

Right to Food Briefing

Prepared by Nourish Scotland, 10 March 2017

Nourish Scotland is a food justice civil society organisation advocating for a fairer, healthier and more sustainable food system. We are calling for a rights-based and cross-cutting approach to food governance.

This briefing was prepared by Nourish Scotland though it reflects many positions shared by partner organisations in the Scottish Food Coalition – a civil society coalition made up of established organisations working on food and poverty, health, workers' rights, food production, environment, and animal welfare. We have come together in recognition that the problems in our current food system are interconnected and cannot be changed by focusing on a single issue. We are calling for a just transition to a better food system.

Definitions

The right to food has become synonymous with campaigning on household food insecurity. However, the definition of right to food encapsulates much more than this. A rights-based approach is about the governance that underpins the food system.

The core pillars of the right to food are that food must be:

- Accessible** Both financially and geographically
- Adequate** Meeting dietary need, being free from harmful chemicals, and being culturally appropriate – including in how we access it
- Available** Through access to land and other resources, processing distribution and marketing, and the sustainability of the food system in to the future – including its contribution to and resilience to climate change

There are in addition some general principles that underpin the right to food:

Incorporation and Framework Governance

The right to food is protected in international law primarily through the International Covenant on Economic, Social and Cultural Rights (ICESCR). It is also protected in other instruments, including the Convention on the Rights of the Child.

The UK Government signed up to ICESCR in 1976 but the rights were not incorporated in the domestic legal system. There is no formal process through which the rights are embedded in Government policy or practice, and no means by which individuals can seek to enforce these rights. This is unlike civil and political rights which are domestically embedded through the Human Rights Act 1998, and given special status in Scotland through the Scotland Act 1998.

Looking specifically at the right to food, there is no domestic framework for governance. Food policy is fragmented across a large number of decision-making portfolios, including, health, social justice, communities, agriculture, environment, climate change, land reform, land-use management, and procurement. There is no strategy outlining the general direction of travel, and no guarantee that rights will be protected. The Scottish Government's Good Food Nation Policy made an important start but legislation is required to provide a clear and transparent structure and certainty for the future.

The UN Committee responsible for reviewing performance with the Covenant reviewed the UK and made a number of strong recommendations including that the rights be incorporated and for a framework approach to protecting and progressing the right to food in June 2016. The Scottish Government's Independent Working Group on Food Poverty also made similar recommendations in their report *Dignity: Ending Hunger Together in Scotland* in June 2016.¹ Cabinet Secretary for Communities, Social Security and Equality, Angela Constance MSP, in response to the *Dignity* report, committed to considering enshrining the right to food in Scots Law in November 2016.²

Monitoring and Accountability

In order to be able to review whether progress is being made in the realisation of rights, robust and transparent monitoring and accountability mechanisms are required. Scotland has made some recent progress in committing to monitor household food insecurity in the Scottish Health Survey, but more generally data and accountability is fragmented and incomplete.

Realising rights to the maximum of available resources, non-regression and non-discrimination

ICESCR requires that governments progressively realise rights 'to the maximum of their available resources'. This is defined in CESCR guidance as requiring deliberate, concrete and targeted measures for the realisation of rights, making use of all resources at its disposal, even in times of austerity. States should not 'regress' or go backwards in the realisation of rights and must ensure there is no discrimination in the enjoyment of rights.

There has been notable discretion across many of the pillars of the right to food in Scotland, and the rest of the UK, particularly in relation to the number of people no longer able to financially access food. Westminster's reform of security has had a discriminatory effect on the rights of women, children and disabled people. Whilst the Scottish Government has taken positive social security reform mitigation measures there is still much room for improvement across all areas of the right to food. See Annex 1.

¹ Independent Working Group on Food Poverty, *Dignity: Ending Hunger Together in Scotland* (June, 2016): <https://beta.gov.scot/publications/dignity-ending-hunger-together-scotland-report-independent-working-group-food/pages/9/>

² Scottish Government, *Press Release: Making the Right to Food a Reality* (SG, 17.11.2016)

Scotland's Opportunity to be a European Leader

Through the forthcoming Good Food Nation Bill, the Scottish Government could be a European leader in food governance by taking a cross-cutting approach towards protecting and progressing the right to food.

We would like to see:

- A legal commitment to protecting and progressing the right to food, creating strategic cabinet-level and policy coherence.

This could take the form of a **Food Rights and Responsibilities Statement**, similar to the model adopted on land rights in the Land Reform (Scotland) Act 2016. It could also take the form of a **general duty** on public authorities to protect and progress the right to food, similar to duty created by the Children and Young People's Act (Scotland) 2014.

- A comprehensive set of **statutory targets and monitoring mechanisms** across the pillars of the right to food, similar to the approach taken in the Climate Change (Scotland) Act 2009.
- The creation of **statutory and independent Food Commission**, to report annually to Parliament on progress made on statutory targets, as well as issue guidance to public authorities on how to meet their right to food duties.

Annex 1 below illustrates the cross-cutting nature of the challenges Scotland faces across the pillars of the right to food, and highlights recommendations for action. Some of these recommendations could be explicitly included in framework legislation, others could come from policy change driven by a general duty and statutory targets.

Annex 1 also highlights areas where progress is already being made in Scotland.

