

# **Ending the need for food banks: consultation on a draft national plan**

**January 2022**

---

The Scottish Human Rights Commission was established by the Scottish Commission for Human Rights Act 2006, and formed in 2008. The Commission is the National Human Rights Institution for Scotland and is independent of the Scottish Government and Parliament in the exercise of its functions. The Commission has a general duty to promote human rights and a series of specific powers to protect human rights for everyone in Scotland.

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

---

**Do you think that the approach outlined is consistent with the vision to end poverty and the need for food banks? Is there anything else you think should be included? [Y/N/Don't Know] [Open comment]**

The Commission welcomes the vision, in particular the need to ensure sufficient and secure income as a primary means to end the indignity of food banks, as well as the broader recognition of the need to prevent poverty and address food insecurity, which aligns with human rights obligations aimed at securing the right to food.

The right to food is protected in international human rights law signed up to by the UK, which the Scottish Government and Parliament are in turn responsible for respecting, protecting and fulfilling. The right to food was first laid down in the Universal Declaration of Human Rights (UDHR) and subsequently in treaties such as the United Nations (UN) Convention on the Rights of the Child, and in the most detail in the International Covenant on Economic, Social and Cultural Rights (ICESCR).

It has since been elaborated by the Committee on Economic, Social and Cultural Rights (the Committee) that the right to food can be broken down into different elements, namely food must be available, accessible (economically and physically), adequate (satisfying dietary needs, safe and culturally acceptable) and sustainable.<sup>1</sup>

**Accessibility** requires economic and physical access to food to be guaranteed. **Economic accessibility** means that food must be affordable. Individuals should be able to afford food for an adequate diet without compromising on any other basic needs, such as adequate housing. For example, the affordability of food can be guaranteed by

---

<sup>1</sup> General Comment No 12 on the right to adequate food, UN Doc E/C12/1999/5.

ensuring that the minimum wage or social security payments are sufficient to meet the cost of nutritious food and other basic needs. Under ICESCR, there are obligations considered to be of immediate effect to meet the minimum essential levels of each of the rights, including the right to food. For the right to food, States have to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger. Even where resources are constrained, the Government must still introduce low-cost and targeted programmes to assist those most in need so that its limited resources are used efficiently and effectively.

Increasing people's incomes on a sustained basis, presents a more rights based approach to food insecurity than ongoing and increasingly institutionalised reliance on emergency food bank provision.

**Do you think that the actions underway will help to reduce the need for food banks as a primary response to food insecurity? [Y/N/Don't Know]**

**Do you think that the suggestions for what more we plan to do will help to reduce the need for food banks as a primary response to food insecurity? [Y/N/Don't Know]**

**Is there anything else that you think should be done with the powers we have at a national or local level to reduce the need for food banks as a primary response to food insecurity? [Open comment]**

The draft plan recognises the need for the Scottish Government and Parliament to do all they can to address poverty and food insecurity within the powers that have been devolved. While the measures outlined are welcome, further action could be taken. The first step is for the Scottish Government to ensure that it is maximising the resources available to tackle poverty and food insecurity. With those maximised

resources, there are a number of additional steps the Scottish Government and Parliament could take, as outlined below.

## **Human rights budgeting**

States have the obligation to take steps towards the goal of the full realisation of all economic, social and cultural rights. Therefore, States must devote the “maximum available resources” to ensure the progressive realisation of these rights as expeditiously and effectively as possible. This requires the effective use of available resources, including potential resources that could be raised through reasonable efforts, such as taxation.

The obligation to maximise available resources means governments need to explore what they tax, who they tax and how they tax. Taxation needs to be fair, proportionate to people’s ability to pay, efficient, impactful and accountable. Developing such a system also needs to involve the active, meaningful participation of rights holders.

Whilst acknowledging not all fiscal levers are within the Scottish Government’s gift, it needs to be bolder about using what it does have. In order to maximise the Scottish Government’s available resources to tackle poverty and social inequality, more use is required of their tax varying and tax raising powers at the local and national levels. The following have been suggested by David Eiser (Adviser to the Scottish Parliament’s Finance and Constitution Committee since August 2016), including:

- Reforming/replacing council tax with a more progressive tax on land value;
- Committing to publishing an assessment of the possibilities of ‘new taxes’ that the government now has the power to introduce under the Scotland Act 2012;
- Evaluating the reliefs system in non-domestic rates to determine whether the current £750 million opportunity costs are justified; and

- Fulfilling the commitment to give local authorities the ability to introduce taxes on workplace parking spaces and transient visitors.

