Equality and Human Rights Commission
Response to the Consultation on a Fuel Poverty Strategy for Scotland

Creating a fairer Britain
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The Equality and Human Rights Commission is the National Equality Body (NEB) for Scotland, England and Wales. We work to eliminate discrimination and promote equality across the nine protected grounds set out in the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

We are an “A Status” National Human Rights Institution (NHRI) and share our mandate to promote and protect human rights in Scotland with the Scottish Human Rights Commission (SHRC).

We did not respond to every question of this consultation and instead focused on the questions most relevant to our work and remit.

**Legislative Context**

**Question 1:** Do you have any comments on this new definition of fuel poverty, in particular, what do you think about the proposal to use AHC and MIS as means to measure fuel poverty in Scotland?

(a) What, if any, challenges do you this approach could present in enabling targeting of resources to those most vulnerable to fuel poverty; and

The EHRC welcomes the opportunity to respond to this Consultation.

In 2016, around 649,000 households, accounting for 26.5% of all Scottish households, lived in fuel poverty – a decline of 4 per cent compared to 2015. However, this decrease has largely been attributed to lower energy costs, which, as the consultation paper mentions, the Scottish Government has little control over. During 2017, energy prices increased considerably and fuel poverty is hence likely to increase.

The right to an adequate standard of living is a human right guaranteed by the

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International Covenant on Economic, Social and Cultural Rights. It includes the right to adequate housing. In order for the right to adequate housing to be fulfilled, the housing must protect the inhabitants from rain, damp and cold. In Scotland, this means that households have to be able to properly heat their homes in order to protect them from the cold and damp. The EHRC supports the move to define fuel poverty based on the after housing cost (AHC) income. Housing costs make up a considerable proportion of the expenditure of Scottish households, especially for poorer households who live in rented accommodation. Housing costs are a must and something people cannot easily reduce or avoid. The income after housing costs should be considered a much more accurate measure of the standard of living. Moreover, using a before housing costs income results in housing benefit counting towards the income. When housing benefits increase due to a rise in rent, the data would show an increase in income and standard of living despite the fact that the household in question has seen no change in after housing costs income or accommodation quality.

When housing costs are taken into account, it is vital that they reflect the real costs, which households across Scotland face. There, for example, have been some discussions around how mortgages are taken into account. When housing costs are calculated, the ‘capital’ element of mortgages is often not included and only the ‘interest’ element is considered. 20 years ago, interest-only mortgages were more common. But this is not the case anymore and many owner occupiers’ monthly housing expenditure might not be adequately represented if the ‘capital’ element of the mortgage is not taken into consideration.

The EHRC also supports the use of the Minimum Income Standard (MIS). The MIS offers a benchmark of minimum needs and is based on services and goods that the public think are minimum requirements for people to enjoy an adequate standard of living. It is therefore based on the lived experience of people and looks at actual costs that households face rather than just on a comparison between their household income and the average household income across the nation. We believe that this will ensure that the fuel poverty figures will more accurately reflect the number of households across Scotland who struggle to heat their homes and thereby improve targeted support.

In addition, we agree with the Scottish Government’s proposal to deduct

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5 The International Covenant on Economic, Social and Cultural Rights, Article 11.
childcare costs from the household’s income. Similarly to housing costs, childcare costs can account for a considerable proportion of a household’s expenditure and is not something that households can easily reduce. However, we disagree with the Scottish Government’s decision to not take forward the independent Panel’s recommendation to adjust the MIS thresholds upwards for households living in remote rural areas or where one or more members of the household is disabled or long-term sick. While this approach reflects the broader approach to income poverty measurements, the Government has already demonstrated its willingness to take a different approach in relation to fuel poverty. The use of the MIS, for example, clearly demonstrates this.

Poverty campaigners have expressed concern about hidden poverty in rural areas in Scotland, as current definitions used for poverty do not adequately capture the extent of rural poverty. The perceived stigma associated with being poor or receiving certain help can be worse in small communities. This means that it can be harder to target those most vulnerable and in need of support. Moreover, The Ferret found that households living in the Highlands are paying an extra £400 per year on electricity compared to households living in other parts of Scotland. This is because many of these households live in areas, which are off-grid, and are therefore on restricted meters that use electric storage and are more expensive. SNP MSP Kate Forbes called on the UK Government to address the high level of fuel poverty in rural Scotland and end a 2p surcharge, stating that more than half of all remote and rural households are living in fuel poverty. Given the disproportionate impact that fuel poverty has on Scotland’s rural population, we believe that the Scottish Government should reconsider its decision.

