



## Right to Food (Scotland) Bill

A proposal for a Bill to incorporate the right to food into Scots Law

Consultation by

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# Foreword



According to our international obligations we all have a right to food. Despite this, Scotland's dependence on food banks and other sources of free food is growing.

Historical health problems due to deficiencies of vitamins and minerals in our diet are on the increase, as is obesity. It is much cheaper and easier to access food that is high in sugar and fat than to access a healthy diet which may be more expensive. The ensuing health problems increase health inequalities.

All this is happening when we have a right to food.

My colleague and friend, former MSP Elaine Smith, consulted on enshrining a right to food into Scottish law and also on charging an organisation, independent of Government, to oversee its implementation. Her proposal attracted a great deal of support. Elaine Smith stepped down from the Scottish Parliament at the last election and I am therefore picking up the baton to realise the right to food in Scotland.

I have, with Elaine's permission, used much of her consultation document as the basis for this document, given the problem remains and continues to deteriorate. The statistics in this document have been updated from Elaine's consultation where appropriate, however they may contain data that was gathered either before the pandemic or before the full impact of the pandemic has been felt, therefore in some cases the reality may be worse.

While we already have the right to food, under international obligations, I believe it is important to enshrine that in Scots law. However, just as important is the body that will implement that right, because without implementation people are going hungry.

It is also desperately sad that many of those involved in the production of Scotland's world class food are unable to access it for themselves.

Providing citizens with the ability to access their right to food is complex as there are a myriad of reasons as to why people cannot exercise that right. Most commonly it is due

to a lack of income, the inability for an individual to feed themselves and their family from what they earn or receive in social security. It is because of this we have seen the mushrooming numbers of foodbanks, something that would be consigned to history should the aims of the proposed Bill be achieved.

I wish to pay tribute to those who volunteer to ensure we do have sources of free food, those who work in food banks and provide meals and other sources of food for those who would otherwise go hungry. They, like me, look forward to the day in Scotland where they are no longer required to do that, a day when everyone can access food for themselves and their families without having to resort to food banks.

I am a member of the Co-operative Party, who have long campaigned on this issue, I want to thank them and the many other stakeholders who have helped me pick up this campaign, for their help, support and guidance, especially those who form part of my advisory group.

A handwritten signature in cursive script that reads "Rhoda Grant".

Rhoda Grant MSP  
25 November 2021

# How the consultation process works

This consultation relates to a draft proposal I have lodged as the first stage in the process of introducing a Member's Bill in the Scottish Parliament. The process is governed by Chapter 9, Rule 9.14, of the Parliament's Standing Orders which can be found on the Parliament's website at:

[Standing Orders | Scottish Parliament Website](#)

I lodged a proposal on 2 September 2021 and prepared a statement of reasons as to why further consultation was unnecessary (given the previous consultation carried out by Elaine Smith in the last session of the Parliament). However, the Equalities, Human Rights and Civil Justice Committee was not satisfied with the statement of reasons which meant that, under the Parliament's rules, my proposal would fall unless I lodged a consultation document within 2 months.<sup>1</sup> I am therefore lodging this consultation document.

At the end of the consultation period, all the responses will be analysed. I then expect to lodge a final proposal in the Parliament along with a summary of those responses. If that final proposal secures the support of at least 18 other MSPs from at least half of the political parties or groups represented in the Parliamentary Bureau, and the Scottish Government does not indicate that it intends to legislate in the area in question, I will then have the right to introduce a Member's Bill. A number of months may be required to finalise the Bill and related documentation. Once introduced, a Member's Bill follows a 3-stage scrutiny process, during which it may be amended or rejected outright. If it is passed at the end of the process, it becomes an Act.

At this stage, therefore, there is no Bill, only a draft proposal for the legislation.

The purpose of this consultation is to provide a range of views on the subject matter of the proposed Bill, highlighting potential problems, suggesting improvements, and generally refining and developing the policy. Consultation, when done well, can play an important part in ensuring that legislation is fit for purpose.

The consultation process is being supported by the Scottish Parliament's Non-Government Bills Unit (NGBU) and will therefore comply with the Unit's good practice criteria. NGBU will also analyse and provide an impartial summary of the responses received.

Details on how to respond to this consultation are provided at the end of the document.

Additional copies of this paper can be requested by contacting me at Room M1.11, Scottish Parliament, Edinburgh, EH99 1SP. Telephone 01463 716299 or e-mail at [Rhoda.Grant.MSP@Parliament.scot](mailto:Rhoda.Grant.MSP@Parliament.scot).

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<sup>1</sup> The Committee determined it was not satisfied with the statement of reasons by a vote of four to three.

Enquiries about obtaining the consultation document in any language other than English or in alternative formats should also be sent to me.

An on-line copy is available on the Scottish Parliament's website ([www.parliament.scot](http://www.parliament.scot)) under Bills and Laws / Proposals for Bills.

# Background

By enshrining the right to food in Scots law, my proposed Bill would seek to place duties on the Scottish Government to ensure that, now and in the future, food is accessible to people – financially and geographically – and that food is adequate in terms of nutrition, safety and cultural appropriateness.

My proposal has the same working title, and is in the same terms, as the draft proposal that was lodged by Elaine Smith MSP in June 2020. A consultation was lodged at the same time as that proposal, and the accompanying [consultation document](#) covered the relevant background in detail, including information on why enshrining the right to food into Scots law is necessary, the current legal position, the causes and effects of food insecurity and international examples of where the right to food has been incorporated into domestic law.

Elaine Smith's consultation document remains relevant, as do the [responses](#) and the [summary of responses](#), both of which are still available online.

## Scottish Parliament consideration to date

### Elaine Smith's proposal and consultation

Elaine Smith lodged a proposal to incorporate the right to food into Scots law on 23 June 2020 and consulted on the proposal for 12 weeks until 15 September 2020. In total 252 responses to the consultation were received, of which 181 (72%) were from individual respondents, including four MSPs and one councillor. 71 responses (28%) were from organisations. These figures do not include late responses or those who indicated support via other means than the formal consultation.

The organisation respondents included:

- those from the public sector including local authorities, health directorates and government agencies;
- third sector and representative organisations;
- networks and groups, and one commercial organisation.

In addition, the Co-operative Party, of which I am a member, ran an email campaign in which 80 respondents expressed their support by returning an email to Elaine Smith's office.

Of the formal responses counted, 93% agreed that the right to food should be enshrined in law – an overwhelming majority. A majority also agreed that the proposed Bill could reduce food insecurity and improve the health of individuals, with a recurring theme being the need to take a holistic approach, accounting for interrelated policy issues in order to ensure a sustainable food system was established and maintained.

Following the consultation period, Elaine Smith lodged a final proposal, in the same terms as the draft proposal, on 11 February 2021. The final proposal received support from 28 MSPs and therefore the right to introduce a bill was earned. A list of supporters of the final proposal remains available online.<sup>2</sup>

Although Elaine Smith earned the right to introduce a bill, she was unable to do so as the deadline for introducing a members' bill in session 5 of the Scottish Parliament, under Rule 9.14.15 of Parliamentary Standing Orders, was 1 June 2020.

## Current proposal – statement of reasons

I believe that, now more than ever, it is vitally important that the right to food is enshrined in Scots law to address food insecurity and ensure a joined-up approach to Scotland's complex food system. That is why I lodged a proposal, in the same terms as the one lodged by Elaine Smith<sup>3</sup>, on 2 September 2021.

