

# Just Fair's response to the Cabinet Office: National Resilience Strategy call for evidence

September 2021

## About you

This section is mandatory for anyone responding to this call for evidence. Questions seek to gather some basic personal information about the respondent. Please see Privacy Notice at Annex B for information on how your personal data will be handled.

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3. **In what context are you responding (please select all that apply):**

e. Other (please specify)

[Just Fair](#) is a UK charity that is working to realise a fairer and more just society by monitoring and advocating for economic, social and cultural rights (ESCR) in the UK. We aim to ensure that the UK government's law, policy and practice comply with international and domestic human rights obligations pertaining to ESCR.

2. **Which of the following most closely describes your level of knowledge of risk and resilience related issues?** (please select one of the following):

b. Good insight into some aspects of resilience or risk management E.g. Business owner with experience of risk assessment.

## Executive Summary

As a civil society organisation working to realise a fairer and more just society, Just Fair has provided evidence to various UK government departments on the way that emergencies, such as the current Covid-19 pandemic, have laid bare the historic and structural inequalities that already existed between us and disproportionately impacted on specific groups such as Black, Asian and minoritized ethnic (BAME) people, older and disabled people and their families, women, those in poverty, insecure housing or precarious employment and people who have come to the UK to escape difficult circumstances abroad.

We welcome this opportunity to respond to the current call for evidence on the Resilience Strategy and in this submission we assert that inequality and injustice in our society are key threats to our resilience as 4 nations of the UK and highlight key tools at our disposal to help address this threat.

We support the conclusion of the inaugural meeting of the [UK Resilience Forum](#), which took place on 14 July 2021; *“there must be a longer-term focus on strategic risks and the role of recovery in building resilience. To be truly effective, resilience must be framed broadly, rather than just a narrow focus on emergency response”*.

We have framed our response in relation to the questions in the call for evidence. Our five key points are summarised below:

1. The Covid-19 pandemic has laid bare existing structural inequalities and exacerbated them. Resilience strategies must include a focus on building a more equal society.
2. We already have key mechanisms at our disposal to help tackle these inequalities (such as Section 1 of the Equality Act 2010 and international human rights standards that the UK has ratified).
3. Enforceable socio-economic rights could change how we make laws and decisions, resulting in a more equal and resilient society. International experiences illustrate this.
4. Lived experiences must be a key part of decision-making in order to find solutions that will deliver the most effective results and build more resilient communities.
5. The climate emergency is a key threat to the enjoyment of rights, and those who face the greatest injustices face a corresponding disproportionate impact.

## Questions on Partnerships:

6. What are the risks that your business is most concerned about?

**The pandemic laid bare existing structural inequalities and exacerbated them. Resilience strategies must include a focus on building a more equal society.**

We would again echo a conclusion of the inaugural meeting of the [UK Resilience Forum](#), which took place on 14 July 2021; on the importance of making resilience work for everyone. We were glad that attendees of this meeting noted the disproportionate impacts of the Covid-19 pandemic and the link between inequalities and lower resilience and agree that this should extend across the whole emergencies cycle from risk assessment to recovery.

The violation of socio-economic rights, which results in inequalities, predates the current pandemic. People across the UK have been experiencing a number of violations of these rights since before the current crisis, including in terms of their rights to food, housing, education, work, and social security.<sup>1</sup> These disadvantages that arise from significant structural disparities in socio-economic conditions are well documented. Empirical evidence demonstrates a strong correlation between high levels of inequality and worse outcomes for all. For example, in more equal societies people live longer, are less likely to be mentally ill or obese and experience lower rates of infant mortality, whereas inequality increases property and violent crime.<sup>2</sup>

These existing socio-economic inequalities are being exacerbated by the COVID-19 pandemic. The Covid-19 pandemic has disproportionately affected Black, Asian and minoritized ethnic (BAME) people, older and disabled people and their families, women, those in poverty, insecure housing or precarious employment and people who have come to the UK to escape difficult circumstances abroad. Reduced income and/or the resulting economic downturn is affecting people already on low incomes or with less accumulated wealth.<sup>3</sup> Important research published by the Institute for Fiscal Studies illustrates that the years leading up to the Covid-19 crisis, and in particular the long hangover from the last economic crisis of the late 2000s, had left households in a precarious position. The paper shows how the pandemic is set to have a significant impact on socio-economic rights and that the earnings of young adults, many ethnic minority people, women and those on the lowest incomes are likely to be the worst affected.<sup>4</sup>

Another example of the impact of this inequality is in the attainment of the right to education. According to research by the Education Policy Institute, disadvantaged children<sup>5</sup> are nine months behind their peers by Key Stage 2 in primary school, and an average of 18 months behind their peers

