Visit by the United Nations Special Rapporteur on extreme poverty and human rights to the United Kingdom of Great Britain and Northern Ireland

5 to 16 November 2018
About BASW

Social work is a human-rights based profession.

BASW – the British Association of Social Workers – is the professional voice of social work and social workers in the UK.

Many social work functions in the UK are determined in law and being directed by government legislation, policy and guidance the nature of social work services and how they are delivered – compared to some other countries – is fairly prescriptive.

While not all users of social work services are in poverty, many social work service users do live in poverty, and poverty has a profoundly negative impact on their lives.

BASW is thus uniquely positioned to comment on poverty in the UK, both by the nature of the social work task in the UK and being at the point where the lives of vulnerable individuals and families intersect with a range of state services and functions.

BASW is non-party political and works with governments across the four countries of the UK, as well as opposition political parties, to promote the cause of social work and social workers.

Social Work in the UK

In the UK the term ‘social worker’ is a title protected in law. To describe themselves as a ‘social worker’, individuals need to hold the correct qualification, be on a public register of social workers and undertake ongoing continuous professional development. Thus, all social workers who have the title ‘social worker’ in their job title or job description, or who describe themselves as ‘a social worker’, must be registered. To be a BASW member, individuals must be registered social workers.

Social workers in the UK have a range of legal duties. The most significant relate to:

- Safeguarding. This relates to what formerly was described as ‘child protection’ for children and young people aged up to 18. The term ‘safeguarding’ is also used to describe the protection of vulnerable adults e.g. adults with a learning disability or frail elderly.
- Children who are ‘looked after’. The state is responsible for children and young people where, for whatever reason, the birth parents or family cannot undertake this task. This group of children and young people are sometimes described as ‘children in care’
- Compulsory detention and treatment of individuals with severe mental health ill-health. Social workers are part of the legal process of assessing risk and approving detention.
- Best Interest Assessors. This is a formal status which allows professionals to assess the capacity of vulnerable adults (e.g. frail elderly, people with a learning disability) to make significant decisions (e.g. where to live). This also covers Deprivation of Liberties (DoLs) processes.
- Social workers also work with people who have severe disabilities and are involved in the assessment and allocation of personal budgets.

The numbers of individuals affected by these functions are significant: for example, 59,000 on the child protection register, 96,000 adults in compulsory mental health detention and treatment1.

Social workers are also responsible for a range of statutory duties that relate to these duties (e.g. recruitment and support of foster carers) but also can and do take on responsibilities outside this statutory framework (for example, there a significant number of social workers working with individuals in end-of-life settings).
Social Work in the four countries of the UK

Four countries make up the United Kingdom: England, Scotland, Northern Ireland and Wales. As a result of devolution, there is increasing divergence between the legislation and policies of the four countries. Social work legislation is a devolved function so while the UK Parliament is responsible for social work matters in England, the Scottish Parliament is responsible for social work matters in Scotland, the Welsh Assembly is responsible for social work matters in Wales, and the Northern Ireland Assembly is responsible for social work matters in Northern Ireland. (However, the Northern Ireland Assembly is currently suspended).

Human Rights legislation (e.g. the Human Rights Act) is UK wide, while social work legislation is increasingly specific to the four countries: this makes the human rights landscape increasingly complex for social workers to navigate.

In terms of organisational delivery and employment, despite various government attempts to introduce a broader variety of social work providers, especially in England, social work services in the UK are still overwhelmingly provided by the public sector: through local (government) authorities (LAs), through secondment from LAs to the National Health Service (NHS), and directly employed by the NHS. A relatively small group of social workers work in the voluntary sector (i.e. not-for-profits) and an even smaller group in the private sector.

Numerically, the vast majority of registered social workers (some 92,000) are in England, with another 22,000 across Scotland, Northern Ireland and Wales. (This distribution reflects the significantly larger population in England over Scotland, Northern Ireland and Wales). BASW has a membership of some 22,000 social workers across the UK.

Alongside the devolution of social work, other UK wide legal and executive powers remain at the Westminster Parliament and this includes the legislation and policy that relate to Universal Credit and responsibility for the agency that delivers Universal Credit, the Department of Work and Pensions (DWP), which operates across the four countries of the UK.

