

Right to Food (Scotland) Bill

Introduction

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

The consultation runs from 25 November 2021 to 16 February 2022.

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

on behalf of an organisation

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".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for a range of health and social care organisations. We have a growing membership of over 3,000 national and local third sector organisations, associates in the statutory and private sectors, disabled people, people living with long term conditions and unpaid carers. Many NHS Boards, Health and Social Care Partnerships, Medical Practices, Third Sector Interfaces, Libraries and Access Panels are also members.

The ALLIANCE is a strategic partner of the Scottish Government and has close working relationships, several of which are underpinned by Memorandum of Understanding, with many national NHS Boards, academic institutions and key organisations spanning health, social care, housing and digital technology. Our vision is for a Scotland where people of all ages who are disabled or living with long term conditions, and unpaid carers, have a strong voice and enjoy their right to live well, as equal and active citizens, free from discrimination, with support and services that put them at the centre.

The ALLIANCE has three core aims; we seek to:

- Ensure people are at the centre, that their voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change, towards approaches that work with individual and community assets, helping people to stay well, supporting human rights, self management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster better cross-sector understanding and partnership.

This response was developed based on feedback from our members.

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full 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". Otherwise this is the name that will be published with your response).

The Health and Social Care Alliance Scotland (the ALLIANCE)

Please provide details of 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.

We will not publish these details.

Aim and Approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposal to incorporate the right to food into Scots law?

Fully supportive

Please explain the reasons for your response.

The ALLIANCE is fully supportive of the proposal to incorporate the right to food into Scots law. We support wider calls from Food Train, the Scottish Food Coalition, Nourish Scotland, and Common Weal (amongst others) that everyone should have access to high quality food, as a human right. We suggest that it is essential that people's equitable access to food is considered as part of the design and implementation of policy across Scotland. Such actions would be in keeping with wider Scottish Government commitments to ensure that "by 2025, Scotland will be a Good Food Nation where people from every walk of life take pride and pleasure in, and benefit from, the food they produce, buy, cook, serve and eat each day". [1] While the Good Food Nation (Scotland) Bill is a step in the right direction, it stops short of enshrining the right to food in Scots law, leaving a notable gap in provision and commitments – at a time when food poverty is on the rise.

Everyone should have access to culturally appropriate choices of food, at times that suit them and their families. We know from My Support My Choice: People's Experiences of Self-directed Support and Social Care in Scotland that at present many people using social care experience limited choice when it comes to food. Many people (particularly those accessing Self-directed Support via Option 3) reported being served food at atypical and inconvenient times, that could vary each day (e.g. breakfast at 9am, lunch at 11am). One person outlined that they were offered a range of dietary choices by their care provider each week – but that none of them were geared to food commonly eaten by people from their ethnic community:

"In the afternoon, I get afternoon tea, the service they have, to give you sandwich or soup or whatever it is. There's a lot of options, and they ask me, 'what do you want?' I give them a week before what I would want that particular day. [...] But the point is that if you look at the things that they have written down, the food is not ethnic minority at all. Nothing to do with ethnic minority. The potatoes and veg that you get is all mashed up. Chips are also all mashed up! So, it's very difficult." [2]

Other people highlighted the need to include preparation time for hot food for people, and the importance of the social element of eating with people (including support with eating if required). Many people will have a paid carer provide support with food, but said support is often restricted to a very limited time period and food that is quick to prepare and eat. One person summarised the situation as follows:

"The only person they see all day! And [...] they come, open the fridge, they make them a sandwich – and they hate eating cold food!" [3]

Within our My Support My Choice thematic report on the experiences of people with sensory loss, people also highlighted the importance of proper support with shopping for food. However, while some people with

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sensory loss have that support included in their social care arrangements, this is not true across all parts of Scotland.