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<sup>1</sup> Just Fair, 'Visit by the UN Special Rapporteur on Extreme Poverty and Human Rights, Philip Alston, to the UK from 5 to 16 November 2018 Written submission' (2018)

[http://justfair.org.uk/wpcontent/uploads/2018/09/Just\\_Fair\\_15\\_Alston\\_Submission-FINAL.pdf](http://justfair.org.uk/wpcontent/uploads/2018/09/Just_Fair_15_Alston_Submission-FINAL.pdf)

<sup>2</sup> <https://www.equalitytrust.org.uk/about-inequality/impacts>

<sup>3</sup> Office for National Statistics, 'Deaths involving COVID-19 by local area and socioeconomic deprivation: deaths occurring between 1 March and 17 April 2020' (1 May 2020)

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deaths-involvingcovid19bylocalareasanddeprivation/deathsoccurringbetween1marchand17april>

<sup>4</sup> Blundell R., Costa Dias M., Joyce R., and Xu X., 'COVID-19 and Inequalities', IFS, 41(2), 2020, available [here](#)

<sup>5</sup> Disadvantage is defined by the DfE as a student who has been in receipt of free school meals at any time in the preceding six years. Education Policy Institute (2020) Education in England: annual report [https://epi.org.uk/wp-content/uploads/2020/09/EPI\\_2020\\_Annual\\_Report\\_.pdf](https://epi.org.uk/wp-content/uploads/2020/09/EPI_2020_Annual_Report_.pdf)

at GCSE age.<sup>6</sup> Initial Ofsted analysis reported concerns that this gap has worsened after school and nursery closures of six months during lockdown, which carries long-term consequences.<sup>7</sup>

In September 2021 the Equality and Human Rights Commission updated its assessment of the UK government's progress on human rights and equality protections in England through its [human rights tracker](#). Over 36 individual rights areas there is not a single marker for 'sustained progress'. In relation to many of the rights areas a worrying picture is evidenced.

For example with regards living standards, the attainment of the right to [housing](#) has had limited progress, [social security \(welfare benefits\)](#) has had no progress, and [social care](#) has regressed. Perhaps most concerning however is that the attainment of the right [adequate standard of living](#) has regressed. As the EHRC notes.

*"Changes to the welfare system have disproportionately affected the poorest in society, as well as those with certain protected characteristics. The UK Government has taken positive steps to protect income and jobs during the coronavirus pandemic. But the pandemic is likely to have a significant impact on socio-economic rights and the full impact is yet to be understood."*<sup>8</sup>

There exists ample evidence that the Covid-19 pandemic laid bare existing structural inequalities and exacerbated them. For this reason, we are highly concerned about the risk that rising levels of inequality poses to our society's resilience.

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<sup>6</sup> Education Policy Institute (2020) Education in England: annual report [https://epi.org.uk/wp-content/uploads/2020/09/EPI\\_2020\\_Annual\\_Report\\_.pdf](https://epi.org.uk/wp-content/uploads/2020/09/EPI_2020_Annual_Report_.pdf)

<sup>7</sup> Ofsted (2020) Covid-19 series: briefing on schools: October 2020; Ofsted (2020) Covid-19 series: briefing on early years: October 2020 <https://www.gov.uk/government/collections/Ofsted-covid-19-series> See also: Lally, C. and Bermingham, R. (2020) Covid-19 and the disadvantage gap Rapid response UK Parliament <https://post.parliament.uk/covid-19-and-the-disadvantage-gap/>

<sup>8</sup> EHRC Human Rights Tracker [here](#)

### Questions on Investment:

3. Are there models of successful resilience investment? If so, to what extent could they be adopted in the UK?

4. Are there examples of where investment (whether by the Government, by businesses or by individuals) has driven improvements in resilience?

**We already have key mechanisms at our disposal to help tackle these inequalities y (such as Section 1 of the Equality Act 2010 and international human rights standards that the UK has ratified).**

The UK's existing substantive equality and non-discrimination statutory protection must be extended to adequately cover socio-economic inequalities in order to improve our resilience as 4 nations of the UK. The socio-economic duty contained in Section 1 of the Equality Act 2010 is a powerful lever to address the structural causes of material inequalities and their negative effects on human rights and wellbeing.