Universal Credit ‘bundles together’ six previous benefits: Income Support, Job Seekers Allowance, Child Tax Credit, Working Tax Credit, Employment and Support Allowance and Housing Benefit. Prior to the introduction of Universal Credit all these benefits (with the exception of Housing Benefit) were administered by central government. Housing Benefit was administered by local authorities. With the creation of Universal Credit, the functions that related to Housing Benefit passed to central government. Local government thus has no responsibility for implementing any aspect of Universal Credit.

In the UK social workers have not, and are not, responsible for any element of the delivery of the benefits system, and this has not changed with the creation of Universal Credit. However, there is a long tradition in social work of advocating for and with social work service on benefits, both generally and in specific cases.

The three majority political groups in the three countries (Conservatives in Westminster, the Scottish National Party in Scotland and Labour in Wales) have very different views on the policy of Austerity, on Universal Credit, and the implementation of Universal Credit. (Northern Ireland’s Assembly is currently suspended and so has no government functions)
A. GENERAL

(1) What is the definition of poverty and extreme poverty that your organization employs in the context of the United Kingdom and to what extent do official definitions used by the state adequately encompass poverty in all its dimensions?

The government measure of ‘poverty’ is ‘Households Below Average Income’ (HBAI). This is calculated as 60% of median equivalised household income, so for family of two adults and three children 60% of the median income would be £16,400. There are a number of methodological issues with HBAI.

Another widely used method is the Minimum Income Standard. This assesses the costs of participation in society through surveys and focus groups and then calculates the shortfall. In the HBAI measure, the proportion of households ‘who are at risk of poverty’ as a proportion of all households has remained steady since the crash in 2008, under the MIS measure the proportion of households in poverty has increased from 24% to 30% in the ten years from 2008-2018.

The government does not use the term ‘extreme poverty’, rather it uses the term ‘absolute low income’ which it defines as 60% of the median income in 2010/11 i.e. some eight years ago. However, many people would equate extreme poverty with, for example, ‘rooflessness’, i.e. sleeping rough, or accessing a foodbank. This fits with the Joseph Rowntree Foundation definition of destitution. According to the Trussell Trust which is the predominant provider of foodbanks in the country just under 1,400,000 people accessed a food bank in 2017/18. This figure has gone up year by year since the Trussell Trust was founded and began to collect data. Prior to 2008 the UK had no foodbanks. This number of foodbank users is larger than the population of the city of Birmingham – the second largest city in the UK after London. The Joseph Rowntree Foundation estimate that 1.5 million people experienced destitution in 2017.

BASW is not aware of any studies that look at the population of social work service users and their position within the UK’s income distribution. However, studies on specific client groups (see below) suggest that many, if not the majority, of social work service users are in the bottom decile of income distribution, and thus fall within both the HBAI and MIS definitions of poverty.

(2) What is your view on the current official measurement of poverty by the government, what are the shortcomings of the current measurement and what alternatives would be feasible?

The HBAI only measures income and thus does not take into account assets. Assets can be significant (e.g. savings, property ownership, pension funds). Assets can of course be turned into cash. Assets thus buffer individuals and families from dropping down the income scale. Conversely, lack of assets can sharpen the effects and accelerate the impact of poverty. Thus, a measure of poverty that does not take assets into account misses a considerable element of the picture. The effect of the HBAI in not taking assets into account has also the effect of underestimating relative poverty and inequality. Nor does the HBAI recognise ‘problem debt’ – a ‘negative asset’ - which can have a significant impact on household income.

However, poverty is not simply about the financial elements of income and assets. Poverty has the effect of undermining communities and individual’s participation in society through the process often described as ‘social exclusion’. Poverty also has a negative impact on the psychology of individuals.

The HBAI does not include the views of ‘experts by experience’. BASW takes the view that people who have lived experience of a situation bring a fuller understanding of the issues to practitioners, legislators and policy makers.

BASW recognises that the definition and measurement of poverty is complex and contested and multi-dimensional measures of poverty are needed to fully understand the scale and nature of the impact and thus effectively combat it.
(3) What are the most significant human rights violations that people living in poverty and extreme poverty in the United Kingdom experience? Please exemplify by referring to specific cases and relevant norms of international human rights law.

