



# A Route Map to a Fair Independent Scotland

Report of the Social Justice and Fairness Commission

March 2021

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## Foreword

**by Convener Shona Robison MSP and Depute Convener Neil Gray**

The Social Justice & Fairness Commission was established by SNP leader Nicola Sturgeon MSP in September 2019. It comprises both SNP members and independent contributors and we have had the privilege of leading its work.

We would like to thank all of those who have served on the Commission and informed and supported its deliberations, giving time, energy, knowledge and expertise on a voluntary basis. We would also like to thank our Secretariat team and SNP headquarters for their assistance.

Much of the Commission's work has been taken forward in difficult times. In spite of the extraordinary circumstances, we have strived as much as possible to maintain our progress during the pandemic. Inevitably it has had significant impacts on opportunities to engage and consult as we would have wished, but, like everyone else, we have had to find new ways through. We would like to offer our sincere thanks to the organisations and individuals who have given valuable time and insights to inform our work during a period of great uncertainty.

Our report is not a costed manifesto for parliamentary terms or, indeed, for just one political party. It is a blueprint, a route map to a more socially just Scotland – one that focuses on *how* we should make decisions, with illustrative proposals for policy choices that can help us build a wellbeing society. We consider the opportunities in the short term and what is achievable with the powers of devolution. Our focus, however, is on how much more we can achieve with independence.

The proposals we set out are only options. Whether all or any of them are taken forward are political decisions and choices for future governments in Scotland to make. The time and pace of any such change will be determined by future Scottish governments according to the circumstances of the day.

Clearly, the balance of priorities and resources are key to decision making, now and after independence. It is not always possible to do everything at the same time, so while there is appetite for swift progress, we have attempted to offer some insight into what we believe our earliest priorities should be. We have also set out a number of general ambitions we would like Scotland to pursue, but which will probably take a little longer to achieve. Some of the proposals, such as Land Value Taxation, offer opportunity to raise revenues. Others are suggestions for legislative change that will have cost implications, but which offer scope to deliver much bigger benefits for society.

It was beyond the remit and scope of the Commission to delve into every single policy area. Instead we have focused on those that have been particularly prominent and pressing during the pandemic, those that offer the greatest scope for tackling poverty and creating a fairer Scotland, and other areas of expertise for Commission members.

This has been an enormously valuable process, but the Commission has merely scratched the surface – the potential that exists to develop policy that delivers our shared ambitions is

enormous. We have made a start, but now there is a need to delve deeply, to develop detail for practical implementation, and to build consensus. In so doing we will be even more ready to hit the ground running upon independence. **To that end we would strongly recommend the establishment of a permanent Commission or body to build on and develop our work.**

## 1. Introduction

The aim of the Social Justice and Fairness Commission is to deliver a route map to the prize of a fair Scotland that values and cares for everyone who lives here, from baby box to ripe old age – a society in which everyone can fully participate, with opportunities to flourish. It is a prize that we believe can only truly be delivered with independence.

Independence can empower the people of Scotland. In order to build a better society, with compassion and wellbeing at its heart, we need our Scottish Parliament to gain new powers and to use them differently. And we need our public institutions to reprioritise equality and social justice in their provision of publicly funded services too.

Independence provides us with the opportunity to reset the relationship between government – at every level – and the people it is there to serve. That reset can offer a renewed social contract that delivers for the people of Scotland, based on human rights, equality and wellbeing.

In the view of the Commission the realisation of our human rights and the pursuit of equality are core to our shared values. All policy and spending decisions, now and in a future independent Scotland, should be guided by those principles. Compassion should be at the heart of our approach to governance too. The function of government should be to make life better for everyone: a caring and committed society is a wonderful society, and a compassionate government has the power to lead from the front and set the example society will follow.

With independence, we can build on the progressive policies of the Scottish Government and take them much further. Unconstrained by a constitutional ceiling on our ability to effect transformative change we can think afresh about the policies we can choose to pursue, and how we make those choices at every level in Scotland.

How we make decisions matters. To achieve transformational change, policies need to be built on societal, and not just political, consensus. Decisions need to be made with people, not just for them. Initiatives like the Citizens' Assembly of Scotland, which reported its recommendations earlier this year,<sup>1</sup> should be central to decision-making. In this way we can ensure that policies reflect what people need, that they are built on consensus, and that we are giving them the best chance to succeed. With this approach we can put Scotland's future in Scotland's hands.

The pandemic we are living through has had a profound impact on all our lives. It has brought enormous hardship and devastation, and it has caused us to reflect upon and consider what matters most. We have all seen there are other ways of doing things – our communities have helped us realise that together we can achieve a great deal. Change is

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<sup>1</sup> Citizens' Assembly of Scotland (2020) *Doing Politics Differently: The Report of the Citizens' Assembly of Scotland* <https://www.citizensassembly.scot/vision-and-recommendations/recommendations>

possible. As we chart our recovery and rebuild, now and as an independent country, we must build something better.

We note the significant overlap between the recent report of the Scottish Government's Social Renewal Advisory Board, 'If not now, when?'<sup>2</sup>, and our thinking about the transformative changes that will be needed to renew our society as part of our short-term and long-term recovery from the pandemic.

Very few people want to return to the way things were. Times are tough right now, but life was already a struggle for many people in Scotland before the pandemic hit. Poverty and inequality have blighted the lives of generations – almost a fifth of the Scottish population and a quarter of our children are living in poverty; huge inequalities have emerged from social and economic structures that compound disadvantage, and they not only remain but have been exacerbated by the pandemic; and discrimination on the grounds of race, sex and gender, disability, and sexual orientation have held far too many people back from leading fulfilling lives and realising their potential.

The pandemic has shone a light on and exacerbated existing structural inequalities. In particular, we must recognise and tackle the discriminatory effects of gendered dimensions of our economic, social, and political structures, which were illuminated so starkly by the economic and social impacts of government and workplace responses to Covid-19. Now more than ever, intersectional policy responses that integrate data and analysis on race, disability, sex and gender are essential.

The pandemic has shifted expectations and perceptions about what is possible. We have, for example, seen a huge shift towards home working and witnessed unprecedented state interventions and support for our society and economy. These changes would have been inconceivable to most people just over a year ago. Governments across the world have demonstrated that rapid and widespread change is possible where there is immediate necessity and political will. That demonstration will have longer-term implications. There can be no return to business as usual. As we move forward, and look towards a better future, we must accept that no one should be left behind in our new Scotland. We all have a duty to look after one another.

The work of the Commission has been shaped by the current pandemic, and our report must be viewed in that context. In an era of recovery, we will need to focus collectively on protecting the most vulnerable in our society. We must recognise and respond to the reality that things are likely to become much tougher before they can begin to get better. We cannot, however, allow the circumstances we find ourselves in to lower our ambitions. Our aspiration should not simply be to get back to where we used to be. Social justice is not a luxury we should aim for when times are good. When times are hard it is more important than ever to ensure that society is fair and just for everyone who lives here.

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<sup>2</sup> Social Renewal Advisory Board (2021) *If not now, when?* <https://www.gov.scot/publications/not-now-social-renewal-advisory-board-report-january-2021/pages/3/>

We also now face the enormous social, economic and democratic challenges that Brexit poses. The idea of rolling back on hard-won workers' rights is already being floated and we face a deregulation race to the bottom that will harm us all. Brexit is being used to attack the fabric of devolution through the Internal Market Bill and the Shared Prosperity Fund – the UK substitute for crucial EU structural funds, which were relied upon by communities across Scotland. Funding and decision-making in devolved areas are being undermined or bypassed altogether and we are already seeing businesses lose tens of thousands of pounds worth of stock as the barriers to trade from the UK Government's deal with the EU becomes a reality. This puts jobs at risk in communities across Scotland, which also has major wellbeing implications for everyone impacted. Scotland did not vote for Brexit, we were ignored in the negotiations and now we are suffering its consequences.

With independence we can reset Scottish society in order that the economy serves us, the people, and not the other way around. The pursuit of economic growth in and of itself does not deliver what the vast majority of people need or want. Our vision of a wellbeing society is predicated on a wellbeing economy. We need to shift the emphasis of mitigating the harms of an economic system to ensuring our economic activity does not create these harms in the first place. Instead of growth, our main measure of success should be what the economy delivers for our individual and collective wellbeing within Scotland, and the contribution our wellbeing economy makes in improving the wider world.

The world is changing, and we must keep pace with that change – all the while harnessing the benefits of progress and protecting that most vital of resources, the planet on which we live. Social justice and environmental justice go hand in hand.

The challenges facing countries across the world are immense. As the pandemic has so vividly illustrated, we cannot predict all of the storms that lie ahead. But with independence we will have the tools – such as the full range of welfare powers, tax policy and employment law – to help us navigate the future and face those challenges.

The Commission has taken an outcomes-based approach to a range of issues under consideration. We have considered a number of challenges we are facing and what long-term outcomes we seek. Some of our recommendations could be implemented in the shorter term, either under devolution or in the early days of independence, but we have found that independence is key to achieving the transformational change necessary for Scotland to fulfil its social justice and fairness aspirations for three fundamental reasons.

First, and crucially, it will give our Scottish Parliament the tools it needs to eradicate poverty, rather than just reduce or mitigate its effects.

Second, independence offers a unique opportunity for us to come together as a country, and across the political divide, to shape our long-term future. There will of course be political disagreement on policies and priorities – that is democracy – but there are some fundamental foundations upon which we will be able to create state-building consensus. As a Commission, we take the view that consensus is key to achieving transformational long-term changes that will improve life here in Scotland for generations to come. After all, one political party presided over the creation of the National Health Service, but cross-party and

cross-society consensus embedded it into the fabric of our communities for generations to come.

Third, independence is an opportunity for democratic renewal across Scotland. *How* our parliament makes decisions is going to be just as important as the decisions themselves. This is something the Scottish Government recognises and acted upon in its design and implementation of our new social security system. The empowerment and participation of our citizens must be at the heart of our decision-making processes, across all areas of government at national and local level. Alongside our journey to independence, we also need to devolve even more power to communities across Scotland and truly empower people to get involved and shape our future. Government – national and local – should not be something ‘over there’ making decisions for us. We should all have the right and opportunity to shape decisions, from those relating to local facilities in our neighbourhoods and towns to high-level strategic decision-making at a national level.

## Our Process

The Social Justice & Fairness Commission was established and supported by the SNP, but our membership includes individuals who are not party members. We have not sought to cover every policy that relates to social justice. Rather, we were tasked with producing a blueprint for delivering social justice and fairness in an independent Scotland – the principles, approach and policies that will have the most transformative impact in delivering that wellbeing society. It is not for us to predetermine the choices that the governments of an independent Scotland should make, as the opportunity to make those decisions based on what people in Scotland need and want over time is the very point of independence. We simply offer advice to those first governments about their approach to governance, decision-making and policy priorities.

At the outset of our work, members of the Social Justice & Fairness Commission recognised that there is a plethora of ideas and vibrant debate, here in Scotland and internationally, covering all of the issues we were considering. It was not our role to reinvent these wheels, but to examine the substantial amount of work being done across the board by some of the most expert and forward-thinking people in their fields, and – importantly – reflect the discussions right across Scotland about what people need and want from government. We were particularly engaged and inspired by the innovative work of the Wellbeing Economy Alliance (WEAll) Scotland, which is part of a global collaboration working towards the realisation of a wellbeing economy that serves the people and the planet. And the inspiring ‘Creating a Caring Economy’ report of the Commission on a Gender-Equal Economy has framed much of our thinking on social care reform.

We have drawn heavily on the work of individuals and organisations referenced throughout this document, and we made ongoing efforts to consult communities of interest as we worked – within the networks of our Commission members and more widely, with a number of documents produced for public consultation. We also took our ‘A Secure Income for All’ discussion paper to the SNP’s National Assembly forum for debate and extensive feedback.



This report has been shaped by that input and is offered as a blueprint to future governments in Scotland to help deliver social justice and fairness. It also poses further questions that we should seek to answer collectively as we look to shape the kind of Scotland in which we all want to live.

Our focus has been the destination – what we want an independent Scotland to look like 15 or 20 years from now. We have therefore considered transformative policies that will take consensus, time and work to implement. There are no silver bullets for the challenges facing our society – each solution requires hard choices about how to distribute resources and the contributions people are asked to make. That is why it is imperative that decisions are taken collectively wherever possible, and grounded in consensus. No single political party has all the answers, and lasting change can only be achieved by working together – across political parties, civic society and the wider public.

During the course of our work we have also identified a number of measures that we could be taking forward in the shorter term, both under devolution and in the early days of independence, and we hope they are a useful contribution to the debate about how we can build back better from the current pandemic.

## 2. The Route Map to a Fairer Scotland

The route map to a fairer Scotland is not a predetermined list of policy decisions for an independent Scotland. It is about changing how we govern ourselves, agreeing the values we collectively view as our compass, and focusing on policies that prioritise the creation of a wellbeing society. It is a model for inclusive decision-making that truly empowers the people of Scotland to shape our own future. At the heart of that model is a renewed social contract between citizens and the state, which clearly sets out the responsibilities of those who govern to do so in the interests of, and in partnership with, the people it serves.

Government is there to serve us all – each and every one of us who has chosen to live in Scotland – whether we were born here or not.

In order to ensure we can all have a good life we need to work together to build our wellbeing society – a society that values and cares for everyone who lives here, from baby box to old age, and in which everyone can fully participate, with opportunities to flourish socially, economically, and culturally.

Our report offers a conversation starter – a foundation – to find consensus about the kind of Scotland we want to build and how best to get there. In our report we consider some of the key actions that the first governments of an independent Scotland could take as part of our renewed social contract to build a wellbeing society.

The foundations of that wellbeing society can be seen in the approach of the Scottish Government since 2007 – using the powers of devolution to move us towards a fairer society. There are numerous examples of how the Scottish Government – in terms of inclusive decision-making – has changed how it governs, including the use of Experience Panels to design and implement a new social security system in Scotland, and ensuring that care experienced people shaped our national care review, known as ‘The Promise’. The Scottish Government has developed policy with people, not just for them, and ensured those with lived experience are at the centre of those processes. Scotland’s social security system is an example of moving towards a wellbeing society that shapes policy according to the needs of the people it is there to serve. It is a social security system based on dignity, fairness and respect for those who use it.

The Commission believes that with independence we can build on the foundations that have been laid under devolution by the Scottish Government.

In our report, we consider three key elements of the route map to a fairer Scotland:

- **Democratic renewal – changing how we make decisions**
- **Values rooted in human rights and equality**
- **Prioritising wellbeing – through transformative policies that put the wellbeing of people first**

### 3. Democratic renewal – changing how we make decisions

The UK system is flawed. Where we have the powers to do things differently from Westminster, time after time we have shown that we make better decisions here in Scotland. Independence and the transfer of powers from Westminster to our Scottish Parliament will allow us to do so much more. We will have decisions made in Scotland, by the people of Scotland and for the people of Scotland – all of us who call Scotland home.

The transfer of powers that come with independence present opportunities for democratic renewal across our country – changing how we make decisions at every level and truly empowering the people of Scotland by further developing our own model of deliberative and participatory democracy.

**Citizen empowerment** is at the very core of the argument for independence, since independence is about our ability to make our own decisions and shape our own future. The autonomy and equality we seek for Scotland within an international community of nations reflects the desire for each of our citizens to be empowered to shape their own lives, as part of a wider society where we all look out for one another.

Independence offers us the opportunity to reset the relationship between government at every level and the people it is there to serve – **a renewed social contract** that delivers for the people of Scotland, based on human rights, equality and wellbeing. An important part of that contract is a **written constitution** that enshrines the rights of our citizens.

The current pandemic has led to unprecedented engagement between people and government in Scotland. For many, a significant number of whom may have viewed politics and government as something far removed from their everyday lives, there is new-found engagement with the workings of the state as we respond and work together in the fight against Covid-19. There have been very few positives over the past year, but our connections, awareness and general solidarity across society and government provide uniquely strong foundations for us to build on as we proceed along the road to recovery.

The pandemic has shown clearly that governance is a balancing act in meeting different needs and reconciling different views, while providing strong, responsive leadership and direction. There is very rarely a ‘right thing to do’ that is agreed by and benefits everyone. When it comes to major or radical change in how we do things, it is therefore vital it is rooted in broad **consensus** about the way forward. How we make decisions matters, and building consensus on *how* Scotland should be governed is an essential component of the route map to a fairer Scotland.

The Commission recommends the following pivotal steps are taken to foster democratic renewal that empowers the people of Scotland.

#### Co-production and co-design

We need to ensure that people are not only consulted about decisions that impact them – they must be empowered to shape those decisions. At each level of decision-making, **policies should be co-designed and co-produced with the communities served or affected by them** – whether that is a geographical community or another group of people who share

particular characteristics or lived experience. At national level, for example, the Experience Panels which involved 2,400 people with lived experience of social security benefits in the design of Social Security Scotland is a good model for how we should be making decisions. If people are truly involved in the decisions that affect them, it is more likely they will reflect what they actually want and need. That also requires public, third and community sector organisations, and local residents and service users, to come together in accessible and supported ways so that local and national decision-making becomes more inclusive, representative, and responsive to diverse needs and experiences.

## Participatory budgeting

The increased use of participatory budgeting (PB) by local authorities is another example of communities actively shaping decisions, and a method the Commission would like to see developed and expanded. Participatory budgeting has been introduced at local government level in Scotland with the aim of increasing the engagement and voice of local people in the allocation of small grants in local neighbourhood areas.<sup>3</sup> In addition to small grants supplemented with additional funding through the Scottish Government's Community Choices Fund, some local communities and community-based organisations have been developing participatory approaches to decision making on local allocations.

The Scottish Government characterises participatory budgeting as a tool for community engagement and as a resource to build on the wider development of participatory democracy in Scotland. It considers PB complementary to other desirable approaches too. These include the principle of Public Service Reform that says people should have equal opportunity to participate in decisions shaping their local community and society, and Community Empowerment (Scotland) Act 2015 aspirations to give communities more powers to achieve their own ambitions. Latterly, the relationship with the Public Sector Equality Duty was made more explicit following a three-year evaluation of the Scottish Government's support for PB, focusing on the potential for advancing equality of opportunity and fostering good relations between different groups.<sup>4</sup> PB is also framed as contributing to delivery of intended outcomes in Scotland's National Performance Framework that 'we live in communities that are inclusive, empowered, resilient and safe' and 'we tackle poverty by sharing opportunities, wealth and power more equally'.<sup>5</sup>

While PB offers significant potential for increasing public engagement in decision-making, consistent with other methods of participatory governance in Scotland, considerable areas for improvement remain. Specifically, planning and implementation of participatory budgeting must include and integrate lived experience, diversity of needs, and divergence of needs and experiences at local community level.

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<sup>3</sup> Scottish Government (2021) Participatory budgeting policy actions  
<https://www.gov.scot/policies/community-empowerment/participatory-budgeting/>

<sup>4</sup> O'Hagan et al (2019), *Evaluation of participatory budgeting activity in Scotland 2016-18: research findings*  
<https://www.gov.scot/publications/evaluation-participatory-budgeting-activity-scotland-2016-2018/>

<sup>5</sup> Scottish Government (2021) Participatory budgeting policy actions  
<https://www.gov.scot/policies/community-empowerment/participatory-budgeting/>

In 2017, the Scottish Government and COSLA committed to an ambition of ensuring that 1% of all council budgets would be allocated through participatory methods. This is a positive challenge for local authorities but, as the participatory budgeting evaluation emphasised, successful transformation of relationships between local governance and local people will depend on transference of power as well as resources.<sup>6</sup> This means bringing decision-making closer to local people in all their diversity. Making decisions on key areas of public spending such as social care, education, transport, and community spaces and resources really does mean opening up institutional structures and processes and transferring power from institutions to people.

## Citizens' Assemblies

Citizens' Assemblies have enormous potential to transform decision-making in an independent Scotland at every level. The Citizens' Assembly for Scotland was established in October 2019, offering a wealth of rich evidence of the power and benefits of civic participation in a deliberative and participatory democracy.<sup>7</sup> Engaging a diverse cross-section of people from across society and bringing them together to think collectively – with the need to balance different needs, contribute their own lived experience, and consider the bigger picture – is a model for citizen empowerment and good government. It is an approach that is ideal for building national consensus on how to deal with major challenges faced by government and identifying the kind of transformative changes needed to eradicate poverty and tackle climate change.

Citizens' Assemblies are well suited to local decision-making too, from decisions about community facilities to contentious planning issues. It is a method that should be woven into every level of government in Scotland. Engaging people in shaping big strategic decisions for the country as a whole is vital, but it is just as important to bring decision-making geographically closer to them too, and to replicate co-production and empowerment at local levels. Inclusivity is critical, so we should ensure that disabled people, ethnic minorities, people of colour and others marginalised from decision-making are supported to engage in accessible and meaningful ways.

## Reform of local democracy

There is a strong argument for radical reform of our local democracy based on the principle of subsidiarity – making decisions as locally as possible – and to equip local government with the same responsibility as national government to pursue social justice and fairness.

Westminster's 1994 Local Government (Scotland) Act created the 32 local authorities in place today, which communities across Scotland often feel remote and disconnected from, particularly rural areas served by city-based councils, such as Highland Council.

The democratic renewal that independence offers is an opportunity to re-imagine our approach to local government in its widest sense and ensure the structures in place have

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<sup>6</sup> O'Hagan et al (2019), *Evaluation of participatory budgeting activity in Scotland 2016-18: research findings* <https://www.gov.scot/publications/evaluation-participatory-budgeting-activity-scotland-2016-2018/>

<sup>7</sup> <https://www.citizensassembly.scot>

capacity to deliver on the key principles set out in our route map to a wellbeing society – around inclusive decision-making, human rights and equality, and prioritising wellbeing.

We need greater devolution of powers and resources to local authorities and other accountable bodies, such as community councils, from our newly empowered Scottish Parliament. The guiding principle of that reform must centre on the empowerment of our communities across Scotland to take the decisions that affect them, at the appropriate level.

So future reform of local government in Scotland must bring power closer to the people it is there to serve and consider innovative ways to deliver services at an appropriate level. In some instances that may require more regional structures to deliver across areas, such as integrated transport networks. However, the prevailing direction of travel must be towards more local decision-making bodies to serve communities in areas like housing.

Reform of local government must make decision-making bodies more connected, responsive and accountable to the communities they serve. Such plans should include a commitment to revitalise local democracy, with very local tax-raising and spending, to transform Scotland.

## Community empowerment

We believe that people should be empowered to make decisions on matters that affect them on a daily basis, and that independence offers us the opportunity to do that at every level of decision-making.

Empowering and supporting local communities to do things for themselves and ensuring their voices are heard underpin the Community Empowerment (Scotland) Act 2015.<sup>8</sup> We need to build on this in an independent Scotland. Community capacity-building and co-production are essential to building resilient communities.

The community response to the current pandemic has been phenomenal and has highlighted the ability of our communities to come together, act quickly, provide a localised response tailored to the diverse needs in their area and population, and provide much needed support at a time of crisis to many who would otherwise have fallen through the net. That capacity and experience is something that needs to be harnessed, supported and nurtured going forward. Policies need to support volunteers in our communities, and we should invest in supporting networks, collaboration, training and funding opportunities.

The efforts of local resilience groups that developed in response to the pandemic – many of which brought together established and brand new organisations – need to be supported on a long-term basis. We don't propose the imposition of a standard body, as the strength of these organisations is their knowledge of and connection to their local communities. Rather, we would recommend the establishment of a national resilience network to support these organisations to do what they do so well, co-produced with resilience groups across the country. This central resource would help ensure their long-term sustainability and ability to

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<sup>8</sup> <https://www.legislation.gov.uk/asp/2015/6/contents/enacted>

react to future challenges, from pandemics to extreme weather, as a vital part of our communities.

We also need to better value and reward the **contribution that volunteers** make to our society and our economy, particularly in relation to providing a secure living income for all, regardless of participation in the labour market. Unpaid carers in Scotland, for example, make an immense contribution to the health and wellbeing of loved ones, often at the expense of their own health and economic and social wellbeing. Our proposals are underpinned by the acknowledgement and understanding that unpaid work has economic and societal value – such recognition is critical if ours is to be a country that prioritises wellbeing.

## Land Reform and Community Ownership

Much more substantial land reform – specifically giving communities greater control of their land with accelerated community ownership – is central to our democratic renewal, delivering on the right to a home and building our wellbeing society.

The work of the Scottish Land Commission, set up under the Land Reform (Scotland) Act 2016, has greatly informed the work of the Social Justice & Fairness Commission. The Scottish Land Commission is entrusted to develop land reform policies that can be adopted by government. After four busy years, its range of proposals, research and protocols open many opportunities that could be pursued now and also with independence.<sup>9</sup>

This is an area we consider in more depth in the ‘Building homes and communities’ and ‘Land Value Tax’ sections of this report.

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<sup>9</sup> <https://www.landcommission.gov.scot>

## 4. Values rooted in human rights and equality

### 4.1 Human rights

Different perspectives, ideas and policies are an integral and healthy part of political debate and democracy. No one political party can or will have all the answers to the challenges we are facing at any given time. Moreover, policies are simply the means to effect particular changes. The wider and more fundamental questions we need to ask ourselves relate to our collective values and the desired outcomes that those policies are put in place to achieve.

Governments of different political persuasions come and go, but there are values and shared goals that endure through those changes. Agreeing, defining and enshrining our shared values and goals as a society will be key to transforming Scotland over the longer-term. A **written constitution** is therefore a crucial part of a renewed social contract between the citizens and governments of an independent Scotland.

In the view of the Commission the realisation of our human rights and the pursuit of equality are core to our shared values and our goals. In order to build a more equal society in which our fundamental human rights are protected, fulfilled and respected, the policy decisions of future governments must be guided by those values and focused on creating a wellbeing society.

In our report, we have therefore focused on policy areas we believe have the greatest potential to deliver that wellbeing society, founded on the realisation of human rights and the pursuit of equality.

One of those is guaranteeing the **right to a home**. The Commission has therefore put housing at the heart of our considerations. Housing is a basic human right, and it is also a cornerstone right that enables the realisation of other rights. Social justice and fairness cannot be achieved if people don't have a safe place to live.

Each and every one of us has the right to live with dignity, and poverty is a violation of that fundamental human right. The state has a duty not just to reduce or alleviate poverty, but to seek eradicate it and ensure people have a **secure living income**. We contend that **eradicating poverty** in Scotland is the single most important ambition that the government of an independent Scotland could seek to achieve.

Ensuring everyone has a secure living income is only part of what people need to have a good life, and it is equally important that we provide high quality **universal services** to meet the needs of the people.

### 4.2 Universal Public Services

In order to build a fairer society, founded on human rights, equality and wellbeing, we need to ensure the needs of everyone who lives here are met.

We can seek to meet those needs through two broad approaches. First, by ensuring people have sufficient income to purchase things they need, such as food, fuel and clothing. And



second, through the provision of universal public services, such as childcare, education, health services and social care. Each of these services are fundamental to our wellbeing and should be accessible for everyone.

In our report, we make recommendations to increase provision of both a secure income from the state and the extension of universal public services, such as our proposals for a National Care Service – an area explored further in our Reform of Social Care section. It is for future governments to determine the right balance of means to meet the needs of people in Scotland, but it is clear that both approaches will be important.

More than ever the current pandemic has shown us how important it is that we invest in and protect our universal public services. It is difficult to comprehend how much more devastating Covid-19 would have been without our National Health Service, free at the point of need. But in order to continue protecting our health service we must ensure other public services are protected and enhanced too.

Poverty and ill health are inextricably linked, so to lift people out of poverty and reduce demand on our NHS, we must ensure people are supported throughout their lives. The Scottish Government has rightly increased investment in early years support as it has been shown through numerous studies that our long-term health and life chances can be determined from as early as the womb. The baby box is an obvious example of universal provision which is giving every child and new parent a bit of help to ensure they have what they need.<sup>10</sup> It has proved valued and popular, and uptake has been near universal.

In terms of accessing universal public services, there is a compelling argument for extending access to **free public transport** – as well as a strong case on social, environmental and economic grounds – and this is an area we would recommend for further development.

Digital exclusion is also a key issue in modern Scotland, with some people and communities struggling to access vital information and cheaper services. Alongside services such as childcare and social care, fast and secure **internet access** and associated technologies need to be part of efforts to deliver a wellbeing society.

One of the most distressing developments in the UK over the past decade or so has been the growth and normalisation of foodbank use. Right now, many people are reliant on foodbanks, priced out of decent diets and suffering consequences of poor nutrition. Our proposals for a secure living income aim to ensure everyone in Scotland can afford what they need to live a good life. However, **food** is such a fundamental right, and so important to our health and wellbeing, that we need a specific focus on our food system.

The Commission therefore supports the Scottish Food Coalition calls for introduction of a Good Food Nation Bill in the Scottish Parliament. This would incorporate our right to food into Scots Law and ensure food production is fairer to people, animals and the environment; our food is high quality, nutritious, sustainably produced, accessible to all and at the heart of healthy lives; and that people know about and understand food in terms of production, preparation, nutrition and sustainability. By implementing specific statutory targets, we can

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<sup>10</sup> <https://www.parentclub.scot/baby-box>

act fast to address deficiencies in our current food system, including delivery of the living wage for food sector workers, improving household food security, tackling childhood obesity and reducing food waste.

### 4.3 Equality

The Social Justice and Fairness Commission considers the elimination of discrimination to be a core call to action for the advancement of equality. Scotland should ensure robust legal protection of rights, that effective anti-racist and pro-equality education supports sustained changes in social attitudes to diversity, gender-based violence, disabled people and diverse identities, and that institutional practices guarantee access to quality public services for all.

Successive Scottish Governments, working within the constraints of the Scotland Act which reserves full powers over equal opportunities to Westminster, have sought to mainstream equalities into policy making. Notwithstanding limitations on specific actions, important levers are available to the Scottish Government, parliament and public authorities, notably the Public Sector Equality Duty (PSED) and specific Scottish ministerial duties.<sup>11</sup> These legislative instruments, introduced through the Equality Act 2010, are designed to bring about a transformation in public institutions' engagement in eliminating inequalities, advancing equality, and fostering good relations. Such measures are critical for deconstructing entrenched inequalities that continue to characterise Scotland's society and economy – structures that create and sustain gendered and racialised inequalities, and marginalisation and unequal treatment of disabled and LGBTI people, and Scotland's Gypsy/Traveller communities. In general terms implementation and compliance have been weak across public authorities. In particular, the practice of equality impact assessment, and the generation and use of equalities data and analysis in public policy making – all combined in an approach characterised as equalities mainstreaming – has been inconsistent.

Scotland has big ambitions in relation to the politics of equality and social justice, but practice and approaches to policy making need to match these aspirations. In spite of its aim to guard against inequality, the Public Sector Equality Duty can sometimes embed it through policy and practice. For example, the UK government's counter-terrorism strategy, CONTEST, can see its 'prevent' work stream deployed in educational settings, where monitoring of minorities data can have the effect of alienating children, young people, students and staff. Action is required to ensure inequalities are not exacerbated by policies designed to have precisely the opposite effect.

The extent of entrenched inequalities was exposed as the coronavirus pandemic took hold and policy responses were enacted. For example, undervalued female-dominated employment sectors such as retail, cleaning and care work suddenly became key work sectors, placing women on the front line in the fight against the virus – with the associated risk that entails, especially for women of colour who have higher mortality rates. At the

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<sup>11</sup> Scottish Government (2016) Equality duties  
<https://www.gov.scot/publications/scottish-governments-equality-duties/>

same time, gendered norms relating to household duties and caring contributed to disproportionately negative effects on the stability of women's employment. Black and minority ethnic people have experienced some of the worst health impacts of the virus as well as economic and social effects arising from lower general standards of housing provision, different household structures and pre-existing health and economic conditions. Indeed, recent reports from the Coalition for Racial Equality and Rights<sup>12</sup> and the Expert Reference Group on Covid-19 and Ethnicity<sup>13</sup> show the stark reality of high levels of poverty, low employment rates, and poor pay and progression opportunities in black and minority ethnic communities. And the experience of care and support services, which were already poor for many disabled people, have been 'supercharged' according to Glasgow Disability Alliance.<sup>14</sup> These experiences are a consequence of the conditions and structures that have created and maintained inequalities and experiences of discrimination, and which must be at the heart of political, community, and legislative action to create a fair, equal and socially just Scotland.

The fact that structural inequalities have been exposed by the experiences of black and minority ethnic people in Scotland, of women in key occupational sectors such as retail, health and social care, and of men in supply chain and manufacturing jobs is important. So too is recognition of the effects in exacerbating isolation and marginalisation of disabled people and acknowledgement of new pressures on women's time as demands for domestic work and care have soared. The Expert Reference Group on Covid-19 and Ethnicity focused on these systemic issues and the inequalities they reproduce – its calls to action highlighted the need for intersectional data to ensure robust analysis that reveals the entrenched nature of these inequalities and requires the formulation of policies to dismantle these structures and eliminate their reproduction.<sup>15</sup> The recommendations from the National Advisory Council on Women and Girls has similarly called for action on policy coherence and intersectional approaches to policy making, with capacity and competence in these areas to be resourced and supported as a matter of immediacy.<sup>16</sup>

Among the immediate actions to advance equality and secure the protection, fulfilment and respect of human rights for all, the Commission recommends the incorporation of international human rights conventions to close current gaps in provision. It should follow the action taken through the UN Convention on the Rights of the Child Bill which sees Scotland become the first devolved nation in the world to directly incorporate it into

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<sup>12</sup> Coalition for Racial Equality and Rights (2020) *Ethnicity and Poverty in Scotland 2020*

<https://www.crer.scot/post/new-research-from-crer-ethnicity-and-poverty-in-scotland-2020>

<sup>13</sup> Expert Reference Group on COVID-19 and Ethnicity (2020) Recommendations to Scottish Government

<https://www.gov.scot/publications/expert-reference-group-on-covid-19-and-ethnicity-recommendations-to-scottish-government/>

<sup>14</sup> Glasgow Disability Alliance (2020) *Supercharged: A Human Catastrophe: Inequalities, Participation and Human Rights before, during and beyond COVID19*

<https://gda.scot/what-we-do-at-gda/resources/publications/supercharged-a-human-catastrophe-inequalities-participation-and-human-rights-before-during-and-beyond-covid19>

<sup>15</sup> Expert Reference Group on COVID-19 and Ethnicity (2020) Recommendations to Scottish Government

<https://www.gov.scot/publications/expert-reference-group-on-covid-19-and-ethnicity-recommendations-to-scottish-government/>

<sup>16</sup> National Advisory Council on Women and Girls (2019) Recommendations

<https://onescotland.org/wp-content/uploads/2020/01/NACWG-2019-Report-and-Recommendations.pdf>

domestic law.<sup>17</sup> UK government threats to challenge the legislation,<sup>18</sup> however, show why independence is needed to equip Scotland with an unhindered capability to advance human rights.

Legislation needs to be extended to include the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Convention on the Rights of Disabled People (UNCRPD), Convention for the Elimination of Racial Discrimination (UNCERD) and the International Convention of Economic, Cultural, and Social Rights (ICESCR). Our recommendations align with and support the current drive towards incorporation through the National Taskforce on Human Rights Leadership.<sup>19</sup>

Similarly, the review and refresh of the Public Sector Equality Duty is overdue and has the potential to revitalise these important instruments, not only in relation to improving compliance, but also to re-establishing their potential as powerful mechanisms to transform public policy making and service design. This legislative framework has been underutilised to date. Next and future Scottish Governments should make decisive and directive use of ministerial duties to target persistent inequalities and advance transformative equality in future services, a process of redesign that should be guided by those affected.

Among the innovations attempted since devolution, efforts to introduce gender budgeting and equalities analysis in the Scottish budget process have been sustained and have attracted international attention. However, this ‘whole system’ approach to policy making is not yet delivering sustained change in either the budget process or in the ways in which equalities analysis and objectives are integrated into the formulation of policy and spending decisions. Recent analysis of the Scottish budget process, documentation and allocations in relation to the realisation of human rights by the Scottish Human Rights Commission (SHRC) has revealed significant weaknesses in the transparency of the process and documentation.<sup>20</sup> The #YourBudgetYourRights project and subsequent work by the SHRC has further highlighted the need for improvement in the integration of human rights standards and objectives in policy making. These current deficiencies can be remedied if current and future Scottish governments commit to equalities and human rights budgeting, resourcing and building the knowledge and skills of officials and policy makers at all levels. Moreover future ministers should drive the implementation of these changes for improved outcomes for people in Scotland, as well as to meet the international standards of progress and the aspirations of Scottish politicians and communities.

