Chapter 3: Where we live

Getting it Right?
Human Rights in Scotland

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Theme 3: Where We Live

Introduction

The Scottish Human Rights Commission (SHRC) seeks to empower people to know and claim their rights, and to increase the ability and accountability of public and private bodies to deliver on human rights in Scotland. In support of these goals SHRC promotes the evidence based and inclusive development of Scotland's National Action Plan for Human Rights – a road map to the further realisation of all human rights in practice in Scotland.

The report as a whole presents a summary of some of the key gaps and good practices which have emerged from a scoping project undertaken by the SHRC. This specific section summarises the findings relating to theme Where We Live. It is not intended to be a comprehensive 'state of human rights in Scotland' report, but a prompt for discussion in the development of Scotland's National Action Plan for Human Rights. With this in mind, individuals and organisations are encouraged to consider their views in response to two key questions as they review this thematic section:

> **1. Based on the evidence presented in the report *Getting it right? Human rights in Scotland*, or your own experience, what do you consider to be the most urgent human rights issues which should be addressed in Scotland's National Action Plan for Human Rights?**
>
> **2. What specific and achievable actions do you consider would best address the concerns you identify in your response to question 1?**

Scoping Project Methods Summary[1]

The data collection began in 2010 and was divided into two phases - a first phase focussing on collating and analysing a range of secondary data sources[2] and a second phase where SHRC convened a series of small focus groups and in-depth interviews with a range of communities, groups and individuals in Scottish society.[3] In line with the SHRC's statutory mandate, particular attention was given to hearing from those who tend to be marginalised and whose voices are less often heard in mainstream debates surrounding human rights. In taking this approach SHRC sought to put a 'human face' on the issues uncovered in the scoping project.

Introduction to Where We Live

This thematic section explores the theme of 'Where We Live' in Scotland, which is one of the eight core themes which emerged from the human rights analysis of the research reviews. Overall, the research reviews identified a number of ways in which where we live impacts on the realisation of human rights. Following a prioritisation process[4], three core areas are discussed in further detail in this thematic section, namely: the right to adequate housing (including availability of housing and the reduction of homelessness, accessibility of housing for all, affordability, security of tenure); the rights of those living in rural areas; and where Scottish Gypsy/Travellers live.

The focus of this scoping project has primarily been on issues of human rights concern that are within the competence of the Scottish Parliament and the Scottish Parliament has developed a range of legislation in this area for example, including the Housing (Scotland) Act 2010 and the Homelessness (Scotland) Act 2003, along with initiatives such as the Scottish Social Housing Charter. Likewise most of the services considered here – such as education, health, water and sanitation – are also within the power of the Scottish Parliament. Across all thematic areas, however, there are some often complex issues,[5] which raise issues of concern that are devolved, whilst others are reserved to Westminster,[6] including equality legislation. The Equality Act 2010, however, dose place a duty on the Scottish Government to abide by the public sector equality duty,[7] which could bring about a more substantive role for Scottish equality duties in the future.[8]

The Right to Adequate Housing

Article 11 (1) of the International Covenant on Economic, Social and Cultural Rights requires States parties to:

> *"Recognize the right of everyone to an adequate standard of living for himself and his[9] family, including adequate food, clothing and housing, and to the continuous improvement of living conditions".*

The full realization of this right is to be achieved progressively, according to the maximum of available resources. In its authoritative interpretation of the right to adequate housing the United Nations Committee on Economic, Social and Cultural Rights outlined the constituent elements to the right to adequate housing (UN CESCR, 1991). These are:

1. *Legal security of tenure*: this can take a variety of forms including public and private rental accommodation, cooperative housing, lease, owner-occupation, and informal settlement including occupation of land or property. Notwithstanding the type, everyone should be guaranteed security of tenure at least sufficient to protect against forced or arbitrary evictions or other forms of harassment;

2. *Availability of services, materials, facilities and infrastructure* such as drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, food storage, refuse disposal, site drainage and emergency services;

3. *Affordable housing*: costs associated with housing should not threaten the ability to afford other essential goods and services including protection against unreasonable rent levels or unreasonable rent increases;

4. *Habitable housing*: including adequate space and protection against the cold, damp, heat, rain, wind or other threats to health or structural hazards and ensuring physical safety;

5. *Accessible housing*: housing should be accessible to everyone without discrimination. Priority should be given to the most marginalised including homeless people and those who are inadequately housed, and special measures should be taken to ensure adequate housing for people with disabilities, older people, those living in areas vulnerable to natural disasters and others who require them;

6. *Location*: housing should be in a location which allows access to employment options, health-care services, schools, child-care centres and

other social facilities. It should not be located on polluted sites nor in the immediate proximity to pollution sources;

7. *Culturally adequacy*: housing policy and practice must appropriately enable the expression of cultural identity.

Previous research has identified a variety of issues relating to adequate housing, many of which are outlined in the sub-sections below. The Scottish Government has acknowledged a number of these areas in recent policies such as the *Affordable Housing Investment Plan 2011-2012*[10] and the *Scottish Housing Quality Standard*[11] and through the development of the *Scottish Social Housing Charter*[12] which, following consultation was approved by the Scottish Parliament on 14 March 2012 and came into effect on 1 April 2012.

The purpose of the Scottish Social Housing Charter is to:

> *"Help to improve the quality and value of the services that social landlords provide and support the Scottish Government's long-term aim of creating a safer and stronger Scotland".*

It aims to do this by:

1. Stating clearly what tenants and other customers can expect from social landlords, and helping them to hold landlords to account,
2. Focusing the efforts of social landlords on achieving outcomes that matter to their customers,
3. Establishing a basis for the Scottish Housing Regulator to assess and report on how well landlords are performing. This assessment will enable the Regulator, social landlords, tenants and other customers to identify areas of strong performance and areas needing improvement.

(Scottish Government, 2012)

The Charter addresses issues of quality assurance, for example social houses must be kept in a good state of repair by the landlord and all social housing is to meet the Scottish Housing Quality Standard by 2015. The Charter also provides for securing affordable rent and service charges(Scottish Government, 2012). Previous research has confirmed that investing in social housing can improve people's lives (Monk et al., 2010).

Unfortunately the Charter does not take a human rights based approach,[13] despite recommendations made in 2009 by the Scottish Human Rights Commission that the Housing Bill, Charter and Regulator which it was proposing to establish, all be human rights based (SHRC, 2009).[14]

Availability of housing and the elimination of homelessness

Available Housing

The United Nations Committee on Economic, Social and Cultural Rights referred in 2009 to the chronic shortage of accommodation, in particular social housing, for the most disadvantaged and marginalised individuals and groups, such as persons with disabilities placing a particular emphasis on Scotland (UN CESCR, 2009).[15]

Previous Scottish Government research also concluded that under-investment and the more limited resources available in the current economic climate pose particular

challenges to securing access to adequate housing, particularly for those living on low incomes or in poverty (Scottish Government, 2010c). In response the Scottish Government has reasserted a policy commitment to continue to ensure the provision of affordable housing and to reverse the decline in council house building with a view to building new homes and improving existing ones (Scottish Government, 2011c).[16] This is underpinned by a commitment that:

> "all people in Scotland [should] live in high-quality, sustainable homes that they can afford and that meet their needs"(Scottish Government, 2011d).

Whilst this commitment is a crucially important starting point, it cannot be taken to imply that all need is currently being met. The trend in investment in housing continues to decline significantly. How and whether the commitment is being achieved and how this achievement is monitored need to be clearly identified.

Homelessness

The legislative framework on homelessness emerged from the research reviews as an area which has attracted significant attention internationally. The work of the Homelessness Task Force established (post Devolution) in 1999 to make recommendations about homelessness could be prevented and tackled in Scotland, informed the introduction of the Homelessness etc. (Scotland) Act 2003 which has radically changed both the culture and processes through which local authorities deal with homelessness in this country. Alongside the Housing (Scotland) Act 2001, it has been described by Shelter as "*the most progressive homelessness legislation in Western Europe*" (Shelter, 2003).

International human rights bodies too have recognised the potential of the legislation. The United Nations Committee on Economic, Social and Cultural Rights in its report on the UK in May 2009 pointed to the Homelessness etc. (Scotland) Act 2003 as a model of good practice legislation that should be considered in other jurisdictions of the UK (UN CESCR, 2009).

The Homelessness etc. (Scotland) Act 2003 set a target to end the test of priority need in accessing housing by 2012 – in effect introducing a right for all non-intentionally homeless people to access secure accommodation by 31 December 2012 (Shelter, 2003). This target was seen as an unprecedented commitment and has been interpreted, including by the Scottish Government itself, as a commitment to an enforceable right to housing by the end of 2012.

The experience of many participants in this scoping project who had sought accommodation as a result of homelessness, however, suggests that a priority needs system may in effect still be in use:

> *I was in homeless accommodation since February. I got access quite quickly because I had so many points because of my health and I was homeless at the time.*
> **Colin, Recipient of a rural befriending network.**
>
> *The housing provision in this area is appalling but because our young people have specific needs and they tick a lot of the right boxes, access is a lot better than it used to be a few years ago.   So it's fine for us, but if you're the general public, there's a problem because if you don't have these extreme needs then*

your chances of getting in the housing market out here are non-existent, you'd need to be on the waiting list 20 years before you are going to get anything. **Jack, Director of a project supporting young people making life's transitions.**

From the end of 2012, the use of this type of priority need system should be completely phased out and one would expect to find less evidence of this in future reviews.

Overall promising progress has been made in reaching the 2012 target under the Homelessness (Scotland) Act 2003. Scotland has progressed from considering 70 per cent of unintentionally homeless persons as "*priority need*" (i.e. at that time subject to a local authority duty to ensure access to secure accommodation) in 2003/4 to 91 per cent in 2011/12. Of the 32 local authorities in Scotland, 14 have so far met the 2012 target of considering 100 per cent of unintentionally homeless persons as equivalent to "*priority need"*. A further nine areas had over 90% of homeless assessments assessed as having a priority need and two further areas assessed that less that 70% of homeless assessments had priority need (Scottish Government, 2009b).Graeme Brown (director of Shelter Scotland) has noted:

> *"This success should not blind us to the scale of Scotland's on-going housing crisis. Nearly 50,000 people still presented as homeless in the last 12 months so this progress needs to be a catalyst for even greater change"*[17].

Participants in this scoping project were generally positive about the progressive change brought about by the Homelessness etc. (Scotland) Act but some were doubtful that the Scottish Government's targets would be met. Some (who dealt with local authority housing as part of their job) felt that their local authorities whilst progressing well now, had left it too late to address the problem by the end of 2012. Other issues raised that potentially have an impact on efforts to increase the availability of housing include planning restrictions.

Recent research has also identified the difficulties that the Scottish Government and local authorities have faced in realising the 2012 target (Anderson, 2007, Anderson, 2009, Anderson, 2012). Some of the challenges identified include, the provision of suitable accommodation for an ageing population and for those with disabilities in supporting independent living. Accommodation shortages are most prevalent in the East of Scotland and in rural areas and regeneration has been identified as most in needed in the West of Scotland (Scottish Government, 2010c).

Access to adequate housing for all without discrimination

Research reviewed and focus groups also suggest continued disadvantages faced by particular groups in accessing adequate housing. For example research has consistently highlighted gaps in securing sufficient accessible accommodation for disabled people. Local authorities are required to prepare a Local Housing Strategy which assesses need including:

> *"The needs of persons in the area for and the availability of, housing accommodation designed or adapted for persons with special needs".*[18]

Inclusion Scotland has reported a continuing shortage of suitable accommodation to enable disabled people to realise their right to independent living and has recommended an emphasis on ensuring all new build housing is suitable for disabled

people rather than readjusting existing unsuitable accommodation (Inclusion Scotland, 2009).

Some participants in this scoping project also highlighted that their specific medical problems were not taken into consideration when being housed which resulted in isolation, worsening physical health and subsequent problems with mental health, for example:

> *They moved me to a flat on the 3rd floor where there was no lift. The social worker had told them I should not be placed there because of my knee problems but they said I had to move there. I was there 7 months, the doctors wrote letters but I was kept there. I would go weeks without being able to go outside and my back and legs got stiffer and I just became more depressed.*
> **Mariana, Asylum Seeker.**

Furthermore, those participants in this scoping project who were victims/survivors of domestic abuse[19] discussed a range of problems in accessing accommodation and avoiding homelessness. These included: extended time periods in refuges waiting for accommodation to become available; a lack of suitable refuges for transgender people; a lack of suitable refuges for men; being re-housed away from their community because the abusive ex-partner still lived in the community; and no accommodation or refuge for women who have no recourse to public funds for women.