BASW produced ‘A Manifesto for Social Work’ in the run-up to the General Election of 2017. Aimed at all political parties the first point was the call to ‘End austerity policies that cause harm to children, adults and families’. The policies of austerity greatly aggravate existing problems of poverty.

The impact of poverty, exacerbated by austerity, is a risk to the European Convention on Human Rights Section 8 (Right to Family Life) while cuts to services with a disability is a risk to self-determination. ‘There are 11.9 disabled people in the UK. Levels of disability benefit have been cut and the criteria for eligibility raised. Unfit-for-purpose work capability assessments were considered to have contributed to 279,000 additional cases of self-reported mental health problems, and the prescribing of an additional 725,000 anti-depressants in England between 2010 and 2013. These experiences work against disabled people getting on with their lives and contributing to society in the long term.’

(4) Could you specify how poverty and extreme poverty in the United Kingdom intersect with civil and political rights issues (such as for example the right to political participation or the right to equality before the law)? Please exemplify by referring to specific cases and relevant norms of international human rights law.

There is a recognition that lower income groups tend to vote less. This has the effect of weakening their voice of this socio-economic group in democratic structures.

Theoretically, all individuals have equality before law. The reality is that access to law is determined by ‘hard’ factors (e.g. ability to fund a legal advisor, however, state funded legal support – ‘Legal Aid’ – has been significantly reduced) as well as by ‘soft’ factors: e.g. access to informal advice, time, confidence.

There is a significant literature demonstrating that financial poverty also contributes to social exclusion.

(5) Could you specify how poverty and extreme poverty in the United Kingdom intersect with economic and social rights issues (such as the right to education or the right to health care)? Please exemplify by referring to specific cases and relevant norms of international human rights law.

As the professional organisation for social workers BASW is not best placed to comment on education or health care matters.

(6) Which areas of the United Kingdom should the Special Rapporteur visit in light of the poverty and human rights situation in those locations?

Poverty in the UK is not equally distributed among the population of the UK. There are geographic distributions of poverty that primarily reflect historic economic conditions e.g. South Wales, the North West of England, the North East of England and parts of Glasgow. Poverty is also reflected in the (very visible) quality of the built environment and a visit to a town in a poor region can convey a powerful message. It is also important that the Special Rapporteur visit areas of ‘high poverty among affluence’. Poverty can exist in pockets immediately adjacent to high wealth and London has many examples of this.
(7) Which individuals and organizations should the Special Rapporteur meet with during his
country visit to the United Kingdom?

In terms of statutory social work services, arranging a visit to meet with staff in their employment setting
and / or meeting with clients in a statutory agency can be very difficult, if not impossible. This reflects
a desire among front-line staff and managers to protect ‘client confidentiality’, a desire from staff not
to publicly criticise situations at work in the workplace and the pressure of day-to-day work. Meeting
with social work service users, organised through their service provider, may provoke discomfort since
they are being asked to discuss their situation with a ‘third party’ who may, or may not be sympathetic
to their situation.

Organising meetings with social work staff outside the workplace can also be difficult. Again, there is
the issue of client confidentiality and the pressure of day-to-day work.

Meeting with service user groups away from the service provider is one solution, however, many service
user groups have closed due to funding being reduced or eliminated altogether.

Suggested service user groups would include Shaping our Lives (people with a disability), Become (young
people with experience of the care system). BASW has also PPEGs (in England) and Communities of
practice (in Scotland) who bring together social work practitioners and managers. BASW would be happy
to facilitate meetings with any of these groups.

B. AUSTERITY

Since 2010, successive governments have engaged in fiscal consolidation, the process of reducing the
amount of fiscal deficit of the United Kingdom. This process is popularly referred to as ‘austerity’ or
‘budget cutting’.

(8) To what extent has austerity been necessary given the fiscal outlook of the United Kingdom in
the last decade?