These are only some examples of ways in which the resources available to the Scottish Government could be increased, which could then be used to address poverty and ensure that the minimum essentials of the right to food are met now, with progressive realisation of that right moving forward.

## **Exploring Minimum Income Guarantee and Universal Basic Services**

The work embarked upon to explore Minimum Income Guarantee and Universal Basic Services is welcome. Maximising available resources through taxation, as outlined above, will be essential in order to fund these measures should the exploration conclude that their introduction would assist in the fulfilment of the right to food and other rights.

## **Cost of Living**

While addressing income is critical, other important measures can be taken within devolved powers. The draft plan acknowledges the impact of the rising cost of living on the right to food, as people experiencing poverty increasingly have to choose between compromising on food or other essentials, such as heat or rent. The anticipated escalation of the cost of living crisis, due to further increases in energy costs, can be expected to push many more people into poverty. It is therefore essential that the Scottish Government and Parliament use all tools available to them.

## **Rent**

Rent, public and private, is a significant living cost that the Scottish Government and Parliament can influence within their devolved competence. The Scottish Government's recognition that there is a need for a New Deal for Tenants,<sup>1</sup> looking at rents, supply and standards is therefore welcome. However, it will be important that the interrelationship between rent, housing standards, poverty and the right

to food, is fully recognised in that process. Framework legislation on the right to food should encourage a holistic approach, drawing together the various policy areas that impact fulfilment of the right to food, and that are affected by the food system. The Commission recently submitted to the Rural Affairs, Islands and Natural Environment Committee's call for views on the Scottish Government's Good Food Nation Bill, recommending significant changes be made to the Bill.<sup>2</sup>

## **Heat**

While the Scottish Government and Parliament cannot control energy costs, energy efficiency can be addressed through devolved powers. People living in energy efficient homes have far lower heating bills and are therefore less likely to have to choose between heating their home or buying food. The Scottish Government and Parliament could require all new builds to conform to building standards, such as Passivhaus standard, to ensure that new buildings are as energy efficient as possible, and urgently retrofit existing housing, particularly public housing, to the same standard. By maximising resources through measures such as those outlined above, they could fund more action, more quickly.

## **Transport**

Accessibility of food covers physical accessibility as well as economic accessibility, and the proposals acknowledge the impact of additional barriers to accessing food. The Commission's 2019 workshop on the right to food found that many of the people who attended raised the issue of transport as a key barrier to accessing affordable food. It was felt that the costs of travelling to a low-cost supermarket, allotment or community group were often prohibitive when making choices about how to allocate very small amounts of resource.

Philip Alston, former UN Special Rapporteur on Extreme Poverty, examined the impact on human rights, including the right to food, of the transport system provided by UK and devolved governments. He found that

“Even in a wealthy country like the United Kingdom, poor public transportation can restrict people’s access to the food they need. As of 2019, more than 6 percent of the population, some 3.34 million people, could not reach any food stores within 15 minutes by public transport. A lack of food choices in disadvantaged communities can lead to poor diets and health, which is associated with increased risk of coronary heart disease, diabetes, obesity, and cancer. And barriers to accessing cheaper stores can contribute to the “poverty premium,” whereby lower-income people pay more for their food.”<sup>3</sup>

The Commission welcomes the recent introduction of free public transport for those under 22, however further action is required. Mr Alston has identified a series of recommendations for UK and devolved governments, which are required to ensure public transport performs its role in upholding human rights:

- Embrace public control of bus transport: The notion that public transport provision can be left to the private market should be explicitly rejected. Public control of bus transport should be the default system, barriers to franchising and unnecessary bureaucracy should be eliminated, and new municipal bus companies should be expressly permitted. Voluntary partnerships should be phased out in favor of public control and ownership, and public funding conditioned on that shift. Where private companies operate buses under franchising arrangements, conditions should be imposed that acknowledge the public nature of the service, including a dividend cap, transparency measures, and social responsibilities.
- Guarantee access to public transport: The social, economic, and environmental necessity of a strong, integrated bus system should be recognized, and the national and devolved governments should take responsibility for its development. A statutory minimum level of service and frequency should be legislatively required, with necessary funding allocated. Proposed cuts to bus routes should require full public consultation, and all cuts should be tracked, publicized, and re-assessed regularly. The 2010 Equality Act’s

socio-economic duty should be implemented with regard to the bus sector.