As detailed above, Elaine Smith's consultation concluded in 2020 and had received engagement from a wide range of individuals and organisations from different sectors, backgrounds, and with different views. I therefore considered that repeating the consultation would slow down the progress of a vital piece of legislation and ultimately would add little value to the development of my Bill. In addition, I considered it unnecessary to ask individuals and organisations who responded to the previous consultation to take the time and effort to respond again, particularly as the terms of the draft proposal have not changed.

I therefore lodged my proposal with a [statement of reasons](#), setting out why I did not consider further consultation to be necessary. The statement was referred to the Equalities, Human Rights and Civil Justice Committee, which considered the statement of reasons on 5 October 2021, and determined that it was not satisfied with it by a vote of four members to three.

This is disappointing, and I hope it does not place an additional burden on those who previously responded. This legislation, if passed, could change the lives of many people who cannot currently exercise their right to food.

Under Standing Orders, I was required to lodge a consultation within two months of the decision, or my proposal would fall. I have therefore lodged this consultation document

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<sup>2</sup> The support was broken down as follows:

22 Scottish Labour Party,  
2 Scottish Green Party,  
2 Independent,  
1 Scottish National Party and  
1 Scottish Liberal Democrat.

<sup>3</sup> Elaine Smith stood down as a member of the Scottish Parliament prior to the 2021 Scottish Election.



and my consultation will run until 16 February 2022. Once the consultation has closed, a summary of responses will be prepared, and I will lodge a final proposal. The final proposal must obtain the support of at least 18 MSPs from at least two parties within one month, for the right to introduce a bill to be obtained. During the one-month period, the Scottish Government may make a statement that it will introduce a bill to give effect to my proposal within 2 years. If it does so, then my proposal would fall at that point.

## What is the “right to food”?

For the purposes of this member’s Bill proposal, it is important to underline exactly what we mean by a “right to food”, both legally and in the spirit of the provisions which define a right to food in international treaties.

The right to food can be both a negative and positive right. The negative right to obtain food by one’s own actions, and the positive right to be supplied with food if one is unable to access it. The negative right entails inaction by authorities in some areas: in simple terms governments should not inflict conditions upon individuals which mean that they cannot acquire their own food. A positive right, by contrast, requires governments to take action to ensure a right is maintained and protected.

A right to food, as implemented in other countries around the world, would not usually enable an individual to sue their government in a court of law in the event that they are not able to eat.

One definition of the right to food was offered by the UN Special Rapporteur on the Right to Food in 2002. He defined it as:

“The right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.”<sup>4</sup>

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<sup>4</sup> [OHCHR | Special Rapporteur on the right to food](#)

# Food insecurity

## Who is affected?

Food insecurity is often described as:

"the inability to acquire or consume an adequate quality or sufficient quantity of food in socially acceptable ways, or the uncertainty that one will be able to do so"<sup>5</sup>

Food insecurity has an impact on the lives of many in Scotland, with recent statistics on food parcel distribution revealing that the scale of food bank use is far higher than previously estimated. Between April 2018 and September 2019, the Trussell Trust and independent food banks together distributed in excess of 596,472 food parcels in Scotland.<sup>6</sup> More recent statistics published by the Trussell Trust show that its network alone gave out 221,554 emergency food parcels between 1 April 2020 and 31 March 2021.<sup>7</sup> This is an increase of 63% from five years ago and reportedly amounts to a parcel being given out every two and a half minutes.<sup>8</sup>

According to Scottish Health Survey statistics published in January 2021, 8% of all adults surveyed were food insecure, with the figures being higher for those in more deprived areas.<sup>9</sup>

Previous Scottish Health Survey statistics updated in 2020 showed that 25% of single parents were experiencing food insecurity, with this group identified as some of those that are most at risk in Scotland.<sup>10</sup> [A cumulative impact assessment](#) by the Equalities and Human Rights Commission undertaken in 2020 on tax and welfare reforms found that lone parents lost on average one-fifth of their income between May 2010 and January 2018, with those on the lowest incomes losing the most.<sup>11</sup>

Food insecurity is also rising amongst the working age population. Among 16-44-year olds, 11% reported being food insecure.<sup>12</sup> While this measure is smaller for older people, this is mainly due to more predictable, if still modest, incomes. There are issues of

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<sup>5</sup> Dowler E. (2003). *Food and Poverty in Britain: Rights and Responsibilities*. In: Dowler E and Jones Finer C (Eds). *Welfare of Food: Rights and Responsibilities in a Changing World*. Oxford: Wiley-Blackwell, p140-159.

<sup>6</sup> Independent Food Aid Network & A Menu for Change, *Emergency Food Parcel Provision in Scotland April 2018 to September 2019*. [Scotland Food Bank Data - Independent Food Aid Network UK](#)

<sup>7</sup> [End of Year Stats - The Trussell Trust](#)

<sup>8</sup> [Trussell Trust delivers one food bank parcel every seven minutes to Scots children | HeraldScotland](#), published 22 April 2021.

<sup>9</sup> [Scottish-health-survey-2020-edition-telephone-survey-volume-1-main-report \(2\).pdf](#)

<sup>10</sup> [Scottish Health Survey 2018 edition, updated in February 2020](#)

<sup>11</sup> EHRC, *The cumulative impact of tax and welfare reforms*, June 2019, P. 19

<sup>12</sup> [scottish-health-survey-2020-edition-telephone-survey-volume-1-main-report.pdf](#)

malnourishment among the older population. Food Train estimates that around 20-30% of older people in the UK are malnourished or at risk of malnourishment.<sup>13</sup>

Food insecurity has been exacerbated in recent years by stagnating wages, zero-hours contracts, frozen benefit levels and issues with the roll-out of Universal Credit.

Research published by End Hunger UK in 2018 noted that emergency food aid providers from across the UK reported a surge in demand in areas where Universal Credit was rolled out.<sup>14</sup> More recent reports suggest that a similar surge in demand will occur following the removal of the uplift in Universal Credit put in place at the beginning of the Covid-19 pandemic.<sup>15</sup>

While there are a number of causes of the rise in food bank usage over the last decade the majority of those who present to food banks are facing an acute income crisis. The report of the Independent Working Group on Food Poverty confirmed that:

“Scotland-specific studies on causes of foodbank use are consistent with these UK-wide findings, and have also highlighted instances of problems with the Scottish Welfare Fund including lack of awareness of the Fund.”<sup>16</sup>

The aforementioned report also found, on public attitudes as to the causes of food insecurity, that:

“Respondents also demonstrated an understanding of the structural causes of food insecurity including: low wages; jobs that don’t provide enough working hours; the rising price of food; and levels of unemployment. However, they also perceived “individual” factors, such as people not prioritising how they spend their money correctly, as contributing to food insecurity. Such “individual” factors are not consistent with the evidence of the causes of food insecurity.”<sup>17</sup>

The right to food is intrinsically linked to a sustainable food industry.

A right to food is about more than food insecurity – it is about taking a whole-systems approach to tackling challenges such as poverty, diet-related illness and climate change. It is the Scottish Government’s responsibility to join up policy making to recognise these connections and tackle them in progressive ways. For example, ensuring individuals are fairly paid will reduce poverty and food-insecurity; opening more food banks may deliver more food to those with an immediate need, but will not address these underlying issues.

