

Just Fair response to the Poverty Strategy Commission call for evidence

July 2022

1. Please suggest any evidence about poverty you think the Commission should consider.

Just Fair is a UK charity that is working to realise a fairer and more just society by monitoring and advocating for economic, social, and cultural rights (ESCR) in the UK. We aim to ensure that the UK Government's law, policy, and practice comply with international and domestic human rights obligations pertaining to ESCR.

We welcome this opportunity to respond to the Poverty Strategy Commission's Call for Evidence. We are responding to this call for evidence because poverty often represents a violation of human rights, including to health (mental and physical), just and favourable conditions of work, education, social security, protection of the family and an adequate standard of living. All these rights are protected by the International Covenant on Economic, Social and Cultural Rights, which the UK ratified (and so agreed to be bound by) in 1976.

Therefore, we recommend that the Poverty Strategy Commission should take a human rights-based approach to its work. This will ensure that the experience of people living in poverty is at the centre of the Commission's work and informs its priorities and recommendations.

Fact-finding mission to the UK by the United Nations Special Rapporteur

We would recommend that the Commission reviews the important 2019 report by the UN Special Rapporteur on extreme poverty and human rights, following his 2-week fact-finding mission to the UK. During his mission the Special Rapporteur met with many NGOs and people with direct experience of poverty across the UK. In addition, following his visit, he received over 300 written submissions.

<https://www.srpoverty.org/wp-content/uploads/2019/05/uk-final-report.pdf>

What is particularly striking about this report, is how deeply the testimony of those with direct experience of poverty impacted the content. This resulted in a report that shines a light on the pernicious and multi-faceted impact of poverty on people's lives, and the unequal ways that poverty is experienced in the UK. To quote the report,

"The Special Rapporteur met with people who depend on food banks and charities for their next meal, who are sleeping on friends' couches because they are homeless, who have sold sex for money or shelter; children who are growing up in poverty unsure of their future; young people who feel gangs are the only way out of destitution; and persons with disabilities who are being told they need to go back to work – against their doctor's orders – or lose support. He met many for whom a single crisis, such as an unexpected health condition, a divorce, or a disability, led to disaster."

Key recommendations from the report for the UK Government remain hugely relevant and we would urge the Commission to review them closely, including:

- Reverse particularly regressive measures such as the benefit freeze, the two-child limit, the benefit cap, and the reduction of the Housing Benefit
- Restore local government funding needed to provide critical social protection and tackle poverty at the community level
- Eliminate the five-week delay in receiving initial UC benefits
- Review and remedy the systematic disadvantage inflicted by current policies on women, as well as on children, persons with disabilities, older persons, and ethnic minorities
- Re-evaluate privatization policies to ensure that the approach adopted achieves the best outcomes for the citizenry rather than for the corporate sector

In addition, in 2018, Just Fair along with a range of other NGOs submitted evidence to the Special Rapporteur on:

- welfare reform and the right to social security
- inequality
- no-fault evictions and child homelessness in England; and
- some of the possible effects of Brexit.

The report can be accessed here:

https://justfair.org.uk/wp-content/uploads/2018/09/Just_Fair_15_Alston_Submission-FINAL.pdf

No Recourse to Public Funds

More recently, in conjunction with our colleagues at Project 17, we submitted evidence to the Special Rapporteur in December 2021 about the impact of the UK's No Recourse to Public Funds (NRPF) condition on human rights, particularly the right to social security. The report can be accessed here:

<https://justfair.org.uk/wp-content/uploads/2021/12/Social-protection-a-reality-check-Just-Fair-and-Project-17.pdf>

As noted in this report, we believe that the NRPF policy represents an egregious breach of a number of economic, social, and cultural rights, notably the right to social security, and can leave individuals and families destitute. It is a policy that disproportionately impacts already disadvantaged groups including women, children, Black, Asian and minority ethnic communities and disabled people.

The Socio-economic Duty

In Great Britain we already have a key mechanism at our disposal to help tackle poverty. The Socio-economic Duty contained in Section 1 of the Equality Act 2010 is a powerful lever to address the structural causes of material inequalities and their negative effects on human rights and wellbeing. However, despite advances in Scotland and Wales (through the Fairer Scotland Duty 2018 and A More Equal Wales 2021 respectively) successive UK Governments have failed to commence the Socio-economic Duty in England.

