

# The right to adequate housing in Wales: the evidence base

An independent research report by Alma Economics

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Commissioned by Tai Pawb, the Chartered Institute  
of Housing Cymru and Shelter Cymru

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## About the authors



Alma Economics combines unparalleled analytical expertise with the ability to communicate complex ideas clearly.

[www.almaeconomics.com](http://www.almaeconomics.com)

## About the commissioning organisations



Tai Pawb works to advance equality and social justice in housing in Wales. We imagine a Wales where everyone has the right to a good home.

[www.taipawb.org](http://www.taipawb.org)



CIH Cymru supports housing professionals to create a future in which everyone has a place to call home. We're the professional body for people who work in housing, the independent voice for housing and the home of professional standards.

[www.cih.org](http://www.cih.org)



Shelter Cymru exists to defend the right to a safe home. We help thousands of people each year in Wales by offering free, independent advice.

[www.sheltercymru.org.uk](http://www.sheltercymru.org.uk)

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# Executive summary

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## The right to adequate housing

The right to adequate housing is a fundamental human right derived from the right to an adequate standard of living, as defined in the International Covenant on Economic, Social and Cultural Rights<sup>1</sup> – “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

This fundamental human right is incorporated in legislation in countries such as South Africa and Canada and in the constitutions of other countries such as Finland. More recently, Scotland has been taking steps toward introducing this right in national legislation to ensure its progressive realisation and enforcement. In November 2021, the Co-operation Agreement between the Welsh Government and Plaid Cymru committed the Welsh Government to publishing a White Paper on proposals for introducing a right to adequate housing in Wales.<sup>2</sup>

This commitment from the Welsh Government follows three years after the Back the Bill campaign was established to advocate for the introduction of the right to adequate housing in Wales.<sup>3</sup> This programme of work firstly included a feasibility report by Dr Simon Hoffman (Swansea University)<sup>4</sup> and then the drafting of a proposed Bill.<sup>5</sup> The Draft Bill has been signed by over 90 stakeholder partners in Wales, including the CEOs of Housing Associations, the Future Generations Commissioner, Plaid Cymru and the leader of the Welsh Liberal Democrats.

Introducing the right to adequate housing into Welsh law will help toward addressing housing issues, including homelessness, security and affordability. A 2020 poll by the Chartered Institute of Housing (CIH) Cymru<sup>6</sup> of around 1,000 individuals in Wales found that 77% of people were in favour of the introduction of a legal right to housing and 83% supported that the government should be responsible for ensuring everyone has access to a decent home (Awan-Scully, 2020).

## Housing and housing inequality in Wales

Based on research by Shelter Cymru, one in three people in Wales lives in unsafe or unaffordable housing.<sup>7</sup> The pandemic has highlighted these inequalities in the housing sector as lockdowns have led to people in Wales spending prolonged amounts of time at home. During this period, some citizens

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<sup>1</sup> International Covenant on Economic, Social and Cultural Rights. Article 11. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>2</sup> The Co-operation Agreement, Welsh Government, 2021. Available at: <https://gov.wales/sites/default/files/publications/2021-11/cooperation-agreement-2021.pdf>

<sup>3</sup> The Back the Bill campaign is led jointly by Tai Pawb, the Chartered Institute of Housing Cymru and Shelter Cymru.

<sup>4</sup> The right to adequate housing in Wales: Feasibility Report, Dr Simon Hoffman, 2019. Available at: <https://www.taipawb.org/wp-content/uploads/2019/06/RightToHousing-Full-ENG.pdf>

<sup>5</sup> Available in English here: <https://www.taipawb.org/wp-content/uploads/2020/09/Back-the-bill-right-to-adequate-housing.pdf> and in Welsh here: <https://www.taipawb.org/wp-content/uploads/2020/10/Draft-Bill-Cymraeg-.pdf>

<sup>6</sup> The Chartered Institute of Housing, 2020. “Three quarters support legal right to housing in Wales”. Available at: <https://www.cih.org/news/three-quarters-support-legal-right-to-housing-in-wales>

<sup>7</sup> ITV, 2021. “‘Shocking’ new figures demonstrate scale of housing crisis in Wales amidst calls for immediate Welsh Government action”. Available at: <https://www.itv.com/news/wales/2021-05-26/shocking-new-figures-demonstrate-scale-of-housing-crisis-in-wales-amidst-calls-for-immediate-welsh-government-action>

have spent time in houses of good quality with plenty of living space, others have lived in overcrowded, poor-quality housing conditions, while other individuals have experienced homelessness.

Based on a survey by Shelter Cymru (2020), during lockdown 32% of households lived in houses with hazards, including damp, mould and electrical hazards, as well as leaking roofs or windows. Rising housing costs, the reduced size of the social rented sector and the growth of private renting have contributed to increasing housing inequalities (UK Collaborative Centre for Housing Evidence, 2021). In September 2021, it was estimated that there were around 130 rough sleepers in Wales,<sup>8</sup> while around 7,000 were in temporary accommodation.<sup>9</sup>

The pandemic highlighted the existing inequalities for some population groups in accessing adequate housing. One of those groups are Black, Asian and Minority Ethnic people who are disproportionately likely to live in overcrowded houses (Welsh Government, 2021a) and have a higher risk of homelessness (Price, 2021). Refugees, migrants and asylum seekers also face housing inequalities; they face difficulties accessing adequate housing due to racism, discrimination, inequality or structural factors (Tai Pawb, 2019; Welsh Government, 2021a).<sup>10</sup>

Individuals from the LGBTQ+ community also face housing inequalities, with 2019 evidence suggesting the LGBTQ+ community are four times more likely to be in homelessness compared to their peers (End Youth Homelessness Cymru, 2019).

Another population group facing housing inequality are disabled people who need to live in accessible houses that support their safety and independence in daily living. Evidence suggests that 26% of people in Wales have some form of disability and more than 10% have a mobility impairment (Equality and Human Rights Commission, 2018).

## The costs of inadequate housing

Poor housing conditions can have adverse effects on individuals' physical and mental health, increasing use of the NHS, worsening self-reported health and reducing life expectancy (see e.g. Palacios et al. (2020), Clark and Kearns (2012), Bailie et al. (2012)). In a 2019 report, Public Health Wales estimated that poor housing costs the health service in Wales £95m per year (Watson et al., 2019).

Living in inadequate or unaffordable housing is associated with poor educational outcomes for children. Households with access to affordable housing have more available income that can be used for nutrition, further helping children to perform better at school (Thomas, 2017). There is evidence that improving housing adequacy is associated with higher levels of productivity and economic activity (see e.g. Diamond, 2020 or Wiesel, 2020).

A lack of affordable and adequate housing is associated with increased contacts with the criminal justice system (PWC, 2018).

Inadequate homes tend to not be energy efficient, resulting in greater emissions of greenhouse gases and low levels of thermal comfort. Nicol et al. (2019) explored a case study example focusing on the costs and benefits of improving a Welsh dwelling with an energy efficiency score of 21. Home

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<sup>8</sup> These figures are likely to be an underestimate.

<sup>9</sup> StatsWales, September 2021. "Homelessness accommodation provision and rough sleeping". Available at: <https://gov.wales/homelessness-accommodation-provision-and-rough-sleeping-september-2021>

<sup>10</sup> Equality and Human Rights Commission. Human Rights Tracker. "Adequate standard of living / poverty – Welsh Government assessment". Available at: <https://humanrightstracker.com/en/progress-assessment/adequate-standard-of-living-poverty-welsh-government-assessment/>

improvements would include loft insulation, installation of double glazing and improvement of the heating system, which would result in increasing the energy efficiency score of the building to 57. Additionally, the CO2 emissions of the dwelling and the annual fuel cost would decrease by 53% and 49%, respectively.

## International examples

There are a number of examples of other countries that have some form of the right to adequate housing. However, different approaches are followed to guarantee that right.

In Finland, the right to housing is part of the Finnish Constitution and there has been significant implementation of policies targeted at ensuring provision of quality housing to cover individuals' needs. In terms of the combination of policy-making ambition and outcomes achieved, Finland is currently the most advanced case study in this area.

### **Finland: a country making significant progress**

- The right to housing, alongside other economic, social and cultural (ESC) rights, is part of the Finnish Constitution.
- Economic, social and cultural rights are enacted through laws, which are assessed beforehand by the Constitutional Law Committee of Parliament before they are passed and are considered justiciable by the courts.
- Housing First is an international model that focusses on ensuring homeless people have access to housing and is based on the theory that any other issues would be addressed once housing is obtained (National Alliance to End Homelessness, 2016). This has been implemented in Finland in the form of national programmes and those programmes have been effective in reducing long-term homelessness.
- Two weaknesses should be noted: (i) this right to housing is conditional on the impact on people's health, and (ii) there is a weak link between the Constitution, which defines the right to housing, and the policies that ensure the right to adequate housing.

Canada and Scotland are two examples of countries that have taken steps toward introducing the right to adequate housing in their legislation but are at a relatively early stage in doing so. Canada is a unique model that has introduced the right to adequate housing in its legislation, providing non-judicial mechanisms to ensure the right is fulfilled. The Canadian approach seems promising, but it is too early for there to be evidence of its effectiveness.

### **Canada: a focus on governance**

- The National Housing Strategy Act (NHS Act) was introduced into Canadian legislation in 2019, identifying the right to adequate housing as a fundamental human right and ensuring its progressive realisation in the country.
- The legislation also created three accountability bodies to promote and protect the right to adequate housing: the National Housing Council, the Federal Housing Advocate and the Review Panel.
- Under the Act, the right to adequate housing is not justiciable, but individuals can use non-justiciable mechanisms to ensure their right. The Canadian model is unique; however, it is recent, and we could not identify evidence on its effectiveness.

Scotland has a statutorily enforceable entitlement to housing and is taking steps toward introducing an enforceable right to adequate housing in its legislation, through direct incorporation of the International Covenant on Economic, Social and Cultural Rights, including progressive realisation obligations. Homelessness rates in Scotland are lower than in Wales;<sup>11</sup> Scotland's success in terms of reducing homelessness depends on government investment and social housing supply. The Scottish case highlights that, to fulfil a housing related right, it is essential to combine a legally enforceable right with broad political commitment to ensure that this right is fulfilled under difficult budgetary policy.

New Zealand is considered alongside Canada and Scotland as a case study demonstrating significant progress in terms of policy-making and outcomes, whilst also being at an early stage in terms of establishing the legal right to adequate housing.

There are also examples of countries that have introduced laws aiming to ensure access to adequate housing that have not been successful for various reasons. The French DALO law, which introduced a form of enforceable, individual right to housing, was ineffective in rehousing individuals. This case highlighted the need for providing resources to ensure the implementation and effectiveness of housing-related laws. On the other hand, the Catalan Act, which defined housing discrimination and harassment, seemed promising. However, another legislative change effectively neutralised it.

South Africa is a unique example of a country that has introduced a strong form of a justiciable right to access adequate housing. Although there have been some successful court cases in South Africa, improvements in outcomes have been held back by a lack of supply of adequate housing.