Households containing a disabled adult are more likely to live in relative poverty. In 2015/16, 23 per cent of households with a disabled adult living in poverty (AHC) compared to 18% of households without a disabled adult.

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10 Ibid.


12 Jason Allardyce (2018), Call to stop Highland fuel surcharge ‘rip-off’, *The Times*, 7 January. Available at: <https://www.thetimes.co.uk/article/call-to-stop-highland-fuel-surcharge-rip-off-q0s6p7r3m> [accessed on 22.01.2018].

with a disabled adult or child face increased costs linked to, for instance, health and social care expenditure. Caring responsibilities also mean that adults and children share a household with a disabled or long-term sick person are more likely to work fewer hours and have a decreased income. In addition, households with a disabled or long-term sick person, who might spend a considerable amount of time at home, often have to heat the home throughout the day and therefore face higher energy costs as a result. It is vital that disabled and long-term sick people can afford to heat their homes to an adequate temperature. Fuel poverty can also have an impact on the independent living of disabled people. Independent living is an important human right enshrined in the Convention on the Rights of Persons with Disabilities.\textsuperscript{14} It helps to enable people to take part and shape our society in a more inclusive and equal manner. We therefore recommend that the definition of fuel poverty adequately considers the situation and increased costs that households with a disabled or long-term sick person face. This will help to ensure that those who need support can be better identified.

The Scottish Government also proposed that there should be no enhanced heating regime for households with children under the age of five, despite the independent Panel recommending the regime. The consultation paper mentions that there is a lack of evidence on the need for a higher temperature for bedrooms of children under the age of five. However, this does not address the potential need for households with children under the age of five to heat their home for longer periods of time, as they might spend more time at home.

\textbf{b. If this definition is to be used, how would you propose these challenges are overcome?}

The EHRC suggests that the Scottish Government revisit its decision to not adjust the MIS thresholds upwards for households living in rural parts of Scotland and for households who have at least one member who is disabled or long-term sick. The Scottish Government could, for example, take a similar approach to and build on the work of Highlands and Islands Enterprise, which has published a Minimum Income Standard for Remote Rural Scotland that is based on the MIS.\textsuperscript{15}

\textsuperscript{14} \textit{The Convention on the Rights of Persons with Disabilities}, Articles 9 and 19.
\textsuperscript{15} Highlands and Islands Enterprise (2016), \textit{A Minimum Income Standard for Remote Rural Scotland 2016}. Available at: \url{http://www.hie.co.uk/regional-information/economic-reports-and-research/archive/a-minimum-income-standard-for-remote-rural-scotland---a-policy-update.html} [accessed on 22.01.2018].
Question 2: Do you have any views on the proposal of using 75 years of age as a threshold for identifying those who are likely to be vulnerable to the adverse health outcomes of fuel poverty?

Using age as a signifier without providing an objective justification for doing so could be discriminatory, particularly if this threshold acts as a gateway to services. As set out elsewhere disabled people in particular may face higher heating costs which are associated with their disability, not age. We would encourage the Government to adopt a threshold which is inclusive and based on a person’s likelihood of experiencing fuel poverty which is based on a more accurate reflection of their circumstances.

Recognising the distinctiveness of all our communities

Question 3: In relation to island communities, are there any additional

a. Challenges; and/or
b. Opportunities

that we need to consider in developing our strategy?

a. Challenges

Island communities face similar challenges as rural communities in relation to fuel poverty. Island communities are often smaller, which can increase the perceived stigma that people living in poverty, including in fuel poverty, face. This can make it more difficult for resources and advice to reach the people who are most vulnerable. It is therefore vital that the fuel poverty strategy not only addresses fuel poverty but also the stigma associated with living in fuel poverty. Wider community engagement and awareness raising plays an important role in this regard.

As the consultation paper acknowledges, island communities often face higher energy costs, as they are off-grid and rely on electricity or other fuel types, which are often more expensive, to heat their homes.

b. Opportunities

As island communities are smaller communities, it means that, once the perceived stigma has been reduced, it might be easier to target the most vulnerable households. A community spirit linked to easier identifiable communities and strong local relationships might help to identify households
living in fuel poverty and to take innovative and community-based approaches to tackle the issue. The resource-rich environment and easy access to potential energy sources, such as wind, sea and waves, could be harnessed to provide potentially cheaper and more energy efficient methods to heat homes using renewable energy.