> *Another thing is lack of available accommodation. I have been in the refuge since January [now October] and I feel like really I could have been out of there a few months ago I was ready, but that's me only finally been offered a house but it has taken 10 months and there are other people in the refuge that have been there for 2 years.*
> **Emma, Single mother of two children, victim/survivor of domestic abuse.**

> *Men don't have anywhere, nowhere. [After 18 years of abuse] I had left my house in an old battered car with the only belongings I had from 18 years in the back of the car without anywhere to go. I spoke to a woman who came to see me from the housing department and I said to her – "you are asking me, as an employee of this council [teacher], to turn up 5 days a week and teach maths at XXX school and sleep behind a hedge?" and she said, "yes… yes". They could offer me nothing, despite the fact that I could have produced medical evidence as to my wife's condition, despite that, it's just unbelievable and I was left to sink or swim. Eventually having slept in the car for some time, I eventually managed to get a room in a farm cottage, but I went for years there after that, because I couldn't afford to buy another house. So if I couldn't get help form the council and I couldn't buy one I was stuck. But obviously, if I was going to be able to continue doing my job I couldn't sleep in doorways you know? But that meant rooms in cottages, rooms in other people's houses. I moved about for several years until some help from my widowed mother, I managed to get a little house. And of course this meant to that I had nowhere to put my children.*
> **Andrew, victim/survivor of domestic abuse.**

Participants in this scoping project who work within the housing sector were also concerned about the lack of access that certain migrants had to accommodation, particularly those who are classed as having no recourse to public funds,[20] as one participant noted:

> *As far as the Homelessness Act goes, if certain [migrants] present as homeless but it is stamped in their passport as no recourse to public funds then they won't be given… accommodation. They are homeless but they are not allowed to be classed as homeless.*
> **Caroline, ethnic minority housing support worker.**

Research has also questioned whether housing services in Glasgow have been sufficient to accommodate a far higher than average proportion of Scotland's refugee and asylum seeking population (Netto and Fraser, 2009, Sim and Bowes, 2007).

Previous research has also warned of the extent of homelessness amongst offenders and has similarly advised that an increased level of support is required if ex-offenders are to make a successful transition back into society (Kirkwood and Richley, 2008, Money, 2008, McHardy et al., 2011, Scottish Government, 2011b, Flanigan, 2011). One participant in this scoping project who works with ex-offenders highlighted the importance of 'home' in the process of preventing reoffending:

> *Preventing re-offending...part of it is about having a home. People need homes not houses. They need somewhere that's secure and somewhere they are happy in, that they can take pride in and moreover something that they don't want to lose. Once you've put your own signature on a place and you've got it the way you want it, you realise that you have something of value and when you have things of value to you, you are less likely to put them at risk and therefore reoffend.*
> **Craig, ex-offender and support liaison for offenders leaving prison.**

Previous research has also indicated a gap in providing awareness training in access to accommodation for minority groups (Communities Scotland, 2007). This was most prevalent in relation to asylum seekers, minority ethnic groups, people with disabilities and lesbian, gay, bisexual and transgender (LGBT) people. For example, it is reported that LGBT people continue to experience discrimination in accessing accommodation and, as a result, a culture of non-disclosure prevails (Communities Scotland, 2007). Recommendations from previous research include the importance of taking a human rights and equality based approach to the allocation of accommodation which recognises the needs of these different minority groups (Communities Scotland, 2006).[21]

Research into the needs of various different groups including the elderly, disabled, and different minority ethnic groups has suggested that if equality and human rights were to be considered through impact assessments at the planning stage this may result in the availability of more suitable accommodation that meets the needs of these different groups (ODS Consulting, 2007). The importance of participation[22] of those in need of accommodation in the planning process has also been highlighted in previous research as a form of best practise (Reid Howie Associates, 2007). It has been noted that participation with client groups is also a feature of the Housing Charter although it must be noted that the focus of the participation is at the stage where housing has been occupied and not necessarily at the early planning stage.

Participants in this scoping project were generally critical of planning processes, noting that different planning protocols for different districts (especially across the Highlands) made it very hard for people to engage in the planning process. Some were also critical of how difficult it was to access information on planning processes.

Affordability and Security of Tenure

The UN Committee on Economic, Social and Cultural Rights also emphasised the importance of intensifying efforts to ensure everyone has access to adequate housing and to reviewing policies and developing effective strategies, including impact assessment, aimed at increasing the levels of affordable housing, including social housing (UN CESCR, 2009).

Participants in this scoping project who worked within local authority housing support also described how people that approached them for support who had no recourse to public funds, were on low incomes and unable to access social housing, were often forced into the private sector and became vulnerable to "*rogue*" landlords.[23] One participant described how many of these individuals and families would be in a great deal of debt, often would not have an official contract for their tenancy and as such had no security of tenure, and vulnerable to homelessness. However, they would not be classed as homeless or they would be seen as intentionally homeless, as one housing support officer noted:

> *I have many people coming to me who are in a situation where perhaps they have no tenancy agreement, the landlord is coming round for cash every week sometimes with threats, or dogs, it is almost like going back a hundred years, but those people can't afford a better place to live and they are not allowed to apply for social housing.*
> **Caroline, ethnic minority housing support worker.**

Caroline also spoke of the lack of will to deal with rogue landlords:

> *We've had situations in one area of hot-bedding where workers who are on minimum wage have rented a flat where there is maybe 8 or 9 of them in a 2 bed flat and as one gets off shift the next one is hoping into the bed – this shouldn't be the situation in this country and it is due to the rules in this country and the lack of affordable housing and the lack of… well we do have legislation to prevent rogue landlords, but there is no will and no money to prosecute. So I think there should be a zero tolerance of the rogue landlords.*

At a meeting opened by Deputy First Minister, Nicola Sturgeon, in February 2012 in Glasgow on *Scotland's New Migrant Community - Meeting the Needs of Roma*, the issue of substandard, poor quality, overcrowded and expensive housing was also raised. Of noted concern was the exploitation faced by the many Roma families (estimated to include 3000 Roma) who live predominantly in Govanhill in the South East of the City. Most Roma families are accommodated within flats which are privately owned. Some reportedly do not have tenancy agreements and hence no security of tenure (McLelland, 2012, Romano Lav, 2012).

Concerns have also been increasingly raised in the media and by civil society with regard to the likely impact of the UK Welfare Reform Act 2012,[24] including the direct impact on housing benefits. The Scottish Government previously expressed concern at the lack of consultation on the proposals between the UK and Scottish

Governments (Berry, 2011). The Scottish Government's impact analysis suggested that:

> "…at this preliminary stage it is quite clear that the changes to Housing Benefit will have a significant negative impact in Scotland"(Scottish Government, 2011b).

A February 2012 survey of parents in Scotland found that almost two thirds of families have less money coming in than at the same time in 2011 with more than six out of 10 families (61 per cent) short of money every week.[25] Many of these families are living on benefits and over half surveyed (seven in 10) said that they were "*living on the edge*". In other words, if one thing was to change, such as child care costs going up or benefits going down - they would face financial hardship (Carvel, 2008).[26] Elsewhere, the Child Poverty Action Group (CPAG) have expressed concern that the considerable achievements in addressing child poverty in Scotland that saw a reduction of 100,000 in the number of children living in poverty over the past decade (1998/1999 – 2009 / 2010) will be reversed entirely and lead to an annual increase of 100,000 children living in poverty in Scotland by 2020 unless the (Central UK government) Coalition's plans to reduce spending on Welfare by £20 billion by 2014 is halted and ways found to address parental unemployment (CPAG, 2012).

Research also suggests a need for increased support for young people transitioning out of care into secured tenancy, pointing to a current risk that they end up living in homeless hostels (Scotland's Commissioner for Children and Young People, 2008).

Habitability

The habitability of some housing remains an issue of concern in Scotland. The interrelated consequences of poor conditions of living on health and wellbeing have been documented in previous research (Love et al., 2007a, Love et al., 2007b). The nature and extent of the effects of deprivation, poverty and poor living conditions, however, could be further explored with a particular focus on the health impacts of overcrowding, cold, damp, air quality, stress and mental health and the experience of homelessness.. As one participant noted:

> *The house was so run down and dirty when we arrived. In my physical condition and with a compromised immune system... To move someone into a house who is sick and the house is full of years of grime is not right.*
> **Amelia, Asylum Seeker.**

A number of participants also expressed concern about the lack of quality housing in Scotland and the placement of the most vulnerable in the poorest quality housing:

> *Housing, there is not enough housing available in Scotland that is of a good enough standard I think. It always seems that people in need are put in the worst housing…*
> **Nigel, housing support officer.**

With respect to the point Nigel makes, the association between poverty and poor social housing has long been established. In a 20 year period from the late 1960s to the late 1980s council housing became 'residualised' and the relationship firmly established between the worst off people living in the poorest quality accommodation. Thus the proportion of council tenants who were amongst the

poorest 30 per cent of all households rose from 31 per cent in 1968 to 60 per cent by 1986 (Kemp, 1989). The situation persists such that today, although deprivation is not the preserve of council estates, around half of all people in social housing are on low incomes compared to one in seven within the owner occupied sector (Department of Work and Pensions, 2011).

The Scottish Government uses two specific measures to track progress on the standard of housing stock. The first is the 'tolerable standard' which highlights where it is not reasonable to expect people to continue to live in a house that falls below this standard.[27] Local authorities have a statutory duty and specific powers to deal with houses that fall below the tolerable standard.[28] The second measure, which was announced in 2004, is the Scottish Housing Quality Standard (SHQS). This standard includes a target that all social landlords must make sure that all their accommodation passes the SHQS by 2015. This target apparently does not extend to private owners and private landlords.[29] In 2010 it was estimated that approximately 1.4 million or 61 per cent of dwellings in Scotland failed the SHQS. Whilst this figure remains high, it represents a significant decrease from 2004/5when that figure was 75 per cent (Máté et al., 2011).

Criticisms were levied at many local authorities by participants in this scoping project about the general standard of repair of much social housing and the length of time people had to wait before repairs were undertaken. Of most concern to participants in this scoping project were, first, time taken for repairs which were ultimately more expensive as a result of the delays. Second, safety and security concerns for individuals where properties were not sufficiently secured (e.g. broken front door locks).

Another issue which has been focus of much research and attracted much policy attention is fuel poverty. The UN Committee on Economic, Social and Cultural Rights expressed concern in relation to fuel poverty (UN CESCR, 2009) and research supports the view that this is a concern in securing habitable housing in Scotland (Morrison and Shortt, 2008, Scottish Poverty Information Unit, 2009, Sheldrick and Hepburn, 2007). Research has also highlighted that the elderly are particularly susceptible to fuel poverty.[30] In 2002 the Scottish Executive set a target to eradicate fuel poverty as much as possible by 2016. In August 2012 the Scottish Government published a major review of evidence on fuel poverty, based on the Scottish House Condition Survey. The research found that fuel poverty rates had gradually increased between 2002-2009, to a peak of 766,000 households, falling to 658,000 in 2010 (Wilson et al., 2012). It concluded:

> *If current trends continue, it is projected that the median household will be pushed into fuel poverty from 2012 (Wilson et al., 2012).*

The report however challenges the definition currently used for fuel poverty, noting that:

> *"a much lower proportion of households than one might expect, given the (modelled) level of fuel poverty in Scotland, actually say that they are unable to maintain their home at a satisfactory level of thermal comfort (7 per cent in 2010)" (Wilson et al., 2012).*

It concludes with a range of recommended steps to improve how fuel poverty is measured and how interventions are targeted to improve thermal comfort, reduce

fuel costs, maximise income and to improve understanding of energy use to change behaviours (Wilson et al., 2012).

A number of participants in this scoping project discussed the problems they faced in relation to fuel poverty. There was a general feeling that whilst building standards were improving, people were currently paying the price for social housing having previously having been built to low standards, with minimal insulation, as one participant with experience in house building noted:

> *The downside is quite often that they have not taken into consideration certain things when building. They've not put in the best heating system because it's more expensive but in the longer term it costs people more, it's not as good for the environment and it is not as fuel efficient. Up here in the Highlands, fuel efficiency is even more important because of the prolonged colder weather and damp, and that is not improving with the new social housing builds.*
> **Harry, Volunteer with a rural befriending network.**

Another participant who was confined to his social housing for considerable periods of time due to his disabilities also noted:

> *The drafts in this house [social housing] are a problem. It is very cold once you turn the heating off you will notice the difference in a short space of time. So it's a case of staying in bed to stay warm when it is really cold. And then the condensate pipe out the back, if it freezes up it just stops the heating completely and so they say to keep the thermostat in the hall turned up to 30, and then the boiler will fire every time, but if you do that where do your heating costs go? It begs belief, if you could afford to have your heating at 30 all the time, you wouldn't be living in a house like this.*
> **Eric, Recipient of a mental health befriending network.**

The Scottish Government has charged local authorities with the responsibility of eradicating fuel poverty by 2016. Age UK is of the view that reaching those targets would be aided by the introduction of more stringent mechanisms to measure thermal comfort in accommodation (Age UK: 2011). Such measures would need to take account of the current variation across Scotland. In 2010, only twenty nine per cent of homes in rural Scotland had an energy efficiency rating of 'good', compared to sixty-eight per cent of homes in non-rural Scotland (Máté et al., 2011).

Rights of those living in rural areas

To fulfil its human rights obligations Scotland should be identifying and addressing disparities on any ground – not only those grounds of discrimination included in national equality laws, but also differentials between those living in rural and urban areas. The grounds on which discrimination is prohibited are not limited in human rights law, with Article 14 of the ECHR and in non-discrimination provisions in other international human rights instruments extending to any other status. Human rights bodies have increasingly considered this to include place of residence. As the UN Committee on Economic, Social and Cultural Rights has stated in an authoritative interpretation:

> *The exercise of Covenant rights should not be conditional on, or determined by, a person's current or former place of residence; e.g. whether an individual lives or is registered in an urban or a rural area, in a formal or an informal*

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> *settlement, is internally displaced or leads a nomadic lifestyle. Disparities*
> *between localities and regions should be eliminated in practice by ensuring,*
> *for example, that there is even distribution in the availability and quality of*
> *primary, secondary and palliative health-care facilities.*[31]

Similarly obligations to ensure progressively the full realisation of economic, social and cultural rights include accessibility. As the International Convention of Economic, Social and Cultural Rights has said in relation to the right to health, for example: Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas.[32]

As noted above obligations to progressively realise the right to adequate housing, as guaranteed in Article 11 of the ICESCR, include location: Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care 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.[33]

Current data shows that 160,000 people living in rural Scotland are estimated to be living in income poverty, amounting to one in seven people. This amounts to one in every six people living in poverty in Scotland, living in a rural area (McKendrick, 2011).