One blind participant was told that they could not have help with shopping, because that was outwith the purview of Self-directed Support, and that they should order food online instead – even though their screen reader struggled with online grocery ordering. They also found shopping stressful if reliant on assistance from shop workers who they did not know and who were not fully trained in how to assist blind and partially sighted people. In practice, they use their Personal Assistant (PA) hours for social engagement, in part, to shop; but this is not officially acknowledged in their outcomes plan. [4]

The ALLIANCE also supports calls from Food Train, the Scottish Food Coalition, Nourish Scotland, and Common Weal (among others) that health and social care staff should be trained in identifying people experiencing or at risk of malnutrition, and providing assistance to improve their access to high quality food. We suggest that as part of the proposed Bill, Ministers, local authorities and Health and Social Care Partnerships should embed training on malnutrition and preventative action therein as a compulsory element of any training programmes and CPD schemes for health and social care workers. Existing material includes Food Train's "Raising the Issue of Malnutrition Toolkit".[5] We recommend that Ministers and public bodies draw upon existing expertise in this area from within the third sector – particularly given the sharp increase in food poverty and use of food banks during COVID-19.

1. Scottish Government, Recipe for Success: Scotland's national food and drink policy, becoming a Good Food Nation (June 2014), p. 5, available at: <https://www.gov.scot/publications/recipe-success-scotlands-national-food-drink-policy-becoming-good-food/>.

2. The ALLIANCE and Self Directed Support Scotland, My Support My Choice: People's Experiences of Self-directed Support and Social Care in Scotland (Oct 2020), p. 57, available at: <https://www.alliance-scotland.org.uk/wp-content/uploads/2020/10/ALLIANCE-SDSS-MSMC-National-Report-Oct-2020.pdf>.

3. As above, p. 87.

4. The ALLIANCE and Self Directed Support Scotland, My Support My Choice: Blind and Partially Sighted People's Experiences of Self-directed Support and Social Care (Dec 2020), p. 36, available at: <https://www.alliance-scotland.org.uk/wp-content/uploads/2020/12/ALLIANCE-SDSS-MSMC-Blind-and-Partially-Sighted-Report-Dec-2020.pdf>.

5. Food Train, "Raising the Issue of Malnutrition Toolkit", available at: <https://www.eatwellagewell.org.uk/toolkit>.

Q2. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

The ALLIANCE believes that legislation is required to ensure that people in Scotland have the right to food. While the Good Food Nation (Scotland) Bill engages with similar issues to this proposed Bill, we were disappointed that the Good Food Nation (Scotland) Bill did not take the opportunity to embed the right to food into Scots Law. While we understand the intention to embed that right within the wider suite of human rights legislation being discussed for the future, that is no reason not to start now, with the proposed Right to Food (Scotland) Bill, and set a precedent that indicates how seriously Scotland takes both the right to food and human rights.

In 2018, Ruth Maguire MSP, then Convenor of the Equalities and Human Rights Committee, summarised the importance of human rights as follows:

"Our recommendations present an opportunity to be bolder and to strengthen our existing procedures and processes, to make human rights more central to our work and how we undertake our scrutiny function and to be an exemplar of international best practice to other parliaments. Taking a human rights-based approach to scrutiny will ensure the Parliament is aware of any decline of human rights protections and is able to identify opportunities to advance human rights to help build a fairer, more just society."

The proposed Right to Food (Scotland) Bill would set out the right to food in law, with clear duties placed upon Ministers and public bodies that they should keep access to food under consideration across a wide range of connected policy work. The proposed Right to Food (Scotland) Bill would also strengthen linkages to human rights law, and could include concrete commitments to ensuring people have access to nutritious, sustainable and safe food, in a culturally appropriate manner.

Q3. 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

Please explain the reasons for your response.

The ALLIANCE is fully supportive of an independent statutory body being given responsibility for overseeing and reporting on progress towards realising the right to food, and ensuring policy coherence across Government and public bodies – including assessment of how the Government and relevant authorities are implementing the proposed Bill and associated legislation (e.g. the Good Food Nation (Scotland) Bill).[6] The Land Reform Act 2016 provides a useful example of how an independent body can help monitor progress. This Act established the Scottish Land Commission with accountability powers:

"Functions of the Land Commissioners are, on any matter relating to land in Scotland

- (a) to review the impact and effectiveness of any law or policy,
- (b) to recommend changes to any law or policy,
- (c) to gather evidence,
- (d) to carry out research,
- (e) to prepare reports,
- (f) to provide information and guidance" [7]

Without an independent body to oversee the work of the proposed Bill, there is a risk of legislative change without meaningful action – and it would not help those people who do not currently have access to nutritious, sustainable, and safe food.

