

SNAP Adequate Standard of Living Reference Group
Response to the Special Rapporteur on Extreme Poverty and Human Rights Call for Evidence
14th September 2018

About the Group

We are a group of people with lived experience of poverty. We have come together to act as a reference group on the right to an adequate standard of living (Article 11, International Covenant on Economic, Social and Cultural Rights), as part of Scotland's National Action Plan on Human Rights (SNAP). We are supported by the Scottish Human Rights Commission. We take a human rights based approach to tackling poverty in Scotland. In doing so, we use the PANEL principles of Participation, Accountability, Non-discrimination, Empowerment and Law as a guide.

Our collective experiences include (but are not limited to):

- disability and poverty
- mental health and poverty
- LGBTQI identities and poverty
- caring and poverty
- homelessness
- in-work poverty
- rural poverty
- poverty of opportunity
- food poverty
- age poverty; and
- fuel poverty.

Many of our answers to the Special Rapporteur's questions flow from our own lived experience of poverty and we have tried to provide a mixture of these experiences alongside published evidence and statistics throughout our response.

As the Special Rapporteur will be aware, many of the core policy areas which have an impact on poverty in Scotland are devolved to the Scottish Parliament

and can be addressed by the Scottish Government, with the exclusion of some areas of social security and other reserved areas. Our responses therefore focus on the Scottish context, but we will make clear where we are referring to the Scottish Government and Scottish public authorities and where we are referring to the UK Government.

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?

As a group of people with lived experience of poverty, we do not see poverty as only being a problem of money. Poverty is also about powerlessness to live your life as you want to. It is about not having the chance to make decisions or get the opportunities which you want and need. Poverty is about the inability to realise your human rights. All of these things mean that it is very important to take a human rights based approach to solving poverty. At present, we do not believe that public authorities in Scotland understand poverty as a human rights issue, with the consequence that they are in some circumstances failing to meet their obligations to respect, protect and fulfil people's human rights. For example, we recently made submissions¹ to the Scottish Government's consultation on a Fuel Poverty Strategy² to recommend that they take a human rights based approach to the issue, noting the role that fuel poverty has in the realisation of the right to housing, the right to food and the right to health. We were disappointed that the Scottish Government chose not to embed a human rights based approach within its subsequent Fuel Poverty Strategy.³ We felt that the critical elements of meaningful participation and meaningful

¹ SNAP Adequate Standard of Living Group, 7th February 2018, 'Response to the Scottish Government's Consultation on Fuel Poverty', available at https://consult.gov.scot/better-homes-division/fuel-poverty/consultation/view_respondent?_b_index=60&uuld=362105745, last accessed on 21st August 2018

² Scottish Government, November 2018, Consultation on a Fuel Poverty Strategy, Edinburgh: Scottish Government

³ Scottish Government, 27th June 2018, Draft Fuel Poverty Strategy, Edinburgh: Scottish Government available at <https://www.gov.scot/Publications/2018/06/2306>, last accessed on 21st August 2018

accountability were missing from the Government's plans, with limited voice given to people experiencing fuel poverty and limited accountability for the Scottish Government in the event of failing to deliver on its targets.

In recent years there have been a range of local authority based initiatives on fairness, inequality and poverty in Scotland. We have been disappointed to see that very few of these have engaged with poverty as a human rights issue, which has meant that local public authorities in Scotland are not creating policy or implementing interventions which meet their obligations to respect, protect and fulfil rights. This includes their responsibilities to ensure that people in poverty understand that this is a rights issue and that consequently governments and public authorities have duties towards them in this respect.

Furthermore, because public authorities are not engaging human rights based approaches in their anti-poverty work, there is a real lack of meaningful participation of the people who are most affected. A human rights based approach to budgeting could be one way to ensure that there is genuine engagement of people with lived experience in the difficult choices to be made in a context of limited resources.

However, we do welcome the First Minister's commitment to:

'establish an expert advisory group to lead a participatory process to make recommendations on how Scotland can continue to lead by example in human rights, including economic, social, cultural and environmental rights.'

