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Going Hungry?
The Human
Right to Food
in the UK

Going Hungry? The Human Right to Food in the UK

Just Fair Consortium

The Just Fair Consortium works to realise a fairer and more just society for everyone in the UK by monitoring and securing the fundamental human rights contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR), including the rights to food, housing, social security, education, equality, employment and health. (www.just-fair.co.uk)

ICESCR Monitoring Reports: 2013-14

Every year, the Consortium publishes a number of ICESCR monitoring reports assessing the extent to which Covenant rights are being realised in the UK. This report primarily focuses on the right to food, while exploring the connections between the right to food and the rights to housing, social security, employment, education, the highest attainable standard of health and equality and non-discrimination. In this way, the report addresses a broad spectrum of Covenant rights through the lens of the right to food.

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Abbreviations/Acronyms

CEDAW – Convention on the Elimination of all forms of Discrimination Against Women (1979)

CESCR – Committee on Economic, Social and Cultural Rights

CPA - Child Poverty Act

CPI - Consumer Price Index

CRC- Convention on the Rights of the Child (1989)

CRPD - Convention on the Rights of Persons with Disabilities (2007)

DCLG – Department for Communities and Local Government

DEFRA – Department for Environment, Food and Rural Affairs

DWP – Department for Work and Pensions

ECHR - European Convention on Human Rights (1950)

FAO - Food and Agriculture Organisation

HMRC - HM Revenue and Customs

HRA - Human Rights Act (1998)

ICESCR - International Covenant on Economic, Social and Cultural Rights (1966)

JSA - Job Seekers Allowance

IFS - Institute for Fiscal Studies

IMF - International Monetary Fund

JCHR –Joint Committee on Human Rights

NMW - National Minimum Wage

Office of the High Commissioner for Human Rights (OHCHR)

ONS – Office for National Statistics

RPI - Retail Price Index

PAC - Public Accounts Select Committee

SPERI - Sheffield Political Economy Research Institute

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Executive Summary

Welfare reforms, benefit delays and the cost of living crisis have pushed an unprecedented number of people into a state of hunger, malnutrition and food insecurity in the UK. In recent years one of the world's richest countries has witnessed a massive increase in the number of people seeking emergency food aid from food-banks and being admitted to hospital for illnesses related to malnutrition. The Trussell Trust has confirmed today that 913,138 people received a minimum of three days emergency food from its foodbanks in 2013-14, compared to 346,992 in 2012-13 and up from 26,000 in 2008-09.

It is our opinion that the UK has violated the human right to food and breached international law. This state of affairs is both avoidable and unnecessary. We call on the Government to take immediate action to ensure that no one in the UK is denied their most basic right to sufficient and adequate food.

This report analyses state action and assesses the UK's compliance with the duty to secure the human right to adequate food. In terms of structure, we start by outlining the key elements of the human right to food, as defined under international human rights law, before proceeding to examine whether the UK is in compliance with its duties in terms of that right. The final part of the report sets out recommendations which, if implemented, would enhance the State's compliance with its international obligations in relation to the right to food.

The Government is legally required under international human rights law to secure the human right to adequate food for everyone in the UK.

But in recent years we have seen large increases in the levels of malnutrition, hunger and food bank usage, all of which are indicative of the UK being in breach of its international legal obligations in respect of the right to food. In the 2014 Just Fair Consortium monitoring report "**Going Hungry? The Human Right to Food in the UK**", we learn how and why this is so.

How do we know there is a problem?

The numbers of people given three days' emergency food by Trussell Trust food banks has risen exponentially from 26,000 in 2008-09 to 913,138 in 2013-14, as growing numbers of people can't afford to provide the basics for their families, and are forced to choose between heating, eating or paying for housing costs.

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But this is just the tip of the food aid iceberg. FareShare, which redistributes surplus food to local charities across the UK, provided food for one million meals every month in 2013; the biggest increase in the amount of food given out since it began in 1994. Overall, 62,200 people received food from FareShare in 2013, up from 43,700 in 2012 and 36,500 in 2011.

The effects of this state of food insecurity are widespread and dramatic. Public health experts have warned that the rise of malnutrition in the UK “has all the signs of a public health emergency”, with a 74 per cent increase in the number of malnutrition-related hospital admissions since 2008-09.

Women, children and people with disabilities have been particularly adversely affected. Single mothers report having missed meals so that their children can eat. At times they cannot even ensure their children are adequately fed. And this is whilst experts warn that child poverty is expected to increase in the near future.

What are the causes of the problem?

In the Just Fair Consortium monitoring report, “**Going Hungry? The Human Right to Food in the UK**”, we have learnt that nutritious food is becoming too expensive for many people on low wages or benefits.

The fall in the real value of wages has meant that the number of working poor who are hungry or unable to afford nutritious food has increased. Wages are so low that a full working day no longer guarantees food on the table.

Evidence also shows that hunger has been fuelled by the inadequacy of social security provision and the processes by which it is delivered. People already on low incomes have been made even poorer by the under-occupancy penalty, the abolition of crisis loans and community care grants and the decision to cap increases in benefits to one per cent rather than indexing them to inflation.

The squeeze on social security has been compounded by payment delays and sanctions which leave some people with no income at all – 31 per cent of those visiting Trussell Trust food banks do so because their benefits have been delayed, and 17 per cent because of changes to benefits.

Even though they are spending more, people have been forced to cut the amount they eat and eat more poor quality, unhealthy food. From 2007 to 2012, expenditure on food rose by 20 per cent, but the actual volume of food consumed declined by 7 per cent, as household incomes for poorer families have been put under greater stress whilst prices have increased.

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What is required to address the problem?

We cannot allow the gap between wages, benefits and food costs to continue to grow. We cannot permit food banks to become a substitute for a comprehensive social security system. We cannot allow malnutrition rates to continue to rise.

Securing the human right to food must become a national priority.

We call on the Government to draw up a national right to food strategy and action plan, including an assessment of the state of enjoyment of this right. Any further deterioration in income levels which undermine people's ability to access food, shelter and basic services must be avoided. We urge the Government to close the gap between income and food costs.

The Government must take urgent action to reduce benefit delays, review how benefit sanctions and welfare reforms are being implemented and reduce unnecessary hardship, hunger and distress.

We call on the Government to mobilise all available resources, and make full use of its tax and spending powers, to deal with the national food emergency.

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I. Introduction

1. The story of UK food insecurity¹, and concerns about enjoyment of the right to adequate food, predate the recent spike in food banks. It is intimately connected with the domestic response to the global economic crisis. In 2010, following a period of prolonged recession,² the Conservative and Liberal Democrat Coalition pledged to deliver economic recovery through a programme of austerity.³ The 2010 'Emergency Budget' introduced spending reductions of £32 billion per year by 2014-15, including £11 billion of welfare reform savings.⁴ Since then, the Chancellor has promised to eliminate the structural deficit by 2016/17.⁵
2. In recent years, the UK economy has shown some signs of recovery,⁶ with early indications of economic growth becoming visible in the third quarter of 2013,⁷ along with rising levels of employment.⁸ When viewed through the lens of the right to food and the drivers of food insecurity, however, the apparent recovery appears more qualified. As will be seen below, the improvement in the level of employment is to large extent attributable to a rise in low paid, temporary work.⁹ Meanwhile, inflation has outpaced average income, leaving a very significant gap in the purchasing power of many.¹⁰ To compound matters the price of

¹ Food security exists 'when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life'. See Food and Agriculture Organization, *Rome Declaration on Food Security and World Food Summit Plan of Action*, 1996, para 1, available at:

<http://www.fao.org/docrep/003/w3613e/w3613e00.htm>; See also further examination of food security in Chapter II (2)(i).

² Office for National Statistics, *Quarterly National Accounts - National accounts aggregates*, 2013, available at:

<http://www.ons.gov.uk/ons/datasets-and-tables/data-selector.html?cdid=ABMI&dataset=qna&table-id=A2>.

³ HM Government, *The Coalition: our programme for government*, 2010, p. 15, available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf.

⁴ HM Treasury, *Budget 2010*, 2010, p. 2, available at:

http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_188581.pdf.

⁵ The Conservative Party, *Economy*, 2014, available at:

http://www.conservatives.com/Policy/Where_we_stand/Economy.aspx.

⁶ IFS, *The IFS Green Budget*, 2014, p. 3, available at: <http://www.ifs.org.uk/budgets/gb2014/gb2014.pdf>.

⁷ ONS, *Economic Review, January 2014*, 2014, pp. 2-3, available at: http://www.ons.gov.uk/dcp/ons/dcp171766_348204.pdf.

⁸ ONS, *Labour Market Statistics, January 2014*, 2014, p. 1, available at: http://www.ons.gov.uk/ons/dcp171778_347785.pdf.

⁹ ONS, *Annual Survey of Hours and Earnings, 2013 Provisional Results*, 2014, pp. 11-12, available at:

http://www.ons.gov.uk/ons/dcp171778_335027.pdf; See also Resolution Foundation, *Low Pay Britain 2013*, 2013, p. 14, available at: http://www.resolutionfoundation.org/media/media/downloads/Low_Pay_Britain_2013.pdf.

¹⁰ ONS, *An Examination of Falling Real Wages, 2010 - 2013*, 2014, p. 17, available at:

http://www.ons.gov.uk/ons/dcp171766_351467.pdf.

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housing has increased dramatically, particularly in London and the South East.¹¹ Significant price rises have also been seen with regard to food, particularly fruit and vegetables.¹² With the addition of broad-scale cuts in social security spending,¹³ the post-recession years have seen increased levels of poverty¹⁴ and the spread of hunger and malnutrition across the country.¹⁵ The nation's heightened state of food insecurity raises serious concerns with regard to the UK's compliance with its international human rights obligations in relation to the human right to food. As this report concludes, the UK is in breach of a range of obligations imposed by the international human right to food.

¹¹ DCLG, *English Housing Survey Households 2011-12*, 2013, p. 22, available at: <http://tinyurl.com/q84tqfc>.

¹² DEFRA, *Food Statistics Pocketbook 2013*, 2013, p. 21, available at: <http://tinyurl.com/ph3f9c3>.

¹³ HM Treasury, *Budget 2014*, 2014, p. 26, available at: <http://tinyurl.com/q5f2s97>.

¹⁴ DWP, *Low Income and Material Deprivation in the UK, 11/12*, first release, 2013, p. 8, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/206850/first_release_1112.pdf.

¹⁵ See Trussell Trust, *Latest foodbank figures top 900,000, 2014*, available at: <http://tinyurl.com/ojzvz4a>.

II. The Human Right to Food

3. The International Covenant on Economic, Social and Cultural Rights¹⁶ (ICESCR) is an international treaty which aims to ensure the protection of economic, social and cultural rights, such as the rights to work, social security, health and education. Article 11(1) of the Covenant recognises the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions. Article 11(2) guarantees the fundamental right of everyone to be free from hunger, and obliges State Parties (i.e. those countries that have ratified the Covenant, hereafter referred to as 'states') to take steps in this regard, including the improvement of methods of distribution of food, and dissemination of knowledge concerning the principles of nutrition.
4. According to the UN Committee on Economic, Social and Cultural Rights (UN Committee/CESCR),¹⁷ the right to adequate food is realized when "every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement."¹⁸ Similarly, the UN Special Rapporteur on the Right to Food¹⁹ defines the right to food as "the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear."²⁰

¹⁶ ICESCR, 1966, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>.

¹⁷ The CESCR is the body of independent experts that monitors implementation of the Covenant by its States Parties – see <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/CESCRIndex.aspx>.

¹⁸ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 6, available at: <http://www.unhcr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>; A General Comment is an authoritative interpretation of the right given by the body mandated to monitor the implementation of ICESCR, including the right to food.

¹⁹ The UN Special Rapporteur on the Right to Food is an independent expert appointed by the UN to examine, monitor, advise and publicly report on realisation of the right to food – see <http://www.srfood.org/en>.

²⁰ UN Special Rapporteur on the Right to Food, *Jean Ziegler, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development*, 2008, para. 17, available at: <http://www.righttofood.org/wp-content/uploads/2012/09/AHRC75.pdf>.

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1) The UK's international obligations in respect of the right to food

5. The UK has ratified, and is therefore legally bound by, the ICESCR, including the human right to adequate food. As a party to the Covenant, the UK reports to the CESCR on a five yearly basis regarding implementation of the ICESCR in the UK, in what is known as a process of periodic review. The UK Government will submit the state report for the purposes of its sixth periodic review by the CESCR in June 2014. The last review of the UK by the Committee took place in 2009.²¹
6. The UK has taken positive steps towards securing the right to food by signing and ratifying an array of international treaties which recognise this fundamental right, including the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW),²² the Convention on the Rights of the Child (CRC),²³ as well as the Convention on the Rights of Persons with Disabilities (CRPD).²⁴ The UK is also a party to a number of regional human rights treaties which indirectly guarantee the enjoyment of adequate food as a human right, including the European Social Charter²⁵ and the Charter of Fundamental Rights of the European Union.²⁶
7. Yet on a deeper analysis, the UK appears to be reluctant to make itself accountable for any failure to give effect to the right to food. This is manifested by the UK's failure to ratify the Optional Protocol to the ICESCR (2009),²⁷ which enables individual complaints to be made to the CESCR. In a similar vein, the UK has refused to ratify the Additional Protocol to the

²¹ See CESCR, *Concluding observations of the CESCR: United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories*, 2009, available at: <http://tinyurl.com/nkag223>.

²² The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, Article 12(2), available at: <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

²³ The Convention on the Rights of the Child (UNCRC), 1989, Article 24 (2)(c) and (e) and Article 27(3), available at: <http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>.

²⁴ The Convention on the Rights of Persons with Disabilities, 2006, Article 25(f) and Article 28(1), available at: <http://www.un.org/disabilities/convention/conventionfull.shtml>.

²⁵ European Social Charter, 1961 Article 4(1), available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/035.htm>; The right to food is indirectly protected by, amongst other provisions, Article 4(1) of the European Social Charter, which recognises "the right of workers to a remuneration such as will give them and their families a decent standard of living."

²⁶ Charter of Fundamental Rights of the European Union, 2000, Article 34, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

²⁷ Optional Protocol to the ICESCR, 2008, available at: http://www.ohchr.org/Documents/HRBodies/CESCR/OProtocol_en.pdf.

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European Social Charter (1995),²⁸ which provides for a system of collective complaints and has adopted a Protocol to the Charter of Fundamental Rights of the European Union.²⁹ This Protocol attempts to ensure that, firstly, the economic and social rights which are found in the 'Solidarity' Chapter of the Charter, which include the right to social assistance,³⁰ are not justiciable in the UK, and, secondly, that the rights guaranteed by the Charter only apply to the UK to the extent that the rights are already recognised in UK law.³¹

2) Key elements of the right to food

8. There are a number of key elements to the right to food. These are discussed below.

i. Food Security

9. According to the UN Food and Agriculture Organisation (FAO),³² food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life.³³ The four pillars of food security are availability, stability of supply, access and utilisation.³⁴

10. The CESCR has observed that the notion of sustainability is intrinsically linked to the notion of food security, requiring that food be accessible for both present and future generations.³⁵ The UN Special Rapporteur on the Right to Food has asserted that food security and the right to food are best seen as complementary tools by which the international community may guarantee the availability of food in quantity and quality sufficient to satisfy the dietary

²⁸ Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, 1995, available at: <http://www.conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=158&CM=7&DF=26/10/2008&CL=ENG>.

²⁹ Protocol on the Application of the Charter of the European Union to Poland and the United Kingdom, 2007, Arts 1-2, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2007:306:0156:0157:EN:PDF>

³⁰ Charter of Fundamental Rights of the European Union, 2000, Article 34, available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>.

³¹ Whether the Protocol is successful in achieving its objective remains a matter of legal debate - see Peers, S., "The 'Opt-out' that Fell to Earth: The British and Polish Protocol Concerning the EU Charter of Fundamental Rights", *Human Rights Law Review*, Vol 2, 2012, pp. 375-389, available at: <http://hrlr.oxfordjournals.org/content/early/2012/04/22/hrlr.ngs008>.

³² The FAO is an agency of the United Nations that leads international efforts to defeat hunger. The FAO acts as a neutral forum where all nations meet as equals to negotiate agreements and debate policy - see <http://www.fao.org/about/who-we-are/en/>.

³³ FAO, *Rome Declaration on Food Security and World Food Summit Plan of Action*, 1996, para 1.

