

**Written Evidence by Prof. Kimberley Brownlee, Dr David Jenkins, and Dr Katy Wells
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Executive Summary

- i. This submission focuses on the impact of the UK Government's response to COVID-19 on the **human right to adequate housing**.
- ii. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the '**right of everyone to an adequate standard of living for himself and his family,**' which includes a right to adequate housing.
- iii. The Government's stay-at-home orders in response to COVID-19 have a disproportionate impact on **renters**, people living in **overcrowded residences**, **homeless people**, people living in **urban areas**, and people living in **substandard housing**.
- iv. The Government response to COVID-19 is likely to impact human rights by putting many at **risk of losing access to their housing**.
- v. Since certain people with protected characteristics, such as people with disabilities, older people, women, children, and members of BAME, as well as migrants and people living in poverty, are more likely than others to live in inadequate housing, the Government's COVID-19 response has a disproportionate impact on these groups. In relation to people with protected characteristics, this disproportionate impact is relevant to the Government's **Public Sector Equality Duty**.
- vi. To mitigate the impact of the stay-at-home orders both during and after the lockdown, the UK Government must seek to **protect people's tenancies**, **reduce overcrowding**, better **regulate the private rental sector** to ensure decent housing for tenants, and ensure that homeless people have long-term access to safe and **decent housing**.

Authors' Information

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1. Background

1.1 The Human Right to Adequate Housing

ICESCR Article 11(1) recognizes that everyone has the right 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'. Although the **UK Human Rights Act 1998** does not include a right to housing, the COVID-19 pandemic adds to the list of recent events, like the Grenfell Tower fire, that highlight the necessity of enacting legislation that respects, protects, and fulfils the right to adequate housing. The pandemic is also pertinent to housing-related rights which the Human Rights Act does recognise.

The human right to adequate housing protects several interests that are fundamental to a decent human life including ensuring **personal safety and security (Human Rights Act 1998 Articles 2 and 3)**, satisfying some pre-conditions for basic health, having a stable place to rest, wash, eat, and be at ease, and exercising a meaningful degree of control over our social environment including who gets to watch us and be near to us (**Human Rights Act Article 8**). Housing is not just about having a roof over our heads, it's equally about securing the basic elements that could comprise a home.

To protect these fundamental interests, housing must be *adequate* in the sense of being **sanitary, safe, in decent condition**, adequately **acclimatised** (neither too hot nor without heating), **secure in tenure** (providing occupants with secure tenancies for a reasonable period) and **affordable** (i.e. obtainable without putting other fundamental interests at risk).

1.2 Housing in the UK

The situation in the UK prior to the advent of COVID-19 was already troubling in regard to the human right to adequate housing.

In 2016, the **UN Committee on Economic, Social and Cultural Rights** published several recommendations for the UK, based on how well it met the requirements of the ICESCR. The Committee raised concerns about 'the persistent critical situation [in the UK] in terms of the availability, affordability and accessibility of adequate housing.'¹ Particular concerns were raised about the private rental sector, which was found to be inadequate 'in terms of affordability, habitability, accessibility and security of tenure.'² The committee also raised concerns about rising levels of homelessness.³

According to the most recent **English Housing Survey**, 8% of social renters and 6% of private renters in England live in overcrowded accommodation.⁴ 12% of dwellings in the social rented sector and 25% in the private rented sector failed to meet the **Decent Homes Standard**. These figures are striking since renters are typically in precarious housing situations, with few avenues for legal protection or redress. According to the UK charity Shelter, more than 1.2 million people in England who live in privately rented housing have underlying health problems or disabilities.⁵ The Rough Sleeping Snapshot estimated that, in a single night in autumn 2019, there were 4,266 people sleeping rough in England.⁶

¹ UN Committee on Economic, Social and Cultural Rights, *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*, 2016, 9: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGBR%2fCO%2f6&Lang=en.

² Ibid.

³ Ibid.

⁴ Ministry of Housing, Communities & Local Government, *English Housing Survey Headline Report, 2018-19*, 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/860076/2018-19_EHS_Headline_Report.pdf.

⁵ Press Release: 'Shelter warns 20,000 evictions could go ahead as legislation fails to go far enough', 23 March 2020: https://england.shelter.org.uk/media/press_releases/articles/shelter_warns_20,000_evictions_could_go_ahead_as_legislation_fails_to_go_far_enough.

⁶ Ibid.

2. Covid-19 and the Right to Housing

2.1 Renting and the Risk of Losing One's Housing

One serious human rights impact of the COVID-19 pandemic and the Government's response is that, due to loss of income, many people are losing or at risk of **losing access** to adequate housing.