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<sup>11</sup> Crisis, 2021. "The Homelessness Monitor: Scotland 2021". Available at: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/homelessness-monitor/scotland/the-homelessness-monitor-scotland-2021/>



### **South Africa: a justiciable right without investment in housing supply**

- The justiciable right to access adequate housing is included in the Constitution of South Africa.
- Although there have been some successful court cases in South Africa, highlighting that legally enforceable rights are a necessary condition to ensure access to adequate housing, investment in quality housing supply is important to secure and fulfil the right in the country. This investment has not happened in South Africa, underlining the need for investment in housing supply, either by the private or public sector, for legislation to be successful.

## **Lessons learned from case studies**

Introducing a legal right to adequate housing in the legislation is a necessary condition to ensure its progressive realisation and enforceability. The evidence has also highlighted that political commitment to provide quality housing through policy-making (particularly to encourage supply) can further help towards the progressive realisation of the right to adequate housing.

International case studies provide valuable lessons for implementing the right to adequate housing in Wales, particularly relating to: (i) progressive realisation; (ii) governance, and (iii) housing supply.

### **i. Progressive realisation**

Moving to fulfilling a universal right to adequate housing is an aim that cannot be realised immediately given available resources. This is true for Wales now and was true also for all case studies at the point when those countries introduced forms of the right to adequate housing.

“Progressive realisation” is the idea that governments should make continual progress toward the full realisation of a human right, taking deliberate steps both immediately and in future.<sup>12</sup> This is the feasible path for countries introducing the right to adequate housing.

Finland leads the way in providing a roadmap for progressive realisation. Since the right to housing was introduced in their constitution 21 years ago, there has been a continual but gradual improvement with significant increases in housing supply and putting Finland on track to end homelessness by 2027.

### **ii. Governance**

Governance mechanisms are key to progressive realisation of the right to adequate housing and there are lessons to learn on governance from various jurisdictions:

- In Finland, economic, social and cultural rights are enacted through laws, which are assessed beforehand by the Constitutional Law Committee of Parliament before they are passed and are considered justiciable by the courts. This includes policy changes affecting the right to adequate housing.

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<sup>12</sup> See e.g. “Progressive Realisation and Non-regression”, <https://www.escri-net.org/resources/progressive-realisation-and-non-regression>

- In Canada, alongside the introduction of the right to adequate housing, three accountability bodies were introduced to monitor, promote and protect the right. The Canadian model is unique; however, it is recent, and we could not identify evidence on its effectiveness.
- The absence of suitable governance mechanisms is key to the lower rates of progress made in France and Spain.

A structure in which new law-making does not cause reductions in the right to adequate housing is key to ensuring progressive realisation.

### **iii. Housing supply**

Increasing housing supply and improving the adequacy of the existing stock are key to progressive realisation. This is the key driver in the difference between the highly successful outcomes that Finland has achieved over time relative to countries such as South Africa, which have similar levels of legal ambition coupled with lower levels of resources to increase the stock of adequate housing, primarily due to South Africa being a less economically developed country.

To achieve these improvements in housing supply and the adequacy of the existing stock, new investment is required. This could come from the private or the public sector.

## **The opportunity for Wales**

The right to adequate housing is fundamental in the International Covenant on Economic, Social and Cultural Rights. With progressive realisation over time, introducing this right in Wales would lead to continual progress toward addressing housing inequality in Wales and ending the costs to households and public services that come from living in inadequate housing.

Whilst most of the case study countries have gone further than Wales at this point in terms of the ambition of their law-making and announced intentions for further law-making, there are weaknesses in all the case studies. This provides an opportunity for Wales to use lessons learnt to become an international exemplar in establishing and realising the right to adequate housing.

The Draft Bill proposed by the Back the Bill campaign<sup>13</sup> would create a stronger justiciable right than has been established in any of the case study countries with clear governance for driving progressive realisation, including the introduction of housing impact assessments for new law and policy-making with direct or indirect impact on housing (including budgetary allocations) and regular progress reports to be brought to the Senedd.

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<sup>13</sup> Available in English here: <https://www.taipawb.org/wp-content/uploads/2020/09/Back-the-bill-right-to-adequate-housing.pdf> and in Welsh here: <https://www.taipawb.org/wp-content/uploads/2020/10/Draft-Bill-Cymraeg-.pdf>

# Introduction

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The right to adequate housing is a fundamental human right derived from the right to an adequate standard of living, as defined in the International Covenant on Economic, Social and Cultural Rights<sup>14</sup> – “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

This fundamental human right is incorporated in legislation in countries such as South Africa and Canada and in the constitutions of other countries such as Finland. More recently, Scotland has been taking steps toward introducing this right in national legislation to ensure its progressive realisation and enforcement. In November 2021, the Co-operation Agreement between the Welsh Government and Plaid Cymru committed the Welsh Government to publishing a White Paper on proposals for introducing a right to adequate housing in Wales.<sup>15</sup>

This commitment from the Welsh Government follows three years after the Back the Bill campaign was established to advocate for the introduction of the Right to Adequate Housing in Wales.<sup>16</sup> This programme of work included a feasibility report by Dr Simon Hoffman (Swansea University)<sup>17</sup> and a proposed Bill.<sup>18</sup> This Draft Bill has already been signed by over 90 stakeholder partners in Wales, including the CEOs of Housing Associations, the Future Generations Commissioner, and the former housing spokespeople for the Welsh Conservatives, Plaid Cymru and the leader of the Welsh Liberal Democrats.

Introducing the right to adequate housing into Welsh law will help address housing issues, including homelessness, security and affordability. The right to adequate housing is also supported by the public in Wales. A 2020 poll by the Chartered Institute of Housing (CIH) Cymru<sup>19</sup> of around 1,000 individuals in Wales found that 77% of people were in favour of the introduction of a legal right to housing and 83% supported that the government should be responsible for ensuring everyone has access to a decent home (Awan-Scully, 2020).

This research forms the next part of the Back the Bill campaign, focussing on understanding the evidence base on the right to adequate housing, including:

- (a) the housing situation in Wales as well as international evidence on the impact of safe, secure, affordable and adequate housing on key areas such as health, wellbeing, productivity, crime.
- (b) case studies of introducing similar rights to housing and policies in other countries, including cases in Finland, New Zealand, Scotland, Canada, France, Spain and South Africa.

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<sup>14</sup> International Covenant on Economic, Social and Cultural Rights. Article 11. Available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

<sup>15</sup> The Co-operation Agreement, Welsh Government, 2021. Available at: <https://gov.wales/sites/default/files/publications/2021-11/cooperation-agreement-2021.pdf>

<sup>16</sup> The Back the Bill campaign is led jointly by Tai Pawb, the Chartered Institute of Housing Cymru and Shelter Cymru.

<sup>17</sup> The right to adequate housing in Wales: Feasibility Report, Dr Simon Hoffman, 2019. Available at: <https://www.taipawb.org/wp-content/uploads/2019/06/RightToHousing-Full-ENG.pdf>

<sup>18</sup> Available in English here: <https://www.taipawb.org/wp-content/uploads/2020/09/Back-the-bill-right-to-adequate-housing.pdf> and in Welsh here: <https://www.taipawb.org/wp-content/uploads/2020/10/Draft-Bill-Cymraeg-.pdf>

<sup>19</sup> The Chartered Institute of Housing, 2020. “Three quarters support legal right to housing in Wales”. Available at: <https://www.cih.org/news/three-quarters-support-legal-right-to-housing-in-wales>

# Background

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- Based on research by Shelter Cymru, one in three people in Wales lives in unsafe or unaffordable housing. In September 2021, it was estimated that there were around 130 rough sleepers in Wales, while around 7,000 were in temporary accommodation.
- Housing inequality is an even more pronounced problem for people who face disadvantage and already have a higher risk of homelessness. These include people with protected characteristics, such as individuals from Black, Asian, Minority Ethnic communities and LGBTQ+ communities. There is also a significant risk for disabled people of living in inadequate housing.
- The Welsh Government has progressively taken policy action toward tackling homelessness, including the 2001 National Housing Strategy, the 2002 introduction of the Welsh Housing Quality Standard, the Housing (Wales) Act 2014 and the Action Plan for 2021-2026 for ending homelessness.

## Housing in Wales

Based on research by Shelter Cymru, one in three people in Wales lives in unsafe or unaffordable housing. The pandemic has highlighted these inequalities in the housing sector as lockdowns have led to people in Wales spending prolonged amounts of time at home. During this period, some citizens have spent time in houses of good quality with plenty of living space, others have lived in overcrowded, poor-quality housing conditions, while other individuals have experienced homelessness. According to a survey by Shelter Cymru (2020), 10% of households with children did not have (enough) access to outdoor space during the lockdown period, and 32% lived in houses with hazards, including damp, mould and electrical hazards, as well as leaking roofs or windows. Rising housing costs, the reduced size of the social rented sector and the growth of private renting have contributed to increasing housing inequalities (UK Collaborative Centre for Housing Evidence, 2021).

In September 2021, it was estimated that there were around 130 rough sleepers in Wales, while around 7,000 were in temporary accommodation.<sup>20</sup> During the pandemic, the Welsh Government tried to help this population group by providing funds to ensure homeless individuals had access to safe and suitable accommodation.<sup>21</sup> The Government also suspended evictions across tenures and increased notice periods from three to six months for all private tenants.<sup>22</sup> Additionally, mortgage possession was also paused with the closure of courts and agreement with mortgage providers.

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<sup>20</sup> StatsWales, September 2021. "Homelessness accommodation provision and rough sleeping". Available at: <https://gov.wales/homelessness-accommodation-provision-and-rough-sleeping-september-2021>

<sup>21</sup> Welsh Local Government Association, 2021. "Supporting Homeless People during the pandemic (All Wales)". Available at: <https://www.wlga.wales/supporting-homeless-people-during-the-pandemic-all-wales>

<sup>22</sup> Bartholdy N., 2021. "Homelessness and Covid-19: a comparison of responses in Scotland, Wales, Northern Ireland and England". Centre for Homelessness Impact. Available at: <https://www.homelessnessimpact.org/post/homelessness-and-covid-19-a-comparison-of-responses-in-scotland-wales-northern-ireland-and-england>

According to 2020 data,<sup>23</sup> there were around 1.5 million dwellings in Wales in March 2020, a 5% increase since 2010. The owner-occupied and privately rented stock, which accounted for 70% and 14% of the total Welsh stock respectively, increased since 2010. The registered social landlord stock has also been rising in the past decade, accounting for 10% of total housing units in Wales. In contrast, the number of local authority dwellings (6%) have remained relatively stable since 2016.

Housing adequacy is a significant issue tied to climate change due to the relationship between inadequate housing (typically with poor levels of insulation and thermal comfort) and greater need for use of fossil fuels for heating. In 2020, the Human Rights Council called on governments “to take the right to adequate housing into account in strategies for adaptation to and mitigation of climate change” and “to work with affected communities and individuals to develop and promote environmentally sustainable and sound housing design, construction and maintenance to address the effects of climate change while ensuring the right to adequate housing”.<sup>24</sup> According to a study from the Future Generations Commissioner for Wales, Public Health Wales and Cardiff University, poor and marginalised communities in Wales are the least responsible for climate change but are likely to experience the negative consequences of the climate emergency, lacking the means and resources to respond and recover (MacBride-Stewart and Parken, 2021). The same report concluded that climate change policies should involve these communities to ensure that they benefit from any actions taken and that inequality is reduced.