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<sup>13</sup> Information provided by Eat Well Age Well (a part of Food Train).

<sup>14</sup> End Hunger UK, Fix Universal Credit: Ensuring no one needs to go to bed hungry in the UK, July 2018

<sup>15</sup> [Universal Credit: Food banks 'braced' for demand increase - BBC News](#), published 6 October 2021.

<sup>16</sup> Scottish Independent Working Group on Food Poverty, Dignity: Ending Hunger Together in Scotland, June 2016, page 17

<sup>17</sup> Scottish Independent Working Group on Food Poverty, Dignity: Ending Hunger Together in Scotland, June 2016, page 17

On the cultural appropriateness of food, the Scottish Human Rights Commission state that:

“reliance on charitable food provision is not a culturally appropriate means of accessing food in the UK. Nor is it an appropriate way to deal with issues of food waste. Individuals are deprived of food choice, fresh produce or culturally or religiously appropriate food, especially people from minority ethnic communities. Additionally, for many there is considered to be a stigma and loss of dignity associated with food bank usage.”<sup>18</sup>

## Causes and effects

In Scotland, the causes of food insecurity are most commonly recognised as economic and concern the ability of an individual to buy food at all, or to buy food which is appropriately nutritious. This makes it more difficult to address the issue effectively, as specific causes are not as obvious or distinct as they are in more extreme cases. This is why it is vital that methods of measuring food insecurity are improved, and that any legal right to food has measurable criteria. It should be noted however, that there are also physical and geographical barriers to food security in Scotland. Furthermore, solutions to food insecurity must be culturally appropriate. The Scottish Human Rights Commission stated, in its response to the Good Food Nation Bill proposals, that the reliance of many in Scotland on charitable food provision through food banks is not a culturally appropriate solution.<sup>19</sup>

## Poverty

Developments in the UK over the last decade have impacted the right to food, most notably the increases in various poverty rate measurements, in Scotland and across the UK.

Welfare reform and the rise of in-work poverty are just two of the driving forces behind food insecurity. According to the Scottish Government’s figures on poverty and income inequality in Scotland for the period between 2017 and 2020 after housing costs:<sup>20</sup>

- It is estimated that 24% of children (240,000 children) were living in relative poverty
- 19% of working-age people in Scotland were living in poverty
- 14% of pensioners in Scotland are living in poverty
- 61% of working-age adults in relative poverty were living in working households.

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<sup>18</sup> Scottish Human Rights Commission, response to Scottish Government consultation on the Good Food Nation Bill proposals

<sup>19</sup> Scottish Human Rights Commission, response to Scottish Government consultation on the Good Food Nation Bill proposals

<sup>20</sup> [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot/poverty-and-income-inequality-in-scotland-2017-20)

Some groups are affected by poverty to a greater extent than others, between 2015-20, after housing costs:

- 43% of people in the category of “mixed, black or black British and other” ethnic groups were living in relative poverty, compared to only 18% of “White-British.”<sup>21</sup> Between 2017-20:

- 38% of single mothers were living in relative poverty
- 23% of people in a family with a disabled adult live in poverty.<sup>22</sup>

These figures highlight the importance of combating food insecurity from an equalities perspective.

Child Poverty rates in Scotland are projected to rise even further by 2023.<sup>23</sup> This endangers the positive trends in child poverty rates we saw at the beginning of the 21<sup>st</sup> century and, more importantly, adds to the number of children who are likely to live in food insecurity.

## Nutrition

Food insecurity is not just about the ability to access food, but to access food which is appropriate, substantial and nutritious. Scottish Health Survey statistics published in January 2021 state that, 62% of adults surveyed were overweight or obese.<sup>24</sup> The total economic cost of obesity in Scotland is estimated to be as much as £4.6 billion a year.<sup>25</sup> Some progress has been made with the setting of nutritional standards for school meals and hospital food, and in the implementation of the soft drinks levy across the UK. However, framework legislation would offer further opportunities to develop sufficient strategies, targets, responsibilities and measurements to enable Scotland to fight the obesity epidemic, and ease the heavy burden placed upon the NHS by dietary issues.

The challenge of poor nutrition among children, especially those from less well-off backgrounds, can be addressed effectively through the provision of nutritious and healthy free school meals. The current provision of meals by the Scottish Government could contribute towards addressing this challenge, however such provision would have to be universal, rather than just for those in Primary 1 to 4. Furthermore, a wider adoption of programs like North Lanarkshire Council’s Club 365 initiative<sup>26</sup> would be necessary across Scotland in order to effectively address food insecurity among school aged children during the school holidays, where parents face a significant extra financial burden, and thus difficulty in providing meals of sufficient nutritional value for their children and themselves.

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<sup>21</sup> [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot/publications/poverty-income-inequality-scotland-2017-20)

<sup>22</sup> [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot/publications/poverty-income-inequality-scotland-2017-20)

<sup>23</sup> [Living-Standards-Outlook-2019.pdf \(resolutionfoundation.org\)](https://www.resolutionfoundation.org/publications/living-standards-outlook-2019)

<sup>24</sup> [Scottish-health-survey-2020-edition-telephone-survey-volume-1-main-report \(10\).pdf](https://www.scotland.nhs.uk/health-survey/2020-edition-telephone-survey-volume-1-main-report-10)

<sup>25</sup> Scottish Government obesity indicators 2018 <https://www.gov.scot/publications/obesity-indicators/>

<sup>26</sup> [Club 365 | North Lanarkshire Council](https://www.northlanarkshire.gov.uk/club365)

Many parents are not able to afford to feed their children as a result of insufficient pay or benefits. Children are suffering the consequences of poor nutrition partially because they are inundated with junk food promotions, and the shops around their schools sell junk food at cheaper prices than healthier alternatives.

While the provision of school meals has been a positive step, there are still children who aren't benefiting from these. The Child Poverty Action Group's research on the cost of the school day notes that some children who are eligible to receive free school meals are not doing so, sometimes preferring to go to the shops with friends.<sup>27</sup> There may also sometimes be a stigma attached to claiming a free school meal, which leads to some families choosing not to do so.<sup>28</sup>

While the Scottish Government has implemented a strategy for addressing child poverty which includes ambitious targets and measurement, it is too early to observe any trends which demonstrate the effectiveness of this strategy.

## Impact of the covid-19 pandemic

The Covid-19 pandemic has placed a significant strain on the food system in Scotland and raised new challenges that have exposed more people to food insecurity.

Many people have lost their jobs or experienced a reduction in income during the pandemic, as a result of the closing down of economic activities. This will have led to an increase in the number of people who face food insecurity, as well as worsening the position of people who were already on low incomes. In addition to losses in income, in having to remain at home, the cost of feeding households and heating homes will have increased for many.

Accessing food also became an issue for many during the pandemic. For example, those who were shielding may have struggled to obtain the food they needed. In addition, travel restrictions may have led to people being unable to travel to shops, for example, in order to obtain culturally appropriate food.