Certain measures are currently in place to prevent such losses. Court action for eviction from rented accommodation is on hold until at least 25 June 2020; provisions are in place for people unable to pay their mortgage including a three-month payment holiday; and mortgage lenders have said they will not apply to repossess homes for three months starting from 19 March 2020.

Whilst these measures ensure that many people feel a temporary reprieve from the immediate threat of losing their housing, the measures do not go far enough. In March 2020, Shelter warned that, despite the Government's emergency legislation, an estimated **20,000 people could be evicted** over the following three months, as the legislation does not protect people who are already involved in an eviction case.⁷ In addition, a serious concern remains about what will happen once court actions for evictions are no longer on hold.

Beyond the short term, protection of the human right to housing requires that the Government be prepared to act to ensure continued secure access for all as a matter of **equality and human rights**. As noted above, one basic interest that adequate housing protects is our interest in *stability*; the satisfaction of this interest is vital during crises such as a pandemic, and requires that lenders and landlords allow occupants to remain in their current accommodation wherever possible. The Government should be prepared to offer robust protections for private renters whose incomes have been affected by the current crisis, including protection from eviction, covering or waiving arrears, and more generous provision of housing benefit. Assistance for landlords is welcome, but must be provided with strict conditions regarding the priority of renters' rights.

Stay-at-home orders place **additional burdens on lodgers**, as these orders set the scene for heightened tension between lodgers and landlords. Since many lodgers might have to continue to work during the lockdown, they thereby increase their risks of exposure to COVID-19. As a result, landlords may be inclined to take steps to remove these lodgers in order, as they see it, to protect members of their own household or other lodgers. Those lodgers who do leave will have to find alternative housing, perhaps relying on friends, family and partners with whom they would otherwise not live, potentially putting undue stress on those relationships or putting those people at risk.

People who are sleeping on a friend's couch, or who otherwise lack the protections afforded by a tenancy or owned-property, are particularly vulnerable. Like tenants and lodgers, they are likely to experience increased tensions within the household and are even less well-placed to secure their continued accommodation.

⁶ Ministry of Housing, Communities & Local Government, *Rough Sleeping Snapshot in England: autumn 2019*, 2020: <https://www.gov.uk/government/publications/rough-sleeping-snapshot-in-england-autumn-2019/rough-sleeping-snapshot-in-england-autumn-2019>.

⁷ Shelter Press release, 23 March 2020.

2.2 Substandard Housing Quality

The Government's stay-at-home orders make it crucial that people's **homes be fit for 24-hour habitation**. For many people in the UK, their homes are unfit for habitation at all, let alone continuously, as noted above, with (in England) 12% of dwellings in the social rented sector, and 25% in the private sector, failing to meet the **Decent Homes Standard**. People who live in substandard housing are disproportionately affected by stay-at-home orders. Certain groups are more likely to be among those who live in substandard housing, including people with disabilities, older people, women, children, and members of BAME, as well as people living in poverty and migrants. The disproportionate impact of the Government's COVID-19 on groups with protected characteristics is relevant to its **Public Sector Equality Duty**.

Since further lockdowns may be required, the Government must ensure that all people have access to **decent housing**. One important recommendation from the UN Committee on Economic, Social and Cultural Rights is for **more effective regulation of the private rented sector** in the UK,⁸ something that is urgently needed to ensure that landlords are providing decent accommodation to renters.

People whose housing is decent in itself, but who lack access to a private garden or safe outdoor space, especially people who live in **densely populated urban areas**, must spend many more hours indoors than others must do. The people most likely to be confined unduly in this way are those living in lower income brackets or in areas where housing with private outdoor spaces is expensive.

2.3 Overcrowded Residences

In England, 8% of social renters and 6% of private renters live in overcrowded accommodation.⁹ Overcrowding makes staying at home considerably more burdensome than otherwise. In addition, people who live in overcrowded accommodation are at **greater risk of catching COVID-19**, something that recent research supports, noting, for instance, the impossibility of one family member self-isolating in some households if they develop symptoms consistent with COVID-19.¹⁰

Within the private rental market, renters living in **Housing of Multiple Occupations (HMOs)** are particularly at risk. There were an estimated 497,000 HMOs in England and Wales at the end of March 2018.¹¹ Part of the definition of an HMO is that it 'must be occupied by more than one household who share one or more of the basic amenities (toilet, washing facilities and cooking facilities).'¹² Since lockdown rules specify that households should be self-contained, people who live in residences **with shared common areas** face significant challenges including increased risks of infection from the virus. These households, taken together, can consist of large numbers of people, some of whom may still be working, and it is ambiguous whether, legally, these people must socially distance from one another or

⁸ UN Committee on Economic, Social and Cultural Rights, *Concluding observations*, 9.

⁹ Ministry of Housing, Communities & Local Government, *English Housing Survey Headline Report*.