Previous research has identified a range of differential measures in the realisation of human rights of people living in rural areas in Scotland. These have included increased poverty; a lack of available and accessible services including housing, care and support, education, transport and healthcare,[34] as well as lower than average income levels, employment concentrated in a small number of low productivity sectors (Pacione, 2004). Research has suggested that the extent of the barriers to realising rights faced by those living in income poverty in rural areas may be underestimated due to a failure to adequately take into account the higher cost of living in rural areas (Smith et al., 2010a). The argument has therefore been made, that the impact of rural living needs distinct policy solutions which are appropriate to rural settings (McSorley, 2010).

Participants in this scoping project were concerned about how rural poverty is currently measured:

> *A major problem is that rural poverty measures don't work – currently poverty is measured by "concentrated deprivation" which just doesn't work in rural areas. Or it is measured by benefits sought in an area, which doesn't work either. A further problem is that communities don't want to declare themselves as poor.*
> **Eleanor, Council equalities officer.**

McKendrick et al. (2011a) explore in some detail better ways of attempting to measure rural poverty in the future. However, overall, the evidence base required to develop effective rural policies is considered inadequate, especially in relation to issues such as deprivation/disadvantage, concepts of '*thriving rural communities'*, motives for inward and outward migration, productive ageing, innovative services in remoter communities, rural innovation systems and local enterprise, and '*quality of*

life', as well as the impacts of a wide range of policies on different rural areas and communities (McKendrick et al., 2011a, UHI Policy Web, 2006). Previous research has suggested that this can be tackled in a number of ways (UHI Policy Web, 2006). These include ensuring the under-representation of rural communities is addressed in respect of national surveys and data collection, improving access to information on human rights within rural communities and providing forums where communities can be heard on emerging issues.[35]

Scottish Government commissioned research (EKOS Ltd, 2009) reported significant challenges in relation to the impact of rural living and recommended a different and "*joined up approach*" to addressing rural poverty in relation to social care, accommodation, transport, sustainable development, rural development and social exclusion. In order to deliver change the research suggested a more flexible approach to service delivery, with a greater focus on outreach and mobile services.[36] Many of the issues identified in the research relate to the dispersed nature of rural communities and the risk of isolation faced by vulnerable people. The report recommended supporting increased social interaction and continuity of support.

To date, policies of the Scottish Government have tended to focus on wider society, such as the *Scottish Community Empowerment Action Plan 2009* and the *Achieving Our Potential - A Framework for Tackling Poverty and Income Equality in Scotland 2008*. McKendrick et al. (2011a) noted that in Scotland the tendency by politicians, social commentators and researchers has been to focus on urban rather than rural deprivation as a result of the higher number of individuals affected. They suggest that a regrettable consequence of this is that the problem of deprivation in rural Scotland has been dismissed, ignored, marginalised or downplayed (McKendrick et al., 2011a).Whilst the impact of rural living has been considered within the wider policy framework, there is a need to focus more attention on specific issues, such as the inequalities in services for: children and young people with special needs, disabled people, ethnic minorities and migrants and those living in poverty.

Research suggests that some groups of people are at a heightened risk of experiencing poverty in rural areas including single pensioners, single parents, disabled people, people with mental health problems and migrant workers. Some have therefore argued the benefits of addressing this issue through a "*rural proof*" approach (EKOS Ltd, 2009), whereby the impact of policy and other initiatives on those living in rural areas would be assessed during the policy development process.[37]

Specific issues in rural areas

Availability of housing

The Title Conditions (Scotland) Act 2003[38] aims to ensure that affordable accommodation benefits local people and in the long term is not sold on for use as a second or holiday home. Research has noted however that poor access to good quality and affordable accommodation continues to be further compounded by much affordable accommodation being bought by second-home owners as holiday property in more remote rural areas (De Lima et al., 2011). This is apparently resulting in rural accommodation shortages (Satsangi and Crawford, 2009) and

further entrenching deprivation and exclusion amongst people living in rural areas (Bertolini et al., 2008).

A number of participants in this scoping project also noted the difficulties they or their families had had in trying to become property owners, with some noting that their area had the second highest property prices in Scotland, because of the extent of second home owners in the area. As one participant noted:

> *Another thing with housing is that it has become acceptable for people to use housing as a means of making money, buying houses, doing them up selling them, keeping the prices high, having second and third homes, developers building for the high end and the people at the bottom end of the ladder haven't got a chance, people with low paid jobs haven't got a chance really. We need land as well but most land is very expensive here.*
> **Jeremy, volunteer with a rural befriending organisation.**

Access to services

Participants in this scoping project noted a range of problems in accessing services. Many problems stemmed from access to transport (discussed below). Others spoke of the lack of specialist services across the Highlands with many services being concentrated within the larger towns or cities such as Inverness. One participant who was in need of care services was offered a place within a residential home that could provide for his needs. The most suitable home, however, was in Glasgow and he came from north of Inverness, where his daughter and family also lived. As he felt that spending time with his family was what kept him going in life, he felt that a move so far away from them would shorten his life. Examples such as this demonstrate the impact of limited availability of services on the right to private and family life, protected in Article 8 of the ECHR.

Social isolation for many who live in rural and remote parts of Scotland (especially disabled people, people suffering from mental health problems and the elderly) was of concern to many participants in this scoping project. Outreach and befriending programmes were viewed as crucial for many who have limited social contact due to location and or mobility problems. See Thematic section 1 on Dignity and Care for further discussion of this issue.

Many participants also wanted to see improvements made to the provision and speed of broadband internet in rural areas to decrease the isolation faced by many, both to decrease social isolation and to increase people's ability to participate in decisions that may impact on their lives and their rights.

Access to remote and rural health care

> *"Access to healthcare should be as local as possible, for the whole population of Scotland, no matter where they live"* (Scottish Government, 2008a)

The principle in the quote above motivated the establishment of the Remote and Rural Steering Group, tasked with developing a policy for sustainable remote and rural healthcare services. Amongst its recommendations was that the community hospital should be a resource hub where core services should be ensured. These include an out of hours minor injury and illness unit; first line resuscitation; triage, transfer or admission as appropriate (based on a risk assessment of the patient's condition and proximity to secondary care); diagnostic services; outpatient clinics by

visiting specialists; pre-operative assessment; intermediate care beds which are accessible by all practitioners (i.e. some nurse-led); midwifery service; palliative care; designated place of safety for mental health crisis (Scottish Government, 2008a).

The major shifts proposed by the Remote and Rural Steering Group related to the need to move towards anticipatory rather than reactive care and shifting the balance of care to local resources rather than multiple trips to secondary care (Scottish Government, 2008a). The report by the Remote and Rural Steering Group also recommended professionals within this model must be robustly trained generalists, with educational packages specifically designed for remote and rural practitioners, have good supporting networks from larger centres, and, be supported by technology, transport and retrieval systems. The report made recommendations on the provision of care in rural general hospitals, and emphasised the importance of allocation of funding to rural communities (Scottish Government, 2008a).

Previous research has revealed some evidence of the particular challenges in provision of specialist health care to children in more remote areas. In 2008 the Scottish Government published the Draft National Delivery Plan for Children and Young People's Specialist Services in Scotland (Scottish Government, 2008c). The aims of the plan were to provide the best possible treatment and outcome for every child and young person requiring specialist care and to improve accessibility and quality of care. It acknowledged the barriers that exist such as geography, area by area inequalities and small pools of staff. A budget of £32m was committed over three years in order to implement the plan. An implementation group was established in September 2008 to coordinate the implementation process for the Delivery Plan (Scottish Government, 2008c).[39] The North of Scotland Planning Group[40] was responsible for the development of the National Delivery Plan proposals, its implementation and evaluation. Evaluation of the first two years of this plan has shown that by adopting a regional approach, it has been possible to develop specialist paediatric regional services, which allow continued access to quality specialist paediatric services through a network approach, even from very remote areas and are sustainable. The Planning Group recommend that this approach should continue to be monitored and extended, where it would be considered to be beneficial (North of Scotland Planning Group, 2011).

Participants in this scoping project from Island communities also noted that a number of professional services were lacking within island communities because qualified staff could not be attracted to these more rural posts:

> *Health care services need to be both well-resourced and competent, we often struggle to attract staff to the islands… it's not uncommon to have clients kept in hospital or respite because of the lack of resources in the community.*
> **Karen, 3rd sector advocacy worker**

Similar concerns have been raised in media reports indicating that continuity of emergency medical care may be at risk for residents of other island communities as changes are made to the roles of local nurses (Bradford, 2012).

Efforts have, however, been made to improve access to emergency medical services in rural areas through the introduction of the Emergency Medical Retrieval Service. This is an air retrieval service which responds to the needs of seriously ill and injured

patients in remote and rural areas. It seeks to stabilise patients and escort them to further care. The project was piloted in the West of Scotland and began on 1st June 2008. An evaluation of the pilot one year on recommended it should continue and be scaled with avenues explored to expand to other rural parts of Scotland (Boyle et al., 2010). In March 2010 the Cabinet Secretary for Health announced a roll out to cover the whole of remote and rural Scotland (Scottish Government, 2010b), which commenced on the 25 October 2010. The service's 1000th critically ill patient was helped in August 2011.[41]

The GP Access Survey reported that in general, people in rural areas reported more positive experiences of access than those in urban areas. In ninety-two per cent of practices in rural areas at least 90 per cent of patients obtained access within 48 hour access, compared with 60 per cent of urban practices (Donnelley, 2009). Participants in this scoping project however reported delays in accessing general practitioners and the use of phone triage systems:

> *Doctors – There is never an appointment 2 days down the line…2 weeks minimum cause I had the same problem yesterday…and we've got the surgery here at the county hospital but last week I had to go all the way to another town for a doctor, it is unbelievable, they never have appointments up there…they work a triage system, if you phone and say you need to see a doctor today, they take your name and number and a doctor phones you back and speaks to you and assesses whether or not you need to be seen. My husband had a bite, an insect bite and we ended up taking him to A&E to get him seen because at the doctors, 2 weeks for the next appointment. It's not just the odd occasion it is all the time.*
> **Helen and Jackie, Support workers of a rural befriending network.**

Transport

Lack of access to and affordability of transport can have a very negative impact on quality of life, participation in society and access to services (SHRC, 2011a). Previous research has indicated significant problems in relation to transport in rural areas (Currie and Heaney, 2008, Scottish Executive, 2006a, Wilson and Edwards, 2008, Scottish Government, 2008a, Scottish Government, 2009a, NHS Scotland, 2007, Halden et al., 2002, McKendrick, 2011). Access to transport and the cost of transport are essential factors in living and doing business in rural areas and for more than two decades the Scottish Government[42] has acknowledged that inadequate public transport is a major cause of social exclusion in rural areas (Halden et al., 2002, Scottish Executive, 2006a). Research has continued to highlight access to public transport (including the integration of different services) and the rising cost of private transport (cost of fuel and the lack of petrol stations) (Scottish Executive, 2006b, Scottish Affairs Committee, 2007).

In rural areas, household survey data suggests that the lack of a service is the most common reason for not using public transport, with approximately 50 per cent of the population in the most remote rural areas citing this as a reason.[43] A lack of adequate transport and its consequent impact on access to services, education, work and leisure was one of the most frequently raised issues by participants from rural areas in this scoping project. Many islanders reported a lack of availability of public transport especially at weekends and in the evenings and many felt that the various modes of public transport were not well linked with buses, planes and ferries

not well coordinated and many reporting missing connections. In one example an island resident reported having been discharged from hospital and left stranded at the airport as the public bus left before the last plane of the day arrived.

Participants in Orkney reported dissatisfaction at a requirement to provide photographic identification to travel with one ferry company to the mainland. The majority felt that this requirement was a disproportionate invasion of their personal privacy. Some reported that this impacted on their willingness and in some cases ability to travel to the mainland at all.[44] The company introduced this requirement for 'safety and security' reasons[45] but apparently not following consultation. A subsequent survey of island residents revealed a general dissatisfaction with the policy (Heddle, 2008).[46]

Among challenges to transport noted by participants in focus groups in rural areas were ending publicly funded bus services for accessing care services and a lack of bus services accessible to disabled people. Participants for example noted that while some new single decker buses had gas cylinders to lower the bus entrance for easier access most older [high step] single decker buses remained inaccessible although some have been fitted with a hoist facility. However, some reported that drivers appeared or suggested they lacked training to use the equipment.

Participants also reported that there was no way for someone to know if the bus that they are trying to catch will be a coach (no facilities for prams or wheelchairs) or if it will be a bus with a gas or hoist mechanism:

> *The coach ones are no use, but most other buses are good for buggies and wheelchairs, but you don't necessarily know if that's the bus that is coming. I have seen women standing outside waiting and then the bus that comes is a coach one and they can't get on with the buggy so they have to wait another half an hour for another one… and the bus drivers are not allowed to help, I asked once, and there's some reason or other, probably health and safety…*
> **Erica, Mother of a child with additional support needs, member of a women's support group.**

Buses are also restricted with regard to how many wheelchairs (or prams) that they can have on board at any one time which has often resulted in participants in this scoping project being able to travel somewhere but with no guarantee of getting back. It also means that two companions with wheelchairs are prevented from travelling together.