The Hate Crime Bill,<sup>21</sup> passed in the Scottish Parliament in March 2021, is a positive recent action in pursuit of equality, as is the establishment of the Working Group on Misogyny and Criminal Justice in Scotland, set up to independently consider how the Scottish criminal

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<sup>17</sup> <https://parliament.scot/bills-and-laws/bills/united-nations-convention-on-the-rights-of-the-child-incorporation-scotland-bill>

<sup>18</sup> <https://www.togetherscotland.org.uk/news-and-events/news/2021/03/uk-government-may-challenge-children-s-rights-bill/>

<sup>19</sup> <https://www.gov.scot/groups/national-taskforce-for-human-rights-leadership/>

<sup>20</sup> Scottish Human Rights Commission (2020) *Open Budget Survey 2019: Scotland* <https://www.scottishhumanrights.com/media/2013/scotland-2019-obi-summary-report-vfinal.pdf>

<sup>21</sup> <https://www.gov.scot/news/hate-crime-bill-passed/>

justice system deals with misogyny.<sup>22</sup> An independent Scotland would have full control over the creation of domestic legislation across a range of equalities matters for all diverse characteristics, and across all public policy domains, including employment, public services, education, hate crime, and freedom from discrimination. Furthermore, an independent Scotland could seek to recoup the protections offered by the EU Fundamental Charter of Rights, lost by the UK's withdrawal from the EU.

In a modern independent Scotland, we also have an opportunity to address **racial discrimination** and promote equality of outcomes for those from black and minority ethnic backgrounds.<sup>23</sup>

Structural change and investment are necessary to tackle racial disparities and achieve equal outcomes. Covid-19 has been devastating for all, but the evidence shows in stark terms how such disparities disproportionately impact Scots from black and minority ethnic communities.<sup>24</sup>

Other negative impacts on employment, health and wellbeing, housing, and socio-economic opportunities present risks for black and minority ethnic Scots outcomes. The Coalition for Racial Equality and Rights (CRER), for example, recognises the correlation between ethnicity and poverty in Scotland generally, and particularly in terms of Covid-19.<sup>25</sup> It is therefore important more specific research is carried out across related spheres to equip society and government with the information and data needed to inform meaningful action.

The Commission considers that tackling in-built structural inequalities must be a priority for an independent Scotland. We have a duty to hold up a mirror and recognise that racial discrimination is hardwired into society and make a concerted effort to eradicate it from all decision-making processes.

The Black Lives Matter movement has shone a light on racial discrimination across the globe – including in Scotland – and the Commission seeks to define our understanding of fairness in response to it. We recognise that it is not enough to pursue equality of opportunity. We can only achieve fairness when we secure equality of outcomes that truly reflect Scotland's social and ethnic diversity across all spheres of society and economy.

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<sup>22</sup> <https://www.gov.scot/groups/misogyny-and-criminal-justice-in-scotland-working-group/>

<sup>23</sup> <https://www.equalityhumanrights.com/en/advice-and-guidance/race-discrimination>  
<https://www.gov.scot/publications/race-equality-framework-scotland-2016-2030/>

<sup>24</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2020/09/expert-reference-group-on-covid-19-and-ethnicity-recommendations-to-scottish-government/documents/systemic-issues-and-risk-initial-advice-and-recommendations-from-the-expert-reference-group-on-covid-19-and-ethnicity/systemic-issues-and-risk-initial-advice-and-recommendations-from-the-expert-reference-group-on-covid-19-and-ethnicity/govscot%3Adocument/Systemic%2BIssues%2Band%2BRisk%2B-%2BInitial%2BAdvice%2Band%2BRecommendations%2Bfrom%2Bthe%2BExpert%2BReference%2BGroup%2Bonn%2BCOVID-19%2Band%2BEthnicity%2B%2528002%2529.pdf>

<sup>25</sup> [https://864a82af-f028-4baf-a09446facc9205ca.filesusr.com/ugd/b0353f\\_0db6596cc9ee46ab9aa13b97699aae79.pdf](https://864a82af-f028-4baf-a09446facc9205ca.filesusr.com/ugd/b0353f_0db6596cc9ee46ab9aa13b97699aae79.pdf)

## **Race equality framework**

The Race Equality Framework for Scotland sets out the Scottish Government's approach to promoting racial equality and tackling racism and racial inequality between 2016 and 2030. It is based on the priorities, needs and lived experiences of Scotland's minority ethnic communities – with expertise contributed by the public and voluntary sectors and academia – and it aims to create measurable progress on racial equality.

Establishing the framework was an important first step and we now have a duty to accelerate progress in achieving the outcomes it seeks. We are now five years into a fifteen-year plan, and we can see where a great deal of work still needs to be done. Public sector employment outcomes, for example, remain far from equal, with too few people from black and ethnic minorities represented in terms of numbers or in terms of pay and status. Teaching is a prime example of an underrepresented profession for people from minority ethnic backgrounds. It is imperative we increase representation to reflect society so that we can serve and inspire our diverse communities of young people in education in the ways they deserve.<sup>26</sup> In health and social care, the picture is less bleak in terms of absolute numbers, but when we scratch the surface we find that black and minority ethnic staff are over-concentrated in jobs with lower rates of pay and poorer working conditions where they have fewer prospects to develop their careers.

There are positive examples of action that demonstrate recognition of and action against racial inequality in Scotland, which the Commission commends. The University of Glasgow's reparative justice measures in funding new study programmes and scholarships at the Beniba Centre for Slavery Studies are welcome, as is progress at Glasgow City Council to accelerate recruitment, career development and retention of staff from black and minority ethnic backgrounds. There remains, however, a great deal of work to do.

The Commission believes that Scotland should have obligations to achieve targets in relation to population proportionate levels of black and ethnic minority employment. Adding these obligations to Scottish equalities legislation as a public sector equality duty would represent a positive action to ensure we achieve the outcomes we require.

## **Autism and Learning Disability Commissioner**

As part of our consultation, the Commission received a number of representations regarding the needs of people with autism and learning disabilities in Scotland. They expressed concerns about human rights, societal exclusion and respect for people with autism and learning disabilities and want their voices to be heard at every level of policy development. To this end the Social Justice and Fairness Commission supports the establishment in law of an Autism and Learning Disability Commissioner – the first of its kind in the world – to champion the human rights of people with autism and learning disabilities.

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<sup>26</sup> Scottish Government (2018) Teaching in a Diverse Scotland: Increasing and Retaining Minority Ethnic Teachers in Scotland's Schools

## 5. Policies that prioritise wellbeing

In this section of our report, we set out a number of recommendations for the current Scottish Government and future independent governments, which we believe can help us build a wellbeing society. Some of our proposals are achievable in the short-term with devolution, but our focus is on what more we can achieve with independence.

In addition to the policy areas considered below, we would recommend the Scottish Government continues demonstrating leadership and driving the establishment of a wellbeing society by bringing forward a Wellbeing of Future Generations Bill.

The Bill would aim to improve the economic, social, environmental and cultural wellbeing of the nation to meet our present needs through sustainable means, whilst ensuring the ability of future generations to meet their needs is not compromised. This would be done by embedding wellbeing objectives across each of the National Outcomes set out in the Scottish Government's National Performance Framework – therefore placing long-term, sustainable and preventative thinking at the heart of policymaking.<sup>27</sup>

### 5.1 A Caring Society

#### 5.1.1 Investing in childhood

Building a better society, with compassion and wellbeing at its heart, has to start with our children. Helping to ensure children in Scotland have the best possible childhood is the right thing to do by our youngest citizens, and for our society. An investment in childhood is an investment in people's health and wellbeing for the rest of their lives.

The Scottish Government has put real focus on giving children the best possible start in life. From the baby box, improving maternity and neonatal care, expansion of the health visiting service, introduction of Family Nurse Partnerships, to free vitamins for all pregnant women and crucial financial support through the Best Start Grants, the Scottish Government has invested heavily in the health and wellbeing of every child born in Scotland. This investment is not only a foundation for the future wellbeing of our citizens but is also demonstrably saving lives now: Scotland's infant mortality rate was 15-20% lower than the UK rate for each of the five years from 2015-19.<sup>28</sup>

Investing in our children is central to creating a socially just, fair society which prioritises the wellbeing of all. Investing in their health, education and wellbeing is an investment that pays dividends throughout their whole lives – for the individual, and to us all as a society. In

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<sup>27</sup> [www.nationalperformance.gov.scot](http://www.nationalperformance.gov.scot)

<sup>28</sup> ONS (2021) Population and health reference tables: Infant mortality rate per 1,000 live births: (2019: UK 4.0; Scotland 3.3); (2018: UK 3.9; Scotland 3.2); (2017: UK 3.9; Scotland 3.3); (2016: UK 3.9; Scotland 3.3); (2015: UK 3.9; Scotland 3.2)

<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/vitalstatisticspopulationandhealthreferencetables>

terms of policy priorities for an independent Scotland, this continued investment in childhood must be at the heart of our wellbeing society.

Studies of adversity in early life show that children who are exposed to negative influences and experiences are more likely to struggle throughout life, which impacts on educational attainment, employment prospects, likelihood of criminal convictions, health and general wellbeing. We now know that Adverse Childhood Experiences (ACEs) impact on brain development, reducing ability to manage stress throughout life and creating a sense of hopelessness. The consequent impact on health, including addiction issues, are well documented.

In a paper for the Commission, Professor Harry Burns stresses the vital role of a good childhood in creating wellbeing throughout life. We know that negative experiences in childhood can have a lasting impact on people throughout their lives, and that positive experiences in childhood help people to develop capacity to overcome challenges over the life cycle. Professor Burns therefore argues that, “transformation of Scotland begins with the transformation of our support for families currently struggling with poverty and other challenges.”<sup>29</sup>

While there are a number of actions government can take to improve the quality of childhood, from investment in early years learning and childcare to preventative health spending and support services like family nurses and health visitors, the single biggest barrier to a good childhood in this country is poverty. Poverty in childhood adversely impacts children and can lead to major implications for them throughout life. The single most significant intervention government can therefore make is the eradication of child poverty.

In our ‘Secure Income’ section we have set out the steps we believe are vital to eradicating poverty in Scotland, through a social security system based on dignity, fairness and respect and co-produced with those served by it, and through the pursuit of a fair work agenda and wellbeing economy that delivers fair wages and conditions for those in employment.

The approach of the Scottish Government to childhood is noteworthy. The core value is that every child matters and deserves the very best start in life. The baby box is not just an example of an effective public health initiative – it represents the kind of compassionate, caring and fair Scotland that we all want to live in. It is the embodiment of the social contract between the state and its citizens – which says that every single person who lives here matters – and the state has a key role to play in creating a good life for us all.

The Scottish Government has shifted how the state regards a service like childcare and early years education – recognising it as both a valued public service for the wellbeing of children and their families and as a key investment in society that creates employment, provides

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<sup>29</sup> Burns, H (2020) Understanding Health Inequalities paper for Social Justice and Fairness Commission



opportunities for parents and carers (particularly women) to participate in the labour market, and boosts the economy. It is a great example of the circular economy – of the state investing in a social good which produces economic benefits and positive health and wellbeing outcomes.

Giving children the strongest possible foundations for a good life, by investing in their wellbeing, is an investment in our society – one that creates wellbeing and helps to prevent physical and mental ill health and guard against problems like addiction throughout life.

However, care for our citizens in the early years should continue in new forms beyond childhood. In a fair and compassionate society, we care for our citizens throughout their lives. As a Commission we decided to focus on two groups for whom we have much care and support progress to make.

We have examined how we can improve support for those struggling with addiction, and we consider reform of social care – with a strong emphasis on putting those in receipt of services at the heart of shaping them.

### **5.1.2 Tackling Scotland’s problems with drugs and addiction**

Scotland has the highest rate of drug-related deaths in Europe and the numbers are continuing to rise at an alarming speed. 1,264 people died in 2019, which was even worse than the year before. While it is likely that the problem in many countries could well be worse than official figures suggest, Scotland's drug-related death rate is still the highest by far.

During the 1980s and 90s there was a significant increase in drug use in Scotland, which peaked around 20 years ago. There is now an ageing population of drug users, mainly men, who have been using heroin for decades. Last year, more than two-thirds (68%) of all drug-related deaths were of people aged between 35 and 54 with older users developing multiple serious health issues, particularly around respiratory diseases, liver diseases and blood-borne viruses. This adds a further vulnerability with regards to overdose deaths. However, there was also an increase in 15-24-year-old drug-related deaths, from 64 in 2018 to 76 in 2019 – 6% of all deaths – so death from overdose is far from only related to older long-term drug users.

The announcement of the latest drug death statistics was a seminal moment in Scotland – a wake-up call akin to previous statistics on deaths caused by alcohol misuse. Behind every single one of those deaths is a person who has tragically and needlessly lost their life.

Tackling Scotland’s drug problem will require bold and radical action. There is no time to lose. It will require much more radical thinking, even, than that which led to alcohol misuse prevention measures like minimum unit pricing. What is more, it is imperative that our bold and radical actions, whatever form they take, are built on consensus.

## Prevention approaches

In a paper for the Commission Professor Harry Burns writes about the importance of creating wellness and not simply treating ill health. He highlights that the World Health Organisation defines health as a "state of complete physical, mental and social well-being, not just the absence of disease or infirmity."<sup>30</sup> This definition links health and wellbeing and makes clear that they should be actively pursued in and of themselves, which is fundamentally important in shaping the Commission's perspectives on issues of addiction.

In terms of prevention, we now have a greater understanding of what causes addiction, and the role of Adverse Childhood Experiences (ACEs) and poverty in that regard. By tackling poverty and creating conditions that make Scotland a place that all children can thrive as they grow, we can help stem the tide of people suffering addiction in the future.

Addiction is yet another manifestation of socio-economic inequalities, and a result of health inequalities. Problematic drug use is highest in areas of deprivation, where people have fewer educational and employment opportunities. Drug use is 17 times higher in Scotland's poorest areas than its wealthiest.

We must recognise the importance of addressing wider socio-economic issues, which are the major contributory risk factor for substance misuse and alcohol and drug related deaths. Addiction issues cannot be tackled properly until we tackle the underlying problems of poverty and deprivation, and the lack of hope, which is a breeding ground for addiction issues and poor mental health.

Problems with addiction must therefore be tackled on multiple fronts. We need to pursue preventative policies to eradicate poverty and inequality and invest in childhood and the wellbeing of all in our society. In a caring, compassionate society where everyone has what they need to live a good life, we move the odds heavily in favour of people actually living happy, healthy and fulfilled lives.

As the First Minister highlighted in a statement to parliament this year, "Anyone who ends up losing their life as a result of drug addiction, is not just failed at the time of their death – in most cases, they will have been failed repeatedly throughout their lives."<sup>31</sup> Prevention must be at the heart of our approach to addiction and that approach must cut across policy areas such as mental health and housing.

However, preventative measures alone will not help those currently struggling with addiction in Scotland, and we need a fresh approach to supporting people living with addiction – in terms of harm reduction and recovery.

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<sup>30</sup> <https://www.who.int/about/who-we-are/constitution>

<sup>31</sup> Statement by First Minister Nicola Sturgeon to the Scottish Parliament, 20 January 2021  
<https://www.gov.scot/publications/update-drugs-policy/>

Our way forward must reflect that addiction is a health issue, which should be underpinned by human rights and pragmatism. Criminalising people who are traumatised, suffering and need help will not make the problem go away. Those struggling with addiction need to be heard and empowered to be at the centre of their own treatment and recovery. As we advocate throughout our report, support services need to be co-produced by people with lived experience – which for this means lived experience of addiction – and by those with the expertise to help deliver those services. Government needs to fund what works and to support innovation in third and public sectors to deliver the services that people with addiction need.

As a society, we need to reflect how we view and respond to addiction, and that includes looking at issues around decriminalisation for personal use. As we have emphasised in our report, transformational change that is long-lasting and successful is best rooted in consensus. We would therefore propose utilising a process such as a Citizens' Assembly to look at the issue of decriminalisation as part of efforts to tackle addiction, in recognition of the fact support has grown for such an approach in response to the public health crisis and on the basis of evidence of success elsewhere in the world. Of course, powers over drug misuse remain reserved to Westminster, so this is something that would need to be progressed with independence and through advanced preparation for such transfer of powers.

Building a political and public consensus on the way forward will be important in ensuring drugs policy is set for the long term. Many have referred to the success of Portugal in turning its drug problems around, and a big part of this is attributable to political consensus developed over recent decades alongside an integrated service system.

There is no single solution to Scotland's drug problems. It cannot be a choice between harm reduction or abstinence – either or both will be appropriate for different people at different times. Both are needed as key elements of a joined-up wraparound system.

## Treatment and recovery approaches

There are a number of approaches that the Commission believes should be taken forward to help drug users reduce harm and recover from addiction. How these are applied and intersect will depend on the particular circumstances that apply in each individual's case.

### **Human rights focus**

In tackling our drugs crisis, it is crucial that a human rights approach is fully embedded within all services, ensuring that those accessing services are treated with dignity and respect.

Drug users often feel stigmatised and do not want to come forward. There is extensive evidence that stigma around drug addiction is stopping people seeking treatment. The

people who need help are often the most marginalised in our society, and only around 40% of people who need treatment in Scotland are getting it. This compares poorly to other countries where a higher proportion of problem drug user populations are engaged in drug treatment. Users often do not access mainstream health services like GPs either and older drug users with a range of respiratory, cardiac, liver and kidney issues can miss out on treatment and become more physically vulnerable to overdose. We also have a poor record of retention, with people revolving in and out of treatment.

Developing a human rights approach may help to reduce stigma. It is crucial drug users are treated with dignity and respect by those providing services. That includes taking a person-centred approach that allows people to access a range of treatment options since there is no single pathway that works for all drug users. Empowering people to shape their own treatment is also a key part in recovery when so many personal challenges stem from a sense of hopelessness and disempowerment.

### **Harm reduction services**

The Commission believes there should be wider availability of different treatment options, such as buprenorphine, which is now available as an injection that gives long-lasting effect. Its use means people do not need to visit chemists daily to pick up methadone prescriptions, thereby enabling patients to focus on improving their lives and overall health rather than simply managing dependence.

There is also a strong case for regular reviews of care and treatment. The most significant harm reduction services are methadone and buprenorphine which are offered to heroin addicts to reduce the risk of fatal overdose. Methadone is recognised by the World Health Organisation as an essential medicine, and it enables some people to live a stable life. However, it is also controversial, as it is implicated in more drug-related deaths than heroin. Moreover, there are concerns that low doses lead to individuals topping up on street drugs, fuelling polydrug use and leading to deaths as a result.

Regular review of those in a methadone programme may go some way to ensuring people are not just 'parked' on methadone, but rather that their treatment is regularly reviewed and evaluated to ensure that it remains appropriate.

### **Review prescribing practice**

Benzodiazepine use has been a problem in Scotland for decades. However, it used to be the case that most of the 'benzos' in circulation were diverted prescriptions. This meant that in spite of risks associated with taking it alongside other substances, there was a defined level of quality and consistency. Tighter controls on prescriptions has led to an illicit market for 'street benzos', literally sold for pennies as pills. Cutting the supply of prescribed benzodiazepines has had the unintended consequence of expanding the street benzo market, which contributed to 814 of the drug related deaths in 2019. Consideration should be given to a review of prescribing practice to ascertain whether prescriptions could

interrupt the supply of street benzos, an approach that could work alongside rapid access to harm reduction services and support as required.

### **Emergency overdose treatment**

The Scottish Government's drugs deaths taskforce spent its first year gathering evidence and proposing changes that could save lives quickly. One proposal is distribution of Naloxone, which can reverse the effects of an opiate-related overdose.

Users often die because they are unable to breathe. Administered promptly in the event of overdose, Naloxone can restore breathing and save lives. Drug campaigners have been trying to get the kits into the hands of anyone who might witness a drug overdose. This is mainly drug users but could also be anyone involved in services, such as hostels or outreach workers. Police Scotland has been undertaking a pilot project for its officers to carry Naloxone while on patrol. The aim is to put tens of thousands of Naloxone kits in the hands of those who might be able to use them to save lives.

The Commission supports the rollout of this approach across Scotland, involving as many frontline staff as possible, including the voluntary sector.

### **Safe consumption rooms/spaces**

Over four years ago, Glasgow City Council first proposed allowing users to take their own drugs under the supervision of medical staff at a special facility in the city. The idea is to encourage users who inject heroin or cocaine on Glasgow's streets to enter a safe and clean environment for consumption. Users would also benefit from regular interaction with advice and support services. It is anticipated this kind of facility would encourage addicts into treatment, cut down on heroin needles on city streets and counter the spread of diseases such as HIV.

Safe consumption rooms are in place around the world but this would be the first of its kind in the UK. They have the support of the Scottish Government, but drug laws are reserved to Westminster. The House of Commons committee that investigated Scotland's drug crisis recommended new legislation to provide for safe drug consumption facilities but it was rejected by the UK Government.

In November 2019, Glasgow announced Scotland's first scheme giving drug addicts diamorphine, a pharmaceutical-grade heroin. The Enhanced Drug Treatment Service (EDTS) aims to use the medically-licensed drug to treat patients with the most severe, long-standing and complex addictions. People have to attend the clinic, which has been licensed by the Home Office, twice a day, every day. It is hoped the facility will help reduce street drug use, overdose deaths and the spread of HIV in the city. The Commission supports the expansion of the EDTS model across Scotland.

With independence, powers over drug misuse will be transferred to the Scottish Parliament. The Commission supports the use of those powers to test the safe consumption model, with a view to expansion if it proves effective. We would also recommend that the Scottish Government continue to explore every avenue to allow safe consumption spaces within the current powers of the Scottish Parliament, in order to save as many lives as possible. Consideration would need to be given to the location of safe consumption facilities, not least whether they need to be developed in communities where people are most affected, rather than centralised in spaces where those who need the service may not be able to access them easily. Consideration also needs to be given to how such facilities and services would operate in more remote and rural parts of Scotland, with flexibility for mobile services.

In advance of the Scottish Government gaining the powers required to act, a blueprint should be developed for the operational practice of these facilities, co-produced with the communities they would serve.

### **Residential rehabilitation**

There is recognition that the availability, location and use of residential rehabilitation beds needs addressed as a matter of urgency. While abstinence-based recovery doesn't work for all, it is a vital service for many, which should be offered quickly to those seeking help as part of a range of services. An expansion of residential rehabilitation will be required to ensure that this is a viable option available quickly to those who could benefit from that service. The Commission therefore welcomes the recent announcement from the Scottish Government to increase capacity.

### **Community-based services**

Community-based services are also hugely important, ranging from providing crisis and peer support to family support and recovery-focused services. There has been a big expansion of the recovery community in Scotland which is positive and inspiring. Stable longer-term funding for these community-based services requires to be addressed.

The additional funding announced by the Scottish Government to tackle Scotland's problem with drug use is welcome, along with the commitment to fund a range of community-based interventions. This is a point we would like to emphasise – that there is a need to fund services that work, which have been co-produced by those who use and deliver the services in our communities. We must provide secure and adequate funding for grassroots organisations making a positive difference.

Consideration should be given to expanding the scope for community-based organisations to deliver public health services at a local level. Scotland's social enterprise and community organisations already provide many vital health services related to substance abuse in communities across Scotland, mainly working in the most deprived areas. Most of these services are free at the point of contact, funded through a mixture of core funding, grants and enterprising activity. These services complement rather than duplicate or replace

existing core health services. By reducing the impact of social factors linked to problematic drug use, social enterprises across Scotland are already having significant positive impacts in tackling drug misuse at a local level. Often rooted in their communities, they have the sort of trusting relationships with service users that statutory services often lack, meaning people are more likely to access these services than they are to present themselves to the NHS.

Smaller, community-based organisations often have a much better picture of the localised social factors which are contributing to substance abuse, including unemployment, homelessness, mental health issues and low incomes. Their strength lies in being able to identify local needs and put in place service programmes which address the causes of substance abuse rather than simply react to the symptoms. These same services often survive on very small budgets and year-on-year funding applications, yet frequently return impressive social impacts through the flexible services they develop.

As part of our response to the drugs crisis, we must aim to support this network of small, successful services to become appropriately funded through the delivery of local public services in the communities they already serve so well. The procurement and commissioning process can be extremely difficult for smaller organisations to navigate. Smaller social enterprises often report struggling to access opportunities due to a lack of capacity to fulfil contracts or because they are outbid or undercut by larger organisations.

The Scottish Government's commitment to public service reform which will see increasingly localised, preventative and personalised public services<sup>32</sup> is welcome but for this to be a success the onus must be on widening access to smaller organisations.

### **Building Consensus**

There is no single solution to tackling Scotland's problem with drug misuse and while there are a range of policy approaches the Scottish Government could pursue, options are nevertheless restricted by the absence of powers to reform drug laws that would allow more radical action. We welcome the Scottish Government's recent research paper, which considers international approaches to drug law reform across five different countries, to inform immediate and future action.<sup>33</sup>

The Commission hopes to make a positive contribution to building consensus on the route towards turning the tide – we must seek to be bold, ambitious and potentially world-leading in finding solutions that will prevent more lives being lost, and eliminate the devastation wreaked on families and communities of victims.

We therefore recommend that a body – informed by and including lived experience – is established with the specific task of considering, co-producing and building consensus

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<sup>32</sup> Scottish Government (2016) Scotland's Social Enterprise Strategy  
<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2016/12/scotlands-social-enterprise-strategy-2016-2026/documents/00511500-pdf/00511500-pdf/govscot:document/00511500.pdf>

<sup>33</sup> Scottish Government (2021) International Approaches to Drug Law Reform  
[www.gov.scot/publications/international-approaches-drug-law-reform/](http://www.gov.scot/publications/international-approaches-drug-law-reform/)

across political parties, civic and wider society about the drug laws and policies we wish to see adopted and pursued. This body should play an important role in influencing decision-making in Scotland under devolution, and exerting pressure on the UK government in terms of drugs laws, which are reserved, until such time as Scotland has full control over drugs policy. At that point it will have a crucial role to play in driving forward consensus to ensure Scotland adopts drugs laws and policies that deliver on our wellbeing-focused aspirations and which ensure Scotland's drug death crisis becomes and remains a thing of the past. This will require an honest debate which transcends party politics and sets out a route map to recovery that stands the test of time.

### 5.1.3 Reform of social care

The importance of social care services to the health and wellbeing of the population could not have been illustrated more starkly than through the pandemic. We owe an enormous debt of gratitude to our nation's carers – professional and unpaid – who in a time of crisis looked after us all when we really needed them. But the pandemic also showed in stark terms just how vulnerable our care system is when it is put under extra pressure and how reliant we are on a workforce that often feels deeply undervalued.

The Social Justice and Fairness Commission is making the case for Scotland to take a proactive approach to achieving a wellbeing society and economy. In rebuilding our society, including our system of care, our focus should be on rebalancing it so that our wellbeing – the wellbeing of all of us – comes first. The Commission believes that social care should be a universal service available and accessible to all as part of our wellbeing-focused society and economy.

In this section we draw on the evidence and recommendations of the Commission on a Gender Equal Economy as well as to responses to our own consultation as we examine how we can reform and reimagine the way we deliver social care. As part of that we also consider how we should support people accessing care services to engage in everyday activities, paid employment, and family and social life. Among the challenges we need to address is how to care for an ageing population and how to pay for that care, as faced by governments across the world without any easy answers.

The following matters have been foremost in our considerations. First, consistent with all our recommendations, we are taking a human rights-based approach to this issue. The fundamental human rights of those in receipt of all forms of social care and support must be at the heart of decision-making. People in Scotland have a right to fulfilling lives, and to access services based on dignity, fairness and respect. In reforming our system of social care, we must continually reflect upon what we would expect for ourselves and our own families.

Second, we need to build consensus on what is essential to our individual and collective wellbeing, and establish a long-term, sustainable model for social care. How we care for our older and most vulnerable citizens is an issue that transcends party politics and conventional



policymaking. This is an issue that requires us to come together as a society to agree the standard of care that is required, and how we collectively deliver it.

Third, we want to ensure that those working in the social care sector are better rewarded and recognised for the valuable work that they do, and we draw particular attention to the fact the gendered nature of social care in Scotland means that action here has the potential to make a significant contribution to tackling gender inequalities. Providing good employment and investing in staff in the sector are central to delivering the very best in care. Raising the status of care work as a career with clear opportunities for progression is a key element of this.

Fourth, we consider investment in social care as an investment both in our wellbeing and our economy, in the same way that investment in childcare and early years education delivers on multiple outcomes. Care is integral to all our lives and should be a key priority for any government. Care and the provision of care is also a deeply gendered concept and activity, interlinked with social reproduction and feminised labour. As Sara Marie Hall, drawing from established feminist economist perspectives highlights, “to invest in social infrastructure is more than a financial commitment or policy promise; it is an investment in the social reproduction of societies, communities and families. It involves a ‘reimagining’ of what is possible and asks us to ‘think big’”.<sup>34</sup>

Finally, we are acutely aware of the funding challenges and the need to build consensus about the fairest way to pay for social care.

From this perspective and through extensive consultation with organisations and individuals in the social care sector in Scotland, the Social Justice and Fairness Commission has established nine key principles of social care in Scotland.

### Nine key principles of social care in Scotland

1. The focus of care of a person’s life should be on protecting and maintaining as good and fulfilling a life as possible, recognising the need for the person to maintain choice and control
2. Universality is key, with the diverse needs of all who require care and support being met
3. Our care system should be publicly funded and not for profit, with the need for an inclusive open debate about how this is paid for and how we transition to such a model
4. Care should be of high quality and valued by those who receive it as well as by society generally

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<sup>34</sup> Hall, SM (2020) Social Reproduction as Social Infrastructure, Soundings, 76, pp.82-94

5. Dignity, respect and access to practical and emotional support must be offered to everyone receiving and providing care
6. Gender inequality is a root cause and consequence of many of the challenges in Scotland's care system and must be eliminated
7. Careers in care should offer decent working conditions, good levels of pay, and better training and progression opportunities
8. Participation and inclusion in co-produced design and delivery are essential, accommodating flexibility for individual needs and preferences, and reflecting local contexts
9. Regulation and inspection should be strengthened to ensure rigour and oversight

**Principle 1:**

*'The focus of care of a person's life should be on protecting and maintaining as good and fulfilling a life as possible, recognising the need for the person to maintain choice and control'*

The person being cared for should be the priority focal point of any care system - our independence and wellbeing as cared for individuals are paramount. Good social care support is essential to allow the human rights of people receiving care to be met, enabling them, as much as possible, to make unfettered choices about how they live their lives. It is therefore critical that any discussion around the delivery of care – be that high-level strategic policy-making or local-level care planning for individuals – maintains this focus. The Social Justice and Fairness Commission believes that self-directed support is a fundamental pillar of the principle of protecting and maintaining a cared for individual's quality of life and their ability to maintain choice and control over it.

Scotland's progress in delivering person-centred care should be recognised. There are many examples of councils, third, independent and private sector organisations working hand-in-hand with professional and unpaid carers in local communities, delivering care tailored to and chosen by the people receiving it.

But we must also acknowledge that there is still a significant way to go before the gap between aspiration and reality disappears, and that inconsistencies remain throughout the country in the application of standards and approaches relating to choice and control of a person's own care.

**Principle 2:**

*'Universality is key, with the diverse needs of all who require care and support being met'*

The principle of universality should not be confused with homogeneity. Rather, a truly universal care system is one that is flexible, adaptable and capable of meeting the needs of an extraordinarily diverse range of people and needs.

Diversity poses significant challenges for systems of care, particularly when the aspiration is to deliver high consistent standards of self-directed care for all service users, regardless of location or demography. The principle of universality is therefore straightforward to agree, but the challenge lies in the application of that principle.

**Principle 3:**

*‘Our care system should be publicly funded and not for profit, with the need for an inclusive open debate about how this is paid for and how we transition to such a model’*

It is well known and understood that high quality care requires high levels of financial investment. But, more than that, investment needs to be smart to ensure it delivers the best possible impacts, represents value for money and generates good economic and social returns.

As a Commission we are of the view that efforts to facilitate universal publicly funded care provision are a priority if we are to achieve Scotland’s wellbeing-focused aspirations for our economy and society. A fundamental requirement in making this shift is reframing the discussion about resources. Rather than viewing care provision purely as an economic cost – a drain on resources – investment in social care should instead be seen as a financial stimulus that has the potential to generate economic growth as well as deliver social good.

With independence Scotland would have full control over the economic levers to deliver high-quality publicly funded social care for everyone who needs it and how that would be implemented in practice will require detailed discussion and planning.

In addition to the direct benefits of better social care, new large-scale investment in provision has the potential to deliver economic returns – such as employment growth – and social ones too, like tackling gender inequality.

The issue of future private sector involvement in any national care service model would require discussion. We are of the view that while it is important to maximise choice for care service users, a significant shift away from private sector dominance of the care home sector is required.

There should be a clear plan and timescale to limit the role of private providers and to shift care services towards a ‘not for profit’ model provided by public and third sectors, including social enterprises and co-operatives. We understand that privately owned services would continue to operate but anticipate that this would become primarily focused on specialist care settings.

Further consideration should be given to a potential phased transition towards a model requiring private sector providers to reinvest profits after costs back into the care system. Consideration would also need to be given to opportunities to buy out private providers over time. Such changes would require significant public sector capital and revenue investment in care services.

**Principle 4:**

*‘Care should be of high quality and valued by those who receive it as well as by society generally’*

The principle of high-quality care valued by the person receiving it is one of the most important. Just as Scotland aspires to be the best place to grow up, we want it to be the best place to be cared for too. This quality principle is inextricably linked to the principle of leading a good and fulfilling life and making our own choices, and, as with that principle, much of the focus here should again be on the subject of self-directed support.

In terms of wider societal value of social care, we need to think more broadly about the structures in place that deliver care, and whether the creation of a national care service akin to the National Health Service is desirable.

#### **Principle 5:**

*‘Dignity, respect and access to practical and emotional support must be offered to everyone receiving and providing care’*

Everyone receiving and providing social care has the right to be treated in a dignified and respectful manner – at every stage and in every interaction – in that process. Once again, the emphasis on self-directed support is important here, with all decisions about an individual’s care provision being put into the hands – the choice and control – of the person in receipt of that care.

The right to be treated with dignity and respect does not apply only to the person who is cared for, but also to the people who help them. That means everyone working in the field – including caring professionals whose work is often hard and notoriously poorly paid – and, of course, particular attention should focus on Scotland’s thousands of unpaid carers, without whom our system of care could not function – and our public finances could certainly not meet their replacements costs.

#### **Principle 6:**

*‘Gender inequality is a root cause and consequence of many of the challenges in Scotland’s care system and must be eliminated’*

The causes and consequences of gender inequality cannot be overstated when we examine systems of care in Scotland and, indeed, across the globe. As a country we must do everything we can to acknowledge and eliminate this injustice, not only for the benefit of women and girls here, but also to set an example for the world to follow.

The majority of care service users are women, the vast majority of social care workers are women, and most unpaid carers are women. To develop effective solutions we must first understand the effects of low pay, undervaluation and low investment from a gender perspective.

The pandemic has brought how we rely on, value and treat social care workers into sharp focus. It provides us with the stimulus to sit up, take notice and act to ensure that care work – predominantly carried out by women – is supported and rewarded in ways that properly reflect its importance and value to society. Our eyes have been opened to the

scale of our reliance on care services such as childcare, social care and support, and other public care services. The closure or withdrawal of local-level services shook the economy and workers, particularly women, were faced with additional challenges as they struggled to maintain paid work and care.

And just as the pandemic has drawn attention to the importance of social care work, it has also shone a unique light on the hard work, dedication and skills it demands. Care work comes with enormous responsibility and the tasks involved can be demanding and complex, requiring skills and capacities acquired through years of experience and training. But these skills and capacities have for too long been invisible, carried out and delivered independently by women in people's homes, locking in and exacerbating the predominant undervaluation of carers' work. Job evaluation is therefore a critical tool to make women's skills valued and visible.

**Principle 7:**

*'Careers in care should offer decent working conditions, good levels of pay, and better training and progression opportunities'*

The issue of working conditions, pay, training and progression are inextricably linked to the gender principle outlined above. The care sector's predominantly female workforce requires and deserves much better.