There has been a high demand for food aid across the UK<sup>29</sup>, and the monumental efforts of the third sector to accommodate this should be praised. Reports suggest it was extremely difficult to meet the demands during the height of the crisis, particularly when food banks had to close, or reorganise their way of working to take account of

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<sup>27</sup> [The Cost of the School Day Programme, Child Poverty Action Group | Practice exemplars | National Improvement Hub \(education.gov.scot\)](#)

<sup>28</sup> [CPAG-Scot-Cost-Of-School-Day-Summary\(Oct15\)\\_0.pdf](#)

<sup>29</sup> [UK food banks report busiest month ever, as coalition urgently calls for funding to get money into people's pockets quickly during pandemic - The Trussell Trust](#), published June 2020.

social distancing, or when volunteers had to shield.<sup>30</sup> A report by the University of the West of Scotland on food insecurity during the Covid-19 crisis stated:

“Covid-19 exposed the vulnerability of the UK’s food system to shocks and showed how such shocks can increase food insecurity. The pandemic also demonstrated how vulnerable the emergency food aid ‘system’ is to shocks and the devastating consequences that the closure of food banks can have.”<sup>31</sup>

The Covid-19 crisis continues, and its impact will continue to be felt for many years to come. This highlights further the need for action to be taken now to address this complex issue.

## Current legislation and international commitments

### International Covenant on Economic, Social and Cultural Rights (ICESCR)

While the rights set out in the European Convention on Human Rights were brought into UK law in 1998 with the Human Rights Act as part of the Labour government’s constitutional reforms and modernisation and as a result are legally enforceable in UK courts, the International Covenant on Economic, Social and Cultural Rights (ICESCR) has not been fully incorporated into domestic law in the same way, and thus the right to food and many other social and economic rights remain unenforceable in UK courts as things currently stand.

The UK has committed to a right to food by ratifying the ICESCR in 1976. While the principles and spirit of the provisions laid out in the ICESCR imply a right to food, in practice this ratification alone has not done enough to provide or progress a right to food in the UK.

The pertinent section which specifically relates to the right to food is Article 11, which states that:

#### “Article 11

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

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<sup>30</sup> [Food Insecurity in Times of Covid-19- and insight into a deepening crisis \(uwsoxfampartnership.org.uk\)](https://www.uwsoxfampartnership.org.uk)  
Damien Dempsey and Hartwig Pautz, April 2021

<sup>31</sup> [Food Insecurity in Times of Covid-19- and insight into a deepening crisis \(uwsoxfampartnership.org.uk\)](https://www.uwsoxfampartnership.org.uk)  
Damien Dempsey and Hartwig Pautz, April 2021



2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

Citizens of states which have ratified the ICESCR have no guarantees of legislation from the individual state and no right or mechanism of redress should the national government in question not take the legislative or constitutional steps within their own state to advance the right to food.

The principal obligation of the ICESCR, laid out in article 2(1), is to take steps “with a view to achieving progressively the full realisation of the rights recognised” in the Covenant.<sup>32</sup> The concept of “progressive realisation” as outlined in this case places the obligation on the state to move as quickly and effectively as possible towards achieving that goal, while simultaneously acknowledging that it will not be possible for all states to immediately realise all of the economic, social and cultural rights entailed in the covenant.

A number of principles and duties are entailed in the ICESCR, including duties to respect, protect and fulfil the right to food. There are also immediate duties such as non-discrimination, minimum core and non-retrogression. Direct and indirect discrimination on prohibited grounds which impair the equal fulfilment of the right to food are breaches of the ICESCR. “Minimum Core” refers to every state having a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights in the ICESCR. For example, a state in which any significant number of individuals is deprived of essential food is, prima facie, failing to discharge its obligations under the Covenant. Finally, the duty of non-retrogression obliges states not to allow backward steps in the fulfilment of rights unless there are strong justifications for doing so.

According to the Committee of Economic, Social and Cultural Rights, the UN body of 18 experts that usually meets twice each year in Geneva to consider the five-yearly reports submitted by UN member states on their compliance with ICESCR, if the right to food is violated, rights-holders should have access to effective remedies at both national and international levels. While states ought to provide judicial remedies with respect to justiciable rights, non-judicial remedies, such as ombudsman procedures, can also be effective in providing relief. Furthermore, the UN Committee has encouraged states to

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<sup>32</sup> Article 2, International Covenant on Economic, Social and Cultural Rights.



incorporate the Covenant, including the right to food, into domestic law, in order to enhance the scope and effectiveness of remedial measures.

## Scottish Government position

### Good food nation bill

A Good Food Nation Bill was expected to be introduced in the last session of the Scottish Parliament, and a consultation on the proposed legislation took place between December 2018 and April 2019. An analysis of responses was published in September 2019. The analysis noted the need for a commitment to a right to food as a 'key theme' in responses.

The Bill was not introduced in the last session of the Parliament, with the Scottish Government citing the need to focus its attentions on its response to Covid-19 as the reason for the delay.

The [Bill was introduced](#) on 7 October 2021.<sup>33</sup> It requires the Scottish Ministers and certain public bodies, including health boards and local authorities, to create Good Food Nation plans. Other public bodies may be required to produce plans in the future.

The Scottish Ministers and public bodies need to have regard to these plans when carrying out certain functions. These functions will be set out by the Scottish Ministers in secondary legislation that will be considered by the Parliament.

The Policy Memorandum for the Bill states that:

“The national good food nation plan required by the Bill must set out:

- the main outcomes in relation to food-related issues which the Scottish Ministers want to be achieved in relation to Scotland;
- indicators or other measures by which progress in achieving the outcomes may be assessed; and
- the policies which the Scottish Ministers intend to pursue in order to secure the achievement of the outcomes.”<sup>34</sup>

### Human rights bill

On 1 September 2021, the Cabinet Secretary for Rural Affairs and Islands confirmed that the right to food would not form part of the forthcoming Good Food Nation Bill, but instead form part of the human rights bill which it plans to consult on in the next 12 months. The Scottish Government has stated that that bill will:

- take forward the 30 recommendations from the National Taskforce for Human Rights Leadership; and

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<sup>33</sup> The accompanying documents to the bill are available here: [Policy Memorandum \(parliament.scot\)](#)  
[Explanatory Notes \(parliament.scot\)](#)

<sup>34</sup> Good Food Nation (Scotland) Bill: [Policy Memorandum \(parliament.scot\)](#)

- incorporate, as far as possible within devolved competence, the International Covenant on Economic, Social and Cultural Rights, alongside three other international human rights treaties for the empowerment of women, disabled people and Minority Ethnic people.

It will also include:

- a right to a healthy environment;
- a right for older people to ensure equal access to their human rights so that they can live a life of dignity and independence; and
- provision to ensure equal access to everyone to the rights contained in the Bill.

## Examples around the world

A number of nations have implemented some form of right-to-food legislation into their own domestic laws. There are a variety of different mechanisms for doing so and these solutions can be unique to individual states. Of these states, 10 have implemented framework legislation, while a further 9 are in the process of doing so.<sup>35</sup>

For the purposes of making the right to food legally justiciable under Scots law and thus enshrining the right in the strongest possible manner, putting the right to food into domestic law using framework legislation is the most effective option. The Scottish Food Coalition states:

“Some countries have protected a rights-based approach in their constitution, others through specific legislation incorporating the International Covenant on Economic, Social and Cultural Rights, and others through right to food specific legislation.

Even though in theory constitutionalisation gives the greatest protection to rights, in practice, regardless of the form incorporation has taken, most European nations are failing to adequately protect and progress the right to food. Scotland could be a European leader in this respect. Countries in the global south have a stronger record of protecting the right to food, including India, Brazil, and most recently Nepal.”<sup>36</sup>

Brazil has, since 2004, tackled the problem of food insecurity through a swathe of interconnected policy initiatives which recognise that no single governmental department can address issues underlying food poverty and inequality.