In response to the increased housing demand and climate crisis, the Government plans to build 20,000 new low carbon social homes to be rented by 2026 (Welsh Government, 2021b). The Government also committed to fund the Optimised Retrofit Programme with an additional £150 million, which will be used for insulation and installation of technologies to improve energy efficiency, such as heat pumps and solar panels.<sup>25</sup> In addition, in summer 2021 it was announced that newly built social homes cannot use fossil fuels for heating.<sup>26</sup>

Affordable housing is defined as houses that households are able to buy or rent, satisfying the needs of the households without subsidy (Welsh Assembly Government, 2006). According to the Welsh Government’s guidance on affordability, households should not spend more than 30% of their gross income on rent, including any other service charges (Welsh Government, 2014). In 2019-20, around 3,000 additional affordable units were provided in Wales by local authorities, Registered Social Landlords (RSLs) or other providers – this was a 14% increase from the previous year.<sup>27</sup>

In addition to ensuring individuals have access to housing they can afford, it is also important to ensure that housing is of good quality to preserve individuals’ health and meets climate targets. In 2017/18, 82% of housing units in Wales were free of hazards,<sup>28</sup> while only 6% of dwellings were in EPC Band F or G.<sup>29</sup> Data from the same year showed that 50% of social housing units in Wales had an

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<sup>23</sup> StatsWales, March 2020. “Dwelling Stock Estimates for Wales, as at 31 March 2020”. Available at:

<https://gov.wales/sites/default/files/statistics-and-research/2020-09/dwelling-stock-estimates-31-march-2020-828.pdf>

<sup>24</sup> United Nations Human Rights, Office of the High Commissioner. “Climate Change and the right to housing”. Available at:

<https://www.ohchr.org/EN/Issues/Housing/Pages/ClimateChange.aspx>

<sup>25</sup> Welsh Government, 2021. “£150 million for insulation, clean energy and carbon reduction in social homes”. Press Release. Available at:

<https://gov.wales/150-million-insulation-clean-energy-and-carbon-reduction-social-homes>

<sup>26</sup> See footnote 25.

<sup>27</sup> StatsWales, 2019-20. “Additional affordable housing provision by provider and housing type”. Available at:

<https://stats.wales.gov.wales/Catalogue/Housing/Affordable-Housing/Provision/additionalaffordablehousingprovision-by-provider-housingtype>

<sup>28</sup> StatsWales, 2017-18. “Percentage of dwellings which are free from hazards”. Available at:

<https://stats.wales.gov.wales/Catalogue/Housing/Housing-Conditions/percentageofdwellingswhicharefreefromhazards>

<sup>29</sup> StatsWales, 2017-18. “Welsh Housing Conditions Survey 2017-18: Energy Efficiency of Dwellings”. Available at:

<https://gov.wales/sites/default/files/statistics-and-research/2019-10/welsh-housing-conditions-survey-energy-efficiency-dwellings-april-2017->

EPC rating of band C or above. Evidence from the Shelter Cymru (2017) Living Home Standard Survey suggested that 44% of people in Wales live in houses that do not meet the Living Home Standard, which sets acceptable levels of affordability, decent conditions, space, stability and neighbourhood. The findings suggested that 26% of individuals in Wales fail the affordability criteria, while 27% fail the decent conditions criteria. One in five people experienced mould or damp problems, which was twice as high as Britain as a whole.

## Housing inequality in Wales

The pandemic highlighted existing inequalities for some population groups in accessing adequate housing. One of those groups are Black, Asian and Minority Ethnic people who are disproportionately likely to live in overcrowded houses (Welsh Government, 2021a) and have a higher risk of homelessness (Price, 2021). Earlier evidence suggested that almost three quarters of individuals from the Gypsy, Roma and Traveller communities live in bricks or mortar accommodation, and many of them are on waiting lists for pitches on a dedicated site (Price, 2021; Welsh Government, 2015). However, the Wales Centre for Public Policy report highlighted that there is a shortage of pitches, while many of them are in unsuitable locations, such as away from facilities or close to industrial properties (Price, 2021). Refugees, migrants and asylum seekers also face housing inequalities; they face difficulties accessing adequate housing due to racism, discrimination, inequality or structural factors (Tai Pawb, 2019; Welsh Government, 2021a).<sup>30</sup> Although the Welsh Government is not responsible for housing supply for these population groups, the Anti-Racist Wales Plan and the Nation of Sanctuary plan set actions to address housing inequality and provide these population groups with adequate and affordable housing (Welsh Government, 2021a).

Individuals from the LGBTQ+ community also face housing inequalities, with evidence suggesting the LGBTQ+ community are four times more likely to be homeless compared to their peers (End Youth Homelessness Cymru, 2019). For young LGBTQ+ people, the main cause of homelessness is parents' negative response and rejection when they come out.

There is literature exploring the link between domestic abuse and access to affordable housing. According to a report by Shelter Cymru and Welsh Women's Aid (2019), one of the main barriers that individuals who have experienced domestic abuse face in order to escape abusive situations is the lack of access to secure and affordable housing. According to Shelter Cymru,<sup>31</sup> victims of domestic abuse or individuals at risk of abuse are considered homeless and should receive help from local authorities. In 2018/19, around 2,000 survivors asked for refuge-based support; however, overall more than 30% were not supported, and more than 20% were not supported due to lack of resources and capacity (Price et al., 2020).

Finally, another population group facing housing inequality are disabled people who need to live in accessible houses that support their safety and independence in activities of daily living. Evidence suggests that 26% of people in Wales have some form of disability and more than 10% have a mobility impairment (Equality and Human Rights Commission, 2018). These numbers will continue to increase, highlighting the need to ensure people can live independently in accessible and adaptable housing. More recent evidence suggests that 18% of tenants reported that they lived in accommodations that did not meet their specific needs (e.g., due to specific disabilities).

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[march-2018-795.pdf](#)

<sup>30</sup> Equality and Human Rights Commission. Human Rights Tracker. "Adequate standard of living / poverty – Welsh Government assessment". Available at: <https://humanrightstracker.com/en/progress-assessment/adequate-standard-of-living-poverty-welsh-government-assessment/>

<sup>31</sup> Shelter Cymru. "Domestic abuse and homelessness". Available at: <https://sheltercymru.org.uk/get-advice/families-and-relationships/domestic-abuse/domestic-violence-and-homelessness/>

## Housing policies in Wales

The Welsh Government has progressively taken policy action toward tackling homelessness, providing affordable housing and accelerating decarbonisation of the existing housing stock. In 2001, the National Housing Strategy (Better Homes for People in Wales) provided a framework and vision for housing in Wales that every household “shall have the opportunity to live in good quality dwellings that are (i) in good state of repair, (ii) safe and secure, (iii) adequately heated, fuel efficient and well insulated, (iv) contain up-to-date kitchens and bathrooms, (v) well managed (for rented housing), (vi) located in attractive and safe environments, and (vii) as far as possible suit the specific requirements of the household (e.g. specific disabilities)” (The National Assembly for Wales, 2001).

A strategy that aimed to improve social housing quality in Wales was the Welsh Housing Quality Standard (WHQS), which was introduced in 2002. This strategy aims to ensure that all social houses are of good quality and meet their tenants’ needs (Welsh Assembly Government, 2008). Recently there have been proposals by the Welsh Government to change energy efficiency standards in WHQS to target further social housing quality improvement and for Wales to meet its net zero carbon targets by 2050 (UK Collaborative Centre for Housing Evidence, 2021). According to a recent WHQS evaluation, 93% of Welsh social housing units achieved WHQS by 2019 (Welsh Government, 2021c).

In line with the Housing (Wales) Act 2014 aiming to ensure supply of good-quality homes and support services for all,<sup>32</sup> the 2019 Homelessness Strategy outlines the Government’s vision to prevent homelessness and ensure that homelessness episodes are “brief, rare and un-repeated” (Welsh Government, 2019). To this end, efforts are made to shift from temporary and emergency solutions to long-term adequate housing for all. More recently, the Welsh Government published an Action Plan for 2021-2026, which sets out actions to move toward the target of ending homelessness in Wales (Welsh Government, 2021d). These actions include a commitment to reform homelessness services focussing on prevention and rapid rehousing, as well as building 20,000 new low carbon social homes for rent.

Another key pillar of the Welsh Government’s approach to rapid rehousing is the Housing First Programme (Welsh Government, 2018), which aims to help individuals with chronic complex needs into long-term, adequate housing and provide the necessary support for sustaining their tenancy and independent living. The programme is underpinned by the key principle that housing is an essential human right and, therefore, unconditional support should be provided to people in need. Housing First is a high intensity, low-volume programme and adopts a key worker approach through assigning workers or teams of workers to each individual, ensuring close collaboration between service users and providers. Users are encouraged to actively engage as they make progress towards exiting homelessness by choosing and controlling the support offered to them. The programme primarily targets marginalised rough sleeping populations in Wales, offering them long-term housing solutions as well as support to address their complex, unmet needs.

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<sup>32</sup> Housing (Wales) Act 2014. Available at: <https://www.legislation.gov.uk/anaw/2014/7/introduction>



# The costs of inadequate housing

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- Poor housing conditions can have adverse effects on individuals' physical and mental health, increasing use of the NHS, worsening self-reported health and reducing life expectancy. In a 2019 report, Public Health Wales estimated that poor housing costs the health service in Wales £95m per year (Watson et al., 2019).
- Living in inadequate or unaffordable housing is associated with poor educational outcomes and life chances for children. Households with access to affordable housing have more available income that can be used for nutrition, further helping children to perform better at school (Thomas, 2017).
- Improving housing adequacy is associated with higher levels of productivity and economic activity (see e.g., Diamond, 2020 or Wiesel, 2020).
- A lack of affordable and adequate housing is associated with increased contacts with the criminal justice system, with an average cost to the public sector of around £2,500 per case (PWC, 2018).
- Inadequate homes tend to not be energy efficient, resulting in greater emissions of greenhouse gases and low levels of thermal comfort.
- Homelessness prevention can save around £9,000 per person in comparison with allowing homelessness to persist for 12 months, while spending £1 to move people out of homelessness can result in £2.80 savings due to reduced demand for homeless services, enhanced wellbeing, increased productivity, and reduced spending in health care and criminal justice services (Watson et al., 2019).

## Health and social care

Poor housing conditions can have adverse effects on individuals' physical and mental health. Recent evidence suggests that repairing and renovating inadequate houses can result in enhanced health. Palacios et al. (2020) explored the impact of housing conditions on health outcomes using data on 25,000 individuals (in Germany) over 25 years. The authors found that poor housing conditions can have adverse effects on physical and mental health, increasing doctor visits by 11%. People living in a house that needed partial renovation were 1% more likely to report bad or poor health. Individuals living in houses that required major renovations were 2.7% more likely to report bad or poor physical and mental health. In contrast, home renovations paid for by landlords could reduce doctor visits.

Similar results were also found by a study by Clark and Kearns (2012), who explored the impact of home improvements on mental health. Based on a survey of social renters in Glasgow, the authors found that home improvements (e.g., external/structural or internal changes, or changes aimed at improving security or warmth/energy efficiency) could bring psychosocial benefits that individuals derive from their houses via perceived housing quality. The tenant-landlord relationship, as well as the quality of the neighbourhood, could also affect the perceived housing quality and, therefore, the occupants' psychosocial status.