³⁴ FAO, *Declaration of the World Summit on Food Security*, 2009, available at: http://www.fao.org/fileadmin/templates/wsfs/Summit/Docs/Final_Declaration/WSFS09_Declaration.pdf.

³⁵ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 7.

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needs of individuals; physical and economic accessibility for everyone, including vulnerable groups, to adequate food, free from unsafe substances and acceptable within a given culture; or the means of its procurement.³⁶ Similarly, the FAO guidelines suggest that "a human rights-based approach to food security emphasizes the achievement of food security as an outcome of the realization of existing rights."³⁷

ii. Adequate, accessible and available food

11. According to the CESCR, Article 11 ICESCR guarantees the right to adequate, accessible and available food.³⁸ Adequacy means that the food must satisfy dietary needs, taking into account the individual's age, living conditions, health, occupation, sex, etc.³⁹ Food should also be safe for human consumption, free from adverse substances, such as contaminants from industrial or agricultural processes, and should be culturally acceptable.⁴⁰
12. Accessibility encompasses both economic and physical accessibility.⁴¹ Economic accessibility means that food must be affordable. Individuals should be able to afford food for an adequate diet without compromising on any other basic needs,⁴² such as heating or housing. For example, the affordability of food can be guaranteed by ensuring that wages or social security benefits are sufficient to meet the cost of nutritious food and other basic needs.⁴³ Physical accessibility means that food should be accessible to all, including to the vulnerable, such as children, the sick, disabled people or older persons, for whom it may be difficult to go out to get food.⁴⁴

³⁶ See FAO, *Voluntary guidelines to support the progressive realisation of the right to adequate food in the context of national food security*, 2004, p. 5, available at: <http://www.fao.org/docrep/009/y7937e/y7937e00.htm>; See also UN Human Rights Council, *Report submitted by the Special Rapporteur on the Right to Food, Olivier De Schutter*, A/HRC/19/59, 2011, p. 3, para 1, available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-59_en.pdf.

³⁷ See FAO, *Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security*, 2004, para 19.

³⁸ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 7.

³⁹ Office of the High Commissioner for Human Rights (OHCHR), *The Right to Adequate Food Fact Sheet No. 34, 2010*, p. 3, available at: <http://www.ohchr.org/Documents/Publications/FactSheet34en.pdf>.

⁴⁰ OHCHR, *The Right to Adequate Food Fact Sheet No. 34, 2010*, p. 3.

⁴¹ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 13.

⁴² OHCHR, *The Right to Adequate Food Fact Sheet No. 34, 2010*, p. 3.

⁴³ OHCHR, *The Right to Adequate Food Fact Sheet No. 34, 2010*, p. 3.

⁴⁴ OHCHR, *The Right to Adequate Food Fact Sheet No. 34, 2010*, p. 2.

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13. *Availability* refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well-functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand.⁴⁵ In other words, availability requires on the one hand that food should be available from natural resources, either through the production of food, by cultivating land or animal husbandry, or through other ways of obtaining food, such as fishing, hunting or gathering.⁴⁶ On the other hand, it means that food should be available for sale in markets and shops.⁴⁷

iii. Progressive realisation

14. The principal obligation reflected in Article 2(1) ICESCR is to take steps “with a view to achieving progressively the full realisation of the rights recognised” in the Covenant. The concept of progressive realisation constitutes recognition of the fact that full realisation of all economic, social and cultural rights will not be able to be achieved by all states immediately; however, the phrase imposes an obligation on all states to move as expeditiously and effectively as possible towards that goal.⁴⁸

15. States must take all necessary steps to the maximum of their available resources to realise the right to food. According to the CESCR, the phrase “to the maximum of its available resources” refers to both the resources existing within a state and those available from the international community through international cooperation and assistance.”⁴⁹ It is about the real resources available to the state – not just current budgetary allocations.⁵⁰ The duty to use maximum available resources requires states to take steps to secure the right to food through their fiscal and economic policy, including that relating to government expenditure, systems of revenue, borrowing and debt, and monetary policy and financial regulation.⁵¹ Even where a state can demonstrate that the resources available to it are

⁴⁵ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 12.

⁴⁶ OHCHR, *The Right to Adequate Food Fact Sheet No. 34, 2010*, p. 2.

⁴⁷ OHCHR, *The Right to Adequate Food Fact Sheet No. 34, 2010*, p. 2.

⁴⁸ CESCR, *General Comment 3, The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant)*, 1990, para. 9.

⁴⁹ CESCR, *General Comment 3, The Nature of States Parties’ Obligations (Art. 2, Para. 1, of the Covenant)*, 1990, para. 13.

⁵⁰ For more on this point, see R. O’Connell, A. Nolan, C. Harvey, M. Dutschke & E. Rooney, *Applying a Human Rights Framework to State Budget Allocations: Rights and Resources*, Routledge, 2014, Chapter 3.

⁵¹ See D. Elson, R. Balakrishnan & J. Heintz, ‘Public Finance, Maximum Available Resources and Human Rights’ in Nolan, A. et al (eds), *Human Rights and Public Finance: Budgets and the Promotion of Economic and Social Rights*, Hart

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inadequate in terms of enabling it to ensure the right to food, it is still under an obligation to strive to ensure the widest possible enjoyment of that right under the prevailing circumstances

iv. Duties to respect, protect and fulfil

16. The right to adequate food imposes three levels of obligations on states: the obligations to respect, to protect and to fulfil. The obligation to respect existing access to adequate food requires states not to take any measures that result in preventing such access. For example, states must not pass legislation or policies that interfere with people's existing enjoyment of the right to food.⁵²
17. The obligation to protect requires measures by the state to ensure that non-state actors like commercial enterprises or individuals do not deprive people of adequate food. For instance, states should adopt the measures needed to protect people, especially children, from advertising and promotions of unhealthy food so as to support the efforts of parents and health professionals to encourage healthier patterns of eating.⁵³ The obligations to respect and protect the right to food are both of an immediate nature, and must be implemented straight away.⁵⁴
18. The obligation to fulfil incorporates the obligations to promote, facilitate and provide.⁵⁵ The obligation to promote requires states to advance awareness and acceptance of human rights by ensuring the broadest access to knowledge and information about human rights standards and principles.⁵⁶ The obligation to facilitate means the state must take active steps to strengthen people's access to resources and means to ensure their livelihood, including food security.⁵⁷ Further, whenever people are unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, the state has the

Publishing, 2013,13; See also O De Schutter, *Report of the Special Rapporteur on the Right to Food—Mission to Brazil*, 2009, para 36, available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.33.Add.6_en.pdf.

⁵² CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 15.

⁵³ OHCHR, *The Right to Adequate Food Fact Sheet No. 34*, 2010, p. 18.

⁵⁴ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para 16.

⁵⁵ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 15.

⁵⁶ OHCHR, *The Right to Adequate Food Fact Sheet No. 34*, 2010, p. 17.

⁵⁷ OHCHR, *The Right to Adequate Food Fact Sheet No. 34*, 2010, p. 17.

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obligation to provide that right directly.⁵⁸ For example, states must provide food assistance or ensure social safety nets for the most deprived.⁵⁹

19. In addition to progressive duties that must be realised over time, Article 2(1) ICESCR also imposes a number of immediate duties on states, including the UK. These are the obligations of non-discrimination, non-retrogression and guaranteeing the minimum core content of the right to food.

v. Immediate duties: Non-discrimination, minimum core, non-retrogression

20. Any discrimination in access to food on prohibited grounds,⁶⁰ with the purpose or effect of impairing the equal enjoyment of this right, constitutes a violation of the Covenant.⁶¹ Both direct and indirect forms of differential treatment can amount to discrimination under Article 2(2) ICESCR.

21. Direct discrimination occurs when an individual is treated less favourably than another person in a similar situation on the basis of gender, age, disability, race or any other prohibited ground.⁶² Indirect discrimination refers to laws, policies or practices which appear neutral at face value, but have a disproportionate impact on particular groups' enjoyment of the right to food, or other Covenant rights.⁶³ Ensuring non-discrimination is not just about abolishing laws and policy that are discriminatory 'on their face, it also requires acknowledging and responding to the needs of different groups in laws and policy. For example, in setting social security measures, ensuring equal enjoyment of the right to food requires states to take into account the different dietary needs of specific population

⁵⁸ FAO, *The Right to Food in Practice, Implementation at the National Level*, 2006, p. 2, available at: <http://www.fao.org/docrep/016/ah189e/ah189e.pdf>.

⁵⁹ OHCHR, *The Right to Adequate Food Fact Sheet No. 34*, 2010, p. 19.

⁶⁰ Prohibited grounds include race, colour, sex, language, age, religion, political or other opinion, national or social origin, property, birth or other status; See CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 18, available at: <http://www.unhchr.ch/tbs/doc.nsf/0/3d02758c707031d58025677f003b73b9>.

⁶¹ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 18.

⁶² CESCR, *General Comment 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the ICESCR)*, 2009, para. 10, available at: <http://www2.ohchr.org/english/bodies/cescr/docs/E.C.12.GC.20.doc>.

⁶³ CESCR, *General Comment 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the ICESCR)*, 2009, para. 10.

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groups (such as children, pregnant and breastfeeding mothers, disabled people or an illness) so that the level of assistance ensures their access to adequate food.⁶⁴

22. Every state has a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights in the ICESCR.⁶⁵ For example, a state in which any significant number of individuals is deprived of essential food is, prima facie, failing to discharge its obligations under the Covenant.⁶⁶ Thus, violations of the Covenant occur when a state fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger.⁶⁷ If a state seeks to argue that resource constraints make it impossible to provide access to food for those who are unable to secure such access by themselves, the state has to demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations.⁶⁸

23. States cannot allow backward steps (so-called 'retrogressive measures') with regard to the existing enjoyment of the right to food unless there are strong justifications for them.⁶⁹ For example, withdrawing without justification existing social security entitlements which guarantee access to basic living essentials, such as cooking equipment and subsistence food provisions, could constitute backward steps (i.e. retrogression) under the ICESCR.⁷⁰ Any deliberately retrogressive measures require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant (including the right to food) and in the context of the full use of the maximum available resources.⁷¹ We will discuss further below about the issue of the permissibility of backward steps (or not) in a time of economic crisis.

⁶⁴ OHCHR, *The Right to Adequate Food Fact Sheet No. 34*, 2010, pp. 20-21.

⁶⁵ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 17.

⁶⁶ CESCR, *General Comment 3, The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, 1990, para. 10, available at: <http://www1.umn.edu/humanrts/gencomm/epcomm3.htm>.

⁶⁷ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 17.

⁶⁸ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 17.

⁶⁹ OHCHR, *The Right to Adequate Food Fact Sheet No. 34*, 2010, pp. 21-22; See also M Sepulveda, 'The Nature of the Obligations under the International Covenant on Economic Social and Cultural Rights' *Intersentia*, 2003, p. 323.

⁷⁰ See commentary on the prohibition of retrogression in Nolan, A. et al, *Human Rights and Public Finance: Budgets and the Promotion of Economic and Social Rights*, Hart publishing, 2013.

⁷¹ CESCR, *General Comment 3, The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, 1990, para. 9.

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vi. Domestic legislation and strategies

24. When implementing the right to food at the national level, states must adopt a strategy to ensure food and nutrition security for all.⁷² Such a strategy should coordinate efforts across Government departments, guarantee adequate resources and set time-bound targets to be achieved.⁷³
25. Having developed a strategy, states must monitor the realisation of the right to food. As a result of these monitoring efforts, states should be able to determine whether everyone has access to adequate food, and identify any failures in terms of compliance with the right. States must identify the barriers affecting the realisation of the right to food, and should facilitate the adoption of corrective measures.⁷⁴

vii. Procedural Requirements

26. The right to food should lie at the heart of law and policy making processes.⁷⁵ In this regard, states must at all times, take economic, social and cultural rights into account. Legislation, strategies and policies should be reviewed to ensure that they are compatible with obligations arising from the Covenant, and should be repealed or amended if inconsistent with Covenant requirements.⁷⁶ Adopting laws or policies which are manifestly incompatible with legal obligations relating to the right to food amounts to a violation of the ICESCR, as does repealing or suspending legislation which is necessary for the continued enjoyment of the right to food.⁷⁷
27. Adopting a rights-based approach to food means that decision-making processes should be guided by the human rights principles of participation, accountability, non-discrimination,

⁷² CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 21.

⁷³ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, paras. 22-27.

⁷⁴ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 31.

⁷⁵ OHCHR, *Principles and guidelines for a human rights approach to poverty reduction strategies*, 2006, para 19, available at: <http://www.ohchr.org/Documents/Publications/PovertyStrategiesen.pdf>. The UN Committees has stated that States should consider adopting a framework law for the right to food (i.e. a statute which is drafted in general terms and lays down a framework for the realisation of the right to food, mostly in the form of overall principles, objectives and guidelines) - see CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para 29.

⁷⁶ CESCR, *General Comment 19, The right to social security (art. 9)*, 2007, para. 67, available at: <http://www1.umn.edu/humanrts/gencomm/escgencom19.html>.

⁷⁷ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 19.

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transparency, human dignity, empowerment and rule of law,⁷⁸ commonly referred to as the 'PANTHER' framework.⁷⁹ Accountability requires that public authorities be held accountable for their actions through judicial procedures or other mechanisms, ensuring effective remedies where the right to food is violated. Transparency requires that people have access to information regarding the right to food (e.g. statistics detailing food insecurity levels and food bank referral figures).

viii. Effective remedies

28. According to the CESCR, if the right to food is violated, rights-holders should have access to effective remedies at both national and international levels.⁸⁰ While states ought to provide judicial remedies with respect to justiciable rights,⁸¹ non-judicial remedies, such as ombudsman procedures, can also be effective in providing relief.⁸² Furthermore, the UN Committee has encouraged states to incorporate the Covenant, including the right to food, into domestic law, in order to enhance the scope and effectiveness of remedial measures.⁸³

ix. Economic crisis

29. The CESCR has affirmed that "even in times of severe resources constraints whether caused by a process of adjustment, [or] economic recession ... the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes."⁸⁴ Similarly, in a 2013 issue paper, the Council of Europe Commissioner for Human Rights affirmed that economic, social and cultural rights are not expendable in times of economic hardship, but are essential to a sustained and inclusive recovery. In 2012, the Chairperson of the CESCR reminded states that all measures adopted in

⁷⁸ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, paras. 23-24.

⁷⁹ FAO Right to Food Unit, *Guide to Conducting a Right to Food Assessment*, 2009, available at:

http://www.fao.org/fileadmin/templates/righttofood/documents/RTF_publications/EN/3_toolbox_Assessment_guide.pdf.

⁸⁰ CESCR, *General Comment 3, The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, 1990, para. 5

⁸¹ CESCR, *General Comment 3, The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, 1990, para. 5

⁸² UN General Assembly, *The role of the Ombudsman, mediator and other national human rights institutions in the promotion and protection of human rights*, 2013, available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/RES/67/163

⁸³ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 33

⁸⁴ CESCR, *General Comment 3, The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, 1990, para. 12; Council of Europe Commissioner for Human Rights, *Safeguarding human rights in times of economic crisis*, 2013, p. 7, available at: <http://tinyurl.com/o9rnjyl>

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response to the economic crisis must be compliant with the Covenant – including the right to food.

Box 1: Securing human rights during times of economic crisis

In a 2012 letter addressed to states, the Chairperson of the CESCR recognised that any proposed adjustment in response to the crisis has to meet the following requirements: “first, the policy must be a **temporary** measure covering only the period of crisis. Second, the policy must be **necessary** and **proportionate**, in the sense that the adoption of any other policy, or a failure to act, would be more detrimental to economic, social and cultural rights. Third, the policy **must not be discriminatory** and must comprise all possible measures, including tax measures, to support social transfers to mitigate inequalities that can grow in times of crisis and to ensure that the rights of the disadvantaged and marginalised individuals and groups are not disproportionately affected. Fourth, the policy must identify the **minimum core content** of rights or a social protection floor, and ensure the protection of this core content at all times.”

Letter addressed by the Chairperson of the CESCR to States parties to the ICESCR, 2012, available at: <http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf>

3) Compliance of the UK Legal and Policy Framework with the Right to Food

30. In this section we analyse whether the UK legal and policy framework is compliant with Covenant obligations regarding the right to food. At a domestic level, the UK has adopted a bifurcated approach to human rights. While the rights of the European Convention on Human Rights (ECHR)⁸⁵ were 'brought home' under the Human Rights Act (HRA),⁸⁶ and

⁸⁵ ECHR, 1950, available at: <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>.