This collective approach was embodied by the establishment of a national council – including 18 ministers and 36 representatives from across civil society – and given a clear legal and social mission by the 2006 passage of the Federal Law for Food and

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<sup>35</sup> [Good Food Nation: consultation - gov.scot \(www.gov.scot\)](http://www.gov.scot)

<sup>36</sup> Information on Scottish Food Coalition website [Right to Food - SCOTTISH FOOD COALITION](http://www.scottishfoodcoalition.org)

Nutrition Security, which requires that the state “enforce the universal right to regular and permanent access to good quality food in sufficient quantities, based on healthy food practices which respect cultural diversity and which are environmentally, culturally, socially and economically sustainable.”<sup>37</sup>

The Scottish Human Rights Commission highlights the example of Finland, where the parliament is required to legislate to protect socio-economic rights. It is for parliament to decide how to protect specified rights in various legislative frameworks. A Human Rights Committee reviews and evaluates legislation before it is passed in order to ensure that any legislation complies with human rights.<sup>38</sup> The committee listens to constitutional and human rights experts before making decisions based on legal standards that are binding on the Finnish parliament. According to the SHRC, this system supports a human rights affirmative framework where compliance with human rights is compliance with the rule of law. This is not a political choice but a legal obligation. If the parliament does not enact adequate legislation the courts can intervene and declare this unconstitutional.<sup>39</sup>

## Why the proposed legislation is necessary

While I welcome the Scottish Government’s commitment to include the right to food in its human rights bill, I note that there is no set date for the introduction of this legislation. As I explained in evidence to the Equalities, Human Rights and Civil Justice Committee, I do not believe that we can afford to delay the incorporation of the right to food into Scots law any further:

“If the pandemic has shown us anything, it is the need for a right to food in Scotland. We have seen people going hungry. When people were self-isolating due to Covid, they needed things in place that ensured that they were able to eat. [Recently] we have heard about the very sad case of a pensioner in Scotland who starved to death. I do not think that we can afford to delay action on an issue that is costing lives—it is also costing life chances, because we know that young people who grow up without having an adequate diet end up having huge health issues, for which we all pay, down the line. We see malnutrition and we see obesity—there are huge problems that we need to deal with, right now. The pandemic has, if anything, delayed legislation in the area. We cannot afford to delay further.”<sup>40</sup>

In addition, while the Scottish Government has committed to incorporating the right to food into Scots law, there is currently no detail available on what this will entail. The Scottish Government has not committed, for example, to setting up an independent

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<sup>37</sup> Article on TFN website, published March 2019 [Scotland can be a world leader in a food revolution - TFN](#)

<sup>38</sup> SHRC, *Creating a Fairer Scotland*, p.21.

<sup>39</sup> SHRC, *Creating a Fairer Scotland*, p.21.

<sup>40</sup> Equalities, Human Rights and Civil Justice Committee, 5 October 2021, *Official Report: Meeting of the Parliament: EHCJ/05/10/2021* | [Scottish Parliament Website](#)

statutory food body or to putting measurable targets in place to track the success of policies.

As part of Elaine Smith's consultation, respondents were asked their view of enshrining a right to food into Scots law as a priority in advance of any further Scottish Government legislation on wider human rights. 80% of respondents were supportive of this with the need for urgent action of food poverty emphasised by many, including the Fife Food Insecurity Steering Group:

"Introducing fuller human rights legislation is important and we welcome the government's commitment to this. However, this is likely to be a much lengthier process. There are particular challenges facing our food system now, which have been highlighted by the Covid-19 crisis and are likely to be exacerbated by the ongoing impact of the pandemic and by our exit from the EU. These need urgent attention."<sup>41</sup>

## Detail of the proposed bill

The key aims of this proposed Bill are to:

- enshrine the right to food in Scots law;
- place responsibility for driving and overseeing this right upon the Scottish Government; and
- establish responsibility for oversight onto either an existing body or create an independent statutory food commission to:
  - enable joined up policy making across food policy;
  - set measurable targets on food security; and
  - require the Scottish Government to check policies against requirements of non-regression of the right to food.

The proposed Bill is intended to be framework legislation that would ensure that obligations regarding the right to food were met and measurable.

Providing citizens with the ability to access their right to food is complex as there are a myriad of reasons as to why people cannot exercise that right. Most commonly it is due to a lack of income, the inability for an individual to feed themselves and their family from what they earn or receive in social security. It is because of this we have seen the mushrooming numbers of foodbanks, something that would be consigned to history should the aims of the proposed Bill be achieved.

However, the proposed Bill seeks to go further due to the complexity of this issue. Depending on people's situation they may be able to afford food, but not access it. Some people become housebound but cannot access internet shopping. They become

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<sup>41</sup> Response to Elaine Smith, Right to Food draft proposal consultation by Fife Food Insecurity Steering Group: [Response Data \(filesusr.com\)](https://filesusr.com)

dependent on family and friends for shopping, but this is not always sustainable. Being able to physically access food is also an issue in rural areas.

This is why the proposed Bill looks to empowering a body, new or existing, to ensure progression towards all citizens realising this right. This would not be a body that supplies food. The body that I propose would ensure that society works to enable people to access food in their own right and at their own hand.

Ultimately, a statutory right to food would enable the Scottish Parliament to hold the Scottish Government to account when people are suffering from an inability to provide, or access, for themselves or their families nutritious food.

## Enshrining the right to food into Scots law

There are a number of different methods of enforcing the right to food for all, and other human rights, into domestic law. As the right to food is not guaranteed by addressing a specific societal issue exclusively and requires a joined-up approach across all sectors of government in order to be realised, framework legislation offers the best option for enshrining the right to food into Scots law. Some of the sectors of government which touch upon food policy are: Food and Drink, Agriculture, Health, Environment, Education, Tourism and the NHS. We must ensure that relevant actors are pulling in the same direction and towards the same goals if we are to make our food sector sustainable:

“Food policy is fragmented across a large number of decision-making portfolios, including health, social justice, communities, agriculture, environment, climate change, land reform, land-use management and procurement. There is no strategy outlining the general direction of travel, and no guarantee that rights will be protected ... legislation is required to provide a clear and transparent structure and certainty for the future”.<sup>42</sup>

Framework legislation is used by the Food and Agriculture Organisation (FAO) of the United Nations as an example of effective legislation in material designed to be used by legislators to assist in the process of ensuring the right to food within their own system. The definition offered by the FAO of framework legislation fits with the requirements of right to food legislation in a Scottish context:

“a law used to legislate on multi-sectoral matters in a consistent, coordinated and comprehensive fashion, laying down general principles and obligations while leaving the details to lower-level laws and giving the competent authorities the power to define the necessary measures within the framework established by law.”<sup>43</sup>

Specifically, enshrining the right to food into Scots law by using framework legislation can:

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<sup>42</sup> Scottish Food Coalition [sfc discussion series - right to food.pdf \(foodcoalition.scot\)](https://www.foodcoalition.scot/sfc-discussion-series-right-to-food.pdf)

<sup>43</sup> [Food and Agricultural Organization of the United Nations - Framework Laws on the Right to Adequate Food.](#)

- Clearly identify the scope and content of the right to food;
- Define the duties of the state with respect to this right;
- Establish the necessary institutional mechanisms;
- Provide the legal basis for guiding and implementing policies and for the adoption of any regulation or measure by the competent authorities;
- Strengthen the role that the judiciary should play in enforcing the right to food;
- Empower rights-holders to require the government to meet its obligations;
- Provide the legal basis needed for the adoption of measures to correct existing social inequalities in gaining access to food;
- Establish the financial mechanisms needed for the implementation of the law.

