



# Cloch Housing Association

## Human Rights Policy

<b>Policy Name</b>	Human Rights Policy
<b>Policy Category</b>	GOV
<b>Policy Number</b>	130
<b>Approved by</b>	Board
<b>Responsibility of</b>	Corporate Services
<b>Date Adopted</b>	28/01/2025
<b>Last Review</b>	n/a
<b>This Review</b>	28/01/2025
<b>Next Review</b>	01/03/2027
<b>Equalities Impact Assessment Required</b>	Yes
<b>Link to other policies</b>	All policies
<b>Consultation</b>	No
<b>Need for Procedure</b>	No

**Appendix 1 - ECHR Rights and the Human Rights Act 1998**

**Appendix 2 – Children’s Rights**

**Appendix 3 – Equalities & Human Rights Impact Assessment**

## **1. Equalities Commitment**

- 1.1 Cloch Housing Association Ltd is committed to tackling discrimination on the grounds of:
- Age
  - Disability
  - Gender reassignment
  - Marriage or civil partnership
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex
  - Sexual orientation
- 1.2 Cloch seeks to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.

## **2. Policy Availability**

- 2.1 This document can also be provided in large print, braille, audio or other non-written format and in a variety of languages, on request.

## **3. Introduction**

- 3.1 Cloch Housing Association (Cloch HA) respects, protects and fulfills human rights in its daily work as a registered social landlord operating in Inverclyde, for 56 years.
- 3.2 Cloch HA has about 1,500 units in Greenock, Port Glasgow, and Inverkip. Cloch also provides factoring services to owners in the area.
- 3.3 Cloch HA focuses on communities and people, and prides itself on achieving high customer standards alongside a range of housing and community services.
- 3.4 Cloch HA believes in fairness and access for all to our services, recruitment, and community work. This policy gives effect to Cloch HA's values which are Be Kind, Be Responsible, Be Better, Be Positive.

## **4. Purpose**

- 4.1 This policy should be used by staff and Board when making decisions, in the design and review of internal and external policies, and in day-to-day service delivery. This policy aims to:
- Give clear guidance and responsibility to staff, Board, and Contractors, including a commitment to training and developing knowledge of human rights.
  - Set our commitment to Equality and Human Rights Impact Assessments and data gathering.
  - Serve as an enable to promote human rights in the workplace and in our communities.
  - Set out what and how we mainstream human rights in our decision-making process and in service delivery.

## **5. Regulatory Compliance**

- 5.1 When preparing the Annual Assurance Statement Cloch HA must have assurance and evidence that it is meeting all its legal obligations associated with housing and homelessness services, equality and human rights, and tenant and resident safety.<sup>1</sup>
- 5.2 Regulatory Standard 5 requires Cloch HA to conduct its affairs with honesty and integrity and that includes advancing human rights.<sup>2</sup>
- 5.3 There are a range of duties, obligations and responsibilities placed on Cloch HA by legislation and through statutory guidance which includes promoting human rights.
- 5.4 This policy reflects the duties and enables Cloch HA to consider human rights issues properly when making decisions, in the design and review of internal and external policies, and in its day-to-day service delivery. The impact of this policy will advance human rights.

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<sup>1</sup> <https://www.housingregulator.gov.scot/for-landlords/regulatory-framework/#section-3>

<sup>2</sup> <https://www.housingregulator.gov.scot/for-landlords/regulatory-framework/#section-5>

- 5.5 The Scottish Social Housing Charter Outcome one requires Cloch HA to perform all aspects of its housing services so that every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services”. It also says that landlords have a responsibility “...for finding ways of understanding the needs of different customers and delivering services that recognise and meet these needs”.