The Government Equalities Office (situated within the Cabinet Office) has a responsibility to improve equality and reduce discrimination and disadvantage for all in the UK, and it takes the lead on the Equality Act 2010. Against the backdrop of the rising levels of inequality, exacerbated by the Covid-19 pandemic, it is increasingly urgent that the UK Government efficiently and effectively supports enactment of Section 1 of the Equality Act 2010 in England and Northern Ireland. The "public sector duty regarding socio-economic inequalities" ("the socio-economic duty") contained in Sections 1-3 (Part I) requires public bodies: "*when making decisions of a strategic nature about how to exercise [their] functions [to] have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.*"<sup>9</sup>

The socio-economic duty in Section 1 of the Equality Act 2010 offers a powerful tool for public authorities to actively consider the way in which their policies and decisions can address socio-economic inequalities. However, successive UK Governments have failed to commence the socio-economic duty in England and Northern Ireland, which means that public authorities in these jurisdictions are not technically bound by Section 1. Meanwhile, in April 2018, the Fairer Scotland Duty came into force as Section 1 of the Equality Act 2010 in Scotland.<sup>10</sup> After extensive consultations, in March 2021 the Welsh Government enacted the duty as part of its programme to help public bodies deliver A More Equal Wales.<sup>11</sup>

Were it to be in force in England, the socio-economic duty would complement the Public Sector Equality Duty in Section 149 of the Equality Act 2010 which requires public bodies to have "*due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities*" on the grounds of the nine listed "protected characteristics" (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).

Enactment of the socio-economic duty has been recommended as a tool to tackle structural racism. In the recently published report 'An Avoidable Crisis: The disproportionate impact of Covid-19 on Black, Asian and minority ethnic communities' (the Lawrence Review), Baroness Doreen Lawrence

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<sup>9</sup> <https://www.legislation.gov.uk/ukpga/2010/15/section/1>

<sup>10</sup> Scottish Government (2018) Fairer Scotland Duty: interim guidance for public bodies <https://www.gov.scot/publications/fairer-scotland-duty-interim-guidance-publicbodies/pages/2/>

<sup>11</sup> <https://gov.wales/socio-economic-duty-overview>

investigates the reasons why, in the early weeks of the Covid-19 pandemic, Black, Asian and minoritized ethnic (BAME) communities were dying at a disproportionate rate.<sup>12</sup> Baroness Lawrence writes “*Despite being aware of the disproportionate impact of Covid-19 on the UK’s Black, Asian and minority ethnic communities, the Government has not done enough to protect people ahead of the second wave.*”<sup>13</sup> To tackle structural racism, the Lawrence Review recommends that the UK Government enacts Section 1 of the Equality Act 2010 which covers socio-economic disadvantage.<sup>14</sup>

Human rights are an essential part of the Covid-19 recovery and building a more resilient society. Socio-economic rights are afforded to all without discrimination in a number of international human rights standards that successive UK Governments voluntarily ratified and with which the UK Government is obliged to comply. In particular, the UK has ratified seven legally binding international human rights treaties which relate to economic and social rights and protect all people.<sup>15</sup> However, unlike the majority of the rights contained within the European Convention on Human Rights, these rights are not currently applicable domestically in the UK.<sup>16</sup> International experience laid out in the next section illustrates the powerful impact the domestic integration of these rights could have on tackling inequality and building a more resilient society.

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<sup>12</sup> <https://www.lawrencereview.co.uk/chapters/foreword>

<sup>13</sup> Ibid

<sup>14</sup> <https://www.lawrencereview.co.uk/chapters/executive-summary>

<sup>15</sup> International Convention on the Elimination of All Forms of Racial Discrimination (CERD), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD)

<sup>16</sup> Though in March 2021 the Scottish Equalities Secretary announced plans for a [new Human Rights Bill](#) to incorporate four additional United Nations Human Rights treaties into Scots Law, including the International Covenant on Economic, Social and Cultural Rights

## Questions on resilience in an interconnected world:

1. Where do you see the UK's resilience strengths?
2. Are there any approaches taken by other countries to resilience that you think the UK could learn from?

### **Enforceable socio-economic rights could change how we make laws and decisions, resulting in a more equal and more resilient society. International experiences illustrate this.**

Under international human rights law,<sup>17</sup> the Cabinet Office, as part of the UK Government, is under a legally binding duty to respect, protect, and fulfil the enjoyment of economic, social and cultural rights (ESCR). However, as noted above, these rights are not domestically enforceable. If they were, they could provide another useful lever for the UK government in working to reduce the disproportionate impact of crises on communities of people with protected characteristics and so increase resilience across the UK.