The FAO's "Guide on Legislating on the Right to Food" sums up the many advantages of framework legislation on the Right to Food:

"There are many advantages in adopting a framework law on the right to food: The content of the right as well as the obligations of state authorities can be spelled out in some detail; institutional arrangements can be made on a stable basis for a better distribution of responsibilities; better coordination and more meaningful monitoring can give a precise definition of the scope and content of this human right, set out obligations for State authorities and private actors, establish necessary institutional mechanisms and provide the legal basis for subsidiary legislation and other necessary measures to be taken by the competent State authorities. It can also establish a right to a remedy, clarify the role of human rights institutions and provide the basis for a subsidiary legislation."<sup>44</sup>

## Placing responsibility on the Scottish Government

At the forefront of my proposal is the need to hold the Scottish Government to account and ensure that tackling issues such as food insecurity is a central consideration of its policy-making decisions.

90% of respondents to Elaine Smith's consultation were supportive of the view that the responsibility for guaranteeing the right to food should be placed on the Scottish Government. Many respondents emphasised that, although the knowledge and expertise of 3rd sector organisations would be invaluable in shaping the policy around the right to food, it should not be the responsibility of charities such as food banks to ensure the people of Scotland do not go hungry. The Trussell Trust set out its view as follows:

"Food banks are supporting thousands of people in Scotland with emergency food because the safety net to protect them has failed. In 2019-20, the Trussell Trust distributed 237,225 food parcels – which is an increase of 74% over the

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<sup>44</sup> Food and Agricultural Organization of the United Nations, *Guide to Legislating on the Right to Food*.

last five years. Reducing the need for food banks requires government action to increase the income in people's pockets, from work and social security. Governments of all levels have a responsibility and powers to take action to address this. Placing responsibility for guaranteeing the right to food on the Scottish Government will increase the action it must take to reduce food insecurity food insecurity and improve the wider food system”<sup>45</sup>

Under the proposed Bill, the Scottish Government would be required to assess the impact of all its policies on the right to food for different sections of society and ensure that those policies did not adversely impact on those rights.

Improved data collection would be required in order to measure the Scottish Government's progress towards fulfilling the right to food. As this would be a gradual process, it may be appropriate for targets to be set as to when the Scottish Government will eliminate food insecurity entirely, with sufficient interim measurements and progress checks and annual updates on food insecurity.

Furthermore, depending on the scope of food policy, it may be appropriate for the Scottish Government to set targets regarding sustainability and environmental impact in the food sector.

## Independent statutory body

The proposed Bill will place responsibility for overseeing and reporting on achieving the right to food onto either an existing body or create an independent statutory food commission.

The Scottish Food Coalition has called for the establishment of “a statutory independent Food Commission to oversee progressive realisation towards the right to food, including compliance with statutory targets, and to report annually to Parliament on progress.”<sup>46</sup>

When asked about the creation of such a body in Elaine Smith's consultation, 84% were supportive of such a measure. A view commonly stated was that such a body would ensure a holistic approach to the food system was taken and the links between factors such as food insecurity, low wages and poor health are recognised. Others considered that such a body would ensure that the Scottish Government was held to account, with the need for such a body to have 'teeth' and ensure that any legislation passed, or policies devised, were implemented in full. It was also considered that the statutory body work with, and actively seek input from different stakeholders.

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<sup>45</sup> Response to Elaine Smith's 2020 consultation by the Trussell Trust: [Response Data \(filesusr.com\)](#)

<sup>46</sup> Nourish Scotland, Report to UN Committee on Economic, Social & Cultural Rights: <http://www.nourishscotland.org/wp-content/uploads/2016/05/Nourish-Shadow-Report-Full-Session-CESCR.docx>



These views align with the aims of my proposed Bill, that a statutory body is independent, takes a co-ordinated approach to food policy and holds the Scottish Government to account by setting measurable targets. However, I am open to any views on this matter that are expressed by those responding to this consultation, particularly on whether a new body should be established, or, given concerns around the increasing number of statutory bodies, whether an existing body could be empowered to take on this role.

## Financial implications

One of the main costs of implementing the proposed Bill will be providing funding for a statutory independent body with responsibility for the right to food. This cost is likely to be higher should a new body be set up and require to be resourced and maintained. Investment in the food system will be required to ensure that the infrastructure and policies are in place to allow the aims of the proposed Bill to be achieved. Any such investment would, in my view, lead to long term savings as people's health and wellbeing improve, thus placing less strain on health and social care services and reducing the number of staff absences in workplaces due to ill health.

The view that any financial investment in the proposed Bill will be worth it for the benefits it will create was shared by many respondents to Elaine Smith's consultation who considered that a healthier population will ultimately lead to savings to the health and social care sector, in addition to a reduction in the time people are having to take off sick from work.

There were also suggestions made as to how the costs of implementing the proposed Bill could be reduced, such as by taking steps to ensure food waste is reduced as a result of the proposed Bill and placing a focus on local products to reduce imports.<sup>47</sup> I take these views on board and welcome any further views that are expressed by respondents to this consultation.

## Equalities

As noted earlier in this paper, single parents are particularly affected by food insecurity, and single parents are predominantly female. Women also continue to be affected by the gender pay gap and carry out the majority of unpaid work in households. This proposed Bill would offer increased protection to women in terms of their ability to provide food for themselves and their families.

While the physical location of food is not as big an issue in Scotland as in other countries, being unable to access nutritious food for physical reasons can still affect

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<sup>47</sup> Summary of responses to Elaine Smith's consultation available here: [RTF\\_Summary\\_V.2.pdf \(parliament.scot\)](#)



residents in rural areas, and those with disabilities and mobility problems. The Scottish Government would have a responsibility to protect the rights of the people facing physical barriers as well as those facing financial barriers. It is also widely recognised that nutritious food is not widely available in areas of deprivation, often served by small private shops with a limited range rather than supermarkets which are often out of town and inaccessible to those who do not have a car.

As the statistics highlighted earlier in this paper show, poverty and income inequality are key driving forces in food insecurity and nutritional disparities, affects different groups in society more acutely. For example, between 2015-20, after housing costs 43% of people in the category of “mixed, black or black British and other” ethnic groups were living in relative poverty, compared to only 18% of “White-British.”<sup>48</sup>

All legislation on food should be impact assessed to ensure there is no negative impact on protected characteristics. These are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. These characteristics are protected under the Equality Act 2010.

## Sustainability

Sustainability is at the core of the proposed Bill. Better access to healthy, local sourced food will result in a sustainable food system. As noted earlier in the document, this would lead to substantial long-term savings for the health and social care sector, given that a number of the most prevalent and costly health conditions are linked to obesity and poor diet.

There would be additional benefits to a healthier population, including the reduction in people who can't work due to complications from conditions such as type 2 diabetes, which are linked to poor nutrition and excessive consumption of “junk foods”. Increasing the healthy working population would increase tax and national insurance revenues and decrease welfare payments to those affected.