These issues faced by participants in this scoping project are also commonly raised in other research literature. Scottish Government research has previously found that disabled people remained 50 per cent less likely to make any kind of journey than non-disabled people (MacLeod et al., 2006). As a result of these findings, the Scottish Government made accessibility of buses a specific criterion for applications by providers for the Bus Route Development Grant Scheme. This has also been found to be the case for some local authorities in their contracting practice. Problems have, however, been noted in tracking progress (Scottish Government, 2008b).

During participation events run by SHRC and EHRC in 2010 and 2011 involving over 300 disabled people, the Commissions were informed that accessible transport was a key issue, particularly for those living in rural areas. In their evidence to the Joint Committee on Human Rights, SHRC highlighted that people reported feeling "*trapped*" both by the high cost of transport when it is available and also by the limited public transport options (SHRC, 2011a).

Support workers for young people living in dispersed urban and rural areas also pointed to the cost of public transport as a barrier to young people's ability to undertake or seek work. They noted that around £10 for a 2hr round trip to access a low paid job, or job interviews, often amounts to a significant proportion of weekly income.

Participants also noted that for those who do have their own transport, the cost of upkeep and fuel is becoming increasingly difficult. In some areas (such as the Western Isles) complaints have been raised that petrol and diesel are significantly more expensive than the rest of Scotland. In addition residents on Orkney & Shetland feel that they are being denied the same transport services as other islands as a result of the extension of the road equivalent tariff pilot scheme (RET)[47] from the Western Isles to other Islands but not Orkney or Shetland (Shetland Times, 2011, Scottish Government, 2011a).

Despite the wide range of challenges reported in accessing transport in rural areas, focus group participants also reported some good practice.

One participant described a social enterprise project in Fife called 'MyBus', which is a community transport group set up to provide a range of affordable, reliable, accessible transport services to groups and individuals unable to access suitable public transport. Participants felt that there could be much more support to set up these kinds of services in rural locations. However, participants did note the fragility of relying on volunteer provision such as this.

Participants discussed the entitlement that many had as a result of age or disability,[48] to a bus pass, which many described as greatly enhancing their freedom of movement:

> *Despite all the problems we have talked about regarding our buses, the bus pass has been a life line actually for a lot of people that couldn't afford otherwise to go out, especially the companion pass where you can take somebody with you.*
> **Diane, Manager of a mental health befriending support network.**

Others, however, were sceptical about the need for the universal provision of the bus pass, irrespective of means testing, and felt that this money could be better utilised in other public services. Audit Scotland and the Independent Budget Review also raised concern at the rising cost of universal free bus passes.[49]

In addition to the bus pass, many people are also helped by the companion entitlement[50] bus pass mentioned above. If an individual's mobility is such that they require to be accompanied whilst travelling, they can apply for a National Entitlement Card containing the companion entitlement (C+1) which allows a companion to travel free of charge with them for the same journey by bus. However civil society

organisations have raised concern at a lack of awareness of mental health leading to problems for some in using the service (VOX Scotland et al., 2012).

Highland Council also operate a 'Plus One Scheme' which has been designed to provide people in the Highland community who have high support needs with much greater access to a range of civic and cultural opportunities. Some participants in this scoping project who benefited from this scheme talked of how this allowed them to participate in a social life that they otherwise would not be able to do. The Scheme issues eligible individuals with a Plus One Card which provides free access for a carer to accompany them into a venue.[51]

Where Scottish Gypsy/Travellers Live

The rights of Gypsy/Traveller communities in Scotland, and across the UK generally, have been the subject of review by a number of national and international human rights bodies. In 2004, the European Court of Human Rights (ECtHR) issued a landmark judgment in the case of *Connors v UK*.[52] In that case the ECtHR found for the first time that under the European Convention on Human Rights (ECHR) there is a *"positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the [G]yspy way of life"*.[53]

In its most recent opinion on the UK in December 2011 the Council of Europe Advisory Committee on National Minorities noted that:

> *"The situation of Gypsies and Travellers remains of particular concern, despite measures undertaken by the authorities, in particular in the area of education.[54] They continue to experience significant difficulties in the field of accommodation, due to a persisting shortage of adequate permanent and transit sites throughout the country, resulting in frequent evictions and sometimes in tensions with the majority population."[55]*

The Advisory Committee consequently included among its "issues for immediate action":

> *"Take more vigorous measures to meet the accommodation needs of Gypsies and Travellers; increase the delivery of sites, including by improving the coordination of the different levels of authorities involved in sites delivery; ensure that local authorities comply with their responsibilities in sites delivery and find adequate solutions to the accommodation needs of Gypsies and Travellers."[56]*

Whilst acknowledging that the Scottish Government strengthened the requirements for local authorities regarding new housing provision for Gypsies/Travellers,[57] the European Committee of Social Rights concluded in 2012 that the right of members of Gypsy/Traveller communities to housing is not effectively guaranteed across the UK. Moreover, the Committee has asked that the UK's next report indicates whether the number of available pitches in Scotland meets the needs of Gypsies/Travellers (Council of Europe, 2012).

United Nations human rights bodies have expressed similar concerns and made similar recommendations. These have included the UN Committee on the Elimination of all forms of Racial Discrimination (CERD) in September 2011[58] and the UN Committee on Economic, Social and Cultural Rights in May 2009.[59]

Scottish Gypsy/Traveller communities have long been identified as population groups who face barriers to the realisation of human rights, whether in relation to living environment or freedom from discrimination (Amnesty International Scotland, 2012a, Amnesty International Scotland, 2012b, Clark and Greenfields, 2006, Devenney, 2011, Cemlyn, 2008, Cemlyn et al., 2009, BEMIS, 2011, SHRC, 2012). Among those most frequently reported is the lack of available and suitable stopping places (Devenney, 2011). Official stopping sites reportedly often continue to be inadequate in terms of habitability with poor sanitation, such as an inadequate number of toilets, and a lack of clean water (Scottish Executive, 2004). Participants involved in this scoping project reported poor living conditions of Scottish Gypsy/ Travellers, and stresses associated with insecurity of tenure, food and employment. Many also reported their living conditions remained substandard despite paying council tax and high rental rates, as one participant noted:

> *I got an internal e-mail in January 2009, 7 years after we started campaigning for the chalets and site improvements, and what we wanted really was electricity and running water, because we never had that but my father always paid rent, council tax, community charge, the lot. They even charged people in caravans with no facilities. And they came and did a report in 2005 and said there were no facilities and yet we were being charged.*
> **Kathleen, Scottish Gypsy/Traveller.**

Previous research has indicated that the conditions of living in the inadequate stopping sites can have a serious detrimental impact on the health of the inhabitants (Van Cleemput, 2008). Research also consistently identifies a lower life expectancy of Scottish Gypsy/Travellers of 57 for males and 62 for female (Scottish Parliament, 2001, EHRC, 2009, EHRC Scotland, 2010, Devenney, 2011, MECOPP, 2012). Scottish Gypsy and Traveller mothers are also reportedly 20 times more likely than the rest of the population to have experienced the death of a child (MECOPP, 2012).

Scottish Gypsy/Travellers have faced barriers to recognition as an ethnic minority under the Race Relations Act 1976.[60] However, an Employment Appeals Tribunal decision is often cited as having clarified that status in 2008.[61] That decision clarified that:

> *"Scottish Gypsy/ Travellers have ethnic origins, with reference in particular to the 1976 act, and they therefore enjoy the protection of the act."*

In practice the Scottish Government has recognised Scottish Gypsy/Travellers as an ethnic group. This view continues to inform policy, for example, the draft Scottish Social Housing Charter provides explicitly for this community in that they should benefit from good quality, well-managed accommodation when using sites provided by social landlords (Scottish Government, 2012).

The impact on local authority practice and the lived experience of Scottish Gypsy/Travellers has, however, been questioned. Devenney (2011) for example has noted that:

> *"Whilst on paper respect for these individual's rights is referred to, in practice these have done little to improve the situation for Gypsy/Travellers in Scotland. There is no point in recognising a right, if action is not taken to uphold it in practice by undertaking some duty to meet this right or taking action when it is violated".*

This reflects a key argument by T. H. Marshall regarding the difference between 'formal' and 'substantive' rights made. He argued essentially that whilst it is possible to have all the formal citizenship rights you'd like on paper, if they cannot be actioned in a substantive sense then in reality you are left with very little (Marshall, 1964).

Participants in this scoping project spoke positively about the Scottish Parliament's Equal Opportunities Committee Inquiry in 2001 (Scottish Parliament, 2001) but questioned progress since. Indeed, there was a strong feeling of discontent and disappointment in the failure to address the promises made via the 37 recommendations. Participants called for responsibility and action to be taken by the Scottish Government and the relevant other public authorities in respect of the 37 recommended points for action outlined in the 2001 Equal Opportunities Committee Inquiry (Scottish Parliament, 2001). Early in 2012, the Scottish Parliament Equal opportunities Committee heard informal evidence from Gypsy/Travellers about the many difficulties they face and as a result the Committee launched two short inquires in March 2012: one into Gypsy/ Travellers and Care and the other into Where Gypsy Travellers live.[62]

Discrimination against Scottish Gypsy/ Traveller Communities

The 2010 Scottish Social Attitudes demonstrates that Scottish Gypsy/Travellers feature prominently on various discrimination indicators (Ormston et al., 2011). For example, 37 per cent of participants stated that they would find it difficult if a member of this community joined their family circle; 46 per cent said that a member of this community would not be suitable to be employed as a primary school teacher; and 42 per cent further stated that it would be a "*very bad use*" of government money if any public spending was directed to help this group (Ormston et al., 2011).

Acceptance of discrimination against this community is also reportedly widespread in Scotland. Previous research has demonstrated that in Scotland, it is:

> "*socially acceptable to be racist towards Gypsies and Travellers – numerous examples in media, policies and practices of public bodies demonstrate [this]*" (Cemlyn et al., 2009)

Research indicates that there is a long history of discrimination based on the perceived refusal or rejection by Scottish Gypsy/ Travellers of 'sedentary' culture (i.e. to settle in one area) resulting in fear and mistrust (Shubin and Swanson, 2010). Participants in this scoping project from Scottish Gypsy/Traveller communities were highly critical of the role that they believed the media played in fostering negative attitudes towards their community. They were also critical of local politicians who they felt often contributed to such reporting:

> *In 2007 when we were looking for a decamp site, there was a lot of stuff in the papers about the industrial site [next to proposed site]. That it would be broken into and that the Travellers would cause problems and that the dogs would roam and so on. It was a local councillor that actually said all that about that community, he said that if we move there to this other industrial estate near the council houses, then there would be a higher risk of theft, a higher risk of vandalism, a risk of dog fouling, a higher risk for the children – and this was all said at a planning meeting where you were not allowed to talk, right, but there were 200 people there... I witnessed that and I could not say anything in my defence… we went to the police and we tried to get the*

councillor done for inciting racial hatred and you could have done it without even mentioning the meeting because it was all in the papers, it was printed leading up to the planning meeting that the councillors were getting all of this information about what would happen. Their objections were even on the internet, you could get all the information about what we would apparently do to the community it was all online. So we took it to the police station…. we tried to get the councillor charged with defamation and inciting racial hatred, but the police wouldn't accept the complaint. It's like all the complaints that have ever gone forward, they have never gone anywhere… First of all the police tried to tell us that there was no such thing as inciting racial hatred, then they backed down and said that it was very rare and very difficult to prove and that they didn't think that these circumstances would warrant being taken forward, so you couldn't budge them on it. Even although it was in print, in black and white… I think that it's become accepted, it's not the worst things that have been said about Travellers, it's not new, so it is just accepted. But at that time it was important to us because we were going to miss out on a site, and we don't have enough sites, we need more sites.
Mary, Scottish Gypsy/Traveller.

Research has further indicated that such stopping places as do exist are often in "*out of the way*" areas (Shubin and Swanson, 2010). This results in challenges accessing services such as education and health. Participants in this scoping project spoke of the difficulty they had in gaining planning permission to site permanent stopping places for Gypsy/ Travellers:

… I think there is still that bias and intolerance towards Gypsy/Travellers within [this area], we have found that very, very difficult to allocate sites for Gypsy Travellers here just because people don't want sites in their back yard. And the sites that are being considered just now are probably not the best sites for Gypsy/Travellers so it is an obvious issue here. Plus we have a very biased media here which doesn't help.
Amy, local authority housing officer.

Another participant stated in relation to her local authority area that:

The lack of provision is not recognised: 1. by elected members, 2. by the public and 3. by the popular press. Nationally we do not have enough parking spots for caravans and therefore like it or not they are forced into more and more high profile unsuitable locations, which then attracts all the negative coverage.
Maureen, Council equalities officer.

Research has shown that despite the existence of relevant policy, current practice in Scotland does not adequately promote or protect the human rights of Scottish Gypsy/ Travellers. Often the rights of Scottish Gypsy/ Travellers are:

"Portrayed as being at odds with, and conflicting with, the rights and interests of, the settled community" (Devenney, 2011).

Devenney (2011) further argues that when discussion takes place where decisions are made that rely on the rights of one group being weighed against the rights of another group, it is critical that the rights of Scottish Gypsy/ Travellers are considered "*of equal worth*" to those of the settled community if this balancing act is to take place on an equal level.