That is not to say that the Scottish Government does not deserve credit. It has spearheaded and prioritised efforts to deliver the real living wage across the country, which has led to enormous benefits and has delivered tangible life-changing impacts for many people working in low-paid sectors of the economy, not least social care. But, as the gender principle and other sections of this report make clear, wholesale change is required to affect how we view social care, the value we place in it, the investment we make in it, and the opportunities it offers to people who work to deliver care and who receive it.

**Principle 8:**

*'Participation and inclusion in co-produced design and delivery are essential, accommodating flexibility for individual needs and preferences, and reflecting local contexts'*

There is a strong feeling within the sector that inclusive co-production of design and delivery of care is essential. However, like universality, while the principle is easy to support, the challenge is reconciling the principle with delivery in practice: it requires consistent standards of care regardless of diversities relating to individual needs and local contexts in each scenario across the country.

Strong partnership working is crucial to successful delivery of co-produced models of care in different contexts and our consultation revealed strong support for greater integration and collaboration between organisations supporting people with health and social care needs.

The introduction of a national care service has the potential both to improve or worsen flexible co-production depending on if and how such a model is implemented. Any such

service would need to be designed to avoid the pitfalls of a homogenous one-size-fits-all structure, which would go against the principle of the model of self-directed support.

### **Principle 9:**

*‘Regulation and inspection should be strengthened to ensure rigour and oversight’*

The principle of regulation and inspection of the care system is critical to ensure it delivers and continues to deliver all of the social and economic goods it is designed to. Without it, with the best intentions in the world, the system will fail.

Our consultation revealed that third sector providers consistently receive ‘very good’ and ‘excellent’ gradings from the Care Inspectorate across most adult care services. However, they feel that the balance of regulation and inspection activity is too heavily oriented towards support provision. The Care Inspectorate has power to scrutinise commissioning, but there is a strong sense within the third sector that it has not been used as effectively as it might. They contest that aspects of the care system such as commissioning and procurement need to be more critically challenged, as well as the impacts they have on the workforce and the people being cared for.

## **Our recommendations**

### **A National Care Service**

Informed by our consultation work, the Social Justice and Fairness Commission supports the introduction of a National Care Service in principle, and believes that, implemented properly to sit alongside and interlink with the NHS where appropriate, it can help society to value social care like it values the NHS. We believe a national care service can play an important role in supporting each of the core principles detailed in this submission and which underpin our vision of ethical social care in Scotland.

A careful and considered transition to a national care service, sitting alongside and interlinked with the NHS, has the potential to:

- Expand the existing national system with the benefit of establishing consistency of terms and conditions and of approach
- Create a single streamlined system that would help to eradicate issues such as delayed discharge and deliver a better focus on social aspects of care beyond healthcare services
- Benefit both health and social care without privilege or hierarchy whilst relieving recruitment and retention problems
- Offer staff the ability to enter a joint health and care service and to progress and develop their careers across care, community and acute settings

- Provide care through a well-known and trusted brand – the National Care Service or Integrated National Care Service – providing important assurance to those being cared for and their families

It must, however, include provision to ensure:

- There is local flexibility at the point of delivery of services. This should include consideration about ways in which third sector organisations can operate as equal partners within the system.
- An NCS model avoids the medicalisation of social care. What constitutes good clinical practice may conflict with good social care practice and a national care service must avoid loss of local knowledge and expertise in service delivery.
- Self-directed support is at the heart of any NCS system so all service users – whatever their particular circumstances – can properly exercise choice and control.
- Unpaid carers should be formally recognised and treated as equal partners in the decision-making process.
- A national commissioning model can be explored as a potential avenue through which third sector providers can offer care under the national care service brand, rather like GPs and community pharmacists currently deliver NHS services as independent contractors.

### **Innovation within a national care service**

Within any national care service model, choices will need to be made about the ways in which care services are delivered locally. The Social Justice and Fairness Commission is attracted to excellent examples of innovative care that can and should become mainstream under a national care service. One such concept we are keen to see explored and tested is that of care hubs or villages.

The Social Justice and Fairness Commission believes that:

- We should move towards a blended care system that is responsive to the changing needs of individuals across the life stages. Care needs to feature in our housing policy, infrastructure planning and as a core element of community participation and decision-making.
- Local community level decision-making on care hubs and other forms of non-domiciliary care, space and facilities are essential features of co-production of care services and funding pathways.
- Current mechanisms should be more transparent and include service users and local people to enable those receiving care to choose the support they need.

- From an early stage we should seek to develop and test innovative blended care models such as care hubs or villages. Whilst focused on care, they should follow best practice examples and include other intergenerational services such as nursery provision. Co-location of this kind enables older and younger citizens to meet and interact, providing a stimulating environment for all service users and making effective shared use of resources and facilities such as kitchens and transport.
- Social care has the potential to fit perfectly within the ‘20-minute neighbourhood’ concept – whereby people in any part of a town or city can find shops, public services, leisure facilities, green space and employment opportunities within a 20-minute walk from a good affordable home – and we should aspire to try, test, deliver and upscale it in practice.

#### THE CARE HUB CONCEPT

A model based around care ‘hubs’ or ‘villages’ offers the opportunity to provide a blend of care. The hubs could be in one or several physical locations, or they could be virtual to accommodate, for example, the needs of remote parts of Scotland. Although focused on care, other intergenerational services could also be provided in the hub such as nursery provision – there are already good examples of this kind with co-location enabling older citizens to interact with some of the youngest and encouraging local sharing of resources and facilities such as kitchens and transport.

A care hub or village could include a sheltered or very sheltered housing complex offering adaptable care to accommodate the changing needs of the person. It could also include permanent care and/or nursing home beds for those with more complex needs, and respite provision for carers of those who continue to live in their own homes. Day care services could also be located within the hub, which would provide much needed social contact for people otherwise socially isolated, helping combat loneliness and associated impacts on mental health. Those providing care at home services could also be co-located within the care village ensuring that services are joined up and staff working within each care setting are interacting and working closely together. This model could also offer a variety of career opportunities and richer experiences in different settings for those working in the care sector.

#### **Integrating unpaid care and carers in a vision for social care**

Locally accessible facilities such as a care hub, that combines social activity, opportunities for socialising and combating isolation for carers and people accessing care services, as well as access to health and other support, potentially offer greater support to unpaid carers. Our reliance on unpaid care by partners and family members is consistently overlooked and undervalued. The economic, social, and personal costs to individuals – predominantly women – who reduce or give up paid employment to care for family members or friends are



hugely significant to the individual, to our economy, and to our systems of social care and support which have come to rely on unpaid care.

Any vision of care in Scotland must integrate the experience of unpaid carers and their contribution to the wellbeing of others, and protect the wellbeing and economic security of carers. There have been some recent developments to support carers in Scotland through additional social security payments, something which could be expanded upon to provide greater support. There is still much work to do and, notwithstanding significant and effective engagement and advocacy from individual carers and carer organisations, more can be done to ensure carers feel valued and listened to.

A future integrated care system must be based on the inclusive participation of service users, carers, and providers in developing a range of social care services and delivery mechanisms that ensure the dignity and respect of all recipients and providers.

### **Supporting the workforce**

A National Care Service brings opportunities to improve and standardise pay and conditions and facilitate career progression opportunities. The commitment to the Scottish Living Wage provides a firm foundation and starting point from which to drive improvements.

Recruitment and retention issues have presented an ongoing challenge for the sector, which has a poor reputation for pay and status. We draw particular attention to the 2019 report of the Fair Work Convention into fair work in the social care sector, the findings of which correlate strongly with our own. Despite the commitment to the Scottish Living Wage, it is often viewed as a physically and emotionally demanding career with limited progression opportunities, challenging work and long and unsociable hours.

The Social Justice and Fairness Commission recommends:

- Greater acknowledgement of and clear action to tackle the gender dimension of poor pay and conditions, progression opportunities and access to professional development and training
- Strategies are employed quickly to address undervaluation of the workforce. Aside from the urgent need to tackle the root causes of gender inequality, this work is pressing due to serious workforce challenges stemming from Brexit impacts on migrant workers as well as from changing population demographics.
- Moves are made to increase sector-wide collective bargaining in the social care sector through greater trade unionisation in the workforce.
- Greater standardisation in aspects of social care such as training and education are applied to ensure consistency and quality of care.
- Robust mechanisms for job evaluation are established to address the sector-wide economic undervaluation.

## **Investing in care**

It is clear, based on repeated research across OECD economies, that public investment in social care consistently secures higher returns than investment in other sectors and generates additional employment opportunities for women and men in the care economy, as well as expanding access to paid work for the wider workforce. The Social Justice and Fairness Commission calls for further detailed work to be carried out on all funding options to investigate what measures can be taken now using devolved powers and which would require the full tax and benefit powers of independence.

The Commission believes that independence would enable Scotland to establish a new system of care funding and that work should be taken forward to look at various potential models of delivery. The Commission's remit did not extend to an in-depth analysis of such models.

Positive steps are being taken under devolution. Social Security Scotland has been established and is currently expanding, and key benefits like the pension age disability payment, which will replace attendance allowance, are being devolved over time. Free personal and nursing care is also a significant component in the overall package of care funding and represents a progressive step under devolution. However, devolution has caused significant financial challenges to care funding, which should be recognised and considered going forward. For example, when free nursing and personal care was introduced in 2002 the Department for Work and Pensions withdrew attendance allowance from self-funders in residential care, and the Scottish Government made the decision to compensate them for this loss of payments, at an estimated cost to the Scottish Government of in excess of £600 million.

Most of the detailed responses to our consultation focused on the current structures around commissioning, procurement and funding decisions with strong recommendations for these to be overhauled.

On the basis of our research and consultation work, the Social Justice and Fairness Commission supports:

- Future funding decisions being primarily informed by a sharp focus on social care outcomes performance (i.e. quality of care and support for service users and families) and not outputs (e.g. numbers of social care staff or hours spent with a patient).
- Recognition of social care as a key growth sector with the potential to generate economic as well as social returns on investment.
- Prioritisation of investment in social care as a key contributor to the challenge of rebalancing gender inequality for the social care workforce and service users. Due consideration of gender impacts should always be given when making funding decisions.

- Reforms to commissioning and procurement through a national commissioning model to drive up standards. Aims should include tackling the prevalence of temporary and zero hours contracts, low rates of overnight pay, long working hours and unpaid overtime.
- Removal of 12-month fixed-term funding contracts to deliver palliative and end-of-life care and their replacement with three-year or longer rolling contracts.
- Exploration of models requiring reinvestment of surpluses back into the social care system, causing discomfort for any organisation that values shareholder profit over reinvestment.
- Detailed analysis and review of private sector involvement in a new national care service model is undertaken to set out a route map towards a largely not-for-profit model.

### **Regulation and inspection**

The need to strengthen regulation and inspection is widely supported. The Social Justice and Fairness Commission therefore recommends that the Care Inspectorate should have the same enforcement powers to require change and improvement in commissioning and procurement as it currently has for service provision.

### **Digital working**

The Social Justice and Fairness Commission recommends that investment and training should be allocated to social care to equip workforces with the digital skills to support patients. This will enable them to view and use their own records to help them secure the care they want and need.

## **5.2 Inclusive citizenship: migration, asylum and immigration**

Scotland is positive about inclusion. There is no place in Scotland for prejudice or discrimination – everyone deserves to be treated without prejudice, regardless of background. Whether we are migrants, asylum seekers, refugees, or were born here, all of us who choose to make Scotland home are welcome. We all deserve to be treated fairly and equally, and with compassion, dignity, and respect, whether we have lived here for a day, a decade or a lifetime. The Social Justice and Fairness Commission’s focus is on creating an accepting, forward-looking and progressive nation, determined to eradicate poverty and provide high quality services for everyone. Our message is clear – no matter our backgrounds, we are all welcome in Scotland and our contributions are valued.

Our minority ethnic populations are an enormous strength, and Scotland should be a place where people from all backgrounds can live, work and study. It should also be a place where people of all faiths and ethnic backgrounds can follow their religions and beliefs – and fully embrace their cultures – with peace of mind that they are safe and respected in their communities.

The voices of minorities must be heard at all levels. The people best placed to decide the future of our communities are the people who live in those communities. Through measures such as abandoning ‘No Recourse to Public Funds’, expanding entitlement for social security assistance, reintroducing the post-study work visa, and committing to support empowerment and education, Scotland can fulfil its potential as an inclusionary and fair nation which truly embraces all those who make Scotland home.

The Social Justice and Fairness Commission recognises the essential role Scots old and new play in not only supporting economic growth, but also in strengthening the fabric that binds our communities together, fostering a culture of cohesiveness and inclusiveness that makes our country better for everyone who chooses to live here.

By definition, a human rights, equality and wellbeing-focused policy agenda needs to be inclusive and extend to everyone. As Scotland looks to the future it needs to consider the challenges it will face in the years and decades ahead, and the opportunities and tools available to enable us to address them. The importance of reframing the debate could not be clearer than when we consider movement of people – for too long, the prevailing UK narrative has been focused on restricting movement and controlling migration with the apparent aim of protecting jobs, housing and services when, in fact, the movement of people is critical to enabling our economy and society to thrive. Migration is an essential ingredient in making Scotland prosper and flourish into a fully progressive, fair and equal country, which embraces individuals and communities from a range of diverse backgrounds.

The contrast between Scottish and UK policies and perspectives on migration is stark. While Brexit Britain seeks to clamp down on freedom of movement and make it even more challenging for people to remain here or bring their talents to our shores, we recognise that new Scots are needed for Scotland to flourish.

Scotland is not unique in the challenges it faces – the pressures created by ageing populations on diminishing working-age cohorts of society are well documented and felt acutely across the world.<sup>35</sup> But, within the UK, Scotland’s priorities and requirements are very different. With more deaths than births projected each year going forward until at least 2043, all of Scotland’s population growth will come from migration.<sup>36</sup> It is therefore abundantly clear that throwing up unnecessary barriers to residence in Scotland presents enormous risks to our society and economy.

### 5.2.1 The United Kingdom’s hostile environment

The UK Government’s one-size-fits-all policy on immigration is hugely damaging to Scotland. Its relentless pursuit of a hostile environment is inhumane and ineffective, and entirely at odds with Scotland’s needs.

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<sup>35</sup> United Nations Economic Commission for Europe Working Group on Ageing  
<https://unece.org/population/ageing>

<sup>36</sup> National Records of Scotland (2019) *Scotland’s population projected to increase but at a slower rate*  
<https://www.nrscotland.gov.uk/news/2019/scotlands-population-projected-to-increase-but-at-a-slower-rate>

The hostile environment policy is antithetical to our advocacy for a human rights and wellbeing-focused society. UK approaches to immigration are deliberately unclear and complex, and the consequences of them are unacceptable. As the Institute for Public Policy Research reported, “the hostile environment policy has contributed to forcing many people into destitution, has helped to foster racism and discrimination, and has erroneously affected people with the legal right to live and work in the UK.”<sup>37</sup>

The Scottish Government has made clear its desire to formulate and enable implementation of a migration policy that is more conducive to Scotland’s priorities and needs. The current Scottish Government favours independence as the best possible means through which to tailor policy for this purpose, but it has shown willingness and offered detailed plans that would allow it – right now – to take forward a much more suitable, and indeed humane, migration policy agenda under devolution.

## 5.2.2 Migration can help Scotland prosper

In its paper, ‘Migration – Helping Scotland Prosper’, the Scottish Government has detailed how, within a UK framework, a tailored migration policy could operate to better meet Scotland’s distinct needs.<sup>38</sup> It articulates why there is a ‘pressing need’ for a fairer, bespoke approach to Scotland’s situation that would enable public and private employers to recruit individuals with the skills they need, and help the country be more responsive to demographic change. A recent report by the Expert Advisory Group on Migration and Population has reiterated the need for schemes to attract migrants to stop population decline, proposing actions such as enabling workers to take up skilled work in specific geographical areas in ‘shortage occupations’ and introducing a points-based Scottish visa to encourage migrants to move to designated rural areas.<sup>39</sup>

Migration policy should address the needs of all of Scotland, including those areas most at risk of depopulation, and should encourage and enable long-term settlement in Scotland. We should be able to attract talented and committed people from Europe and across the world to work and study here without excessive barriers, whilst protecting workers’ rights, pay and access to employment, and preventing exploitation and abuse. People who are entitled to live in Scotland should be able to bring close family with them and migrants

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<sup>37</sup> Qureshi, A et al (2020) *Access Denied: The human impact of the hostile environment*, Institute for Public Policy Research

<https://www.ippr.org/research/publications/access-denied>

<sup>38</sup> Scottish Government (2020) *Migration: Helping Scotland Prosper*

<https://www.gov.scot/publications/migration-helping-scotland-prosper/>

<sup>39</sup> Expert Advisory Group on Migration and Population (2021) *Designing a Pilot Remote and Rural Migration Scheme for Scotland: Analysis and Policy Options*

<https://www.gov.scot/binaries/content/documents/govscot/publications/independent-report/2021/02/designing-pilot-remote-rural-migration-scheme-scotland-analysis-policy-options/documents/designing-pilot-remote-rural-migration-scheme-scotland-analysis-policy-options/designing-pilot-remote-rural-migration-scheme-scotland-analysis-policy-options/govscot%3Adocument/designing-pilot-remote-rural-migration-scheme-scotland-analysis-policy-options.pdf>

should have access to services and support to help them to contribute and to encourage integration into communities. Migration should be controlled to deter and prevent abuse, fraud and criminal activity, human trafficking and other serious offences, but fees and charges for migrants should be proportionate and focused on what they can contribute to society rather than their ability to pay.

The Scottish Government's 2018 policy paper – 'Scotland's population needs and migration policy' – sets out why migration is crucial to Scotland's future prosperity. Population projections show inward migration promises significant benefits for Scotland's economy and society, as well as our overall demography, and that "the large number of EU and international students that come to study in Scotland also add to the diversity of our communities, enrich the learning experience and, in the case of those who can remain in Scotland, go on to contribute to economic prosperity."<sup>40</sup>

Scotland needs to attract people to live and work here to help address its demographic challenges. The UK decision to scrap the post-study work visa in 2012 did not serve Scotland well and failed to recognise or address our particular population needs. Today the future of international study is highly uncertain, with the real danger that the Brexit atmosphere makes studying and remaining here more difficult and less attractive to students from Europe and beyond. The UK's re-introduction of a post-study visa through the 'Graduate Immigration Route' from the summer of 2021 offers a straw of hope. However, its withdrawal of the previous scheme in 2012 illustrates Scotland's vulnerability to inflexible immigration policy decisions designed to appeal to political interests and demographic circumstances that are not reflective of our communities' distinct needs.

Our clear view is that post-study work visas have the potential to attract and retain people who can contribute to Scotland's economic recovery after the pandemic and who will enable our society and economy to thrive in the years and decades ahead. Scotland has some of the finest educational institutions in the world which makes it an attractive destination for talented people to study. We need such people to come to Scotland to study, work, live and build their lives, thereby contributing to the long-term sustainability of our communities across the nation. Post-study work visas have an important role to play, but in isolation they cannot ensure long-term retention of international students. As Paulina Trevena states in a review commissioned by the Scottish Government in 2019, such visas, "must be supported by a number of other policy measures, such as language support, integration support, availability of affordable healthcare, housing and others" if they are to achieve the outcomes we need.<sup>41</sup> It is therefore essential Scotland fulfils its potential as the welcoming and inclusive nation it aspires to be through investment in the infrastructure, conditions and environment that can enable it to happen.

On the matter of refugee protection, the Social Justice and Fairness Commission is supportive of principles of protection the Scottish Refugee Council recommends should be

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<sup>40</sup> Scottish Government (2018) *Scotland's population needs and migration policy: discussion paper on evidence, policy and powers for the Scottish Parliament*

<https://www.gov.scot/publications/scotlands-population-needs-migration-policy/>

<sup>41</sup> Trevena, P (2019) *Post Study Work Visa Options: An International Comparative Review*, Scottish Government

adopted by states and authorities. These include Scotland taking responsibility in providing solutions to displacement in global solidarity with all states, providing access to a fair and efficient asylum process that promotes dignity, empowerment and integration, and offering opportunities for refugees to realise their full potential and make a positive contribution to their new communities. Moreover, people found not to be in need of protection should only be returned after a fair and thorough examination of their application, and in a safe, dignified and humane way.<sup>42</sup> The Commission also supports the ambition to phase out the use of immigration detention other than for truly exceptional circumstances.

The Social Justice and Fairness Commission believes that instilling and ingraining these values and principles into how we think about and treat new Scots is vital. We need to turn UK immigration policy on its head and eradicate the hostile environment. In its place we should take a fair, dignified and respectful approach to welcoming people to Scotland, encouraging and enabling them to integrate and contribute to life in an outward-looking, diverse, multicultural nation.

Even within the confines of devolution, Scotland could implement much better and more tailored migration policies, but we are reliant on cooperation from Westminster.

### 5.2.3 Making a difference with devolved powers

Notwithstanding the enormous restrictions on Scotland's ability to tackle reserved matters, devolution has allowed Scotland to adopt measures and policies that mitigate some of the worst effects of the UK's hostile environment migration policy. Examples include: campaigning to attract more people to Scotland; protecting voting rights of EU nationals and seeking to extend the franchise to refugees and asylum seekers; meeting settled status application fees of EU citizens working in devolved public sector roles; increasing access to education for asylum seekers, refugees and stateless children; protecting legal aid provision for those who need to challenge Home Office decisions; providing a guardian for every unaccompanied child asylum seeker; developing a strategy to help asylum seekers integrate from day one; and implementing a properly funded English language strategy.

The current Programme for Government includes: provision for development of a new population strategy; promotion of the 'Stay in Scotland' campaign; a practical new 'Welcome to Scotland' resource for people who have moved or are moving here; proposals for a rural migration pilot in Scotland; and funding for 'TalentScotland' to help companies retain and employ international staff and encourage inward investment.<sup>43</sup> It also places emphasis on supporting cohesive communities, committing the government to working with COSLA and the Scottish Refugee Council to support community integration of refugees and

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<sup>42</sup> Scottish Refugee Council, Key Principles of Protection  
<https://www.scottishrefugeecouncil.org.uk/scotland-can-be-a-beacon-for-a-more-fair-and-humane-system-for-refugees/>

<sup>43</sup> Scottish Government (2020) *Protecting Scotland, Renewing Scotland: The Government's Programme for Scotland 2020-2021*  
<https://www.gov.scot/publications/protecting-scotland-renewing-scotland-governments-programme-scotland-2020-2021/pages/5/>

people seeking asylum from day one of arrival.<sup>44</sup> An anti-destitution strategy developed in partnership with COSLA aims to support those most at risk from reserved immigration policies on NRPF (no recourse to public funds), including re-examining options to support those who are destitute as a result of NRPF and expanding the scope for more effective and dignified support.<sup>45</sup>

All of these initiatives, consistent with the policy principles outlined earlier, help improve the lives of those who have chosen to make Scotland their home, and their ability to enjoy secure incomes, homes and communities, and contribute to a caring, wellbeing-focused society and economy.

#### 5.2.4 The opportunities of independence

Scotland has some limited powers to tinker at the edges of a hostile UK system. However, with immigration, asylum and citizenship laws reserved, and with only limited powers over employment and social security, the reality of devolution is that it does not have the teeth to fully deliver Scotland's aspirations for social justice and fairness for new Scots.

The opportunities of independence, on the other hand, are enormous. As an independent nation Scotland has the potential to transform one of the United Kingdom's worst shames into an exemplar of inclusiveness, social renewal, kindness, compassion, wellbeing and economic growth.

With independence, Scotland can dismantle two key pillars of UK immigration policy: the unrelenting drive to reduce migration and the inhumane imposition of the hostile environment. Both are pernicious in effect – creating insecurity, undermining communities and damaging wellbeing – and neither has any evidential justification.

The Home Office's net migration targets are unhelpful and have served only to deliver an array of unwelcome policies whilst simultaneously removing precisely the types of initiative Scotland should be pursuing, such as fresh talent and post-study work schemes in 2012. Likewise, the hostile environment – itself a means of pursuing reductions in net in-migration – has been widely condemned for its punitive effects on some of our most vulnerable people and communities. There are so many better ways we could use immigration, asylum and citizenship powers to help ensure secure incomes, homes and communities, and better health and wellbeing for new Scots.

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<sup>44</sup> Scottish Government (2018) *New Scots: Refugee integration strategy*  
<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2018/01/new-scots-refugee-integration-strategy-2018-2022-summary/documents/00530086-pdf/00530086-pdf/govscot%3Adocument/00530086.pdf>

<sup>45</sup> Scottish Government (2021) *Ending Destitution Together: A Strategy to Improve Support for People with No Recourse to Public Funds Living in Scotland*  
<https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2021/03/ending-destitution-together/documents/ending-destitution-together-strategy-improve-support-people-no-recourse-public-funds-living-scotland-2021-2024/ending-destitution-together-strategy-improve-support-people-no-recourse-public-funds-living-scotland-2021-2024/govscot%3Adocument/ending-destitution-together-strategy-improve-support-people-no-recourse-public-funds-living-scotland-2021-2024.pdf>



From day one of independence lessons on the failings of the UK system should be hardwired into Scotland's migration and citizenship policies and institutions. These should include:

- Detailed assessments of equalities impacts
- Full and proper engagement with stakeholders and communities
- Establishment of a race advisory board (within the Scottish Home Office) and a Migrants Commissioner
- A strong, independent external inspectorate
- A values statement that embeds the values of fairness, humanity and openness
- A framework for ethical decision making

## Repeal of the hostile environment in an independent Scotland

The recommendations below are focused on what Scotland should seek to do as soon as possible on securing independence to rid itself of the United Kingdom's pernicious hostile environment:

- We must create conditions to encourage migration to Scotland to benefit Scottish communities struggling with declining or ageing populations and to remote areas with limited labour markets. We know, for example, EU nationals have played a vital role in providing labour for local employers, whilst in turn helping to maintain and boost population levels and sustain services in these areas.
- Scotland should seek to restore free movement, introduce a post-study work visa, and consider piloting other visa schemes such as ones targeted at remote and rural locations and for areas of depopulation. There are several examples of successful schemes internationally, for example in Canada and Australia, which can inform and enable Scotland to follow best practice.
- Family is pivotal to the health and wellbeing of homes and communities. The UK's immigration policies are among the most anti-family anywhere in the world, affecting many UK citizens as well as migrants. An independent Scotland must reform or abolish UK rules and thresholds that price families out of living together.
- For many new Scots, citizenship will offer the best possible outcome in terms of status and security. Scotland should therefore learn from international best practice and set out shorter routes to citizenship and residence. Our Scottish migration system must be much more accessible, simpler and transparent.
- A clear right to work should be introduced for asylum seekers. This would reduce reliance on support from public funding and allow asylum seekers to support themselves and contribute to the economy, society and the Exchequer. An integration from day one approach in an independent Scotland would encourage and enable working opportunities to be made available as early as practicably possible.

- In the case of asylum applications, where we are adjudicating people’s rights under international law (the Refugee Convention), there is a strong case for establishing an independent agency to adjudicate on such claims.
- There should be greater local authority control and oversight over dispersal operations, properly funded, so that the dispersal system provides security for asylum seekers and benefits the communities they live in.
- Asylum support should be brought within the general social security system to re-establish the link with existing benefits and aid integration. A unified system will improve support and make the transition from asylum to refugee status smoother, and integration could go further to align the asylum and housing systems too.
- For those who achieve stable immigration status, we must ensure that barriers to security and social justice, such as no recourse to public funds, are removed to ensure fair access to all necessary social security services and supports.
- Immigration and labour market powers offer the means to better tackle exploitation and abuse. The Scottish Government and Parliament have already introduced important legislation and strategies designed to tackle modern slavery but, with additional powers, there will be opportunities to ensure victims of trafficking have leave to remain and can be supported to put their lives back together. Efforts to bring exploiters to justice should also be prioritised.

It will never be enough to set rigid migration rules in isolation and leave things to work out themselves. Successful migration policy requires a flexible holistic approach that can be adapted and changed in accordance with ever-changing national and local needs.

Scotland is not well placed to take such an approach at the moment. It has limited powers, which it is using to mitigate some of the worst effects of the UK’s hostile environment. But independence offers an opportunity to abandon UK approaches altogether and develop a new system for citizenship, immigration and asylum – a system informed by the experiences of people who have come to Scotland in less welcoming times, the communities that have welcomed them, organisations and policy makers who can use their knowledge and experiences to avoid repeating the UK’s mistakes, and the very best examples from around the world.

Scotland is capable of creating a system that meets its own particular needs and addresses our own particular challenges. A truly Scottish system can be constructed upon strong founding principles of fairness, dignity and respect. By dispensing with the dysfunctional and punitive immigration approaches which are so deeply ingrained and pervasive in UK policy making, migration policy in Scotland can be transformed to become transparent, flexible, dynamic and capable of addressing our population needs and international obligations, now and in the future.

### 5.3 Wellbeing economy

The concept of wellbeing economy is rapidly attracting interest and gaining traction across the globe. Scotland should be proud of the company it keeps as a member of the Wellbeing Economy Governments Group – established together with New Zealand and Iceland in 2018 – which sees it recognised as a world-leading proponent of the wellbeing economy. New Zealand gained headlines for its world-first ‘wellbeing budget’ in 2019 and Iceland took similar steps by putting wellbeing ahead of GDP in its 2019 budget too.

We now have a unique opportunity to go further in setting an example for the world to follow by reassessing our priorities and delivering a different kind of future – a future based on wellbeing and inclusive growth.

The Social Justice and Fairness Commission’s vision for Scotland is very much predicated on a wellbeing economy. From our high-level ambitions for democratic renewal and our values rooted in human rights and equality to our policy ideas and suggestions – whether around building homes and communities, delivering a secure income for all, reforming social care, achieving a fair distribution of land, income and wealth, or promoting inclusive citizenship – the thread of a wellbeing-focused economy and society runs through it all. This includes a focus of investment in areas that generate social ‘goods’ – such as childcare, social care and energy efficiency – as well as economic returns. There must be a recognition that investment in public services generally is also an economic investment, and that there are particular areas that generate strong economic outcomes with investment – a point highlighted in our social care section. We wholeheartedly believe that by reorienting our focus in all spheres we can construct a wellbeing economy in Scotland that serves everyone and can help save the planet too.

The Commission is supportive of the First Minister’s assertion that the goal and objective of all economic policy should be collective wellbeing.<sup>46</sup> We consider that now is not the time to shy away from bold action. Rather, the Covid-19 era and the early days of Brexit Britain are the perfect time to reimagine our priorities, to anticipate future shocks, to build resilience, and to focus our efforts on creating an economy and society that is sustainable and works for everyone.

The Wellbeing Economy Alliance (WEAll) is the leading global collaboration of organisations, alliances, movements and individuals promoting wellbeing economies in all their forms, and it suggests such economies should have five key ‘non-negotiables’ at heart: dignity, nature, connection, fairness and participation. In essence any wellbeing economy should: ensure everyone has enough to live comfortable, safe and happy lives; work to restore a safe natural world for all life; establish a sense of belonging, with institutions serving the common good; put justice at its heart and significantly reduce the gap between the richest and poorest; and actively engage citizens in locally rooted economies.<sup>47</sup>

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<sup>46</sup> Scottish Government (2020) Health and wellbeing as fundamental as GDP  
<https://www.gov.scot/news/health-and-wellbeing-as-fundamental-as-gdp/>

<sup>47</sup> Hough-Stewart, L et al (2019) *What is a wellbeing economy? Different ways to understand the vision of an economy that serves people and planet*, on behalf of Wellbeing Economy Alliance

As WEAll argue:

‘A wellbeing economy (the ‘new way’) is designed with a different purpose: it starts with the idea that the economy should serve people and communities, first and foremost... [and it is] person-centred, geared towards environmental protection and regeneration, positive and long-term. The exciting thing is – the new way is already emerging, with inspiring examples around the world showing us the way.’<sup>48</sup>

Scotland is responsible for some of those inspiring examples, and we should feel proud about that. Proponents of wellbeing economies want us to continue to lead the world and to accelerate the transition. We at the Social Justice and Fairness Commission wholeheartedly agree with that perspective and believe that independence can offer the vehicle to allow us to carry the nation forward to a fairer, more sustainable future.

### 5.3.1 A Just Transition: climate change and food security

The Social Justice and Fairness Commission wants Scotland to make rapid progress in achieving an inclusive green economy that delivers real benefits for our health, environment and wellbeing, as well as jobs and economic prosperity. An inclusive green economy is essential if we are to manage the transition to a net-zero future in a fair and socially just manner. In so doing, we will also ensure Scotland plays a leading role in helping tackle climate change.

Our work at the Commission is inspired and informed by the United Nations Environment Programme, which defines an inclusive green economy as one which is ‘low carbon, efficient and clean in production’ and ‘inclusive in consumption and outcomes, based on sharing, circularity, collaboration, solidarity, resilience, opportunity, and interdependence’.<sup>49</sup>

Just as the UN Environment Programme wants inclusive green economies to be pursued throughout the world as an alternative to the dominant economic models that generate environmental and health risks, encourage wasteful production and consumption and create inequality, the Social Justice and Fairness Commission is an advocate for policy agendas that better deliver on key fronts such as human rights, equality, wellbeing and sustainability.

In particular, our food system needs to be made greener and more inclusive, which is why we have outlined our support for a Good Food Nation Bill. We need a just transition to a food system founded on the principles of social and environmental justice that better values the people who work to produce and process food, supports the welfare of farm animals, and protects our natural resources.

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<https://wellbeingeconomy.org/wp-content/uploads/2019/12/A-WE-Is-WEAll-Ideas-Little-Summaries-of-Big-Issues-4-Dec-2019.pdf>

<sup>48</sup> Ibid, p8-9

<sup>49</sup> <https://www.unenvironment.org/explore-topics/green-economy/why-does-green-economy-matter/what-inclusive-green-economy>

The Social Justice and Fairness Commission is putting forward proposals to make Scotland a better place for everyone. These proposals will drive Scotland's progress in stepping up and making its required contribution towards our 'common challenge' across the globe, defined by the UN Environment Programme as, 'creating the conditions for enhanced prosperity and growing social equity, within the contours of a finite and fragile planet'.<sup>50</sup>

An inclusive green economy is underpinned by and implicit in all of our proposals for Scotland's future because climate justice and social justice are inextricably linked. Scotland is currently grappling with the challenge of transitioning to a net-zero economy. The Scottish Government established the Just Transition Commission in early 2019 to provide Scottish Ministers with independent advice on the long-term strategic opportunities and challenges of that process. It is concerned with ramping up activities to deliver widespread benefits from climate action without unfairly burdening those least able to pay for it. Its aim was to report its findings early in 2021.

The Just Transition Commission's interim report was published in February 2020, a matter of weeks before the pandemic lockdown hit Scotland. This report made recommendations for further work and emphasised a 'pressing need to address existing inequalities in relation to work, housing, and transport'.<sup>51</sup> Aside from measures designed to help tackle climate change, its recommendations focused on a number of societal impact themes such as fair work, workforce skills, citizens' assemblies, place equity, support for agriculture, and transition support for the oil and gas industry.

As with all spheres of life, the impacts of the pandemic have been enormous and have led to renewed calls for action as well as encouraging new ways of thinking about the issue of climate change. The Just Transition Commission published a report in June 2020, 'Advice on a green recovery', which recognised 'an opportunity to accelerate our transition to a net-zero economy while healing the scars left on our society by the pandemic'.<sup>52</sup>

The Just Transition Commission's main recommendations for a green recovery from the pandemic are: boost investment in warmer homes; back buses and support the supply chain; maintain and create new jobs for oil and gas workers; help the rural economy by helping Scotland's nature; and align skills development – for young and old – with the net-zero transition.

The Social Justice and Fairness Commission recognises and agrees with the challenges and opportunities highlighted by the Just Transition Commission as it seeks to plan for moves towards a net-zero economy. All of our proposals are therefore designed to be implemented within an inclusive green economic and social framework that delivers on our human rights and wellbeing-focused priorities.

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<sup>50</sup> Ibid

<sup>51</sup> Just Transition Commission (2020) Interim Report

<https://www.gov.scot/publications/transition-commission-interim-report/pages/8/>

<sup>52</sup> Just Transition Commission (2020) *Advice for a Green Recovery*

<https://www.gov.scot/publications/transition-commission-advice-green-recovery/>

### 5.3.2 Fair Taxation

The UK's tax system is widely recognised as dysfunctional. It is complex, anomalous, inefficient and overly centralised, and reforms have not kept pace with economic and societal changes.