Other literature explores the impact of housing renovations and repairs on children's development and health. Bailie et al. (2012) studied the impact of housing renovations on children's health in Australian Indigenous communities. Based on 2004-2005 data on children aged 7 years old or younger who benefited from government-funded housing programmes, the authors found that improvements in housing conditions did not have any impact on children's health. They concluded that building programmes should be accompanied with other socio-environmental interventions to bring positive health results to Australian Indigenous communities. A recent study by Tieskens et al. (2021) explored the impact of energy retrofits on paediatric asthma, based on US data on health outcomes of children in low income families. The authors found that improving energy efficiency and increasing ventilation in existing affordable houses could have positive effects on health outcomes and generate healthcare cost savings of an average of more than US\$200 per person per year.

Recently, more studies have explored the impact of energy efficiency interventions on health outcomes, as many countries are trying to meet their national and international commitments on climate change. Hamilton et al. (2015) explored the impact of energy efficiency interventions on health outcomes. The authors modelled energy efficiency retrofit scenarios to assess public health outcomes in England. They found that the scenario under which fabric and ventilation retrofits were installed (assuming that building regulations were met) resulted in an average increase of 0.2 Quality Adjusted Life Years (QALYs) per person over 50 years of age due to improved indoor air quality and temperature.

There is also evidence that renovating public or social housing can have positive effects on wellbeing. Ellen et al. (2020) focused on the impact of renovation of public housing on tenants' health. Using US data on renovations and health care use for the period 2014-2018, the authors did not find significant improvement of individuals' health, but they identified an improvement in residents' overall wellbeing in the long run.

Other evidence suggests that accessible housing can have positive impact on health and social outcomes, including increased self-efficacy in activities of daily living, reduced likelihood of falls and injuries, improved quality of life and enhanced psychological effects (MacLachlan et al., 2018). International evidence exploring indirect effects of access to affordable housing suggested that affordability can result in more available income which can be used for nutrition and healthcare (Lubell et al., 2007; Mueller and Tighe, 2007; Thomas, 2017). Additionally, affordability can lead to housing stability, which can reduce related stress and increase self-esteem, wellbeing, life satisfaction and sense of security, as well as alleviate crowding, which can further reduce related stress and infectious diseases.

## **Housing repairs and cost savings in Wales**

Based on research by Shelter Cymru, one in three people in Wales lives in unsafe or unaffordable housing.<sup>33</sup> According to Watson et al. (2019), 18% of Welsh houses pose a risk to their residents' physical and mental health as well as their future wellbeing and prosperity.

Evidence from Wales suggested that improving housing conditions can enhance individuals' health. Milner et al. (2015) explored the health impact of housing renovations aimed at improving indoor air quality. Based on data in England and Wales, the authors found that home energy efficiency interventions that reduce exposure to air pollution can have a positive impact on mortality and morbidity from asthma, coronary heart disease and lung cancer. Overall, these interventions would

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<sup>33</sup> ITV, 2021. "Shocking' new figures demonstrate scale of housing crisis in Wales amidst calls for immediate Welsh Government action". Available at: <https://www.itv.com/news/wales/2021-05-26/shocking-new-figures-demonstrate-scale-of-housing-crisis-in-wales-amidst-calls-for-immediate-welsh-government-action>

result in increased life expectancy by 2-3 months and increased QALYs by 13 million over 90 years. Another study by Rodgers et al. (2018) explored the health impact of improving housing conditions by carrying out an experiment in the south-west of Wales. The authors found that housing improved to a national quality standard by improving wall insulation or upgrading electrical systems can result in fewer hospital admissions of tenants aged 60 years old or more.

There is also literature estimating how much living in inadequate housing costs public health services. Watson et al. (2019) found that poor housing conditions in Wales cost the NHS over £95 million; the cost to Welsh society is over £1 billion annually. However, interventions to improve housing conditions (e.g., repairs, improvement and reducing falls) would cost £584 million, outweighed by immediate health and societal benefits within six years. According to the authors, investing £1 in improving warmth in vulnerable households can generate £4 savings due to reduction in hospital admissions for circulation and lung conditions. Spending £1 in adaptations to make houses accessible for older and disabled people can also result in £7.50 savings due to reduction in tenants' falls. Similar results were found by Care & Repair Cymru; investing £1 in the Rapid Response Adaptation Programme, which facilitates home adaptations to enable hospital patients to return home safely, can generate £7.50 savings in health and social care budgets.<sup>34</sup>

Another study supplementing the findings of Watson et al. (2019) also found that, if the most severe housing hazards were removed, the reduction in NHS treatment costs would be around £95m per year in Wales (Nicol et al., 2019). These hazards, mainly relating to falls and health impact due to living in cold housing, put tenants' health and safety at risk; according to 2017/18 data, 18% of total housing stock in Wales had this type of hazard.

## Health and homelessness

Poor health conditions can be both a cause and consequence of homelessness. Evidence from a study in Wales suggested that health problems were the primary or secondary cause of homelessness for over 30% of study participants, while another 30% of homeless people stated that their health worsened in the past 12 months.<sup>35</sup> People who have experienced homelessness also interact more often with health and emergency care services, using NHS services that cost £11 million in the first half of 2020 (Song et al., 2021).

Earlier evidence suggested that the annual cost of homelessness in the UK was estimated at around £24,000 to £30,000 per person, and £1 billion overall (Department for Communities and Local Government, 2012). According to the same report, the costs of services used by homeless people, such as services relating to mental health problems or substance misuse and alcohol dependency, is difficult to estimate, however, it "can be considerable". More recently, studies from Crisis found that the cost for using drug and alcohol dependency treatment services would be around £300 per homeless household per year (Alma Economics, 2019; PWC, 2018). The costs for contacting mental health services and using NHS services for mental health would be £500 and £1,000, respectively. Healthcare and mental health services for children in homelessness would cost approximately £200 and £300 per child per year, respectively.

Measures and policies to prevent or decrease homelessness can deliver positive outcomes for individuals and society at large. Evidence suggested that this kind of support can also deliver savings to the public purse. According to Watson et al. (2019), homelessness prevention can save around

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<sup>34</sup> Care & Repair Cymru, 2014. "Indicative budget 2015/16-Written evidence for Finance Committee". Available at: <https://business.senedd.wales/documents/s30185/FIN4%20-%202015-16WGDB07%20Care%20and%20Repair%20Cymru.html?CT=2>

<sup>35</sup> Cymorth Cymru. "Health Matters: The health needs of homeless people in Wales". Available at: [https://www.cymorthcymru.org.uk/files/5115/1791/4790/Cymorth\\_Cymru\\_Health\\_Matters\\_report.pdf](https://www.cymorthcymru.org.uk/files/5115/1791/4790/Cymorth_Cymru_Health_Matters_report.pdf)

£9,000 per person in comparison with allowing homelessness to persist for 12 months, while spending £1 to move people out of homelessness can result in £2.80 savings due to reduced demand for homeless services, enhanced wellbeing, increased productivity, and reduced spending in health care and criminal justice services. The Housing Support Grant (HSG), a programme which aims to prevent homelessness and supports people to live safely in their homes, can generate around £140 million health service savings and £120 million social care service savings annually (Fury et al., 2020). Earlier evidence suggested that the Supporting People programme, which preceded the HSG and provided housing-related support services to vulnerable people (including individuals at risk of homelessness) saves almost £3 for every £1 spent.

## Education

Improving housing affordability can positively affect educational outcomes. There is evidence suggesting a direct link between affordability and education – households with access to affordable housing have more available income that can be used for nutrition, further helping children to perform better at school (Thomas, 2017). The same report suggests that living in better housing conditions can reduce the risk of health issues, thus leading to reduced absenteeism from school.

Similar results were found by Brennan et al. (2014), suggesting that access to affordable housing can positively affect education outcomes of children from low-income families by reducing mobility and overcrowding, as well as providing stable, safe housing in high-opportunity communities. The same study discussed evidence on the effect of overcrowding on children's academic performance. Children that live in overcrowded places get lower grades and are less likely to graduate than their peers. Reduced parental responsiveness, as well as increased noise and chaos as a result of overcrowding, are the main reasons that can negatively affect children's academic performance.

On the other hand, a lack of affordability can force low-income households in search of good quality, affordable housing to frequently move. Mueller and Tighe (2007) found that unaffordability can lead to frequent mobility, which can have adverse effects on educational performance as children changing schools might not be able to catch up with a different curriculum nor have the resources for additional school material. The same report also suggested that affordable housing policies can provide access to neighbourhoods of opportunity, resulting in positive results on education. More recent evidence suggested that children living in accessible affordable housing in higher opportunity neighbourhoods could improve their educational performance and have higher lifetime earnings (Caniglia et al., 2020). According to Chetty et al. (2016), children eight years old or younger that move from lower to higher opportunity neighbourhoods can earn around \$300,000 more over their lifetime than they would have if they did not move.

Diamond (2020), who explored the costs and benefits of affordable housing, outlined previous evidence on the social benefits of increased educational achievement. For example, increasing education by one year can increase earnings by 10%, which can lead to public benefits through increased taxes. Other public savings due to increased education are produced through the reduced demand for publicly supported social programmes, such as housing subsidies, as well as through reduced criminal activity, as explained in the "*Crime and justice system*" section of the current report.

## Productivity losses and economic impact

Inaccessible housing can have adverse effects on the economic productivity of people with a mobility impairment. Wiesel (2020), who carried out qualitative research to explore the impact of inaccessible housing on individuals in Australia, found that almost one third of study participants had suffered from job loss, missed job opportunities, reduced work hours and work productivity due to a lack of accessible housing. The lack of accessible housing close to job opportunities, as well as the effort

required to function independently, resulted in reduced productivity, motivation and self-confidence.

Provision of affordable housing can also generate positive employment-related outcomes. Diamond (2020) suggested that providing affordable housing can lead to increased levels of all individuals' productivity, particularly reducing absenteeism.<sup>36</sup> The author referred to previous evidence on the social cost of reduced productivity. This social cost was estimated by quantifying the employers' cost due to absenteeism and presenteeism, which was around \$700 and \$7,000 (in 2002 dollars), respectively.

Other evidence suggested that provision of affordable housing, for example through housing programmes or affordable housing markets, can positively affect individual economic opportunity and yield social benefits.<sup>37</sup> For example, the Limited-Profit Housing Associations (LPHA) in Austria provide affordable housing for large parts of society. A study by WIFO - Austrian Institute of Economic Research (2021) estimated the total savings of households that rented LPHA housing compared to the scenario under which they would have rented a private sector house. Those tenants' savings, which were calculated at around €1.2bn per year. LPHA also yielded state benefits (an additional €600 million to €1 billion to Austria's annual GDP) through increased private consumption due to lower housing costs, as well as increased public savings due to lower expenditure on housing allowances and higher tax income.

Additionally, measures to prevent or decrease homelessness can generate savings to the Department of Work and Pensions as well as increased tax revenues. According to a study by the Department for Communities and Local Government (2012), the Department for Work and Pensions helps homeless people move into employment by providing employment-support services, or benefits such as Income Support (£84 per person per week in August 2011), Employment Support Allowance (£80 per person per week in August 2011), and Jobseeker's Allowance (£64 per person per week in August 2011).