SHRC has recommended:

> *that the Scottish Government work with local authorities and all others with responsibilities as well as members of Gypsy/Traveller communities and of settled communities to develop an Action Plan, consistent with international human rights law, to reconcile the human rights of Gypsy/Travellers and settled communities (SHRC, 2011b, SHRC, 2012).*

Moving Forward

This section, alongside the other thematic sections and the overarching contextual chapter, has highlighted gaps, and inconsistencies, as well as good practices in the realisation of human rights in practice in Scotland. Addressing these shortfalls should be a concern of all bodies with responsibilities, including Government, local authorities, other public authorities and private providers of public services.

Identifying the shared framework of responsibilities and agreeing steps to address gaps requires an inclusive process of engagement. It should result in clarity on what action such bodies will take and when concrete improvements can be expected – it should result in specific, measurable, achievable, relevant and time-bound objectives. An independent system for monitoring progress should also be agreed. In short, the report supports the conclusion that Scotland needs a National Action Plan for Human Rights. To develop this SHRC will host human rights InterActions involving a broad range of public and private bodies, civil society and individuals. These InterActions will follow a FAIR approach:

> *Facts*: What are the key gaps and the good practices in the realisation of human rights in Scotland?
> *Analysis of rights at stake*: Which human rights are at stake? Is any restriction on the rights justified? Is the extent of realisation of the right reasonable?
> *Identify responsibilities*: What changes are necessary? Who has responsibilities for helping to make the necessary changes?
> *Recall and review progress*: Independent monitoring according to agreed indicators and periodic review of progress.

This process will allow for constructive dialogue between those with responsibilities and those whose rights are affected. Further, it will clarify the steps that are required to improve human rights practice in Scotland taking a pragmatic approach to understanding financial and other constraints. It is hoped that Scotland's National Action Plan for Human Rights will launch in summer 2013.

To inform the process of developing Scotland's National Action Plan for Human Rights responses are requested to the following questions:

> **1. Based on the evidence presented in this report, or your own experience, what do you consider to be the most urgent human rights issues which should be addressed in Scotland's National Action Plan for Human Rights?**

> **2. What specific and achievable actions do you consider would best address the concerns you identify in terms of question 1?**

Please use the form at the end of this section and send your responses to actionplan@scottishhumanrights.com or post it to us at Scottish Human Rights Commission, 4 Melville Street, Edinburgh, EH3 7NS

Table 1: Key Dates

Date	Action
May 2012	The UK Universal Periodic Review at the United Nations begins.
September 2012	The final report and recommendations of the UK's Universal Periodic Review is anticipated
October 2012	Publication of SHRC's Report and launch of a process of participation to shape Scotland's National Action Plan for Human Rights
December 2012	SHRC hosts a National InterAction to address the findings of the scoping exercise and facilitate negotiation of commitments to address them
Aiming for Spring 2013	A draft of Scotland's first National Action Plan for Human Rights is published for comment
Aiming for Summer 2013	Scotland's National Action Plan for Human Rights will be launched
June 2014	UK's progress on Universal Periodic Review recommendations is considered in a mid-point review. Progress on Scotland's National Action Plan for Human Rights to feed into this process.

PARTICIPATION FORM
SCOTLAND'S NATIONAL ACTION PLAN FOR HUMAN RIGHTS

Views are sought from all individuals and organisations who have experience or expertise which can help to shape Scotland's National Action Plan for Human Rights.

The Scottish Human Rights Commission will be collecting and analysing all responses receive before the **29 March 2013**. Early responses are encouraged.

Unless respondents request that their views remain confidential or anonymous all responses will appear online with the organisation or individual named as the respondent. Contact details for the respondent will not appear online.

- Please tick this box if you do not wish your response to appear online:

- Please tick this box if you are happy for your response to appear online but not your name or organisation's name to appear:

- Please tick this box if you would prefer we did not link to your website:

Name: _____
Organisation: (where appropriate) _____
Website: _____
Email address: _____
Contact telephone number: _____

This form can be returned by post to: Dr Alison Hosie, Scottish Human Rights Commission, 4 Melville Street, Edinburgh, EH3 7NS, or sent as an electronic or scanned document to actionplan@scottishhumanrights.com

You can also fill out this form online at www.scottishhumanrights.com/actionplan

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1. Based on the evidence presented in the report *Getting it right? Human rights in Scotland*, or your own experience, what do you consider to be the most urgent human rights issues which should be addressed in Scotland's National Action Plan for Human Rights?

2. What specific and achievable actions do you consider would best address the concerns you identify in your response to question 1?

Thank you for sharing you experience or expertise and helping to shape Scotland's National Action Plan for Human Rights.

Contact point: Dr Alison Hosie / actionplan@scottishhumanrights.com / 0131 240 2989 / www.scottishhumanrights.com/actionplan / @scothumanrights

Bibliogrpahy

AMIS 2011. Domestic Abuse Incidents Recorded by Scottish Police 2008/9 and 2010/11. Dunfermline: AMIS.

AMNESTY INTERNATIONAL SCOTLAND 2012a. Caught in the Headlines: Scottish media coverage of Scottish Gypsy Travellers. Edinburgh: Amnesty International Scotland.

AMNESTY INTERNATIONAL SCOTLAND 2012b. On the Margins: Local Authority Service Provision for Scottish Gypsy Travellers. Edinburgh: Amnesty International Scotland.

ANDERSON, I. 2007. Tackling street homelessness in Scotland: The evolution and impact of the rough sleepers initiative. *Journal of Social Issues,* 63**,** 623-640.

ANDERSON, I. 2009. Homelessness Policy in Scotland: A complete state safety net by 2012? *In:* FITZPATRICK, S., QUILGARS, D. & PLEACE, N. (eds.) *Homelessness in the UK: Problems and Solutions.* Trowbridge: Cromwell Press Group.

ANDERSON, I. 2012. Policies to Address Homelessness: Rights-Based Approaches. *In:* SMITH, S. J., ELSINGA, M., O'MAHONY, L. F., SEOW ENG, O., WACHTER, S. & FITZPATRICK, S. (eds.) *International Encyclopedia on Housing and Home.* Oxford: Elsevier.

ANDERSON, I. & SIM, D. 2011. *Housing and Inequality,* Totton, Chartered Institute of Housing.

BEMIS 2011. Gypsy Travellers in Contemporary Scotland: The 2001 'Inquiry into Gypsy Travellers and Public Sector Policies': Ten Years On. Glasgow: BEMIS.

BERRY, K. 2011. Housing Benefit Changes: Implications for Scotland. Edinburgh: Scottish Parliament.

BERTOLINI, P., MONTANARI, M. & PERAGINE, V. 2008. Poverty and social Exclusion in Rural Areas: final report/annex 1 - country studies. European Commission.

BEVAN, M. & CROUCHER, K. 2008. Housing Issues for Older People in Rural Areas. Centre for Housing Policy, University of York.

BLACKSTOCK, K., INNES, A., COX, S. J., MASON, A. & SMITH, A. 2006. Living with dementia in rural and remote Scotland: Diverse experiences of people with dementia and their carers *Journal of Rural Studies,* 22**,** 161 - 176.

BOYLE, J., WHYTE, R., DICKSON, E., GODDEN, D., HEANEY, D. & MUNRO, A. 2010. Evaluation of the Emergency Medical Retrieval Service. Centre for Rural Health, University of Aberdeen.

BRADFORD, E. 2012. Concern over rural medical cover in Scotland. *BBC News Online.*

CARVEL, J. 2008. Dossier prepared for UN details grim plight of many young people in Britain: Widespread flouting of human rights, says report: Youth justice and attitudes to young 'have got worse'. *The Guardian*, June 9, 2008

CEMLYN, S. 2008. 'Human Rights and Gypsies and Travellers: An Exploration of the Application of a Human Rights Perspective to Social Work with a Minority Community in Britain. *British Journal of Social Work,* 38**,** 153-173.

CEMLYN, S., GREENFIELDS, M., BURNETT, S., MATTHEWS, Z. & WHITWELL, C. 2009. Inequalities experienced by Gypsy and Traveller communities: a review. London: Equality and Human Rights Commission.

CHILDREN IN SCOTLAND 2007. Arts for all? Developing cultural entitlements for young children in rural Scotland. Children in Scotland.

CLARK, C. & GREENFIELDS, M. 2006. *Here to Stay: The Gypsies and Travellers of Britain,* Hatfield, University of Hertfordshire Press.

COMMUNITIES SCOTLAND 2006. Equalities in Practice: A follow up study to the 2002 thematic report. Communities Scotland.

COMMUNITIES SCOTLAND 2007. LGBT Housing Project: Project Review. LGBT Centre for Health and Wellbeing, Stonewall Scotland, Scottish Federation of Housing Associations.

COUNCIL OF EUROPE 2012. European Social Charter European Committee of Social Rights Conclusions XIX-4 (2011) (UNITED KINGDOM) Articles 7, 8, 16, 17 and 19 of the Charter. Strasbourg: Council of Europe.

CPAG 2012. Background media briefing for 2010/11 official poverty figures. Glasgow: Child Poverty Action Group.

CRAIG, G. 2011. Mapping human rights organisations in Scotland. Durham: University of Durham, School of Applied Social Sciences.

CURRIE, M. 2009. Assessing bus support policies for their accessibility benefits in rural areas *Institute for Rural Research, Department of Geography and Environment.* University of Aberdeen.

CURRIE, M., FARMER, J. & NIMEGEER, A. 2008. Physician Assistants in Scotland: The answer to healthcare delivery in rural areas? . *Sixth International Symposium - PHARE.* Saskatoon, Canada, .

CURRIE, M. & HEANEY, D. 2008. Setting the scene: new roles in Scottish rural healthcare *Who will be the future rural workforce?* Centre for Rural Health, Inverness.

DAWSON, J., MARSHALL, D., TAYLOR, M., CUMMINS, S., SPARKS, L. & ANDERSON, A. 2008. Accessing healthy food: availability and price of a healthy food basket in Scotland. *Journal of Marketing Management,* 24**,** 893-913.

DE LIMA, P. 2008. Rural minority ethnic experiences: housing and health: Better Housing Briefing 7. *Better Housing Briefing.* Race Equality Foundation.

DE LIMA, P., ARSHAD, R., BELL, A. & BRAUNHOLTZ-SPEIGH, T. 2011. Community Consultation on Poverty and Ethnicity in Scotland. York: Joseph Rowntree Foundation.

DEPARTMENT OF WORK AND PENSIONS. 2011. *Households Below Average Income (HBAI)* [Online]. London: Department of Work and Pensions. Available: http://research.dwp.gov.uk/asd/index.php?page=hbai.

DEVENNEY, G. 2011. *Rights in conflict? Human rights and their impact on the treatment of Gypsy/Travellers in Scotland.* MSc Human Rights and International Politics Masters, University of Glasgow.

DICKIE, J. 2011. Child Poverty. *In:* MCKENDRICK, J., MOONEY, G., DICKIE, J. & KELLY, P. (eds.) *Poverty in Scotland 2011: Towards a more equal Scotland?* London: Child Poverty Action Group in association with the Scottish Poverty Information Unit, the Open University and the Poverty Alliance.

DONNELLEY, R. 2009. GP Access Survey: Results and Methodology NHS Health Scotland.

DRIVER, S., LAMB, M. & WILSON, C. 2010. Annotated Bibliography of Published and Grey Non-Legal Literature on Human Rights in Scotland since 2006. London: The Crucible Centre and Social Research Centre, ROEHAMPTON UNIVERSITY.

EHRC 2009. Gypsies and Travellers: Simple solutions for living together London: Equality and Human Rights Commission.

EHRC SCOTLAND 2010. Gypsy Travellers in Scotland: resource for the media. Glasgow: EHRC Scotland,.

EKOS LTD 2009. The Experience of Rural Poverty In Scotland: Qualitative Research with Organisations Working with People Experiencing Poverty in Rural Areas.

FARMER, J. 2008a. Delivering for remote and rural healthcare.   . *Shifting the balance: new roles and models of care.* NHS Highland, Aviemore.

FARMER, J. 2008b. Measuring rural policy outcomes.   . *Inaugural Rural and Remote Health Scientific Symposium.* Brisbane.

FARMER, J. 2009. A roadmap for improving remote and rural health care. . *SNP meetings,.* Inverary.

FLANIGAN, D. 2011. Mapping the Law of Scotland in Relation to Economic, Social & Cultural Rights. Glasgow: Scottish Human Rights Commission.

GODDEN, D. 2007. Sustainable Rural Health: A Challenge and an Opportunity *UHI Sustainable Highlands and Islands Seminar Series.* Inverness.

HALDEN, D., FARRINGTON, F. & COPUS, A. 2002. Rural Accessibility. Edinburgh: Scottish Executive.

HEDDLE, S. 2008. *Survey of attitudes to Northlink photo ID requirement:* *http://www.theheddles.co.uk/business/council/SurveyAnalysisAllApps.pdf* [Online]. Orkney Available: http://www.theheddles.co.uk/business/council/SurveyAnalysisAllApps.pdf.

HOPWOOD ROAD, F. 2006. Out of Pocket Citizens Advice.

INCLUSION SCOTLAND 2009. Freedom of Information research into accessible housing for disabled people in Scotland Inclusion Scotland.

INNES, A., COX, S., SMITH, A. & MASON, A. 2006. Service provision for people with dementia in rural Scotland: Difficulties and innovations. *Dementia,* 5**,** 249-270.

JAMIESON, L., BRADSHAW, P. & ORMSTON, R. 2008. Growing Up in Scotland: Growing Up in Rural Scotland. The Scottish Government.