## **6. Human Rights Architecture**

- 6.1 Cloch HA provides assurance and evidence that it is meeting all legal obligations in respect of human rights through informed decision making. There are an increasing number of laws, policies, duties and obligations on human rights in Scotland. The following list is not exhaustive but illustrates those which Cloch HA complies with:

- In 1998 the Human Rights Act (HRA) was passed by the UK Parliament which incorporated most of the European Convention on Human Rights (ECHR)<sup>3</sup>. As a result those rights became enforceable in domestic courts.
- Section 6 of the HRA requires those delivering public services or services of a public nature to comply with the ECHR.
- Section 57 of the Scotland Act 1998 requires the Scottish Government to comply with the ECHR.<sup>4</sup> Since 1999, the Scottish Parliament has passed a range of laws which specifically include duties on human rights such as in 2018 when human rights were agreed as one of the eight principles in the Social Security (Scotland) Act.<sup>5</sup>
- The United Nations’ Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024<sup>6</sup> came into effect in July 2024.<sup>7</sup> Now, public authorities must not act in a way that’s incompatible with the UN Convention on the Rights of the Child (UNCRC) and introduces a statutory reporting duty for authorities who have a distinct influence on the fulfilment of children’s rights such as the Scottish Housing Regulator.
- Scotland’s second National Action Plan on Human Rights (SNAP 2) was launched in March 2023<sup>8</sup> and is a strategic initiative to mainstream human rights delivery across Scotland. It covers organisations

<sup>3</sup> <https://www.legislation.gov.uk/ukpga/1998/42/contents>

<sup>4</sup> <https://www.legislation.gov.uk/ukpga/1998/46/section/57/enacted>

<sup>5</sup> <https://www.legislation.gov.uk/asp/2018/9/contents/enacted>

<sup>6</sup> <https://www.legislation.gov.uk/asp/2024/1/contents/enacted>

<sup>7</sup> <https://www.gov.scot/publications/statutory-guidance-part-2-uncrc-incorporation-scotland-act-2024/>

<sup>8</sup> <https://www.snaprights.info/>

delivering devolved functions and housing is included. Housing is referred to 32 times.<sup>9</sup> The independent SNAP 2 Secretariat has now moved into the Directorate for Equality, Inclusion and Human Rights within the Scottish Government.

- Although a Human Rights for Scotland Bill was not included in the Scottish Government's 2024 Programme for Government, an undertaking was given to "consult on and publish a framework to embed equality and human rights across the Scottish Government and the wider public sector. This framework will include an action plan and toolkit, setting out practical steps to progress this ambition."<sup>10</sup>
- Human rights law and equality law are different.

## 7. Housing as a Human Right

- 7.1 The The GB Equality and Human Rights Commission (EHRC) stated in 2011 that housing is a human right and a gateway to all our rights: "Human rights have special significance in relation to social housing. Quality of housing can have a huge impact on wellbeing. Inadequate housing increases the risk of severe ill health and disability; it can also lead to poor mental health, lower educational attainment, unemployment and poverty."
- 7.2 Article 27(3) of the UNCRC requires the Scottish Government, in accordance with national conditions and within their means, to take appropriate measures to assist parents and carers to implement the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development. The duty includes providing material assistance and support programmes, particularly with regard to nutrition, clothing and **housing**. This right is given effect through the 2024 Act.
- 7.3 Article 8 of the ECHR is the right to have your "home" respected along with your "private and family life". The right to housing is not included in the ECHR.
- 7.4 Protocol 1 Article 1 of the ECHR provides a right of tenants and service users to peacefully enjoy their possessions'.<sup>11</sup>
- 7.5 Cloch HA recognises its role as a duty bearer and understands that partner agencies have human rights responsibilities too such as the Local Authority and Health Board.

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<sup>9</sup> <https://www.snaprights.info/snap-2>

<sup>10</sup> Pg 40 [Programme for Government 2024-2025](#)

<sup>11</sup> Protocol 1 ECHR.

- 7.6 Cloch HA recognises that the private sector has a role to play in the delivery of human rights locally. The UN's 31 Guiding Principles on Business and Human Rights are the global standard for preventing and addressing the risk of adverse impacts on human rights involving business activity. Its 'respect, protect and remedy' framework will inform Cloch HA's engagement with private sector contractors.