The main purpose of taxation is to fund the services and infrastructure we all use, and the support we provide to each other as a society. How we raise taxes, and from what and whom, is of fundamental importance to achieving a fairer Scotland and wellbeing society.

As a Commission, we have considered the issue of fair taxation within the context of independence, because that presents opportunities to do things differently. The Commission is also convinced that the necessity and urgency of tax reform is heightened by the climate emergency, and by the pandemic.

Few if any events in history have had more widespread and pervasive impacts on all aspects of our lives than the Covid-19 pandemic and nothing will affect future generations more than how we tackle the climate emergency.

However, the distributional impacts of the pandemic have been uneven, with the worst effects felt by those least well equipped to cope. Marginalised populations living in poverty are among those who are most at risk of severe social, economic and health consequences arising from spread of the virus. Climate change disproportionately impacts those least able to cope too, particularly in lower income countries – for example people living on flood plains or hillside favelas vulnerable to landslips in South America.

Our recovery from the pandemic, our actions to combat climate change, and our pursuit of a fair and socially just country require considerable investment, now and in the future. Those with the broadest shoulders need to carry a bigger share of the load in order that those with the least are not plunged into deeper depths of poverty and despair.

But we need to be alert to the changing world economy. Tax competition between countries has forced corporate tax rates down, high net-worth individuals have been able to avoid paying their fair share, and the growth of big tech companies represents a further challenge. Together with action on climate change, it is clear that taxation is a matter for international cooperation as well as national choice.

Shifting the burden is justifiable not only on moral but also on economic grounds – Joseph Rowntree Foundation figures reveal the total cost of poverty to the UK economy is in the region of £78bn per year.<sup>53</sup> With a fairer society resources can be better spent – reducing unnecessary expenditure and therefore the so-called 'tax burden' of alleviating poverty – but it will require radical action and investment to get there.

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<sup>53</sup> Bramley, G, et al (2016) Counting the cost of UK poverty, Joseph Rowntree Foundation <https://www.jrf.org.uk/report/counting-cost-uk-poverty>

## Principles of fair taxation

It is beyond the remit of the Commission to produce detailed tax proposals, but we consider it important to set out some key principles for fair taxation – grounded in our aims of properly realising human rights, equality and a wellbeing society – to guide policy decisions:

### **Progressive taxation**

We believe the tax system of an independent Scotland should be progressive and better aligned with social security to provide a secure living income, reflecting the requirement that those with the broadest shoulders carry a bigger share of the load than those on the lowest incomes.

### **Simplicity**

The UK tax system is overly complex. A simpler system of taxation increases transparency and accountability, reduces bureaucracy and opportunities for avoidance and evasion, and helps people make better informed choices on matters such as pension savings.

### **Taxation as a progressive policy lever**

Taxation is one important method for raising revenue, but it can also function as an important policy lever for government. Creating a simplified taxation system therefore has to be carefully balanced with opportunities to use taxation to influence actions or behaviours that generate good outcomes for society.

The Commission believes that we should shift the burden of taxation away from productive parts of the economy that we want to encourage, towards areas and activities that we want to discourage. An important element of this is changing what we tax. We need to place more emphasis on taxing wealth specifically and ‘bads’ generally, and less on income and spending.

50% of the UK’s wealth is tied up in land and property, but it makes up just 10% of the total tax base. This needs to be rebalanced – the taxation of land, and wealth in general, must be a vital part of the conversation on building a fairer and more socially just society.<sup>54</sup>

The proposition of taxing ‘bads’ is set out in a substantial review of the UK tax system by the IFS.<sup>55</sup> This lists the imposition of ‘sin taxes’ – like those on alcohol and tobacco, and environmentally harmful activities – as behavioural influencers that can help curb negative effects. The Scottish Government’s pioneering minimum unit pricing of alcohol is an exemplar of this approach.

The natural corollary of such a strategy is to remove or lower taxes to encourage desirable activities and investments in, for example, childcare, research and development, and pensions. In this way the tax system can act as a vital tool in tackling climate change, simultaneously discouraging harmful environmental activities and enabling those that contribute to good environmental health. In a similar vein, the tax system can influence

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<sup>54</sup> <https://www.landcommission.gov.scot/news-events/news/changes-to-the-land-and-property-tax-system-could-support-scotlands-recovery-and-renewal>

<sup>55</sup> Mirrlees, J et al (2011) *Tax By Design* [www.ifs.org.uk/publications/5353](http://www.ifs.org.uk/publications/5353)

delivery of a host of positive outcomes by, for example, rewarding employers delivering the fair work agenda or offering tax incentives to businesses investing in activities that promote social goods, such as energy efficient products or social enterprises.

### **Decentralisation**

The UK has a highly centralised system of taxation. In order to increase accountability and transparency, the Commission believes that increasing the share of taxes raised and spent locally is important for democratic renewal and empowerment of communities. We therefore recommend reform of local government taxation to bring power close to communities.

### **Wealth Tax**

The Commission supports the widening of the tax base, and shifting taxation away from taxing 'goods' (such as work or employment) and towards taxing 'bads', in particular carbon. There are many anomalies in the UK tax system that were highlighted by the Mirlees review of taxation a decade ago, yet there has been little reform. These include taxing income from employment more heavily than unearned income. Inheritance tax and capital gains, too, require further review.

A one-off wealth tax has emerged as a possible response to the deficit that has arisen from the pandemic.<sup>56</sup> We would question whether the deficit that has taken government debt over 100 per cent of GDP can be removed by raising taxes and cutting expenditure. The lesson of the huge war debts is that they were effectively 'repaid' through economic growth and inflation. The folly of austerity is vividly highlighted by George Osborne's self-defeating austerity programme after 2010, which cut growth and weakened the UK's social fabric going into the pandemic.

However, we need to think of the long-term reconstruction of the economy and society and our ambitions to end poverty and create a National Care Service. The Wealth Tax Commission report suggests that a 1% tax on holdings of wealth over £500,000 could yield £260 billion over five years at the UK level.<sup>57</sup> Even though the tax take in Scotland would be less than the population share of this total (because there are proportionately fewer houses worth over £500,000), the figure is indicative of the potential. Clearly, there are questions about behavioural responses likely to reduce tax take, unintended consequences, issues of fairness (such as the asset rich and income poor), perverse incentives (e.g. to remortgage to reduce liability below the threshold), as well as practical difficulties in creating an inventory of all wealth (e.g. cars, jewellery) and revaluing it annually.

The Commission favours a Land Value Tax which is effectively a tax on a form of wealth, which would encourage a shift in investment away from speculative but unproductive land and property holdings and towards more productive assets. Nonetheless, we regard a wealth tax as being worthy of investigation, as part of a wider review of tax.

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<sup>56</sup> Wealth Tax Commission (2020) A wealth tax for the UK <https://www.lse.ac.uk/International-Inequalities/Assets/Documents/OLDWealthTaxCommission-Final-reportold.pdf>

<sup>57</sup> Ibid



## Excess Profits Tax

In September 2020 Oxfam published a report into the global effects of the pandemic on some of the world's largest companies and concluded that thirty-two of them would see profits jump by around £80 billion in 2020, a finding that "lays bare an economic model that delivers profits for the wealthiest on the back of the poorest".<sup>58</sup>

Examples of businesses and sectors that have experienced gains during the pandemic include big supermarket chains (which aside from seeing the strongest growth on record in March 2020 have benefited from lockdown closures of non-food retail competitors), online retailers and IT companies and platforms. This has been recognised by many of the UK's supermarket chains, a number of which did not claim substantial sums of business rates relief that had been allocated to them last year due to the pandemic.

Clearly, not all large businesses and corporations have increased their profits as a result of Covid-19 – many have suffered substantial losses. But that makes the argument for those making financial gains contributing a greater share of their profits – to aid recovery – all the stronger. We have all suffered ill-effects from the pandemic, but the impacts of the hit are not being distributed evenly across companies or households – there is therefore a strong case for companies who have not absorbed any of the impacts, or which have gained financially as a result, to accept a share of the wider economic and societal costs by paying some form of windfall taxation on their profits.

Such a measure would be for the short term, in this time of crisis. But the introduction of an excess profits tax would be a statement of intent that touches on each of the three key strands of our route map to a fairer Scotland – it speaks of democratic renewal because it would represent a change in how we do things and the decisions we make, informed by and for the benefit of the people; it is a policy decision rooted in human rights and equality values since we are clear that any monies raised through crisis windfall taxation should be directed to those who need it most; and this would be a potentially transformative policy decision designed to deliver wellbeing outcomes for our most vulnerable citizens with knock-on benefits for wider society.

It is an idea that has significant public support. A YouGov poll found 53% of people supported the principle of an excess profits tax on industries that have thrived during the crisis, with only 13% opposed.<sup>59</sup> Indeed, the Resolution Foundation recognises that although something akin to a pandemic profits levy would be temporary and raise relatively small revenues, it could play a crucial role in building public support for longer-term recovery due to it being rooted in the principles of solidarity and fair burden sharing.<sup>60</sup>

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<sup>58</sup> Oxfam (2020)

<https://www.oxfam.org/en/press-releases/pandemic-profits-companies-soar-billions-more-poorest-pay-price>

<sup>59</sup> Reported in the Financial Times, 17 May 2020

<https://www.ft.com/content/b7441bee-6bf7-46c2-ab75-916fec31f521>

<sup>60</sup> Bangham, G et al (2020) Unhealthy Finances: How to support the economy today and repair the public finances tomorrow

<https://www.resolutionfoundation.org/app/uploads/2020/11/Unhealthy-finances.pdf>

The Social Justice and Fairness Commission is supportive of measures to implement an excess profits tax on those businesses and sectors that have benefited directly and substantially from the circumstances arising from the pandemic, but it is important that the motivation is to help support those who are least well off. This is reflective of our wider views on taxation policy in the wellbeing-focused society we seek. Those with the broadest shoulders should contribute more to enable us to pursue a fair, socially just, prosperous wellbeing economy to make Scotland better for all of us.

### **Investment, not austerity**

Austerity repeatedly failed to achieve its targets for deficit reduction because it was a process that damaged the economy. It also failed society because it widened inequalities, increased extreme poverty levels, and weakened our social infrastructure. Right now, we face the threat of a renewed austerity drive signalled by a UK government apparently intent on a public sector pay freeze as well as removal of key supports introduced during the pandemic. It would be a catastrophic error, both economically and socially, to enter a renewed era of austerity in response to the economic cost of the pandemic. Economists such as Vitor Gaspar, the IMF's head of fiscal policy, agree that budget deficits built up in response to Covid-19 are manageable and we should not rush towards an ill-fated drive to reduce them. He said: "We believe there is a risk of prematurely withdrawing fiscal support and policymakers that have a choice would be well-advised to be very gradual and to maintain fiscal support until the recovery is on a sound footing and the long-run scarring impacts from Covid-19 are perceived to be under control."<sup>61</sup>

Renewed investment in society is necessary to avoid a calamitous shift in the direction of austerity that will bring inevitable rises in unemployment, poverty and inequality.

As we look to the future, it is crucial that we learn the lessons of the past decade. It is essential that we reform our tax system: existing taxes must be simplified and made fairer and more consistent; the tax base must be widened to place a greater emphasis on land and wealth; and the tax system should support action to help tackle the climate emergency and place more emphasis on taxing 'bads'. An independent Scotland needs to step up and take its place in the global society and economy as we face the biggest global challenge of them all, climate change. It is imperative that international cooperation and solidarity is integral to our approach.

### **5.3.3 Land Value Tax**

In the words of Lorne MacLeod, Scottish Land Commissioner and Chair of the Expert Advisory Group on Tax on Land and Property, "Land is our most valuable asset and we need to be willing to rethink how our tax system operates to make sure we are making the most out of it for everyone."<sup>62</sup>

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<sup>61</sup> Quoted in "IMF says austerity is not inevitable to ease pandemic impact on public finances", Financial Times, 14 October 2020

<sup>62</sup> MacLeod, L (2020) <https://www.landcommission.gov.scot/news-events/news/changes-to-the-land-and-property-tax-system-could-support-scotlands-recovery-and-renewal>

Half of the UK's wealth is tied up in land and property, yet land and property only contribute around 10 per cent of the tax revenue. That in itself is a compelling case for change, representing a huge area of untapped resource which could and should be delivering wider public benefit. In a globalising world with increasingly mobile tax bases, it makes sense to broaden the tax base, particularly to make greater use of land, which is immobile. It also has a vital part to play in building a fairer and more socially just society.

The Commission supports the principle of a Land Value Tax (LVT) as part of wider reform of property taxation that would ultimately remove our dependence on Council Tax, Land and Buildings Transaction Tax and non-domestic rates. We believe that such reform has the potential to provide local government with much greater control over resources available to it than it does at present, although national government would still need to balance resources and needs between local authorities.

Council Tax is regressive, creating and reinforcing inequalities between households and areas. Recent reforms made the tax less regressive by changing the 'band multipliers' on more valuable properties. However, cheaper houses are still taxed more heavily than expensive ones. It is entirely feasible to continue the reform of Council Tax by progressively altering the band multipliers until all properties are taxed at proportionately the same rate, and to initiate a revaluation to address anomalies that arise from basing the tax on property values that are three decades out of date. However, we consider more fundamental reform is necessary.

It is widely accepted by economists that Land and Buildings Transaction Tax deters transactions and mobility. To simply abolish it would lead to a one-off rise in house prices, to the benefit of existing owners and at the expense of first-time buyers, but, by implementing transitional arrangements and offsetting anticipated price rises via a property or land value tax, this could be relatively straightforwardly countered.

The Commission believes that land value taxes (LVTs) – which apply only to the land itself and not to improvements on it such as buildings or infrastructure – have significant advantages over property value taxes, which apply to both the property and the land it stands on. LVT incentivises the development of land – and discourages land hoarding for speculative purposes – because the tax liability for landowners is the same whether land is developed or not.

We also believe that there is a case for making the owner of the property responsible for paying LVT, rather than the tenant. This is because land values tend to rise more rapidly than rents in inflationary markets, and since it is the landlord who benefits from the increased value of land, then landlords should pay. Of course, some of the cost of the LVT would be passed on to the tenant in the form of a higher rent, but this would likely reduce overall cost to the tenant and be less than an increase in land value caused by a house price boom. Some would argue that everyone should contribute directly to local government revenues, and for that reason, as the Commission on Local Tax Reform suggested, it may be preferable to have more than one local tax. For example, part of income tax could be placed under local control.

Although the value of land or property owned is strongly related to income overall, all land or property value taxes are faced with the issue of the ‘asset rich, but income poor’. Since the 1960s this has been addressed through a rebate system for lower income households, such as the Council Tax Reduction Scheme. The Commission envisages that such a scheme would be established under LVT, although there is also a case for allowing owners to defer payment until they are deceased, at which point any liability could be recouped from their estate.

It is also important to stress the benefits that land value taxes can offer in relation to public infrastructure investment. If we consider new bridges, train stations, ferry ports and the like, as taxpayers the wider community contributes the finances that pay for them, but we do not all benefit from that investment in the same way. Under the current tax system someone who owns a house or business in the vicinity of these developments might expect to see their property increase in value, which would amount to a tax-free windfall gain. A land value tax, however, would enable the community to recoup some or all of its investment through the higher tax-take the investment has generated, and this is a model that can be used to finance such infrastructural improvements.

Crossrail provides an excellent example of an ineffective and unfair system of infrastructural investment. In February 2020, Julian Ware, Transport for London’s Head of Corporate Finance, presented key facts on land value capture for Crossrail, and said: ‘Most of the value created flows untaxed to land owners’; ‘Current mechanisms don’t capture land value uplift effectively’; and that ‘Of the estimated £61.5 billion of uplift estimated to be generated by Crossrail 2, only ~2% of this can be captured through over station development (OSD) and Mayoral CIL [Community Infrastructure Levy]’.<sup>63</sup>

The Commission supports the development of a Land Value Tax (LVT). We agree with the recent report prepared for the Scottish Land Commission that reform of land and property taxes has the potential to play a vital role in: empowering individuals and communities; tackling inequalities; promoting more effective land use and management; ensuring that land identified as being suitable for housing is built on in a timely manner; reducing vacant and derelict land; and raising revenue to invest in our society.<sup>64</sup>

LVT would mark a radical change. It would need to be prepared carefully and phased in over time as part of a package of reforms of land and property taxation, but that work is well under way. The Scottish Land Commission’s new Tax Expert Advisory Group is currently exploring options for reform of land and property taxes, and those findings will be reported to Scottish Government Ministers by the SLC later in 2021. Their report should provide a starting point for the Scottish Government to develop a tax reform

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<sup>63</sup> Ware, J (2020) Land value capture and Crossrail I, presentation at Covenant of Mayors Investment Forum [https://ec.europa.eu/easme/sites/easme-site/files/2.2land\\_value\\_capture\\_and\\_the\\_lessons\\_from\\_crossrail\\_1\\_project\\_from\\_london\\_tfl.pdf](https://ec.europa.eu/easme/sites/easme-site/files/2.2land_value_capture_and_the_lessons_from_crossrail_1_project_from_london_tfl.pdf)

<sup>64</sup> Alma Economics for the Scottish Land Commission (December 2020) *Land and property taxation in Scotland: Initial scoping of options for reform*

package and the necessary administrative structures to begin this radical program of reform.

### 5.3.4 Community wealth building

The concept of community wealth building is gaining popularity. It was initially developed in the United States and has been championed in the UK by the Centre for Local Economic Strategies (CLES). The focus is very much on people and localism: by taking people-centred approaches to economic development that is concentrated in local geographical areas, local economies can be reinvigorated and sustained. And by redirecting wealth and maintaining ownership in local communities, the people who live in those communities and exert control over decision-making are the direct beneficiaries. It is an economic system designed to build wealth and prosperity for everyone.

The Social Justice and Fairness Commission is a champion of community wealth building as it is a model that promises to deliver precisely the outcomes we seek – a fair and just Scotland with wellbeing at its heart that includes, values and empowers everyone who lives here. It is an approach that is rooted in the firm belief that strong, people-focused local communities and economies can help Scotland flourish.

The five principles of community wealth building are:

- Progressive procurement: Developing local business supply chains can help support local employment and keep wealth within communities.
- Fair employment and just labour markets: ‘Anchor institutions’ – i.e. large employers with a strong local presence – can improve prospects for local people. Anchor institutions can be, for example, councils, NHS boards, universities, colleges, housing associations or large private companies.
- Shared ownership of the local economy: A focus on supporting and growing business models can stimulate the local economy.
- Socially productive use of land and property: Developing the function and ownership of local assets held by anchor organisations can enable local communities to benefit from financial and social gains.
- Making financial power work for local places: Harnessing and recirculating the wealth that exists can increase flows of investment within local economies.<sup>65</sup>

As the principles of community wealth building make clear, large institutions – anchor organisations – have an important role to play. Large employers have a unique capacity to exert significant influence by commissioning and purchasing goods and services, through their workforces and employment capacity, and by creative use of their facilities and land

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<sup>65</sup> <https://cles.org.uk/blog/community-wealth-building-in-scotland/>

assets. Used positively, these strengths can help effect meaningful social, economic and environmental change in local communities.

The Scottish Government has committed to exploring the concept of community wealth building and its potential to deliver inclusive growth in Scotland through six pilot projects across the country. It also recently published an independent report into 'A New Future for Scotland's Town Centres' in response to the challenges posed by Covid-19 to its 2013 Town Centre Action Plan. Community wealth building is identified in the action plan as one of four key strands of the Scottish Government's place-based investment programme, alongside community-led regeneration, 20-minute neighbourhoods and town centre action.<sup>66</sup>

The Social Justice and Fairness Commission supports this work and believes it has a crucial role to play in underpinning and supporting our aspirations for Scotland to become a truly wellbeing-focused economy and society.

An integral part of building sustainable local economies is ensuring that every community and part of Scotland is included – from our cities and large urban areas, to rural areas and areas of depopulation like Inverclyde, North Ayrshire, West Dunbartonshire and Argyll and Bute. These four areas have particular challenges with depopulation, an ageing demographic, health inequalities, the legacy of historical industrial decline and issues like substance abuse. Many strides have been taken to improve life chances and opportunities in these areas but clearly there are still many hurdles to overcome. One practical way to invest in these communities would be to ensure any new Scottish Government agency created with independence is located in an area of population decline. This would create opportunities and embed those vital anchor organisations that can help to transform communities.

## 5.4 Secure income

### Social security and fair work can help deliver a secure income for all

The Commission agrees that eradicating poverty and ensuring everyone in Scotland has access to a secure living income should be an overarching priority for an independent Scotland. It is the foundation of a wellbeing society and is therefore fundamental to every aspect of our daily lives and will help create a sustainable economy.

The Commission also recognises that a commitment to a secure income is an obligation required by the UN Universal Declaration of Human Rights:

'Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment,

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<sup>66</sup> Town Centre Action Plan Review Group (2021) A New Future for Scotland's Town Centres <https://www.gov.scot/binaries/content/documents/govscot/publications/independent-report/2021/02/new-future-scotlands-town-centres/documents/new-future-scotlands-town-centres/new-future-scotlands-town-centres/govscot%3Adocument/new-future-scotlands-town-centres.pdf>

sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.’<sup>67</sup>

The commitment to deliver a secure living income for all is therefore at the heart of the Commission’s proposals, as we consider it to be a key pillar of a renewed social contract between government and our citizens.

A secure living income must also be viewed in relation to other services provided by the state as part of that contract. Income is the means by which we purchase many of the things we need, from food and clothing to fuel and other essentials. However, income distribution is only part of the equation, and many of our essential needs are met by state provision of essential services like childcare, education, housing, health, social care and public transport – either free at the point of need or at low cost. Delivering a secure income for all, that ensures we have enough to purchase those items we need for a good life, is a complex balancing act between, on one hand, creating conditions to ensure everyone has means to purchase the goods they need and, on the other, ensuring that basic universal services support the diverse needs of individuals wherever in Scotland they live. Income must therefore be considered alongside the cost of living, while the state has responsibilities to ensure essential services are free at the point of use.

In order to build a country that is compassionate, and where we do the right thing by one another, it is vital that we work together to eradicate poverty in Scotland. We all have a fundamental human right to live with dignity, so there is a moral imperative for us to ensure there is a line below which no one can fall. It is in all of our interests to ensure that safety net exists, for any one of us may find ourselves in need of support at some point in our lives. Our ambition is to see a social security system that provides income security when we need it, just as the NHS does for our health and wellbeing. A wellbeing society recognises that we are all connected and dependent on one another, so we must work together to share our collective resources, in good times and bad.

Poverty costs all of us, socially and economically. Its impact is pervasive. People who have grown up in poverty tend to need more help with their education, tend to have poorer health and tend to have greater interaction with the justice system. Solving poverty is the single greatest preventative spending measure we could make as a good society and fair economy, and it will benefit us all. It is also perhaps the most important preventative health measure – both for our physical and mental health. It is vital to closing the attainment gap and tackling difficult social and health issues like drug and alcohol abuse. It is crucial in allowing people to live happy, fulfilling lives, and we all benefit from that.

Eradicating poverty is not only morally right – it also helps to unlock our economic potential both individually and collectively. Lifting people out of poverty lifts us all up as a society.

Eradicating poverty is an ambitious goal, but one that should be obtainable with concerted effort over a sustained period of time. Poverty is a side-effect of the system that we, people, have created and continue to perpetuate – through the current economic models, labour

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<sup>67</sup> United Nations (1948) Universal Declaration of Human Rights  
<https://ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng>



market, tax and social security system and other policy decisions and social attitudes. The structural causes of poverty must each be tackled if we are ever to eradicate it. It is certainly a challenge, but it is one we must rise to in order to ensure that every single person living here can live a good life and we can build a healthy wellbeing society.

We should view social security as we do the NHS – a public service. It should also be seen as an investment in the people of Scotland that enables people to live in dignity, to reach their potential and to play a full role in society. Social security should be one of the major ways we look after one another collectively, and certainly not stigmatised as a drain on society. The huge voluntary effort and generous donations that go into food banks demonstrates that, as a society, we want to care for one another. But as every food bank will acknowledge, people’s dignity and autonomy can only truly be obtained when they have sufficient income to support themselves.

The pandemic has opened eyes and minds to the role of the state and the ways in which we treat people in need of help. If we are to truly build back something better, we need to capture that realisation and will and build consensus on action. The Joseph Rowntree Foundation has highlighted the need for public support, and not just political will, to solve poverty: it requires transformative change across the whole of society, and it requires sustained action that will endure changes in governments and economic circumstances.

The pandemic has shone a particularly stark light on the erosion of the safety net, with many more people now needing state support and realising how threadbare it is. People claiming state support in the form of Universal Credit for the first time, for example, have been shocked at how little the state provides for them to live on in times of need. The safety net they assumed was there simply was not. Indeed, in December 2020, for the first in its history, UNICEF provided food aid to help feed children in the UK over Christmas.<sup>68</sup>

The systematic cuts and ideological dismantling of the welfare state have been a very deliberate approach of successive Conservative UK Governments. The social security system has been under sustained attack from right wing politicians and media for considerable time – both in terms of provision and perception. Since 2010, there has been a concerted effort from the UK Government to reduce social security provision and actively punish people for their circumstances. From punitive sanctions, the five-week wait for Universal Credit and the two-child limit and benefits cap, to the Personal Independence Payment (PIP) assessments by private companies that have stripped people of their dignity and the income they need to live, the approach of the UK Government has been detrimental to the lives of people it should be there to serve and support. This has been accompanied by consistent demonisation of social security recipients in newspapers and on television over the past decade, which has resulted in negative views of people living in poverty and provided a more permissive environment for social security cuts.

In his fact-finding mission to the UK in 2018, Professor Philip Alston – United Nations Special Rapporteur on Extreme Poverty and Human Rights – was damning in his assessment of

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<sup>68</sup> <https://www.unicef.org.uk/press-releases/unicef-launches-first-ever-domestic-emergency-response-programme-to-provide-food-support-for-vulnerable-children-across-the-uk/>



poverty levels and the role of the UK Government in creating that poverty. In his view, child poverty levels in the UK were “not just a disgrace, but a social calamity and an economic disaster, all rolled into one.”<sup>69</sup> He also highlighted the disastrous rollout of Universal Credit, which he labelled ‘Universal Discredit’ and noted that preparations from local authorities and the third sector for Universal Credit rollout “resembled the sort of activity one might expect for an impending natural disaster or health epidemic”.<sup>70</sup> Alston further highlighted the disproportionate impact of austerity on people on low incomes, women, black and minority ethnic families, children, single parents and disabled people – indeed, he highlighted the 2016 inquiry by the UN Committee on the Rights of Persons with Disabilities, which found evidence of ‘grave and systematic violations’<sup>71</sup> of the rights of disabled people through social security reforms since 2010, and which were later described by Committee chair Theresia Degener to be a “human catastrophe”.<sup>72</sup>

Philip Alston’s damning indictment was summed up in a single sentence: “The experience of the United Kingdom, especially since 2010, underscores the conclusion that poverty is a political choice.”<sup>73</sup> The UK has failed to treat large sections of its population with dignity and respect. The Social Justice and Fairness Commission contends that that is unacceptable.

#### 5.4.1 Social Security

The Scotland Act 2016 gave the Scottish Parliament additional powers in relation to social security, as well as responsibility for particular benefits. The Social Security (Scotland) Act 2018 set out a framework for delivering social security in Scotland through co-production with the people it is there to support, informed by the expertise of the third sector. At the point of transfer, the Scottish Government was given responsibility for 15% of social security spending in Scotland, while 85% remained reserved at Westminster. How these two governments use their powers over social security tells a powerful story of two parliaments, their approach to government, values, attitudes to the people they are there to serve and the choices that Scotland has to make. Scotland’s social security system demonstrates what an independent Scotland could deliver – a system built on dignity, fairness and respect for those it is there to serve.

The approach of the Scottish Government to tackling poverty and working towards a more socially just country is a model the Commission would like to see developed. It can be characterised as a blend of expanded universal basic services and income supplements for the least well-off. The Scottish Government has simultaneously expanded the scope and provision of universal basic services – with policies such as free prescriptions, free eye tests, the baby box, the expansion of free childcare, free university tuition and free personal care

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<sup>69</sup> Alston, P (2018) Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights

<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881>

<sup>70</sup> Ibid

<sup>71</sup> Quoted in Alston, P (2018), op cit.

<sup>72</sup> <https://www.independent.co.uk/news/uk/politics/government-spending-cuts-human-catastrophe-un-committee-rights-persons-disabilities-disabled-people-a7911556.html>

<sup>73</sup> Ibid

services – whilst taking a targeted approach in terms of social security to supporting those on the lowest incomes and particularly families with children. This has also been combined with an ambitious programme of social housing, which has helped curb rising poverty levels in Scotland.

In their report, 'Poverty in Scotland 2019', the Joseph Rowntree Foundation highlighted the importance of housing costs to solving poverty in Scotland.<sup>74</sup> Their analysis demonstrated that a larger social rented sector and lower housing costs resulted in lower poverty in Scotland than in the rest of the UK, once housing costs had been taken into account. Alongside policies on social security and work, they argue that housing is a key tool for tackling poverty. The Social Justice and Fairness Commission agrees.

The Scottish Government's model is based on producing two outcomes: first, alleviation and reduction of poverty; and second, prevention of poverty.

Social security plays a key role in preventing poverty when our needs are greater (for example when we have children or have a disability) or when we lose income because our capacity to earn is reduced (for example when we are unemployed, sick or have caring responsibilities). Income distribution through the social security system is also a key tool for lifting people out of poverty, while the expansion of universal basic services reduces the cost of living and helps prevent people falling below the poverty line in the first place. Combining targeted income support for families with children – along with universal support in the form of baby boxes, free school meals for nursery and primary school-age children, childcare, and health and wellbeing initiatives like Childsmile and Bookbug – demonstrates a clear focus on poverty prevention through investment in childhood and breaking the cycle of poverty.

The Scottish Government has used its limited powers over social security to build Social Security Scotland – a system based on dignity, fairness and respect and developed in partnership with experience panels involving 2,400 people with lived, first-hand experience of the social security system. Their input consisted of advice and guidance relating to the design and delivery of new social security benefits and is an ongoing feature of the system. This is a system co-produced with the people it is there to serve, which reflects the preferred approach articulated in the Social Renewal Advisory Board's report, 'If not now, when?', which states:

"The Scottish Government, Local Government and the wider public sector should make a commitment that experts by experience will always be involved in shaping and designing policies and programmes that affect them."<sup>75</sup>

It is an approach that stands in stark contrast to the UK Government's system.

A key purpose of the Scottish social security system is to support low-income households, with a strong emphasis on reducing child poverty through a range of payments and support

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<sup>74</sup> Congreve, E (2019) *Poverty in Scotland 2019*, JRF  
<https://www.jrf.org.uk/report/poverty-scotland-2019>

<sup>75</sup> Social Renewal Advisory Board (2021) *If not now, when?*  
<https://www.gov.scot/publications/not-now-social-renewal-advisory-board-report-january-2021/pages/7/>

for such households facing additional costs. Benefits such as the Carer's Allowance Supplement, Young Carer Grant, Child Winter Heating Assistance, Funeral Support Payment and Job Start Payment are therefore focused on helping people on low incomes meet additional costs.

In terms of income support to families with children, a whole range of targeted benefits have been utilised. In addition to Best Start Foods, there is the suite of Best Start Payments paid at key stages of a child's early life. The first element is the Scottish Government's Pregnancy and Baby Payment, which replaced the UK Government's Sure Start Maternity Grant. The other two elements are new payments: Early Learning Payment and School Age Payment. In 2017-18 the UK Government awarded 4,300 Sure Start Maternity Grant payments in Scotland, with a total value of £2 million.<sup>76</sup> In contrast, in its first full financial year of operation from April 2019 to March 2020, the Scottish Government's expanded replacement made almost 65,000 payments<sup>77</sup> totalling £19.2million to families on low incomes through the three Best Start elements.<sup>78</sup>

In addition to the Best Start programme of grants, the Scottish Government has also introduced a new Scottish Child Payment with the first payments made in February 2021. The Scottish Child Payment gives low-income families an additional £10 per week per child under six years of age and has been warmly welcomed by organisations like the Child Poverty Action Group Scotland for the help it offers families who are really struggling to pay for everyday essentials like food, fuel and clothes for their children.<sup>79</sup>

Families need to apply for these benefits, but the Scottish Government has a statutory duty and strategy to maximise take-up of support, in contrast to the Department for Work and Pensions which has no such strategy. With full powers, a future Scottish Parliament could remove the conditionalities that tie the Scottish Child Payment to Universal Credit as part of more transformational social security protection in Scotland.

It is important to reflect on the fact that part of the Scottish Government's approach to social security, as with areas across the devolved powers, has involved mitigation of the effects of UK policies. In terms of social security, a notable example is discretionary housing payments for households in Scotland affected by the UK Government's Bedroom Tax, which brings us to the limitations on Scottish Government capabilities in terms of social security and eradicating poverty.

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<sup>76</sup> <https://www.fiscalcommission.scot/wp-content/uploads/2019/11/4-Sep-2018-From-DWP-on-figures-for-Scottish-Social-Fund.pdf>

<sup>77</sup> Scottish Government (2021) Best Start Grant and Best Start Foods: high level statistics to 30 November 2020- tables: Table 2 (15,485 pregnancy and baby payments, 31,070 early learning payments and 18,165 school age payments were authorised in 2019-20) <https://www.gov.scot/publications/best-start-grant-and-best-start-foods-high-level-statistics-to-30-november-2020/>

<sup>78</sup> Ibid, Table 12 (Payments totalling £6.64million for pregnancy and baby payments, £8.05million for early learning payments and £4.54million for school age payments were issued in 2019-20)

<sup>79</sup> <https://cpag.org.uk/news-blogs/news-listings/new-scottish-child-payment-absolute-game-changer-fight-end-child-poverty>

## What are the limits on action?

The vast majority of social security spending remains reserved at Westminster. Without fundamental powers over key areas like Child Benefit, Universal Credit, the State Pension and Pension Credit, there are limits to what the Scottish Government can achieve. Further, although the Scottish Parliament is now empowered to create new benefits, and to top up existing ones, the ability to exercise this power is restricted by the limited control the Scottish Parliament has over taxation and by its very limited borrowing powers. It should be remembered that social security expenditure is counter cyclical, which means that expenditure automatically rises during economic downturns whilst revenue from taxation falls. A sovereign government is able to borrow to make up the difference during a downturn. This option is not open to Scotland under devolution. The pandemic has highlighted the limitations of Scotland's powers vividly.

Nonetheless, the Scottish Government has used the powers it has over social security to fight against poverty. It has used its powers to mitigate the bedroom tax, protected low income households by preserving the Council Tax Reduction Scheme (which was 'localised' to local authorities in England with a 10% cut in funding), and established the Scottish Welfare Fund to protect and expand payments that had previously been made under the Social Fund, which Westminster also localised.<sup>80</sup> Moreover, the Scottish Government has also established new forms of support, the Best Starts Grants and Scottish Child Payment just two examples. Much more could be achieved if the Scottish Government had full control over social security policies: an end to the unacceptable wait for support through Universal Credit; scrapping of the two-child limit and benefit cap, and the inhumane exemptions; an end to punitive sanctions; and a consistent approach across the whole system that treats people with dignity, fairness and respect. Professor Philip Alston, the UN Special Rapporteur on Extreme Poverty and Human Rights, noted, as things stand, 'Devolved administrations have tried to mitigate the worst impacts of austerity, despite experiencing significant reductions in block grant funding and constitutional limits on their ability to raise revenue.' However, he added, 'mitigation comes at a price and is not sustainable.'<sup>81</sup> With full powers over social security and an expansion of the Scottish Government's framework, we could make a huge difference to the lives of a great many people in Scotland.

The Scottish Government is taking action now to tackle poverty – with the full powers of independence we could roll that out across all aspects of the social security system to make even greater progress at lifting people out of poverty. In examining our options to reduce poverty over time, we need to first consider the immediate options available to us under devolution with limited powers over social security, then the early action we could take with independence to lift more people out of poverty, and ultimately longer-term options that prevent poverty altogether.