⁸⁶ HRA, 1998, available at: <http://www.legislation.gov.uk/ukpga/1998/42/data.pdf>.

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are legally justiciable in domestic courts, the right to food, and many economic and social rights, remain unenforceable⁸⁷ because the ICESCR has not been incorporated into UK law.

31. Rather than seeking to secure the right to food through a human rights-based approach, which recognises individuals as rights-holders and public authorities as duty bearers (i.e. institutions obligated to secure the enjoyment of human rights), the UK Government has said that it aims to guarantee the right to food through the legislation and regulations of the welfare state.⁸⁸ While public authorities are required to act consistently with the Convention rights domestically incorporated in terms of the HRA,⁸⁹ there is no equivalent duty on public authorities to act consistently with (or respect, protect and fulfil) the right to food. To this extent, the UK is failing to provide a legal framework which is capable of ensuring that all duty-bearers comply with their obligations under the Covenant concerning the right to food.

i. Domestic legislative procedures

32. Domestic legislative procedures evidence an apparent indifference on behalf of the UK with regard to the right to food. Section 19 HRA requires the Government to make a declaration indicating their view as to whether the draft legislation in question conflicts with Convention rights,⁹⁰ there is no equivalent duty to take the right to food, or other rights contained in the ICESCR, into account when enacting legislation and policy. For instance, the Welfare Reform Bill was passed by Parliament with minimal amendments despite clear warnings from the Joint Committee on Human Rights (JCHR)⁹¹ in their report examining the compatibility of the Bill with international human rights law, including the ICESCR, that "the cumulative impact of the Bill's provisions may lead to retrogression which is not justified by the factors set out in the General Comments of the UN Committees."⁹²

⁸⁷ It is important to note that the right to education is recognised by Article 2, Protocol 1 to the ECHR, and that other economic and social rights have been indirectly enforced through ECHR adjudication – see Palmer, E., *Judicial Review, Socio-economic Rights and the Human Rights Act*, Hart Publishing, 2007.

⁸⁸ CESCR, *Fifth periodic reports submitted by States parties under articles 16 and 17 of the Covenant, United Kingdom of Great Britain and Northern Ireland*, 2007, pp. 39-40, available at: <http://tinyurl.com/qgecy25>.

⁸⁹ HRA, 1998, s. 6, available at: <http://www.legislation.gov.uk/ukpga/1998/42/data.pdf>.

⁹⁰ HRA, 1998, s. 19, available at: <http://www.legislation.gov.uk/ukpga/1998/42/data.pdf>.

⁹¹ The JCHR is a select committee of both the House of Commons and House of Lords which is charged with considering human rights issues in the UK – see <http://www.parliament.uk/jchr>.

⁹² JCHR, *Legislative Scrutiny: Welfare Reform Bill*, 2011, p. 24, available at: <http://www.publications.parliament.uk/pa/jt201012/jtselect/jtrights/233/233.pdf>.

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33. The partial nature of the UK's framework of human rights protection belies an unwillingness on the part of successive governments to give the right to food domestic legal effect. This in turn reflects a broader failure to recognise economic and social rights as human rights imposing legal duties of compliance on the UK. During the 2009 CESCR review of the UK, for example, the Government declared that ICESCR rights, including the right to food, constitute mere declaratory principles and programmatic objectives rather than legal obligations,⁹³ thus negating the rights based approach which lies at the heart of the Covenant.

ii. The absence of a UK rights-based food strategy

34. Domestic laws and policies cannot guarantee the right to adequate food for everyone in the UK unless they are connected by an overarching national rights-based food strategy. In accordance with General Comment 12 of the CESCR,⁹⁴ such a strategy should, firstly, coordinate efforts across Government departments, secondly, guarantee adequate resources and, thirdly, set time-bound targets to be achieved.

35. In the UK, no such rights-based food strategy currently exists. Firstly, instead of coordinating efforts across Government departments, food-related policy straddles the Department for Environment, Food and Rural Affairs (DEFRA), the Department for Communities and Local Government (DCLG) and the Department for Work and Pensions (DWP) without clear lines of responsibility or leadership. Secondly, rather than guaranteeing adequate resources, funding has been actively depleted due to public service spending cuts (see Chapter I above) and the termination of crisis loans (see Chapter III (3)), which previously provided emergency hardship payments to meet the costs of food and other basic essentials, thereby raising serious questions about the Government's use of maximum available resources to realise the right to food. Thirdly, with regard to the setting of targets, successive UK Governments have failed to define benchmarks or indicators by which levels of food security and progressive realisation of the right to food may be effectively measured.

⁹³ CESCR, Concluding observations of the CESCR: *United Kingdom of Great Britain and Northern Ireland, the Crown Dependencies and the Overseas Dependent Territories*, 2009, p. 3, available at: <http://tinyurl.com/nkag223>.

⁹⁴ See CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, paras. 21-27.

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iii. Failure to monitor realisation of the right to food

36. Having drafted a strategy, states must monitor the realisation of the right to adequate food.⁹⁵ According to the 2014 report commissioned by DEFRA on food aid, however, the UK suffers from a "lack of systematic monitoring and evidence gathering on food insecurity and food aid uptake."⁹⁶ In particular, the DWP remains unwilling to track Government food bank 'signposting',⁹⁷ and denies the causative connection between the implementation of recent welfare reform measures and increased reliance on food banks.⁹⁸

37. This lack of Government data makes it more difficult to measure and assess UK compliance with the right to food than it should be. In the context of this report, for example, we have been unable to analyse official figures concerning levels of UK food bank usage. Instead, we have had to rely on data from non-governmental sources, including academic institutions, national charities and civil society organisations. In human rights terms, the Government's failure to monitor the realisation of the right to adequate food indicates an apparent reluctance to comply with the ICESCR duties of transparency and accountability.⁹⁹

iv. UK anti-Poverty Frameworks

38. Existing welfare and social security legislation is plainly relevant to the UK's protection of economic and social rights.¹⁰⁰ For example, the Government has retained the Child Poverty Act (CPA),¹⁰¹ which imposes legal duties on public authorities, and sets time-bound targets

⁹⁵ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para 31.

⁹⁶ DEFRA, *Household Food Security in the UK: A Review of Food Aid Final Report*, 2014, p. 59, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283071/household-food-security-uk-140219.pdf.

⁹⁷ BBC, "Numbers relying on food banks triple in a year", *BBC News*, 16 October 2013, available at: <http://www.bbc.co.uk/news/business-24536817>.

⁹⁸ See e.g. Hansard, *House of Commons Debates, Topical Questions*, 9 September 2013, column 681, available at: <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130909/debtext/130909-0001.htm#13090914000030>

⁹⁹ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, pp. 6-7, paras. 23-24; See also FAO Right to Food Unit, *Guide to Conducting a Right to Food Assessment*, 2009, available at: http://www.fao.org/fileadmin/templates/righttofood/documents/RTF_publications/EN/3_toolbox_Assessment_guide.pdf.

¹⁰⁰ CESCR, *Fifth periodic reports submitted by States parties under articles 16 and 17 of the Covenant, United Kingdom of Great Britain and Northern Ireland*, 2007, pp. 39-40, available at: <http://tinyurl.com/qgecy25>.

¹⁰¹ Child Poverty Act, 2010, ss. 1-6, available at: <http://www.legislation.gov.uk/ukpga/2010/9/section/1>; The Child Poverty Act was introduced by the former Labour government.

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for their realisation. As this report demonstrates however, the CPA and related measures have not resulted in universal enjoyment of the right to food by all in the UK.

v. UK food policies

39. There have been some encouraging developments from the perspective of the right to food within individual departments. In September 2013, in particular, the Department for Education announced that all infant school pupils in state funded schools in England, as well as disadvantaged students at sixth form colleges and further education colleges, will be eligible for a free school meal from September 2014.¹⁰² While the policy is not framed in human rights terms, evidence indicates that the expansion of free school meals provision would advance the realisation of the right to food for school children. For example, students in receipt of free school meals were found to be on average two months ahead of their peers elsewhere, and at Key Stage Two the impact on academic achievement was between three percent and five percent. Similarly, with regard to nutrition, there was a 23 percent increase in the number of children eating vegetables at lunch and an 18 percent drop in those eating crisps.¹⁰³ Equally, DEFRA's decision to develop national policies to improve food sustainability, such as the Green Food Project,¹⁰⁴ and to combat food waste,¹⁰⁵ is a welcome development with regard to the advancing the realisation of the right to food.

Recommendations –The Human Right to Food:

40. *We recommend that the Government formulate a national right to food strategy and action plan designed to ensure the right to food for everyone in the UK. The strategy should be based on a comprehensive analysis of the state of enjoyment of the right to food in the UK*

¹⁰² Department for Education, *Free school lunch for every child in infant school*, 2013, available at: <https://www.gov.uk/government/news/free-school-lunch-for-every-child-in-infant-school>.

¹⁰³ Dimpleby, H, *The School Food Plan*, 2013, pp. 116-117, available at: <http://www.schoolfoodplan.com/wp-content/uploads/2013/07/School-Food-Plan-2013.pdf>.

¹⁰⁴ DEFRA, *Green Food Project Conclusions*, 2012, available at: <https://www.gov.uk/government/publications/green-food-project-conclusions>.

¹⁰⁵ DEFRA, *Waste prevention programme for England*, 2013, available at: <https://www.gov.uk/government/publications/waste-prevention-programme-for-england>; See also DEFRA, *Government review of waste policy in England*, 2011, available at: <https://www.gov.uk/government/publications/government-review-of-waste-policy-in-england-2011>.

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and the causes of any identified gaps in the fulfilment of the right. The action plan must include firm commitments to:

- a. Establish appropriate institutions for the monitoring of the right to food in the UK;*
- b. Address the causes of any identified failings in the implementation of the right;*
- c. Introduce indicators and benchmarks for the purposes of assessing the degree of state compliance with the right, and the efficacy of policies introduced to improve the UK state's compliance with the right;*
- d. Conduct right to food impact assessments for all new legislation, and oblige all relevant actors to consider and measure the likely impact of their policies and actions on the right to food;*
- e. Introduce time-bound targets to improve fulfilment of the right to food in the UK.*

III. Food accessibility:

41. Food accessibility encompasses both economic and physical accessibility (see Chapter II (2)(ii)). Economic accessibility means that food must be affordable. For example, individuals should be able to afford food to ensure an adequate diet without compromising on other basic needs, such as those related to heating or rent. Physical accessibility means that food should be accessible to all, including to those members of society who are social, physically and economically vulnerable, including children, the sick, people with disabilities or older persons, for whom it may be more difficult to acquire food. In this section of the report, we consider the effect of employment, housing and social security policies on food accessibility, and find that static incomes, unaffordable housing costs and wide-ranging welfare reforms have impacted significantly on the realisation of the right to food. However, given their central position in the national debate around food insecurity, we start our assessment with the issue of food banks.

1) Food Banks

42. Food banks provide food aid to people in acute need, often following referral by a health or social care professional, or other agency.¹⁰⁶ In the UK, food banks are run by a range of volunteer-based organisations, redistributing food donated by consumers, retailers and the food industry.¹⁰⁷ The largest network is co-ordinated by the Trussell Trust which has more than 400 food banks UK-wide.¹⁰⁸

43. Individuals are being referred to food banks in ever increasing numbers. 913,138 people received three days' emergency food from Trussell Trust foodbanks in 2013-14 compared to 346,992 in 2012-13, a 163 percent rise on numbers helped in the previous financial year.¹⁰⁹

¹⁰⁶ House of Commons Library, *Food Banks and Food Poverty*, 2013, p. 1, available at:

<http://www.parliament.uk/business/publications/research/briefing-papers/SN06657/food-banks-and-food-poverty>.

¹⁰⁷ House of Commons Library, *Food Banks and Food Poverty*, 2013, p. 1.

¹⁰⁸ <http://www.trusselltrust.org/stats>.

¹⁰⁹ Trussell Trust, Latest foodbank figures top 900,000, 2014; See also Oxfam, *Walking the breadline: The scandal of food poverty in 21st century Britain*, 2013, p. 5, available at: <http://www.church-poverty.org.uk/walkingthebreadline/info/report/walkingthebreadlinefile>.

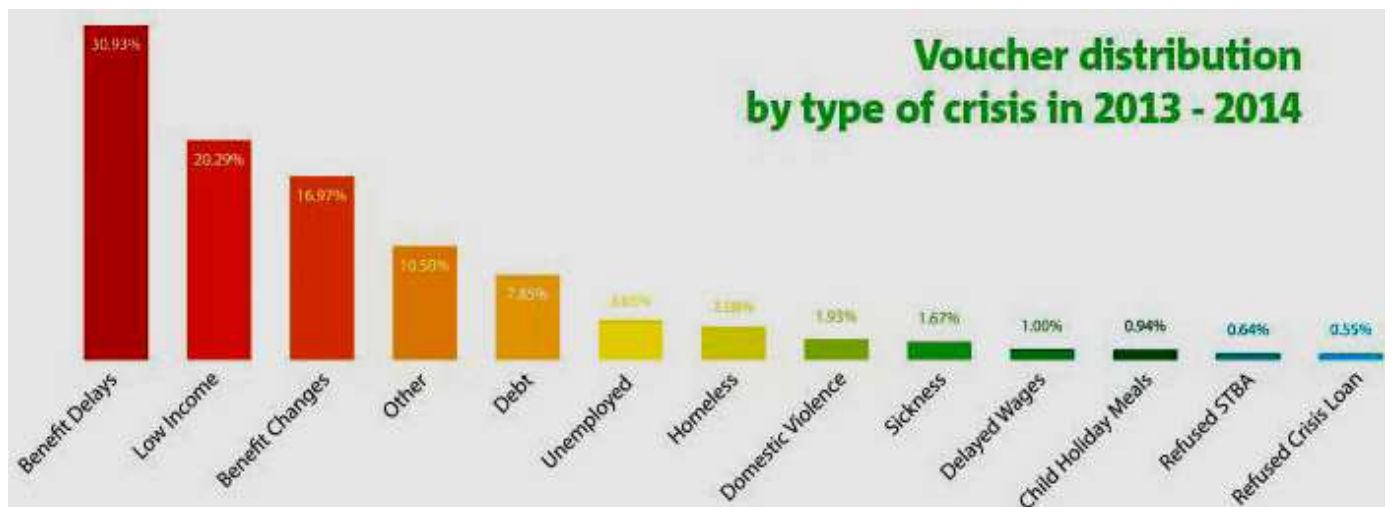
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44. The UN Special Rapporteur on the Right to Food recently commented that, "[Food banks] represent the best and most up-to-date source of data on social marginalisation in our societies ... food bank usage tells us where specifically [society] is broken, and which groups of people are falling through the cracks."¹¹⁰ For this reason, it is important to determine why food bank usage in the UK has increased significantly since 2008.

a. Causes of increased food bank usage

45. A report commissioned by DEFRA on food aid identified the following factors as potential triggers for the recent upsurge in food bank usage: loss of, reductions in or problems associated with, social security benefit payments; low income; indebtedness; and homelessness.¹¹¹ Correspondingly, as shown in Figure 1, the leading causes for referral to Trussell Trust food banks are benefit delays (30.93 percent); low income (20.29 percent); benefit changes (16.97 percent); debt (7.85 percent); and refusal of a crisis loan (4.29 percent).¹¹²

Figure 1: Trussell Trust food voucher distribution by type of crisis



(The Trussell Trust, *Statistics*, 2013)

¹¹⁰ Schutter, O, "Food banks can only plug the holes in social safety nets," *The Guardian*, 27 February 2013, available at: <http://www.theguardian.com/commentisfree/2013/feb/27/food-banks-social-safety-nets>.

¹¹¹ See DEFRA, *Household Food Security in the UK: A Review of Food Aid Final Report*, 2014, p. 30, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/283071/household-food-security-uk-140219.pdf.

¹¹² See Trussell Trust, *Latest foodbank figures top 900,000, 2014*, available at: <http://tinyurl.com/ojzvz4a>.