Question 4: In relation to rural and remote rural communities, are there any additional

- **a. Challenges; and/or**
- **b. Opportunities**

that we need to consider in developing our strategy?

**a. Challenges**

As mentioned above in relation to Question 1, we disagree with the Scottish Government’s decision to not take forward the independent Panel’s recommendation to adjust the MIS thresholds upwards for households living in remote rural areas.  

16 SNP MSP Kate Forbes stated that more than half of all remote and rural households are living in fuel poverty when she requested the UK Government to end the 2p surcharge that rural communities face.  

17 According to The Ferret, households living in the Highlands are paying an extra £400 per year on electricity than households living in other parts of Scotland.  

18 As with island communities, these higher costs are due to households living in areas that are often not connected to mains gas supplies. The Fuel Poverty Strategy therefore needs to address the disproportionate effect that fuel poverty has on island, rural and remote rural communities across Scotland.

**b. Opportunities**

Similarly to island communities, rural and rural remote communities across Scotland often benefit from a close-knit community spirit that includes strong local relationships and a wider support system that households living in urban areas might not have access to. This can make it easier to identify households living in fuel poverty and to take innovative and community-based approaches. However, it can also increase the stigma people might face and thereby reduce the uptake of available help.

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17 Jason Allardyce, op.cit.
18 Billy Briggs, op.cit.
On the other hand, rural and rural remote communities might have access to potential renewable energy sources (such as wind and water) that urban communities cannot harness as easily. Making better use of renewable energies might increase employment and household income, while reducing energy costs, emissions and the effect of climate change.

**Partnership working**

**Question 5:** Please give us your views on how national partners and local delivery organisations can work better together to identify and support those at risk of, or experiencing fuel poverty? What would best support, or enable such partnerships?

It is vital that national and local public bodies and voluntary and private organisations work together to tackle fuel poverty.

**Question 6:** What can local partners do to contribute to meeting national aims of effectively and sustainably tackling fuel poverty? This might include sharing best practice or developing strategic approaches.

Local partners can make use of existing forums of collaboration and nationwide organisations to share best practice and increase collaboration across Scotland. As the consultation paper states, local authorities, health boards and Community Planning Partnerships, for example, play vital roles in the delivery of services and resources, which are linked to fuel poverty or which could be used to help tackle fuel poverty.

However, the Scottish Government must ensure that these local service providers have the necessary resources to enable this work.

In order to adequately tackle fuel poverty, the Scottish Government must enable a wide range of local partners to work together and inform the work of the Scottish Government and other public and national bodies. As fuel poverty is a complex issue with clear links to, for example, housing, income and wealth inequality, equality and human rights, the partners contributing to meeting the national aim of effectively and sustainably tackling fuel poverty need to reflect this complexity and diversity of issues. Any strategic approach and best practice should also include a meaningful engagement and involvement of people with lived experience of fuel poverty and people with, or who share protected characteristics at both a local and national level.
Question 7: How can SG support local delivery partners (e.g. third sector organisations and social enterprises) to measure their success?

The Scottish Government should provide clear guidance for local delivery partners, create spaces for best practice to be shared and for stakeholders to collaborate, and provide additional support and resources when requested. The guidance and resources should reflect the importance of addressing inequality and discrimination. While socio-economic inequality must be a clear concern and priority when measuring the success of local programmes and services, it should be stressed that fuel poverty goes beyond looking at people’s incomes.

Services and resources aimed at reducing fuel poverty must also be measured against their impact on people with, or who share protected characteristics. The support that the Scottish Government provides must reflect this.

Financial implications

Question 8: How can the Scottish Government best support local or community level organisations to accurately

   a. Measure;
   b. Report on; and
   c. Ensure quality of

   provision of advice and support services and their outcomes?

   a. Measure

With regard to measuring, reporting on and ensuring the quality of advice and support services and their outcomes, it is important that the Scottish Government provides adequate guidance, ongoing support and resources to local communities and organisations.

The Scottish Government also needs to ensure that its wider aims and the deliverables of local and community level organisations reflect the importance that the Scottish Government places on eradicating fuel poverty. With the new socio-economic duty, public bodies, for example, will have to take due regard of socio-economic inequalities when they make strategic decisions. Fuel poverty needs to place a central role when such an assessment is made. Local or community level organisations should also be reminded to take fuel poverty and its causes and impacts into account when making key decisions. It is vital that the formulation and delivery of policies, services and resources are based on the experiences of people living in fuel poverty. Such a consideration and
general reporting should also include an analysis of wider equality issues, including the impact decisions and policies have and might have on people with, or who share protected characteristics.