If we had a legally enforceable ESCRs they could help future-proof against failings such as those noted above in three main, interrelated ways:

1. **Better decisions:** legally enforceable ESCR would mainstream human rights into the decision-making processes of public authorities, like the Department of Education and schools, to ensure compliance with these rights so that people in greatest need of support to realise their rights are prioritised.
2. **Better laws:** if lawmakers had to actively consider the ESCRs when making emergency Covid regulations, this 'pre-legislative scrutiny' could have highlighted the particular risk to protected groups from a blanket approach or and ensure that mitigations were built in.
3. **Better accountability:** as a matter of last resort, positively framed ESCRs could have provided people experiencing unequal access ESCRs with a means for redress through taking legal action.

Taking the right to education as an example, below are three case studies from different countries illustrating how the domestic application of ESCRs can lead to a more equal society.

#### ***Example 1 – Argentina – Human Rights Budgeting and Education***

An important way to realise rights is to examine how government money is allocated and spent, ensuring that it is done fairly and on the basis of objective need.

In Buenos Aires, an NGO called ACIJ found that in the school districts located in the poorest areas of the city, the proportion of students in full-time state primary schools were up to three times fewer than those registered in more affluent areas.

ACIJ took action against the Government of the City of Buenos Aires to challenge what they saw as an unequal and discriminatory allocation of resources – in this case the supply of full-time primary school places.<sup>18</sup> The Court, noting the Right to Education in international law, ordered the City to extend the programme of full time primary education in the poorer districts.

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<sup>17</sup> Ibid

<sup>18</sup> Asociación Civil por la Igualdad y la Justicia (ACIJ) c/GCBA s/Amparo (art. 14 CCABA) (exp. n° 41.747/0) See [here](#) for a summary (in Spanish)

If an approach like this was used in the UK it could mean that issues such as the 'digital divide' were at the forefront of government planning for future incidents where schools might have to close, so that children from less affluent areas didn't suffer in terms of access to education.

### ***Example 2 – Scotland – Bringing Rights Home***

The UNCRC (Incorporation) (Scotland) Bill was passed unanimously on 16 March 2021. This bill seeks to bring the UN Convention on the Rights of the Child (including the Right to Education) into Scots law. While there is currently a challenge in the Supreme Court around whether some aspects of the Bill are outside the Scottish Parliament's powers,<sup>19</sup> some of its key features are fascinating in terms of the incorporation of the Right to Education. Amongst other things the bill will mean:

- Public authorities cannot act in a way that is incompatible with the UNCRC
- Courts will be able to 'strike down' legislation that is incompatible with the UNCRC
- The Scottish Government must publish a 'Children's Rights Scheme' to show how it is meeting UNCRC requirements – and must review this scheme at least once a year.<sup>20</sup>

If an approach such as this was introduced across the UK it could put the Right to Education and concepts such as the best interests of the child at the forefront of all government and public authority planning. This would hopefully mean that children's rights were breached less often – as government is incorporating thinking about their rights into all their actions - but it would also give children and their representatives the ability to go to Court as a measure of last resort if their rights still aren't being met.

The incorporation of ESCR standards in the domestic legislation provides an important tool in building a fair society and one that is more equal and more resilient.

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<sup>19</sup> <https://www.cypnow.co.uk/news/article/government-to-challenge-scottish-bill-to-enshrine-uncrc-in-law-at-supreme-court>

<sup>20</sup> <https://www.togetherscotland.org.uk/about-childrens-rights/monitoring-the-uncrc/incorporation-of-the-un-convention-on-the-rights-of-the-child/>

### Questions on Community and local resilience:

1. Do you agree that everyone has a part to play in improving the UK's resilience? If not, why not?
2. Do you understand the types of emergencies that might impact you and other members of your community?
  - a. What would help you better understand the risks that could affect your community?

### **Lived experiences<sup>21</sup> must be a key part of decision-making in order to find solutions that will deliver the most effective results and build more resilient communities.**

We believe that involving people with lived experiences of the issues at hand makes for better decisions that have greater impact. This must be a key part of the Resilience Strategy. The Lived Experience Leadership Report 2019<sup>22</sup> illustrates clearly the value of authentically engaging those with lived experience in the formulation of policy and laws. Advantages outlined in the report include:

- Connection to community- many Lived Experience leaders have a solid grounding with the community they serve, a level of trust that has been produced by deep connection and understanding. They also understand the cultural contexts and multiple factors intertwined in their lives and in the lives of people in their communities.
- Building community collaborations and partnerships - through deep community connection new ideas, interventions, innovations and cultures can emerge, while destructive and toxic behaviours and attitudes can be addressed and changed for the better.
- Understanding problems - Lived Experience leaders bring to bear experience that no learned or earned qualification can match. Lived Experience leaders are connected to the realities of the problem they are addressing.
- Authenticity and accountability- having Lived Experience leaders in leadership roles can help bring heart, authenticity and vulnerability to staff teams while also providing a level of accountability to communities.
- Intersectionality - Lived Experience leaders have a unique understanding of multiple marginalised identities and experiences. appreciating that experiences and identities can interconnected, multi-layered and multi-faceted.