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b. Implications for the right to food

46. Food banks combat immediate hunger, rather than seeking to guarantee long term food security. Trussell Trust foodbanks, for example, provide a minimum of three days emergency food and support to people experiencing crisis in the UK. All recipients must be referred to Trussell Trust foodbanks by a frontline care professional and may only receive up to three consecutive referral vouchers to help avoid dependency.¹¹³ The Trussell Trust model successfully navigates the tension between addressing immediate presenting symptoms and tackling root causes of household food insecurity by signposting recipients to other agencies or organisations for further help, and providing a supportive environment and a 'listening ear.'¹¹⁴
47. The targeted approach of UK food banks is in keeping with the findings of the DEFRA commissioned report, which found that food aid provides "immediate relief for household members", but has "a limited impact on overall household food security status",¹¹⁵ to the extent that it is "not able to address and overcome wider determinants (root causes) of household food insecurity,"¹¹⁶ such as loss of, reductions in or problems associated with, social security benefit payments; low income; indebtedness; and homelessness.¹¹⁷
48. However, according to Chris Mould, Chairman of the Trussell Trust, food banks are increasingly filling gaps caused by welfare reform, and providing support which was previously delivered by jobcentres and the DWP.¹¹⁸ At a national level, the DWP, via its network of jobcentres, 'signposts' individuals to food banks when they "can offer no more help".¹¹⁹ According to a "high level process"¹²⁰ put in place by the DWP, the four reasons to recommend a food bank when claimants ask for help are: hardship caused by benefit changes; benefit payment delays; a benefit advance having been refused; or the advance

¹¹³ House of Commons Library, *Food Banks and Food Poverty*, 2013, p. 3.

¹¹⁴ DEFRA, *Household Food Security in the UK: A Review of Food Aid Final Report*, 2014, p. 38.

¹¹⁵ DEFRA, *Household Food Security in the UK: A Review of Food Aid Final Report*, 2014, p. 35.

¹¹⁶ DEFRA, *Household Food Security in the UK: A Review of Food Aid Final Report*, 2014, p. 36.

¹¹⁷ See DEFRA, *Household Food Security in the UK: A Review of Food Aid Final Report*, 2014, p. 30.

¹¹⁸ Butler, P., Food banks are filling gaps left by jobcentres and the DWP, 18 March 2014, *The Guardian*, available at: <http://www.theguardian.com/voluntary-sector-network/2014/mar/18/dwp-jobcentres-food-banks-gaps>

¹¹⁹ House of Commons Library, *Food Banks and Food Poverty*, 2013, p. 4.

¹²⁰ Butler, P., "DWP advising jobcentres on sending claimants to food banks", *The Guardian*, 11th March 2014, available at: <http://www.theguardian.com/society/2014/mar/11/food-bank-jobcentre-dwp-referrals-welfare>.

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not being enough to meet their needs. At a local level, 140 out of 323 councils directly subsidised food banks between 2012-14, spending nearly £3 million in total to combat food insecurity.¹²¹

49. In April 2014, research by the Sheffield Political Economy Research Institute (SPERI)¹²² found that “food bank demand appears to be signalling the inadequacy of both social security provision and the processes through which it is delivered.” SPERI suggest that there appear to be two likely lines of development in this regard:

On the one hand, philanthropic food banking could become increasingly part of the welfare state, should local assistance schemes formalise referrals to food banks as part of their provision, and if practices become embedded and localised systems of formal and informal support develop. ... On the other hand, food banks may remain distinct philanthropic initiatives but find themselves working in the absence of the state.

50. As such, there is a real concern that food banks are, in practice, becoming a substitute for an adequate social security system, as a result of welfare reform and increased benefit sanctions and delay (see Chapter III (3)). According to the UN Special Rapporteur on the Right to Food:

... food banks [...] should not be seen as a substitute for the robust social safety nets to which each individual has a right. Instead social protection systems – including unemployment and child benefits – must be set at levels that take into account the real cost of living and ensure adequate food for all, without compromising on other essentials. And governments should not be allowed to escape their obligations because private charities make up for their failures.

¹²¹ BBC News, “Councils spending £3m on food poverty and food banks”, *BBC News*, 3 March 2014, available at: <http://www.bbc.co.uk/news/uk-26369558>.

¹²² SPERI, *Food bank provision & welfare reform in the UK*, 2014, p. 2 available at: <http://speri.dept.shef.ac.uk/wp-content/uploads/2014/01/SPERI-British-Political-Economy-Brief-No4-Food-bank-provision-welfare-reform-in-the-UK.pdf>. This research is based on fifty interviews conducted with strategic staff and co-ordinators of local emergency food projects in South and West Yorkshire, the Cotswolds and the South West.

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2) Costs of Living

51. Decent work and adequate wages are integral to the enjoyment of the right to adequate food.¹²³ In the UK, the right to food remains under threat due to a long-term decline in real wage earnings, set against an accelerated climb in food prices.

i. Fall in real wages

52. While the Government has sought to combat in-work poverty by cutting income tax for low earners and lowering the minimum income tax bracket,¹²⁴ levels of pay have fallen considerably since the start of the recent economic downturn. Real wage growth averaged 2.9 percent in the 1970s and 1980s, 1.5 percent in the 1990s, 1.2 percent in the 2000s, but has fallen to minus 2.2 percent since the first quarter of 2010.¹²⁵ Although pay levels marginally recovered in late 2013,¹²⁶ overall, the post-2010 fall in real wages amounts to the longest period of decline since 1964 (see Figure 2 below). Reflecting these shifts, the average disposable income per household decreased by almost £1,200 (or 4.0 percent) between 2007/08 and 2011/12,¹²⁷ and overall, 900,000 more people were in absolute low income in 2011/12 than in 2010/11.¹²⁸ Taking these factors into account, the number of workers earnings less than a living wage - the amount considered adequate to achieve a minimum standard of living (including access to adequate food) - rose from 3.4 million in 2009 to 4.8 million in 2012.¹²⁹

¹²³ CESCR, *The Right to Work, General comment No. 18*, 2005, p. 1, available at:

<http://www1.umn.edu/humanrts/gencomm/escgencom18.html>.

¹²⁴ HM Treasury, *Budget 2013*, 2013, p. 5, available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/221885/budget2013_complete.pdf. The efficacy of these measures remains disputed – see further para. 106.

¹²⁵ ONS, *An Examination of Falling Real Wages, 2010 - 2013*, 2014, p. 17.

¹²⁶ ONS, *Annual Survey of Hours and Earnings, 2013 Provisional Results*, 2014, pp. 11-12 .

¹²⁷ ONS, *The Effects of Taxes and Benefits on Household Income, 2011/12*, 2013, p. 11, available at:

http://www.ons.gov.uk/ons/dcp171778_317365.pdf; Figures account for inflation and household structure.

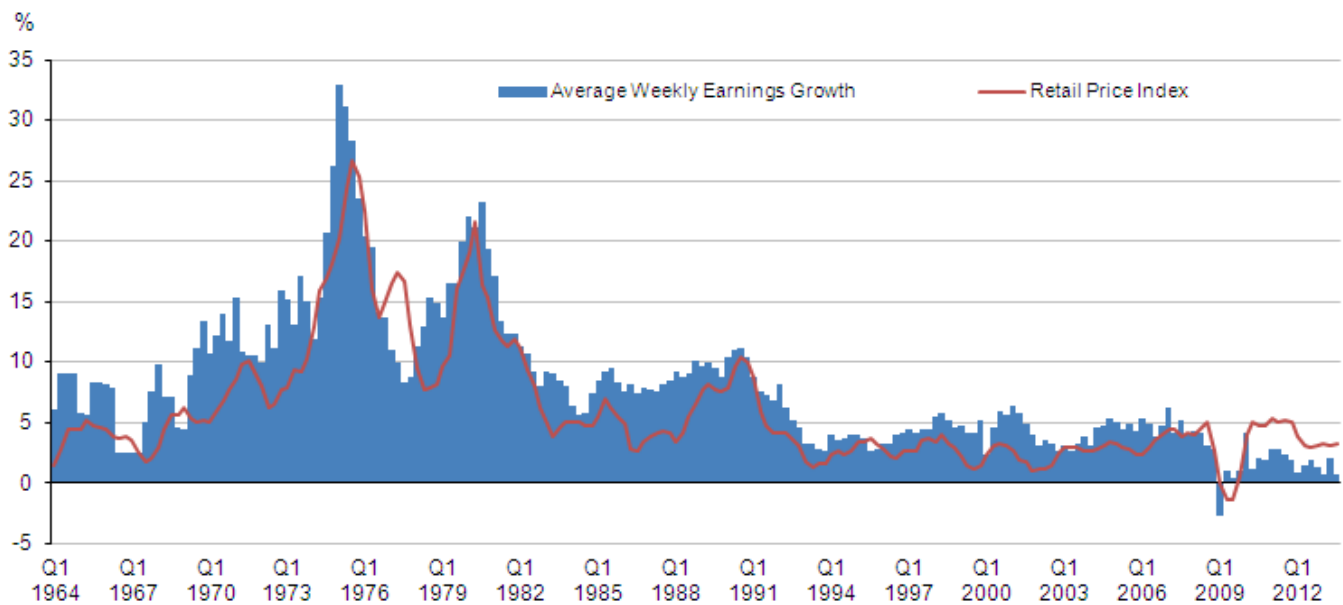
¹²⁸ See DWP, *Low Income and Material Deprivation in the UK*, 11/12, first release, 2013, pp. 5 and 8, available at:

<http://tinyurl.com/norq62o>; Absolute low income measures the percentage of individuals who receive less than 60 per cent of average income in that given year adjusted by inflation.

¹²⁹ Resolution Foundation, *Low Pay Britain 2013*, 2013, p. 14, available at: <http://tinyurl.com/kzka5c3>.

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Figure2: Wage growth and RPI inflation, Q1 1964 to Q3 2013



(Office for National Statistics, *An Examination of Falling Real Wages*, 2014, p. 2)

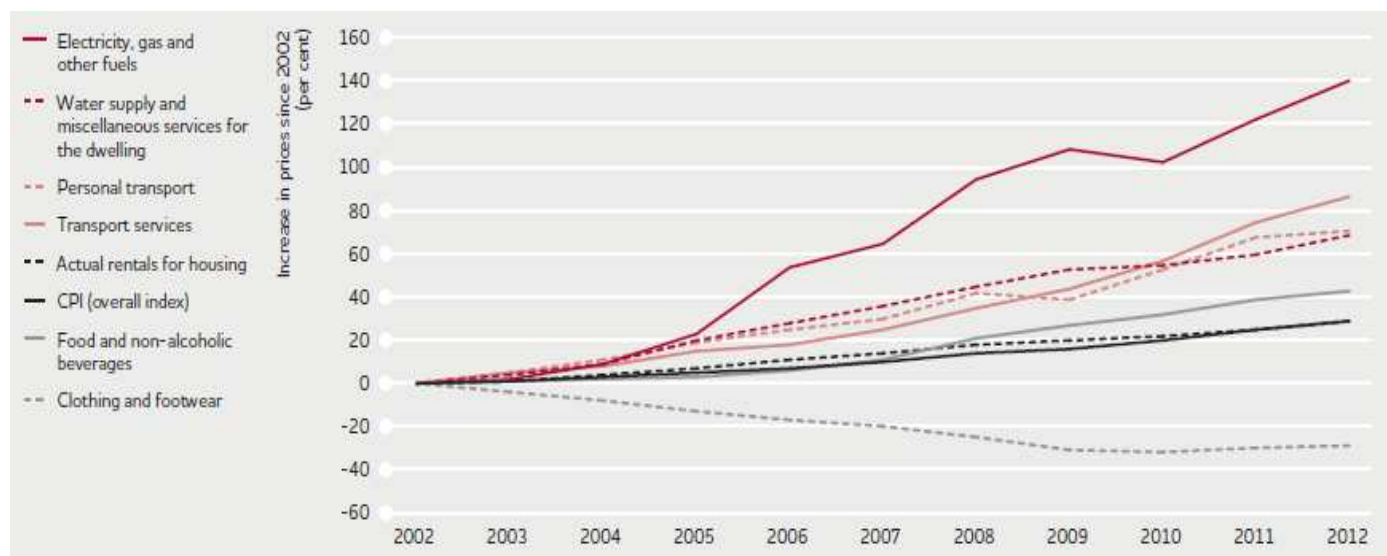
ii. Rise in food prices and the cost of living

53. The post-recession drop in UK real wage earnings has been mirrored by an upsurge in food prices. As shown in Figure 3, food prices have risen more quickly than inflation since 2007, meaning that in total they are 41 percent higher than in 2002.¹³⁰ Fruit and vegetables, which are key to the enjoyment of a healthy and nutritious diet, were among the food items which increased most sharply in cost, rising by 34 percent and 31 percent respectively between 2007 and 2013.¹³¹

¹³⁰ Joseph Rowntree Foundation, *Monitoring Poverty and Social Exclusion*, 2013, p. 22, available at: <http://www.jrf.org.uk/sites/files/jrf/MPSE2013.pdf>.

¹³¹ DEFRA, *Food Statistics Pocketbook 2013*, 2013, p. 21; See also DEFRA, *Farming and Food Brief*, 2013, p. 9, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/263436/foodfarmbrief-04dec13.pdf.

Figure 3: Rises in the price of food, and the cost of living, from 2002 to 2012



(Joseph Rowntree Foundation, *Monitoring Poverty and Social Exclusion*, 2013, p. 23)

54. The impact of rising food costs has been compounded by increases in the cost of living more generally. For instance, as shown in Figure 3 above, the cost of electricity, gas and other fuels more than doubled, rising by 140 percent.¹³² Domestic water charges rose by 69 percent. The cost of personal transport rose by 71 percent, while the cost of public transport rose by 87 percent.¹³³

55. Whereas a threshold of 30 percent of income has been widely adopted as a measure for assessing housing affordability,¹³⁴ UK weekly rental payments for private renters in 2013 stood at 51 percent of income.¹³⁵ As a result, a 2013 YouGov poll for Shelter found that 31 percent of people surveyed had cut back on food in the past year in order to meet their housing costs.¹³⁶

¹³² Joseph Rowntree Foundation, *Monitoring Poverty and Social Exclusion*, 2013, p. 22.

¹³³ Joseph Rowntree Foundation, *Monitoring Poverty and Social Exclusion*, 2013, p. 22.

¹³⁴ See for example, UN Special Rapporteur on the Right to Food, *Mission to Canada*, 2012, p. 12, available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/AHRC2250Add.1_English.PDF.

¹³⁵ DCLG, *English Housing Survey Households 2011-12*, 2013, p. 27, available at: <http://tinyurl.com/q84tqfc>.

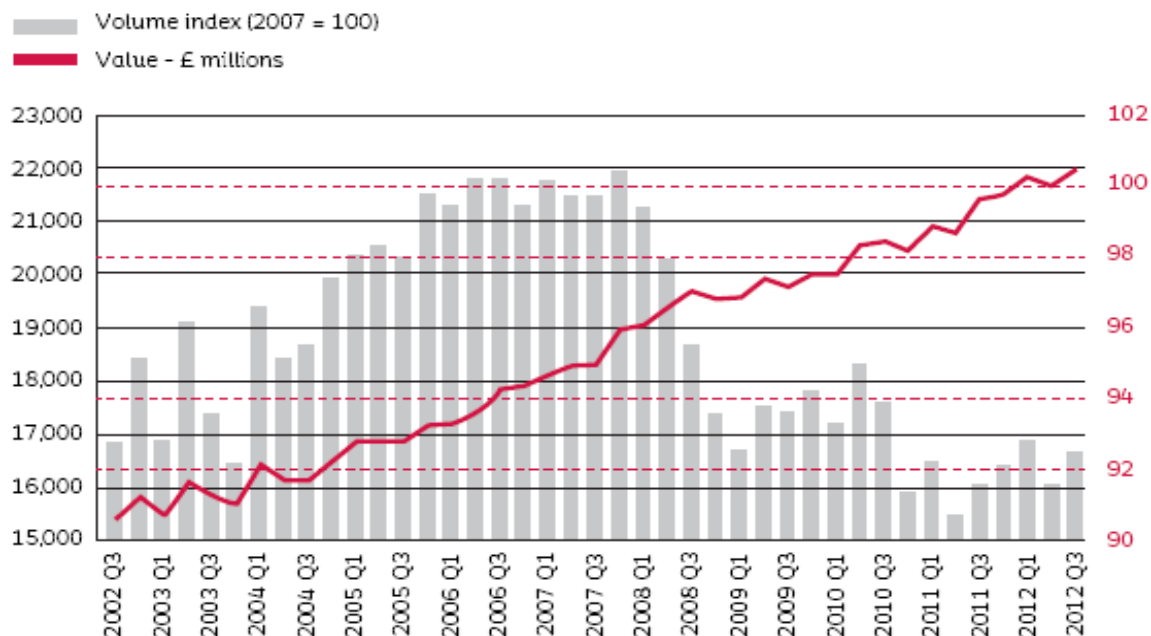
¹³⁶ Shelter, *4 out of 10 families cut back on food to stay in their homes*, 2013, available at: http://england.shelter.org.uk/news/march_2013/4_out_of_10_families_cut_back_on_food_to_stay_in_their_homes.