We feel that were the Advisory Group to make recommendations to incorporate economic, social and cultural rights into law, there could be greater scrutiny of the impact of policy on the enjoyment of economic, social and cultural rights and additionally, greater accountability for people who experience rights violations.

We also acknowledge that the Scottish Government has taken steps to mitigate the effects of some UK Government policies which have had adverse effects upon the enjoyment of human rights, such as the spare room subsidy

policy or ‘bedroom tax’ through the introduction of a Discretionary Housing Payment.⁴

(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.

People living in poverty and extreme poverty in Scotland experience a range of human rights violations, many of which are documented in the various NHRI and parallel submissions made to the Committee on Economic, Social and Cultural Rights for the United Kingdom’s recent review under the Covenant.⁵

From our own experiences and from the statistical and research evidence, we are concerned about violations of the rights to social security, the right to adequate standard of living, including rights to adequate housing and food, the right to the highest attainable standard of physical and mental health and the right to just and favourable conditions of work. For example, monitoring data from the Trussell Trust (the Trust), a food poverty charity which runs food banks across the UK including Scotland, shows that in 2012-13, the Trust distributed 14,332 3-day emergency food parcels in Scotland. In 2017-18, the figure was 170, 625,⁶ representing an eleven fold increase. The Trust’s statistics across the UK show that the three main causes for referral to a food bank are low income (28%), delays to benefits (24%) and benefit changes (18%). We note that the Trust’s own data shows that where low income is a factor, 85% of people referred are living off benefits alone. Their analysis suggests that:

‘Low income – benefits, not earning’ is the biggest single, and fastest growing, reason for referral to a foodbank. Analysis of trends over time

⁴ Scottish Government, ‘Discretionary Housing Payments in Scotland: 1 April 2017 – 31 March 2018’, available at <https://www.gov.scot/Topics/Statistics/Browse/Social-Welfare/dhp/31March2018>, Edinburgh: Scottish Government, last accessed 12th September 2018

⁵ All available at https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=GBR&Lang=EN, last accessed on 22nd August 2018

⁶ Data available at <https://www.trusselltrust.org/news-and-blog/latest-stats/end-year-stats/#fy-2016-2017>, last accessed on 22nd August 2018

demonstrates this proportion of households has significantly increased since April 2016, suggesting an urgent need to look at how adequate our current benefit levels are.’⁷

From our own work and learning on economic, social and cultural rights, we know that the right to food is made up of a number of elements articulated by the Committee on Economic, Social and Cultural Rights, including availability, adequacy and the economic and physical accessibility of food. Adequacy implies a quantity and quality of food sufficient to satisfy the dietary needs of individuals. The Trussell Trust itself acknowledges that, by their very nature, emergency food parcels cannot readily contain fresh fruit or vegetables and that therefore people in receipt of food parcels may not be eating food which is of an acceptable quality and is furthermore, unlikely to be culturally appropriate for everyone. We also note that the Committee has said that:

‘a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant.’

We would argue that the evidence from the Trussell Trust – which is not the only provider of food bank infrastructure in Scotland – demonstrates that a ‘significant number of individuals is deprived of essential foodstuffs’ and this as a direct result of interferences with the availability, accessibility and adequacy elements of the ICESCR Article 9, the right to social security. This should be taken as a prima facie failure to discharge obligations under the Covenant by both the UK and Scottish Governments.

We are also concerned that in many cases there is a discrimination element attached to each of these rights. From our own experiences, as well as from research evidence, we are concerned that disabled people, people from Black

⁷ The Trussell Trust, statistics and data available at <https://www.trusselltrust.org/news-and-blog/latest-stats/end-year-stats/#fy-2016-2017>, last accessed 22nd August 2018

and Minority Ethnic communities and women and girls, as well as people who experience intersectional discrimination, are more at risk of being unable to realize rights and have poorer outcomes in many of these contexts.

(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.

Please see our response to questions 3 as an example. We are happy to provide further information to the Special Rapporteur but do not wish to exceed the word limit.

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

As a group, we are of the view that the Special Rapporteur should visit different areas of Scotland to see how poverty and extreme poverty manifests itself in both urban, central belt areas such as the East End of Glasgow, as well as rural areas, where there are additional costs and challenges to people in poverty arising from different geographies, transport and connectivity. The [Scottish Index of Multiple Deprivation](#) will be of assistance in making these decisions.