BASW takes the view that:

‘Austerity is a flawed economic theory that increases debt burden, unemployment, homelessness,
inequality and causes misery upon the lives of citizens. Social workers work every day with the
negative realities imposed on people by austerity...The method of reducing public expenditure
combined with tax reduction for the wealthy reduces state income and fails to achieve balanced
economies. This results in the widening of the gap in inequality and increases poverty.’

(9) Have austerity measures implemented by the government taken adequate account of the
impact on vulnerable groups and reflected efforts to minimize and negative effects for those
groups and individuals?

Austerity measures have not taken sufficient account of the impact on vulnerable groups. Austerity has
led to reductions across a number of benefits, for example, ‘the spare room subsidy’ subsequently
dubbed the ‘bedroom tax’, the benefit cap, stricter and more severe imposition of benefit sanctions and
the reassessment of people in receipt of various disability benefits, among others. BASW has been
particularly focussed on the two-child cap – a limit on the number of children who can be claimed for
under Universal Credit. BASW agreed the following motion at the AGM in June 2018:

“This Annual General Meeting repudiates the policy principles underpinning the Universal Credit
two-child cap and associated exemption for children conceived as a result of non-consensual
sexual acts – commonly known as the ‘rape clause’. This abhorrent policy discriminates against
children, families, foster parents, and women and will lead to an estimated 200,000 further
children being forced into poverty across the UK."
We call on BASW to campaign at Westminster, the Scottish Parliament, the Welsh Assembly and the Northern Ireland Assembly for the removal of this flawed policy on a UK-wide basis.*

The ‘rape clause’, an exemption where money can be paid for a subsequent child, described by the DWP as ‘children conceived as a result of non-consensual acts’ and then verified by a professional – including social workers – has been a focus of campaign led by BASW Northern Ireland.

(10) What have the effects of austerity been on poverty (and inequality) levels in the United Kingdom in the last decade?

The effects of austerity have been a growing number of people in poverty (as measured by the Minimum Income Standard) and a growing number of people in absolute poverty (for example, as measured by the growing number of people using food banks).

It is well documented that there has been a growth in income inequality in the UK in the last decade\(^9\).

(11) Have the human rights of individuals experiencing poverty been affected by austerity measures?

There is evidence that austerity has disproportionately adversely affected specific groups: for example, an over-representation of children from low income families within the care system (cf. Child Welfare Inequalities Project\(^9\)) which collectively impacts on Article 8: The Right to Family life. Evidencing that the human rights of specific individuals have been adversely affected, and that poverty is the sole contributory factor is much harder, since other factors, over and above material poverty can be cited as the determining decision factors. It is also worth noting that the decision to remove a child from a family – a Care Order - is ultimately made by the Court (Section 31, 1989 Children Act) and the Court expressly considers Article 8 as part of the judgment process.

BASW commissioned a study\(^11\) of the most irreversible of child removals- adoption – which highlighted similar concerns.

However, there are examples of developing case law on the implementation of Universal Credit and how this impacts on human rights e.g. \(\text{www.theguardian.com/society/2018/jun/14/disabled-men-on-universal-credit-discriminated-against-high-court-rules}\).

(12) How have local governments been affected by austerity measures in the last decades? If possible, please specify the impact on public services such as police and fire departments, public libraries, and the administration of the welfare system by local authorities.

Government funding for local authorities has fallen by an estimated 49.1% in real terms from 2010-11 to 2017-18\(^12\). Northamptonshire County Council in England has recently gone bankrupt. The National Audit Office estimates that a significant number of local authorities are not financially sustainable\(^13\).

Both the Association of Directors of Children’s Services (ADCS) and the Association of Directors of Adult Social Services (ADASS) whose members are organisationally responsible for the delivery of statutory children’s and adult social work services respectively have issued repeated warnings about funding shortfalls and consequent risk to statutory funding.

BASW undertakes surveys of social workers, many of whom work in local authorities. Common themes include: ‘reductions in preventative services increasing the statutory case caseload and severity of citizen needs; reductions in staffing relative to demand, increasing caseloads and risk; increased stress and consequent ill-health; and, increased ethical and professional dilemmas if citizen’s needs cannot be met and austerity policies do not fit with best professional judgment’\(^14\).
What alternatives to austerity might have been considered by governments in the last decade? Could any such alternatives have had a more positive impact on poverty (and inequality) levels in the United Kingdom?