4. Have recent emergencies (e.g. Covid-19 pandemic, flooding, terrorist attacks) made you think differently about risks or changed the way you prepare for emergencies?

The climate emergency is a key threat to the enjoyment of rights, and those who face the greatest injustices face a corresponding disproportionate impact.

It is important that the Cabinet Office has already identified the climate emergency as a threat to our resilience. The climate emergency has already, and will continue to, impact disproportionately on those who already face the greatest injustices unless we take decisive action as across 4 nations of the UK.

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<sup>21</sup> Lived Experience: Direct, first-hand experience, past or present, of a social issue(s) and/or injustice(s) [LEx-Report-Final-2.pdf \(lexmovement.org\)](#)

<sup>22</sup> Available here: [LEx-Report-Final-2.pdf \(lexmovement.org\)](#)

To examine how the climate emergency can impact on inequalities and reduce our resilience, we have looked below at one particular aspect, the right to housing.

Firstly, affordable, climate adapted, carbon neutral homes for all are essential for mitigating the climate emergency. Adequate housing can support efforts to mitigate the climate emergency where inadequate housing can undermine these efforts.

In the UK energy inefficient homes are prevalent and around 15% of the UK's total greenhouse gas emissions come from heating and hot water in homes.<sup>23</sup> Adequate insulation protects from cold and is a key facet of the habitability feature of adequate housing.<sup>24</sup> These problems are most pronounced in the private rented sector which relates to a lack of incentive for private landlords to undertake improvements and lack of power to change this for tenants who fear risking eviction to demand habitable housing.<sup>25</sup> New homes are required to enable people to realise their right to secure and affordable housing. However, the building of these homes must mitigate against rather than contribute to the climate emergency by utilising environmentally friendly building processes and creating zero carbon homes in appropriate locations.<sup>26</sup>

In the UK, the two highest climate risk factors are flooding and overheating, and adaptation to both will require change to the built environment to ensure that existing adequate housing remains habitable into the future.<sup>27</sup> The risk of flooding and overheating falls disproportionately on those at a socio-economic disadvantage.<sup>28</sup> A disproportionately higher number of homes built in struggling or declining neighbourhoods between 2008 and 2018 are expected to become areas of high flood risk, further endangering the right to housing among those who are already at a disadvantage.<sup>29</sup> Failure to adapt homes to meet the needs of the climate emergency, risks contributing to the social impact of the emergency through significant displacement and poorer health outcomes for people.<sup>30</sup>

## Conclusion

Inequality in our society is a major detriment to our resilience as 4 nations of the UK. The UK already has a range of tools at its disposal to help address inequality, such as Section 1 of the Equality Act 2010 and the UN human rights treaties which the UK has signed and ratified. Using these tools and building a holistic strategy that includes the authentic incorporation of lived experiences could do much to improve our resilience in the UK.

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<sup>23</sup> CCC, 2019, UK housing: Fit for the future? <https://www.theccc.org.uk/wp-content/uploads/2019/02/UK-housing-Fit-for-the-future-CCC-2019.pdf>

<sup>24</sup> Young, G, 2021, The right to adequate housing: are we focusing on what matters?, Association of local authority chief housing officers : <https://housingevidence.ac.uk/publications/the-right-to-adequate-housing-are-we-focusing-on-what-matters/>

<sup>25</sup> Jesse Melvin, 2018. "The split incentives energy efficiency problem: evidence of underinvestment by landlords", Energy Policy, vol. 115

<sup>26</sup> CCC, 2019, UK housing: Fit for the future?

<sup>27</sup> CCC, 2017, UK Climate Change Risk Assessment 2017 Synthesis report: priorities for the next five years : <https://www.theccc.org.uk/wp-content/uploads/2016/07/UK-CCRA-2017-Synthesis-Report-Committee-on-Climate-Change.pdf>

<sup>28</sup> Lindley, S. Et al. 2011. Climate change, justice and vulnerability. JRF: <https://www.jrf.org.uk/report/climate-change-justice-and-vulnerability>

<sup>29</sup> O Rözer, V. and Surminski S. 2021. Current and future flood risk of new build homes across different socio-economic neighbourhoods in England, Environmental Research Letters

<sup>30</sup> CCC, 2019, UK housing: Fit for the future?

**Further information**

Just Fair is a charity (charity number: 1141484 company number: 07394478)

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