assessment of effectiveness. We especially note the importance of enabling full participation in such inquiries, particularly given the internationally protected right to equal participation in public affairs.³¹ This ought to include ensuring the accessibility of its inquiries for persons with disabilities,³² those for whom English is not a first language, and those less accustomed to engaging with formal processes of this kind.

About Us

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³⁰ Joint Committee on Human Rights, *The Government's Response to COVID-19: Human Rights Implications*, 7th Report of Session 2019-21. HC 265. The report engages extensively with civil and political rights, the right to health (Chapter 4), and the right to education (Chapter 7), but less so with socio-economic well-being, poverty, and the right to an adequate standard of living.

³¹ Article 25, International Covenant on Civil and Political Rights. The UN Committee on Economic, Social and Cultural, Rights has noted in particular that "full enjoyment of other rights...such as...the right to participate in public decision making...is indispensable if the right to adequate housing is to be realized and maintained by all groups in society" (UN Committee on Economic, Social and Cultural, Rights, General Comment No. 4: The Right to Adequate Housing (1991). UN Doc. E/1992/23, para. 9).

³² Article 29, Convention on the Rights of Persons with Disabilities.

The **COVID-19 Review Observatory** is a UKRI-funded research initiative located at Birmingham Law School, University of Birmingham. It tracks, assesses, and engages with parliamentary reviews of responses to the COVID-19 pandemic with a view to ensuring effective consideration of rights protection, and to enhancing accountability and legitimacy by supporting parliamentary review. A key part of its work is participating in such reviews by, for example, submitting to committee inquiries.

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