The proposed Bill could have a positive impact on the environment, not only by reducing food waste but also by reducing the distance over which food is transported and by improving farming practices. In its response to Elaine Smith's consultation, Argyll and Bute Council noted the benefits of using local produce and how this would improve sustainability:

“Any investment in local food can help to deliver sustainability through improved access to public sector markets, protecting local jobs and preventing households from facing poverty in the first instance. Community food, shopping locally and

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<sup>48</sup> [Poverty and Income Inequality in Scotland 2017-20 \(data.gov.scot\)](https://data.gov.scot)

supporting the economies of our communities is a critical way of delivering on sustainability goals, 32 ending hunger and addressing climate change”<sup>49</sup>

I welcome any further views that respondents have on the sustainability of the proposed Bill.

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<sup>49</sup> [Argyll and Bute Council, response to Elaine Smith consultation](#)

# Questions

## About you

(Note: Information entered in this “About You” section may be published with your response (unless it is “not for publication”), except where indicated in **bold**.)

1. Are you responding as:
- an individual – in which case go to Q2A
  - on behalf of an organisation?** – in which case go to Q2B
- 2A. Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose “Member of the public”.)
- Politician (MSP/MP/peer/MEP/Councillor)
  - Professional with experience in a relevant subject
  - Academic with expertise in a relevant subject
  - Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

- 2B. Please select the category which best describes your organisation:
- Public sector body (Scottish/UK Government or agency, local authority, NDPB)
  - Commercial organisation (company, business)
  - Representative organisation (trade union, professional association)**
  - Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
  - Other (e.g. clubs, local groups, groups of individuals, etc.)

I am the General Secretary of the The Bakers Food and Allied Workers Union (BFAWU). We are the largest independent Trade Union in the food sector in the British Isles. First established in 1847, we have over 175 years of experience in representing employees in the food sector, from production at factories through to sales at shops.

We are run by our members for our members, with a fully elected governing body who are answerable to our membership. As a trade union we are fully committed to campaigning for everyone having a right to food.

For more information about our union please go to [Bakers, Food and Allied Workers Union \(BFAWU\)](#)

3. Please choose one of the following:
- I am content for this response to be published and attributed to me or my organisation**
  - I would like this response to be published anonymously
  - I would like this response to be considered, but not published (“not for publication”)

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or “not for publication”.)**

Name: **Sarah Woolley - General Secretary of Bakers and Food and Allied Workers Union**

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. **(Note: We will not publish these contact details.)**

Contact details:

5. Data protection declaration

I confirm that I have read and understood the [Privacy Notice](#) to this consultation which explains how my personal data will be used.

If you are under 12 and making a submission, we will need to contact you to ask your parent or guardian to confirm to us that they are happy for you to send us your views.

Please ONLY tick this box if you are UNDER 12 years of age.

## Your views on the proposal

Note: All answers to the questions in this section may be published (unless your response is “not for publication”).

### Aim and approach

1. Which of the following best expresses your view of the proposal to incorporate the right to food into Scots law?

- Fully supportive**  
 Partially supportive  
 Neutral (neither support nor oppose)  
 Partially opposed  
 Fully opposed  
 Unsure

Please explain the reasons for your response.

Dependence on charities/food banks to ensure people can eat is increasing. This is something that as a country we should be ashamed of and which we should all commit to ending as a matter of priority.

In 2021 our union conducted an extensive survey of our members and from it we could see those workers in low paid, insecure work - something that characterizes the nature of work in various parts of the food industry and so many other sectors in Scotland for far too many workers - are feeling insecure about their ability to access/purchase the food they need.

Our survey found significant numbers of workers do not know if they will have enough food to feed themselves and their families, are dependent on relatives and friends for food and often have to use a food bank. We believe this to be wrong and that government's, including the Scottish Government, have a responsibility to intervene and ensure all citizens have access to good nutritious food.

What we found was how the people who produce the food we all depend on and need, the people who feed the nation and have been essential key workers during the pandemic often do not know where their next meal is coming from. This is a terrible indictment on our economic and political system and in no way embodies what a 'Good Food Nation' should look like. As well as using all its powers to deal with many of the issues that contribute to food insecurity Scotland must introduce a statutory right to food to help address food insecurity.

2. Do you think legislation is required, or are there are other ways in which the Bill's aims could be achieved more effectively? Please explain the reasons for your response.

The BFAWU believe that statutory legislation around the right to food is necessary so that those people currently lacking access to food and/or are feeling insecure about food, are fed and do not go hungry in Scotland.

If the Scottish Government is fully committed to improving the health and social and economic well-being of the Scottish people, those whose health and social and economic well-being is detrimentally impacted by a lack of good, nutritious food, then they must introduce a statutory right to food.

The current system is not working and only through Government intervention and legal obligations can we ensure that every citizen is able to access the food they need. We need legislation to introduce that legal obligation on the Scottish Government.

3. Which of the following best expresses your view on an independent statutory body being given responsibility for overseeing and reporting on progress towards realising the right to food?

- Fully supportive**
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response.

We need a statutory body to enforce the right to food. We must have a body that has teeth and makes sure that the legal responsibility to deliver the right to food is matched with action on the ground.

We believe an enforceable right to food with reporting mechanisms and remedial actions to reverse any failure to deliver is a much better way to proceed and will ensure that the rhetoric is backed up with action.

There is nothing more important than producing and distributing food fairly. Collective and individual health and well-being is contingent on people's access to food. It is clear that as a country we are not getting this right at the moment. If we are seeking to improve how we produce, consume and distribute food through food then we need a body that can enforce statutory commitments.

4. Should an independent body be given responsibility for overseeing and reporting on the right to food, do you think it should be:

- a newly created body**
- an existing body (if so, please state which body in the comment box)
- either option

Please explain the reasons for your response.

5. Which of the following best expresses your view of enshrining a right to food into Scots law as a priority in advance of, and in a manner which is compatible with, any further Scottish Government legislation on wider human rights?

- Fully supportive**
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed



Unsure

Please explain the reasons for your response.

6. Which of the following best describes your view of placing responsibility for guaranteeing the right to food on the Scottish Government?

- Fully supportive**
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Unsure

Please explain the reasons for your response

To prevent hunger and food insecurity we believe the Scottish Government must commit to the right to food, beyond a wider framing of human rights law, onto a statutory footing and make it the law of the land. When legislating for it the Scottish Government must develop approaches and policies that mean people do not go hungry or feel insecure about where food and their next meal is coming from.

This means lifting incomes using existing powers to do so but it also means ensuring people are given basic supplies of food that ensures their basic food needs are met, legislating around the distribution of waste food and obliges the responsibility on the state to ensure no-one goes hungry.

## Covid-19 pandemic

7. What impact do you consider the effects of, and response to, the Covid-19 pandemic has had on the need for a right to food to be incorporated into Scots law?

- Increased the need for the Bill**
- Reduced the need for the Bill
- No significant impact
- Unsure

Please explain the reasons for your response.

Covid-19, and indeed the cost of living crisis, has exposed the serious problem we

have in society between those who have the income and means to pay for all the basic necessities in life and those who don't. That said it wasn't just the pandemic that exposed this reality, the disparity of wealth and income in Britain has been known for some time and the growth of inequality and poverty has resulted in the rise in food banks and people feeling food insecure.