KEMP, J. 1989. The demunicipilisation of rented housing. *In:* BENTON, U. & UNGERSON, C. (eds.) *Social Policy Review 1988-1989.* New York: Prentice Hall.

KING, G. & J., F. 2009. What older people want: evidence from a study of remote Scottish communities *Rural and Remote Health,* 9**,** 1166.

KIRKWOOD, S. & RICHLEY, T. 2008. Circles of Support and Accountability: the case for their use in Scotland to assist in the community reintegration and risk management of Sexual Offenders. *SCOLAG Legal Journal.*

LAW, J., MCCANN, D., O'MAY, F., SMART, C. & BUCHAN, J. 2009. Service Provision for Children and Young People with Complex Needs in a Community Setting from the Perspectives of Nursing and Allied Health Professionals. Queen Margaret University, Edinburgh.

LOVE, J., LOVE, A., VERTIGANS, S. & SUTTON, P. 2007a. Health & homelessness in Aberdeen City: a report for the Scottish Health Council. The Robert Gordon University.

LOVE, J., VERTIGANS, S., DOMASZK, E., ZDEB, K., LOVE, A. & SUTTON, P. 2007b. Health & ethnicity in Aberdeenshire : a study of Polish in-migrants; a report for the Scottish Health Council The Robert Gordon University.

MACLEOD, P., DUDLESTON, A., BARHAM, P. & RYE, T. 2006. Improved Public Transport for Disabled People. Edinburgh: Scottish Executive.

MARSHALL, T. H. 1964. *Class, citizenship and social development.* , New York, Doubleday.

MÁTÉ, I., CAIRNS, P., CORMACK, D., WALKER, S., HAWKINS, L. & ROBERTSON, J. 2011. Scottish House Condition Survey: Key findings 2010. *In:* SCOTTISH HOUSE CONDITION SURVEY TEAM, HOUSING, REGENERATION, DIRECTORATE, C. A. T. C. G., SERVICES, C. A. & GOVERNMENT, S. (eds.). Edinburgh: Scottish Government.

MCHARDY, F., MARTIN, C., KENNEDY, D., MUNRO, M. & TENNANT, R. 2011. OUT OF JAIL BUT STILL NOT FREE: Experiences of temporary accommodation on leaving prison. Glasgow: Poverty Alliance, EPIC.

MCKENDRICK, J. 2011. Rural Poverty. *In:* MCKENDRICK, J., MOONEY, G., DICKIE, J. & KELLY, P. (eds.) *Poverty in Scotland 2011: Towards a more equal Scotland?* London: Child Poverty Action Group in association with the Scottish Poverty Information Unit, the Open University and the Poverty Alliance.

MCKENDRICK, J., BARCLAY, C., CARR, C., CLARK, A., HOLLES, J., E., P. & L., S. 2011a. Our Rural Numbers Are Not Enough: An independent position statement and recommendations to improve the identification of poverty, income inequality and deprivation in rural Scotland. Glasgow: Rural Poverty Indicators Action Learning Set.

MCKENDRICK, J., MOONEY, G., DICKIE, J. & KELLY, P. (eds.) 2011b. *Poverty in Scotland 2011: Towards a more equal Scotland?,* London: Child Poverty Action Group in association with the Scottish Poverty Information Unit, the Open University and the Poverty Alliance.

MCLELLAND, M. 2012. Roma-Net Glasgow Perspective. *Scotland's New Migrant Community - Meeting the Needs of Roma* Glasgow: Glasgow City Council, Roma-Net.

MCSORLEY, L. 2010. Special Study on Living in Poverty in Rural Areas Report to The Scottish Government Rural and Analysis Research and Analysis Directorate, . Edinburgh: Rural Policy Centre.

MECOPP 2012. Hidden Carers, Unheard Voices: Informal caring within the Gypsy/ Traveller community in Scotland. Edinburgh: Minority Ethnic Carers of People Project.

MONEY, R. 2008. Scotland has a choice. We can lock up 8000 prisoners . . . or we can cut crime, reduce reoffending rates and get them back into a life where they are part of society. *Sunday Herald*.

MONK, S., TANG, C. & WHITEHEAD, C. 2010. What does the literature tell us about the social and economic impact of housing? Report to the Scottish Government: Communities Analytical Services. Edinburgh: Cambridge Centre for Housing and Planning Research, University of Cambridge.

MORRISON, C. & SHORTT, N. 2008. Fuel poverty in Scotland: Refining spatial resolution in the Scottish Fuel Poverty Indicator using a GIS-based multiple risk index. *Health and Place,* 14**,** 702-717.

NETTO, G. & FRASER, A. 2009. Navigating the maze: Refugee routes to housing, support and settlement in Scotland. Heriott Watt University.

NEWHAVEN RESEARCH LIMITED 2008. Review of the Highland Housing Alliance and the Highland Revolving Landbank Fund. Newhaven Research Limited.

NHS SCOTLAND 2007. Delivering Remote and Rural Health Services - The Remote and Rural Workstream Report.

NORMAND, A. & WEBSTER, E. 2010. Mapping the Law of Scotland in relation to International Human Rights Treaties – Civil and Political Rights. Glasgow: University of Strathclyde.

NORTH OF SCOTLAND PLANNING GROUP 2011. National Delivery Plan for Specialist Children's Services: North of Scotland. Inverness: NHS Grampian, NHS Highland, NHS Orkney, NHS Shetland, NHS Tayside and NHS Western Isles.

ODS CONSULTING 2007. Scotland's Approach to Housing Policy and Strategy in Relation to Disability and Race: A Review at National and Local Level ODS Consulting.

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT 2008. Policy Brief: The OECD Review of Scottish Rural Policy. *PolicyWeb, policy briefs.* The UHI Policy Research Institute for Remote and Rural Regions.

ORMSTON, R., CURTICE, J., MCCONVILLE, S. & REID, S. 2011. Attitudes to Discrimination and Positive Action, Scottish Social Attitudes Survey 2010. Scottish Centre for Social Research (ScotCen).

PACIONE, M. 2004. The Geography or Rural Disadvantage in Scotland. *Tijdschrift voor Economische en Sociale Geografie,* 95**,** 375-391.

PEREZ, I. A., WILSON, C. W. L., KING, C. & PAGNIER, C. 2006. Translating, Interpreting and Communication Support: A Review of Provision in Public Services in Scotland. Centre for Translation and Interpreting Studies in Scotland, Heriot-Watt University.

PRIOR, M. 2008. The social, economic, human and institutional contribution of primary health services to rural communities *Shifting the balance: new roles and models of care.* NHS Highland, Aviemore.

REDWOOD, M. 2009. Capacity Development Funding in Rural Scotland: Interim report to the EHRC. Inverness: Scottish Rural Equality Network.

REID HOWIE ASSOCIATES 2007. Tenant Participation: The Involvement of Disabled People. Reid Howie Associates.

ROMANO LAV 2012. Working together towards a better future. *Scotland's New Migrant Community - Meeting the Needs of Roma* Glasgow: Romano Lav.

SATSANGI, M. & CRAWFORD, J. 2009. Investigation of Occupancy Controls in Rural Housing. Department of Applied Social Science, University of Stirling.

SCOTLAND'S COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE 2008. Sweet 16? The Age of Leaving Care in Scotland. Scotland's Commissioner for Children and Young People.

SCOTTISH AFFAIRS COMMITTEE 2007. Second Report of Session 2007-08, Poverty in Scotland, HC 128-II. London: House of Commons.

SCOTTISH EXECUTIVE 2004. Domestic Abuse: A National Training Strategy. Edinburgh: Scottish Executive.

SCOTTISH EXECUTIVE 2006a. Evaluation of the Rural Transport Fund. Edinburgh: Scottish Executive.

SCOTTISH EXECUTIVE 2006b. Scotland's National Transport Strategy. Edinburgh: Scottish Executive.

SCOTTISH GOVERNMENT 2008a. Delivering for Remote and Rural Healthcare: The Final Report of the Remote and Rural Workstream. Edinburgh: Scottish Government.

SCOTTISH GOVERNMENT 2008b. Health and Wellbeing: Reporting on Progress towards Equality of Opportunity between Disabled Persons and Other

Persons made by Public Authorities in Scotland: the Scottish Ministers' Duties. Edinburgh: Scottish Government.

SCOTTISH GOVERNMENT 2008c. National delivery plan for children and young people's specialist services in Scotland. Edinburgh: Scottish Government.

SCOTTISH GOVERNMENT 2009a. Food Affordability, Access and Security: Their Implications for Scotland's Food Policy - A Report by Work Stream 5 of the Scottish Government's Food Forum The Scottish Government.

SCOTTISH GOVERNMENT. 2009b. Operation of the Homeless Persons Legislation in Scotland: 2008-2009. Available: http://www.scotland.gov.uk/Resource/Doc/283643/0085964.pdf

SCOTTISH GOVERNMENT 2010a. DOMESTIC ABUSE RECORDED BY THE POLICE IN SCOTLAND, 2009-10. *Statistical Bulletin: Crime and Justice Series - A National Statistics Publication for Scotland.* Edinburgh: Office of the Chief Statisticia.

SCOTTISH GOVERNMENT. 2010b. *Flying doctors flying high: news release* [Online]. Edinburgh: Scottish Government. Available: http://www.scotland.gov.uk/News/Releases/2010/03/02094826 [Accessed 29th March 2012 2012].

SCOTTISH GOVERNMENT. 2010c. Housing Fresh Thinking New Ideas. Available: http://www.scotland.gov.uk/Resource/Doc/1034/0100962.pdf.

SCOTTISH GOVERNMENT 2011a. Assessment of the Impacts of the Road Equivalent Tariff Pilot Final Report. Edinburgh Halcrow Group Limited.

SCOTTISH GOVERNMENT 2011b. Housing Benefit Changes: Scottish Impact Assessment. Edinburgh.

SCOTTISH GOVERNMENT 2011c. Renewing Scotland, The Government's Programme for Scotland 2011-2012. Edinburgh.

SCOTTISH GOVERNMENT 2011d. Scottish Social Housing Charter Consultation Paper: 2011. Edinburgh.

SCOTTISH GOVERNMENT 2012. The Scottish Social Housing Charter. *In:* GOVERNMENT, S. (ed.). Edinburgh: Scottish Government.

SCOTTISH PARLIAMENT 2001. Equal Opportunities Committee 1st Report Inquiry into Gypsy Travellers and Public Sector Policies Edinburgh: Scottish Parliament.

SCOTTISH POVERTY INFORMATION UNIT. Climate Change, Housing and Poverty: A Healthy Housing Manifesto for Scotland. 2009 Glasgow Caledonian University,.

SHELDRICK, B. & HEPBURN, D. 2007. Assessing the Impact of the Central Heating Programme on Tackling Fuel Poverty: The First Three Years of the Programme 2001-2004 Final Report. Alembic Research.

SHELTER. 2003. Fact sheet The Homelessness etc. (Scotland) Act Available: http://scotland.shelter.org.uk/__data/assets/pdf_file/0010/48628/PP21_Homelessness_etc_Scotland_Act.pdf [Accessed 15th Feb 2012].

SHETLAND TIMES. 2011. Road equivalent tariff extension angers Shetland MSP. *Shetland Times,,* 29th November 2011.

SHRC 2008. Scottish Human Rights Commission STRATEGIC PLAN 2008-2012. Glasgow: SHRC.

SHRC 2009. Submission to the Tenant Priorities Team, Scottish Government on the Draft Housing (Scotland) Bill Glasgow: Scottish Human Rights Commission.

SHRC 2011a. Response to Joint Committee on Human Rights Inquiry on Independent Living. Edinburgh.

SHRC 2011b. *Submission to the Universal Periodic Review of the UK.* Edinburgh: Scottish Human Rights Commission.

SHRC 2012. Submission to the Equal Opportunities Committee inquiry - Where Gypsy/Travellers live. Edinburgh: Scottish Human Rights Commission.

SHUBIN, S. & SWANSON, K. 2010. "I'm an imaginary figure": Unravelling the mobility and marginalisation of Scottish Gypsy Travellers. *Geoforum,* 41**,** 919-929.

SIM, D. & BOWES, A. 2007. Asylum Seekers in Scotland: The Accommodation of Diversity. *Social Policy and Administration,* 41**,** 729-746.

SMITH, N., DAVIS, A. & HIRSCH, D. 2010a. A minimum income standard for rural areas. York: JRF.

SMITH, R., TAIT, L., BALES, K., MCCONNELL, L. & RABAN-WILLIAMS, R. 2010b. Mapping the Law of Scotland in Relation to International Human Rights Treaties: CAT & CPT. Newcastle: Northumbria Law School.

STARK, C., HOPKINS, P., GIBBS, D., BELBIN, A. & HAY, A. 2007. Population density and suicide in Scotland *Rural and Remote Health,* 7.

STRAUSS, K. & KELLY, P. 2011. In-work poverty. *In:* MCKENDRICK, J., MOONEY, G., DICKIE, J. & KELLY, P. (eds.) *Poverty in Scotland 2011: Towards a more equal Scotland?* London: Child Poverty Action Group in association with the Scottish Poverty Information Unit, the Open University and the Poverty Alliance.

TAYLOR, L. 2011. SPICe Briefing Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Bill: Stage 3. Edinburgh: SPICe.

TOOKEY, A., WHALLEY, J. & HOWICK, S. 2006. Broadband diffusion in remote and rural Scotland. *Telecommunications Policy,* 30**,** 481-495.

UHI POLICY WEB 2006. Policy Brief: Thriving Rural Communities: Outcomes, Indicators and Service Standards. *PolicyWeb, policy briefs.* University of the Highlands and Islands.