In the words of the BASW statement on austerity:

‘Politicians often claim austerity is inevitable. This is not the case. There are other, better ways to respond to economic challenges – for example, public investment in infrastructure, organisations and people to generate and redistribute wealth and raise productivity; a different, fairer distribution of taxes and building alternative economies’.

What are the potential implications of Brexit on austerity measures in the coming years?

Brexit is and remains contested. Social workers as a whole reflected this national divide with social workers voting for both Remain and Leave. BASW members voted to campaign for Remain at the 2014 AGM. Views on the potential economic implications of Brexit usually reflect the individuals vote at the time of the Referendum, thus Remainers argue the economy will shrink and impact on public spending, while Leavers see new economic opportunities for growth and financial redistribution.

C. Universal Credit

Universal Credit, which was first announced in 2010, is a key element of welfare reform in the United Kingdom. Its stated aims are to simplify and streamline the benefits system for claimants and administrators, to improve work incentives, to tackle poverty and to reduce fraud and error. The Special Rapporteur is interested in learning more about Universal Credit, including its impact on poverty in the United Kingdom and on the human rights of those living in poverty. Below are some of the questions the Special Rapporteur has in that regard:

To what extent has the Universal Credit been able to achieve the goals identified above?

There have been significant issues in the roll-out of Universal Credit. Specific problems have come about through increased conditionality. This includes the two-child cap and the so-called ‘rape clause’.

An example of implementation concerns the ‘rape clause’. Under Universal Credit benefit could be payable to an additional child, under certain circumstances. One of these circumstances was a child born of rape, or in the language of the DWP ‘a non-consensual sexual act’. Under this, social workers (or other professionals) were required to verify that that a woman had indeed been raped and that the child was the product of this rape. Leaving aside the issue of the ability to ‘verify’ a rape, this requirement took no account of the existing legal situation in Northern Ireland. Legislation in Northern Ireland required a serious crime to be reported to the police, failure to do so would itself be a serious crime punishable by a custodial sentence. Social workers were thus put in the situation of reporting rapes whether the woman wanted this matter reported to the police or not, or themselves risk a criminal prosecution. Despite attempts through political channels the matter could not be resolved. The matter was finally solved when the incoming Public Prosecutor announced that no cases on this matter would be prosecuted. The rape clause remains in force, however.

In this matter, it is difficult to see how Universal Credit has simplified and streamlined the process, incentivized work or limited fraud and error.

What has the impact of Universal Credit been on poverty and the lives of the poor in the United Kingdom until now? It would be helpful to also distinguish the specific impact of Universal Credit on specific groups, including for example children, persons with disabilities, women and other groups which may be more vulnerable on the basis of their identity and circumstances.
The benefit cuts and reductions contained within Universal Credit have exacerbated existing issues of poverty. There has been an impact on families (e.g. the two-child cap) an impact on people with disabilities (e.g. through re-assessment of claims) and an impact through sanctions.

(17) Claimants apply for Universal Credit online. What has been the impact of Universal Credit being a ‘digital-only benefit’ on the ability of potential claimants to apply for this benefit? How does this relate to broadband internet access in the UK and the so-called ‘digital divide’? What is the role of public libraries and Jobcentres in enabling access to broadband internet for those applying for Universal Credit and have these public services been adequate for the purpose?

BASW has no formal evidence on this and is thus unable to comment.

(18) What has the impact been of various forms of ‘welfare conditionality’ in the context of Universal Credit in terms of incentivizing work?

BASW has no formal evidence on this and is thus unable to comment.

(19) To what extent has the introduction of Universal Credit reduced the incidence of fraud and error in the welfare system?

BASW has no formal evidence on this specific issue and is thus unable to comment on this. However, BASW notes that:

‘Austerity functions on a myth of scare resources which deliberately understates the real wealth within our society and promotes using divisive rhetoric. For example, proponents of austerity distinguish ‘strivers from skivers’ when the reality is that some 7.4 million people are in poverty despite being in working families.’

The rhetoric of ‘fraud and error’ builds on this to create the perception that too many people on Universal Credit are fraudsters.