Question 9: How can the one-stop-shop approach be enhanced for the benefit of HES clients; and in particular,

- It is important that organisations collaborate and have clear and easy-to-use processes in place that enable clients to be securely referred.
- It is also important that the approach takes the wider inequalities and discrimination that people may face into account. Staff could, for example, receive specific training to reduce prejudices and enable them to meet the needs of people with, or who share protected characteristics.

a. **Are there any improvements that you think can be made to the HES service to further enable it to best reach the most vulnerable to fuel poverty client groups?**

As mentioned above, by analysing the needs of people with, or who share protected characteristics, the HES service will be able to better target their service and reach the most vulnerable individuals, households and groups.

**Targets and indicators**

Question 10: What are your views on our proposal to set a new statutory target to eradicating fuel poverty in the Warm Homes Bill?

The EHRC supports the introduction of a new statutory target to eradicating fuel poverty. Having statutory income targets is essential to effectively monitor and evaluate policies that have a direct impact on fuel poverty. However, having a statutory target is not enough. Targets need to be followed up by a clear strategy, policies and national and local implementation of those policies. As the failure to meet the previous target to eradicate fuel poverty in Scotland by November 2016 illustrates, these actions are vital. They need to be able to address the impact of wider circumstances, such as rising energy costs.

Question 11: What are your views on the proposed sub-targets?

a. **What are your views on the proposed levels?**
The EHRC would welcome further information on whether and possibly how the proposed sub-targets have taken expected increases or decreases in energy prices into account and how these targets will be achieved. As the consultation paper argues, energy prices can have a significant impact on the level of fuel poverty. It is important that the targets adequately address this relationship. It needs to be ensured that, even when prices are low or decreasing, the Scottish Government, public bodies and other organisations take clear actions aimed at eradicating fuel poverty.

**Question 12: What are your views on the proposed interim milestones?**

a. **What are your views on the proposed levels?**

Based on the current proposal, fuel poverty would have to decrease from 27 per cent in 2017 to 20 per cent by 2030 and then to 10 per cent by 2040. We believe that, while interim targets are vital to monitor progress and ensure that the final targets are met, the proposed interim milestones should be more ambitious. We believe that this would be more likely to result in key actions taken by the Scottish Government and other national and local actors to meet the interim milestones and demonstrate the importance that the Scottish Government places on eradication fuel poverty.

**Monitoring, evaluation and reporting**

**Question 13: How should the new Fuel Poverty Advisory Panel and Fuel Poverty Partnership Forum monitor progress towards meeting the proposed sub-targets and interim milestones?**

The EHRC supports the creation of the Fuel Poverty Advisory Panel and the Fuel Poverty Partnership Forum. However, both the Panel and the Forum need to adequately represent the diversity of the Scottish population and ensure that people with, or who share protected characteristics are adequately represented. Such representation should also include the direct involvement of people with, or who share protected characteristics and people with lived experience of fuel poverty. The monitoring process should also reflect this approach and actively examine the needs of people with, or who share protected characteristics and what impact the proposed sub-targets and interim milestones and associated policies have on people with, or who share protected characteristics.
Question 14: What do you think the Advisory Panel’s priorities should be in its first year?

The EHRC believes that the Advisory Panel’s priorities in its first year should include a focus on adequately representing and actively including people with lived experience of fuel poverty and people with, or who share protected characteristics. The Panel should also aim to come up with a clear strategy to adequately assess, monitor and improve the situation and needs of people with, or who share protected characteristics. Fuel poverty among Gypsy/Traveller communities, for instance, should be assessed and specific measures should be identified by working together with members of these communities. The Panel may wish to identify equality targets as measurement tools to monitor progress going forward, for example the progressive percentage reduction of disabled people, Gypsy/Travellers and ethnic minorities living in fuel poverty.

Question 15: What examples do you have of using proxies to identify fuel poor households?

a. Which proxies did you use?

It is important that any proxies used acknowledge that fuel poverty is not the same as income poverty. The consultation paper states that the use of proxies can entail a blunt approach to identifying households living in fuel poverty. It is therefore important that the impact of the use of proxies on the people living in fuel poverty or people who will be identified as such through the use of a specific proxy is measured and evaluated. Being identified as fuel poor could expose households to stigmatisation if it is not done in a respectful and secure manner. As mentioned above, households identified as fuel poor can, for example, face significant stigma in smaller communities. It is also important that the decision to make use of a particular proxy takes into consideration the impact it might have on people with, or who share a particular characteristic. Different approaches to identifying fuel poor households might be particularly humiliating, inappropriate or ineffective in relation to people with, or who share a particular characteristic. It is important to stress that a one-size-fits-all approach is unlikely to identify or meet the needs of all households living in fuel poverty in a respectful manner.
Outcomes and Principles

Question 19: What are your views on, or experience of how an outcomes-focused approach would work in practice?