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<sup>80</sup> Stephens, M with Fitzpatrick, S (2018) *Country Level Devolution: Scotland*, Social Policy and Distributional Outcomes Research Paper 1, London: London School of Economics

<sup>81</sup> Alston, P (2018) Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights  
<https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23881>

## Defining and measuring poverty

The first, crucial, step in eradicating poverty is agreeing a definition and measurements of poverty. We all need to know what it is we are actually working towards. The current 60% of median income line is an arbitrary way of defining and measuring poverty: it means little to most people and does not reflect the nature of poverty. It is vital to have a definition of poverty that has meaning to people. The Social Justice and Fairness Commission recommends we embrace the Joseph Rowntree Foundation definition of poverty in the UK, which is “not being able to heat your home, pay your rent, or buy the essentials for your children. It means waking up every day facing insecurity, uncertainty, and impossible decisions about money. It means facing marginalisation – and even discrimination – because of your financial circumstances. The constant stress it causes can lead to problems that deprive people of the chance to play a full part in society.”<sup>82</sup>

As part of their work on measuring poverty, the Joseph Rowntree Foundation identify a series of concepts, including:

- Relative income poverty, often measured by the proportion of households that have less than 60% of contemporary median income
- Absolute income poverty, where households have less than 60% of the median income in 2010/11, uprated by inflation
- Material deprivation, where households are unable to afford certain essential items and activities
- Destitution, where households are unable to afford basics, such as shelter, heating and clothing.<sup>83</sup>

JRF has also developed a ‘**Minimum Income Standard**’ (MIS), which has been co-produced with members of the public and defines what people agree is a “sufficient income to afford a minimum acceptable standard of living.”<sup>84</sup> This approach is crucial to developing our approach to tackling poverty, because it recognises that defining, measuring and tackling poverty is about so much more than moving people over an arbitrary income line. Another important difference between MIS and relative poverty standards arises from the adjustments made for different household types. For example, MIS implies a relatively higher income for children, compared to the (arbitrary) equivalence approach used in the relative income poverty calculation.

It should be noted that the MIS is considerably higher than the relative income poverty threshold across different household types on a before housing cost basis. The gap is somewhat smaller on an ‘after housing cost’ basis, but is still large for all groups other than pensioners. Given that existing benefits are (with the exception of pensioners) set a long way below even the relative poverty threshold, the adoption of MIS as a target would be very ambitious indeed. It therefore makes sense to retain existing targets based on the 60% measure (which forms the basis of targets set out in the Child Poverty (Scotland) Act)

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<sup>82</sup> Joseph Rowntree Foundation What is Poverty? <https://www.jrf.org.uk/our-work/what-is-poverty>

<sup>83</sup> Ibid

<sup>84</sup> Ibid

alongside the adoption of the MIS. Nonetheless the Commission believes that the adoption of a Scottish MIS provides a more reliable guide to the adequacy of incomes than current official measures and is likely to have greater resonance with the public.

**Table 1: Minimum Income Standards compared with threshold for relative low income (£ per week)**

	Single, working age	Couple, pensioner	Couple, 2 children	Lone parent, 1 child
<b>Before housing costs</b>				
Threshold	£206	£308	£431	£268
MIS (exc. childcare and council tax)	£296	£370	£553	£382
<b>% difference</b>	<b>44%</b>	<b>20%</b>	<b>28%</b>	<b>42%</b>
<b>After housing costs</b>				
Threshold	£156	£268	£375	£209
MIS (ex. childcare, council tax, water rates, rent)	£198	£280	£453	£288
<b>% difference</b>	<b>27%</b>	<b>4%</b>	<b>21%</b>	<b>38%</b>

Note: MIS is for the UK in 2019; the Threshold for relative low income (60% median income) is for 2017/18  
Source: Francis-Devine, B (2020) *Poverty in the UK: statistics*, House of Commons Library Briefing Paper 7096

## Eradicating poverty – Three Key Stages

### Stage 1 - Action now:

We have detailed the key actions being taken by the current Scottish Government to both alleviate and prevent poverty. The framework of dignity, fairness and respect which underpins the Scottish social security system is a strong foundation on which to move forward, and to ensure the realisation of rights and advance greater equality of outcome by eliminating discrimination. The targeted approach to raising incomes of those with the least in our society, combined with an expansion of services in key areas like children’s health and wellbeing and social housing, are having positive effects.

The new Scottish Child Payment will make an important contribution in helping reduce child poverty, and there are already calls to utilise that payment to increase the income supplement to the poorest families and lift even more over the poverty line. The Commission supports calls to make that investment a priority for the Scottish Government, as it is rolled out to older children. We further believe that it is essential to keep the delivery model under review to ensure that it is achieving the take-up and anti-poverty impact intended.

A notable and significant difference between the Scottish and UK governments on social security is the issue of benefit take-up. The Scottish Government placed itself under a statutory duty to increase benefit take-up in their 2018 legislation, a duty that the UK Government did not put in place. When you have a social security system that is so heavily means-tested, a strategy for income maximisation through high take-up is even more vital. Awareness-raising campaigns are part of that process, as well as funding services like those

provided by the country's network of Citizen Advice Bureaux. However, we would also advise the Scottish Government to consider rolling out schemes that have been shown to increase take-up amongst hard to reach groups, who are less likely to actively seek out support.

Where we have powers over social security in Scotland we are making better decisions on how to use them, and the transfer of additional areas of social security prior to independence should be pursued with urgency.

## Stage 2 – Early action upon independence:

With independence, and the acquisition of full powers over social security, the immediate priority of the Scottish Government should be to repair the damage that has been done by the UK Government, which has led to destitution, including a growing dependency on food banks. The Joseph Rowntree Foundation described 'a rising tide of destitution' and an intensification of destitution since 2017, which has been further exacerbated by the Covid-19 pandemic. The JRF study measured destitution in two ways: lack of access to essentials (such as shelter, food, heating, lighting, clothing and footwear, and basic toiletries) and extremely low or no income.

Among many damning findings from JRF is that its "best estimate is that the number of children experiencing destitution at any point in 2019 has risen by 52% when compared to 2017," before concluding that, "In a society like ours, this is intolerable."<sup>85</sup> The Social Justice and Fairness Commission wholeheartedly concurs with this assessment.

We need urgent action to repair the holes in the safety net that have emerged since 2010. We must reverse policies like the two-child limit, the pernicious rape clause, and the benefit cap and benefits freeze, bring an end to the five-week wait for Universal Credit (which the JRF describe as a 'core driver of destitution'), and remove the punitive system of sanctions that treats those in need of support like criminals.

The first government of an independent Scotland needs to roll out the approach of the current Scottish Government, and build a system that is based on dignity, fairness and respect and co-produced with the people it is there to support.

As resources allow, examples of early action should include the restoration of the value of child benefit and uplifts to the child element within Universal Credit since their value has fallen markedly over the last decade.

Given the importance of housing costs in driving poverty, reforms to the Local Housing Allowance should also be considered. The limit used to be set at 50% of median rent, but it is now only 30%, which means people are having to use inadequate Jobseekers' Allowance income to help pay their rent. The UK Government had allowed this limit to decline even further by freezing it and only temporarily restoring it to 30% in response to the pandemic, up to April 2021.

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<sup>85</sup> Fitzpatrick, S, et al (2020) *Destitution in the UK 2020. Summary*, York: JRF <https://www.jrf.org.uk/report/destitution-uk-2020>

Another early action could be removing discriminatory aspects of the system such as lower benefit rates for people aged under 25 and the Shared Accommodation Rate applied to single people aged under 35. With independence, we must also extend eligibility for support to people with No Recourse to Public Funds.

With independence, we can repair the safety net in the system, and raise the level of that safety net by increasing benefit rates as resources allow – aiming to ensure everyone reaches an agreed minimum income.

The early years of independence are also the right time to look ahead. It is the right time to have a national conversation about what kind of social security system we want to have – which in turn addresses the bigger question of what kind of society we want to live in. As part of this process, the Commission believes that this would be the right time to establish pilots of the two models of social security that we explore in more depth in the following section, namely Universal Basic Income and the Minimum Income Guarantee.

### Stage 3 – Longer-term goals:

In the early days of independence, it is vital we do all we can to lift as many people as possible out of poverty as quickly as we can. Therefore, while we maximise the effectiveness of the current system and model – rolling out the Scottish Government’s framework of dignity, fairness and respect across the entire social security system – we must also take a broader view of the role of social security. Providing a safety net and ensuring people don’t fall into poverty is one crucial role of social security. But with independence, we have the opportunity to rethink the model of social security and the different functions it can serve to help create a wellbeing society.

Even if we plug the holes in the safety net, increase benefits and make improvements across social security, we need to consider the wider structural inequalities in our society arising from race, sex, and disability discrimination, and the gendered and racialised dimensions of labour market participation, unpaid care work and volunteering, parenting and family structures, domestic abuse and gender-based violence. We also need to examine the issues that arise from a means-tested system, and how to ensure people don’t fall through the gaps. For example, we might ask how the state recognises, values and rewards hard work and contributions beyond labour market participation, specifically including unpaid care. Such questions focused our interest on the concept of a Universal Basic Income as one longer-term option for Scotland with independence, which is why we have interrogated both its strengths and potential, alongside its challenges and trade-offs. In so doing, we have also considered an alternative Minimum Income Guarantee approach as a means to achieving an agreed minimum income for all.

It is important to recognise that no country in the world has yet completely eradicated poverty, and each system of social security comes with unavoidable trade-offs. However, independence, and the powers that come with it, provide us with an opportunity here in Scotland to reach for that goal, and we should take it. Otherwise, the alternative is to accept that this is as good as it gets for a significant proportion of our population. The Commission



believes we can work together to build a system that is vastly better than the UK government currently provides.

Our advice to the first government of an independent Scotland would therefore be to take immediate action to repair the income safety net, increase benefit levels and roll out the dignity, fairness and respect framework across social security. However, at the same time, it must put the foundations for a longer-term transformation of social security in place, reflecting its role in eradicating poverty, and taking into account an evolving model of labour market participation that rewards wider contributions to our society and demographic transfers. Most social security transfers under the current model are across the lifecycle – to children and older people – and not from the wealthier to the poorer. This poses a fundamental question about how we ensure a secure income throughout our lives. It must be a system of social security that delivers more than just a bare minimum safety net – it should also play a central role in building a wellbeing society.

The Commission has highlighted the opportunity of democratic renewal with independence, and the chance to change how we make decisions at every level. We therefore propose the early establishment of an independent **Living Income Commission**, which would encompass social security policy and employment policy. The Living Income Commission would define the agreed Minimum Income Standard (MIS), set out the minimum income that the state should provide, agree rates of social security payments, and set the rate of the Scottish National Living Wage. It is crucial these decisions are considered by the same body to ensure a consistent and coherent approach – an approach that reflects the different sources that constitute a secure income and the relationship between social security and work. Work is not a guaranteed route out of poverty for people in 2021, and in-work poverty has been growing for some time. Work is only a route out of poverty if it is fair work, with fair pay that is sufficient to meet the cost of living. The Living Wage is therefore a key tool in driving income up to fair levels.

The Living Income Commission would draw on the Joseph Rowntree Foundation's Minimum Income Standard (MIS) method, which since 2008 has detailed the incomes required by different types of household in order to reach a minimum acceptable living standard in the UK. Their approach is based on regular research involving groups of members of the public agreeing on the things people need in order to meet material requirements and participate in society.<sup>86</sup> It should also utilise Citizens' Assemblies and other means of co-production, such as the experience panels that shaped the design of Social Security Scotland, and lived experience advisory groups like the Community Activists Advisory Group, who inform the work of the Poverty Alliance. It is vital that policies that have such a crucial bearing on the lives of so many people in Scotland are co-designed and co-produced with the people government is there to serve, incorporating lived experience and also expertise across the third sector, academia, social enterprise and others. Public support is crucial to achieving the sustained transformative changes needed to eradicate poverty and build a fairer system.

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<sup>86</sup> Davis, A, et al (2020) *A Minimum Income Standard for the UK in 2020*, York: JRF

That is why policies must be grounded in consensus across our society, and able to weather changes in government and economic downturns.

## Universal Basic Income and Minimum Income Guarantee

One of the most challenging issues to grapple with is how best to provide the safety net of a secure minimum income. We can strengthen the current social security system, combining means-tested benefits with elements of greater universality in relation to transfers across the life cycle, such as the State Pension and Child Benefit. In terms of immediate and effective action to lift more people out of poverty, this is the most viable short-term option.

However, it has limitations as both a safety net and a means to create a fairer Scotland that values contributions beyond labour market participation. In a wellbeing society, how do we ensure no one is left behind, and how do we properly recognise the value of unpaid work like care and volunteering, which are essential to the health and wellbeing of individuals and our society? A sufficiently high unconditional income could enable people to carry out socially and economically beneficial activities such as caring or voluntary work, whilst preserving dignity and autonomy. The Commission devoted a considerable amount of time to interrogating this issue, and specifically the prospect of introducing a Universal Basic Income in an independent Scotland.

## Universal Basic Income

A Universal Basic Income (UBI) is founded on the premise that the state should provide everyone with a standard minimum income without means-testing. The Scottish Basic Income Steering Group set out five key principles of UBI: it should be universal, unconditional, recurring, individual (not household), and cash-based (not vouchers or in-kind).<sup>87</sup> It is a simple idea, but complexities arise when we acknowledge there are a multitude of different models offering different definitions of what should constitute a minimum, with both partial and full UBI models requiring the retention of additional means-tested and other benefits, such as housing and disability benefits. There are significant potential advantages, but also considerable difficulties with delivering a Universal Basic Income – not least in relation to costs of delivery: an acceptable income for everyone would require levels of taxation that are significantly higher than they stand at present.

One of the main criticisms of UBI is that an affordable version does not lift people out of poverty on its own, and to set UBI at a level that does would require prohibitive levels of taxation. It is clear from proposals from organisations such as the Royal Society for Arts, Manufactures and Commerce<sup>88</sup> and the Scottish Basic Income Steering Group<sup>89</sup> that a partial or low-level UBI (set at existing benefit levels or levels insufficient to maintain an acceptable standard of living alone) would require it to operate alongside existing benefits,

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<sup>87</sup> Citizens' Basic Income Feasibility Study Steering Group (2020) Assessing the Feasibility of Citizens' Basic Income Pilots in Scotland: Final Report  
[https://basicincome.scot/wp-content/uploads/sites/75/2020/06/Draft-Final-CBI-Feasibility\\_Main-Report-June-2020.pdf](https://basicincome.scot/wp-content/uploads/sites/75/2020/06/Draft-Final-CBI-Feasibility_Main-Report-June-2020.pdf)

<sup>88</sup> <https://www.thersa.org/reports/basic-income-scotland>

<sup>89</sup> <https://basicincome.scot/2020/06/10/draft-final-report-cbi-feasibility-study/>

creating complexity. It is equally clear that a move to a full or high-level UBI (where the level is adequate) would take several parliamentary terms to implement and would therefore require existing benefits to be retained during the transition. This would undoubtedly create complexity and mean that some of the benefits of UBI – such as an escape from means testing – would not be attainable during this period. Moreover, since all UBI proposals require the retention of a housing benefit system, means-testing could never be entirely removed.

Another criticism of UBI is that it creates a ‘something for nothing’ culture. But we need to challenge the current perceived dichotomy between those who ‘take out’ and those who ‘pay in’ to the system. We are all taxpayers in one way or another, for example through VAT on goods and services, and there are vital ways in which we can contribute to the economy and society beyond labour market participation, such as domestic labour and provisioning, care for children and other relatives, and volunteering in our communities. Indeed, research by Carers UK suggests that unpaid carers are saving the UK £530million every day in the care they provide for free.<sup>90</sup> As UBI is unconditional, and not dependent on labour market participation, it provides a default income for all, and that is important as we move to a wellbeing society.

The Commission published a detailed discussion paper focused on exploration of the potential advantages and disadvantages of UBI, which we consulted on and presented to the SNP’s National Assembly for debate. This discussion paper is published separately on the Commission’s website. The feedback we received was overwhelmingly in favour of UBI in principle, but with recognition that the concept would require detailed investigation to examine practical implementation as part of a radical overhaul of tax and benefits in an independent Scotland. It is also true that many experts in the field of poverty do not see UBI as the best way to tackle poverty.

The Commission had a number of productive discussions with experts on both sides of the UBI debate, and we really welcome their independent input. It has been clear from their expert advice that UBI is not a silver bullet for the eradication of poverty, nor is it a short-term option. However, the Commission feels that it is a concept, among others, that merits further exploration because of its potential contribution to a vital income safety net with less need for means-testing, as well as its potential to provide unconditional income to volunteers and carers in our society whose contribution is essential and currently extremely undervalued. State provision of a minimum income safety net is a fundamental part of ensuring people have access to a secure living income, and a reflection of the social contract between citizens and the state.

Our goal is to eradicate poverty by ensuring everyone in Scotland reaches the agreed minimum income. UBI is a potential means through which to achieve this aim, but we recognise there are practical and complex issues that require resolution to ensure UBI could

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<sup>90</sup> Carers UK (2020) Unseen and Undervalued: The value of unpaid care provided to date during the Covid-19 pandemic  
[http://www.carersuk.org/images/News\\_and\\_campaigns/Carers\\_Rights\\_Day/Unseen\\_and\\_undervalued\\_171120.pdf](http://www.carersuk.org/images/News_and_campaigns/Carers_Rights_Day/Unseen_and_undervalued_171120.pdf)

deliver in this regard – not least how to ensure those with additional living costs (for example due to childcare, living in an area with higher cost housing, or disability) get the additional support they need, and how the transition from a predominately means-tested to universal system could be managed.

As has been demonstrated by the Department for Work and Pensions' refusal to provide support for a UBI pilot in Scotland, we will need the powers of independence just to evaluate UBI before there can be any plans to move forward with implementation.

## Minimum Income Guarantee

An alternative to UBI is a Minimum Income Guarantee. The concept was outlined by the Joseph Rowntree Foundation in its report, 'Poverty in Scotland 2020: the independent report', in which JRF, "worked alongside a small group of citizens with direct experience of living on a low income, and practitioners we knew well from local support agencies."<sup>91</sup> The advisory group met five times in order to identify key priorities and solutions.

JRF reports that participants were attracted to the idea of a Minimum Income Guarantee for families regardless of age. It would build on the progress that has been achieved for pensioners over the past 25 years, since the introduction of Pension Credit and the restoration of the link between the state pension and earnings, which has driven up its value.

In contrast to UBI, the core payment would not be made to everyone. Rather, it would:

"... set a floor below which no one could fall – a promise of security which we make to each other as a society and which we call upon at times in life when incomes are low or we face the extra costs of disability, illness and caring."<sup>92</sup>

Our understanding of the concept is that a range of instruments, including the minimum wage, tax allowances, income related and other benefits, and pensions, would be utilised to ensure that a minimum income is guaranteed.

The idea is more consistent with the 'capabilities' approach to income distribution than is UBI. Both UBI and MIG have a notion of the guarantee of a certain standard of living. Where they differ is that UBI assumes that the resources required to attain that standard are even, whereas MIG recognises that some people require more resources to attain that standard, for example due to disability or higher housing costs.

We would see MIG as employing a range of income-related and 'categorical' benefits (those aimed at particular groups, such as children) to ensure a minimum income. However, it would also be part of a wider strategy aimed at enabling more people to command higher incomes, for example through reducing educational inequalities, childcare, and tackling structural inequalities in the labour market.

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<sup>91</sup> JRF (2020) Poverty in Scotland: the independent report, York: JRF  
<https://www.jrf.org.uk/report/poverty-scotland-2020>

<sup>92</sup> Ibid, p. 16

JRF accepts that the idea is one that is “only in its early stages” but that it “should be tested further.”<sup>93</sup> The Commission agrees.

## Pensions

Providing a secure income in retirement is one of the most important objectives of any country that seeks to create a socially just society.

The state pension is the largest single item of public expenditure to remain reserved to Westminster. Some £8.3 billion is spent on the State Pension in Scotland, and a further £430 million is spent on Pension Credit.<sup>94</sup> Tax relief on pensions probably costs in the region of £1.6 billion net of tax paid on pension income.<sup>95</sup>

Yet, whilst pensioner poverty is lower now than it was in the mid 1990s, 15% of Scottish pensioners – approximately 150,000 people – live in poverty after housing costs have been taken into account. Further, pensions continue to mirror gender inequalities across society and the economy: at the UK level the gender gap in pension income was 34.4% in 2018.<sup>96</sup> Pension policy therefore provides huge opportunities and responsibilities for reform in an independent Scotland.

In this section we review the evolution and adequacy of pension provision, and then make some proposals that should be considered for reform in an independent Scotland.

### The pension system

When the State Pension was introduced in the 1940s, it was set at a rate that was below the level of the means-tested safety net. Moreover, many people, particularly women, did not qualify for it, because qualification was based on the payment of employment-based national insurance contributions. As a result, there was a high level of dependence on means-tested social security benefits and a high coincidence between old age and poverty. On the other hand, many people who had defined benefit occupational pensions enjoyed relatively comfortable retirements, especially if they were homeowners who had repaid their mortgage. Under the Thatcher Government the State Pension was uprated only by prices, and since earnings then increased more quickly, the value of the pension relative to general living standards continued to decline, leaving many pensioners dependent on ungenerous means-tested benefits such as Income Support.

The introduction of what is now known as Pension Credit marked an important advance in tackling pensioner poverty. It effectively doubled the means-tested entitlement and lifted two million pensioners out of poverty, helping to take the pensioner poverty rate (after housing costs) below that of the general population for the first time. However, in recent

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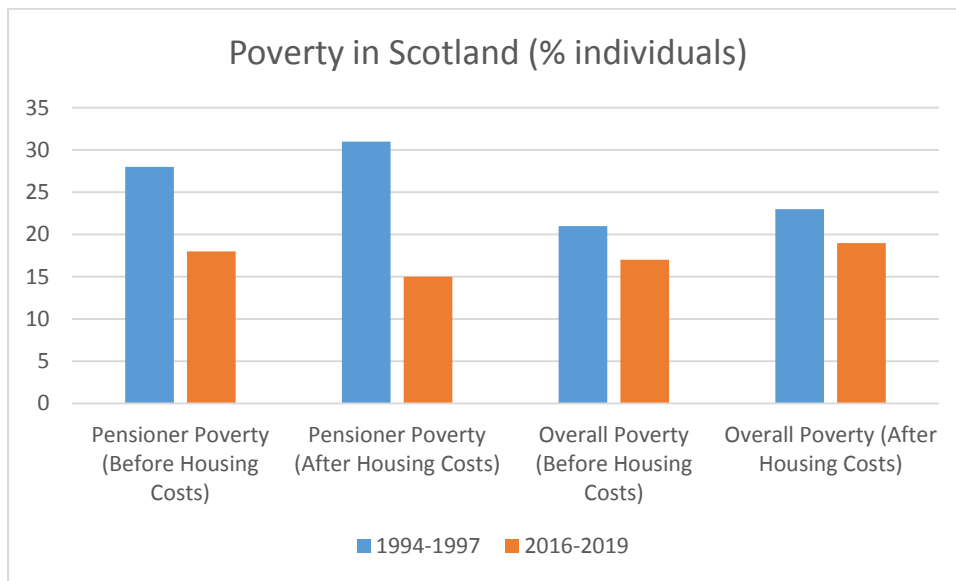
<sup>93</sup> Ibid, p16

<sup>94</sup> DWP (2020) Benefit expenditure and case load tables 2020: benefit by country and region

<sup>95</sup> This is a population share of the HMRC’s UK figure.

<sup>96</sup> Bradshaw, J and Bennett, F (2020) *Assessment of Pension Adequacy: United Kingdom*, European Social Policy Network Thematic Report, Brussels: European Commission

years reductions in the pensioner poverty rate have stalled and were slightly higher in 2016-19 than in 2011-14.



Source: Scottish Government (2020) Poverty & Inequality in Scotland 2016-19 (based on Family Resources Survey)

Pension Credit is a means-tested benefit and take-up is consistently around 60% of eligible households (or 70% of benefit entitlement). Further, the longer-term pressures of an ageing population (increasing the 'dependency ratio') and the decline of occupational pensions meant that Pension Credit alone could not provide a satisfactory long-term solution for income maintenance in retirement.

The Pension Commission of 2002-06, chaired by Adair Turner, led to a series of reforms to state provision that have commanded relative consensus. To tackle the extent of reliance on means-testing, that Commission recommended the restoration of the link between the uprating of the Basic State Pension (BSP) and earnings from 2010 – an approach that is currently enshrined in the 'triple lock', by which it is uprated by prices, earnings or 2.5 per cent, whichever is the greatest. This has enabled the BSP to recover some of its value, which now stands at £134.25 a week. The 'triple lock' also applies to the New State Pension which is available to qualifying people who have retired since April 2016 and which is currently set at a rate (£175.20) just above Pension Credit (£173.75) (rates are for single people) This is having the effect of reducing pensioner dependence on means-tested Pension Credit, the real cost of which has halved in Scotland over the past decade.

The retirement age has also been increased in response to generally longer life expectancy. It is currently 66 and is due to rise to 67 for people retiring between 2026 and 2028. Moreover, the UK government plans to accelerate the next increase by seven years, raising it to 68 for people retiring from 2037-39. This is intended to slow the increase in the cost of pensions arising from the ageing population.

However, the transition to later retirement ages has not been well handled, with some people, especially women born in the 1950s, having been unaware of the changes and being given insufficient time to adjust to them. Many women in this position faced a lifetime of

unequal pay, unequal promotion and discrimination, only to be let down by the government once again. Many had made plans based on their expected retirement age, had wound down employment and/or taken on caring responsibilities, and were given little or no warning that they would need to wait five or more years longer to receive their state pension. This has meant some women born in the 1950s have been forced to apply for Universal Credit, having never used social security before. Others are having to work physically demanding jobs they aren't fit for into their late sixties. It is for these reasons that the SNP has been a strong supporter of Women Against State Pension Inequality (WASPI), a campaign group of women affected by the unfair and poorly communicated changes to their pensions. The Commission believes that it is the responsibility of the UK Government to resolve this injustice with urgency. It is also important to recognise that a further injustice is being perpetuated by the increases in the retirement age, which is that they fail to take into account the great variations in life expectancy across socio-economic groups and different parts of the UK.

The Pensions Commission recommended that the full State Pension should be payable to everyone aged 75 or over on the basis of residence rather than the payment of national insurance contributions. This proposal was intended to extend coverage to many women who did not qualify for the full State Pension because they had not paid sufficient national insurance contributions due to caring and other responsibilities. However, the Government instead reduced the length of insurance contributions required to 30 years.

UK state provision for pensioners is nevertheless higher than the very low level of security benefits for the working age population. Pension Credit in 2017/18 was £159.35 per week for a single person, which contrasts with Universal Credit of just £73.34 for a single person aged 25 and over (and £58.10 for a single person aged under 25). Pension Credit in the same year was £243.25 per week for a couple, compared to just £115.13 for Universal Credit for a couple aged 25 or over. In the same year Pension Credit for a couple was set at almost 80% of the current poverty line (before housing costs) and 66% of the JRF Minimum Income Standard. In contrast, Universal Credit for a single person aged 25 or over was set at just 36% of the current poverty line and 25% of the Minimum Income Standard.

The UK's State Pension and New State Pension are flat-rate (i.e. they are paid at a standard rate) and, in contrast to many countries, are not adjusted to reflect former earnings. This undoubtedly contributes to the UK's 'replacement ratio' being very low in international comparisons. The OECD estimates that the UK's state pension affords average earners a net replacement ratio of just 28.4% (the second lowest), compared with an OECD average of 58.6%. In some countries (for example, Austria and Italy) it is 90% or more.<sup>97</sup> Countries with high replacement rates generally base state pension provision on former earnings. In contrast those countries with lower replacement rates for state provision (which include Germany (51.9%), Japan (36.8%) and Canada (50.7%)), tend to have stronger voluntary (i.e. non-statutory) schemes that operate in parallel to the state scheme. The OECD estimates that on average these add 26 percentage points to the statutory scheme's replacement rate. The UK's overall (statutory plus voluntary) net replacement rate for average earners is 61%

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<sup>97</sup> OECD (2019) *Pensions at a Glance: OECD and G20 Indicators* Paris: OECD

(compared with an OECD average of 65.4%), just below Japan (61.5%) and well below Germany (68%) and Canada (83.3%).

The UK's voluntary pension provision grew up in parallel to the state system in the post-war decades, and by the early 1980s around half of all workers were in schemes that almost always operated on the principle of 'defined benefits' (DB), meaning that benefits were paid (usually as a percentage of final salary) according to contributions and not the performance of the fund. However, membership of DB schemes fell from 46% of employees in 1997 to 28% by 2012 and 27% in 2019.<sup>98</sup> While partly driven by employers' prioritisation of shareholder dividends ahead of worker benefits and by increases in longevity up to 2010 (which have since stalled or even reversed), the sharp decline was largely an unintended consequence of UK government policy. Nigel Lawson's 1986 decision to tax pension scheme surpluses encouraged schemes to reduce surpluses via unsustainable measures such as benefit increases (e.g. early retirement with little or no pension reduction) and significantly reduced employer contributions ('contributions holidays', lasting in some cases almost 20 years). Following the Robert Maxwell scandal the 1995 and 2004 Pensions Acts not only failed to prevent other opportunistic employers such as Philip Green leaving pension schemes high and dry, but increased the financial and risk burden on DB schemes by imposing on all – including those open to new joiners – a valuation methodology and deficit recovery obligations far more appropriate to schemes that are closed to new joiners or to future accrual. Most private sector employers duly responded by closing their DB schemes. Replacement employer-sponsored schemes and individual private pensions (usually the sole option available to self-employed people) all use the defined contribution (DC) model, based on the performance of the fund, so passing risk on to the individual. Such schemes rarely provide adequate replacement ratios owing to low contribution rates, poor investment performance and the uncertainty of what benefits will be available for purchase on retirement.<sup>99</sup>

The reforms to state provision that followed from the Pension Commission's report contained the establishment of a quasi-compulsory workplace pension scheme, based on auto-enrolment of people aged 22 and over and earning at least £10,000. The scheme appears to have been successful in increasing the participation rate in workplace schemes from around half to three-quarters. A European Social Policy Network (ESPN) report suggested that, "DWP analysis shows numbers of women in the private sector without a workplace pension halving and gender parity in pension participation between eligible men and women in the private sector."<sup>100</sup> However, the report also points to trade union evidence that women are over-represented in industries with lower levels of take-up.

Private and occupational pensions do benefit from generous tax treatment by exempting contributions (within limits) from taxation and allowing for a tax-free lump sum to be paid

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<sup>98</sup> ONS (2019) *Employee workplace pensions in the UK: 2019 provisional and 2018 final results* <https://www.ons.gov.uk/releases/employeeworkplacepensionsintheuk2019provisionaland2018revisedresults>

<sup>99</sup> See [www.ipe.com/auto-enrolment-success-masks-inadequate-savings-rates-industry-warns/10031822.article](http://www.ipe.com/auto-enrolment-success-masks-inadequate-savings-rates-industry-warns/10031822.article)

<sup>100</sup> Bradshaw, J and Bennett, F (2020) *Assessment of Pension Adequacy: United Kingdom*, European Social Policy Network Thematic Report, Brussels: European Commission



on retirement. These concessions are worth most to high earners, and therefore generally more to men, because they are likely to make the greatest contributions and because the tax is deducted at the employees' marginal tax rate. HMRC statistics for 2017/18 show the value of tax reliefs on pensions to have been £37 billion at the UK level, two-thirds of which was claimed by higher rate taxpayers. Even if the income tax subsequently paid on pensions is taken into account, the cost was still £19 billion.

In the 1970s there was an attempt to extend the benefits of earnings-related pensions to more of the population through the State Earnings Related Pension (SERPS). SERPS aimed to provide a pension worth 25% of former earnings in addition to the State Pension for people earning between a lower and upper limit. The Thatcher governments reduced it to 20%. It was later replaced by the Second State Pension which was introduced in 2002 in order to make the scheme more progressive and to extend its benefits to some carers, people with long-term illnesses or disability. This, in turn, gave way to the New State Pension, which provides a more generous (but flat-rate) alternative to the Basic State Pension for people retiring after April 2016. This has helped to extend coverage and is paid at a higher rate than the BSP, but it means that autoenrollment into workplace schemes is in effect the only route to earnings-related pensions for many people.

## Pension policy after independence

One of the key lessons of UK pension policy is the need to construct a long-term policy that does not chop and change. This is important in many policy areas, but none more so than pensions because people have to make decisions decades in advance of retirement. In order to construct durable, long-term policy, it is necessary to gain consensus, not only across the political spectrum but also among the people who call Scotland their home. That is why our proposed **Living Income Commission** would include pension provision as part of its work to ensure a secure living income for all throughout life.

Having considered the evolution and operation of the UK pension system the Commission has identified the following ideas that can inform policy development by the Living Income Commission in an independent Scotland:

### **Increase take-up of Pension Credit:**

One of the key weaknesses of the current system is that take-up of Pension Credit is too low. The European Social Policy Network report identifies this as being the main driver of pensioner poverty. It is simply not acceptable that one in four people who are entitled to assistance do not receive it. An early priority for any Scottish Government would be to devise a strategy to increase take-up.

### **Age of entitlement to Pension Credit:**

As Pension Credit becomes less significant overall, the opportunity to strengthen it as a safety net increases. The biggest inequality of all is the differences in life expectancy between different socio-economic groups. Since people in less privileged socio-economic groups have lower life expectancies – and are likely to have less pension provision – than others, there is a case for making the age of qualification for Pension Credit lower than for the state pension.

**Pay the New State Pension rate to all pensioners:**

This would mean increasing the Basic State Pension to the New State Pension rate, from £134.25 to £175.20. The European Social Policy Network (ESPN) report argues that at a UK level this would cost between £1-2 billion, which is around 1-2% of the total cost of the state pension. As well raising incomes for pensioners entitled to Pension Credit, but who do not receive it, it would avoid the necessity of administering the means test for a diminishing number of pensioners.

**Move to residence as the basis of qualification for the New State Pension:**

The UK pension system has always been founded on qualification being principally dependent on employment record, with credit systems being available for recognised carers. Arguably, a fairer system would be to base entitlement on the length of residence in Scotland. This would help to address the gender gap in pension income.

**Review the tax treatment of pensions:**

The privileged and highly gendered tax treatment of private pensions is a long-standing feature of the pension system, and it is important not to discourage people from saving, particularly lower income workers who are being auto-enrolled into workplace pension schemes. However, most of the benefit is enjoyed by higher rate taxpayers and the system is both expensive and regressive. It should be subject to review to consider how it could be made fairer, for example by applying tax relief on pension income rather than pension contributions.

**Consider the introduction of a statutory earnings-related pension:**

The ESPN report argues that dependence on private pensions for pension provision above the flat-rate Basic/New State Pension means a lack of distribution to low earners and/or carers. This group includes a disproportionate number of women. The ESPN report argues that it would be possible to include an earnings-related element through a state scheme, and possibly also through the regulation of private schemes provided that there was some subsidy.

**Encourage occupational Defined Benefit schemes that are open to new joiners:**

Even if the medium-term aim is to build statutory earnings-related pensions, DB schemes that are open to new joiners will remain an important component of pension provision for a substantial interim period. There is a case for deficit recovery obligations on open DB schemes to be eased significantly, for example by requiring only a triennial plan to improve the funding ratio by at least a certain percentage (specified in legislation) instead of the present obligation for a plan that eliminates a deficit entirely. Valuation regulations for such schemes could also be rationalised, e.g. allowing calculation of deficit figures by best estimates (rather than requiring prudent margins on all assumptions) and removing the regressive requirement for increased contributions from employers whose covenant is judged weak (who could instead simply be subject to more detailed monitoring by the relevant regulator). New DB schemes and the reopening of closed schemes could be encouraged by offering an 'introductory period' (e.g. 6 years) of statutory subsidy and/or special, less onerous valuation requirements.

### **Consider introducing pension indemnity assurance to replace the Pension Protection Fund model underpinning all occupational DB schemes:**

There are several problems with the Pension Protection Fund (PPF) model for underpinning DB schemes: it places an additional financial burden on employers; PPF benefits are at best 90% of the promised scheme benefits (often much lower); the PPF itself is effectively an investment competitor to the schemes it is supposed to protect; and it faces the same risks as those schemes do (from increased longevity, for example). A pension indemnity assurance model (as used in Sweden) offers advantages on all these counts, and importantly introduces an inherent longevity hedge into the system as a whole.