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iii. Spending more, eating less

56. According to research conducted on behalf of Kellogg's by the independent Centre for Economics and Business Research, households have increased food spending since 2007 in an effort to access an adequate and nutritious diet. However, in real terms, households are eating less, due to the gap between wages and the cost of food. Overall, from 2007 to 2012, expenditure on food in the UK rose sharply – by 19.9 percent, despite a steep decline in the actual volume of food consumed – consumption declined by 7.3 percent over the same time period,¹³⁷ as illustrated in Figure 4 below.

Figure 4: Consumption of food and non-alcoholic beverages in the UK



(Centre for Economics and Business Research, *Hard to Swallow*, 2013)

57. As an example of this overall trend, expenditure on vegetables has risen by 15.3 percent yet the volume consumed has fallen by 8 percent.¹³⁸ Likewise, according to research published by the Institute for Fiscal Studies (IFS), over the period of 2005–07, households purchased, on average, 2086 calories per adult-equivalent per day; in 2008–09,

¹³⁷ Kellogg's and the Centre for Economics and Business Research, *Hard to Swallow, The Facts about Food Poverty*, 2013, pp. 12-13, available at: <http://tinyurl.com/ostx2cd>.

¹³⁸ Kellogg's and the Centre for Economics and Business Research, *Hard to Swallow, The Facts about Food Poverty*, 2013, pp. 12-13.

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households purchased 38 (1.8 percent) fewer calories on average; and by 2010–12, they purchased 74 (3.6 percent) fewer calories than in 2005–07.¹³⁹ To this extent, food has become increasingly inaccessible for households across the UK, as a result of the growing gap between income and the cost of food.¹⁴⁰

iv. National Minimum Wage

58. In March 2013, the National Minimum Wage (NMW) rose from £6.31 to £6.50.¹⁴¹ The NMW has advantages in setting a minimum floor below which pay cannot fall. However, the revised NMW rate is still well below the definition of low pay, as set by the Organisation for Economic Co-operation and Development,¹⁴² which equates to two-thirds of the median full-time hourly wage - about £7.71 an hour in UK terms. The NMW is also significantly lower than the living wage rate, which is £8.80 per hour in London, and £7.65 in the rest of the country.¹⁴³ In contrast with a living wage, the NMW does not ensure that incomes rise with the cost of living to provide a decent wage sufficient to guarantee an adequate standard of living and the right to food. For these reasons, as recognised by the UN Special Rapporteur on the Right to Food,¹⁴⁴ Articles 6 and 7¹⁴⁵ of the Covenant require that the minimum wage set in legislation should be, at least, a “living wage,” that “provides an income allowing workers to support themselves and their families”.¹⁴⁶

¹³⁹ IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, p. 6, available at: <http://www.ifs.org.uk/bns/bn143.pdf>.

¹⁴⁰ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para. 7.

¹⁴¹ HM Government, *One million set to benefit from National Minimum Wage rise to £6.50*, available at:

<https://www.gov.uk/government/news/one-million-set-to-benefit-from-national-minimum-wage-rise-to-650>.

¹⁴² See Organisation for Economic Co-operation and Development, *An Overview of Growing Income Inequalities in OECD Countries: Main Findings*, 2011, available at: <http://www.oecd.org/els/soc/49499779.pdf>.

¹⁴³ GLA London, *A Fairer London: The 2013 Living Wage in London*, 2013, p. 6, available at: <http://www.london.gov.uk/sites/default/files/living-wage-2013.pdf>.

¹⁴⁴ UN Special Rapporteur on the Right to Food, *Mission to Canada*, 2012, p. 20.

¹⁴⁵ ICESCR, 1966, Art 6 and 7.

¹⁴⁶ CESCR, *General comment No. 18 on the right to work*, (2005), para. 7.

3) Social security

59. Since its inception, the UK welfare state has acted as a safety net to prevent marginalised and disadvantaged groups from falling into a state of destitution and hunger.¹⁴⁷ Recent welfare reforms have significantly undermined this safety net, with 16.97 percent of Trussell Trust food bank referrals in 2013 being made as a result of benefit changes (as shown in Figure 1).¹⁴⁸

i. Welfare reform

60. Welfare reform is a main plank of the 2010 Coalition Government Agreement. It seeks to "encourage responsibility and fairness in the welfare system ... [by] providing help for those who cannot work, training and targeted support for those looking for work, but sanctions for those who turn down reasonable offers of work or training".¹⁴⁹ According to the Prime Minister, welfare reform is "at the heart of [the Government's] long-term economic plan – and it is at the heart, too, of [the Government's] social and moral mission in politics today":

*... our long-term economic plan for Britain is not just about doing what we can afford, it is also about doing what is right. Nowhere is that more true than in welfare. For me the moral case for welfare reform is every bit as important as making the numbers add up: building a country where people aren't trapped in a cycle of dependency but are able to get on, stand on their own two feet and build a better life for themselves and their family.*¹⁵⁰

61. As recognised by the JCHR report on the Welfare Reform Bill, "the Government's aim to support more people, and in particular people who might otherwise be disadvantaged in the employment market, into work as the most effective route out of poverty ... is consistent with many international human rights instruments which recognise the right to work and the

¹⁴⁷ See Beveridge, W., "Social Insurance and Allied Services (the Beveridge Report)", 1942, Cmd 6404, available at: http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/19_07_05_beveridge.pdf.

¹⁴⁸ Trussell Trust, *Latest foodbank figures top 900,000, 2014*; See also Figure 1 above.

¹⁴⁹ HM Government, *The Coalition: Our programme for government*, 2010, p. 23, <http://tinyurl.com/cog3trw>; The former Labour Government also increased use of sanctions and conditionality - see Welfare Reform Act, 2009, available at: <http://www.legislation.gov.uk/ukpga/2009/24/contents>.

¹⁵⁰ Cameron, D., *Why the Archbishop of Westminster is wrong about welfare*, 19 February 2014, available at: <http://www.telegraph.co.uk/news/politics/david-cameron/10646421/David-Cameron-Why-the-Archbishop-of-Westminster-is-wrong-about-welfare.html>.

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right to an adequate standard of living".¹⁵¹ However, a number of elements of the recent welfare reforms constitute serious threats to the realisation of the right to food.

ii. Benefit levels

62. There is a real risk that existing benefit levels are insufficient to guarantee enjoyment of the right to food for everyone in the UK. As noted in Chapter III (1), the DEFRA-commissioned report on food aid identified the loss of, reductions in or problems associated with, social security benefit payments as the leading triggers for the recent increase in food bank usage.¹⁵²

63. Analysis by the Joseph Rowntree Foundation¹⁵³ found that basic out-of-work benefits generally leave people significantly short of what the public thinks is needed for an adequate standard of living,¹⁵⁴ including access to adequate food. In particular, out-of-work benefits provide only 38 percent of the minimum income required for an adult with no children, and 57-58 percent for families with children.¹⁵⁵ Similarly, the European Committee of Social Rights (the body tasked with interpreting the European Social Charter) recently found that the minimum levels of UK welfare entitlements, particularly short-term incapacity benefits (£71 per week) and job seeker's allowance (£67 per week), are manifestly inadequate as they fall below 40 percent of the Eurostat median equivalised income.¹⁵⁶

a. Benefit Indexing

64. Concerns are further heightened as a result of the Government decision to index benefits to the Consumer Price Index (CPI), rather than the Retail Price Index (RPI). Whereas the RPI rose at a rate of 4.6 percent in 2011/12, the CPI grew by only 3.1 percent during the same

¹⁵¹ Joint Committee on Human Rights, *Legislative Scrutiny: Welfare Reform Bill*, 2011, p. 8.

¹⁵² See para 45.

¹⁵³ JRF, *A Minimum income standard for the UK in 2013*, 2013, pp. 14-16, available at:

<http://www.jrf.org.uk/sites/files/jrf/income-living-standards-full.pdf>.

¹⁵⁴ The Minimum Income Standard (MIS) is the income that people need in order to reach a minimum socially acceptable standard of living in the UK today, based on what members of the public think. It is calculated by specifying baskets of goods and services required by different types of household in order to meet these needs and to participate in society – see JRF, *A Minimum income standard for the UK in 2013*, 2013, available at: <http://www.jrf.org.uk/sites/files/jrf/income-living-standards-full.pdf>.

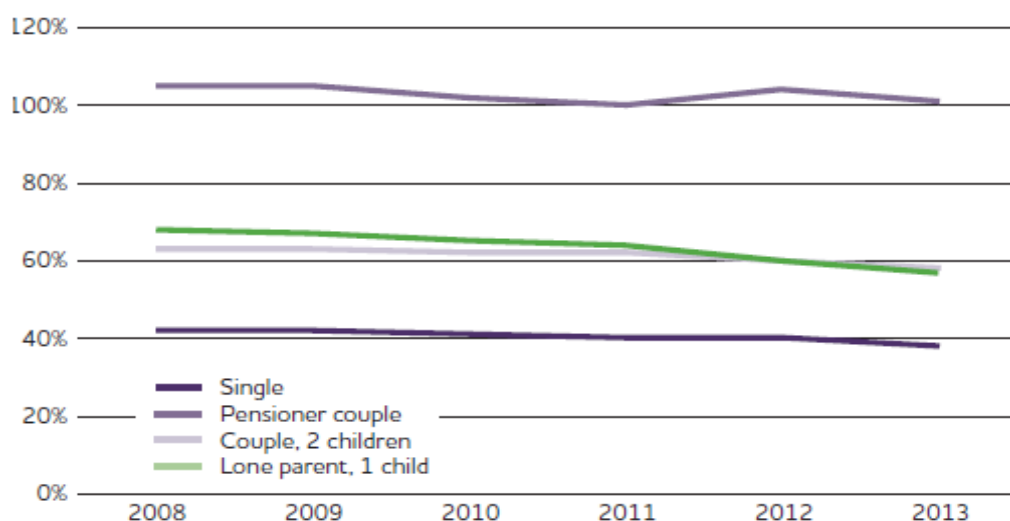
¹⁵⁵ JRF, *A Minimum income standard for the UK in 2013*, 2013, pp. 14-16.

¹⁵⁶ European Committee of Social Rights, *Conclusions XX-2 2013: Great Britain*, 2014, pp. 18-19, available at: http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/State/UKXX2_en.pdf.

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period.¹⁵⁷ As recognised by the Government's Impact Assessment, this means that most benefits are increased less than if they had remained indexed to the RPI,¹⁵⁸ thus causing the gap to widen between social security payments and food prices.

Figure 5: Percentage of Minimum Income Standard provided by benefits



(Joseph Rowntree Foundation, *A Minimum income standard for the UK*, 2013, p. 16)

b. Benefit Capping

65. Over the past five years, there has been a gradual but steady fall in the adequacy of benefits in these terms for working-age families (see Figure 5).¹⁵⁹ The Joseph Rowntree Foundation found that the adequacy of benefits declined in 2013, with working-age benefits rising by just one percent from April 2013 as a result of the 'benefit cap',¹⁶⁰ compared to three to four percent rises in the minimum required for an acceptable standard of living.¹⁶¹

¹⁵⁷ DWP, *Benefit uprating: Equality impact assessment, Social Security Benefits uprating 2011, 2012*, p. 4, available at: <http://tinyurl.com/prbacym>.

¹⁵⁸ DWP, *Benefit uprating: Equality impact assessment, Social Security Benefits uprating 2011, 2011*, p. 4.

¹⁵⁹ JRF, *A Minimum income standard for the UK in 2013*, 2013, p. 16; please note that for pensioners the adequacy of the Pension Credit safety-net has fluctuated rather than shown any distinct trend.

¹⁶⁰ From April 2013 total household benefit payments for working-age claimants have been capped at £500 per week for couples and lone parent households, and £350 per week for single adults - please see DWP, *Benefit Cap, Equality impact assessment*, 2012, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220153/eia-benefit-cap-wr2011.pdf.

¹⁶¹ JRF, *A Minimum income standard for the UK in 2013*, 2013, p. 5.

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66. The SPERI research on food banks¹⁶² found that “welfare reforms are impacting on need for food banks in two distinct ways: people are turning to food banks as a result of (i) changes to entitlements which are leaving them worse off and (ii) inadequate processes which leave them without an income.”¹⁶³ Reforms impacting on income include the cap to benefit payments.¹⁶⁴

67. We are particularly concerned that these reforms have been introduced on a permanent basis, in order to achieve ‘moral’ objectives,¹⁶⁵ rather than merely being of a temporary nature as required by the guidance issued by the Chairperson of the CESCR in 2012.¹⁶⁶ Thus, real concerns arise as to whether the decision to cap and re-index benefits is retrogressive, to the extent that the impact of these measures is projected to worsen over time,¹⁶⁷ thus leading to a growing gap between benefit levels and food costs.

ii. Benefit delays – sanctions and maladministration

68. Available evidence suggests that the post-recession rise in UK hunger is intimately connected to the rise in benefit delays, caused by an increase in both benefit sanctioning,¹⁶⁸ as well as maladministration (particularly with regard to late payment and underpayment).¹⁶⁹ In 2001, 279,840 Job Seekers Allowance (JSA) sanctions were imposed; by 2013, this number had risen to 553,000.¹⁷⁰ A wealth of reported cases present evidence of benefit claimants being forced into hunger for prolonged periods as a result of enhanced sanctions procedures.¹⁷¹

¹⁶²See para 49.

¹⁶³ SPERI, *Food bank provision & welfare reform in the UK*, 2014, p. 1.

¹⁶⁴ SPERI, *Food bank provision & welfare reform in the UK*, 2014, p. 2.

¹⁶⁵See para 60.

¹⁶⁶ Chairperson of the CESCR, *Letter addressed by the Chairperson of the CESCR to States parties to the ICESCR*, 2012.

¹⁶⁷ IFS, *Child and Working-Age Poverty in Northern Ireland from 2010 to 2020*, 2013, p. 29, available at:

<http://www.ifs.org.uk/comms/r78.pdf> - please note, this report analyses the impact of welfare reforms across all of the UK, and not only in Northern Ireland.

¹⁶⁸ Stricter sanctions and conditionality regulations were introduced by the Coalition Government on 22nd October 2012 – see DWP, *Conditionality, sanctions and hardship*, 2011, pp. 9-10, available at: <http://tinyurl.com/ogshruue>.

¹⁶⁹See, e.g., Oxfam, *Walking the breadline: The scandal of food poverty in 21st century Britain*, 2013, p. 13.

¹⁷⁰ DWP, *Ad-hoc analysis on the number of Jobseeker’s Allowance (JSA) sanctions and disallowances (1st April 2000 to 21st October 2012)*, 2013, available at: <http://tinyurl.com/oub4lnr>.

¹⁷¹See, e.g., Citizens Advice, *Citizens Advice Bureaux set to give out more than 100,000 vouchers for emergency food this year*, 2013, available at: http://www.citizensadvice.org.uk/index/pressoffice/press_index/press_20131216.htm.

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69. According to SPERI,¹⁷² “decision-making around sanctions [is ...] particularly problematic from the perspective of food banks, where decisions were seen as unfair and/or arbitrary.” More generally, SPERI found that “ineffective administration of welfare payments was also seen to be an important driver of need, where people’s payments are delayed or stopped and they are left with no or heavily reduced income.”
70. The Public Accounts Committee (PAC) found that the average weekly underpayment in Income Support for affected customers was £24, a considerable proportion (29 percent) of their weekly payment.¹⁷³ In 2012/13, £0.5bn of total benefit expenditure (0.3 percent) was underpaid due to official error, an increase compared to £0.4bn recorded in 2011/12.¹⁷⁴ The high percentage of successful appeals against welfare benefit decisions provides further confirmation of the prevalence of poor administration.¹⁷⁵
71. According to Trussell Trust figures, 30.93 percent of food bank referrals were as a result of benefit delays.¹⁷⁶ Citizen's Advice, which issued more than 100,000 food bank vouchers in 2013, found that sanctions and delays in benefit payments were among the main drivers of hunger among its clients.¹⁷⁷

iii. Crisis loans and community care grants

72. Previously, when individuals faced hunger due to sanctions or late payment, they could potentially rely on crisis loans to obtain vital short-term expenses, such as food or clothes, or community care grants¹⁷⁸ to obtain basic living essentials, such as cooking equipment. However, fiscal responsibility for crisis loans and community care grants was transferred to local authorities in April 2013.¹⁷⁹ The potential for crisis loans to assist in securing access to food was greatly diminished by localisation, as many councils restricted eligibility criteria for

¹⁷² SPERI, *Food bank provision & welfare reform in the UK*, 2014, p. 2.