## **8. Human Rights Based Approach – HRBA**

- 8.1 Cloch HA will adopt systems and tools to evidence how and what human rights have been considered in the design of policy and delivery of services. This is understood as a human right based approach (HRBA), made up of: participation, accountability, non-discrimination, empowerment and legality.
- 8.2 Cloch HA will ensure there is a decision-making audit trail. Assurance and evidence in decision-making requires clear record-keeping and an 'audit trail' of what was considered, when and by whom. The decision-making process should follow a consistent framework to enable comparison.
- 8.3 An EqHRIA will be used to make decisions which provide evidence and assurance that all matters have been considered in each case. The type of assessment undertaken will vary on the complexity or otherwise of the matter being considered. The assessment will be used by staff to make decisions and make recommendations to the Board.
- 8.4 Papers to the Board shall include, as standard, a statement that human rights have been considered in making the recommendations and highlight any issues. For more complex decision making, a fuller explanation of the issues should be provided and evidenced as to why a particular recommendation is made.

## **9. Managing Risk**

- 9.1 Cloch HA's Board will consider the risk management factors involved in delivering this policy including:
- Non-compliance with the Scottish Government's Social Housing Charter outcomes.

- Non-compliance with the Scottish Housing Regulator's Regulatory Framework, the Regulatory Standards of Governance and Financial Management and with legal duties.
- Failure to consult customers effectively.
- Failure to gather sufficient information to enable informed decision making.

## **10. Application and Training**

10.1 This policy should be used by staff and Board when making decisions, in the design and review of internal and external policies, and in day-to-day service delivery:

- This policy should be read in conjunction with all other Cloch HA Policies.
- All agents of Cloch HA, employees and Board Members are required to abide by this policy.
- Cloch HA will provide training for staff and management committee members on the delivery of this policy.
- This policy will be promoted to customers of Cloch HA.

## **11. Review**

11.1 The policy will be reviewed in November 2027 unless an amendment is prompted by a change in legislation or regulation. It may also be reviewed if monitoring and reporting reveals that a change in Policy is required sooner.

## **12. Distribution**

12.1 This policy will be provided to every employee and Board member and is freely available on the Cloch HA website.

## Appendix 1 [ECHR](#) and the [Human Rights Act 1998](#)

Those rights highlighted in red are not included in the Human Rights Act 1998 (HRA) but the UK is still required to respect, protect and fulfil all rights and duties regardless of any omissions in the domestic legislation. Implementation of this policy depends on understanding the nature and detail of the right. Implementation of this policy depends on the nature of the right and the obligations of Cloch HA as a duty bearer. Restrictions to rights and interference with rights may be permitted in certain circumstances. A situation can engage several rights such as Articles 8, 10 and 14.

### ARTICLE 1 Obligation to respect Human Rights

ARTICLE 2 Right to life

ARTICLE 3 Prohibition of torture, inhuman or degrading treatment or punishment.

ARTICLE 4 Prohibition of slavery and forced labour

ARTICLE 5 Right to liberty and security

ARTICLE 6 Right to a fair trial

ARTICLE 7 No punishment without law - law needs to exist before you can break it!

ARTICLE 8 Right to respect for private and family life, **home** and correspondence

ARTICLE 9 Right to freedom of thought, conscience and religion

ARTICLE 10 Right to freedom of expression, to receive & impart information & ideas

ARTICLE 11 Right to freedom of assembly and association

ARTICLE 12 Right to marry

### ARTICLE 13 Right to an effective remedy

ARTICLE 14 Prohibition of discrimination – must be partnered with another right!

ARTICLE 17 Prohibition of abuse of ECHR rights

ARTICLE 18 Limitation on use of restrictions on rights



## PROTOCOL 1

Article 1 Protection of property

Article 2 Right to education and

Article 3 Right to free elections.

The above list can be split into three types:

- **Limited rights** - in specific circumstances, the right can be lawfully restricted or interfered with.
- **Qualified rights** - rights can lawfully be restricted or taken away by the government in certain circumstances.
- **Absolute rights** – rights which cannot be restricted in any way or under any circumstances by the government.

## **Appendix 2 - UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024**

### **Section 6 of UNCRC (Scotland) Act 2024**

#### **Acts of public authorities to be compatible with the UNCRC requirements**


(1) It is unlawful (subject to subsection (4)) for a public authority to act, or fail to act, in connection with a relevant function in a way which is incompatible with the UNCRC requirements.

(2) A “relevant function” includes being within the legislative competence of the Scottish Parliament to confer on the authority.

