

Food Security Bill – Consultation Response from JustRight Scotland

About JustRight Scotland:

JustRight Scotland is a registered charity established by an experienced group of human rights lawyers, working towards a new model of Collaborative Social Justice. We use the law to defend and extend people's rights, working collaboratively with non-lawyers across Scotland towards the shared aims of increasing access to justice and reducing inequality. We do this by providing direct legal advice to individuals and organisations, running outreach legal surgeries and helplines, delivering rights information, training and legal education, and contributing to research, policy and influencing work.

We work across a number of policy areas including women's legal justice, trafficking and migration and citizenship. Whilst our work is specific to Scotland, we appreciate that our areas of focus cover both devolved and reserved legislation and as such we endeavour to work across both the Scottish and UK Parliament where appropriate.

We work with clients directly providing legal advice and representation. In this briefing we highlight specific cases to demonstrate clearly the lived experience of migrants and asylum seekers, and the reality of harm caused by current policies and systemic inequalities.

We give consent for this response to be published along with other consultation responses.

Contact details for further information: talat@justrightscotland.org.uk

1. Which of the following best expresses your view on enshrining the human right to food into Scots law?

Fully supportive

Reasons for response:

The enshrining of the human right to food into Scots law will have the most significant consequences for those communities in Scotland who face significant institutionalised barriers as a consequence of societal inequality. For Just Right Scotland asylum seekers, refugees and those with No Recourse to Public Funds conditions on their visas, this progressive move through legislation is the most robust way to ensure some *potential* protection from destitution, however this is largely dependent on the competency of how this legislation is implemented and how public bodies, in particular local councils, are supported to respond to the rights which will need to be met as a consequence of this law.

2. Which of the following best describes your view on the creation of an independent statutory body with responsibility for the right to food?

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Fully supportive

Reasons for response:

As above, to ensure the competent implementation of such legislation an independent body which has an accountability, data collection and review of implementation responsibility would be welcome. However, we would add that it is only able to fulfil its responsibility if it is has the following:

1. Clear expectation set on what it will review (particularly in terms of implementation of the purpose of the bill on the ground).
2. Bi-annual reporting on impact of the bill to the Scottish Parliament via a named Minister, detailing the extent of its success, analysis of those communities that may continue to be left behind and what, if any, further resource is required to make the implementation of the bill successful.
3. The authority to seek data and updates from local authorities.
4. A requirement for the body to include lived experience and seek direct input from third sector organisations and community groups working with those who have experience of food insecurity and poverty.
5. A requirement for a repeated equality impact assessment and equalities focused analysis on implementation one year after the bill's implementation.
6. A requirement to gather and analyse data through an intersectional lens to provide a more accurate understanding of the bill (and likely attached strategy's) success.

3. What do you think would be the main practical advantages and disadvantages of the proposed Bill:

The main practical advantages of the bill will be the creation of a coherent approach to food insecurity in Scotland, rather than there being a council by council approach (if any) or interventions based on the actions of local third sector/community groups.

The bill will also ensure Scotland is in line with international best practice and the UN Sustainable Development Goals (Goal 2). The bill would create an expectation of how Scotland responds to poverty (with the hope that this bill is one step of many taken to tackle different causes and consequences of poverty in Scotland).

The bill (provided it is unambiguous and complimented by a clear and regularly reviewed strategy) will also provide individuals and families in Scotland with an understanding of their rights in relation to food. However, consideration must be given on how individuals or families pursue action if this right is not met. What pathways to advocacy and justice would be available or would need to be developed

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in order for the right to food to not simply be a right on paper but fully realised as a core part of peoples' lives in Scotland?

Asylum Seekers Financial Support and No Recourse to Public Funds:

However, we have a concern about the *perceived* conflict between the enshrining of this right into Scots law and UK immigration law for those who are seeking asylum and those on visas with no recourse to public funds (NRPF).

No recourse to public funds visa restrictions cause harmful damage to migrants in Scotland (particularly those on precarious contracts, those in low income work, those experiencing multiple inequalities and those with health conditions) and prevent them from having access to the security net which all others in Scotland have access to. NRPF has time and again been evidenced to be a direct factor in migrants falling into destitution, this has been exacerbated by Covid19. NRPF has been found unlawful by the [High Court in England](#), as it breaches Article 3 of the European Convention on Human Rights.

For this bill to have the necessary impact for communities who need it the most, NRPF restrictions by the UK Government must not be a barrier to migrants accessing their right to food on equal footing to all Scotland residents. The limitations of immigration policy of the UK Government must not damage the progressive steps of a "right to food".

For the bill to create advantages it must have choice and dignity at its centre. Currently, some asylum seekers are only able to access pre-paid cards (with a maximum of £35.39) which can be used to purchase food and essential toiletries. However, there is little choice available to asylum seekers as to where they can purchase food; 85% of organisations working with asylum seekers the British Red Cross Survey (2014) felt that their clients are left hungry because section 4 support is insufficient. The pre-paid cards do not allow choice and as a consequence often do not respect the cultural or religious differences in the migrant community. For example, they are (largely) unable to be used in local retailers such as halal butchers or specialist grocers. Any bill to enable food security must respect cultural difference and give access to choice.

Which of the following expresses your 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?