¹⁷³ House of Commons Committee of Public Accounts, *Reducing errors in the benefits system*, 2011, p. 5, available at: <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpubacc/668/668.pdf>.

¹⁷⁴ DWP, *Fraud and Error in the Benefit System: 2012/13 Estimates*, 2014, pp. 3-5, available at: <http://tinyurl.com/oc7g9f9>.

¹⁷⁵ See DWP, *Employment and Support Allowance: Appeal Outcome*, 2012, available at: <http://tinyurl.com/pqqx96w>.

¹⁷⁶ See Trussell Trust, *Latest foodbank figures top 900,000, 2014*.

¹⁷⁷ Citizens Advice, *Citizens Advice Bureaux set to give out more than 100,000 vouchers for emergency food this year*, 2013

¹⁷⁸ Further information on Community Care Grants and Crisis Loans is available at <https://www.gov.uk/crisis-loans>.

¹⁷⁹ DWP, *Local welfare assistance to replace Social Fund Community Care Grants and Crisis Loans for general living expenses*, 2011, available at: <http://tinyurl.com/q3yo9nm>.

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the fund. As a result, only 20 percent of the money available had been spent during the first six months of the transfer, with some councils allocating as little as 1 percent of their crisis loan budgets.¹⁸⁰ In January 2014, the Government announced that the fund would be cut completely by April 2015.¹⁸¹

73. In turn, individuals in crisis are increasingly being forced to turn to 'pay day loans' and food aid in order to access adequate food. In 2013/14, for example, 1 percent of food bank referrals were made as a result of the refusal of a crisis loan, 8 percent were due to debt,¹⁸² and 78 percent of people taking out a pay day loan did so to afford food.¹⁸³

74. Following the decision to abolish crisis loans and community care grants, there is a real risk that the social security system is failing to guarantee the minimum core of the right to food, to the extent that a growing number of individuals are increasingly unable to access the minimum essential benefit levels required to be free from hunger.¹⁸⁴

Recommendations - Food accessibility

Food Banks

75. *We recommend that the Government undertake further research in order to determine why food bank usage has significantly increased in recent years. In doing so, particular attention should be paid to the following factors: loss of, reductions in or problems associated with, social security benefit payments; low income; indebtedness; and homelessness. The Government should take all necessary action to address the causes that they identify.*

76. *We also recommend that the Government monitor the Department for Works and Pensions' 'sign-posting' to food banks, and take immediate steps to ensure that food banks are not used as a substitute for a comprehensive social security system administered by the state.*

¹⁸⁰ Danczuk, S., "Amid growing poverty, councils have failed to save fund for those in need", *The Guardian*, 7 January 2014, available at: <http://www.theguardian.com/local-government-network/2014/jan/07/council-crisis-funds-scrapped-poverty>.

¹⁸¹ See DCLG, *Provisional local government finance settlement 2014 to 2015: Spending power summary*, 2014, available at: <https://www.gov.uk/government/publications/change-in-spending-power>; See also Butler, P, "Government to stop funding for low-income families facing emergencies," *The Guardian*, 4th January 2014, available at: <http://www.theguardian.com/society/2014/jan/03/government-stops-emergency-funds-low-income-families>.

¹⁸² See Trussell Trust, *Latest foodbank figures top 900,000, 2014*.

¹⁸³ Christians against poverty, *Payday lending customers are typically hungry, cold and worried about eviction*, 2013, p. 1, available at: <https://capuk.org/downloads/press/paydaylendingPDF.pdf>.

¹⁸⁴ CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para 17: See also SPERI, *Food bank provision & welfare reform in the UK*, 2014, p. 2.

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Costs of Living

77. *Taking into account the rising cost of living, including food, fuel and housing prices, we recommend that Government investigate whether incomes are sufficient to guarantee the right to food for all. Where incomes are found to be inadequate, Government should adopt restorative measures. Restorative measures may include the introduction of employment legislation to ensure the minimum wage is a 'living wage' based on actual living costs.*

Welfare Reforms

78. *We recommend that the Government review benefit levels to determine whether those benefits provide recipients with the minimum essential level of income to prevent hunger. To the extent that benefit levels, and benefit administration more generally, are found to be inadequate, we recommend that the Government take immediate steps to fulfil the right to food, which may include the following:*

- a. Revise, or terminate, the benefit cap, and the decision to index benefits to the CPI, in order to reverse the growing gap between benefit levels and food costs;*
- b. Urgently reform the benefit sanctions scheme, and take steps to reduce benefit delay;*
- c. Following the abolition of crisis loans and community care grants, introduce measures to ensure individuals in crisis are able to obtain vital expenses for essential foodstuffs.*

IV. Equality and Non-Discrimination

79. As detailed above, ICESCR Art 2(2), when read alongside Article 11, imposes a duty to ensure equal enjoyment of the right to food for everyone, free from discrimination on a wide range of grounds. While the effects of the recession on food security and enjoyment of the right to food broadly have been alarming generally, they have had a disproportionate adverse impact on the enjoyment of the right to food of disadvantaged groups, including women, children and disabled people. We discuss the position of these groups below.

1) Women

80. Article 2(2) ICESCR prohibits discrimination on the ground of 'sex' in terms of giving effect to the right to food provisions guaranteed under Article 11 ICESCR. Furthermore, Article 10(2) of the Covenant affords special protection to mothers during a reasonable period before and after childbirth, including paid leave or leave with adequate social security benefits.¹⁸⁵ Article 12(2) CEDAW also ensures the right of women to adequate nutrition during pregnancy and lactation. In the absence of immediate action to ensure that all laws, policies and programmes, do not discriminate on the prohibited ground of gender, the UK will remain at risk of violating ICESCR and CEDAW prohibitions of discrimination with the regards to the right to food.

81. In 2012, research produced by Netmums indicated that approximately one in five mothers were missing meals to ensure their children were adequately fed.¹⁸⁶ Data released by Gingerbread in 2013, shows that 67 percent of single parents, 91 percent of whom are women, have cut back on food for themselves, and 14 percent have cut back on food for their children (as shown in Figure 6).¹⁸⁷

¹⁸⁵ Article 10(2) ICESCR

¹⁸⁶ Netmums, *Feeling the Squeeze Survey Results*, 2012, pp. 2 and 5, available at:

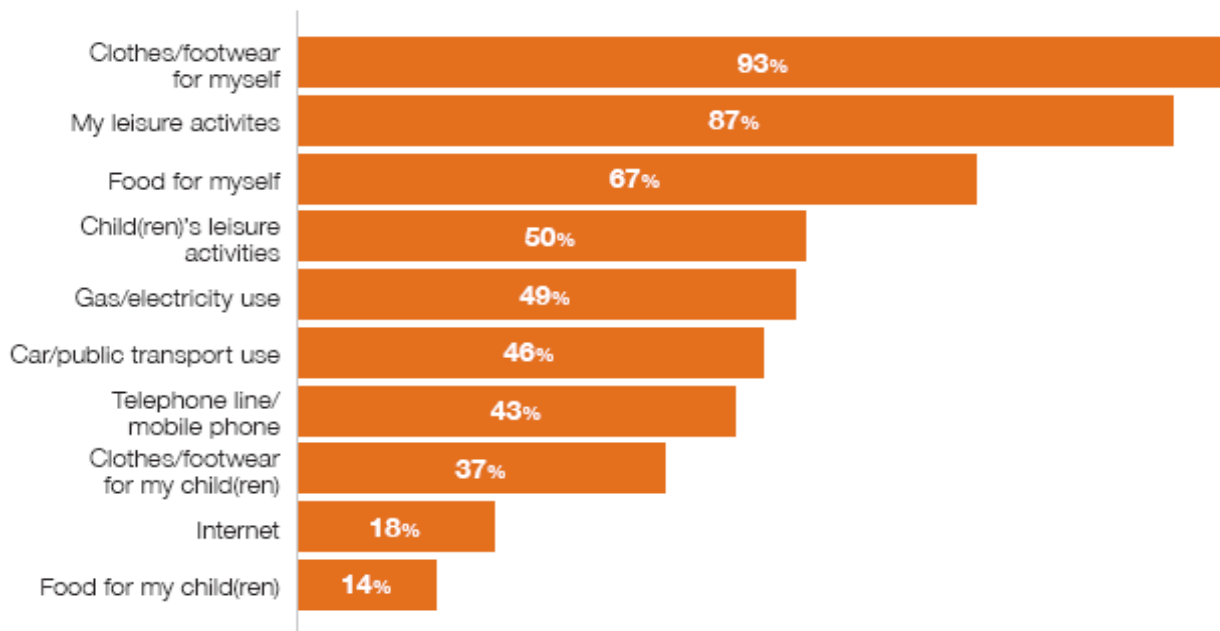
http://www.netmums.com/files/Feeling_the_Squeeze_Survey_Summary.pdf; Netmums surveyed 1,924 parents between 9th and 15th February 2012. The survey allowed members to include a comment and 330 chose to do so. In addition, individual stories were invited on a thread in the Netmums Coffee House forum where 110 people posted their thoughts and discussed the issues at the time of writing. The thread was viewed over 10,000 times.

¹⁸⁷ Gingerbread, *Paying the Price Single parents in the age of austerity*, 2013, p. 35, available at:

<http://www.trustforlondon.org.uk/wp-content/uploads/2013/12/full.pdf>; cutting back generally took the form of smaller or less healthy meals for parents, or plain food that helped to make them feel full (for example, carbohydrates), with larger portions or healthier food reserved for children. The Gingerbread research used a 'mixed methods' approach to demonstrate

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Figure 6: Share of single parents who have cut back their spending in the last 12 months



(Gingerbread, *Paying the Price: Single parents in the age of austerity*, 2013, p. 35)

82. Likewise, according to research published by the Centre for Economics and Business Research in 2013,¹⁸⁸ single parent households, 91 percent of whom are women,¹⁸⁹ are more likely than any other group to find themselves in a state of food insecurity, particularly if they have children and already live on a low income. As shown in Figure 7, single parent households with more than one child spent the greatest share of their income on food in 2013 (13.2 percent).¹⁹⁰ This can be compared with a working age couple with no children, who spent just above 6 percent of their income on food.¹⁹¹ Furthermore, single person households with one child and more than one child are expected to see their annual

the ongoing impact of austerity, chiefly focusing on: Living Costs and Food Survey (LCF) data on household spending, as well as other national datasets; Surveys of single parents; Qualitative interviews with 30 single parents.

¹⁸⁸ Kellogg's and the Centre for Economics and Business Research, *Hard to Swallow, The Facts about Food Poverty*, 2013, p. 15.

¹⁸⁹ Office for National Statistics, *Families and Households*, 2013, p. 5, available at:

http://www.ons.gov.uk/ons/dcp171778_332633.pdf/

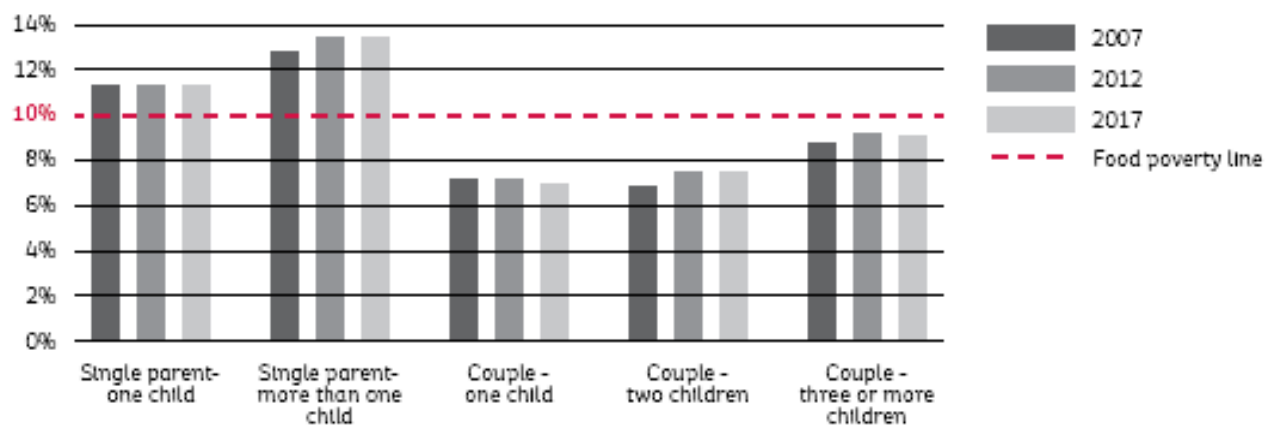
¹⁹⁰ Kellogg's and the Centre for Economics and Business Research, *Hard to Swallow, The Facts about Food Poverty*, 2013, pp. 20-21.

¹⁹¹ Kellogg's and the Centre for Economics and Business Research, *Hard to Swallow, The Facts about Food Poverty*, 2013, pp. 20-21.

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average food bills increase by £244 and £341 respectively over the next five years, partly due to the impact of benefit reforms.¹⁹²

Figure 7: Expenditure on food and non-alcoholic beverages as a share of gross income, by working age household composition



(Centre for Economics and Business Research, *Hard to Swallow*, 2013, p. 12)

2) Persons with disabilities

83. Article 2(2) ICESCR prohibits discrimination on the ground of disability.¹⁹³ Article 25(f) UNCRPD prohibits the denial of food for reasons connected with a person's disability, while Article 28(1) recognises the right of all people with disabilities to an adequate standard of living, including adequate food.¹⁹⁴ The right to food is especially important for people with disabilities, many of whom have specific nutritional and dietary needs, which are vital to health and well-being, but which also tend to be more expensive,¹⁹⁵ thus making people with disabilities especially vulnerable to food insecurity.

84. Welfare reforms have impacted heavily on disabled people's enjoyment of the right to food. For instance, a survey carried out by the Disability Benefit Consortium found that among those people with disabilities who have been affected by welfare reforms, as many as 15

¹⁹² Kellogg's and the Centre for Economics and Business Research, *Hard to Swallow, The Facts about Food Poverty*, 2013, pp. 20-21.

¹⁹³ CESCR, *General Comment 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the ICESCR)*, 2009, para. 28.

¹⁹⁴ The Convention on the Rights of Persons with Disabilities, 2006, Article 25(f) and Article 28(1), available at: <http://www.un.org/disabilities/convention/conventionfull.shtml>.

¹⁹⁵ See Mencap, *Diet and people with a learning disability*, 2008, available at: <http://tinyurl.com/o75quwg>.

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per cent are using food banks¹⁹⁶ in order to ensure the satisfaction of the basic levels needed to avert hunger.

85. The food budgets of people with disabilities have been particularly restricted as a result of reforms to the spare room subsidy (also known as the 'under-occupancy penalty', and the 'bedroom tax'), which cuts the amount of housing benefit that people can get if they are deemed to have a spare bedroom in their council or housing association home. The calculation of how many bedrooms a household needs fails to take into account the legitimate needs of disabled people for additional space. For example, a spare room may be needed when children or a couple cannot share a bedroom for health reasons, or when they need space to store essential medical equipment.¹⁹⁷ Out of the total 660,000 people affected by the under-occupancy penalty, 63 percent (420,000) have disabilities.¹⁹⁸

86. While an extra £25 million was allocated to the £20 million baseline Discretionary Housing Payment (DHP) funding to specifically help those who live in specially adapted homes, including those with long term medical conditions, research by the Papworth Trust indicates that one in three disabled people have been refused a DHP.¹⁹⁹ In terms of the right to food, nine in ten disabled people who were refused said they had cut back on food and drink and/or household bills.²⁰⁰ Similarly, the UN Special Rapporteur on the Right to Housing received testimonies during her country mission to the UK in 2013 which highlighted how the under-occupancy penalty has required tenants to make "hard choices, between food, heating or paying the rent."²⁰¹ Finally, SPERI has found that the under-occupancy penalty

¹⁹⁶ Disability Benefit Consortium, *Food banks become lifeline for disabled people as benefit changes hit*, 2013, available at: <http://disabilitybenefitsconsortium.wordpress.com/2013/12/17/food-banks-become-lifeline-for-disabled-people-as-benefit-changes-hit/>; Welfare reforms measured include housing benefit changes and council tax revisions: For further information regarding the impact of austerity and spending cuts on the rights of people with disabilities, please also see Just Fair, *Dignity and Opportunity for All*, 2014, available at: www.just-fair.co.uk

¹⁹⁷ Shelter, *What's wrong with the bedroom tax?*, 2013, p. 2, available at: http://england.shelter.org.uk/_data/assets/pdf_file/0020/650630/Bedroom_tax_-_Shelter_briefing_March_2013.pdf.