Overview of Scotland's Performance on the Right to Food³

Pillar of Right to Food	Evidence base in Scotland (S) or across UK where no Scotland-specific data is available (UK)	Recommendations	Progress already made in Scotland
Financially	<p>Wages & social security are too low to enable everyone to have access to a basic basket of essential goods and services.</p> <ul style="list-style-type: none"> • 21% of people's incomes fall below the relative poverty line (UK) • 27% of people's incomes fall below the Minimum Income Standard (UK) • 10% people are experiencing moderate to severe food insecurity according to UN polling - placing the UK in the most food insecure half of EU nations. (UK) <p>These figures are generally higher in vulnerable and marginalised groups;</p> <ul style="list-style-type: none"> • 28% of children and 27% of disabled people live in relative poverty (UK) 	<p>(1) use new social security powers to top up entitlements, aligning with Minimum Income Standard</p> <p>(2) use new 'welfare food' powers to increase value, eligibility, and uptake of Healthy Start Vouchers</p>	<p>(1) commitment to monitor food insecurity using UN FAO model from 2018 in Scottish Health Survey</p> <p>(2) commitment to take a rights-based approach to social security</p>
Geographically	<p>Local authorities are not legally required to ensure vulnerable people who are not able to geographically access food because of illness, disability, or age are supported.</p> <ul style="list-style-type: none"> • Over 60% of services have been suspended since 2009. (UK) • 50% of older people admitted to hospital are undernourished (UK) 	<p>(3) create a statutory duty on local authorities to provide access to food to vulnerable people, with guidance on pricing and nutrition and ring-fenced funding</p>	<p>(3) the Education Minister has convened a short life working group to review the sourcing of school food, with the aim of sourcing as locally as possible</p>
Dietary need	<p>The environmental drivers of poor diets, including the advertising and promotion of food high in fat, sugar and salt and the concentration of unhealthy food outlets, are rarely challenged.</p> <ul style="list-style-type: none"> • 2/3 adults and 1/3 children in Scotland are overweight or obese (S) • All of the Scottish Dietary Goals have been missed every year since monitoring began in 2001 (S) • The cost of this to NHS Scotland is estimated to be as much as £600 million a year, and the total economic costs as much as £4.6 billion a year. (S) 	<p>(4) tighten restrictions on the promotion and advertising of unhealthy foods, especially to children</p> <p>(5) prioritise policy to increase the accessibility of healthy foods (see Peas Please), including through land use planning</p> <p>(6) work with multiple retailers and caterers to agree a joint commitment to move their individual and collective offer towards matching dietary goals; consider implementing a levy if voluntary action fails</p>	<p>(4) Nutritional standards for school and hospital food</p> <p>(5) Soft Drinks Levy</p> <p>(6) Food Standard Scotland's recommendations for food eaten outside the home</p>

³ See [Nourish Scotland evidence to Committee on Economic, Social and Cultural Rights](#) for full references.

<p>Free from harmful chemicals</p>	<ul style="list-style-type: none"> • Pesticide residues are found in 46% of fresh food sold, doubling over the last decade, with no established timescale for reduction despite committing to in EU law (UK) • Livestock represent 45% of antibiotic use, increasing the risk of antibiotic resistance (UK) 	<p>(7) introduce a time-bound strategy for the reduction of pesticide use and statutory organic targets. Support transition through extension services</p>	<p>(7) Food Standard Scotland's increase in remit has strengthened its ability to protect food safety more generally</p>
<p>Culturally appropriate</p>	<ul style="list-style-type: none"> • No comprehensive action has been taken to reduce the need for foodbanks – feeding hungry people with donated or redirected waste food is not a culturally appropriate solution and neither addresses the root cause of waste or hunger (S) 	<p>(8) promote 'cash first' referral pathways for public authorities supporting food insecure people, including social security advice and income maximisation. (9) invest in dignified community food networks</p>	<p>(8) the Fair Food Transformation Fund is supporting community food providers in Scotland to transition towards more dignified models with £1mn of funds in the first year</p>
<p>Through access to land and other resources</p>	<ul style="list-style-type: none"> • Land ownership is prohibitively expensive for most new entrants, the majority of tenancies are short-term and insecure. Urban access to land in the form of allotments and community gardens is limited, with multiple local authority waiting lists of over 10 years. (S) 	<p>(10) take action to increase the accessibility of land for food production, including the cost of purchasing land, security of tenure and tenant's right to buy.</p>	<p>(9) the Community Empowerment Act 2014 and Land Reform Act 2015 significantly increased provision for community right to buy</p>
<p>Through access to processing, distribution and markets</p>	<ul style="list-style-type: none"> • Over a third of farms have a net farm income of less than zero, and 46% of farms are failing to recover their annual costs (UK) • Large retailers can effectively stipulate production and price to producers; 4 chains account for 70% of food purchased for consumption in the home, with only 5% of the remainder attributable to independent shops (UK) 	<p>(11) invest in processing, distribution and markets – including community food hubs, to support smaller-scale producers to sell at a fair price and protect rural employment</p>	<p>(10) some progress has been made to support short food chains such as Connect Local</p>
<p>The sustainability of the food system now and in to the future</p>	<p>The intensification of agriculture is responsible for multiple ecological crises, the costs of which are largely externalised. Significant water usage, impacts on air and water quality, animal welfare, soil erosion, biodiversity loss and climate change all undermine the availability of food now and in to the future.</p> <ul style="list-style-type: none"> • Looking specifically at climate change, agriculture and related land-use accounts for 23% of total climate change emissions (S) 	<p>(12) align agricultural subsidies to other social and environmental commitments, supporting producers to transition towards agroecological farming</p>	<p>(11) the Draft Climate Plan (RPP3) for the first includes detailed policy on food and farming in the shape of carbon audits, soil testing and nitrogen budgeting (12) Food waste reduction target of 33% by 2025</p>