¹⁰ Peter Kenway and Josh Holden, *Accounting for the Variation in the Confirmed Covid-19 Caseload across England: An analysis of the role of multi-generation households, London and time*, 2020, London: New Policy Institute.

¹¹ Wendy Wilson and Hannah Cromarty, 'Houses in Multiple Occupation (HMOs) England and Wales', *House of Common Library Briefing*, September 2019. 3

¹² *Ibid*, 6

not. To ensure their own safety, people may need to avoid their house's communal areas, spending large amounts of time in a confined setting, often a small bedroom, with limited social contact. Such confinement puts large numbers of people at risk of significant drops in physical and mental health and well-being.

The Government's failure to date to protect the human right to adequate housing means that a sizable proportion of the population is disproportionately affected by the current crisis. Given that the pandemic is expected to heavily affect societies until at least 2022, the Government must act now to **reduce overcrowding**.

2.4 Homelessness

One positive consequence of the COVID-19 outbreak is that the Government has taken steps to reduce homelessness, moving many homeless people into temporary accommodation including hotels. For the right to adequate housing to protect our fundamental interests, however, it must be a right to **secure tenure in decent accommodation**, not a right to temporary shelter. For the Government's present response to homelessness to be consistent with respecting, protecting, and fulfilling the human right to housing, it must aim to guarantee this kind of decent, secure housing to homeless people for the long-term.

Reportedly, at least 25% of homeless people have left their temporary stay-at-home accommodation due to instances of anti-social behaviour or difficulties adapting.¹³ **People who sleep rough on the street have no private space** to which they may retreat, be safe, and attend to their basic human functions. They must rely on public space not only to survive, but also to connect and interact with other people. During a lockdown, with increased police surveillance of public space, rough sleeping people are even more isolated than usual.

Finally, strategies must be designed to recognise that **victims of domestic abuse**, and where relevant their children, are essentially homeless and in priority need, and must be assured of access to secure and supported housing. The **doubling of the rate of domestic abuse killings**, and the over 4,000 arrests made since the beginning of the lockdown are chilling statistics that highlight the levels of abuse that many women in the UK endure at the hands of men with whom they live, both now and *prior* to the lockdown.¹⁴

3. Recommendations

In the short term:

1. The Government must ensure continued, secure access to adequate housing for all people in the UK as a matter of **equality** as well as **human rights**. Adopting a **Housing First** approach to homelessness will ensure that homeless people are included within future housing policy.

¹³ Amy Walker and Eric Allison, 'Quarter of Manchester homeless people housed in hotels for lockdown have left', *Guardian*, 27 April 2020:

<https://www.theguardian.com/society/2020/apr/27/quarter-of-manchester-homeless-people-housed-in-hotels-for-lockdown-have-left>.

¹⁴ Jamie Grierson, 'Domestic abuse killings "more than double" amid Covid-19 lockdown,' *Guardian* 15 April 2020,:

<https://www.theguardian.com/society/2020/apr/15/domestic-abuse-killings-more-than-double-amid-covid-19-lockdown>;
Jamie Grierson, 'Domestic abuse surge in coronavirus lockdown could have lasting impact, MPs say', *Guardian* 27 April, 2020: <https://www.theguardian.com/society/2020/apr/27/domestic-abuse-surge-coronavirus-lockdown-lasting-impact-mps>

2. The Government must be prepared to offer **robust protections for private renters** whose income has been affected by the pandemic, including **protection from eviction**, more generous **housing benefits**, and covering or **waiving back rent**.
3. The Government must provide **a wider range of spaces through which victims of domestic abuse can access services**. For example, where violent partners take away their victims' mobile phones, retailing spaces such as supermarkets could furnish them with access to services.
4. Since further lockdowns may be required in coming months and years, the Government must take action to ensure that people have **access to decent and affordable housing**, including (as recommended by the UN Committee on Economic, Social and Cultural Rights) more effective **regulation of the private rented sector** in the UK.
5. The Government must **review restrictions on the use and availability of public outdoor spaces**, particularly in areas where few people have access to private outdoor space. Relatedly, since ensuring access to outdoor space is, over and above its use for exercise, an issue of health, the Government must **review the health risks of outdoor congregation** and how these risks can be effectively managed.

In the medium term:

6. The Government urgently needs to act to **reduce overcrowding** in housing.
7. The Government must recognize fully the role that **council and social rented housing** can play in addressing ongoing issues of housing insecurity and homelessness.
8. In an effort to ensure access to affordable housing, 'affordable' housing needs to be redefined so that it is not simply a reflection of a fraction of the market cost of housing, but **an actual reflection of people's real purchasing power**. Determining costs of housing in terms of fraction of income will help to make housing more secure.

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