¹⁹⁸ DWP, *Housing Benefit: Size Criteria for People Renting in the Social Rented Sector*, 2012, p. 12, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220154/eia-social-sector-housing-under-occupation-wr2011.pdf.

¹⁹⁹ Papworth Trust, *Making Discretionary Housing Payments work for disabled people*, 2013 available at: http://www.papworth.org.uk/downloads/makingdiscretionaryhousingpaymentsworkfordisabledpeople_130710181752.pdf.

²⁰⁰ Papworth Trust, *Making Discretionary Housing Payments work for disabled people*, 2013, pp. 1-2, available at: http://www.papworth.org.uk/downloads/makingdiscretionaryhousingpaymentsworkfordisabledpeople_130710181752.pdf.

²⁰¹ UN Special Rapporteur on the Right to Adequate Housing, *Mission to the United Kingdom of Great Britain and Northern Ireland*, A/HRC/25/54/Add.2, 2013, p. 12, available at: http://dereitoamoradia.org/wp-content/uploads/2014/02/A_HRC_25_54_Add.2_ENG.pdf.

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has increased need for food banks by reducing incomes and making it harder for people to make ends meet.²⁰²

87. In its report on the Welfare Reform Bill, the JCHR expressed concern with regard to the rights of disabled people “that the cumulative impact of the [Welfare Reform] Bill’s provisions may lead to retrogression which is not justified by the factors set out in the General Comments of the UN Committee.”²⁰³ In this regard, there is an immediate need to ensure that all laws, policies and practices, particularly welfare reforms, such as the under-occupancy penalty, do not disproportionately affect the enjoyment of the right to food for people with disabilities, contrary to the ICESCR and UNCRPD.

3) Children

88. Article 24 of the UNCRC imposes a duty to combat malnutrition through the provision of adequate nutritious foods. Article 27 recognises the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development, including adequate nutrition.²⁰⁴ Scientific research shows that hunger impairs thinking, and that behavioural, emotional and academic problems are more prevalent among hungry children. For instance, a 2012 study of nearly 1,400 children aged from six to 16 demonstrated that those who had eaten breakfast performed at least twice as well on six measures of cognitive function as those who had not.²⁰⁵ Equally, skipping breakfast leads to poorer overall eating habits and is a recognised contributor to childhood obesity. For instance, research carried out in 2013 in eight European countries found that children aged 10-12 who skipped breakfast were 80 percent more likely to be obese.²⁰⁶

89. We can expect to see progress made with regard to children's enjoyment of the right to food as a result of the expansion of free school meals breakfast clubs across the UK (see Chapter II (3) above). Improved enjoyment can also be expected as a result of the new tax-

²⁰² See SPERI, *Food bank provision & welfare reform in the UK*, 2014, p. 2.

²⁰³ Joint Committee on Human Rights, *Legislative Scrutiny: Welfare Reform Bill*, 2011, p. 24; See also Demos, *Destination Unknown*, 2013, p. 1, available at: <http://www.demos.co.uk/files/Table1-headline.pdf>.

²⁰⁴ UNCRC, 1989, Article 24 (2)(c) and (e) and Article 27(3).

²⁰⁵ Dimbleby, H, *The School Food Plan*, 2013, pp. 116-117.

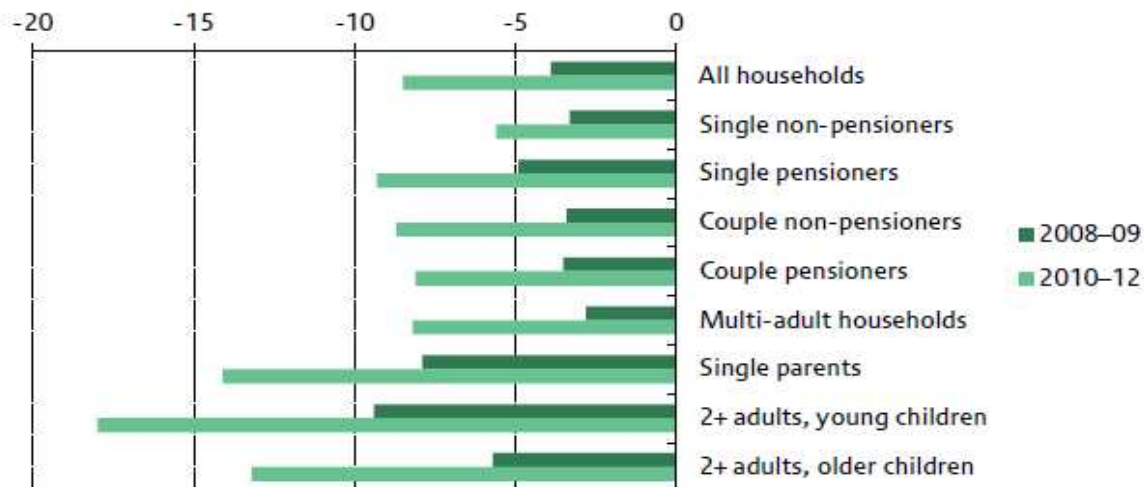
²⁰⁶ Children’s food trust, *The Children’s Food Conference*, 2013, available at: http://www.childrensfoodtrust.org.uk/assets/childrens-food-conference/childrens-food-conference-2013/cfconf2013_15michael_nelson.pdf; See also Dimbleby, H, *The School Food Plan*, 2013.

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free childcare scheme for working families.²⁰⁷ These initiatives do not provide a complete solution, however - not least because children continue to experience difficulties during school holidays and weekends when they are not in school.

90. A growing body of statistical evidence suggests that, without urgent action, the UK is at risk of failing to adopt all measures necessary to prevent children from experiencing a disproportionate impact in terms of their enjoyment of the right to food, compared to other groups in society. For instance, according to research published by the IFS in 2013, households with young children saw the largest reductions in real food expenditure²⁰⁸ between 2005–07 and 2010–12, as shown in Figure 8 below.²⁰⁹

Figure 8: Percentage change in real food expenditure from 2005-07 to 2010-12



(IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013)

91. Households with young children also reduced their real expenditure per calorie by the largest amount of all types of household; the decline for this group in real expenditure per

²⁰⁷ HM Treasury, *Budget 2013*, 2013, p. 5; However, a group of children's charities have warned that 900,000 families will be excluded from receiving any extra help, in the case where a parent earns less than £10,000 a year - the threshold for paying income tax - see Child Poverty Action Group, *Government risks throwing away chance to tackle in-work poverty for the poorest parents*, 2014, available at: <http://www.cpag.org.uk/sites/default/files/CPAG%20Childcare%20consortium%20press%20release%20Oct%202013.pdf>.

²⁰⁸ Real food expenditure is nominal food expenditure on food purchases brought into the home, divided by the food component of the consumer price index.

²⁰⁹ IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, p. 9.

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calorie was 9.0 percent. This is despite the fact that households with children (of all ages) had the lowest expenditure per calorie in the pre-recessionary period.²¹⁰

Recommendations – Equality and Non-Discrimination

92. *We recommend that the Government take all necessary steps to prevent and eliminate discrimination in enjoyment of the right to food, particularly with regard to women, children and disabled people. This will include reforming, or abolishing, the under-occupancy penalty (widely known as the ‘bedroom tax’) to ensure people with disabilities are not forced to cut back on essential foodstuffs.*

²¹⁰ IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, p. 10.

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V. Food adequacy

93. In human rights terms, ‘adequacy’ means that food must satisfy dietary needs, taking into account the individual’s age, living conditions, health, occupation, sex, etc.²¹¹ Following the recession, available evidence indicates that food adequacy is under threat as a result of deteriorating dietary patterns,²¹² including a substitution away from fruit and vegetables towards processed food, as well as a corresponding rise in malnutrition rates.²¹³

94. Since 2010, the Government have introduced a range of policies in order to tackle modern malnutrition and obesity, including the 2011 ‘Healthy Lives, Healthy People’ call to action on obesity, mandatory food standards in schools, and collective business pledges via the Public Health Responsibility Deal, as well as improved labelling on food and new guidance on physical activity.²¹⁴ While these policies indicate a clear willingness on behalf of the Government to tackle obesity and malnutrition, the measures fail to recognise the urgency and scale of the challenge posed to food adequacy following the recession, as seen from recent changes in nutritional quality, which are detailed below.

1) *Changes in nutritional quality*

95. According to research published by the IFS,²¹⁵ the average nutritional quality of foods purchased by almost every²¹⁶ household type declined from 2005–07 to 2008–09 and again to 2010–12. In particular, households have increased the amount of calories which they eat per gram of food (calorie density), largely due to a switch from fruit and vegetables to processed sweet and savoury foods,²¹⁷ which are higher in fat and sugar and therefore less healthy. The average calorie density of household purchases increased by 4.8 percent, on average, between 2005–07 and 2010–12.²¹⁸ These changes coincided with a cut in real expenditure on food brought into the home. Over 2005–07, the average

²¹¹ See para 11.

²¹² IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, p. 12.

²¹³ UK Government House of Commons, Hansard, Malnutrition, 12 Nov 2013, Column 619W, available at: <http://tinyurl.com/q32tp4j>.

²¹⁴ Department for Health, *Reducing obesity and improving diet*, 2013, available at: <https://www.gov.uk/government/policies/reducing-obesity-and-improving-diet>.

²¹⁵ IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, p. 14.

²¹⁶ With the exception of households with older children measured using the percentage of calories not deemed to be ‘less healthy’ and of multi-adult households using the same measure for the change from 2005–07 to 2010–12.

²¹⁷ IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, pp. 2 and 13.

²¹⁸ IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, p. 12.

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household spent £102 each month per adult-equivalent; this had fallen by £4.00 (3.9 percent) on average by 2008–09 and was £8.70 (8.5 percent) lower than in 2005-07 by 2010–12.²¹⁹

2) Malnutrition rates

96. The post-recession decline in food adequacy has been matched by a rise in malnutrition.²²⁰ Figure 11 below shows that the number of malnutrition-related admissions to hospital in England has increased by 74 percent since 2008-09,²²¹ in close correlation with the recent upsurge in food bank usage.²²² Whereas 3,161 patients were admitted to hospital in 2008-09 for malnutrition, this figure had increased to 5,499 in 2012-13. Statistics from the Health and Social Care Information Centre (HSCIC) demonstrate that diagnoses of rickets, a disease associated with poor diet and vitamin D deficiency, have also risen by 25 percent, from 561 in 2008/09 to 702 in 2012/13.²²³ Further data released by the HSCIC in 2014, highlights a marked increase in the proportion of adults that were obese between 1993 and 2012 from 13.2 percent to 24.4 percent among men and from 16.4 percent to 25.1 percent among women.²²⁴ As such, available evidence highlights a worrying backward trend (i.e., retrogression) with regard to diet and food adequacy.

²¹⁹ IFS, *Food expenditure and nutritional quality over the Great Recession*, 2013, p. 6.

²²⁰ UK Government House of Commons, Hansard, Malnutrition, 12 Nov 2013, Column 619W; Malnutrition is a serious condition that occurs when a person's diet does not contain the right amount of nutrients – see NHS Choices, *Malnutrition*, 2014, available at: <http://www.nhs.uk/Conditions/Malnutrition/Pages/Introduction.aspx>.

²²¹ UK Government House of Commons, Hansard, Malnutrition, 12 Nov 2013, Column 619W

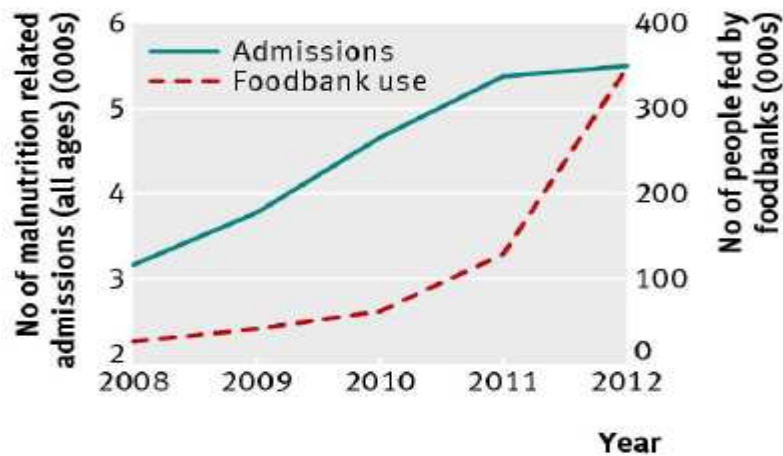
²²² British Medical Journal, *The rise of food poverty in the UK*, 2013, BMJ 2013;347:f7157, available at: <http://press.psprings.co.uk/bmj/december/foodpoverty.pdf>.

²²³ Cheng, M., "Rickets Making Comeback In The UK, Doctors Say", *Huffington Post*, 11 August 2013, available at: http://www.huffingtonpost.com/2013/11/08/rickets-uk-children_n_4240360.html.

²²⁴ Health and Social Care Information Centre, *Statistics on Obesity, Physical Activity and Diet: England 2014*, 2014, p. 5, available at: <http://www.hscic.gov.uk/catalogue/PUB13648/Obes-phys-acti-diet-eng-2014-rep.pdf>; Poor diet, particularly over-consumption of foods high in saturated fats and sugar, is also a primary cause of obesity – see NHS Choices, *Obesity*, 2014, available at: <http://www.nhs.uk/Conditions/Obesity/Pages/Causes.aspx>.

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Figure 9: Admissions related to malnutrition and number of people using food banks since the economic crisis



(British Medical Journal, *The rise of food poverty in the UK*, 2013)

97. Such a conclusion is supported by recent public health findings published in the British Medical Journal. According to leading UK public health scientists, the rise of malnutrition, when viewed against a backdrop of rising food prices, can be seen directly to correlate with the exponential rise in the number of people being issued food bank vouchers by frontline care professionals, and, as such, "has all the signs of a public health emergency that could go unrecognised until it is too late to take preventive action".²²⁵ In this regard, available evidence appears to suggest a failure on behalf of the UK Government to take expeditious and effective steps in order to progressively achieve the full realisation of the right to adequate and nutritious food.

Recommendations - Food Adequacy

98. *We recommend that the Government review and revise policies for tackling malnutrition, taking into account the correlation between rising food bank usage and increased malnutrition-related hospital admissions.*

²²⁵ British Medical Journal, *The rise of food poverty in the UK*, 2013, BMJ 2013;347:f7157.

VI. Food availability

99. Availability requires on the one hand that food should be available from both natural resources and for sale in markets and shops.²²⁶ The availability of food is restricted in parts of the UK, however, as a result of food scarcity and the expansion of 'food deserts' (i.e. areas where there is limited local availability of healthy food).²²⁷
100. The conclusions of the Green Food Project, the Government initiative aimed at improving the environment and increasing food production, recognise that "to achieve a truly sustainable food system, which improves on its economic outputs and environmental outcomes, a more joined up and collaborative whole supply chain is needed; both vertically between farmers and those they are selling produce on to, and horizontally between retailers, the food service sector or between farm businesses themselves".²²⁸ To this end, the Government is actively taking steps to ensure healthy nutritious food is readily available across the UK, including the adoption of measures to promote farmers' markets and encouraging urban food growing.²²⁹
101. However, food scarcity remains common-place among people on low incomes across the UK.²³⁰ The Royal College of Physicians has recognised that the closure of shops in deprived areas (leading to increased cost, poor quality and choice in remaining local shops), and the development of out-of-town supermarkets, has left the poorest people in 'food deserts' without access to affordable, healthy food.²³¹ Superstores are difficult to

²²⁶ See para 13.

²²⁷ See Wrigley, N, "Food Deserts in British Cities", Economic and Social Research Council, 2004, available at: <http://eprints.soton.ac.uk/15645>; See also Just Fair, *Freedom from Hunger: Realising the Right to Food in the UK*, 2013, p. 8, available at: <http://tinyurl.com/nbkvftb>.

²²⁸ DEFRA, *Green Food Project Conclusions*, 2012, pp. 21-22.