Partially opposed

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Reasons for response:

The recent Programme for Government included the following commitment: “The UNCRC Bill will fully and directly incorporate the United Nations Convention on the Rights of Children into Scots law” by the end of this parliamentary term. Progress on this commitment should not be put on hold for the food security bill, it should not be viewed as “either/or”, instead we would recommend that the Scottish Government pursue all pathways to meet international best practice to enshrine human rights in law, however, ensuring that there is coherence across all action to embed individual and collective human rights into Scots law.

4. What advantages or disadvantages would there be to establishing a statutory body with responsibility for the right to food?

This has been answered in question 2.

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

Partially supportive

Reasons for response:

Whilst we agree that overall responsibility for the implementation of the Bill and therefore the realisation of “the right to food” should lie with the Scottish Government, there must be a responsibility (and robust accountability) placed on local authorities who will, very likely, be responsible for implementation.

6. What impact do you believe bringing the right to food into law would have on:

(a) Reducing food insecurity:

Significant impact

(b) Improving people’s health:

Significant impact

Reasons for response:

The very purpose of the bill is to tackle food insecurity. The increase in poverty and in-work poverty, consequences of welfare reform and increase of precarious work contracts have all contributed to an increase in food bank use and food insecurity (all of which has been repeatedly evidence by organisations such as the Poverty Alliance and Oxfam Scotland). This bill will tackle one element of poverty which is a step in the right direction. By doing so, improvements in health are also likely as

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malnutrition or low-nutrition are avoided through access to food. However, this does come with the caveat that the access to food must be based on choice, to allow individuals to purchase/procure healthy options. Improvements to health are also dependent on *how* this bill is implemented and whether it includes access to nutrition information and further support as needed by individuals. As has been said, the bill is *one* step of many required to tackle poverty and health inequalities in Scotland, in order for food security and health to be improved, access to utilities, cooking appliances and a warm and safe home is also required.

8. Taking account of both costs and potential savings, what financial impact would you expect the proposed Bill to have on:

(a) Government and the public sector:

Some reduction in cost

The soaring numbers of people reliant on foodbanks, the consequences of poverty on health and opportunities, all impact the Scottish economy. By enabling access to food as a right and reducing poverty as a consequence, there is likely to be a saving to the Scottish Government which will be realised in the longer term after the Bill's implementation.

(b) Businesses

Unsure

We do not have clear evidence on what, if any, financial consequences this would have for business and do not feel qualified to make any case on this question.

(c) Individuals

Some reduction in cost

The implications for the cost to the individual are dependent on the details of this bill. If the bill is focused on ensuring access to food through subsidising costs, then we would expect some reduction in costs to the individual and therefore, reduction in levels of poverty.

9. Are there ways in which the Bill could achieve its aim more cost-effectively (e.g. by reducing costs or increasing savings)?

Food security is a preventative measure against poor physical and mental health and increased levels of poverty. As such, we see this bill as being cost-effective through reduction in use of the NHS and reduction in loss of working days due to sickness.

10. What overall impact is the proposed Bill likely to have on equality, taking account of the following protected characteristics (under the Equality Act

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2010): age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation?

- Positive

Reasons for response:

As outlined in the answers to questions 2 and 6, there is potential for this bill to have a significant, positive impact on equalities, particularly for those most likely to be living in poverty or who are living under stress of potentially falling into poverty. This includes migrants, refugees and asylum seekers, a disproportionate number of Black, Asian and Minority Ethnic people, women, unpaid carers and disabled people. Creating a “right to food” in law, which ensures access to food that maintains good health, and that the purchase of a “minimum level” of food no longer is a potential significant cost to those already under financial strain, would have a clear positive effect on equalities.

11. In what ways could any negative impact of the Bill on equality be minimised or avoided?

As mentioned, the right to choice and dignity must be embedding into any bill on food security, to prevent asylum seekers (in particular) from being singled out or further disadvantaged by this bill. The bill must consider the way in which it works with (or against) existing UK immigration law, and ensure that those under NRPF or asylum regulations are not limited in access to food on equal footing to all residents in Scotland. There must be equality across implementation, and interventions made wherever necessary to level the playing field and prevent unintended consequences which deepen entrenched inequality.

12. Do you consider that the proposed bill can be delivered sustainably, i.e. without having likely future disproportionate economic, social and/or environmental impacts?

Yes – please see answer to question 9.

Summary:

The right to food should be enshrined in Scots law and would support Scotland in joining international best practice in methods to eliminate inequality and poverty. The deliver of this bill would also support Scotland in delivering its commitment to the UN Sustainable Development Goals (SDG2). However, for this admirable purpose to be truly realised, the bill and its implementation must:

1. Include a robust equality impact assessment, which goes further than standard practice and consider specifically the impact for migrants, asylum seekers and refugees, and takes an intersectional approach.

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2. Work to enable equal access to the right to food for every individual in Scotland and ensure there are no limitations caused by reserved immigration policy on asylum seekers or migrants under NRPF.
3. Any body with responsibility for implementation must include lived experience, third sector and community focused expertise. This body must also present findings publicly for scrutiny via the Scottish Parliament.
4. Include the collection and analysis of accurate data to enable scrutiny of the extent of the bill's ability to reduce poverty and health inequalities cause by food insecurity.
5. Embed review periods and accountability for delivery which places responsibility on both the Scottish Government and local authorities.
6. Ensure the bill, once passed, includes a detailed implementation strategy (with review periods) and robust guidance for public bodies.

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