However, across England we are witnessing a growing number of local and combined authorities either voluntarily adopting the duty or opting to act in the spirit of the duty. Indeed, one in seven councils across England have now adopted the Duty, including Labour and Conservative controlled councils. More information is available in this recent briefing from Greater Manchester Poverty Action:

<https://www.gmpovertyaction.org/wp-content/uploads/2022/06/SED-findings-briefing-FINAL-DRAFT-002.pdf>

We recommend that the Commission adds its voice to the growing call for the commencement of Section 1 of the Equality Act – which is what is required to bring the Socio-economic Duty into force across Great Britain.

Were it to be in force in England, the Socio-economic Duty would require public bodies: *“when making decisions of a strategic nature about how to exercise [their] functions [to] have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.”* This would complement the Public Sector Equality Duty in Section 149 of the Equality Act 2010 which requires public bodies to have *“due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities”* on the grounds of the nine listed “protected characteristics” (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation).

For more on the Socio-economic Duty, read the Practical Guide for Local Authority Implementation of the Socio-economic Duty in England, which was written by the members of the 1ForEquality campaign group, which Just Fair co-leads:

<https://justfair.org.uk/wp-content/uploads/2021/06/Socio-Economic-Duty-Guide-Final.pdf>

Just Fair also produced a briefing in 2018 called ‘Tackling Socio-economic Inequalities Locally: Good practices in the implementation of the socio-economic duty by local authorities in England’

<https://justfair.org.uk/wp-content/uploads/2018/06/Just-Fair-June2018-Tackling-socio-economic-inequalities-locally.pdf>

Finally, we recommend reading the Equality and Human Rights Commission report, ‘Evaluating the Socio-economic Duty in Scotland and Wales’ (March 2021)

<https://equalityhumanrights.com/sites/default/files/evaluating-the-socio-economic-duty-in-scotland-and-wales.docx>

2. Please suggest any work you are aware of that considers the viewpoints of people with lived experience of poverty

We recommend that the Commission considers taking a human rights-based approach (HRBA) to its work. A HRBA is about ensuring people's rights are put at the very centre of any piece of work you are undertaking. It is a way of thinking and working which prioritises those who are most disadvantaged, examines power imbalances carefully and proactively eliminates discrimination throughout a process. Employing a HRBA prioritises providing an empowering experience, which helps people to participate in decisions which affect them and their rights, including by building their capacity and knowledge.

A commonly used model for a HRBA is the PANEL process (Participation, Accountability, Non-discrimination, Empowerment and Legality). The Scottish Human Rights Commission has produced a wide range of materials to help people apply these principles to their work:

<https://www.scottishhumanrights.com/projects-and-programmes/human-rights-based-approach/>

Participation

When we talk about the principle of participation, we mean that everyone has the right to participate in decisions which affect them. As noted by the Scottish Human Rights Commission in its HRBA Self-Assessment Tool, (https://www.scottishhumanrights.com/media/1814/shrc_panel_self-assessment_tool_vfinal.pdf) participation must be active, free, and meaningful and give attention to issues of accessibility, including access to information in a form and a language which can be understood.

Currently the Commission has not laid out clearly on its website any details about how it plans to ensure all groups, including those disproportionately impacted, have their voices heard. A key part of this work must be to think carefully about ways in which the Commission will authentically engage traditionally 'easy to ignore' communities and clearly lay these out on its website and other communications. For example, a simple 'online call out' will exclude some communities and curtail the voices that are heard.

Robust participation practices will ensure the Commission is examining the correct issues, that its work has legitimacy, and its final recommendations/reports are meaningful.

The Practical Guide for Local Authority Implementation of the Socio-Economic Duty in England, highlighted in the previous question, also includes important information about practical ways to involve those with lived experience and the benefits of thinking carefully about participation:

<https://justfair.org.uk/wp-content/uploads/2021/06/Socio-Economic-Duty-Guide-Final.pdf>

Accountability

As noted by the Scottish Human Rights Commission, accountability requires effective monitoring of human rights standards (for more on this, please see the section on 'Legality' below). It's about effectively holding duty bearers (those with the obligation to realise human rights to account).

To be effective, accountability should be precise, the Commission should name who is accountable for specific aspects of the impact of poverty, what they are accountable for and what needs to be done for effective remedy and non-repetition.

Accountability means ensuring that everyone, including people who have experienced rights violations as a result of poverty, has access to an effective remedy – including by calling for changes to policies, laws, and procedures to ensure rights are protected, respected and fulfilled.

Non-discrimination

As noted by the Scottish Human Rights Commission, a HRBA means that all forms of discrimination must be prohibited, prevented, and eliminated. It also requires the prioritisation of those in the most vulnerable situations who face the biggest barriers to realising their rights.