²²⁹ See DEFRA, *Farm shops and farmers markets*, 2013, available at: <https://www.gov.uk/farm-shops-and-farmers-markets>; See also DCLG, *Space for Food Growing*, 2012, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7595/2203624.pdf.

²³⁰ Wrigley, N, "Food Deserts in British Cities", Economic and Social Research Council, 2004; The UN Special Rapporteur on the Right to Food has also recognised that "food deserts are developing throughout many rich countries, [where] poor neighbourhoods are under served by retailers that provide affordable access to fresh food" – see Just Fair, *Freedom from Hunger: Realising the Right to Food in the UK*, 2013, p. 8.

²³¹ Royal College of Physicians of the UK, *Food Poverty and Health: Briefing Statement*, 2005, p. 3, available at: http://www.fph.org.uk/uploads/bs_food_poverty.pdf.

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reach for people on low-incomes; 85 percent of households with weekly incomes under £150 do not have a car.²³²

102. The existence of UK food deserts runs contrary to the ICESCR requirement that food should be available both from natural resources and for sale in markets and shops.²³³ As such, the Government must strive to make healthy food, including fresh fruit and vegetables, more readily available, particularly for disadvantaged individuals and groups. The UN Secretary General has noted that the supply of fruits and vegetables can be improved by supporting local sustainable production and building up an efficient local supply chain.²³⁴ Similarly, the UN Special Rapporteur has recognised the value of local food systems in improving the availability of fresh and nutritious food for urban consumers', particularly fruits and vegetables, and in making a shift towards healthier diets.²³⁵

Recommendations - Food availability

103. We recommend that the Government combat the growth of UK food deserts, particularly among disadvantaged communities. This will require the adoption of measures targeted to secure food availability, including:

- a. Support for local food growing;*
- b. Promotion of local sourcing of healthy foods for public institutions, such as schools;*
- c. Adequate infrastructure investments linking local food producers to urban consumers.*

²³² Oxfam, *Walking the breadline: The scandal of food poverty in 21st century Britain*, 2013, p. 7.

²³³ See ICESCR Art 11; See also CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para 12.

²³⁴ UN Secretary General, *Prevention and control of non-communicable diseases*, 2011, p. 15-16, para. 60, available at: <http://www.ghd-net.org/sites/default/files/UN%20Secretary-General's%20Report%20on%20NCDs.pdf>.

²³⁵ UN Human Rights Council, *Report submitted by the Special Rapporteur on the Right to Food, Olivier De Schutter* A/HRC/19/59, 2011, p. 19, available at: <http://tinyurl.com/nrtlxrd>.

VII. Maximum available resources

104. As mentioned in Chapter I, the story of UK food insecurity is intimately connected with the domestic response to the global economic crisis. Even during times of economic crisis, however, states have an obligation to progressively realise the right to food making use of their maximum available resources.²³⁶ In assessing UK compliance with the duty of progressive realisation through the employment of the maximum of the resources available to it, it is important to recognise that the Government has sought to prioritise and safeguard specific Covenant rights, through the ring-fencing of health (Article 12 ICESCR) and education (Article 13 ICESCR) spending.²³⁷
105. Ring-fencing of spending related to one Covenant right can result in deeper cuts to another where steps are not taken to avoid this. In the UK context, ring-fencing of health and education has resulted in heavier cuts in other areas, particularly social security and local government,²³⁸ which have directly impacted on the realisation of the right to food (see Chapter III(3)).
106. The Government embarked upon its term of office with an explicit commitment to fairness, in order to “ensure that every part of society makes a contribution to deficit reduction while supporting the most vulnerable”.²³⁹ Furthermore, the Government has attempted to cushion the blow of austerity for those on the lowest incomes by raising the tax personal allowance, and lifting the basic rate limit for income tax,²⁴⁰ though the efficacy of such measures remains disputed.²⁴¹
107. Taking into account the scope of UK austerity programmes, as well as the methods used in order to deliver savings, there is evidence that the way in which the post-economic

²³⁶ Chairperson of the CESCR, *Letter dated 16 May 2012 addressed by the Chairperson of the CESCR to States parties to the ICESCR*, CESCR/48th/SP/MAB/SW, 2012, p. 1.

²³⁷ HM Government, *The Coalition: Our programme for government*, 2010, p. 24.

²³⁸ See, for example, the analysis of social security and local governments cuts in Centre for Welfare Reform, *A fair society?*, 2013, pp. 11-12, available at: <http://tinyurl.com/a4vsxnb>).

²³⁹ HM Treasury, *Budget 2010*, 2010, p. 3.

²⁴⁰ HM Treasury, *Budget 2013*, 2013, p. 5; See above para 52 above.

²⁴¹ Various academics and think-tanks have suggested that tax cuts will not benefit the poorest households - see for instance, IFS, *Observations: A £10,000 personal allowance: who would benefit, and would it boost the economy?*, 2012, available at: <http://www.ifs.org.uk/publications/6045>; See also Resolution Foundation, *Will future tax cuts reach struggling working households?* 2013, available at: <http://tinyurl.com/csthrak>.

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crisis fiscal austerity agenda in the UK has been implemented is not compliant with the requirements of ICESCR Art(2)(1) and the right to food.²⁴² The International Monetary Fund (IMF), for instance, has advised that UK austerity measures were implemented 'too hard and too fast',²⁴³ and without full consideration of alternatives, including options to build capital rather than reduce assets and credit.²⁴⁴

108. We are particularly concerned that the Government's fiscal policies appear to be neither necessary nor proportionate, contrary to the guidance issued by the Chairperson of the CESCR in 2012, in the sense that the adoption of other policies would be less detrimental to the right to food.²⁴⁵ According to HM Treasury data, shown in Figure 10, the existing tax gap²⁴⁶ amounts to approximately 7.0 percent of total tax liabilities. As such, on the basis of HM Revenue and Customs (HMRC) figures, more than £35 billion could be saved per year by closing the UK tax gap. In contrast, Tax Research estimate that the gap stands at £120 billion, when World Bank data on tax evasion, and HMRC data on late payments, are taken into account.²⁴⁷ In comparison, cuts to social security are projected to save £7 billion per year,²⁴⁸ while placing substantial restrictions on the right to food.

109. In its recent report examining the UK tax system, the PAC found that HMRC "does not use the full range of sanctions at its disposal to pursue vigorously all unpaid tax, and its measure of the tax gap does not capture all the avoided tax that it should be collecting".²⁴⁹ Thus, taking the above evidence into account, the UK is plainly failing to take all necessary steps, to the maximum of its available resources, to progressively realise the right to food. In order to comply with Article 2(1) ICESCR, the Government must consider adopting

²⁴² ICESCR, Art 2(1), 1966.

²⁴³ IMF, *2012 Article IV consultation with the United Kingdom: IMF Country Report No. 12/190*, 2012, pp. 4-5, available at: <http://www.imf.org/external/pubs/ft/scr/2012/cr12190.pdf>; See also Hardman, I., "The IMF's 'too far, too fast' warning", *The Telegraph*, 25 August 2012, available at: <http://blogs.spectator.co.uk/coffeehouse/2012/08/the-imfs-too-far-too-fast-warning/>

²⁴⁴ IMF, *2012 Article IV consultation with the United Kingdom: IMF Country Report No. 12/190*, 2012, pp. 38-40.

²⁴⁵ Chairperson of the CESCR, *Letter addressed by the Chairperson of the CESCR to States parties to the ICESCR*, 2012.

²⁴⁶ The tax gap is the difference between the amounts of tax that should be collected, against what is actually collected. The tax gap includes estimates for tax avoidance, tax evasion and tax paid late – see HMRC, *Measuring tax gaps 2013 edition: Tax gap estimates for 2011-12*, 2013, available at: <http://www.hmrc.gov.uk/statistics/tax-gaps/mtg-2013.pdf>.

²⁴⁷ HMRC, *Measuring tax gaps 2013 edition: Tax gap estimates for 2011-12*, 2013, p. 6.

²⁴⁸ HM Treasury, *Spending Review 2010*, 2010, p. 8, available at:

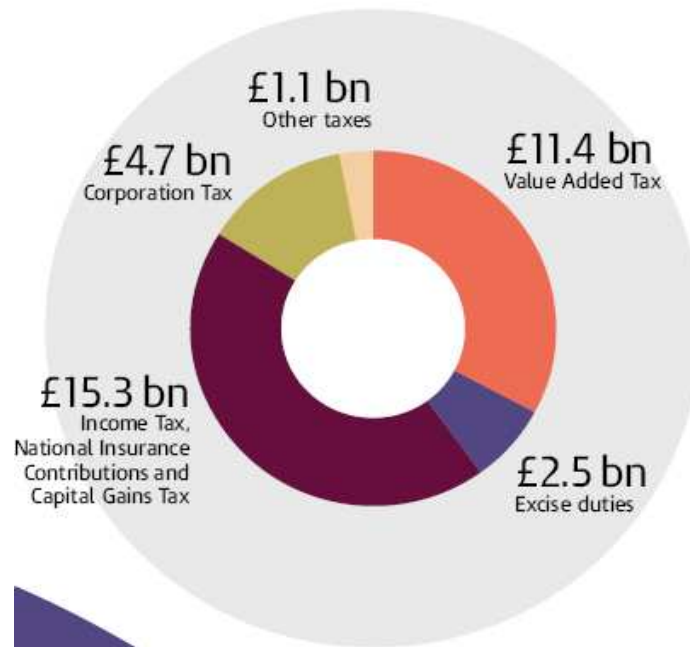
http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_191696.pdf.

²⁴⁹ House of Commons Committee of Public Accounts, *HMRC Tax Collection: Annual Report & Accounts 2012-13*, 2013, p. 3, available at: <http://www.publications.parliament.uk/pa/cm201314/cmselect/cmpubacc/666/666.pdf>.

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revenue measures which can close the budget deficit without impacting so heavily on the right to food.

Figure 10: Value of the tax gap by type of tax



(HMRC, *Measuring tax gaps 2013 edition*, 2013, p. 3)

110. A State claiming that it is unable to carry out its obligations for reasons beyond its control, such as recession or economic crisis, has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.²⁵⁰ This is particularly challenging for the UK, however, following the Government's decision "not [to] support the proposal for a regulation on the fund for European Aid to the Most Deprived", which had been proposed for the "distribution of material assistance", including sleeping bags and food, on the basis that "measures of this type are better and more efficiently delivered by individual member states through their own social programmes."²⁵¹ The position, taken by UK officials, means that Britain will draw down just €3.5m (£2.9m) from the fund compared with €443m for

²⁵⁰ ICESCR, Art 2(1), 1966; CESCR, *General Comment 12, The right to adequate food (art. 11)*, 1999, para 28.

²⁵¹ Watt, N, "Government under fire for rejecting European Union food bank funding", *The Guardian*, Tuesday 17 December 2013, available at: <http://www.theguardian.com/society/2013/dec/17/government-under-fire-eu-funding-food-banks>.

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France which is around the same size as the UK. Britain is taking the same amount as Malta, the smallest EU member state with a population of 450,000.²⁵²

Recommendations - Maximum available resources

111. *Take steps to review and, as appropriate, alter fiscal policy (including that relating to expenditure and revenue) to ensure that the Government makes use of the maximum of available resources in order to progressively realise the right to food.*

²⁵² Watt, N, "Government under fire for rejecting European Union food bank funding", *The Guardian*, Tuesday 17 December 2013.

VIII. Conclusion

1. According to the evidence analysed in this report, the UK Government is violating the right to adequate, accessible and available food. We have observed with concern that food banks are, in practice, filling gaps in the welfare state caused by welfare reform and increased levels of benefit conditionality and maladministration. We are particularly concerned that these welfare reforms, which have been introduced to pursue a 'moral' vision of individual initiative, are permanent rather than temporary. We have demonstrated that food has become increasingly inaccessible for households across the UK, with people spending more on food, but eating less, due to the gap between wages, subsistence benefit levels, and the rising cost of living. Without access to crisis loans, we have seen that sanctioned claimants are being forced to turn to food aid and pay day lenders in order to access adequate food. We have also observed a marked decline in food adequacy, set against a growth in the number of malnutrition-related hospital admissions, prompting experts to warn of a public health emergency.
2. In response, we have called upon the Government to formulate a national right to food strategy and action plan, monitor DWP 'sign-posting' to food banks without delay, and adopt restorative measures to ensure that incomes are sufficient to guarantee the right to food for all. To the extent that subsistence benefit levels fall below the minimum essential standards necessary to prevent hunger and malnutrition, we have recommended that the DWP consider terminating the benefit cap, reforming the benefit sanctions scheme and introducing replacement measures to ensure individuals in crisis are able to obtain vital expenses for essential foodstuffs.
3. Since the recession, securing the right to food has increasingly become a national priority. As the All Party Parliamentary Group on Hunger and Food Poverty arrange to launch a parliamentary inquiry into food poverty in Britain, and as the Department for Education prepare to invest more than £600 million in implementing the free school meals plan, we call upon the Government to safeguard the human right to adequate and nutritious food for all.

Appendix 1 - Recommendations

The Human Right to Food:

1. *We recommend that the Government formulate a national right to food strategy and action plan designed to ensure the right to food for everyone in the UK. The strategy should be based on a comprehensive analysis of the state of enjoyment of the right to food in the UK and the causes of any identified gaps in the fulfilment of the right. The action plan must include firm commitments to:*
 - a. *Establish appropriate institutions for the monitoring of the right to food in the UK;*
 - b. *Address the causes of any identified failings in the implementation of the right;*
 - c. *Introduce indicators and benchmarks for the purposes of assessing the degree of state compliance with the right, and the efficacy of policies introduced to improve the UK state's compliance with the right;*
 - d. *Conduct right to food impact assessments for all new legislation, and oblige all relevant actors to consider and measure the likely impact of their policies and actions on the right to food;*
 - e. *Introduce time-bound targets to improve fulfilment of the right to food in the UK.*

Food Banks

2. *We recommend that the Government undertake further research in order to determine why food bank usage has significantly increased in recent years. In doing so, particular attention should be paid to the following factors: loss of, reductions in or problems associated with, social security benefit payments; low income; indebtedness; and homelessness. The Government should take all necessary action to address the causes that they identify.*
3. *We also recommend that the Government monitor the Department for Works and Pensions' 'sign-posting' to food banks, and take immediate steps to ensure that food banks are not used as a substitute for a comprehensive social security system administered by the state.*

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Costs of Living

4. *Taking into account the rising cost of living, including food, fuel and housing prices, we recommend that Government investigate whether incomes are sufficient to guarantee the right to food for all. Where incomes are found to be inadequate, Government should adopt restorative measures. Restorative measures may include the introduction of employment legislation to ensure the minimum wage is a 'living wage' based on actual living costs.*

Welfare Reforms

5. *We recommend that the Government review benefit levels to determine whether those benefits provide recipients with the minimum essential level of income to prevent hunger. To the extent that benefit levels, and benefit administration more generally, are found to be inadequate, we recommend that the Government take immediate steps to fulfil the right to food, which may include the following:*
 - a. *Revise, or terminate, the benefit cap, and the decision to index benefits to the CPI, in order to reverse the growing gap between benefit levels and food costs;*
 - b. *Urgently reform the benefit sanctions scheme, and take steps to reduce benefit delay;*
 - c. *Following the abolition of crisis loans and community care grants, introduce measures to ensure individuals in crisis are able to obtain vital expenses for essential foodstuffs.*

Equality and non-discrimination

6. *We recommend that the Government take all necessary steps to prevent and eliminate discrimination in enjoyment of the right to food, particularly with regard to women, children and disabled people. This will include reforming, or abolishing, the under-occupancy penalty (widely known as the 'bedroom tax') to ensure people with disabilities are not forced to cut back on essential foodstuffs.*

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Malnutrition

7. *We recommend that the Government review and revise policies for tackling malnutrition, taking into account the correlation between rising food bank usage and increased malnutrition-related hospital admissions.*

Food Deserts

8. *We recommend that the Government combat the growth of UK food deserts, particularly among disadvantaged communities. This will require the adoption of measures targeted to secure food availability, including:*
 - a. *Support for local food growing;*
 - b. *Promotion of local sourcing of healthy foods for public institutions, such as schools;*
 - c. *Adequate infrastructure*

Maximum Available Resources

9. *Take steps to review and, as appropriate, alter fiscal policy (including that relating to expenditure and revenue) to ensure that the Government makes use of the maximum of available resources in order to progressively realise the right to food.*