6. The Scottish Food Coalition, "The Good Food Nation Bill is here" (2021), available at: <https://www.foodcoalition.scot/the-good-food-nation-bill-is-here.html>.

7. Scottish Parliament, Land Reform (Scotland) Act 2016 (2016), available at: <https://www.legislation.gov.uk/asp/2016/18/part/2/chapter/1>.

Q4. 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

Please explain the reasons for your response.

The ALLIANCE supports the Scottish Food Coalition's calls to establish a new, independent Scottish Food Commission which would have a role and remit similar to the Scottish Land Commission in monitoring and reporting on progress towards Sustainable Development Goals. This should include scrutiny of the implementation of the proposed Right to Food (Scotland) Bill, analysis of National and Local Food Plans (as per the Good Food Nation (Scotland) Bill), facilitation of partnership working, commissioning and/or undertaking food systems related research, data gathering and innovation, provision of advice and guidance, ensuring legislative compatibility and policy coherence, and supporting citizen engagement.

Whether an independent Scottish Food Coalition is created afresh, or an existing independent organisation is given new powers, the structure and design of the independent body and their data collection processes should be co-produced with people with lived experience of food poverty.

Q5. 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

Q5. 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?

Please explain the reasons for your response.

The ALLIANCE is fully supportive 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. We welcome the increasing reference to human rights based approaches in a range of policy areas within Scotland; however, these references must be backed by legislative action, in the immediate rather than indeterminate future.

It is also important that connected (and significant) legislative and policy change are considered as opportunities to embed human rights throughout a raft of pending and proposed legislation. For example, the National Care Service has strong overlaps with access to food for people who access social care; planning should consider overlaps with health and social care, education, justice, and environmental concerns, with an explicit focus on the impact of any plans on people from seldom heard from groups (e.g. disabled people, people living with long term conditions, and unpaid carers). It is essential that we do not miss this opportunity to enshrine human rights throughout Scots law – and the right to food is a key part of that work.

Q6. Which of the following best expresses your view of placing responsibility for guaranteeing the right to food on the Scottish Government?

Partially supportive

Please explain the reasons for your response.

The ALLIANCE supports placing primary responsibility for guaranteeing the right to food on the Scottish Government. However, local authorities and Health and Social Care Partnerships should also share that responsibility, as they are likely to be heavily involved in the practical delivery of efforts therein – and should, in turn, be accountable to the people accessing services.

As part of that responsibility, it is vital that plans and policies are co-produced with people with lived experience – and particularly people with lived experience of food poverty or for whom access to food is difficult. Done properly, co-production takes time, and involves investment in people to support their input. Such systems bring significant benefits and expertise, that would deliver better policy and plans – but they would require engagement from local authorities and Health and Social Care Partnerships, as well as Ministers.

Furthermore, there should be an explicit duty on Scottish Government and relevant authorities that their co-production work and how they seek input and views on the right to food should be both intersectional and fully accessible. Relevant authorities should use accessible and inclusive communication to work with people with lived experience in the design of Good Food plans and implementation, including formats such as Community Languages,^[8] BSL, Braille, Moon, Easy Read, clear and large print, and paper formats. Additionally, the Government should be required to engage with communities whose right to food and health outcomes are most likely to be at risk. In addition to an explicit focus on co-production with intersectional stakeholders with lived experience, there should also be an obligation to include impact assessments. The equality framework provided for by the provisions of the Equality Act 2010, Public Sector Equality Duty, and Scotland Specific Duties forms an important element of a human rights based approach. Improvement and plans should therefore also be planned and measured in alignment with equality, including use of Equality Impact Assessments (EIAs) and Human Rights Impact Assessments (HRIAs). The Scottish Human Rights Commission and Equality and Human Rights Commission have developed a means to combine EIAs and HRIAs, called Equality and Human Rights Impact Assessments (EQHRIAs).^[9] This is a practical tool that should be used both at the early stages to inform plans around the right to food, and to assess impact.