#### **UNCRC Rights**

Implementation of this policy depends on understanding the nature and detail of children’s rights and what, if any, restrictions to or interference with, the rights are permitted by Cloch HA in all the circumstances.

1. Definition of a child - a child is any person under the age of 18.
2. No discrimination
3. Best interests of the child
4. Making rights real
5. Family guidance as children develop
6. Life survival and development
7. Name and nationality
8. Identity
9. Keeping families together
10. Contact with parents across countries
11. Protection from kidnapping
12. Respect for children's views
13. Sharing thoughts freely
14. Freedom of thought and religion
15. Setting up or joining groups
16. Protection of privacy
17. Access to information
18. Responsibility of parents
19. Protection from violence
20. Children without families
21. Children who are adopted
22. Refugee children
23. Children with disabilities
24. Health, water, food, environment

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25. Review of a child's placement
  26. Social and economic help
  27. Food, clothing, a safe home
  28. Access to education
  29. Aims of education
  30. Minority culture, language and religion
  31. Rest, play, culture, arts
  32. Protection from harmful work
  33. Protection from harmful drugs
  34. Protection from sexual abuse
  35. Prevention of sale and trafficking
  36. Protection from exploitation
  37. Children in detention
  38. Protection in war
  39. Recovery and reintegration
  40. Children who break the law
  41. Best law for children applies
  42. Everyone must know children's rights
  - 43 to 54. How the Convention works

## Appendix 3 – Equalities & Human Rights Impact Assessment

### Pro- Forma

Depending on the decision, the lead staff will decide on the detail of the EqHRIA required to provide evidence and assurance. The process should be led by the Corporate Services Manager supported by the manager of the department which is responsible for the matter being audited.

<b>Lead Persons: D Quinn</b>	<b>Process Start Date: 21/01/2025</b>	<b>Assessment End Date: 21/01/2025</b>
	<b>Equalities &amp; Diversity</b>	
<b>Policy/decision Aim</b>	<b>Human Rights Policy</b>	
<b>Task:</b> Describe how this policy, strategy or service will show due regard for the 3 aims of the general duty across the protected characteristics.	<b>Explain how due regard is applied to equality and diversity responsibilities</b>	<b>Is the impact: Positive? No effect? Negative?</b>
1 Contribute to <u>eliminating</u> discrimination, harassment and victimisation. <ul style="list-style-type: none"> <li>• Raise awareness of our vision and values for equality, diversity and inclusion.</li> <li>• Challenge appropriately, any behaviours or procedures which do not value diversity and advance equality of opportunity.</li> </ul>	The human rights policy shows due regards to the three aims of general duty by aiming to eliminate discrimination, advance equality and foster good relations. The implementation of this policy indicates a commitment from Cloch Housing to lead the way locally on championing human rights.	Positive – The implementation of this policy is positive as it aims to support the human rights of all.

<p>2 <u>Advance</u> equality of opportunity between those who share a protected characteristic and those who do not? For example:</p> <ul style="list-style-type: none"> <li>• Remove or minimise disadvantage</li> <li>• Meet the needs of equality groups that are different from the needs of others .</li> </ul> <p>3 <u>Foster Good relations</u> between people from different groups.</p> <ul style="list-style-type: none"> <li>• Tackle prejudice</li> <li>• Promote understanding</li> </ul>		
	<b>Human Rights</b>	
<b>Task:</b> Describe how this policy, strategy or service will show due regard for human rights and duties.	<b>Explain how due regard is applied to human rights and duties.</b>	<b>Is the impact:</b> <b>Positive?</b> <b>No effect?</b> <b>Negative?</b>
<p>List which human rights apply - remember certain people hold specific rights e.g. disabled people</p> <p>Describe how this policy, strategy or service will deliver human rights, equally.</p>	All human rights are impacted as Cloch is committed to upholding the human rights of all.	Positive – The implementation of this policy is positive as it aims to support the human rights of all.
Are children's rights engaged directly or indirectly in this act/decision/policy?	Yes	
What rights?	All	

<b>Overall Risk Grading Score:</b> (Low)1 - 5 (High)	Equalities: 1	Human Rights: 1
<b>Further Action required?</b>	Equalities: No	Human Rights: No
<b>Led By: D Quinn</b>		