## Crime and justice system

Evidence suggests that a lack of affordable and adequate housing can result in increased involvement in criminal activity. Diamond (2020) found that unaffordable housing can lead to reduced education, which seems to be correlated with increased criminal activity and interaction with the justice system. The author suggested that increased education can lead to decreased criminal activity, resulting in public cost savings due to reduced expenditures relating to policing, incarceration and the criminal justice system.

Thomas (2017) also suggested that provision of affordable, decent housing can lead to reduced crime. According to the same paper, lack of outdoor space can have negative impact on tenants' mental health, resulting in aggressive behaviour. Additionally, affordability allows households to move into safer neighbourhoods, reducing the likelihood of individuals being involved in crime. Lubell et al. (2007) found that affordable housing is associated with reduced domestic violence, as the victims can access alternative housing arrangements and escape abusive situations, further enhancing victims' physical and mental health.

Similar results were found by Caniglia et al. (2020), suggesting that having access to stable housing can reduce the likelihood of criminal activity and incarceration. Disabled people or people with health conditions that are long-term homeless are more likely to be incarcerated – they spend on average 56 days per year in prison. The authors concluded that the provision of affordable accessible housing to

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<sup>36</sup> Presenteeism is the situation where individuals go to work but they are not fully productive.

<sup>37</sup> Housing Matters – an Urban Institute Initiative, 2016. "The First Rung on the Ladder to Economic Opportunity Is Housing". Available at: <https://housingmatters.urban.org/articles/first-rung-ladder-economic-opportunity-housing>

this population group could cut down spending on public safety by reducing the likelihood of law violation.

There is also evidence suggesting that homelessness and offending behaviours are highly correlated, as offending can be both a cause and consequence of homelessness (Department for Communities and Local Government, 2012). According to a Ministry of Justice report, homelessness is also associated with reoffending. Using evidence from the Surveying Prisoner Crime Reduction (SPCR) survey, Williams et al. (2012) found that homelessness before custody increased the likelihood of reconviction. Additionally, 60% of prisoners believed that having accommodation upon release was necessary to prevent them from reoffending; prisoners were more likely to be reconvicted if they faced housing problems when released. The authors concluded that housing-related help to prisoners upon release could reduce reoffending rates.

Thus, preventing or reducing homelessness can generate savings in the criminal justice system. According to Crisis research (PWC, 2018) as well as an Alma Economics (2019) study commissioned by Crisis, the average cost of contact with the criminal justice system for a homeless household was estimated to be £2,439. The same studies suggested that children being in homelessness would cost £57 per child per year to the justice system. Programmes supporting homeless people or people at risk of homelessness, such as the Housing Support Grant, can generate an estimated savings of around £50 million to the criminal justice system annually (Fury et al., 2020).

## Climate change

In March 2021, the Welsh Government committed to achieving net-zero emissions by 2050, following its interim carbon reductions targets for 2030 and 2040 (63% and 89% reduction, respectively).<sup>38 39</sup> Reducing energy usage and carbon emissions in housing is necessary to combat against climate change. In Wales, housing is one of the biggest emitters, responsible for 9% of all greenhouse gas emissions.<sup>40</sup> The median energy efficiency score, which takes into account the housing impact on the environment based on expected CO<sub>2</sub> emissions, was 64 in 2021, which is equivalent to an EPC of band D; the lower the rating, the higher the environmental impact.<sup>41</sup> Relating to energy sources, 78% of Welsh dwellings with EPC used gas to fuel central heating, while 8% used oil or electricity.

Nicol et al. (2019) explored a case study example focusing on the costs and benefits of improving a Welsh dwelling with an energy efficiency score of 21. Home improvements would include loft insulation, installation of double glazing and improvement of the heating system, which would result in increasing the energy efficiency score of the building to 57. Additionally, the CO<sub>2</sub> emissions of the dwelling and the annual fuel cost would decrease by 53% and 49%, respectively. The authors highlighted that if housing improvements included wall and floor insulation, as well as solar water heating, there would be higher carbon emission savings.

The Welsh Government Warm Homes Nest scheme supports vulnerable individuals in fuel poverty, particularly in low-income households, by providing advice and housing energy efficiency measures, including a central heating system, boiler or insulation (Welsh Government, 2021e). The scheme

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<sup>38</sup> Welsh Government, 2021. "Climate change targets and carbon budgets". Available at: <https://gov.wales/climate-change-targets-and-carbon-budgets>

<sup>39</sup> Welsh Government, 2021. "Wales commits to net zero by 2050, but sets out ambitions to get there sooner". Available at: <https://gov.wales/wales-commits-net-zero-2050-sets-out-ambitions-get-there-sooner>

<sup>40</sup> Welsh Government, 2021. "£150m for insulation, clean energy and carbon reduction in social homes". Available at: <https://media.service.gov.wales/news/gbp-150m-for-insulation-clean-energy-and-carbon-reduction-in-social-homes>

<sup>41</sup> Office for National Statistics. Energy efficiency of housing in England and Wales: 2021. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/energyefficiencyofhousinginenglandandwales/2021>

provided around 4,500 home energy improvements, resulting in an average energy savings of £300 per year and reduced lifetime CO2 emissions by over 94,000 tonnes. Although the scheme's priority is to support vulnerable populations in fuel poverty, the immediate environmental benefits contribute to tackling the climate emergency.

## Adequate housing in Wales

### The right to adequate housing in Wales

The UK, and therefore Wales, has signed and ratified international treaties, such as the International Covenant on Economic Social and Cultural Rights (ICESCR) that guarantees economic, social and cultural rights, ensuring the right to an adequate standard of living (including adequate housing) (The House of Lords, 2004).<sup>42</sup> There is a rising case for a right to adequate housing in Wales, which addresses issues around homelessness, affordability, accessibility and security. Hoffman (2019) explored how the right to adequate housing could be incorporated in Wales as well as the impact of its incorporation in the country. Hoffman (2019) also set out the obligations that accompany the right to adequate housing on which the development of the current report is based:

- Respect: refraining from policies or legislation which might burden access to the right;
- Protect: preventing third parties from violating the right;
- Fulfil: ensuring the right is upheld through strategies and plans that aim to improve housing conditions or access to housing;
- Progressive realisation: the government taking actions to uphold the right and assessing the extent to which the government has complied with its obligation;
- Non-discrimination: prohibiting discrimination on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- Minimum core: the basic level of the right which should be secured to protect people's dignity;
- Legal security of tenure: ensuring legal protection against arbitrary eviction, harassment and other threats;
- Availability of services, materials, facilities and infrastructure: facilities necessary for health, security, comfort and nutrition (e.g., access to safe drinking water, energy for cooking, heating and lighting);
- Affordability: the housing costs are at such a level that does not compromise a household's ability to attain other basic life needs;
- Habitability: guaranteeing adequate space and protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease;
- Accessibility: considering the needs of disadvantaged groups;
- Location: easy access to services (employment, healthcare, schools, childcare centres, other social facilities);
- Cultural adequacy: enabling expression of cultural identity.

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<sup>42</sup> Other treaties that the UK has signed and ratified include the International Covenant on Civil and Political Rights; the Convention Against Torture; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of all Forms of Discrimination Against Women; the Convention on the Rights of the Child.



## Case studies

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This chapter explores country case studies, aiming to offer a comparative perspective on introducing the right to adequate housing in Wales. Based on our analysis of other jurisdictions as well as reflecting international law, we can conclude that efforts to define and provide some form of the right to adequate housing are common internationally. However, different approaches are followed to guarantee that right.

In Finland, the right to housing, alongside other economic, social and cultural (ESC) rights, is part of the Finnish Constitution and there has been significant implementation of policies targeted at ensuring provision of quality housing to cover individuals' needs. In terms of the combination of policy-making ambition and outcomes achieved, Finland is currently the most advanced case study in this area.

Canada and Scotland are two examples of countries that have taken steps towards introducing the right to adequate housing in their legislation but are at a relatively early stage in doing so. Scotland has a statutorily enforceable entitlement to housing and is taking steps towards introducing an enforceable right to adequate housing in its legislation, through direct incorporation of the International Covenant on Economic, Social and Cultural Rights, including progressive realisation obligations. Homelessness rates in Scotland are lower than in Wales;<sup>43</sup> Scotland's success in terms of reducing homelessness depends on government investment and social housing supply. The Scottish case highlights that, to fulfil a housing related right, it is essential to combine a legally enforceable right with broad political commitment to ensure that this right is fulfilled under difficult budgetary policy. Canada is a unique model that has introduced the right to adequate housing in its legislation, providing non-judicial mechanisms to ensure the right is fulfilled. The Canadian approach seems promising, but it is too early for there to be evidence of its effectiveness.

New Zealand is considered alongside Canada and Scotland as a case study demonstrating significant progress in terms of policy-making and outcomes, whilst also being at an early stage in terms of establishing the legal right to adequate housing.

There are also examples of countries that have introduced laws aiming to ensure access to adequate housing that have not been successful for various reasons. The French DALO law, which introduced a form of enforceable, individual right to housing, was ineffective in rehousing individuals. This case highlighted the need for providing resources to ensure the implementation and effectiveness of housing-related laws. On the other hand, the Catalan Act, which defined housing discrimination and harassment, seemed promising. However, another legislative change effectively neutralised it.

South Africa is a unique example of a country that has introduced a strong form of a justiciable right to access adequate housing. Although there have been some successful court cases in South Africa, improvements in outcomes have been held back by a lack of supply of adequate housing.

In conclusion, introducing a legal right to adequate housing in the legislation is a necessary condition to ensure its progressive realisation and enforceability. The evidence has also highlighted that political commitment to provide quality housing through policy-making (particularly to encourage supply) can further help towards the progressive realisation of the right to adequate housing.

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<sup>43</sup> Crisis, 2021. "The Homelessness Monitor: Scotland 2021". Available at: <https://www.crisis.org.uk/ending-homelessness/homelessness-knowledge-hub/homelessness-monitor/scotland/the-homelessness-monitor-scotland-2021/>

# Progressive realisation pathfinder

## Finland

- The right to housing, alongside other economic, social and cultural (ESC) rights, is part of the Finnish Constitution.
- Economic, social and cultural rights are enacted through laws, which are assessed beforehand by the Constitutional Law Committee of Parliament before they are passed and are considered justiciable by the courts.
- Housing First is an international model that focusses on ensuring homeless people have access to housing and is based on the theory that any other issues would be addressed once housing is obtained (National Alliance to End Homelessness, 2016). This has been implemented in Finland in the form of national programmes and those programmes have been effective in reducing long-term homelessness.
- Two weaknesses should be noted: (i) this right to housing is conditional on the impact on people's health, and (ii) there is a weak link between the Constitution, which defines the right to housing, and the policies that ensure the right to adequate housing.

### A constitutional right to housing

The right to housing in the Finnish Constitution is referred to as the right to accommodation if people's health or life is under threat if they are not provided with arranged accommodation.<sup>44</sup> The Finnish Constitution was introduced in 2000, and it includes economic, social and cultural (ESC) rights, ensuring that public authorities will be responsible for protecting those rights (Mercy Law Resource Centre, 2018). According to the same report, the ESC rights are enacted through ordinary legislation and are considered justiciable by the courts. Every law, before it is passed, is reviewed by the Constitutional Law Committee of Parliament, which assesses whether the law is consistent with the Constitution. The courts protect ESC rights by either providing compensation in cases of proven violation of those rights committed by the government or local authorities, or by judicially reviewing public bodies' decisions related to constitutionally protected rights.