As detailed above in relation to Questions 13, 14 and 15, an outcomes-focused approach should assess, adequately acknowledge, respect and meet the variety of needs of people with, or who share protected characteristics. The EHRC welcomes the Scottish Government’s aim of creating a fairer and more equal society. While the focus on creating equality between urban and rural communities and individuals is understandable given that fuel poverty disproportionality impacts rural households, more of an importance needs to be placed on the inequalities faced by people with, or who share protected characteristics.

Question 20: Do you think the principles detailed in the 3 bullet points above are adequately reflected in the outcomes framework?

The principles detailed in the 3 bullet points place a clear priority on reducing inequality, particularly in relation to rural and urban communities. As detailed in our response to Question 19, we believe that the 3 bullet points fail to acknowledge the importance of the impact of fuel poverty on people with, or who share protected characteristics.

Assessing impacts

Question 22: Do you think any of the proposals set out in this consultation will have an impact, positive or negative, on equalities as set out above? If so, what impact do you think that will be and, if negative, how do you think these could be mitigates?

The Scottish Government’s proposal to deduct childcare costs from the household’s income is likely to have a positive impact on women. By acknowledging that these costs are often unavoidable and should be considered a must for households with children, the proposed fuel poverty definition will more adequately reflect the costs that households with children and in particular women with children face. This should lead to more women, who currently do not fit the definition of fuel poverty but who nonetheless struggle to heat their homes due to the low disposable income they have left after paying for childcare, being identified as fuel poor. This will ensure that the support can be better targeted to address their needs and wishes and
ensure that they receive the help that they are entitled to. However, the Scottish Government’s proposal that there should be no enhanced heating regime for households with children under the age of five will have a negative impact on households with children under five. The consultation paper mentions that there is a lack of evidence on the need for a higher temperature for bedrooms of children under the age of five. Yet, this does not seem to take into consideration that households with children under the age of five might have to heat their home for longer periods of time, as they might spend more time at home, especially during the first few months after the child is born. This is likely to disproportionately affect women, who often are more likely to stay at home with their children.

We further believe that the Scottish Government’s decision to not take forward the independent Panel’s recommendation to adjust the MIS thresholds upwards for households living in remote rural areas or where one or more members of the household is disabled or long-term sick will have a negative impact on equalities. In 2015/16, 23 per cent of households with a disabled adult lived in poverty (AHC) compared to 18% of households without a disabled adult. Moreover, households with a disabled adult or child face increase costs linked to, for instance, health and social care expenditure. Caring responsibilities also result in other members of the household often working fewer hours and having a decreased income. This means that carers and disabled or long-term sick people are more likely to spend more time at home and are therefore more likely to have to spend more money on heating their homes. It is vital that disabled and long-term sick people can afford to heat their homes to an adequate temperature, especially as a lower temperature might have an adverse impact on their health and thereby their ability to live independently. Independent living is an important human right enshrined in the Convention on the Rights of Persons with Disabilities, which helps to enable people to shape and actively take part in our society. The EHRC therefore recommends that the definition of fuel poverty adequately considers and addresses the situation and increased costs that households with a disabled person or person with a long-term illness face.

The EHRC would also like to stress the importance of examining, monitoring and addressing the individual needs of people with, or who share protected characteristics. Recently the EHRC has become aware of evidence that Gypsy/Travellers living on some Local Authority sites are unable to switch their fuel supplier as the contract for supply is managed by the Local Authority for all tenants. Being unable to switch tariffs means that site tenants are unable to take advantage of cheaper fuel options. We are also aware that many Gypsy/Travellers site only provide pre-payment meters – again one of the highest

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means of purchasing electricity. New standards are due to come into force in June 2018 regarding site quality and the tolerable standards in response to a report by the Scottish Housing Regulator. Amenity blocks provided on sites for washing and bathing are also often poorly insulated leading to even higher heating costs.

We believe that the current proposals should go further in identifying and addressing those needs, in particular in relation to the processes and framework approach that the Scottish Government would like to take. As mentioned in our answers to Questions 19 and 20, the 3 bullet points, for instance, should incorporate a focus on people with, or who share protected characteristics.