UN CESCR 1991. The right to adequate housing (Art.11 (1)) : . 13/12/1991. CESCR General comment 4. (General Comments). Geneva.

UN CESCR 2009. Concluding Observations of the Committee on Economic, Social and Cultural Rights. *UN Doc. E/C.12/GBR/CO/5.* Geneva.

VAN CLEEMPUT, P. 2008. Health Impact of Gypsy Sites Policy in the UK. *Social Policy and Society,* 7**,** 103-117.

VOX SCOTLAND, SHRC & EHRC. What the Convention means for mental health? Being part of Scotland's story under the Disability Convention: What the Convention means for mental health?, 28 March 2012 2012 Edinburgh. VOX Scotland, Voice of Experience.

WEBSTER, S. 2006. The Survey of Needs for Adults with ASD and their Carers.

WILSON, R. & EDWARDS, T. 2008. BARRIERS TO RURAL ECONOMIC DEVELOPMENT IN SCOTLAND
Edinburgh Scottish Enterprise Rural Group and Partners

WILSON, T., ROBERTSON, J. & HAWKINS, L. 2012. Fuel Poverty Evidence Review: Defining, Measuring and Analysing Fuel Poverty in Scotland. *In:* TEAM, S. H. C. S. A. R. (ed.). Edinburgh: Scottish Government.

Appendix 1: Prioritisation criteria to select Phase 2 issues for further study

Occurrence: Number of Phase 1 sources commenting on a particular issue in relation to the Right being examined.

Devolved competence: Allows scoring according to whether an issue is reserved and wholly beyond the powers of devolved government, partly within the powers of devolved government, or fully within the powers of devolved government to address.

Gravity: Score reflects the nature of the rights at stake:

Category 1.Qualified & limited Rights, Economic, Social & Cultural Rights, the Right to an Effective Remedy, Non-discrimination in the Exercise of Rights

Category 2.The Right to Life, Retrospective Criminal Law and Absolute Rights (Right to be Free from Torture& Inhumane and Degrading Treatment and Prohibition of Slavery).

Imprint: Score reflects the extent to which the issues raised in a particular category would affect a large number of people

Vulnerability/ Marginalisation: Score reflects the extent to which the issues raised affect vulnerable or marginalised groups/communities.

Added value: Scores reflect whether the issue contributes to the human rights culture of Scotland without duplicating research work already being done by other bodies (or within the clear remit of other organisations)?

Opportunity: Scores reflect whether the issue creates/ensures the establishment of positive, supportive interaction and understanding between the SHRC and institutions or individuals where previously this did not exist?

Endnotes

1 Further details on the methods and methodology of this scoping project can be found in the main report which can be accessed at: http://www.scottishhumanrights.com/actionplan

[2] The data sources collated and analysed in the first phase included:

An annotated bibliography of published and "grey" social research. DRIVER, S., LAMB, M. & WILSON, C. 2010. Annotated Bibliography of Published and Grey Non-Legal Literature on Human Rights in Scotland since 2006. London: The Crucible Centre and Social Research Centre, ROEHAMPTON UNIVERSITY. See also Hosie & Lamb (2013 forthcoming) for further information on the methodology of this aspect of the research http://journals.cambridge.org/action/displayAbstract?fromPage=online&aid=8685263

Three legal literature reviews exploring specific Conventions/Acts in relation to the law in Scotland. (Convention against Torture, Inhumane and Degrading Treatment, International [CAT] SMITH, R., TAIT, L., BALES, K., MCCONNELL, L. & RABAN-WILLIAMS, R. 2010. Mapping the Law of Scotland in Relation to International Human Rights Treaties: CAT & CPT. Newcastle: Northumbria Law School, ibid., International Convention of Economic, Social & Cultural Rights [ICESCR] FLANIGAN, D. 2011. Mapping the Law of Scotland in Relation to Economic, Social & Cultural Rights. Glasgow: Scottish Human Rights Commission, ibid. and Human Rights Act/ European Convention of Human Rights] NORMAND, A. & WEBSTER, E. 2010. Mapping the Law of Scotland in relation to International Human Rights Treaties – Civil and Political Rights. Glasgow: University of Strathclyde.

An analysis of all individual enquiries received by SHRC and all general intelligence on systemic human rights issues in Scotland collated by SHRC (2008-2010). Whilst only those inquiries received between 2008 and 2010 were analysed as part of Phase one of this scoping project, the mapping project continued to collate and review inquiries during 2011 as part of Phase two. All responses to SHRC's 2009 national consultation. The original consultation document can be accessed at http://www.scottishhumanrights.com/ourwork/publications/article/reportofthenationalconsultation

Initial Scottish data from the development of a "Human Rights Measurement Framework". The HRMF is a new tool for evaluating the human rights position of individuals and groups in England, Scotland and Wales. It was developed by the London School of Economics and Political Science, CASE and the British Institute for Human Rights within a partnership project of EHRC and SHRC. More information can be found here: http://personal.lse.ac.uk/prechr/

3 During this process SHRC also developed a Stakeholder Database of third Sector organisations involved to some degree in the promotion of human rights in Scotland. This database provides SHRC with a greater understanding of the range of groups and organisations which view part of their work to be promoting human rights in Scotland and provided a sampling framework for groups to approach to participate in the primary data collection of this scoping project. This database is available to the public [http://maps.scottishhumanrights.com/] For further information on this project see: CRAIG, G. 2011. Mapping human rights organisations in Scotland. Durham: University of Durham, School of Applied Social Sciences.

4 Not all of the many issues identified within this framework could, however, be explored further in Phase 2. Accordingly, a prioritisation criteria filter was applied (see Appendix 1) in order to determine which would be explored in the focus groups. Two further issues that were identified as priority issues are covered in other thematic sections, Namely:

Social Isolation & Integration needs, is explored in the thematic section examining Dignity & Care.
Health impact of where we live, is explored within the thematic section on Health.

[5] For example there are important conflicts in relation to social security policy and housing benefit in particular, which constrains housing policy implementation in Scotland. Where possible the distinctions have been drawn and the emphasis in this scoping project review is on those issues within the competence of the Scottish Parliament.

[6]Since 1999 the way the United Kingdom is run has been transformed by devolution - a process designed to decentralise government. Devolution essentially means the transfer of powers from the UK parliament in London to the Scottish Parliament and the Scottish Executive (officially referred to as the Scottish Government since August 2007) in Edinburgh. The Scottish Parliament is a legislation-making body, passing bills in various areas of its many devolved responsibilities. The

Scottish Parliament also has the power to raise or lower income tax (as changed by the Scotland Act 2012). Devolved areas of legislative competence to the Scottish Parliament include agriculture, forestry & fishing, education, environment, health, housing, justice, policing and courts, local government, fire service, economic development, some transport responsibilities and human rights. The UK government is responsible for national policy on other powers which have not been devolved - these are known as "reserved powers". These include the constitution, defence and national security, foreign policy, energy, immigration and nationality, social security and some transport responsibilities. Many themes in this scoping project engage equality legislation in relation to combating discrimination. Equal opportunities is a reserved matter (under Schedule 5 of the Scotland Act 1998 (Reservation - L2)), however, the reservation incorporates an exception in so far as the Scottish Government and the Scottish Parliament can impose certain duties which allows for scope for positive steps to be taken in relation to equality despite limitations on the powers available to the devolved administration.

In relation to the issue of housing, an important court case (R (Weaver) v London & Quadrant Housing Trust [2009] EWCA Civ 587) clarified that private providers of social housing were to be considered as carrying out a "public function" for the purposes of section 6 of the Human Rights Act 1998. Similarly, under the terms of the Equality Act 2010, private bodies which are deemed to be performing public functions under the Human Rights Act 1998, are also subject to the public sector equality duty under section 149(2) and section 150 of the Equality Act. Nevertheless, research suggests disparities in standards applied to public and private providers of housing. The Scottish Social Housing Charter, for example, applies to public authorities and not to private landlords. The scoping project review suggests this as an area, which may benefit from further research, for example in relation to those in receipt of housing benefits who live in privately rented accommodation.

7 Section 149 of the Act.

8 *"The public sector equality duty requires equality to be considered in all the functions of public authorities, including decision-making, in the design of internal and external policies and in the delivery of services, and for these issues to be kept under review. The public sector equality duty is set out in sections 149-157 and schedules 18 and 19 of the Equality Act. The general equality duty covers all public authorities named or described in Schedule 19 – Part 3 of the Equality Act 2010 together with those listed in the Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2010. The specific duties were created by secondary legislation in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. These specific duties came into force on 27 May 2012. Under the specific duties each listed authority is required to assess and review policies and practices i.e. impact assess"*.   See http://www.equalityhumanrights.com/scotland/public-sector-equality-duty/non-statutory-guidance-for-scottish-public-authorities/ for further details.

9 Terminology of the original author.

10 http://www.scotland.gov.uk/Topics/Built-Environment/Housing/investment/innovationfund/innovation/IIF20112012QandA

11 http://www.scotland.gov.uk/Topics/Built-Environment/Housing/16342/shqs

12 http://housingcharter.scotland.gov.uk/

13 Taking human rights based approaches (HRBA) is about providing the means to empowering people to know, understand and claim their rights as well as to increase the ability and accountability of individuals and institutions who are responsible for respecting, protecting and fulfilling rights. This means giving people greater opportunities to participate in shaping the decisions that impact on their human rights. It also means increasing the ability of those with responsibility for fulfilling rights to recognise and respect human rights (for example in the NHS, local authorities, housing authorities or care providers). Using a HRBA which is integrated into policy-making, as well as the day to day running of organisations, ensures that standards and duties are met for everyone.

14 See http://www.scotland.gov.uk/Resource/Doc/285372/0086940.pdf

15 Concern in particular was raised regarding the lack of housing for people with disabilities in Scotland and it was noted that 230,000 additional properties were needed and required adaptation to the needs of persons with disabilities, to meet demand.
 http://www.wilpfinternational.org/PDF/humanrights/CESCR/42_ISHR_UK.pdf

16 The Scottish Government has invested £1.7 billion between 2008-2011 in affordable housing and approved 21,500 new or improved affordable homes. £100 million was also allocated to reverse the decades of reducing council housing stock and has supported the construction of almost 4,000 new council homes in Scotland. In total the Scottish Government has pledged to deliver 30,000 affordable homes over the lifetime of this parliament which includes 5,000 new council homes over the next five

years SCOTTISH GOVERNMENT 2011c. Renewing Scotland, The Government's Programme for Scotland 2011-2012. Edinburgh..

17Accessed at http://www.bbc.co.uk/news/uk-scotland-17027130, on 15th February 2012.

18 Section 89 of the Housing (Scotland) Act 2001. Local housing strategies are still required to prepare a strategy that assess these needs and the guidance for these is at: http://www.scotland.gov.uk/Topics/Built-Environment/Housing/supply-demand/lhs Local homelessness strategies are now generally incorporated into the local housing strategies. Strategies were due in by April 2012 for review by a 'Peer Review Panel'.

[19] Domestic abuse affects at least one in five women in Scotland SCOTTISH GOVERNMENT 2010a. DOMESTIC ABUSE RECORDED BY THE POLICE IN SCOTLAND, 2009-10. Statistical Bulletin: Crime and Justice Series - A National Statistics Publication for Scotland. Edinburgh: Office of the Chief Statisticia. and whilst the proportions of men affected as survivors of domestic abuse is lower, abuse against men in Scotland accounts for almost 1 in every 6 cases of domestic abuse AMIS 2011. Domestic Abuse Incidents Recorded by Scottish Police 2008/9 and 2010/11. Dunfermline: AMIS. For further information on domestic abuse in Scotland please see thematic section 5 on Private and Family life.

[20] This is an extremely complex area of policy. It is also possible that people could be accepted as homeless but be unable to claim Housing Benefit if they were re-housed. The matter is well reviewed in Chapter 12 of ANDERSON, I. & SIM, D. 2011. Housing and Inequality, Totton, Chartered Institute of Housing.

[21] A human rights perspective adds value to an impact assessment process which otherwise considers differential or discriminatory impacts in relation to equality impacts. This can help to develop specific recommendations that inform policy making, resulting in a fairer allocation of resources. Human rights provide a starting point for analysis that 'All human beings are born free and equal in dignity and in rights.' (Universal Declaration of Human Rights). The universality of rights and the equal enjoyment of rights by all persons provide a different perspective on some of the policy areas considered in this scoping project. Human rights prompt consideration of how a policy might drive up standards of services and enhance positive impacts for all people, not only those defined by particular characteristics. The analysis also flags up where an impact might reach thresholds which could amount to a violation of rights, including those impacts already identified by an equality analysis. As well as filling any gaps left by an equality analysis, a human rights-based approach requires consideration of the proportionality of impacts and of policy responses. This means giving consideration to whether policy responses are at all times the least restrictive of human rights. This can lead to an analysis which takes a holistic view of the policy, its interrelationship with other policy areas, and how improvements might be made to enhance positive impacts for people and mitigate or where necessary remove negative ones.

[22] 'Participation' is a key component of a PANEL Human Rights Based Approach to policy and practice that has been promoted by SHRC since the Commission began its work in late 2008. See Chapter 2 Section 2.4 of the main report for further description of PANEL. Also see http://www.scottishhumanrights.com/promotinghrba for further details.

[23] Problems also exist for those who are entitled to benefits. Whilst outcomes may be less extreme, a much larger pool of people would potentially be affected.