### **Living income Commission**

The Social Justice and Fairness Commission's advice to the first government of an independent Scotland would be to task the new **Living Income Commission** with developing alternative models for social security, such as a system of Universal Basic Income (UBI) or a Minimum Income Guarantee (MIG) approach, with the objective of achieving a **Minimum Income Standard (MIS)** for all. It should also examine what role insurance benefits would have in a new system. Crucially, this must be developed using the participative policy-making model we have outlined above. Both UBI and MIG are bold, transformative policy options that would require consensus over decades to successfully implement.

It is therefore important that, as much as possible, we start that work now. In advance of Scotland securing independence, we recommend the establishment of a **Minimum Income Standard Group**, which would bring together different political parties, organisations and individuals to focus on the key questions posed by alternative models around eligibility for new citizens, additionality for those with higher living costs, and implications for housing, public services, taxation and employment. In the course of this work, alternative models must be explored in detail.

### **5.4.2 Fair work**

State provision of income or income supplements for those who need them are a vital part of the overall picture. However, it is equally important that we consider how to ensure that paid work delivers a secure living income too. We want to live in a Scotland where everyone can flourish, not simply get by.

With independence, we have the potential to make work really work for us all, with fair pay, good working conditions, enhanced rights, greater flexibility and the work/life balance that is vital to our wellbeing, and great for productivity too. It's a win/win for employees and employers.

### **Fair work for all**

'Fair work' is exactly what it says it is – it provides fair reward, security and fulfilment for workers. It offers access, opportunities and respect to employees too, providing them with an effective voice and allowing them to exercise choice and control over their working lives in safe, equal and inclusive working environments.

Fair work is also fair for employers, offering scope to improve productivity and encourage innovation, adding value to jobs and businesses and driving sustainable and inclusive growth.

Rights and responsibilities are key – fair work balances these for employers and workers. Investment in fair work is investment in everyone, for everyone, offering benefits for individuals, organisations and society. The Social Justice and Fairness Commission therefore considers fair work to be critical to the wellbeing-focused society and economy we seek.

## Fair work under devolution

The Scottish Government's pursuit of fair work within its wider employment support agenda should be recognised. It set up the independent Fair Work Convention in 2015 and published a fair work framework the following year – rooted in partnership working between employers, workers and trade unions – to support it in its aspiration to become a world-leading fair work nation. The Fair Work Convention identified five dimensions of fair work: effective voice, opportunity, security, fulfilment and respect. The Commission accepts these as defining characteristics of fair work. These efforts are focused on committing employers to: invest in skills and training; tackle the gender pay gap; achieve genuine workforce engagement (such as trade union recognition); pay the real living wage; and avoid inappropriate use of zero-hour contracts.<sup>101</sup>

This commitment has been turned into positive actions and initiatives such as the Gender Pay Gap Action Plan, Workplace Equality Fund, Scottish Business Pledge, Women Returners Programme, Carer Positive Scheme, Family Flexible Scotland and Facility Time Reporting.

## The real living wage

The Scottish Government has led from the front on promoting payment of the real living wage in Scotland, with all staff in its pay scheme, including NHS staff, being paid that rate as a minimum since 2011. It has also placed particular focus on encouraging and driving significant improvements in long undervalued caring sectors such as adult social care and childcare, where low wage rates for predominantly female workforces have been the norm for generations. Scottish Government actions have delivered tangible and substantial benefits across all sectors. By the end of January 2021 more than a quarter of accredited living wage employers in the UK – employers who are committed to paying wages that meet the real cost of living – were based in Scotland (1,930 out of 7,111 across the UK as a whole).<sup>102</sup>

The pandemic has created enormous uncertainty in labour markets in Scotland, the UK and across the globe, and threats to jobs and employment will continue to bear down on all of us as a direct consequence of it in the months and years ahead. The living wage has, however, provided comfort for many in extraordinarily difficult times and Scottish action to promote it has delivered significant benefits. Analysis carried out by Cardiff Business School

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<sup>101</sup> Scottish Government (2019) Fair Work Action Plan: Fair Work First  
<https://economicactionplan.mygov.scot/fair-work/fair-work-first/>

<sup>102</sup> <https://www.livingwage.org.uk/accredited-living-wage-employers>

found that by November 2020 almost £240 million in extra wages had gone to low-paid workers in Scotland thanks to the living wage movement, including over £42 million since the start of lockdown, and that the 2020/21 increase in the living wage would see 45,600 workers in Scotland benefit from a vital pay boost.<sup>103</sup> The Living Wage Foundation recognises that Scotland is leading the UK: almost 84.8% of workers in Scotland were paid at least the living wage in April 2020, compared to 79.7% across the UK as a whole.<sup>104</sup>

But while the Scottish Government deserves credit for its comparative living wage successes, achieved by utilising the tools available to it under devolution, the flip side is that 350,000 of our nation's workers – over 15% of the total – are still paid less than the real living wage, and that the impacts are felt particularly acutely by women, young people, disabled people and those from black and minority ethnic backgrounds. As we have made clear throughout this report, the Social Justice and Fairness Commission believes that everyone in Scotland should have enough money to live on, that this is a realistic and achievable aspiration, and, indeed, that it should become a requirement.

## Fair work and the pandemic

The pandemic delivered one of the most dramatic shocks to employment and workforce structures and practices in history. Lockdown meant that, almost overnight, hundreds of thousands of people were unable to go to work and do their jobs. The UK government's Coronavirus jobs retention scheme offered protection to 779,500 Scottish jobs at its peak – almost a third of the workforce – and forced employers and employees to make radical changes to their practices as they sought to get back to work.

One of the most profound and generally welcomed transformations relates to the enormous growth in home working. Many groups and individuals have spent years advocating and campaigning for increased flexibility to move away from people being forced to undertake a daily commute to central office spaces, but it took the shock of the pandemic to revolutionise home working and open people's eyes to the scale of what is possible in the digital era. That has been enormously beneficial to swathes of working people in Scotland and across the world, and it seems unlikely things will go back to the way they were in the pre-pandemic era.

But just as it is important to recognise the benefits of the Covid-necessitated revolution in home working, it has also cast light on the structural inequalities in our society and our reliance on people – often undervalued – who go out to work and put themselves at risk in order that our society and economy can continue to function. NHS staff and key workers – including thousands of care workers profiled in this report – were applauded from our doorsteps. And then there are the cleaners and shop workers, the hospitality workers and street cleansers, the farm workers and fruit pickers to name but a few – who perform essential jobs that cannot be done from home, and often for low rates of pay. The

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<sup>103</sup> <https://www.povertyalliance.org/real-living-wage-increases-to-9-50-in-scotland/>

<sup>104</sup> Living Wage Foundation (2020) Employee Jobs Paid Below the Living Wage:2020  
[https://www.livingwage.org.uk/sites/default/files/Nov%202020%20-Employee%20Jobs%20Paid%20Below%20the%20Living%20Wage%20LWF%20Report\\_0.pdf](https://www.livingwage.org.uk/sites/default/files/Nov%202020%20-Employee%20Jobs%20Paid%20Below%20the%20Living%20Wage%20LWF%20Report_0.pdf)

pandemic has brought class and gender inequalities and their effects into sharp focus. We should not only recognise this but also take action to remedy these deficiencies in our employment structures.

Tracey Warren, Clare Lyonette and the Women's Budget Group argue that working class women in particular are carrying the burden of the pandemic across the UK. They highlight that 48% of men and 60% of women working in 'semi-routine and routine' jobs were key workers in June 2020 and that frontline health and social care, education and childcare jobs – disproportionately carried out by women – have high levels of social interaction and carry risks of virus exposure. They also evidence that even when work tasks can be performed from home some or all of the time, such 'perks' are more reserved for middle class employees. Moreover, since working class women are most likely to be primary carers – frequently in household contexts where there is financial strain – they are more susceptible to interruptions to employment over the course of their lives. And on top of that they very often can only work shorter hours when they are in paid employment, because their caring responsibilities at home don't go away. Such factors combine to create disproportionately negative impacts on overall levels of wellbeing among working class women. The authors argue that governments should be planning for a care-led recovery by investing in social infrastructure such as health, care and education as well as physical infrastructure:

“Investment in social infrastructure creates more than twice as many jobs as investment in physical infrastructure and we have seen only too clearly how care is as vital to the economy as roads and rail.”<sup>105</sup>

It is also important to recognise that home working and flexible working are not the same thing – although the opportunity to work from home is desirable for many people, without flexibility around working hours, for example, balancing other responsibilities such as caring at home can remain an enormous challenge. The pandemic has thrown up and highlighted a number of realities that it might have been difficult to predict. For example, with schools closed during lockdown, countless families were faced with dilemmas when it came to conflicting responsibilities in terms of carrying out paid employment and supporting their children's learning at home. And with more people at home during the day, household pressures and strains often increased. There was often more housework to be done and more bodies were spending more time in confined physical spaces where new forms of work and activity were now taking place, such as paid employment and home learning. It stands to reason that families with lower incomes, smaller houses and less outside space have been hit hardest.

Research has shown that families have struggled as they have had to devote more time to home schooling and housework during the pandemic, often with less money coming in, and with less time and ability to undertake leisure activities and exercise, with knock-on impacts

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<sup>105</sup> Warren, T, Lyonette, C & Women's Budget Group (2020) Are we all in this together? Working class women are carrying the work burden of the pandemic, London <https://blogs.lse.ac.uk/covid19/2020/11/12/are-we-all-in-this-together-working-class-women-are-carrying-the-work-burden-of-the-pandemic/>

on overall wellbeing levels.<sup>106</sup> <sup>107</sup> Moreover, women have disproportionately been disadvantaged by the pandemic's impacts in terms of work at home, often having to take on more of the educational and caring work as well as housework. Let us not forget either that lockdown hit single parent families particularly hard, and it should be noted that 90% of these families are headed up by women. This throws up challenges in terms of how any forward-looking government can establish conditions that enable flexible working that benefits all families and all people, particularly women, and how it can create conditions that mean flexible working is not only the preserve of those who can afford to do it.

During the pandemic 'fire and rehire' tactics have become widespread, with new polling finding that nearly one in ten workers had been told to reapply for their jobs on worse terms amid the Covid crisis. The UK wide research, commissioned by the TUC and conducted by BritainThinks, revealed that almost a quarter of workers – 24% – reported that their working terms, such as pay or hours, had been downgraded since the first lockdown in March last year. One in three workers – 34% – between the age of 18 and 24 said their terms at work had deteriorated since the first wave of the pandemic, and nearly a third of workers – 30% – earning below £15,000 reported the same.<sup>108</sup>

The Commission does not believe that fire and rehire tactics have a place in a modern and fair Scotland and contends that they should be outlawed. The UK Government has further delayed its employment bill and, regardless, there is no guarantee that this practice would be tackled by the bill. It has also refused to accept a proposed SNP bill, supported by unions, which would ban the practice.

There is also concern about attempts to water down hard-won workers' rights from the EU. The Financial Times reported in January 2021 that a proposed package of deregulatory measures was being put together by the Department for Business. The plans included ending the 48-hour working week, 'tweaking' rights to rest breaks at work, not including overtime pay in holiday pay entitlement calculations, and scrapping the need for businesses to log daily reporting of working hours.<sup>109</sup>

### **Urgent action required: devolve employment law to Scotland now**

The Social Justice and Fairness Commission gives its unequivocal backing to Scottish Government calls to fully devolve employment law to the Scottish Parliament as a matter of urgency. At present, employment law is reserved to the UK parliament, which prevents Scotland taking several fundamental actions to make work fair. The Commission would recommend:

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<sup>106</sup> Andrew, A et al (2020) Family time use and home learning during the COVID-19 lockdown  
<https://www.ifs.org.uk/publications/15038>;

<sup>107</sup> Xue, B and McMunn, A (2020) Working and caring: the mental health toll of combining paid work and childcare during lockdown  
<https://wbg.org.uk/blog/working-and-caring-the-mental-health-toll-of-combining-paid-work-and-childcare-during-lockdown/>

<sup>108</sup> <https://www.tuc.org.uk/blogs/fire-and-rehire-tactics-are-levelling-down-pay>

<sup>109</sup> <https://www.ft.com/content/55588f86-a4f8-4cf3-aecb-38723b787569>

First, raising the minimum wage to the real living wage:

- In 2020/21 the real living wage – the amount a person needs to earn to meet the real cost of living – stands at £9.50 per hour. By contrast, the minimum wage for workers aged over 25 is £8.72 per hour, which means workers on this minimum wage are earning less than 92% of what is necessary just to get by. It is worse still for younger workers – the minimum wage offers 86% of the real living wage to 22 to 24-year-olds, 68% to 18 to 21-year-olds, and less than 48% of the real living wage to 16 and 17-year-olds. The discriminatory age gap is widening too – the minimum wage was introduced in 2004 for 16 and 17-year-olds and set at 61.9% of the rate for older workers. In 2020 the minimum wage was set at just £4.55 per hour for 16 and 17-year-olds, so it is now little more than half the minimum wage of older workers.

Second, banning exploitative use of zero-hours contracts:

- Far too often zero-hours contracts are used to exploit workers. This can mean denying employees regular or sufficient working hours or penalising them for not being available to work. We believe the exploitative use of these contracts, where they are used just to avoid giving workers the protections they are due, should be banned.

Third, extending rights and protections to better protect workers in the ‘gig economy’:

- Increasing numbers of people are working in the so-called ‘gig economy’, where they are paid based on the work they do rather than an hourly rate. This often means they don’t get the same workplace protections from their employer as permanent employees. We believe all workers should have appropriate rights and protections, including holiday and sick pay.

Fourth, banning unpaid trial shifts:

- Some employers require new recruits to work without pay for a ‘trial period’, which can often be exploitative of workers and, in particular, young and migrant workers. An SNP-lodged bill at Westminster was backed by MPs from all parties, but archaic procedures were used to prevent a vote on it. Such circumvention would be avoided if the power was devolved to Scotland.

Fifth, legislating against the practice of fire and rehire:

- It is unacceptable that workers are being forced to reapply for their jobs on worse terms.

Sixth, aligning Scottish employment legislation with EU protections:

- Such action should include protections under the Working Time Directive.

And, crucially, seventh, taking tough new action to eliminate unequal pay:

- This report has articulated the Social Justice and Fairness Commission’s absolute commitment to the prioritisation of equalities in all walks of life and in all its forms in



the Scotland we seek, and employment law can be used to ensure that wage discrimination cannot and will not be tolerated. We recommend action is taken to introduce effective equal pay legislation that requires employers to pay equal rates for work of equal value, requires transparency and reporting on wages – including the gender pay gap – and allows for collective legal action to address sectoral pay disputes.

## Statutory Sick Pay

The pandemic has raised a number of issues around support for workers in times of crisis, and it has become evident that the main support available for employees who need to self-isolate is Statutory Sick Pay. The Resolution Foundation found that the UK offers the ‘least generous support of any advanced economy’ to people who are unable to work due to illness.<sup>110</sup>

The pandemic has drawn an intense focus on the deficiencies of Statutory Sick Pay. Aside from providing less than a quarter of a typical employee’s normal earnings, the fact that employees earning less than £120 per week do not qualify for it seems particularly cruel against the backdrop of a global pandemic that has impacted so heavily on industries and businesses with low-paid, part-time workers. Indeed, one in four part-time UK workers and one in seven of those working in retail, hospitality and leisure were left with no income at all when they needed to self-isolate.<sup>111</sup> The upshot was many people faced a horrendous dilemma – follow the guidance and self-isolate to save lives and protect the NHS, even if they cannot afford to financially, or risk wider public health by ignoring self-isolation advice and going to work in order to pay the bills. With proper investment in Statutory Sick Pay, risks associated with workers ignoring advice to self-isolate and spreading the virus could have been substantially mitigated.

The Scottish Government introduced the Self-Isolation Support Grant in October 2020, which offered £500 of targeted support to people who faced financial hardship as a result of being asked to self-isolate by Test and Protect.<sup>112</sup> This approach was welcome – it offered financial support to the people who needed it most and it benefited all of us by protecting public health. However, it does not compensate thousands of people in Scotland who are short-changed by a UK sick pay system that is not conducive to the wellbeing-focused society and economy Scotland deserves.

## Equality in employment

Fair work is for everyone and it is essential that we strive to ensure it delivers on that aim. We need all workplaces to be inclusive, diverse and ready to offer opportunities to everyone in order that we all have chances to fulfil our potential, whatever our background or

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<sup>110</sup> Resolution Foundation (2020) Twitter thread detailing key findings of its ‘Time Out’ report <https://twitter.com/resfoundation/status/1336609401407463425>

<sup>111</sup> Brewer, M and Gustafsson, M (2020) Time Out: Reforming Statutory Sick Pay to support the Covid-19 recovery phase, Resolution Foundation

<https://www.resolutionfoundation.org/app/uploads/2020/12/Time-out.pdf>

<sup>112</sup> <https://www.mygov.scot/scottish-welfare-fund/self-isolation-support-grants/>

circumstances. It is therefore essential that targeted support is in place to assist people from underrepresented groups who often face additional barriers and challenges in finding and maintaining work, such as people from minority ethnic backgrounds, disabled people, older workers, young people and women.

Future Scottish Governments require to have control over employment law and protections from discrimination in employment, as well as in relation to services, so that workers in Scotland are assured both of protection from discriminatory and unequal treatment, and the right to remedy such treatment. Access to justice in the face of discrimination is essential and requires an accessible and representative Scottish tribunal system for Scotland which is not vulnerable to cuts and dilutions in function such as those evidenced by UK government actions in recent years.

Employment legislation, including equal opportunities, is currently a reserved matter. This has limited the scope of actions available to successive Scottish Governments while worker rights are now further jeopardised through withdrawal from the EU. Future Scottish Governments must seek to protect and restore the rights secured for workers through membership of the EU, including the EU protection of no cap on discrimination awards.

The scale of the challenge should not be underestimated – in spite of considerable effort and investment over recent years the barriers faced by underrepresented groups remain significant. The 2019 Annual Population Survey found employment rates were as follows:<sup>113</sup>

- 81.6% for people not classed as disabled (aged 16-64)
- 78.0% for men (aged 16-64)
- 75.7% for white people (aged 16-64)
- 74.8% overall (aged 16-64)
- 71.7% for women (aged 16-64)
- 70.5% for older people (aged 50-64)
- 59.3% for minority ethnic people (aged 16-64)
- 57.6% for younger people (aged 16-24)
- 49.0% for disabled people (aged 16-64)

It should be noted that the headline employment rates do not provide insights into types of work, hours of work, pay levels or conditions, and these are frequently less favourable for underrepresented groups. The rate for younger people must also be viewed in context, because of the numbers in full-time education. Nevertheless, they do provide a snapshot overview of the fact that, in the simplest terms, people from such groups in Scotland are still generally less likely to find themselves in employment than are non-disabled, middle-aged white men.

Employment support has undergone significant change over recent years in Scotland. Post-Smith Commission, the Scottish Government has consulted on and implemented the first fully devolved employability services under the Fair Start Scotland banner. Launched in 2018 it made a promising start, but Covid-19 has impacted enormously on its work and

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<sup>113</sup> ONS (2020) Annual Population Survey 2019

presented it with huge challenges around maximising employment opportunities in unprecedented circumstances.

Fair Start Scotland operates across nine geographical areas with the aim of improving flexibility and adaptability to specific needs and local labour markets whilst ensuring consistent national standards of service delivery. A key strand of Fair Start Scotland's work relates to supporting those furthest from the labour market and recognises that people accessing its services can face complex challenges, which is why it is designed to take a long-term approach to identifying and overcoming individual barriers. As a result, eligible participants are able to secure up to 18 months of pre-employment support, as well as 12 months of support for them and their employer once they are in work.

The Workplace Equality Fund is an example of significant Scottish Government investment targeted at driving forward progress in improving equality in employment. It is an outcomes-focused approach that saw £800,000 of funding investments made in 2019-20 to improve and embed employment opportunities and progression in the workplace for priority groups, to remove inequalities, discrimination and barriers, and to co-create more inclusive working environments.<sup>114</sup>

The Scottish Government is taking positive action, but it is abundantly clear we have a long way to go before we achieve true equality in employment. It is critical that as Scotland tackles and recovers from the public health emergency it currently faces that we do not let any of our progress to date slip and, indeed, that the pace of change is accelerated in order that we get on track to delivering a fair work nation as quickly as possible.

## Women in work

Eradicating gender inequality is an absolute priority for the Social Justice and Fairness Commission and a recurring theme in all aspects of our work. By definition, our society and economy cannot be just or fair while gender inequality exists. Its abolition is essential and employment equality is fundamental to achieving that aim.

Scotland needs to take action that ultimately:

- Delivers equal pay and takes action to remove the discrimination that contributes to the gender pay gap altogether
- Ensures equal representation on management boards in the private and public sectors
- Ensures women are equally represented across senior leadership roles in all sectors
- Eliminates pregnancy and maternity-related discrimination in employment
- Supports the division of unpaid, domestic caregiving rights to all parents and carers for family, caring and parental leave

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<sup>114</sup> <https://www.impactfundingpartners.com/our-funds/workplace-equality-fund>

- Ensures delivery of the current childcare expansion plan and then moves to extend it to 50 hours of publicly funded childcare per week, in line with existing calls from the National Advisory Council on Women and Girls<sup>115</sup>
- Introduces two months paid paternity leave
- Offers flexible working to all workers whatever their gender or class
- Brings an equal and shared distribution of caring and domestic responsibilities for men and women
- Ensures access to justice through an effective employment law framework and accessible tribunal system

## The Disability Employment Gap

The Scottish Government has set out steps to halve the disability employment gap in Scotland by 2038, with interim targets for 2023 and 2030.<sup>116</sup> This builds on the work of Fair Start Scotland, which provides support to disabled people to find work in a way that treats them with fairness, dignity and respect. It also follows work to more effectively integrate employment support and services. The Commission supports the approach of the Scottish Government to improve access to and experience of employment for disabled people and would recommend further development of this work, which will be possible with the full powers of independence.

## The Race Pay Gap

The Commission notes that the race pay gap in Scotland is at least as significant as studies have found it to be across the UK. Various studies – from those conducted by the UK Government Race Equality Audit, the Scottish Government Race Equality Framework and recent findings from the Scottish Trades Union Congress, the Coalition for Racial Equality and Rights and the Joseph Rowntree Foundation – reveal that structural racial inequality in the labour market means that black and minority ethnic workers are paid significantly less than their white counterparts.

Racial discrimination is evident across society, impacting access to employment, graduate-level jobs and further study. In Scotland, the tertiary education sector made a declaration against racism in August 2020 and committed to tackle it through work being funded by the Scottish Funding Council and led by Advance HE.<sup>117</sup> This is a welcome step, and we now must do everything we can across society to support such initiatives and eradicate racism in all its forms.

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<sup>115</sup> <https://www.gov.scot/publications/scottish-governments-response-first-ministers-national-advisory-council-women-girls-nacwg-2019-report-recommendations/pages/11/>

<sup>116</sup> Scottish Government (December 2018) *A Fairer Scotland for Disabled People: Employment Action Plan* <https://www.gov.scot/publications/fairer-scotland-disabled-people-employment-action-plan/>

<sup>117</sup> <https://www.advance-he.ac.uk/news-and-views/critical-conversations-critical-action-we-stand-united-against-racism>

Black and minority ethnic communities suffer higher rates of unemployment and under-employment, and face significant exclusion from well-paid professions like law, financial services and construction, even with commensurate degree level qualifications and experience which are often gained in their countries of origin, but not fully recognised.

Black and minority ethnic staff in the public sector – in particular in health and social care – have been shown to be overrepresented in the most labour-intensive frontline roles with the lowest pay. These same roles have been shown to make black and minority ethnic staff more vulnerable to Covid-19, where they are overrepresented in terms of suffering from or dying from the virus.

Black and minority ethnic groups tend to have higher percentages of younger working age family members and fewer older or retired people. This means more young workers – especially women – are in precarious low paid employment and having to work longer hours, with disproportionate numbers losing jobs in retail and service sectors during the pandemic.

The Commission recommends that an independent Scotland create a Race Pay Gap Commission, which would impose a legal obligation upon companies and public bodies to report annually on approaches to and progress on closing the race pay gap.

## Our vision for fair work in an independent Scotland

The Scottish Government is committed to developing Scotland as a world-leading fair work nation, but it is inhibited by the limits of devolution. With independence we can build on the Scottish Government's Fair Work Action Plan, continuing to work in partnership with employers, workers and trade unions and embedding action in law where necessary. With powers over the minimum wage, we can ensure the real living wage becomes the minimum wage in Scotland. We can also roll back the Trade Union Act 2016, passed under David Cameron's government, which placed unacceptable restrictions on trade unions. Additionally, further work could be progressed to ensure all of our workplaces meet the highest standards of health and safety, because everyone has a right to work in a safe environment that is conducive to their good health and general wellbeing.

There is a pressing need to rebalance our work and home lives and ensure access to fair work and pay. The pandemic has highlighted the current imbalance for many of us and has provided an impetus for economic restructuring and rethinking the role of work in our lives.

Work is essential for providing a secure living income for individuals and for generating the wealth that pays for and delivers the services we need as a society. But work can also generate negative experiences in our quality of life and overall wellbeing, not least when carried out over long hours in unhealthy and unfulfilling environments.

With a fair work agenda, and the increased productivity it creates, there is a strong argument for introducing greater provision for a four-day week. This would not only give people more time to spend with their families and pursue activities that are vital to their

wellbeing such as exercise, it would also allow more people to devote some time to invest in their communities – for example by volunteering in formal or informal settings, or simply interacting with others. The Commission recommends further work to develop proposals for this transformative shift in working practice.

The pandemic has had huge immediate consequences for how many of us work, but it will also have a lasting impact. The shift to homeworking for a huge proportion of the working population is one such example. It has created opportunities, but it has also presented challenges associated with longer working days and the blurring of work and home life.

Going forward, making homeworking work for everyone that wants and utilises it is going to be key. We need to ensure that the Fair Work agenda extends into homeworking and to harness the potential of this shift to deliver a better work/life balance, use this an opportunity to redress inequalities in the labour market and ensure that the collective voices of workers are not diminished when they are not in the same physical space.

We need to think innovatively about how we work, and the space we need to facilitate that. As part of our efforts to combat climate change, taking a place-based approach to building sustainable communities and providing good spaces for people to work, we need to consider local hubs as part of the concept of 20-minute-neighbourhoods. A significant shift to homeworking will not negate the need for access to workspace for meetings or facilities to support that work, so collective community spaces for work will be vital going forward. The ‘Work Local Challenge Programme’ is something that has been flagged in the Scottish Government’s Programme for Government<sup>118</sup> and supported by organisations like the Federation of Small Businesses Scotland, whose policy chair argues, “the development of local work hubs, or more co-working spaces, in local communities could pay dividends”.<sup>119</sup>

With independence we can implement widespread wholesale change to ensure fair work works for all. For example:

- Improving pay through putting the real Living Wage on a statutory footing
- Addressing inequalities and promoting equality by tackling the under-employment and pay gaps for women, disabled people and people from black and minority ethnic backgrounds
- Offering greater flexibility to widen access to work and promote better work/life balance – including for those with caring responsibilities
- Improving maternity and paternity pay and leave to allow parents to spend more time with their children in the crucial early months of their lives
- Strengthening workplace health and safety measures – including for homeworking
- Strengthening workers’ voices and rights, through access to trade union membership and other representation, and measures such as improved sick pay

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<sup>118</sup> Scottish Government (2020) Programme for Government  
<https://www.gov.scot/publications/protecting-scotland-renewing-scotland-governments-programme-scotland-2020-2021/pages/5/>

<sup>119</sup> FSB on PfG: Put small firms at heart of plans for economic recovery  
<https://www.fsb.org.uk/resources-page/fsb-on-pfg-put-small-firms-at-heart-of-plans-for-economic-recovery.html>

## 5.5 Building Homes and Communities

Where we live – both in terms of our individual homes and our communities – has a huge impact on our general health and wellbeing. The implications of housing policies and decisions are felt across a vast array of policy areas, from employment and social security to mental health and climate change.

Housing is much more than a roof over one’s head. To deliver social justice, we must ensure everyone has the right to a home – somewhere safe, warm, secure, affordable and part of a community – which is suited to their needs. We have a duty to build the right homes in the right places, that address our needs now and for many decades ahead, to ensure all of us can live sustainable and fulfilling lives in thriving communities.

The Social Justice and Fairness Commission has put housing and communities at the heart of our considerations. We have considered proposals under three headings – Housing; Planning; and Land – all of which are underpinned by a need for communities to be established, engaged and empowered.

Every house should be a piece in a community jigsaw, and every piece should fit and belong in that jigsaw. We need to build communities, not just houses, and those communities need to be empowered to shape their housing provision to reflect diverse local needs.

Just as we contend that the best people to make decisions about Scotland are the people who live here, equally, the best people to make decisions about our communities are the people who live in those communities. We want to empower the people of Scotland to shape their own future, and that includes greater influence over their local area and decisions that affect their daily lives – democratic renewal at every level of decision-making.

### 5.5.1 Housing

#### Housing under devolution

When the Scottish Parliament was reconvened in 1999, housing policy was brought within its areas of competence - with limitations. This has allowed Scotland to follow a different housing path from the rest of the UK, most notably in relation to homelessness and rough sleeping, private sector rental reforms, implementation of the affordable housing supply programme, and ending Right to Buy.

#### **Homelessness and rough sleeping**

While there is still a long way to go, we have made considerable progress in tackling homelessness in Scotland. Crisis, the national charity for homeless people, recognises that the “clear strength of the Scottish system is that there is an (almost) universal statutory safety net”.<sup>120</sup> In Scotland, unlike the rest of the UK, all those assessed as being unintentionally homeless by local authorities have a right to accommodation. The Homelessness (Scotland) Act 2003 required the Scottish Parliament move to phase out

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<sup>120</sup> <https://www.crisis.org.uk/ending-homelessness/the-plan-to-end-homelessness-full-version/solutions/chapter-13-homelessness-legislation/#:~:text=The%20clear%20strength%20of%20the,by%20local%20authority%20homelessness%20services>

distinctions between priority and non-priority need and, since 2012, all unintentionally homeless people have been entitled to a permanent home.

Fundamental problems remain, however, particularly for women for whom domestic abuse – which increased during lockdown – is the leading cause of homelessness. At present the usual expectation is that victims of domestic abuse – who are predominantly female – will leave their homes, often with children, to escape it. As Scottish Women’s Aid describe, “This means that many women looking for support are made homeless by the very services that are meant to help them; forced to leave the family home and then move multiple times.”<sup>121</sup>

Alongside organisations such as Scottish Women’s Aid and Barnardo’s Scotland, the Social Justice and Fairness Commission is backing moves designed to address this in social housing contexts through the Domestic Abuse (Protection) (Scotland) Bill, which was passed in March 2021. The Bill, introduced by the Scottish Government in October 2020, is designed to improve protections for people at risk of domestic abuse, particularly where they are living with the perpetrator of the abuse. Specifically, it aims:

“To help improve the immediate and longer-term housing outcomes of domestic abuse victims who live in social housing, including by helping to avoid homelessness... by creating a new ground on which a social landlord can apply to the court to end the tenancy of the perpetrator with a view to transferring it to the victim of domestic abuse or end the perpetrator’s interest in the tenancy where the perpetrator and victim are joint tenants, and enable the victim to remain in the family home.”<sup>122</sup>

Other work on homelessness is ongoing with efforts focused on preventing and ultimately ending it altogether, as set out in the ‘Ending Homelessness Together Action Plan’, and, of course, the pandemic necessitated swift action to place rough sleepers into safe accommodation during the public health emergency. We also note the success of the Housing First model being taken forward through initiatives like Housing First Dundee, which prioritises the right to a home and tenancy, and then builds support around the needs of the individual to sustain it.

A five-year £50 million fund was announced in 2018 to support the work of the ‘Ending Homelessness Together: High Level Action Plan’, which was developed by the Scottish

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<sup>121</sup> <https://womensaid.scot/world-homelessness-day-2019/>

<sup>122</sup> <https://beta.parliament.scot/-/media/files/legislation/bills/current-bills/domestic-abuse-protection-scotland-bill/introduced/policy-memorandum-domestic-abuse-protection-scotland-bill.pdf>



Government and COSLA working in partnership.<sup>123</sup> This plan was implemented as a result of work carried out by the Homelessness and Rough Sleeping Action Group (HARSAG), which was established in 2017 to advise the Scottish Government on how to minimise rough sleeping in the approaching winter, eradicate rough sleeping for good, develop ways to transform temporary accommodation, and, ultimately, bring an end to homelessness in Scotland.

HARSAG was reconvened in 2020 to advise government in the midst of the pandemic. People facing homelessness were extremely vulnerable to the public health crisis, particularly those sleeping rough or staying in shelters or hostels with shared facilities for whom self-isolation was impossible and access to the most basic resources was limited. HARSAG noted that the response from the Scottish Government, local authorities and charities was ‘impressive’ as they worked together to take swift and effective action to get virtually all people sleeping rough into safe accommodation.

HARSAG submitted 104 recommendations to the Scottish Government in July 2020 which were all accepted in principle, and these were used to inform an updated ‘Ending Homelessness Together Action Plan’, published in October 2020, which is focused around the same core actions categories stipulated in the 2018 version of the plan:<sup>124</sup>

- Action 1: Embed a person-centred approach
- Action 2: Prevent homelessness from happening in the first place
- Action 3: Prioritise settled homes for all
- Action 4: Respond quickly and effectively whenever homelessness happens
- Action 5: Join up planning and resources to tackle homelessness

### **Private sector rental reforms**

Scotland, along with the rest of the UK, used to have one of the most deregulated private rented sectors in Europe, with landlords able to secure the eviction of tenants without having to cite any grounds. Under reforms to the sector, the new Scottish Residential Tenancy provides open-ended leases and greatly enhanced security of tenure for tenants. It also places 12-month restrictions on rent increases and makes provision for Rent Pressure Zones.<sup>125</sup>

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<sup>123</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2018/11/ending-homelessness-together-high-level-action-plan/documents/00543359-pdf/00543359-pdf/govscot%3Adocument/00543359.pdf>

<sup>124</sup> <https://www.gov.scot/publications/ending-homelessness-together-updated-action-plan-october-2020/>

<sup>125</sup> [https://www.gov.scot/publications/consultation-proposals-regulations-policy-supporting-private-housing-tenancies-scotland-act/#:~:text=The%20Private%20Housing%20\(Tenancies\)%20\(,assured%20and%20short%20assured%20tenancies](https://www.gov.scot/publications/consultation-proposals-regulations-policy-supporting-private-housing-tenancies-scotland-act/#:~:text=The%20Private%20Housing%20(Tenancies)%20(,assured%20and%20short%20assured%20tenancies)

## **Implementation of the Affordable Housing Supply programme**

The Scottish Government has shown a real commitment to reviving the social rented sector – which had been run down for decades from the 1970s into the devolution era – through an enlarged Affordable Housing Supply Programme, which has delivered a mix of social housing – let by councils and housing associations – and other affordable housing, including mid-market rented homes and low-cost ownership homes.<sup>126</sup>

In 2016, the Scottish Government launched its ‘More Homes Scotland’ strategy, which was ‘an overarching approach to bring together all activity to increase supply’.<sup>127</sup> Its four main priorities focused on:

- More affordable and social housing
- Delivery of more mid-market rent homes
- More private rented sector homes
- Support for affordable home ownership

A key commitment of More Homes Scotland was delivery of 50,000 affordable homes – including 35,000 for social rent – over the 2016-21 parliamentary term, which it was on course to achieve before the Covid-19 pandemic struck and the subsequent lockdown led to a substantial pause in delivery. The extent of the pandemic’s impacts is not yet fully known, but the government conceded it would not meet its target by the March 2021 deadline as a direct result of the extraordinary circumstances. It has, however, made an increased funding commitment of £500 million for the Affordable Housing Supply Programme in 2021-22, which offers funding certainty for local authorities, housing associations and the construction sector as they look to recover from the impacts of Covid-19.

## **Ending Right to Buy**

The abolition in 2016 of the right to buy council and housing association homes in Scotland ensures existing housing stock is available for social rent in future. In addition, it simultaneously protects future investments in new housing by councils and housing associations since they can no longer be sold off at knock-down prices.

Scotland has made good use of powers made available through devolution, but some have yet to be fully utilised. Planning and property taxation, for example Council Tax, are often seen as areas where policy development could be stronger within existing powers.