D. NEW TECHNOLOGIES IN THE WELFARE SYSTEM

The Special Rapporteur is interested in learning more about the impact of new technologies including the use of ‘big data’, artificial intelligence, algorithms and automated decision-making processes on the human rights of those living in poverty in the United Kingdom, especially in terms of the functioning of the welfare system. Below are some of the questions the Special Rapporteur has in that regard:

(20) What use does the national government, as well devolved governments and local governments, make of such new technologies in the context of decision-making in the welfare system? A recent report by the House of Commons Science and Technology Committee on ‘Algorithms in decision-making’ (May 2018) concluded that the central government does not currently produce, publish or maintain a list of algorithms it uses for public purposes, despite the fact that some of the new technologies that are employed, for example in welfare fraud and error investigations, can may have major negative human rights implications, especially for the poor. The Special Rapporteur is especially interested in learning more about concrete examples of the use of such new technologies by governments in the welfare system.

BASW has no formal evidence on this and is thus unable to comment.
(21) What is the relevant regulatory framework for the use by government of such new technologies, especially in the context of the welfare system, and are there any shortcomings in the current legal framework?

BASW has no formal evidence on this and is thus unable to comment.

(22) Which government agencies and departments are responsible for and have oversight over the use of new technologies by governments in the UK, especially in the context of the welfare system? Are their respective responsibilities clearly defined and delineated and are they able to effectively perform their responsibilities?

BASW has no formal evidence on this and is thus unable to comment.

(23) What are the relevant policies of the central government vis-à-vis the use of these new technologies by the government, including especially in the context of the welfare system, and do these policies take into account the potential impact of the use of these technologies on the human rights of those living in poverty?

BASW has no formal evidence on this and is thus unable to comment.

(24) What are the potential human rights issues faced by individuals living in poverty as a result of the use of new technologies in the UK welfare system?

BASW has no formal evidence on this and is thus unable to comment.

E. CHILD POVERTY

(25) What is the extent of child poverty in the United Kingdom, and how has it evolved over the last decade?

The growth of child poverty is well documented (cf. The Joseph Rowntree Foundation, The Child Poverty Action Group and the Resolution Foundation) and has been described and quantified by others in a substantial literature.

(26) What are the implications of child poverty for the rights enumerated in the Convention on the Rights of the Child?

The Child Welfare Inequalities Group has undertaken significant work demonstrating that as a group, families in poverty are at greater risk of being taken into state care. The Adoption Enquiry documented similar concerns in relation to children where the legal responsibility of birth parents are formally extinguished. (The UK legislation allows non-consensual adoption). Both studies demonstrate an impact on a number of rights set out in the Convention on the Rights of the Child.

(27) What are the main causes of child poverty in the United Kingdom, what have been the main government responses, and how effective have they been?

There has been a sustained discourse that ‘work pays’. In fact, as of April, 2017, some 7.4 million people were in poverty despite being in families where one or both parents were in work. Among other factors this is primarily a product of low wages and insecure contracts (‘zero hours’ contracts). In the words of the BASW Position Statement on Austerity the political choice of austerity, and the various policy outworkings of this philosophy has resulted in that fact that: ‘Austerity is a flawed economic theory that increases debt burden, unemployment, homelessness, inequality and causes misery upon the lives of citizens’. 
F. ‘BREXIT’

(28) **What are the potential implications of Brexit for the situation of those living in poverty in the United Kingdom?**

Brexit was and remains contested. Social workers reflected this national divide with social workers both voting for Remain and Leave. Views on the potential economic implications of Brexit usually reflect the individual’s vote at the time of the Referendum, thus Remainers argue the economy will shrink and impact on public spending, while Leavers see new economic opportunities for growth and financial redistribution.

(29) **What are the potential implications of Brexit in terms of protecting the human rights of low-income groups and of persons living in poverty?**

See the response to (28).

(30) **To what extent does government planning for Brexit explicitly address the issues arising under questions 28 and 29 above?**

Government planning for Brexit is at an early stage with much hinging on on-going negotiations with the European Union. There is not a uniformity of view on Brexit within the governing party (see the response to Section 28) and this impacts on Section (29) and any formal response under Section 30.

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