- Support local authorities: Local transport authorities should be provided with sufficient, stable, and long-term funding for the provision of public bus services that meet the social and economic needs of residents. Financial and political support should be offered to those pursuing public ownership or control, and government teams should be created with the expertise and resources to support those efforts, achieve economies of scale, and address legal challenges from commercial vested interests.
- Ensure affordability: Concessionary bus travel should be available to those on government benefits, asylum seekers, and those aged 60 and older. Fares should be regulated and governments should ensure equality in transport benefits across the country, and consider concessionary travel for younger people in particular.
- Combat climate change with a strong bus system: Buses should provide a viable and attractive alternative to more emissions-intensive forms of travel and the system should be designed to make the strongest possible contribution to meeting the United Kingdom's climate change targets and international climate agreements.

## **Accountability**

The Commission commends the commitment to incorporating the right to food as part of a new Human Rights Bill which will incorporate (among others) the International Covenant on Economic, Social and Cultural Rights. However, we consider a strong Good Food framework law to be mutually supportive of an overarching framework for the full incorporation and justiciability of economic, social, cultural and environmental rights as set out in the recommendations of the National Taskforce on Human Rights Leadership.

The Commission has responded to the Good Food Nation (Scotland) Bill - call for views<sup>4</sup>. Our response highlights a number of weaknesses, including gaps in fully reflecting the right to food, and in accountability measures. To be effective, accountability measures must be specific and



quantifiable, which are disappointingly lacking in the Bill as introduced. In particular we recommended:

- Recommendation 2: The Bill should include clear objectives, reflecting the rights to food, health, a healthy environment and equality, with specific and quantifiable outcomes, targets, indicators and progress measures.
- Recommendation 3: The Bill should provide for the establishment of an independent Food Commission, adequately resourced and empowered to monitor progress in the implementation of the Bill, as well as carrying out research, providing advice, and reporting to Parliament. There should be a duty on the Scottish Ministers to respond to its recommendations.

Strengthening protection of the right to food will require that the framework legislation of the Good Food Nation (Scotland) Bill addresses these gaps and provides a robust framework of accountability for delivery of the obligations of the right to food.

### **Do you have any views on how we intend to measure impact, and what would give you confidence that we are moving in the right direction? [Open comment]**

The normative content of the right to food should be translated into concrete targets and related benchmarks to be achieved on the national and local level. Time-frames for achieving targets should be set in the law. In addition, the law should give an overview of the measures to be used (subsidiary legislation, administrative decisions, income policy, agricultural policy, financial grants, tax policy, etc).<sup>5</sup>

In addition, measurement should be tied to other frameworks for the measurement of human rights outcomes, in particular any framework developed in relation to Scotland's National Action Plan for Human Rights.

---

<sup>1</sup> [A New Deal for Tenants - draft strategy: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/draft-strategy-for-tenants/consultation/pages/index.aspx)

<sup>2</sup> Good Food Nation (Scotland) Bill - call for views, December 2021 [gfn-response-final.pdf \(scottishhumanrights.com\)](#)

<sup>3</sup> *'Public Transport, Private Profit The Human Cost of Privatizing Buses in the United Kingdom'*, Philip Alston Bassam Khawaja Rebecca Riddell, available at [Report-Public-Transport-Private-Profit.pdf \(chrgj.org\)](#)

<sup>4</sup> Good Food Nation (Scotland) Bill - call for views, December 2021 [gfn-response-final.pdf \(scottishhumanrights.com\)](#)

<sup>5</sup> K Yakpo Framework Law on the Right to Food: An International and South African Perspective, (2004) 4 AHRLJ