## **The limits of devolution**

Although devolution largely brought housing under the control of the Scottish Parliament, that control is not absolute. Several relevant policies are not devolved, including Housing Benefit. Similarly, key elements of the taxation of housing are reserved to Westminster,

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<sup>126</sup> <https://www.gov.scot/policies/more-homes/affordable-housing-supply/>

<sup>127</sup> <https://www.gov.scot/publications/more-homes-scotland/>

including the tax treatment of mortgages and imputed rental income, as well as taxes that are closely related to housing such as capital gains and inheritance tax. Further, many policies relating to context and markets are not fully devolved, such as labour market operations and income redistribution through tax and social security. Policies relating to the macro and micro-prudential regulation of mortgage lenders are also retained at Westminster.

The Under Occupancy Charge or 'Bedroom Tax' illustrates Westminster's reluctance to give up powers over social security. The Calman Commission, which reported in 2009, ruled out any devolution of social security, but, after the Bedroom Tax became a major controversy during the independence referendum, Westminster allowed the Scottish Government to use discretionary housing payments to mitigate it – something the Scottish Government does at a cost of some £50 million per year (representing more than 80% of DHP expenditure).

The Smith Commission set up after the 2014 independence referendum gave the Scottish Parliament control over the housing cost element within Universal Credit and some flexibility on direct payments to landlords, but nothing else. Consequently, the Scottish Government still has little control over the design of the principal financial subsidy to housing. Moreover, other parts of social security policy – notably the Total Benefits Cap, which in 2018 had the effect of reducing benefits eligibility of almost 2,900 Scottish households of whom two-thirds are lone parents – impacts disproportionately on households with high housing costs.

The Scottish Government does not currently benefit from the reductions in housing benefit costs it creates through its expansion of social housing provision. It is therefore likely that the government of an independent Scotland would be even more inclined to invest in supply-side subsidy since it would be able to recoup the benefits. In time, a substantial social rented sector could generate rental surpluses for reinvestment in the sector – the revolving fund principle. This means that the sector can renew itself without the need for much subsidy.

More broadly, housing policy is not just about subsidies. It is about the management of the housing system as a whole. Without full control over the tax treatment of housing, or the regulation of mortgages and lending, it is simply not possible for a fully comprehensive or coherent policy to be developed.

Though our homelessness strategies have shown success, there are many driving forces, such as migration status and social security, which are not devolved.

While the Scottish Government has taken steps through housing policy to tackle fuel poverty by investing in housing stock and improving its energy efficiency, energy prices and policy are reserved to the UK Government.

We recognise that housing policy interacts and relies on policy in other areas, and reiterate that full control over decision-making is required for a more rounded approach to housing in Scotland.

## Housing in an independent Scotland

The Social Justice and Fairness Commission was keen to explore approaches an independent Scotland could take to ensure it delivers the very best housing it can for everyone who lives here. This section provides a contextual overview of the factors that influence the possibilities and limitations of housing provision before outlining seven key themes of policy development approaches that will influence our direction of travel.

We should acknowledge that our aspirations for housing in Scotland share much in common with the Scottish Government's Housing to 2040 vision. This is a strong foundation upon which to build our proposals, although we could go further with more powers.

## Our findings and recommendations

Our exploration of Scottish housing policy and practice context has informed our recommendations for five key policy proposal areas to help ensure Scottish housing delivers the best outcomes it can for everyone who lives here.

1. Develop modernised aims of housing policy: a decent home for everyone at a price within their means that meets minimum energy efficiency, space and accessibility standards
2. Seek to move owner-occupation back towards a means to manage housing costs over the life cycle, and away from expectations of asset appreciation
3. Use the expanded social rented sector to set standards across the housing system
4. Retain and reform housing allowances as poverty falls
5. Modernise existing stock

### **Proposal 1: Develop modernised aims of housing policy: a decent home for everyone at a price within their means that meets minimum energy efficiency, space and accessibility standards**

Our aim should be developed and agreed based on 'consensual' methods, building on Shelter's Living Home Standard. Other good examples of standard setting can be found in other fields, such as the Joseph Rowntree Foundation model for establishing minimum income standards. This approach reflects the wider view of the Commission that independence offers us the opportunity for democratic renewal, and that the key to transformative change is empowering our citizens to make collective, consensual decisions about our society.

Housebuilding must be more flexible and have built-in features that can accommodate a range of potential changes in the needs of the occupants over the lifetime of the house. We

need homes that fit the needs of the people who live in them, not just the convenience of the house builders. We would also like to see more modular homes built, which we believe is key to meeting many long-term demands on housing.

It is vital that we create an adequate number of accessible homes to supply the unmet and projected needs of disabled and older people. We need to future-proof Scotland's housing stock – across tenure – in terms of sufficient space standards to provide for future adaptations, in response to the needs of an ageing population.

We also need further efficiencies in terms of reducing our carbon footprint, to include energy efficiency, solar PV panels, insulation and better use of sustainable and recycled materials.

A further consideration is the provision of larger homes in the social rented sector, to accommodate larger families, which is a particular issue for black and minority ethnic families. A key driver of black and minority ethnic family poverty is the lack of affordable and appropriate accommodation for larger families (3, 4 or 5 apartments) available for social rent, since social landlords and councils have much less provision of this kind than in the past. Much of that housing stock was demolished or sold off under Right to Buy prior to 2016.

All black and minority ethnic groups have consistently lower percentages of social rented tenure and lower rates of home ownership, which means they are generally paying higher private sector rents as a proportion of household income and are thus more likely to be in poverty.

The Commission therefore recommends that all future public and social landlord sector housing developments, in areas of high demand, have an agreed minimum (of around 20% with flexibility for local needs) of large family size accommodation units available for social rent.

### **Proposal 2: Seek to move owner-occupation back towards a means to manage housing costs over the life cycle, and away from expectations of asset appreciation**

In Scotland, as in the rest of the UK, most people express a preference for homeownership as their ideal tenure. This is a model that can work well for many, but by no means all. A lack of attractive alternatives and the way in which homeownership has been encouraged as a one-way bet for untaxed capital gains has reduced choice for many people, including by pricing many younger people out of home ownership.

In some countries, notably Germany and Austria, many people who could afford to be homeowners prefer to rent their properties, as there is less of a 'culture' of homeownership and housing is viewed more as a home than as an asset. If this is to become the norm in Scotland, it is important to ensure that there is an adequate supply of affordable and market

housing in the areas that need it, in order to provide choice and security for those who cannot – or do not want to – own their homes. The Scottish Government’s commitment to expanding social-rented and other forms of affordable housing is an important part of this package, but reforms to the private rented sector also have a part to play by providing much greater security for tenants.

It is important that mortgage lending is conducted in a prudent manner. Past UK Governments tried to expand owner-occupation by deregulating the mortgage market. Rapid expansions in mortgage credit availability occurred in the 1980s, when the market was deregulated, and in the 2000s, when securitisation became widespread. On each occasion, this contributed to unsustainable house price booms. Upswings in mortgage arrears and repossessions followed, necessitating additional government support. Reforms to mortgage lending since the global financial crisis have helped to prevent a repeat of past mistakes, but the Johnson-led UK government appears keen to expand the availability of risky mortgages to boost home ownership. This is a short-term view which ignores the impact on prices and risks unsustainable lending and a future crash.

Second homes and buy-to-let properties can have a huge effect on the price and availability of homes, particularly in rural areas and central Edinburgh. Rural Scotland already faces acute challenges of depopulation and meeting housing needs due to incoming buyers and residential properties being used as tourist accommodation driving up prices beyond the income of local people.<sup>128</sup> This is likely to become even more pronounced as more people seek out homes in rural Scotland to ‘escape’ the spread of the pandemic in more densely-populated areas, and as more employees have the freedom to choose where they live due to more widespread availability of home-working. In order to disincentivise the purchase of properties for the purpose of buy-to-let or second homes while also undoing some of the damage done by previous UK governments to our social housing stock, we propose exploration of opportunities to offer greater scope for councils to buy ex-council houses back when they become available. That might include providing local authorities first refusal at market rate when ex-council houses are placed on the market or, when this is not practicable or desired, allowing only those who intend to use the property as a residence the opportunity to purchase.

### **Proposal 3: Use the expanded social rented sector to set standards across the housing system**

The Commission supports sustained levels of social home building, to address a large need for diverse types of affordable housing and for the purposes of standard setting.

International experience shows that the social rented sector has the potential to set high standards across the board – when the sector becomes sufficiently large it can compete

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<sup>128</sup> <https://www.gov.scot/publications/rural-planning-policy-2050-research-inform-preparation-npf4/pages/5/>

with the private sector, help raise standards and keep rents down. To do this, it needs to be large enough to house a broader spectrum of the community.

Over time, a larger social rented sector will generate surpluses, which can be reinvested through a revolving door fund, as has been used in Denmark. This means that in the long-run social rented housing requires little additional subsidy and is therefore an excellent example of preventative expenditure.

We are witnessing a decline in community-based housing associations and a rise in larger-scale ones, including UK-wide associations that hold huge housing stocks. We must have a range of smaller community-based housing associations to develop local solutions to better meet local housing needs. We need to ensure that the diversity of housing provision reflects the range of needs and shortfalls in each community – which will include sufficient accessible properties and one-bedroom homes, but also homes with enough bedrooms for larger families, the lack of which can be a particular issue for Scotland’s black and minority ethnic communities.

Social renting can save governments money over the long term, but it requires outlay first: Scottish policy at present – at a cost of £3.6 billion over this parliament – is an exemplar of a preventative spending-based approach.

As the social rented sector grows, social landlords will compete with private landlords. If private landlords wish to remain competitive, then they will need to compete on price, quality and management. International experience shows that countries that have adopted this approach have reduced tenure polarisation and have enabled renting to provide an attractive alternative to owner-occupation. Germany was an exemplar of this approach, but the running down of its social rented sector, combined with the emergence of acute shortages in cities including Berlin and Munich, led to the system breaking down. The lesson is that a commitment to social rented housing must be an on-going one, so that its influence can extend across the rental sector.

The private rented sector plays an important role in Scotland’s housing system, where it is home to 15 per cent of households. It can provide greater flexibility and choice than other tenures, but for too many tenants it is too expensive and suffers from poor quality. While we believe an expanded social sector is the best way to address this, there is no doubt that the private rented sector was left largely unregulated for too long – by both Labour and Conservative Governments at Westminster and by the Labour-Liberal Democrat administration in Scotland – to the detriment of tenants.

The current Scottish Government has made the first important steps to modernise private renting anywhere in the UK by greatly increasing security of tenure, limiting the frequency of rent rises, and making provision for Rent Pressure Zones (RPZs) to limit rent rises in pressurised markets. The Commission does believe, however, that it is too difficult for local

authorities to present a case to Ministers for the establishment of RPZs, and that it should be simplified. A system for recording rents and rent increases would be an important first step. We also believe that the remaining grounds for ‘no fault’ evictions should be reviewed. We also believe that there is a case for the new Land Value Tax (which would replace the Council Tax as part of wider local tax reform) liability to fall on the landlord rather than the tenant.

#### **Proposal 4: Retain and reform housing allowances as poverty falls**

Even ‘full’ basic income schemes allow for the retention of Housing Benefit. This is because rents vary greatly between and within areas. When the current system was introduced, its aim was to prevent incomes falling below basic benefit levels after housing costs. But there are many exceptions to this caused by post 2010 cuts, such as the 30th percentile limits on private rents, widening the scope of the shared accommodation rate, and the benefits cap. The short-term aim should be to fill these gaps, recognising that this will be expensive. Longer-term, as poverty falls, the role of housing allowances might be extended to improve affordability more generally, rather than remaining limited to income support.

#### **Proposal 5: Modernise existing stock**

We need to move away from the build-and-forget model, whereby long-term modernisation of housing is forgotten until a crisis occurs. A huge retrofit programme is needed to meet the climate emergency. Buildings, next to transport, are amongst the biggest emitters of CO2 equivalent.<sup>129</sup>

The Scottish Government recognised in its 2018 report on its Climate Change Plan the likelihood that more than 80% of existing homes will still be in use in 2050, with many of these built more than fifty years ago. Bringing these homes up to the standards required of new housing developments is crucial in addressing climate change, tackling fuel poverty, and ensuring everyone’s home is fit to live in.

### **5.5.2 Planning**

The outcomes of good planning can significantly increase the life chances and choices of those who have the least; for example, by ensuring integrated provision of a range of good quality, affordable housing with employment opportunities and a wide range of infrastructure, services and amenities that are accessible by public transport or active modes of travel. At present, however, these benefits are too often available only to those who can afford them. For example, market premiums are often paid for housing in ‘good’ school catchment areas or close to green spaces. Uneven patterns of investment and disinvestment in places means those who cannot pay can find themselves displaced from

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<sup>129</sup> <https://www.gov.scot/publications/scottish-greenhouse-gas-emissions-2017/pages/3/>



neighbourhoods or living in places that constrain their choices, for example places where there is a lack of accessible employment.

The Scottish Government's promotion and support of '20-minute neighbourhoods' – in which anyone can access vital services which meet all of their basic needs within 20-minutes of their home via active travel – in the 2020/21 Programme for Government is one which has been welcomed by Sustrans Scotland.<sup>130 131</sup> The Commission believes that having access to healthcare, shopping, travel and employment near your home without requiring a car is core to building community and tackling our climate crisis.

Unfortunately, the potential contributions of spatial planning towards social justice have not been fully appreciated or exploited through devolution. Reforms to the planning system enacted by the Scottish Parliament in 2006<sup>132</sup> and 2019<sup>133</sup> have acknowledged links to important policy agendas – land reform, community empowerment, and local democratic renewal – whilst tending to treat planning as a policy silo. Concerns that the planning system acts as a regulatory barrier to the market-led delivery of development, notably housing, have led to a narrow focus on the efficiency of planning processes – to the exclusion of wider debate about the purposes of public intervention in land and property markets or scrutiny of the extent to which existing market processes will efficiently and effectively deliver public interest outcomes.

The result is a planning system that is largely reactive, relying on regulating the behaviour of developers through indicative, non-binding plans and case-by-case negotiation of development applications. With development understood to generate wealth, jobs and socially necessary construction – and therefore to be in the public interest – government policy has reinforced a default 'presumption in favour of development'. Planning decisions are reduced to a zero-sum game with these projected 'benefits', however speculative, traded against 'costs', where the only alternative is often to reject proposals. Within this framework, power lies with landowners and developers to lobby for sites to be included in plans, choose whether and when to bring them forward for development and to pursue the most profitable land-uses that the policy framework will allow. Elected officials and communities are afforded limited power to influence proposals and are frequently reduced to the role of objectors, fighting against schemes that are perceived to threaten valued place qualities or that generate negative externalities by contributing to strain on under-funded infrastructure and services.

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<sup>130</sup> <https://www.gov.scot/publications/protecting-scotland-renewing-scotland-governments-programme-scotland-2020-2021/>

<sup>131</sup> <https://www.sustrans.org.uk/our-blog/news/2020/september/scottish-programme-for-government-sustrans-scotland-responds>

<sup>132</sup> <https://www.legislation.gov.uk/asp/2006/17/contents>

<sup>133</sup> <https://www.legislation.gov.uk/asp/2019/13/contents>

A more positive approach to planning is required in order to realise its potential for significant contributions to social justice.

## Our findings and recommendations

1. Create a social justice purpose for planning
2. Prioritise pro-social development
3. Integrate participatory planning for community empowerment
4. Maximise and redistribute planning gain and community benefits

### **Proposal 1: Create a social justice purpose for planning**

The purposes that the planning system serves have never been fully defined in law. The Planning (Scotland) Act 2019 introduced a duty on plan-making to act in the long-term public interest and work towards the achievement of national outcomes. This does not, however, apply to development management processes where decisions are actually made on development proposals. The National Planning Framework/Scottish Planning Policy adds some detail to this by setting a broad policy framework that is then given local expression in development plans. Both currently propose a wide range of different policies, however, leaving considerable discretion to decision-makers to determine what weight should be applied to the ‘material considerations’ relevant to any individual planning application.

Legislation and national policy could place a much stronger emphasis on the achievement of social justice outcomes by making it clear that they should be accorded particular priority as a ‘material consideration’ in both the formulation of plans and in decision-making on development applications. This would have the effect of creating a ‘social justice test’ for plans and development proposals, ensuring that all stakeholders in the system give active priority to the achievement of clearly defined social justice outcomes and the realisation of just transitions towards a wellbeing economy.

### **Proposal 2: Prioritise pro-social development**

Development plans prepared by democratically elected local authorities with active public engagement should clearly set out community needs and aspirations, within a framework that prioritises social justice and ensures development meets the needs of a zero-carbon future. Such plans can set a broad and flexible framework for investment in places, coordinating the potentially fragmented decisions of public, private and community actors to ensure that the benefits of development are realised and distributed fairly. Development management decision-making should use the criteria set out in plans to determine whether land use changes are in the wider interests of society. Rather than a default presumption in favour of development, planning consent should be seen as conferring a social license to develop and use land, and should be scrutinised and enforced on that basis.

Both plan-making and development management should give active priority to ‘pro-social’ schemes that contribute to community wealth building: affordable house building, local

renewable energy schemes, local food production and creation of public and green spaces. For-profit development should always contribute towards the realisation of community aspirations as expressed in plans and contribute agreed community benefits. Where proposals depart from agreed development plans, scrutiny should be heightened through the equalisation of existing developer rights of appeal so that affected communities can challenge decisions.

### **Proposal 3: Integrate participatory planning for community empowerment**

Community empowerment means going far beyond small-scale place plans, towards designing communities at every level. It means that communities must be resourced and given the ability to purchase land and provide infrastructure through Community Development Corporations. Local authorities themselves must be given access to a broader tax base and once again given responsibility to work with communities to design better places.

Planning was one of the first public services to make provision for public participation in order to ensure that affected communities could shape development proposals. However, evidence suggests that participation has relatively limited power in the current market-led planning system. Since more affluent groups are more likely to engage and may at times oppose socially necessary development, opportunities to participate can risk exacerbating inequalities. Planning reforms have struggled to resolve these challenges amidst recurring concerns that people tend to engage in response to unwelcome development proposals, rather than as part of positive discussions about their aspirations and priorities for their local area.

In response, work to integrate land-use planning with community planning could be taken much further, recognising that people are more likely to engage when discussing the issues that matter to them rather than those the planning system deems 'material'. Spatial plans should be seen as providing a framework for the land uses that can realise a community's broader aspirations for their area. This requires better and more targeted resourcing, particularly so that low-income communities can be supported to prepare meaningful plans for their own futures. Provisions for communities to prepare Local Place Plans under the 2019 Planning (Scotland) Act do not go far enough as they will be prepared in a land-use planning silo separated from wider community planning processes, are largely advisory and lack power to shape local authority development plans or subsequent development decisions. A more integrated perspective is required to rethink how such comprehensive community plans can be anchored into stronger local democratic institutions and become a vehicle for the long-term stewardship of places and community assets.

### **Proposal 4: Maximise and redistribute planning gain and community benefits**

Planning permission can lead to substantial increases in land value, as housing land is worth much more than agricultural land. Since this 'betterment' value is generated by the

nationalisation of development rights through the planning system and not through any effort on the part of the landowner it should, as a matter of principle, be recouped to secure community benefits. Historically, attempts to do this have been resisted by landowners who have withheld land from the market, waiting for another government to change the system.

The current system of negotiating planning gain on a case-by-case basis through Section 75 legal agreements has become a broadly accepted compromise, recouping a share of betterment for public purposes but allowing developers to continue profiting on the basis that it offers a necessary incentive to bring land forward for development. This system has made an important contribution to the funding of infrastructure and affordable housing. However, this should not be taken to mean that the wider principle of recouping betterment could not be extended. The current system also has significant limitations, not least that it enables considerably more value to be captured in areas where land values are higher, exacerbating uneven development. New mechanisms to redistribute betterment could be considered, or usefully subsumed within wider proposals for land value taxation.

### 5.5.3 Land

The Scottish Land Commission (SLC), set up under the Land Reform (Scotland) Act 2016, is entrusted to develop land reform policies that can be adopted by government. After four busy years, its range of proposals, research and protocols open many opportunities that could be pursued now and with independence. Land reform – specifically giving communities greater control of their land – is central to meeting housing needs and building a wellbeing society and economy.

The Scottish Land Commission has set out protocols and guidance for many subjects including a recent set of case studies on neglected and derelict land. Their work is central to guiding government policy proposals for coming parliaments on homes and communities.

New reasons for community rights to buy were incorporated in both the Community Empowerment (Scotland) Act of 2015 and the Land Reform (Scotland) Act of 2016. Grounds for buyouts were extended to include the triggers of neglected and abandoned land, the imperative to promote local economic development, and grounds for concern regarding the environmental detriment on land in question.

Much of the debate about urban land occupied the Local Government and Regeneration committee at Holyrood. Not enough has been made of the locally controlled Housing Association movement which flourished from area regeneration in the 1970s and matured in the 1980s as a model for resident-controlled places seeking to climb out of deprivation and neglect. The fact the bulk of these are still functioning today suggests that, alongside community-owned estates created by land reform laws, their urban equivalent must be recognised and included in revisioning urban and rural housing delivery.

Reviewing the legacy of house building in towns, devolution seemed to offer the chance to break free from the dominance of Thatcherite private housing markets. That has proved elusive as the huge imbalance of house building still relies on private sector speculative building.

## Our findings and recommendations

The work of the Scottish Land Commission has greatly informed the work of the Social Justice & Fairness Commission in developing six land policy proposals.

1. Reform land and property taxation, moving away from regressive taxes
2. Invest in vacant and derelict land
3. Reform the model of land release and housing supply by moving to a nationally underpinned system of land purchase and land preparation
4. Establish transparency of land ownership
5. Encourage diversity in land ownership, particularly with regards to community ownership
6. Establish a Housing Land Corporation (HLC)

### **Proposal 1: Reform land and property taxation, moving away from regressive taxes**

As set out in section 5.3.3 above, the Commission recommends that we move away from the Council Tax, which is regressive, and towards a Land Value Tax, the merits of which were acknowledged by the cross-party Commission on Local Tax Reform.<sup>134</sup>

A Land Value Tax would be a big change that would need to be phased in over a long period so as not to disrupt the market or penalise people who had made decisions based on a different system. However, it could be part of a wider reform of land and property taxation encompassing the Council Tax, non-domestic rates and the possible abolition of the Land and Buildings Transaction Tax (LBTT) (formerly ‘stamp duty’).

### **Proposal 2: Invest in vacant and derelict land**

There are over 11,000 hectares of vacant and derelict land in Scotland and much of it is concentrated in deprived communities, negatively impacting on wellbeing and limiting opportunities.<sup>135</sup> Investing in these sites and bringing them back into productive use has the potential to deliver several benefits including reducing inequalities, improving wellbeing, delivering inclusive growth and helping tackle climate change.

The Scottish Land Commission highlights that around a third of the population in Scotland lives within 500 metres of a derelict site, which rises to 55% in deprived communities, and

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<sup>134</sup> <http://localtaxcommission.scot/download-our-final-report/>

<sup>135</sup> [https://www.landcommission.gov.scot/downloads/5f73555fbfe93\\_VDL%20Task%20Force%20Recommendations.pdf](https://www.landcommission.gov.scot/downloads/5f73555fbfe93_VDL%20Task%20Force%20Recommendations.pdf)

that the amount of land on the vacant and derelict land register has remained static for years. A report prepared by Peter Brett Associates published in September 2019 on behalf of the Scottish Land Commission looked at the harm that is caused by vacant and derelict land on communities in terms of health, environment, economic and community impacts.<sup>136</sup> It determined that health impacts of living near vacant and derelict land can include poorer outcomes for general population health and lower life expectancy. Greater frequency of interaction with such land was also found to elicit negative impacts on wellbeing. In environmental terms, former industrial sites can present hazards such as contaminated land, and the costs associated with remediation can act as a barrier to development. The visual impacts of these sites can also have a negative bearing on area perceptions both locally and externally. From an economic perspective, the costs of remediation act as a disincentive to investment, which in turn perpetuates negative area perceptions, which continues to disincentivise economic investment, and so the cycle continues.

The impacts of these negative cycles are clear for communities. What is more, the more deprived communities that are worst affected are also often the least well equipped to secure improvements by, for example, establishing organisational structures, sourcing professional assistance, utilising appropriate community skills and accessing funding. A lack of access to such resources often leads to slower incremental change in the communities most in need of rapid improvements.

A recent Scottish Government announcement of £50million to transform thousands of hectares of vacant and derelict land over the next five years is therefore very welcome. The investment is designed to help Scotland meet its climate change targets and promote the health, wellbeing, and resilience of communities. It follows the recommendations from the Vacant and Derelict Land Taskforce to support a fair, green recovery, as set out in the Scottish Government's climate change plan. Sites that will benefit from the funding will offer opportunities for environmentally friendly reuse including low carbon, quality, affordable housing, and district heating and other community renewables projects.

### **Proposal 3: Reform the model of land release and housing supply by moving to a nationally underpinned system of land purchase and land preparation**

This proposal should be complemented by work to achieve greater community control over planning policy and greater diversification of suppliers, reducing the dominance of volume speculative house builders.

Land acquisition for social housing will require new compulsory sale orders legislation, need local authorities to gain land banking powers for neglected and derelict sites, and be

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<sup>136</sup>[https://www.landcommission.gov.scot/downloads/5dd7d4dfa39b6\\_VDL%20in%20Scotland%20Final%20Report%2020191008.pdf](https://www.landcommission.gov.scot/downloads/5dd7d4dfa39b6_VDL%20in%20Scotland%20Final%20Report%2020191008.pdf)

predicated on partnership working led by local authorities with private builders to service sites ahead of place-making and agreed planning procedures.

Whilst 'Section 75' agreements between developers and local authorities are an important instrument for capturing planning gain and providing affordable homes, they could be more effective. A streamlined form of compulsory purchase and land preparation by local authorities could provide a more effective mechanism for capturing uplifts in land values arising from planning permission, as well as facilitating the development of private as well as affordable housing. To work effectively, compulsory purchase would need to be at existing use value.

Such a far-reaching measure would need to be consistent with the European Convention on Human Rights, which has been invoked by existing landowners using the civil courts to delay new housing, farming and community needs. A concerted effort is required to level the playing field to ensure human rights are for everyone, not just those who can afford to pay large legal fees. This requires the International Covenant on Economic, Social and Cultural Rights to be made justiciable in Scots Law. Our wellbeing aspirations for Scotland require communities to have certainty that the land they live on can be put to sustainable use for the benefit of all who live there.

Land preparation would help to reduce one of the barriers to housebuilding and would also facilitate a wider range of housebuilding models, including smaller companies and self-build. As the Scottish Land Commission argues, we need land reform specifically geared towards bolstering community land ownership and the revitalisation of community housing associations, which will help meet housing need.

By resetting the planning process – from the National Planning Framework to Local Statutory Plans – we can empower communities to make their own places. Reorienting planning towards community needs rather than developers' profits is an important part of this.

Housing plans need to move away from one-size-fits-all criteria established in cities but totally inappropriate in other contexts, such as remote and rural areas. Examples include data collection for housing market zones that should not disadvantage small, scattered communities, which could support more residents. It has been recognised that the current Scottish Index of Multiple Deprivation is not useful when comparing rural areas to urban as the indicators used do not fully capture the realities of rural deprivation and households are more dispersed in rural areas, meaning deprivation may not be concentrated in one

particular datazone.<sup>137</sup> We also need to review governmental value-for-money criteria to ensure small rural housing plans are supported in dispersed communities.

These changes would have particular benefits in rural areas and allow homes to be built where they are needed by those communities.

#### **Proposal 4: Establish transparency of land ownership**

The 2012 Land Registration (Scotland) Act sought to complete the map-based land register, with public land to be registered by 2019 and private land to be registered by 2020. The land mass registration map, which is issued on a monthly basis by the Registers of Scotland, shows around 40% of the land mass is now in the new map-based form.

The 2016 Land Reform (Scotland) Act makes provision for greater transparency of ownership, and it gives Scottish Ministers powers to bring secondary legislation to implement it. These include requiring information on 'persons who have controlling interests in owners and tenants of land'. That is proceeding and is one of the most radical steps taken in the Act.

However, the next step that the Commission proposes is to identify and register a responsible person in residence or management of any land, especially if the ownership is absentee. This is proposed so as to facilitate the early serving of local tax bills (e.g. the early application of LVT) and other regulatory matters (e.g. planning conditions).

Regulations stemming from the 2016 Land Reform (Scotland) Act have now been passed in Parliament. The Register of Persons Holding a Controlled Interest in Land to be compiled by the Registers of Scotland will "increase public transparency in relation to individuals who have control over decision-making in relation to land. They are intended to ensure there can no longer be categories of land owner or tenant where, intentionally or otherwise, control of decision-making is obscured...this means that it will be possible to look behind every category of entity in Scotland, including overseas entities and trusts, to see who controls land."<sup>138</sup>

As well as knowing who owns land, it is necessary to promote dialogue between owners and residents, especially if developments are proposed by either party. We consider that these steps will open up public knowledge of who owns Scotland. It is complemented by the UK law passed in 2015, under pressure from the EU, which moves to tighten money laundering operations, whereby all companies must enter their beneficial owners in a public register.

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<sup>137</sup> <https://www.webarchive.org.uk/wayback/archive/20150218202042/http://www.gov.scot/Topics/Statistics/SIMD/deprivedruralpaper>

<sup>138</sup> <https://www.gov.scot/publications/register-persons-holding-controlled-interest-land-bria/>



### **Proposal 5: Encourage diversity in land ownership, particularly with regards to community ownership**

We need to accelerate community ownership. Current demand means there is too little cash for land purchase at current market values. The Scottish Land Fund has been increased to £10 million per annum since the SNP came to office, which is welcome, but Community Land Scotland has called for that to be doubled and argue that community asset transfer from public bodies should include enforceable discounts.

Adapting relevant ideas from the Land Settlement (Scotland) Act 1919 to empower communities could help them to seek control of their asset. Recently, a third of community land organisations reported an increase in population. This confirms that repopulation of Scotland has relied on community purchases and that they need to become the norm in our society but, crucially, with significantly reduced land costs compared to present 'market value'.

We need land reform specifically geared towards bolstering community land ownership and the revitalisation of community housing associations to help meet housing need. This could engender forward planning and organisations such as housing associations acquiring land and using their expertise to make progress on multiple fronts.

### **Proposal 6: Establish a Housing Land Corporation (HLC)**

A full analysis by the Land Reform Review Group argued in Section 20 of its final report that a public body, once again, is needed to lead the urban and rural housing renewal. A Housing Land Corporation (HLC) could meet Scottish Government placemaking aspirations. It should be charged with acquiring and developing enough land to meet all affordable housing need.

Given the history of housing policy since devolution, such a corporation would re-establish a national housing leader to replace Communities Scotland, which was abolished by the Scottish Government in 2007 and was the last in a line of over seventy years of government-led agencies to lead the nation's house building efforts.

A lead housing agency is once again required and could make land available at existing use value. That would be the first step to revising the repair, renovation, replacement and building of new homes fit for a climate change-aware era.

## 6. Conclusions

The remit of the Social Justice and Fairness Commission is to deliver a route map to the prize of a fair Scotland that values and cares for everyone who lives here – a society that prioritises human rights and equality, so that everyone can fully participate and flourish. Independence is not the destination but the means by which we can deliver that wellbeing society, full of compassion and hope, for Scotland.

In each of the challenges faced by our country that we have examined there is a constitutional ceiling on the progress that can be made under the current powers of the Scottish Parliament. In areas like social security, which in spite of further devolution in recent years remains largely reserved to Westminster, the limit is more pronounced. However, even in areas like housing and social care where powers are ostensibly devolved, the Scottish Government is constrained by limits on those powers – largely relating to tax and social security – that inhibit potential action or the desired effects of action. Add to the equation significant time and effort spent mitigating the negative effects of policy decisions from Westminster, and it is all the more difficult for any Scottish Government to effect the necessary transformational changes to tackle issues like poverty and health inequalities.

The pandemic has highlighted and exacerbated existing inequalities in our country and, in many respects, has made those challenges even more difficult to overcome. We have a long road ahead of us just to get back to where we were, and where we were was simply not good enough for far too many people.

Independence is vital to our recovery from the pandemic and to ensuring that we rebuild our country in ways that benefit us all. Independence is an opportunity for Scotland, and one which it is imperative is used to deliver real change. Our route map for to a fairer Scotland through independence is therefore based on three key strands.

First, that the ways decisions are made in Scotland must be inclusive, consensual and empowering for people and communities, enabling them to shape their own futures. Democratic renewal is at the heart of a wellbeing society – we can only have good and fulfilling lives if we each have a voice in shaping the decisions that affect us. Voting should not be the start and end of an individual's opportunity to shape decisions. Government at all levels should work for us and also with us.

Second, we believe that decision-making must be based on human rights and equality, because we want to build a society where no one is left behind.

And third, we contend that we should pursue the development of policies that prioritise wellbeing – harnessing deliberative democracy methods founded on our collective values around human rights and equality.

Crucially, our report recognises the diversity of Scotland. It is an action plan that can be localised to Scotland's diversity of geographies and their populations.

Our process has examined policy areas that have transformational potential and presents options and recommendations for current and future governments in Scotland. We have

also identified areas for further development and recommend the establishment of a permanent Commission or body to progress these areas of policy.

We believe that, taken together, the recommendations set out in our report would make our country a better place to live for everyone, but particularly those facing the greatest challenges in life. The purpose of government is to ensure that everyone has what they need to live a good life. That means giving every child the very best start in life, caring for people when they need it throughout their lives and ensuring needs are met through a combination of universal public services, a secure living income and the basic human right to a home. A society that meets those basic needs of its citizens provides a foundation on which to build opportunities for individuals and our whole society to flourish.

We hope our work is a useful contribution to this ongoing process of building consensus towards a better Scotland with independence.

## Acknowledgements

We would like to thank the following individuals and organisations for their constructive engagement with the work of the Commission, and note this engagement does not necessarily signify an endorsement of our report or any recommendation contained within.

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We would also like to thank Gillian Cowell, Dovydas Kuliesas, Emma Roddick and Fraser White for their support of the Commission's work.

## Appendices

### A: Membership of Commission

**Shona Robison MSP** – Convener of the Social Justice & Fairness Commission

**Neil Gray** – Deputy Convener of the Social Justice & Fairness Commission

**Councillor John Alexander**

**Professor Sir Harry Burns** – Professor, Strathclyde University and advocate for social and economic equality

**Chelsea Cameron**

**Aileen Campbell MSP**

**Councillor Graham Campbell** – SNP NEC BAME Convener, Scottish African Caribbean community, anti-racism campaigner with BLM Scotland, Co-founder of Africans for an independent Scotland and SNP Socialists Co-Convener

**Councillor Michelle Campbell** – Social/political activist, Registered Mental Health Nurse, experienced in healthcare and local authority governance

**Rob Gibson** – former MSP and author of ‘Reclaiming Our Land’

**Ginny McLanders Lawson**

**Stuart McMillan MSP**

**Dr Angela O’Hagan** – Academic, activist and independent member of the Commission

**Dr Nighet Riaz** – Academic, educator, community and political activist

**Julia Stachurska** – Polish migrant, feminist and activist, with equality and fairness at heart

**Professor Mark Stephens** – UK Collaborative Centre for Housing Evidence and University of Glasgow

**Alison Thewliss MP**

**Dr Eilidh Whiteford**

**Councillor Ethan Young**

**Julie Hepburn** (Secretariat)

The Social Justice & Fairness Commission was established and supported by the SNP, but our membership includes individuals who are not party members. The views and recommendations set out in our report represent a general, and not necessarily a majority, position.

## B: Recommendations

The tables below present a summary of some of the key recommendations outlined throughout this report. They are illustrative, not exhaustive. Further details and information about the rationale behind each recommendation can be found in the relevant section of the report.