Although the right to housing was introduced in the Constitution in 2000, the most significant steps to eradicate homelessness were taken later (in 2008) when the Housing First approach was adopted in Finland.<sup>45</sup> According to sector experts engaged in our research, there is a weak link between the Constitution that outlines the aims to achieve access to housing and the policies that deliver on the commitment in the Constitution. Instead, there needs to be a constant effort by stakeholders and government to continually push for progressive realisation.

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<sup>44</sup> Housing Rights Watch, 2013. "State of Housing Rights". Available at: <https://www.housingrightswatch.org/page/state-housing-rights-4>

<sup>45</sup> Housing Rights Watch, 2013. "State of Housing Rights". Available at: <https://www.housingrightswatch.org/page/state-housing-rights-4>



## Housing First

To address the increasing number of homeless people in the country, the Finnish Government introduced a National Programme in 2008, which was based on the Housing First approach (Y-Foundation, 2017). Housing First is an international model that focusses on ensuring homeless people have access to housing and is based on the theory that any other issues would be addressed once housing is obtained (National Alliance to End Homelessness, 2016).

Housing First was originally developed in New York to help rough sleepers with mental health issues.<sup>46</sup> It was later expanded to help long-term homeless individuals, as well as individuals at risk of homelessness who were discharged from psychiatric hospitals or released from prison. This approach provided individuals with rapid rehousing without requiring them to receive any kind of treatment. Evidence suggested that Housing First, when provided to people with high support needs, is directly linked with a decrease in spending on other services, such as psychiatric or emergency medical services and services in the criminal justice system. In Finland, Housing First was implemented to end long-term homelessness (Shinn and Khadduri, 2020). According to sector experts, an economic evaluation of Housing First suggested that the cost savings of this approach would be €50,000 per person per year through reduced use of special healthcare and criminal justice system.

The National Programme (PAAVO I), implemented during 2008-2011 in Finland, was based on the Housing First model, and aimed to combat homelessness through the construction and renovation of houses that would be available at an affordable price (Y-Foundation, 2017). Based on Pleace (2017), under PAAVO I, Finland had to deliver affordable, sustainable and adequate housing, such that long-term homelessness would decrease by 50% by 2011. This would be achieved by providing 1,250 new apartments or shelters converted to self-contained houses. The same report concludes that PAAVO I was broadly effective. Although the original goal of halving homelessness was not achieved, as homelessness levels fell by 28%, 1,519 dwellings were delivered, which was higher than the initial target.<sup>47</sup>

Pleace (2017) also discussed PAAVO II, the continuation of PAAVO I, which was implemented between 2012 to 2015. PAAVO II focused on the eradication of long-term homelessness, and particularly hidden forms of homelessness, such as homeless people living temporarily with friends or family. The programme's goal was to eliminate long-term homelessness by 2015 (Ministry of the Environment in Finland, 2014). Although PAAVO II did not achieve the aim of ending long-term homelessness, total homelessness fell by 16% from 2012 to 2016.<sup>48</sup>

According to an international review by Pleace et al. (2015), PAAVO I and II were effective in reducing long-term homelessness by constructing 2,500 new housing units and hiring 350 new professionals in housing social work. The same report concluded that 200 individuals were prevented from becoming homeless annually. Long-term homelessness was reduced by 35% (1,589 individuals) during 2008-2015 and social housing units had almost doubled from 35,000 in 1985 to 68,000 in 2016.<sup>49</sup> According to sector experts, Housing First has contributed to reducing long-term homelessness by 65% and homelessness by 50%.

The following Action Plan for Preventing Homelessness in Finland (AUNE) was built on PAAVO I and II, and it was implemented in 2016-2019 (Kangas and Kallioma-Puha, 2019). According to the authors,

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<sup>46</sup> Housing First Europe Hub. "1.2. The History of Housing First". Available at: <https://housingfirsteurope.eu/guide/what-is-housing-first/history-housing-first/>

<sup>47</sup> Centre for Public Impact. 2019. "Eradicating homelessness in Finland: the Housing First programme". Available at: <https://www.centreforpublicimpact.org/case-study/eradicating-homelessness-finland-housing-first-programme>

<sup>48</sup> See footnote 47.

<sup>49</sup> See footnote 47.

AUNE was a multi-disciplinary plan that focused on homelessness prevention, targeting people at risk of homelessness, such as immigrants who have lost their residence permits, people with mental health conditions and families at risk of eviction. The programme aimed to produce 2,500 new housing units and provide more customer-oriented services to homeless people or individuals at risk of homelessness.<sup>50</sup> The purpose of the current programme (2020-) is to halve homelessness by 2023 and to end homelessness by 2027.<sup>51</sup>

## Examples of progress

### Canada

- The National Housing Strategy Act (NHSA) was introduced into Canadian legislation, identifying the right to adequate housing as a fundamental human right and ensuring its progressive realisation in the country.
- The legislation also created three accountability bodies to promote and protect the right to adequate housing: the National Housing Council, the Federal Housing Advocate and the Review Panel.
- Under the Act, the right to adequate housing is not justiciable, but individuals can use non-justiciable mechanisms to ensure their right. The Canadian model is unique; however, it is recent, and we could not identify evidence on its effectiveness.

In 2019, Canada introduced the National Housing Strategy Act (NHSA) into national legislation, recognising the right to adequate housing as a fundamental human right.<sup>52</sup> The law commits the State to ensure the progressive realisation of the right, requiring developing a national housing strategy to improve housing outcomes for everyone in Canada.<sup>53</sup>

The legislation also created three accountability bodies to promote and protect the right to adequate housing: the National Housing Council, the Federal Housing Advocate and the Review Panel. According to Porter (2021), the National Housing Council consists of representatives from civil society, as well as people with lived experience of housing needs. The Council will provide advice to the Minister relating to the effectiveness of the NHSA. The role of the Federal Housing Advocate is to monitor the implementation of the housing policy and to provide recommendations to the Minister on the progressive realisation of the right to adequate housing. The Review Panel holds hearings of “systemic” cases referred by the Federal Housing Advocate, where individuals can explain their housing-related issues they have experienced and impacts on their life as a result of those experiences.

The Act does not provide a justiciable right to adequate housing, meaning that individuals cannot

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<sup>50</sup> Y-Foundation. “Designing and implementing effective human rights-based housing strategies: answers to the UN Special Rapporteur on the right to housing - Finland and the Y-Foundation”. Available at: [https://www.ohchr.org/Documents/Issues/Housing/HousingStrategies/Y-Foundation\\_Housing\\_Finland.pdf](https://www.ohchr.org/Documents/Issues/Housing/HousingStrategies/Y-Foundation_Housing_Finland.pdf)

<sup>51</sup> Housing First. Finland. Available at: <https://housingfirsteurope.eu/countries/finland/>

<sup>52</sup> Hale K., 2019. “We got the Right to Housing. Now what?”. Advocacy Centre for Tenants Ontario. Available at: <https://www.acto.ca/r2hnowwhat/>

<sup>53</sup> National Housing Strategy. Government of Canada. “Human Rights-Based Approach to Housing”. Available at: <https://www.placetocallhome.ca/human-rights-based-approach-to-housing>

access judicial mechanisms to claim their right to adequate housing.<sup>54</sup> The model is considered to be unique – although it does not rely on courts, it provides non-judicial mechanisms to individuals to share their lived experiences as well as reviews and recommendations to ensure that the State complies with its obligation for the progressive realisation of the right in the country.<sup>55</sup>

## Scotland

- At present, there are strong similarities between homelessness legislation in Scotland and Wales, although a notable difference is that Scotland has abolished the Priority Need Test.
- Taking steps to go further, the Scottish Government has announced that a new Human Rights Bill will be introduced – an enforceable right to adequate housing will be introduced in Scottish law through direct incorporation of the International Covenant on Economic, Social and Cultural Rights, including progressive realisation obligations. At present, it is estimated that around three quarters of houses in Scotland may be inadequate.

### Scottish Housing Acts

Under the Housing (Scotland) Act 1987,<sup>56</sup> local authorities have a legal duty to provide information as well as accommodation to homeless people or individuals at risk of homelessness. According to the Housing (Scotland) Act 2001,<sup>57</sup> social landlords also have a legal responsibility to help local authorities rehouse homeless people. The Homelessness etc. (Scotland) Act 2003 sets out anyone finding themselves homeless through no fault of their own is entitled to settled accommodation in a local authority or housing association tenancy or a private rental.<sup>58</sup> In 2012, secondary legislation was introduced by the Scottish Parliament that requires the assessment of housing needs of homeless applicants by local authorities.<sup>59</sup> In response to the Covid-19 pandemic, the Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2020 was introduced in 2020 to ensure everyone has access to quality housing.<sup>60</sup> The Amendment Order forbids local councils from placing homeless households into bed and breakfasts (B&B) or hotels for more than seven days. Much of the legislation described here is comparable to Welsh legislation, although one notable difference is that the Priority Need Test was abolished in Scotland in 2012.

### The right to adequate housing

In 2021, the Scottish Government announced that a new Human Rights Bill will be introduced, embedding the right to adequate housing, as well as other components of the right to an adequate standard of living, in Scottish law.<sup>61</sup> The Bill will be based on the recommendations of the Scottish

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<sup>54</sup> Morrison J., 2019. "Right to Housing is Now Law in Canada: So Now What?". Canadian Housing and Renewal Association. Available at: [https://chra-achru.ca/blog\\_article/right-to-housing-is-now-law-in-canada-so-now-what-2/](https://chra-achru.ca/blog_article/right-to-housing-is-now-law-in-canada-so-now-what-2/)

<sup>55</sup> The National Right to Housing Network. Right to Housing Legislation in Canada. Available at: <https://housingrights.ca/right-to-housing-legislation-in-canada/>

<sup>56</sup> The Housing (Scotland) Act 1987 is available at: <https://www.legislation.gov.uk/ukpga/1987/26/contents>

<sup>57</sup> The Housing (Scotland) Act 2001 is available at: <https://www.legislation.gov.uk/asp/2001/10/contents>

<sup>58</sup> The Homelessness etc. (Scotland) Act 2003 is available at: <https://www.legislation.gov.uk/asp/2003/10/contents>

<sup>59</sup> The Housing Support Services (Homelessness) (Scotland) Regulations 2012 are available at: <https://www.legislation.gov.uk/sdsi/2012/9780111018170/introduction>

<sup>60</sup> Jenkins K., 2020. "Unsuitable Accommodation Order extended". Fairer Scotland. Available at: <https://blogs.gov.scot/fairer-scotland/2020/05/05/unsuitable-accommodation-order-extended/>

<sup>61</sup> Scottish Government, 2021. "New Human Rights Bill". Available at: <https://www.gov.scot/news/new-human-rights-bill/>

National Taskforce on Human Rights Leadership (2021), which suggested a framework following the concepts of progressive realisation and minimum core standards. A judicial right should also be ensured if the Scottish Government, local authorities and housing providers fail to meet those minimum standards.