24 Social security is reserved under the Scotland Act (Reservation F.1).

25http://www.cas.org.uk/news/2012+news/February/Netmums+survey+shows+the+human+reality+of +the+recessionhttp://www.netmums.com/home/netmums-campaigns/families-in-crisis Accessed on 16th February 2012

26A further 15 per cent said they were 'desperate' with debts piling up. And one in 33 said they felt 'suicidal' and 'unable to cope' with the pressure and unable to see how their finances will improve.

[27] An interesting question for further exploration would be how well the 'tolerable' standard of living described here would match up to the standard of habitability contained within the right to an adequate standard of living.

28The Tolerable Standard was redefined in the Housing (Scotland) Act 2006 and applies to all houses in Scotland.

29 Data is, however, collected and reported for all accommodations which allow for comparison across the housing stock.

30 Of all household types, the elderly were most at risk of fuel poverty. Fifty-five per cent of single pensioners and 40 per cent of older smaller households were at risk of fuel poverty in 2010. See MÁTÉ, I., CAIRNS, P., CORMACK, D., WALKER, S., HAWKINS, L. & ROBERTSON, J. 2011. Scottish House Condition Survey: Key findings 2010. In: SCOTTISH HOUSE CONDITION SURVEY

TEAM, HOUSING, REGENERATION, DIRECTORATE, C. A. T. C. G., SERVICES, C. A. & GOVERNMENT, S. (eds.). Edinburgh: Scottish Government.

[31] UN CESCR, General Comment no. 20, non-discrimination in economic, social and cultural rights, UN Doc. E/C.12/GC/20, 2 July 2009, para 28.

[32] UN CESCR, General Comment no. 14, the right to the highest attainable standard of physical and mental health, UN Doc. E/C.12/2000/4, 11 August 2000, para 12 (b)(ii).

[33] UN CESCR, General Comment no. 4, the right to adequate housing, UN Doc. E/1992/23, 1991, para 8(f).

34 For example see BERTOLINI, P., MONTANARI, M. & PERAGINE, V. 2008. Poverty and social Exclusion in Rural Areas: final report/annex 1 - country studies. European Commission, BEVAN, M. & CROUCHER, K. 2008. Housing Issues for Older People in Rural Areas. Centre for Housing Policy, University of York, BLACKSTOCK, K., INNES, A., COX, S. J., MASON, A. & SMITH, A. 2006. Living with dementia in rural and remote Scotland: Diverse experiences of people with dementia and their carers *Journal of Rural Studies,* 22**,** 161 - 176, CHILDREN IN SCOTLAND 2007. Arts for all? Developing cultural entitlements for young children in rural Scotland. Children in Scotland, CURRIE, M. 2009. Assessing bus support policies for their accessibility benefits in rural areas *Institute for Rural Research, Department of Geography and Environment.* University of Aberdeen, CURRIE, M., FARMER, J. & NIMEGEER, A. 2008. Physician Assistants in Scotland: The answer to healthcare delivery in rural areas? . *Sixth International Symposium - PHARE.* Saskatoon, Canada, , CURRIE, M. & HEANEY, D. 2008. Setting the scene: new roles in Scottish rural healthcare *Who will be the future rural workforce?* Centre for Rural Health, Inverness, DAWSON, J., MARSHALL, D., TAYLOR, M., CUMMINS, S., SPARKS, L. & ANDERSON, A. 2008. Accessing healthy food: availability and price of a healthy food basket in Scotland. *Journal of Marketing Management,* 24**,** 893-913, DE LIMA, P. 2008. Rural minority ethnic experiences: housing and health: Better Housing Briefing 7. *Better Housing Briefing.* Race Equality Foundation, DICKIE, J. 2011. Child Poverty. *In:* MCKENDRICK, J., MOONEY, G., DICKIE, J. & KELLY, P. (eds.) *Poverty in Scotland 2011: Towards a more equal Scotland?* London: Child Poverty Action Group in association with the Scottish Poverty Information Unit, the Open University and the Poverty Alliance, EKOS LTD 2009. The Experience of Rural Poverty In Scotland: Qualitative Research with Organisations Working with People Experiencing Poverty in Rural Areas, FARMER, J. 2009. A roadmap for improving remote and rural health care. . *SNP meetings,.* Inverary, FARMER, J. 2008b. Measuring rural policy outcomes. . *Inaugural Rural and Remote Health Scientific Symposium.* Brisbane, FARMER, J. 2008a. Delivering for remote and rural healthcare. . *Shifting the balance: new roles and models of care.* NHS Highland, Aviemore, GODDEN, D. 2007. Sustainable Rural Health: A Challenge and an Opportunity *UHI Sustainable Highlands and Islands Seminar Series.* Inverness, HOPWOOD ROAD, F. 2006. Out of Pocket Citizens Advice, INNES, A., COX, S., SMITH, A. & MASON, A. 2006. Service provision for people with dementia in rural Scotland: Difficulties and innovations. *Dementia,* 5**,** 249-270, JAMIESON, L., BRADSHAW, P. & ORMSTON, R. 2008. Growing Up in Scotland: Growing Up in Rural Scotland. The Scottish Government, KING, G. & J., F. 2009. What older people want: evidence from a study of remote Scottish communities *Rural and Remote Health,* 9**,** 1166, LAW, J., MCCANN, D., O'MAY, F., SMART, C. & BUCHAN, J. 2009. Service Provision for Children and Young People with Complex Needs in a Community Setting from the Perspectives of Nursing and Allied Health Professionals. Queen Margaret University, Edinburgh, MCKENDRICK, J., MOONEY, G., DICKIE, J. & KELLY, P. (eds.) 2011b. *Poverty in Scotland 2011: Towards a more equal Scotland?,* London: Child Poverty Action Group in association with the Scottish Poverty Information Unit, the Open University and the Poverty Alliance, NEWHAVEN RESEARCH LIMITED 2008. Review of the Highland Housing Alliance and the Highland Revolving Landbank Fund. Newhaven Research Limited, NHS SCOTLAND 2007. Delivering Remote and Rural Health Services - The Remote and Rural Workstream Report, ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT 2008. Policy Brief: The OECD Review of Scottish Rural Policy. *PolicyWeb, policy briefs.* The UHI Policy Research Institute for Remote and Rural Regions, PEREZ, I. A., WILSON, C. W. L., KING, C. & PAGNIER, C. 2006. Translating, Interpreting and Communication Support: A Review of Provision in Public Services in Scotland. Centre for Translation and Interpreting Studies in Scotland, Heriot-Watt University, PRIOR, M. 2008. The social, economic, human and institutional contribution of primary health services to rural communities *Shifting the balance: new roles and models of care.* NHS Highland, Aviemore, REDWOOD, M. 2009. Capacity Development Funding in Rural Scotland: Interim report to the EHRC. Inverness: Scottish Rural Equality Network, SATSANGI, M. & CRAWFORD, J. 2009. Investigation of Occupancy Controls in Rural Housing. Department of Applied Social Science, University of Stirling,

SCOTTISH GOVERNMENT 2009a. Food Affordability, Access and Security: Their Implications for Scotland's Food Policy - A Report by Work Stream 5 of the Scottish Government's Food Forum The Scottish Government, STARK, C., HOPKINS, P., GIBBS, D., BELBIN, A. & HAY, A. 2007. Population density and suicide in Scotland *Rural and Remote Health,* 7, STRAUSS, K. & KELLY, P. 2011. In-work poverty. *In:* MCKENDRICK, J., MOONEY, G., DICKIE, J. & KELLY, P. (eds.) *Poverty in Scotland 2011: Towards a more equal Scotland?* London: Child Poverty Action Group in association with the Scottish Poverty Information Unit, the Open University and the Poverty Alliance, TOOKEY, A., WHALLEY, J. & HOWICK, S. 2006. Broadband diffusion in remote and rural Scotland. *Telecommunications Policy,* 30**,** 481-495, UHI POLICY WEB 2006. Policy Brief: Thriving Rural Communities: Outcomes, Indicators and Service Standards. *PolicyWeb, policy briefs.* University of the Highlands and Islands, WEBSTER, S. 2006. The Survey of Needs for Adults with ASD and their Carers.

[35] Potentially via resources such as the Highland & Islands Equality Forum run by SCVO: http://www.scvo.org.uk/about/scvo-equalities-human-rights/highlands-and-islands-equality-forum-hief/ or the National Rural Network: https://www.ruralgateway.org.uk/.

[36] Whilst human rights law does not dictate the means that must be used to ensure access services, it does require that means used are effective ones. Therefore, if these methods of delivery were effective then that would satisfy a human rights based approach to service delivery in this case.

[37] The idea of 'rural proofing' may assist in ensuring the delivery of social policy which gives due regard to the human rights principle of non-discrimination on the ground of where we live.

38Section 43.

39The thematic section on Dignity and Care discusses in more detail a range of accessibility challenges faced by children and young in health care, including: access to services for children with autistic spectrum disorder (ASD) including Asperger's syndrome; and through-care for children and young people leaving care.

[40] The North of Scotland Planning Group is a collaboration between NHS Grampian, NHS Highland, NHS Orkney, NHS Shetland, NHS Tayside and NHS Western Isles.

41 On 10th November 2011 EMRS won the 'Technology for Healthy Outcomes' award for the innovative iPhone app developed by Dr. Dave McKean. The app allows the EMRS team access to logistic information whilst involved in the retrieval of critically ill patients from remote and rural areas of Scotland: http://www.emrs.scot.nhs.uk/

42 SHRC acknowledges that prior to 2007/8 the Scottish Government was referred to as the Scottish Executive. For consistency the terminology of Scottish Government is used throughout.

43http://www.poverty.org.uk/s75/index.shtml

[44] Due to a lack of photographic identification.

45 See http://www.northlinkferries.co.uk/faqs-id.html

46 1186 residents of Orkney and Shetland responded to this survey in March/April 2008. See http://www.theheddles.co.uk/business/council/SurveyAnalysisAllApps.pdf

47 The Road Equivalent Tariff (RET) scheme involves setting ferry fares on the basis of the cost of travelling an equivalent distance by road, with the intention of reducing the economic disadvantage suffered by remote communities and hence enable island communities to make a larger contribution to the economy of Scotland.

An evaluation of the RET pilot on the Western Isles revealed an increase in tourism by 31 per cent, and the Scottish Government took the decision to make RET permanent for passengers and cars, small commercial vehicles and coaches, while hauliers will receive enhanced discounts. Coll and Tiree and other West coast and Clyde islands are also to have permanent RET. SCOTTISH GOVERNMENT 2011a. Assessment of the Impacts of the Road Equivalent Tariff Pilot Final Report. Edinburgh Halcrow Group Limited. RET TAYLOR, L. 2011. SPICe Briefing Forced Marriage etc. (Protection and Jurisdiction) (Scotland) Bill: Stage 3. Edinburgh: SPICe..

48 The Scotland-wide Free Bus Travel for Older and Disabled People started on 1 April 2006 and allows an individual to travel free on both local registered services and long distance bus services within Scotland. Someone is eligible for this bus pass if they are: over 60 years of age; receive the higher rate of the mobility component of Disability Living Allowance; receive the higher/middle rate of the care component of Disability Living Allowance; receive Attendance Allowance; live in a care or residential home or hospital and require 24 hour supervision; hold a Disabled Persons Parking Badge (Blue Badge); are profoundly or severely deaf; have been told not to drive on medical grounds; suffer from a mental illness, learning disability or personality disorder; are terminally ill; suffer from a progressively degenerative disorder; have suffered a loss of limbs; are visually impaired or are a seriously injured veteran with mobility problems.

[49] "Rising cost of free bus pass scheme for the elderly", The Herald, 7 October 2010, http://www.heraldscotland.com/news/transport-environment/rising-cost-of-free-bus-scheme-for-the-elderly-1.1059838

50 An individual will qualify for the companion entitlement if they receive the higher or middle rate of the care component of Disability Living Allowance; or if they receive Attendance Allowance; are registered blind; live in a care or residential home and are eligible to receive the higher or middle rate of the care component Disability Living Allowance or Attendance Allowance.

51 An individual is eligible to join the Scheme where it is considered that the accompaniment of a carer will have significant positive outcomes for the individual through improving their uptake of social, cultural, educational, leisure, and/or sports opportunities.

52 Application no. 66746/01, judgment of 27 May 2004.

53 Ibid, para 84.

[54] This point could be challenged, however, for those children who live with year-round as well as seasonally nomadic parents/extended family, as constant evictions can greatly disturb consistent and high quality educational provision.

[55] COE Doc. ACFC/OP/III(2011)006

[56] Ibid.

57 They must assess how the housing needs of Gypsies and Travellers are addressed in their local housing strategies, and identify suitable locations for sites for Gypsies/Travellers in their development plans and involve them in decisions about sites for their use.

[58] UN Doc. CERD/C/GBR/CO/18-20, para 27.

59UN CESCR 2009. Concluding Observations of the Committee on Economic, Social and Cultural Rights. UN Doc. E/C.12/GBR/CO/5. Geneva.http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/429/21/PDF/G0942921.pdf?OpenElement

[60] See http://www.scottishaffairs.org/onlinepub/sa/clark_sa54_winter06.html for further details.

61Employment tribunal of Kenneth MacLennan v Gypsy Traveller Education and Information Project (GTEIP).

[62] See http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/49020.aspx for further details. The Committee has also launched another inquiry into where Gypsy/ Travellers live. The inquiry into where Gypsy/ Travellers live has received submissions from 36 separate organisations/ individuals including SHRC, all submissions can be found here: http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/49174.aspx