### Democratic Renewal

Aim	Recommendation
Citizen Empowerment	Co-design and co-produce policies with the communities served or affected by them
	Develop and expand participatory budgeting
	Increase use and influence of citizens' assemblies
	Apply principle of subsidiarity as fully as practicable
	Establish a national resilience network to support local organisations
	Initiate substantial land reform

### Values: Human Rights and Equality

Aim	Recommendation
Human Rights	Agree, define and enshrine our shared values and goals in a written constitution
	Guarantee the right to a home
	Prioritise eradication of poverty
	Provide access to a secure living income and universal public services for everyone
	Incorporate international human rights conventions to close current gaps in provision
Equality (and elimination of discrimination)	Pursue policy coherence and intersectional approaches to policymaking
	Make decisive and directive use of the ministerial duties in targeting persistent inequalities and advancing transformative equality
	Improve integration of human rights standards and objectives in policymaking
	Seek to recoup the protections offered by the EU Fundamental Charter of Rights
	Establish an Autism and Learning Disability Commissioner in law

### Policies that prioritise wellbeing

Aim	Recommendation
Establish wellbeing principle in law	Bring forward a Wellbeing of Future Generations Bill
Invest in childhood	Prioritise childhood wellbeing spending, particularly in health and education
Tackle Scotland's problems with drugs and addiction through prevention	Prioritise policy actions that help tackle poverty
	Invest in childhood and create conditions that make Scotland a great place to grow up for all children
Tackle Scotland's problems with drugs and addiction through harm reduction and recovery	Support services need to be co-produced by people with lived experience and by those with the expertise to help deliver those services
	Explore decriminalisation for personal use
	Develop human rights/person-centred approaches to empower people to shape their own treatment
	Expand the range and availability of different treatment options

	Review prescribing practice
	Roll out approach to distribute Naloxone widely
	Test the safe consumption model, with a view to expansion if it proves effective
	Fund services that work, which have been co-produced by those who use and deliver the services
	Establish a body with the specific task of considering, co-producing and building consensus across political parties, civic and wider society about drugs laws and policies we wish to see adopted and pursued
Reform social care in Scotland	Introduce a national care service
	A national care service must include provision to ensure several key requirements are met
	A future integrated care system must be based on the inclusive participation of service users, carers, and providers in developing a range of social care services and delivery mechanisms that ensure the dignity and respect of all recipients and providers
	Excellent examples of innovative care that can and should become mainstream under a national care service should be explored. One such concept for exploration and testing is that of care hubs or villages.
	Actions and approaches that adequately support our caring workforce should be taken forward.
	Further detailed work should be carried out on all funding options to investigate what measures can be taken now using devolved powers and which would require the full tax and benefit powers of independence
	Care investment decisions should be taken from the perspective that social care is a key wellbeing economy growth sector rather than a drain on resources
	The Care Inspectorate should have the same enforcement powers to require change and improvement in commissioning and procurement as it currently has for service provision
Inclusive citizenship	Investment and training should be allocated to social care to equip workforces with the digital skills to support patients
	Create suitable conditions and implement a range of measures to attract migrants to stop population decline, particularly in the hardest hit geographical regions and shortage occupations
	With independence, Scotland can dismantle two key pillars of UK immigration policy: the unrelenting drive to reduce migration and the inhumane imposition of the hostile environment.
	The Scottish migration system must be made much more accessible, simpler and transparent.
	A clear right to work should be introduced as early as practicable for asylum seekers
	In the case of asylum applications, there is a strong case for establishing an independent agency to adjudicate on such claims.
	There should be greater local authority control and oversight over dispersal operations
	Asylum support should be brought within the general social security system
We must ensure that barriers to security and social justice, such as no recourse to public funds, are removed for those who achieve stable immigration status	
We should ensure victims of trafficking have leave to remain and can be supported to put their lives back together.	
Wellbeing Economy	The goal and objective of all economic policy should be collective wellbeing
Climate change and a just transition	Make rapid progress towards achieving an inclusive green economy
Fair taxation	The tax system should be made more progressive
	The tax system should be simplified
	Taxation should act as a progressive policy lever

	The tax system should be decentralised and include reform of local government taxation
	There is a strong case for the UK Government implementing a one-off wealth tax in the context of recovery from the current pandemic
	An excess profits tax should be applied to businesses and sectors that have benefited directly and substantially from the circumstances arising from the pandemic
	Avoid entering a renewed era of austerity in response to the economic cost of the pandemic
Land Value Tax	Introduce a Land Value Tax as part of wider reform of property taxation
Community Wealth Building	Explore the concept of community wealth building and its potential to deliver inclusive growth in Scotland
Secure Income: Social Security	Establish the ambition for a social security system that provides income security when we need it, just as the NHS does for our health and wellbeing
	Develop the Scottish Government's approach to tackling poverty and working towards a more socially just country.
	Pursue full Scottish control of social security
	<b>Take action now in the effort to eradicate poverty:</b>
	Maximise income through high take-up of benefits entitlement in the existing system, which is heavily means tested.
	Urgently pursue transfer of powers over additional areas of social security prior to independence
	<b>Take early action upon independence in the effort to eradicate poverty:</b>
	Repair the holes that have emerged in the safety net since 2010 as a matter of urgency
	The first government of an independent Scotland needs to roll out the approach of the current Scottish Government, and build a system that is based on dignity, fairness and respect and co-produced with the people it is there to support
	<b>Take longer-term action to eradicate poverty in an independent Scotland:</b>
	Establish the foundations for a longer-term transformation of social security
	Establish an independent Living Income Commission, which would encompass social security policy and employment policy
	Explore utilisation of a Universal Basic Income approach towards eradicating poverty
Explore utilisation of a Minimum Income Guarantee approach towards eradicating poverty	
Secure Income: Pensions	Need to construct long-term pensions policy that does not chop and change
	Pay the New State Pension rate to all pensioners
	Move to residence as the basis of qualification for the New State Pension
	Review the tax treatment of pensions
	Consider introduction of a statutory earnings-related pension
	Encourage occupational Defined Benefit schemes that are open to new joiners
	Consider introducing pension indemnity assurance to replace the Pension Protection Fund model underpinning all occupational Defined Benefit schemes
Secure Income: Fair work	Fully devolve employment law to the Scottish Parliament as a matter of urgency
	Raise the minimum wage to the real living wage
	Ban exploitative use of zero-hour contracts
	Extend rights and protections to better protect workers in the 'gig economy'
	Ban unpaid trial shifts
	Legislate against the practice of 'fire and rehire'
	Align Scottish employment legislation with EU protections
	Take tough new action to eliminate unequal pay
Seek to protect and restore the rights secured for workers through membership of the EU, including the EU protection of no cap on discrimination awards	



	Take action that makes work fair for women in Scotland
	Establish population proportionate employment targets as a public sector duty
	Develop proposals for a transformative shift in working practice to Introduce greater provision for a four-day week
	Implement widespread wholesale change with independence to ensure fair work for all
Building Homes and Communities: Housing	Develop modernised aims of housing policy: a decent home for everyone at a price within their means that meets minimum energy efficiency, space and accessibility standards
	Seek to move owner-occupation back towards a means to manage housing costs over the life cycle, and away from expectations of asset appreciation
	Use the expanded social rented sector to set standards across the housing system
	Retain and reform housing allowances as poverty falls
Building Homes and Communities: Planning	Modernise existing stock
	Create a social justice purpose for planning
	Prioritise pro-social development
	Integrate participatory planning for community empowerment
Building Homes and Communities: Land	Maximise and redistribute planning gain and community benefits
	Reform land and property taxation, moving away from regressive taxes
	Invest in vacant and derelict land
	Reform the model of land release and housing supply by moving to a nationally underpinned system of land purchase and land preparation
	Establish transparency of land ownership
	Encourage diversity in land ownership, particularly with regards to community ownership
	Establish a Housing Land Corporation (HLC)

## C: Social Justice and Fairness for All – Why Radical Rewriting of Immigration, Asylum and Citizenship Laws are Required: Submission to the Social Justice & Fairness Commission from Stuart McDonald MP

### **Introduction**

The goals of the Social Justice and Fairness Commission are goals for *all* of Scotland's people - including those from other countries who have chosen to make Scotland their home. Just as for any other person, secure incomes, homes and communities, and health and wellbeing are vital to our 'New Scots'. The same policies that will help support and deliver these aims for our population as a whole, will help deliver for this group too. However, right across migration, citizenship, asylum and refugee policy, wide ranging reforms will also be required in order to ensure migrants, asylum seekers and refugees are able to properly access these rights.

This short paper sets out the policy principles - some of which already shape how policy in relation to devolved competencies apply to New Scots - which could be developed and applied in order to help deliver the goals of the Social Justice and Fairness Commission for all. The paper then charts out some of the reserved migration, citizenship and asylum policies that most urgently require reform to best support the achievement of those goals.

### **Principles to build on**

Setting out the broad principles of and a framework for migration, asylum and citizenship policy is important – their absence can contribute to disastrous consequences as we have seen recently. Among the key recommendations made by Wendy Williams to the Home Office in her review of the Windrush fiasco, were recommendations to:

- “set a clear purpose, mission and values statement which has at its heart fairness, humanity, openness, diversity and inclusion”.
- “develop a set of ethical standards and an ethical decision-making model, built on the Civil Service Code and principles of fairness, rigour and humanity, that BICS staff at all levels understand, and are accountable for upholding”.

The review stated that the “principles should promote fairness, openness and effective care, and embed the idea that people will always be treated with respect and dignity. This was not the experience of those affected by the Windrush scandal”.

Such principles should be embedded from day one in an independent Scotland – perhaps in our written constitution, but certainly in statute. But we don't need to start with a blank sheet of paper – there are principles and existing legislation we can build upon when drawing up our own mission statement, ethical decision-making model, and constitutional and statutory frameworks.

Several Scottish Government reports have highlighted the enormous benefits of migration to Scotland, economically and culturally, as has the Growth Commission. Making Scotland an attractive and welcoming place where migrants can feel secure is good for us all. But it should also be seen as a point of principle - that people are not excluded from a secure income, from homes and communities, or from good health and wellbeing simply because of their immigration or citizenship status.

This is reflected in the Scottish Government's "Migration: Helping Scotland Prosper" paper<sup>139</sup>:

"There is a pressing need for a different approach to migration policy for Scotland. This approach should be tailored to Scotland's particular needs and support economic growth and help respond to the implications of demographic change. It should be fairer and provide a better experience for those seeking to live here, and it should incorporate local accountability for decisions through the Scottish Parliament".

The paper advocates for "developing a migration policy that: • treats all people with kindness, dignity and compassion; • respects the rule of law; and • acts in an open and transparent way". It suggests the repurposing of the principles that steer the direction of Scotland's new social security system:

**"Dignity** could mean welcoming people who want to make Scotland their home, to live, work and raise their families here as part of our communities, as well as people who want to study, visit or work in Scotland for a time, valuing and celebrating the contribution they make to society and the economy and respecting people interacting with our system and the impact that has on their lives and the lives of their family, and treating them with kindness.

**Fairness** could mean putting in place clear rules that everyone can understand and follow, making decisions on those rules consistently and transparently, and making sure decisions can be reviewed or appealed. It could also mean preventing and identifying fraud and abuse of the system.

**Respect** could mean developing and delivering policies which have democratic accountability at their heart, with clear aims developed in conjunction with employers, representative organisations and communities. The Scottish Government would make decisions openly, explain decisions, and be accountable for them in the Scottish Parliament and to the people of Scotland. Under the current system, too many immigration changes are made without adequate opportunity for clear democratic accountability."

The paper also reiterates seven principles from an earlier Scottish Government discussion paper - "Scotland's Population Needs and Migration Policy" (February 2018) – several of which are very relevant:

- i. Migration policy should address the needs of all of Scotland, including those areas most at risk of depopulation.
- ii. Migration policy should encourage and enable long-term settlement in Scotland, welcoming people with the range of skills we need to work, raise families and make a positive contribution to society.
- iii. Scotland should be able to attract talented and committed people from Europe and across the world to work and study here without excessive barriers, and our migration policy should support mobility, collaboration and innovation.
- iv. Migration policy should support fair work, protecting workers' rights, pay and access to employment and preventing exploitation and abuse.

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<sup>139</sup> 'Migration: Helping Scotland Prosper' (27 January 2020), <https://www.gov.scot/publications/migration-helping-scotland-prosper/>

v. People who are entitled to live in Scotland – both international migrants and UK citizens – should be able to bring close family with them and migrants should have access to services and support to encourage integration into communities.

vi. The migration system should be easy to access and understand and focused on what a prospective migrant can contribute, not on their ability to pay – therefore fees and charges should be proportionate.

vii. Migration should be controlled to deter and prevent abuse, fraud and criminal activity, including terrorism, human trafficking and other serious offences”.

Many of these principles can be applicable both in relation to policy on refugee protection as well as general migration policy. More specifically in relation to refugee protection, the Scottish Refugee Council has called on states and authorities to adopt six Principles of Protection:

1. Global solidarity and responsibility sharing with all states playing a proportionate role in providing solutions to displacement
2. Effective access to an asylum procedure
3. A fair and efficient asylum process
4. Reception conditions during the asylum procedure that promote dignity, empowerment and integration
5. Integration policies that enable refugees to realise their full potential and make a positive contribution to their new communities”.
6. People found not to be in need of protection should only be returned after a fair and thorough examination of their application, and in a safe, dignified and humane way”<sup>140</sup>.

In a recent policy paper for the SNP Westminster Group, Helen Baillot and Joe Brady suggested adding a significant seventh – the principle of liberty, with an ambition to phase out the use of immigration detention, other than for truly exceptional circumstances.

With regards to integration, in the “New Scots” Refugee Integration Strategy five principles are set out<sup>141</sup>:

- Integration from day one - support from arrival, not once leave is granted
- A rights based approach – empowering people with rights and knowledge of how to exercise them
- Refugee involvement – refugees and asylum seekers themselves using their experiences to shape strategy and policy
- Inclusive communities – ensuring existing communities are supported and enabled to participate in refugee integration
- Partnership and collaboration – across government, agencies and community groups.

Finally, with independence we have the opportunity to fully embed and protect human rights into these policy areas. This starts with the European Convention on Human Rights – an instrument that has been hugely significant for so many. With the UK’s approach to the Convention under question, independence offers a hugely contrasting alternative opportunity to put human rights at the heart of our constitution and policies. Another example would be the UN Convention on the Rights of the Child. As the time of writing, the Scottish Parliament looks set to pass the landmark UNCRC

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<sup>140</sup> <https://www.scottishrefugeecouncil.org.uk/scotland-can-be-a-beacon-for-a-more-fair-and-humane-system-for-refugees/>

<sup>141</sup> <https://www.gov.scot/publications/new-scots-refugee-integration-strategy-2018-2022/pages/3/>

(Incorporation)(Scotland) Bill in order to incorporate those rights insofar as they relate to devolved competencies. With independence, Convention rights relating to currently reserved powers would also be incorporated meaning the best interests of the child, respect for the views of the child, protection of refugee children and family rights would be enhanced and protected.

All of these principles and ideas overlap and complement each other. They centre around treating people with dignity; adopting a rights-based approach; and facilitating participation and integration from day one. The next section looks briefly at how these principles already shape a lot of work being done in devolved policy areas, before turning to consider their implications for reform if applied to reserved policy areas.

### **Applying those principles in devolved powers**

While successive UK governments have built up a horrendous hostile environment and done untold damage desperately pursuing counterproductive net migration targets, the Scottish Government and Parliament have used their restricted powers and influence to take a markedly different approach. By way of illustration - a campaign to attract more people to Scotland<sup>142</sup>; protecting the voting rights of EU nationals and expanding the franchise to all with leave to remain including refugees<sup>143</sup>; guardians for every unaccompanied child asylum seeker<sup>144</sup>; a strategy to assist asylum seekers to integrate from day one<sup>145</sup>.

The most recent Programme for Government (2020-21) committed to the development of a new Population Strategy; to build on the Stay in Scotland campaign to provide information, advice and support to those navigating the Scheme; to launch a Welcome to Scotland resource, providing practical, accessible information for people who have either recently moved or are considering moving to Scotland; to develop and publish proposals for a rural migration pilot in Scotland; and to continue to fund TalentScotland, providing information, guidance and support to Scottish-based companies seeking to employ or retain international staff, and to inward investors considering Scotland as a location for their business.

The Programme also committed to supporting cohesive communities and, in responding to the coronavirus outbreak, significant investment has been provided to third sector organisations supporting people seeking asylum and others who are subject to No Recourse to Public Funds (NRPF); and other forms of support have been provided regardless of NRPF status. The Scottish Government committed to continued work with COSLA and the Scottish Refugee Council to support refugees and people seeking asylum to integrate in communities in Scotland, in line with the key principle of the New Scots strategy. The Scottish Government and COSLA are also committed to implementing an anti-destitution strategy to support those in our communities most at risk from reserved immigration policies on NRPF. “As part of this we are re-examining options to support those who are destitute through NRPF, including expanding the scope for more effective and dignified support”.

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<sup>142</sup> <https://beta.gov.scot/news/global-campaign-takes-scotland-to-the-world/>

<sup>143</sup> <http://www.legislation.gov.uk/ssi/2018/171/made>

<sup>144</sup> <https://www.aberlour.org.uk/services/scottish-guardianship-service/>

<sup>145</sup> [http://www.scottishrefugeecouncil.org.uk/assets/0001/5445/New\\_Scots\\_2018\\_-\\_2022.pdf](http://www.scottishrefugeecouncil.org.uk/assets/0001/5445/New_Scots_2018_-_2022.pdf)

All of these initiatives, consistent with the policy principles outlined earlier, have helped or will help improve the lives of those who have chosen to make Scotland their home, and their ability to enjoy secure incomes, homes and communities, and health and wellbeing.

### **Using the Full Powers of Independence**

However, with immigration, asylum and citizenship laws reserved (along with powers over employment and social security), it is clear that many vital policy levers we need to ensure social justice and fairness for ‘New Scots’ will only arrive with independence. Indeed, taking on these new powers and using them to benefit Scotland is a key advantage of independence. All of us would benefit from ensuring policy meets Scotland’s needs.

There are so many different ways we could and would use immigration, asylum and citizenship powers to help ensure secure incomes, homes and communities, and health and wellbeing for ‘new Scots’.

First and foremost we need to ditch the two key pillars of UK immigration policy for over a decade: (1) the relentless desire to drive down migration at all costs; and (2) the creation of a hostile environment. Neither are evidence based – and both are pernicious in effect, delivering insecurity, undermining communities and damaging wellbeing. The nonsensical net migration target encouraged the Home Office to implement an array of awful policies from destructive anti-family immigration rules, to scrapping of the successful Fresh Talent and Post Study Work schemes. Meanwhile the hostile environment – itself a means of pursuing a reduction in net migration - has been repeatedly condemned. For example, IPPR recently found that “the hostile environment has contributed to forcing many people into destitution, has helped to foster racism and discrimination, and has erroneously affected people with the legal right to live and work in the UK”<sup>146</sup>.

And so for many new Scots, insecurity starts with an insecure immigration status. Access to secure status is too complicated, too difficult and incredibly expensive. Our Scottish immigration system must be much more accessible, simpler and transparent, and fees must be fair and more reflective of the cost of processing the applications they are attached to. New charges such as the immigration health surcharge are wrong in principle (a regressive double poll tax on migrants) and detrimental in effect – causing insecurity and financial hardship, while also making our country significantly less attractive.

For those for whom this country is home, access to permanent residence should not require 10 years of repeated applications and phenomenal, prohibitive and unjustified fees and charges – as is the case for too many in the UK. We also need to look at providing more pathways to regularise undocumented status here – the UK shamefully turns a blind eye to the fact that there are hundreds of thousands of people who have been here for considerable periods, but who have little prospect of regularising their residence. Failure to do so means these people have no prospect of security and are instead at risk of exploitation and destitution.

Indeed, a number of our European citizens will lose their rights if they fail to apply for EU settled status by the UK government’s unnecessary June 2021 deadline. They should all automatically be able to regularise their status, as well as secure physical proof of it, regardless of when they apply – rather than having to provide a “reasonable excuse” for a late application. Indeed, a ‘declaratory’ scheme, as advocated for by the SNP and by the 3million campaign group, would mean nobody losing their status in the first place.

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<sup>146</sup> <https://www.ippr.org/files/2020-09/access-denied-hostile-environment-sept20.pdf>

That unfairness, injustice and insecurity have become almost baked into UK immigration and nationality laws has of course been most starkly illustrated by the Windrush scandal.

Within the review of the Windrush scandal undertaken by Wendy Williams and published in March 2020<sup>147</sup>, while “unable to make a definitive finding of institutional racism within the department” it does raise significant concerns that the failings “demonstrate an institutional ignorance and thoughtlessness towards the issue of race and the history of the Windrush generation within the department, which are consistent with some elements of the definition of institutional racism”.

In her review Wendy Williams argues that members of the Windrush generation and their children “have been poorly served by this country. They had every right to be here and should never have been caught in the immigration net. The many stories of injustice and hardship are heartbreaking, with jobs lost, lives uprooted and untold damage done to so many individuals and families.” Williams also argues that all of these effects were “foreseeable and avoidable”, and “The causes of the Windrush scandal can be traced back through successive rounds of policy and legislation about immigration and nationality from the 1960s onwards, the aim of which was to restrict the eligibility of certain groups to live in the UK.” Williams further states that “...when successive governments wanted to demonstrate that they were being tough on immigration by tightening immigration control and passing laws creating, and then expanding the hostile environment, this was done with a complete disregard for the Windrush generation.” Williams states that there are lessons for ministers and officials in the Home Office to learn. Thirty recommendations have been made by Williams, which centre around three core areas:

“...the Home Office must acknowledge the wrong which has been done; it must open itself up to greater external scrutiny; and it must change its culture to recognise that migration and the wider Home Office policy is about people, and, whatever its objective, should be rooted in humanity.”

Exploring further the issue of the UK Government’s hostile environment policy, the UK Parliament’s Joint Committee on Human Rights published their report “Black people, racism and human rights” on 11 November 2020<sup>148</sup>. Their inquiry was launched “...against the backdrop of the Black Lives Matter protests and the Government’s announcement of the Commission on Race and Ethnic Disparities.” Concerning the issue of nationality and immigration, the JCHR report states that: “Evidence to this inquiry argued that the widely acknowledged systemic failings of the immigration system stem from institutional racism in the Home Office, and that this was embedded in nationality and immigration policy and practice.” (p.27). The JCHR report also discusses the Amnesty International submission to the JCHR inquiry, which “sets out how it believes that the role of racism in the scandal goes much deeper and can be traced back to the original changes to nationality and immigration laws from which the later denial of residency rights stemmed.”<sup>149</sup>

All the recommendations of the lessons learned review should be hardwired into migration and citizenship policy and the institutions responsible for them from day one of independence, including: ensuring policy takes proper account of its equalities impacts; that there is proper engagement with stakeholders and communities; that a race advisory board (within the Home Office) and a Migrants Commissioner are established, and the role of the independent inspector strengthened (external

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<sup>147</sup> ‘Windrush Lessons Learned Review: Independent review by Wendy Williams’ (March 2020), <https://www.gov.uk/government/publications/windrush-lessons-learned-review>

<sup>148</sup> <https://committees.parliament.uk/publications/3376/documents/32359/default/>

<sup>149</sup> The full Amnesty International ‘Submission to the Joint Committee on Human Rights: Black people, racism and human rights’ (September 2020), can be found at <https://committees.parliament.uk/writtenevidence/11496/html>

roles); that the values of fairness, humanity and openness are embedded in a values statement; a framework is developed for ethical decision making.

Building on the lessons learned from the Windrush scandal, the whole system should be focussed on helping people to access status – not seeking to find excuses to deny it. The right to challenge decisions through appeals that were stripped away by the Tories, must be restored.

Indeed, the Windrush scandal should give us pause for thought about precisely where responsibility for immigration and nationality policy should lie. Why should it rest exclusively with a department that see migration only as a numbers game? Wouldn't there be clear benefits for handing some powers over student, family or worker visas to departments that recognise the human beings behind the numbers – departments for education, communities or employment & skills for example?

In the case of asylum applications, where we are adjudicating people's rights under international law (the Refugee Convention), there is a strong case for establishing an independent agency to adjudicate on such claims (as argued for in the recent paper by Helen Baillot and Joe Brady for the Westminster SNP group) – learning from the example of the Immigration and Refugee Board of Canada. This means that the capacity for asylum applications to be influenced by political pressures, targets and under-resourcing are much more limited, and fairer decisions reached.

And even those who ultimately are not successful in achieving status must still be treated with dignity and respect – not deliberate destitution, homelessness and detention. A new approach could perhaps include a 'grace period' where the system will work with a person who has failed with an in-country application to look at alternative options, or to support a voluntary safe and secure return to their country of origin.

Even among those who do achieve a stable immigration status here, too many face other barriers to security and social justice. Chief among these barriers are the afore mentioned "no recourse to public funds" rules, which provide that many people with limited leave to remain cannot access financial support or some services. Many of these restrictions are utterly unfair and can only be understood as one way for the UK government to make the country less attractive to migrants.

Indeed, a very recent change to the immigration rules now entitles the Home Secretary to remove people from the UK, regardless of their immigration status, on grounds of homelessness. Outrageous in principle, this will be particularly dangerous for those with NRPF conditions struggling to keep a roof over their heads during difficult economic times – such as the present – increasing fear that seeking support could lead to removal.

When people are excluded from support, the risks of exploitation are increased - as demonstrated by the Precarious Lives project about experiences of forced labour among refugees and asylum seekers, which found that labour exploitation "is often unavoidable for refugees and asylum seekers in order to meet the basic needs of themselves and their families."<sup>150</sup> Domestic abuse victims (some of whom already feel trapped by immigration rules) may feel further pressure to remain with perpetrators. These drivers of abuse and exploitation are further exacerbated when victims and potential victims perceive State authorities as primary enforcers of immigration law. The case for the separation of immigration enforcement from the labour law enforcement and victim crime reporting services has repeatedly been made by victims themselves. This principle has been recognised in

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<sup>150</sup> Dwyer, P. et al, 2013, Precarious Lives. Available at [https://precariouslives.files.wordpress.com/2013/07/precarious\\_lives\\_findings\\_summary\\_2-7-13.pdf](https://precariouslives.files.wordpress.com/2013/07/precarious_lives_findings_summary_2-7-13.pdf)



Scotland where a firewall has been established between healthcare and immigration enforcement, in a departure from UK policy.<sup>151</sup>

All of these rules require a complete overhaul to ensure all with permission to be here have fair access to the social security support and services that they need.

Not everyone will want to apply for citizenship, especially if that means giving up another citizenship, but for many this will mean the greatest form of status and security. UK citizenship has become over-priced and focusses on passing a test which is well-known to bear little relation to a person's integration or commitment to the country. We should learn from best practice in other countries for making citizenship available to those who want it and establishing the criteria for being granted it. A shorter route to citizenship of three or four years could be available to some or all (and indeed, shorter routes to permanent residence alongside this). But a key change that is imperative is fixing the rules for "registering" as citizens, those who have an *entitlement* to it. Many young people who were born here or have been here for a substantial period of their young lives miss out on the opportunity to register as British because there was not an awareness of the laws; they cannot afford the fee; or rules on 'good character' are inappropriately applied to children. Reform should at least involve a reduced fees, fee waivers and simplification, as well as scrapping the deadlines by which people need to apply to register, and ending inappropriate application of 'good character' tests to children.

The system for those seeking status as a refugee and who are awaiting a decision also needs a radical overhaul to pursue the goals of the Social Justice and Fairness Commission. The dispersal system has seen asylum seekers placed in inappropriate accommodation, sometimes poor quality accommodation, where their needs and vulnerabilities cannot be met. Local authorities who have stepped up to take on the responsibility of receiving asylum seekers have been deprived of proper powers, oversight and funding, with private contractors instead left to procure from an ever dwindling stock of housing, often in areas which already suffer from problems of deprivation. And for those asylum seekers whose applications are unsuccessful, the Home Office will simply make many street homeless and destitute and leave the local authority to pick up the pieces. The time has come for giving local authorities much greater control and oversight of the operation, and funding to make it work well – so that the asylum dispersal system works to provide security for asylum seekers, and works for the communities in which they live.

While waiting on their decision, asylum seekers are often provided with a limited form of asylum support if they would have otherwise been destitute. Previously the level of support was linked to social security benefits; but it is now set at an absolutely bare minimum subsistence level. Key improvements could be to re-establish the link with existing benefits. Indeed, bringing asylum support within the general social security system could aid with integration (Baillot and Brady). The move from asylum support and accommodation to refugee status too often actually results in homelessness and destitution, as the 28-day 'move-on' period is insufficient to allow a refugee to find new accommodation and to secure Universal Credit<sup>152</sup>. A unified system will not only improve support, but make that transition smoother. Similar advantages might be accrued by integrating or

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<sup>151</sup> For evidence of the impact of this overlap, see for example: The Right to be Believed: <https://stepupmigrantwomenuk.files.wordpress.com/2019/05/the-right-to-be-believed-full-version-updated.pdf> / and Identification and Support of Victims of Trafficking for Labour Exploitation in the Netherlands, the UK and Romania (February 2016):

<https://www.labourexploitation.org/publications/identification-and-support-victims-trafficking-labour-exploitation-netherlands-uk-and>

<sup>152</sup> <https://www.redcross.org.uk/about-us/what-we-do/we-speak-up-for-change/improving-the-lives-of-refugees/refugee-move-on-period>

aligning the asylum and housing systems. At the very least, the arbitrary 28-day move-on period must be changed so that a newly recognised refugee moves on when it is right for them (not the Home Office or its contractors).

Another very obvious change would be to introduce a clear right to work for asylum seekers. This would reduce reliance on support from public funding, and instead see asylum seekers support themselves, and contribute to the economy, society and the exchequer. Currently the UK government only allows asylum seekers to work if they have waited 12 months or more – and even then, only in occupations deemed a shortage occupation. Being out of the labour market for 12 months and often much longer is hugely detrimental to health and wellbeing and to integration. While the debate is often framed around the possibility of allowing work at 6 months, or 3 months, adopting the approach of ‘integration from day 1’ (as per the Scottish Government’s ‘New Scots Strategy’) would point to allowing work at an even earlier stage.

Immigration (and labour market) powers also mean the powers to tackle exploitation and abuse. The Scottish Government and Parliament have already introduced important legislation and strategies in relation to modern slavery. (Significantly, with regards to human trafficking, in Scotland the Human Trafficking and Exploitation Act has retained the term and incorporated the international definition of human trafficking into Scottish law, unlike the UK Modern Slavery Act). With additional powers, we could also ensure recognised victims of trafficking have leave to remain in the country while they are supported to put their lives back together; offered appropriate and tailored statutory support informed by survivor expertise and international law and best practice; and empowered to seek access to legal remedies and, where desired, to help bring to justice those who exploited them.<sup>153</sup>

More generally, the UK has a poor track record in checks and investigation of poor employment practices, with few premises ever visited. The average employer can expect an inspection from HMRC NLW/NMW teams once in every 500 years.<sup>154</sup> Labour market enforcement has been in decline since 2010 when the Spending Review saw labour market enforcement authorities’ budgets cut by up to 40%.<sup>155</sup> The victims of exploitation are often scared to contact the authorities because hostile environment policies mean they fear making such contact will see them detained and removed. Often their only contact with State authorities is during border controls and workplace immigration inspections.

Therefore, we also need to invest the resources and create an atmosphere that will allow the exploited to come forward, including ensuring that information about exploitation is not (and cannot be) used by immigration authorities to take enforcement action against victims, and ending joint operations between immigration enforcement and labour market enforcement. The role of labour market enforcement and immigration enforcement should be completely separated. We need to repeal offences such as “illegal working” that give exploitative employers huge power over victims. We should minimise policies that tie a visa to a particular job or employer – ensuring workers can change in-country means they are less susceptible to abuse and exploitation. The role of trades

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<sup>153</sup> It is important to emphasise the non-conditionality of support and assistance on the cooperation with law enforcement in criminal proceedings as set out in Article 11 of the EU Trafficking Directive.

<sup>154</sup> From p.52 of United Kingdom Labour Market Enforcement Strategy 2018/19, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf)

<sup>155</sup> In the case of the Health and Safety Executive see FLEX, 2013, Preventing Trafficking for Labour Exploitation, and the Coalition Government’s ‘Red Tape Challenge’ agenda (<https://www.gov.uk/government/news/red-tape-challenge>) which served to reduce regulations whilst its Deregulation Act placed a limit on the activities of regulators as part of a strategy to promote economic growth (see S108 Deregulation Act 2015).

unions and migrant community organisations in protecting migrant workers (temporary migrant workers in particular) needs strengthened, not undermined. We need to improve regulation of labour agencies, including by looking to effectively regulate the practices of overseas recruitment agencies supplying labour to Scotland, and rules around 'recruitment fees' and other practises, including so-called voluntary payments for travel or in country support, which often lead to an increase in the risk of exploitation to migrant workers.

Pivotal to a sense of health and wellbeing and home and community for human beings is family. And yet the UK has some of the most anti-family immigration policies in the world – affecting many UK citizens as well as many migrants. The general immigration rules place extraordinary restrictions on the rights of UK citizens and settled persons to be joined by their non-UK partners here, including a financial threshold that around half the population cannot meet. This has led to tens of thousands of couples being split apart, and parents from children. With EEA nationals now within the scope of these rules, many more lives will be destroyed. These rules must be abolished or reformed so that no longer are couple priced out of loving and living together here, or children separated from a parent merely because of that parent's income.

We also know that family is crucial for refugees who are making their home here. Many will have become separated from close family members between fleeing their country of origin and arriving here. Again, the UK has more restrictive rules on family reunion than many other countries – with a narrower range of family members qualifying. Children over 18 are usually excluded even if part of the household of a refugee, and this country is almost alone in Europe in refusing to allow unaccompanied refugee children in the UK to have their parents join them here. Family reunion rules should be expanded. This means that those family members will not feel compelled to embark on dangerous journeys to the UK; and it can also play a hugely positive role in allowing new refugees to settle here. We should also seek to continue to allow the transfer of asylum claims to Scotland if there were relevant family members here under EU Dublin rules and play our full part in UNHCR resettlement schemes.

Migration could have a particular role to play in supporting those communities of our country struggling with depopulation or ageing populations, or in remote areas where there is a much more limited labour market. We know, for example, EU nationals have made an important contribution to sustaining services and important local employers, in turn helping to retain existing populations in these areas. As well as restoring free movement, a remote or rural areas visa should be piloted, to encourage other migrants to move to targeted areas. Such a scheme was proposed by the UK's Migration Advisory Committee (as well as by the Scottish Government) – but while originally accepted by Sajid Javid, it has subsequently been repudiated by the new Home Office regime. There are examples of successful schemes internationally, including Canada and Australia, from which best practise can be followed - whilst also learning the lessons of such schemes in order to put in place the necessary protections, including enhanced labour market enforcement capacity and supported worker representation systems, to prevent exploitation of workers

More generally, the impact of migration must continually be looked at holistically. It is not enough to put in place migration rules and then just leave things to work out. Ensuring migration continues to be a positive story for the country will also involve thinking carefully about strategies such as integration and community cohesion, as well as appropriate funding for local infrastructure in those areas where migrants do successfully boost the population. At UK level, there have been only slow steps toward developing these policies alongside immigration policy. A "Migration Impact Fund" was introduced by Gordon Brown in the dying embers of his premiership, only for it to be scrapped by Home Secretary Theresa May. Nine years later as Prime Minister, she would re-introduce a small

fund for local authorities to help them respond to any impact of recent migration to their areas - preposterously called the “controlling migration fund”. We need to build on the New Scots integration strategy for refugees, and ensure across government there is thinking about how migration impacts on different policy areas, and how departments must respond in order to maximise the benefits we all know migration can bring – and to ensure that all our people including New Scots, benefit from secure incomes, homes and communities, and health and wellbeing.

Finally, it goes almost without saying that there can be few policies that are closer to being the antithesis of social justice, fairness and security than widespread and routine use of immigration detention. The impact on mental health and vulnerabilities has been extensively documented, including in Stephen Shaw’s independent review<sup>156</sup>. It is a practise that must end – with detention a matter of absolute last resort, subject to strict judicial oversight and tests, for the shortest periods possible and subject to strict maximum periods.

These are just some of the ways we can help make the goals of secure incomes, homes and communities, and health and wellbeing realisable for *all* of Scotland’s people - including in particular those from other countries who have chosen to make Scotland their home. And there are so many people and organisations with the experience, knowledge and skills to develop and expand upon these ideas further. But under the auspices of the Home Office there is absolutely no possibility of that happening – instead, many understandably fear for the future.

Getting into a position to achieve these social justice goals for all is an increasingly powerful reason for securing the powers we need to deliver them through independence.

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<sup>156</sup> “Review into the welfare in detention of vulnerable persons”:  
<https://www.gov.uk/government/publications/review-into-the-welfare-in-detention-of-vulnerable-persons>