A report by ALACHO (2021) discussed how the right to adequate housing could be conceptualised in the Scottish context. The authors explored the outcome indicators that can help define adequate housing in Scotland, as well as potential data improvements that could support the progressive realisation of the right. The authors adopted the definition of the right to adequate housing as stated by the United Nations Committee on Economic, Social and Cultural Rights (CESCR), including 7 broad standards: (i) tenure security, (ii) habitability, (iii) availability of services, (iv) affordability, (v) accessibility, (vi) location and (vii) cultural adequacy. The authors also identified the number of households that do not live in adequate housing, based on estimates of households living in houses with EPC Band D and below, as well as having an affordability ratio (actual housing costs over net household incomes) of 25%. Based on this definition of adequate housing and 2018 data, 74% of households in Scotland fall short of adequate housing standards.

## New Zealand

- New Zealand has ratified international treaties that ensure the right to adequate housing.
- The right to adequate housing is not included in any legislation in New Zealand, but some aspects of it are reflected in national acts and policies, such as the Healthy Homes Standards, which seem to be effective in helping people access warm, dry and healthy housing.
- The UN Special Rapporteur found that the legal protection of the right to adequate housing remains relatively weak in the country and suggested introducing the right in the national legislation and the New Zealand Bill of Rights Act following the Canadian model.

The right to adequate housing has been recognised in many international treaties ratified by New Zealand, such as the 1966 International Covenant on Economic, Social and Cultural Rights and the 1965 Convention on the Elimination of All Forms of Racial Discrimination.<sup>62</sup> The right to adequate housing is an international obligation of New Zealand, and the State is responsible for ensuring its progressive realisation.<sup>63</sup> The State's duty is not to build housing units, but to ensure that the right is upheld in the country.

The right to adequate housing is not explicitly recognised in any legislation of New Zealand, but some aspects of it are reflected in national acts and policies. According to Mitchell et al. (2021), such an example is the Building Act 2004, which outlines standards of habitability and security for newly built houses, as well as the Residential Tenancies (Healthy Homes Standards) Regulations 2019, that set out minimum standards of habitability (e.g., insulation, ventilation and heating) in rental housing units.

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<sup>62</sup> The same applies in the UK (and therefore Wales) so this aspect of the legal framework in New Zealand does not go further than Wales at present.

<sup>63</sup> Human Rights Commission, 2017. "The human right to adequate housing in New Zealand". Available at: [https://www.hrc.co.nz/files/4215/1363/5639/2017\\_07\\_25\\_-\\_Right\\_to\\_housing\\_flyer\\_-\\_updated.pdf](https://www.hrc.co.nz/files/4215/1363/5639/2017_07_25_-_Right_to_housing_flyer_-_updated.pdf)

The Regulations followed the Healthy Homes Guarantee Act 2017, setting standards relating to warmer and drier rental properties.<sup>64</sup> According to an impact assessment of the Healthy Home Standards in 2018, the cost for a private landlord to amend a house to comply with the standards would be between NZ\$7,500-NZ\$10,000, assuming that the house did not meet any Healthy Home Standard (Ministry of Housing and Urban Development, 2018). Public housing providers, such as the Housing New Zealand Corporation (HNZC), would also take on costs to meet the standards, including capital and operating costs. The assessment also estimated the costs of publishing and enforcing the regulations, such as information campaigns and monitoring and enforcement processes. Cost Benefit Analysis (CBA) of the Healthy Homes Standards examined different scenarios relating to behaviour changes and land-owners compliance, estimating benefits relating to tenants' reductions in energy costs and improved health, as well as environmental benefits due to decrease in greenhouse gas emissions (NZIER, 2018).

There is a lot of earlier literature exploring policies, services and programmes aiming to support individuals to access adequate housing. Since 2013, the Healthy Homes Initiative (HHI) has supported families with children with specific health conditions or pregnant women to access warm, dry and healthy housing.<sup>65</sup> HHI providers carry out a housing assessment of applicants and then try to help them to utilise interventions that can help them access warmer, drier and healthier homes. An evaluation of HHI by Pierse et al. (2019) concluded that this service has helped prevent hospitalisations, GP visits and pharmaceutical dispensations.

There is literature exploring the introduction of minimum housing standards, such as the Rental Warrant of Fitness (WoF), on which the Healthy Homes Standards was based. The rental WoF field test introduced housing quality criteria relating to habitability and safety in some councils in New Zealand (Telfar-Barnard et al., 2017). Telfar-Barnard et al. (2019) concluded that introducing a rental WoF could positively impact tenants' health (reducing injuries and diseases), leading to reduced fiscal costs, including reduced hospitalisations and hospital costs, as well as increased productivity. A 2014 study by Blick and Davies (2014) also explored the costs and benefits of introducing minimum standards for rental housing in New Zealand. The authors estimated the average house repairs and maintenance cost to be around NZ\$1,800 per housing unit. The benefits explored in the study included health-related benefits (e.g., reduction in mortality, hospitalisation and pharmaceutical costs), energy savings and safety benefits. The authors found that the net benefit of the minimum standard would be around NZ\$300 million with a benefit-cost ratio of 1.5. Similar results were found by Chapman et al. (2009), who studied the costs and benefits of retrofitting insulation in housing units of low-income families where at least one person had symptoms of respiratory disease. The cost of retrofits was estimated at NZ\$1,800 (at 2001 values) per household, while the benefits varied from health gains (reduced visits to GPs, hospitalisations, days off school and work) and energy savings, as well as reductions in CO2 emissions. The authors estimated a benefit-cost ratio of 1.5-2.

Following the visit of the UN Special Rapporteur on adequate housing to New Zealand, Leilani Farha wrote in a UN report that "legal protection of the right to adequate housing remains relatively weak" in the country (UN Human Rights Council, 2021). The UN Special Rapporteur found that there are laws, policies and programmes in the country that help fulfil the right to adequate housing, however, there is a need for legally introducing the right to ensure it is upheld in the country. The UN report included recommendations for the New Zealand Government on guaranteeing the right to adequate housing in

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<sup>64</sup> Office of the Minister for Housing and Urban Development Chair, Cabinet Legislation Committee. Residential Tenancies (Healthy Homes Standards) Regulations 2019. Available at: <https://www.hud.govt.nz/assets/Residential-Housing/Healthy-Rental-Homes/Healthy-Homes-Standards/June-2019/0828e44071/Residential-Tenancies-Healthy-Homes-Standards-Regulations-2019.pdf>

<sup>65</sup> Ministry of Health. "Healthy Homes Initiative". Available at: <https://www.health.govt.nz/our-work/preventative-health-wellness/healthy-homes-initiative>

the country. One suggestion referred to introducing the right in the national legislation and the New Zealand Bill of Rights Act, following the Canadian model. In particular, the author suggested that the State should have a legal obligation on the progressive realisation of the right and provision of emergency housing to individuals in homelessness or at risk of homelessness. Additionally, individuals should have the justiciable right to claim their right to adequate housing in court.

## Lessons learned from less successful laws

### France

- France introduced a form of statutory right to housing. Under the DALO law, people with inadequate housing can take legal action against the State.
- Although the right is enforceable, there are still challenges in its implementation. The French case highlights the need for providing resources to ensure the implementation and effectiveness of housing-related laws.

#### The DALO law

In response to homelessness in France, a statutory right to housing was introduced in 2007 to address the lack of housing and housing exclusion in the country. Under the DALO law (Droit au Logement Opposable/Enforceable right to housing), individuals who live in inadequate housing or do not have access to housing (and fall within the priority groups outlined by the law) can take legal action against the State.<sup>66</sup> Some of these priority groups are people without housing or shelter, individuals under threat of eviction, people in temporary accommodation, and guardians of at least one minor child, etc. (Mercy Law Resource Centre, 2018). From January 2012, people eligible for social housing who wait for a long time to get accommodation are also covered by the DALO law (Tars et al., 2016). Social housing in France is 15% of the total housing stock, provided by both the private and public sectors.<sup>67</sup>

There were legal changes to ensure that the State and stakeholders protect and fulfil the right.<sup>68</sup> Under the DALO law, a person can appeal to an independent committee that monitors the application of the law and supports the State to fulfil it. The committee is made up of state, local county and municipal representatives, as well as representatives from social housing and tenants' rights organisations. The committee examines appeals and decides on the urgency for rehousing. If the situation is urgent, the committee then directs the relevant local government representative to provide appropriate housing within 3-6 months. If the person is not rehoused in the determined period, an individual can take the case to court, which can result in the State provision of housing or monetary compensation.

Ten years after implementing the DALO law, Carlotti (2016) explored its effectiveness in an evaluation report. Over the decade, this law has helped more than 100,000 households to have access to housing. The DALO law also affected housing policies in the country, leading to increases in housing supply, particularly for the most disadvantaged individuals. However, the need for rehousing increased over the

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<sup>66</sup> Clauzier J., 2017. "The DALO law: a step towards making the right to housing a reality". Housing Rights Watch. Available at: <https://www.housingrightswatch.org/content/dalo-law-step-towards-making-right-housing-reality>

<sup>67</sup> International Observatory on Social Housing. "French Social Housing in a Nutshell". Available at: <https://internationalsocialhousing.org/2017/05/01/french-social-housing-in-a-nutshell/>

<sup>68</sup> Clauzier J., 2017. "The DALO law: a step towards making the right to housing a reality". Housing Rights Watch. Available at: <https://www.housingrightswatch.org/content/dalo-law-step-towards-making-right-housing-reality>



years, with 60,000 households requiring accommodation in 2014. According to Lévy-Vroelant (2015), the number of individuals needing to be rehoused increases more rapidly than the number of people who are eventually rehoused. In 2012, the State was fined €12.9 million due to its ineffectiveness in providing priority groups with housing access. In 2013, 54% of appeals were rejected; 42% of accepted appeals were not suitably accommodated, while 80% of them had exceeded the “normal waiting time”. Only 27% of applicants were eventually rehoused, taking into account rejected applicants and accepted applicants who refused the accommodation offer, usually due to the location or cost of the rent.

There are many challenges to the successful implementation of the DALO law. Tars et al. (2016) considered the lack of knowledge of the law to be a challenge to its implementation – there were no actions to support information sharing about the existence of the DALO law. Additionally, there were broad structural challenges as there was a disparity between national requirements and local community needs. Some actions were taken to address this challenge: (i) in 2009, there was an amendment to the law to allow for flexibility in local social housing programmes; (ii) government-approved organisations were allowed to help tailor housing policies to local community needs.

Based on the same paper, the committee concluded that limited housing supply compared to housing needs is the biggest challenge in successfully implementing the law. Although the law encourages social housing development, building new social houses would be expensive (Mercy Law Resource Centre, 2018). According to projections of housing needs by Byrne and Culhane (2011), an estimated number of 500,000 housing units need to be built annually to ensure the DALO law is implemented and that all housing needs are covered. Tars et al. (2016) and the Mercy Law Resource Centre (2018) concluded that, apart from making the law enforceable, it is important to provide resources to ensure its implementation and effectiveness.