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'.

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

We understand that under the norms of international human rights law,⁸ any steps backwards in the realisation of people's rights must be necessary,

⁸ Committee on Economic, Social and Cultural Rights, 1990, 'General Comment No 3: The nature of States parties' obligations' (art. 2, para. 1, of the Covenant), available at

justified, proportionate, temporary, non-discriminatory and maintain protection for a minimum core of rights.⁹ While we would not wish to label any specific groups of people as being inherently vulnerable, from our own experiences and from research evidence, we would draw attention to the disproportionate impact of austerity decisions upon the rights of disabled people, women and people from Black and Minority Ethnic communities, particularly with respect to rights to social security, health, food, housing and work. Research from the Equality and Human Rights Commission shows that, with respect to the Article 9, the right to social security under the International Covenant on Economic Social and Cultural Rights (ICESCR):

‘the reforms have affected the income, living standards and opportunities of a number of protected groups. The most affected protected group is disabled people, driven largely by reforms targeting disability benefits directly. Families with disabled adults and disabled children have faced the largest financial loss in cash terms compared to any other household type. In addition, the evidence demonstrates the negative and stressful experience of the PIP application process.’¹⁰

Furthermore, an analysis of the cumulative impact of tax and welfare reforms undertaken by the Equality and Human Rights Commission found that:

‘overall, changes to taxes, benefits, tax credits and U[niversal] C[redit] announced since 2010 are regressive, however measured – that is, the largest impacts are felt by those with lower incomes. Those in the bottom two deciles will lose, on average, approximately 10% of net income, with much smaller losses for those higher up the income distribution.’¹¹

⁹ Office of the High Commissioner for Human Rights, 2013, ‘Report on austerity measures and economic and social rights,’ available at https://www.ohchr.org/Documents/Issues/Development/RightsCrisis/E-2013-82_en.pdf, last accessed on 22nd August 2018

¹⁰ Hudson-Sharp, N et al, March 2018, ‘Research Report 111, The impact of welfare reform and welfare to work programmes: an evidence review’, London: Equality and Human Rights Commission, available at <https://www.equalityhumanrights.com/sites/default/files/research-report-111-cumulative-impact-assessment-evidence-review-executive-summary.pdf>, last accessed 22nd August 2018

¹¹ Portes, J and Reed, H, March 2018, ‘The cumulative impact of tax and welfare reforms: Executive Summary, London: Equality and Human Rights Commission, available at <https://www.equalityhumanrights.com/sites/default/files/cumulative-impact-assessment-report-executive-summary.pdf>, last accessed 22nd August 2018.

As a group, it appears to us that the programme of welfare reform, which has comprised the abolition, capping and restructuring of a range of benefits, alongside conditionality punishable by sanctions, has disproportionately affected specific groups of people, who are all able to claim protections from non-discrimination elements of ICESCR and of rights to social security under other international human rights treaties such as the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD). The very people who were entitled to protections from the worst effects of austerity from the UK Government were those whose rights were breached. This led the Committee on the Rights of Persons with Disabilities to conclude that:

“there is reliable evidence that the threshold of grave or systematic violations of the rights of persons with disabilities has been crossed in the State party.”¹²

Examples which we have seen in our own lives, or in the support that we have offered to other people, include the impact on disabled people’s rights to work and to independent living brought about by restrictions in access to the Motability scheme. This scheme enabled people who met eligibility criteria under Disability Living Allowance (DLA) - now Personal Independence Payment (PIP) - to access a car to support their ability to travel and participate in education, work and social activities. The transition from DLA to PIP entailed a tightening of the eligibility criteria which meant that many people who had previously been eligible for Motability were no longer able to access this.¹³ This has had significant impact on some disabled people’s right to independent living, to work, to participate in social and cultural life.