The commitment to non-discrimination is not a passive process. It would mean that the Commission will take an approach that actively seeks to extinguish discrimination at all stages. This approach would help to ensure a conscious journey whereby the positive obligation to achieve equality is realised and the legitimacy of the work strengthened.

It also would entail thinking about how discrimination works in practice – including for those people with multiple protected characteristics who experience inequality in different ways.

Empowerment

According to the Scottish Human Rights Commission, empowerment is about ensuring people understand their rights and be fully supported to participate in the development of policy and practices which affect their lives.

In addition, we believe that empowerment also requires us to consider carefully how we engage with people. As noted above we strongly believe that working with people with direct experience of poverty and the human rights violations that stem from it will hugely strengthen the work of the Commission.

However, taking a HRBA and particularly considering the principle of empowerment means ensuring that this work and this process will help them to feel ‘empowered’ and not lead to further traumatisation or other forms of harm.

It is important for the Commission carefully consider the processes it will use to ensure that it authentically hears people’s voices, and what processes and safeguards may be necessary to ensure the Commission discharges its duty of care and strives to cause no further harm than disproportionately impacted people have already experienced.

Some ways to help achieve this are about supporting people effectively throughout the process and ensuring they are genuinely involved in the work and outcomes of the Commission.

Legality

The Scottish Human Rights Commission notes that the principle of legality means the full range of legally protected human rights must be respected, protected, and fulfilled. A human rights-based approach requires the recognition of rights as legally enforceable entitlements, both in terms of domestic and international human rights law.

The UK’s legal obligations go beyond the Human Rights Act, the Equality Act, and the Northern Ireland Act 1998 in relation to rights and equalities standards. The UK Government has signed, ratified, and thus agreed to be bound by the provisions of several international treaties, including (as mentioned in our response to the previous question) the International Covenant on Economic, Social and Cultural Rights (ICESCR).

Ratification of this treaty places a legal obligation on the United Kingdom government to protect, respect and fulfil rights including the following without discrimination:

- Work (including just and favourable conditions (Articles 6 and 7)
- Social security (Article 9)
- Protection of the family (Article 10)
- Adequate standard of living – including food and housing (Article 11)
- Highest attainable standard of physical and mental health (Article 12)
- Education (Articles 13 and 14)
- Culture (Article 15)

The full covenant can be read here:

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

Every few years, the UK is reviewed by the UN Committee on Economic, Social and Cultural Rights for how these rights are being realised. We recommend the Commission considers carefully the most recent recommendations from 2016. These are compiled by a group of international experts, after the receipt of oral and written evidence from a range of people with direct experience, NGOs, National Human Rights Institutions, and government departments. They can be found here:

<https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmlBEDzFEovLCuW3XRinAE8KCBFogOHNz%2fvuCC%2bTxEKAI18bzE0UfQhJkxxOSGuoMUxHGypYLjNFkwxnMR6GmqogLjF8BzscMe9zpGfTXBkZ4pEaigi44xqiL>

Some highlights include:

“The Committee recommends that the State party increase the level of support provided to asylum seekers, including through the daily allowance, in order to ensure that they enjoy their economic, social and cultural rights, in particular the right to an adequate standard of living.”

“Take all appropriate measures to progressively reduce the use of temporary employment, precarious self-employment and “zero-hour contracts”, including by generating decent work opportunities that offer job security and adequate protection of labour rights;”

“Restore the link between the rates of State benefits and the costs of living and guarantee that all social benefits provide a level of benefit sufficient to ensure an adequate standard of living, including access to health care, adequate housing and food;”

“The Committee recommends that the State party take steps to introduce measures to guarantee targeted support to all those living in poverty or at risk of poverty, in particular persons with disabilities, persons belonging to ethnic, religious, or other minorities, single-parent families and families with children, and adopt an anti-poverty strategy in Northern Ireland. The Committee also urges the State party to develop a comprehensive child poverty strategy and reinstate the targets and reporting duties on child poverty.”

For more on what a HRBA can look like in practice, please see our recent Submission to the UK Covid-19 Inquiry consultation on the draft Terms of Reference, which breaks down how the PANEL principles could be applied to the work of the Inquiry:

<https://justfair.org.uk/wp-content/uploads/2022/04/Draft-Terms-of-Reference-Consultation-Submission-Just-Fair-April-2022.pdf>

We would welcome the opportunity to discuss any of these issues further or provide any clarity the Commission might require.

We would also welcome the opportunity to put the Commission in touch with groups across the UK working directly with people experiencing violations of their human rights because of poverty.

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