## Spain

- Although the right to housing is included in the Spanish Constitution, people use European or international legal instruments such as the United National Optional Protocol to the International Covenant on Economic, Social and Cultural Rights to ensure their right is protected and fulfilled.
- The Committee on Economic, Social and Cultural Rights (CESCR) recommended that the right to adequate housing could be fulfilled in Spain following the amendment of the legislation on evictions and an increase in social housing supply, as well as the development of a housing plan.
- The Catalan Right to Adequate Housing Act 2007, which defines housing discrimination and harassment, represents one of the first and most complete European legal actions that can be used as an inspiration for future legislation. However, it was partially repealed three years after it was introduced, with 20% of the Act neutralised by a change in the legislation.

### The right to housing

The right to housing is embedded in the Spanish Constitution (1978), outlining principles to ensure people can access decent and adequate housing.<sup>69</sup> However, the Constitution does not guarantee

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<sup>69</sup> Housing Rights Watch, 2018. “State of Housing Rights in Spain”. Available at: <https://www.housingrightswatch.org/page/state-housing-rights-spain>

these principles, resulting in people using legal instruments and tools at the European and international level.

Spain signed the United Nations Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR), which came into force in 2013. The first case of eviction in Spain was taken to the UN Committee on Economic, Social and Cultural Rights (CESCR) in 2017, arguing that the state violated a family's right to adequate housing.<sup>70</sup> As other eviction cases were brought to the UN CESCR,<sup>71</sup> a review issued by the Committee explored the challenges of fulfilling the right to adequate housing and protecting citizens from evictions in Spain (Committee on Economic, Social and Cultural Rights, 2018). The Committee was concerned about the limited social housing supply, the shortage of affordable rental accommodations and the worsening of the security of tenure. The Committee concluded with recommendations such as amending the legislation on evictions, increasing social housing to ensure evicted people have access to housing, and the proposing the development of a housing plan, which was also one of the requests of the right to adequate housing movements in Spain.

## **The Catalan Right to Housing Act 2007**

The Catalan Right to Adequate Housing Act (CRAH) was introduced in 2007 to link land use law and affordable housing and make the right to housing effective. The CRAH defines discrimination and real estate harassment (which is considered a form of discrimination) and outlines positive actions. Discrimination is defined as receiving different treatment than others in housing-related issues, either directly or indirectly (e.g., through specific clauses or criteria), resulting in burdening individuals' right to housing. Mialot and Ponce (2017) provided examples of harassment, such as cutting off utilities or disturbances caused due to hypothetical housing improvements. The Act also introduced the concept of urban solidarity, requiring municipalities to have a specific percentage of social housing. If the municipalities do not meet these requirements, the State can impose fines on them. The authors also explored the positive actions set out in the Act relating to the allocation of social housing. One positive action is the use of special quotas for vulnerable populations, including immigrants, aiming to guarantee that these populations have access to social housing. By using a lottery approach, the Act also has tried to avoid segregation of social housing in specific groups and achieve a social mix.

Ponce (2010) referred to the CRAH as national legislation that could serve as a good example of how the right to housing should be upheld to fight housing discrimination. However, according to sector experts Ponce and Mialot in 2018,<sup>72</sup> this legislation was only partially applied. Three years following its introduction, 20% of the Act was neutralised by an amendment to the legislation. In particular, the amendment neutralised the social solidarity mechanism, which was never applied – some municipalities could afford the fine posed by the State and preferred not to build social housing, which was more expensive. The sector experts concluded that it is important to eliminate any confusion relating to the implementation of the Act caused by the changes in legislation– “The 2007 Act was amended by subsequent acts and this has created such a regulatory chaos that even the experts are unable to make sense of it” (Ponce, 2018).

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<sup>70</sup> ESCR-Net. “Mohamed Ben Djazia and Naouel Bellili v. Spain, CESCR, Communication No. 5/2015, UN Doc. E/C.12/61/D/5/2015 (20 June 2017)”. Available at: <https://www.escr-net.org/caselaw/2017/mohamed-ben-djazia-and-naouel-bellili-v-spain-cescr-communication-no-52015-un-doc>

<sup>71</sup> ESCR-Net, 2018. “Promoting the right to adequate housing in Spain through UN mechanisms”. Available at: <https://www.escr-net.org/news/2018/promoting-right-adequate-housing-spain-through-un-mechanisms>

<sup>72</sup> Ajuntament de Barcelona, 2018. “The Housing Act ten years on: a pioneering measure only partially applied”. Available at: [https://www.habitatge.barcelona/en/noticia/the-housing-act-ten-years-on-a-pioneering-measure-only-partially-applied\\_600429](https://www.habitatge.barcelona/en/noticia/the-housing-act-ten-years-on-a-pioneering-measure-only-partially-applied_600429)



# A justiciable right

## South Africa

- The justiciable right to access adequate housing is included in the Constitution of South Africa.
- Although there have been some successful court cases in South Africa, highlighting that legally enforceable rights are a necessary condition to ensure access to adequate housing, investment in quality housing supply is important to secure and fulfil the right in the country. This investment has not happened in South Africa, underlining the need for investment in housing supply, either by the private or public sector, for legislation to be successful.

The Constitution of South Africa sets out the right to access adequate housing, according to which the State must adopt legislative approaches within its resources to ensure the progressive realisation of the right in the country.<sup>73</sup> The Constitution also protects individuals from arbitrary evictions, providing access to courts (South African Human Rights Commission, 2018). According to Chenwi (2015), the court should consider all “relevant circumstances” of individuals at risk of homelessness to decide whether measures such as eviction are reasonable. This “reasonableness approach” is based on the principle of progressive realisation and the availability of resources.

A number of legislative changes and policies were introduced to guarantee the right to access adequate housing. To ensure that the right is upheld, the State introduced the Housing Act 107 of 1997 to outline the principles of sustainable housing development and the cooperation and responsibility of national, provincial and local governments in the housing provision.<sup>74</sup> The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act No 19 of 1998 (PIE Act) was introduced to ensure that the section of the constitution on the prohibition of arbitrary evictions is respected (Chenwi, 2015).

Numerous programmes were also adopted in response to court cases of arbitrary evictions. For example, the Emergency Housing Programme was introduced in 2004, providing municipal grants as temporary assistance to individuals experiencing urgent housing problems. This was a response to the first court case in South Africa, namely the Grootboom case, where 900 individuals living in non-suitable accommodation decided to move onto private land without the owner’s agreement. The individuals built homes there which were later demolished by the landowner, putting 900 people into homelessness. According to Budlender (2003), although the right to access adequate housing is justiciable in South Africa, as it was put in the Grootboom case, “The question is, therefore, not whether socio-economic rights are justiciable under our Constitution, but how to enforce them in a given case. This is a very difficult issue which must be carefully explored on a case-by-case basis.”

There are studies exploring whether the right to access adequate housing is protected in South Africa. Rapelang et al. (2018) explored whether stakeholders in a municipality in rural South Africa understood the right to access adequate housing and whether it was upheld in the region. The authors

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<sup>73</sup> South African Human Rights Commission. “Access to Adequate Housing”. Available at: <https://www.sahrc.org.za/index.php/focus-areas/access-to-justice-adequate-housing/access-to-adequate-housing>

<sup>74</sup> South African Human Rights Commission. “The Right to Adequate Housing: Factsheet”. Available at: <https://www.sahrc.org.za/home/21/files/Fact%20Sheet%20on%20the%20right%20to%20adequate%20housing.pdf>

carried out qualitative research with municipal officials and households in the area to explore whether the right is protected and fulfilled. The authors found that individuals lived in houses they built on their own or in “RDP” dwellings, which were state-subsidised housing units. These dwellings did not meet the standards of the right to adequate housing, as there were challenges in accessing water and sanitation. Additionally, the long distance of houses from schools and hospitals posed challenges in accessing health and education services and facilities. Similar results were found by Mchunu and Nkambule (2019), who evaluated the access to adequate housing in a township in South Africa. Based on the research results, the citizens were dissatisfied with housing quality and their access to services such as sanitation and electricity. The authors recommended that the State should take further actions to ensure citizens have access to adequate housing, providing housing units to meet housing needs, but not at the expense of their quality.

## Lessons learned from case studies

International case studies provide valuable lessons for implementing the right to adequate housing in Wales, particularly relating to: (i) progressive realisation; (ii) governance, and (iii) housing supply.

### i. Progressive realisation

Moving to fulfilling a universal right to adequate housing is an aim that cannot be realised immediately given available resources. This is true for Wales now and was true also for all case studies at the point when those countries introduced forms of the right to adequate housing.

“Progressive realisation” is the idea that governments should make continual progress toward the full realisation of a human right, taking deliberate steps both immediately and in future.<sup>75</sup> This is the feasible path for countries introducing the right to adequate housing.

Finland leads the way in providing a roadmap for progressive realisation. Since the right to housing was introduced in their constitution 21 years ago, there has been a continual but gradual improvement with significant increases in housing supply and putting Finland on track to end homelessness by 2027.

### ii. Governance

Governance mechanisms are key to progressive realisation of the right to adequate housing and there are lessons to learn on governance from various jurisdictions:

- In Finland, economic, social and cultural rights are enacted through laws, which are assessed beforehand by the Constitutional Law Committee of Parliament before they are passed and are considered justiciable by the courts. This includes policy changes affecting the right to adequate housing.
- In Canada, alongside the introduction of the right to adequate housing, three accountability bodies were introduced to monitor, promote and protect the right. The Canadian model is unique; however, it is recent, and we could not identify evidence on its effectiveness.
- The absence of suitable governance mechanisms is key to the lower rates of progress made in France and Spain.

A structure in which new law-making does not cause reductions in the right to adequate housing is key to ensuring progressive realisation.

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<sup>75</sup> See e.g., “Progressive Realisation and Non-regression”, <https://www.escri-net.org/resources/progressive-realisation-and-non-regression>

### iii. Housing supply

Increasing housing supply and improving the adequacy of the existing stock are key to progressive realisation. This is the key driver in the difference between the highly successful outcomes that Finland has achieved over time relative to countries such as South Africa, which have similar levels of legal ambition coupled with lower levels of resources to increase the stock of adequate housing, primarily due to South Africa being a less economically developed country.

To achieve these improvements in housing supply and the adequacy of the existing stock, new investment is required. This could come from the private or the public sector.

## The opportunity for Wales

The right to adequate housing is fundamental in the International Covenant on Economic, Social and Cultural Rights. With progressive realisation over time, introducing this right in Wales would lead to continual progress toward addressing housing inequality in Wales and ending the costs to households and public services that come from living in inadequate housing.

Whilst most of the case study countries have gone further than Wales at this point in terms of the ambition of their law-making and announced intentions for further law-making, there are weaknesses in all the case studies. This provides an opportunity for Wales to use lessons learnt to become an international exemplar in establishing and realising the right to adequate housing.

The Draft Bill proposed by the Back the Bill campaign<sup>76</sup> would create a stronger justiciable right than has been established in any of the case study countries with clear governance for driving progressive realisation, including the introduction of housing impact assessments for new law-making and policy-making with direct or indirect impact on housing (including budgetary allocations) and regular progress reports to be brought to the Senedd.

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<sup>76</sup> Available in English here: <https://www.taipawb.org/wp-content/uploads/2020/09/Back-the-bill-right-to-adequate-housing.pdf> and in Welsh here: <https://www.taipawb.org/wp-content/uploads/2020/10/Draft-Bill-Cymraeg-.pdf>

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