¹² Committee on the Rights of Persons with Disabilities, 14th November 2017, Inquiry concerning the United Kingdom of Great Britain and Northern Ireland carried out by the Committee under article 6 of the Optional Protocol to the Convention: Report of the Committee**, CRPD/C/15/4, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/326/14/PDF/G1732614.pdf?OpenElement>, last accessed 12th September 2018

¹³ Vale, J, 12th April 2017, ‘50,000 disabled people ‘have adapted vehicles removed after benefits assessment’ The Independent, available at <https://www.independent.co.uk/news/uk/politics/benefit-cuts-disability-welfare-pip-adapted-vehicles-a7678926.html>, last accessed 12th September 2018.

Members of our group have supported individuals whose cars were removed before they had the right to appeal, creating issues for people's right to a remedy and access to justice.

In addition, members are concerned that disabled people and people with long-term conditions who seek to save for privately funded healthcare procedures which are not available on the NHS are penalised by the benefits system for building up capital above the savings threshold.

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

Evidence from research shows that during the last 10 years, poverty and inequality has increased. For example, the Joseph Rowntree Foundation estimate that the proportion of people who had an income below the Minimum Income Standard¹⁴ rose from 25.8% in 2008/9 to 29.7% in 2015/16, which represents an increase of 3.3 million people.¹⁵ Children in one-parent families have been disproportionately affected, with 75% of these children living below the Minimum Income Standard in 2015-2016, an increase of almost 7 percentage points since 2008-9.¹⁶

While the global financial collapse has contributed to the increase in poverty and inequality, the effects of austerity policies have in some cases further exacerbated already difficult circumstances for many. For example, the Resolution Foundation has found that in 2017 – 2018, recovery in earnings taken alongside lower taxes are 'not enough to offset cuts to benefits for lower-income households.'¹⁷ This would indicate that the UK Government is failing in its responsibilities towards fulfilling rights to social security –

¹⁴ The Minimum Income Standard (MIS) was developed by the Joseph Rowntree Foundation and is updated annually. The MIS 'sets a threshold below which households struggle to make ends meet – based on research in which members of the public consider what people need to have a socially acceptable standard of living.' See <https://www.jrf.org.uk/income-benefits/minimum-income-standards> for further information.

¹⁵ Joseph Rowntree Foundation, 2017, 'Households Below a Minimum Income Standard: 2008/09 to 2015/16' York: Joseph Rowntree Foundation, available at <https://www.jrf.org.uk/report/households-below-minimum-income-standard-200809-201516> last accessed 22nd August 2018.

¹⁶ Ibid

¹⁷ Corlett et al, July 2018, 'The Living Standards Audit 2018' London: The Resolution Foundation, available at <https://www.resolutionfoundation.org/app/uploads/2018/07/Living-Standards-Audit-2018-3.pdf>

particularly in terms of adequacy - with a knock-on impact on the right to an adequate standard of living. There is recognition that specific groups of people, in particular disabled people, single parents – especially women – have been disproportionately affected by the policies of austerity, which have often come in the form of cuts to social security benefits alongside reduced access to public services, such as social care.

(13) 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?

We are of the view that austerity has been a political choice made by successive UK Governments. It is our view that taking a human rights based approach to the choices to be made in a climate of limited resources in the first instance would have provided a more rigorous analysis of the UK Government's obligations to respect, protect and fulfil the economic, social and cultural rights of the people who live in the UK and therefore pointed to a different set of policies. We would strongly urge that there should be meaningful accountability and learning from the fact that such an analysis did not take place and that recommendations from the Special Rapporteur to safeguard rights in future should be put into place. As the Equality and Human Rights Commission's research into the impact of welfare reform concludes:

“Many of the likely impacts on protected groups were understood and others could have been expected had a fuller assessment been carried out by the UK Government before implementation. Most published equality impact assessments (EIAs) merely detailed the proportion of existing claimants by protective group, rather than conducting a more detailed exploration of possible financial and non-financial impacts. The impacts could also have been better foreseen had it been acknowledged that many individuals and households are affected by changes to a range of benefits. Some equality groups, in particular disabled people and women (especially as lone parents), are affected in this way. Future changes

should incorporate a cumulative impact assessment, as carried out in the related research study by Portes and Reed (2018)."¹⁸

¹⁸ See 10 above.