## Financial implications

8. Taking into account all those likely to be affected (including public sector bodies, businesses and individuals etc), is the proposed Bill likely to lead to:

- a significant increase in costs
- some increase in costs**

- no overall change in costs
- some reduction in costs
- a significant reduction in costs
- don't know

Please indicate where you would expect the impact identified to fall (including public sector bodies, businesses and individuals etc). You may also wish to suggest ways in which the aims of the Bill could be delivered more cost-effectively.

We are not aware of the exact costs but when we consider the numbers of people in Scotland feeling food insecure we should reframe the question and ask can Scotland afford not to act and put the right to food on a statutory footing? Ensuring all people can eat and with dignity, helping ensure all children can realise their potential is very much worth whatever the costs are.

## Equalities

9. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act 2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

- Positive**
- Slightly positive
- Neutral (neither positive nor negative)
- Slightly negative
- Negative
- Unsure

Please explain the reasons for your response. Where any negative impacts are identified, you may also wish to suggest ways in which these could be minimised or avoided.

When people are unable to eat it stifles potential and opportunity. Feeding people gives a foundation to people that helps them grow and contribute within society. Hunger and food insecurity does not and entrenches inequalities. Delivering on the right to food must be a cornerstone of any society that wants to tackle inequalities and make society more equal.

## Sustainability

10. In terms of assessing the proposed Bill's potential impact on sustainable development, you may wish to consider how it relates to the following principles:
  - **living within environmental limits**
  - **ensuring a strong, healthy and just society**
  - **achieving a sustainable economy**
  - promoting effective, participative systems of governance

- ensuring policy is developed on the basis of strong scientific evidence.

With these principles in mind, do you consider that the Bill can be delivered sustainably?

- Yes**  
 No  
 Unsure

Please explain the reasons for your response.

Food must be produced and distributed in an environmentally sustainable and socially just way. As things stand within the current system none of the above are happening. Government intervention and a statutory right to food is necessary if food is to be produced sustainably, tackling and ending food waste for example and producing food in a way that pays workers properly and feeds people to be achieved.

## General

11. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

Scotland now needs to move from rhetoric to action on this most fundamental of issues. Human beings cannot exist, never mind thrive without access to food. People in Scotland in the 21<sup>st</sup> century should not be going hungry or feeling insecure about food in one of the world's wealthiest countries. We have already submitted a response to the Good Food Nation bill and with that Bill and this Bill Scotland has a real opportunity to change the current situation where so many people are going hungry. Now is the time for action and change – we hope that this is what the Scottish Government will deliver. With the cost of living crisis going to make a bad situation even worse the Scottish Parliament cannot afford not to act on this issue and introduce legislation to ensure no one goes hungry in Scotland.

# How to respond to this consultation

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

## Format of responses

You are encouraged to submit your response via an online survey (Smart Survey) if possible, as this is quicker and more efficient both for you and the Parliament. However, if you do not have online access, or prefer not to use Smart Survey, you may also respond by e-mail or in hard copy.

### *Online survey*

To respond via online survey, please follow this link:

<https://www.smartsurvey.co.uk/s/RightToFood2/>

The platform for the online survey is Smart Survey, a third party online survey system enabling the SPCB to collect responses to MSP consultations. Smart Survey is based in the UK and is subject to the requirements of the General Data Protection Regulation (GDPR) and any other applicable data protection legislation. Any information you send in response to this consultation (including personal data) will be seen by the MSP progressing the Bill and by staff in NGBU.

Further information on the handling of your data can be found in the Privacy Notice, which is available either via the Smart Survey link above or here: [Privacy Notice](#).

Smart Survey's privacy policy is available here:

<https://www.smartsurvey.co.uk/privacy-policy>

### *Electronic or hard copy submissions*

Responses not made via Smart Survey should, if possible, be prepared electronically (preferably in MS Word). Please keep formatting of this document to a minimum. Please send the document by e-mail (as an attachment, rather than in the body of the e-mail) to:

Rhoda.Grant.msp@parliament.scot

Responses prepared in hard copy should either be scanned and sent as an attachment to the above e-mail address or sent by post to:

Rhoda Grant MSP  
M1.11  
Scottish Parliament  
Edinburgh EH99 1SP

Responses submitted by e-mail or hard copy may be entered into Smart Survey by my office or by NGBU.

If submitting a response by e-mail or hard copy, please include written confirmation that you have read and understood the Privacy Notice (set out below).

You may also contact my office by telephone on 01463 716299.

## Deadline for responses

All responses should be received no later than **16 February 2022**. Please let me know in advance of this deadline if you anticipate difficulties meeting it. Responses received after the consultation has closed will not be included in any summary of responses that is prepared.

## How responses are handled

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that I would normally expect to publish all responses received (other than “not for publication” responses) on my website:

[www.rhodagrants.org.uk](http://www.rhodagrants.org.uk)

Published responses (other than anonymous responses) will include the name of the respondent, but other personal data sent with the response (including signatures, addresses and contact details) will not be published.

Where responses include content considered to be offensive, defamatory or irrelevant, my office may contact you to agree changes to the content or may edit the content itself and publish a redacted version.

Copies of all responses will be provided to the Scottish Parliament’s Non-Government Bills Unit (NGBU), so it can prepare a summary that I may then lodge with a final proposal (the next stage in the process of securing the right to introduce a Member’s Bill). The [Privacy Notice](#) explains more about how the Parliament will handle your response.

If I lodge a final proposal, I will be obliged to provide copies of responses (other than “not for publication” responses) to the Scottish Parliament’s Information Centre (SPICe). SPICe may make responses available to MSPs or staff on request.

## Requests for anonymity or for responses not to be published

If you wish your response to be treated as anonymous or “not for publication”, please indicate this clearly. The [Privacy Notice](#) explains how such responses will be handled.

## Other exceptions to publication

Where a large number of submissions is received, particularly if they are in very similar terms, it may not be practical or appropriate to publish them all individually. One option may be to publish the text only once, together with a list of the names of those making that response.

There may also be legal reasons for not publishing some or all of a response – for example, if it contains irrelevant, offensive or defamatory content. If I think your response contains such content, it may be returned to you with an invitation to provide a justification for the content or to edit or remove it. Alternatively, I may publish it with the content edited or removed, or I may disregard the response and destroy it.

## Data Protection

As an MSP, I must comply with the requirements of the General Data Protection Regulation (GDPR) and other data protection legislation which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request anonymity or ask for it not to be published. I will not publish your signature or personal contact information. The [Privacy Notice](#) sets out in more detail what this means.

I may also edit any part of your response which I think could identify a third party, unless that person has provided consent for me to publish it. If you wish me to publish information that could identify a third party, you should obtain that person’s consent in writing and include it with your submission.

If you consider that your response may raise any other issues under the GDPR or other data protection legislation and wish to discuss this further, please contact me before you submit your response. Further information about data protection can be found at: [www.ico.gov.uk](http://www.ico.gov.uk).

## Freedom of Information (Scotland) Act 2002

As indicated above, NGBU may have access to information included in, or provided with, your response that I would not normally publish (such as confidential content, or your contact details). Any such information held by the Parliament is subject to the requirements of the FOISA. So if the information is requested by third parties the Scottish Parliament must consider the request and may have to provide the information unless the information falls within one of the exemptions set out in the Act. I cannot therefore guarantee that any such information you send me will not be made public should it be requested under FOISA.



Further information about Freedom of Information can be found at:

[www.itspublicknowledge.info](http://www.itspublicknowledge.info).