8. Community Languages are languages spoken by members of minority groups or communities within a majority language context. Examples in Scotland include: Arabic, Hebrew, Hindi, Makaton, Punjabi, Polish, Urdu.

9. Scottish Human Rights Commission and Equality and Human Rights Commission, Equality and Human

Q6. Which of the following best expresses your view of placing responsibility for guaranteeing the right to food on the Scottish Government?

Rights Impact Assessment, available at:
<https://eqhria.scottishhumanrights.com/eqhriatrainingrelationship.html>.

Covid-19 Pandemic

Q7. 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

Please explain the reasons for your response.

The COVID-19 pandemic has increased the need for the right to food to be enshrined in Scots law and embedded in local delivery across Scotland. Charities specialising in food poverty and food banks have noted increased demand for their services over the last two years, and the impact of the pandemic will continue to be felt across Scotland. As such, the proposed Bill is needed even more urgently than when first proposed.

Financial Implications

Q8. 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:

some increase in costs

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.

The proposed Bill brings potential additional work for Scottish Government, local authorities and Health and Social Care Partnerships (or the proposed Community Health and Social Care Boards). However, many public bodies already develop food plans; this work would expand and add structure to existing work.

However, it is vital that these plans are co-produced with people with lived experience – and particularly people with lived experience of food poverty or for whom access to food is difficult. Done properly, co-production takes time, and involved investment in people to support their input. Such systems bring significant benefits and expertise, that would deliver better policy and plans – but they would require engagement from local authorities and Health and Social Care Partnerships, as well as Ministers.

Local authorities and health boards will need resources to develop and deliver good food policies. Additional budgets should be allocated to health boards to support the development and delivery of their national food plans. It is not effective to put the duty on local authorities and health boards to produce plans with no resource to do so – especially as co-production and accessibility costs must be met in order to meaningfully develop right to food plans with disabled people, people living with long term conditions, and unpaid carers.

Equalities

Q9. 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

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.

The proposed Bill is likely to have a positive impact on people living in poverty. As a recent Joseph Rowntree report indicated that women, unpaid carers, disabled people, households with a disabled person, and individuals in Bangladeshi, Pakistani and Black families are more likely than other population groups to experience high levels of poverty, any legislation that counters food poverty is likely to aid these groups of people (among others). [10]

To give more specific insight into the impact of poverty on disabled people, the UK Poverty 2022 report summarises the situation as follows:

"Disabled people face a higher risk of poverty and have done so for at least the last 20 years. This is driven partly by the additional costs associated with disability and ill-health, and partly by many disabled people being less able to access work. With potential for work often limited, disabled people and/or families where someone is disabled frequently rely on benefits as a source of income, which at current rates will almost inevitably lead to higher poverty rates. [...] The difference is particularly stark for working-age adults: those who are disabled are more than twice as likely to live in poverty than those who are not (38% and 17% respectively).

[...]

Informal carers are more likely to live in poverty than those without caring responsibilities [...] The poverty rate among working-age adults who spend between 20–34 hours a week is 26%, also significantly higher than those with lower caring responsibilities. This group find their capacity for work restricted, yet their caring levels are insufficient to entitle them to receive Carer's Allowance." [11]

10. Joseph Rowntree Foundation, UK Poverty 2022: The essential guide to understanding poverty in the UK (18 January 2022), p. 8. Available at: <https://www.jrf.org.uk/report/uk-poverty-2022>.

11. As above, pp. 58-60.

Sustainability

Q10. 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

Please explain the reasons for your response.

The ALLIANCE believes that the proposed Bill can be delivered sustainably, as per the above principles. Furthermore, without equitable access to food, it is difficult to see how Scotland can ensure a strong, health and just society. We support calls from the Scottish Food Coalition that the Scottish Government must establish high-level principles, a direction of travel and clear goals for the food system over the next two decades, and a process for delivering and reporting on progress. Recognising the interconnectedness of the food system, and its key role in delivering on the Sustainable Development Goals, the proposed

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- 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?

Right to Food (Scotland) Bill should be a feasible and coherent part of policy work for sustainable development in Scotland.

General

Q11. 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)?

No Response