HUMAN RIGHTS WATCH

NOTHING LEFT IN THE CUPBOARDS

Austerity, Welfare Cuts, and the Right to Food in the UK

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Printed in the United States of America
ISBN: 978-1-6231-37342
Cover design by Rafael Jimenez

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May 2019

ISBN: 978-1-6231-37342

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Glossary and Acronyms

Brexit	The colloquial name for the process of the United Kingdom's exit from the European Union, following a referendum on June 23, 2016.
CESCR	UN Committee on Economic, Social and Cultural Rights
Chancellor	The Chancellor of the Exchequer, the senior UK government minister responsible for devising the government's budget, finance, and economic policies.
Community pantry	See "Food pantry" below.
CPI	Consumer Price Index, a key metric to track the price of essential goods and inflation.
DfE	UK Department for Education (A UK government ministry)
DEFRA	UK Department for Environment, Food & Rural Affairs (A UK government ministry).
DWP	UK Department for Work and Pensions (A UK government ministry)
ECHR	European Convention on Human Rights (formally Convention for the Protection of Human Rights and Fundamental Freedoms).
EHRC	UK Equality and Human Rights Commission, one of three national human rights institutions of the United Kingdom, established as a statutory public body to promote and protect human rights in England and Wales.
EU	European Union

FAO	UN Food and Agriculture Organization
FareShare	The UK's longest-running surplus food redistribution charity.
Food bank	A generic term to describe places that provide limited food and other basic supplies, which they have received as donations, to people in acute need for free. This is emergency food aid. The largest nationwide network is coordinated by the Trussell Trust, an anti-poverty charity that has over 1,200 centers, run by over 420 food banks. These food banks are independent charities, and members of the Trussell Trust network. Smaller individual or independent groups of food banks operate under different rules and may not always require referrals. Current estimates suggest around 800 independent food banks operate across the UK.
Food pantry	A membership scheme that allows members to obtain low-cost food, which could include redistributed waste or surplus or donated items, based on a nominal contribution towards the purchase by members. This is a form of ongoing food aid. (Sometimes also used interchangeably with social supermarket and community pantry, although social supermarkets tend to be organized as social enterprises and community or food pantries as charities.)
GDP	Gross Domestic Product
HMRC	Her Majesty's Revenue and Customs (the UK government's tax authority)
IFAN	Independent Food Aid Network, a group of independent, grassroots food aid providers working together since May 2016 to ensure national representation of independent food banks, and to advocate for structural change so food aid is no longer necessary
ICESCR	International Covenant on Economic, Social and Cultural Rights

JobCentre Plus	A UK government employment and social security agency found in most cities, currently designed primarily to assist people who are unemployed and claiming benefits. It is a part of the Department for Work and Pensions (DWP).
NAO	National Audit Office, the statutory body tasked with scrutinizing public spending and auditing government departments.
NIESR	National Institute for Economic and Social Research, an independent, non-partisan, charitable organization specializing in macroeconomic studies and econometric analysis.
Spending review	Spending reviews, now conducted annually in the UK, are a form of periodic budgetary checking process used by the governments in countries with advanced, industrial economies to restrain aggregate expenditure and to better prioritize government funding.
Universal Credit	The UK government's flagship welfare program, which combines and gradually replaces six existing "legacy" benefits (Income Support, income-based Jobseeker's Allowance, income-related Employment Support Allowance, Housing Benefit, Working Tax Credit and Child Tax Credit) under a single system to be administered online.
UDHR	Universal Declaration of Human Rights
UNICEF	UN Children's Fund

Summary

Tens of thousands of families in the United Kingdom every year do not have enough food to live on and are turning to sources of non-state charitable aid. This new phenomenon of growing hunger for some of the least well-off people in the country, has emerged alongside a wide-ranging and draconian restructuring of the country's welfare system since 2010. With reductions in welfare support year on year, the number of people, including families with children, going hungry is rising at an alarming rate and represents a troubling development in the world's fifth largest economy.

The right to food is a fundamental human right contained in several international treaties to which the UK has long been committed. This right, however, remains unrealized for the increasing number of people, many of whom are families with children, living on the breadline.

The UK's largest national food bank charity, the Trussell Trust, has documented a 5,146 percent increase in emergency food parcels distributed between 2008 and 2018. In that decade this food bank network went from distributing just under 26,000 parcels a year to handing out more than 1.33 million of them. A wider network of independent food banks has sprung up across the country over the past decade to meet the needs of more people facing food poverty.

Schoolteachers, professionals working in community projects, children's centers and social workers continue to raise alarm bells about children arriving at school hungry or families relying on schools or childcare settings to ensure children receive one hot meal a day. Many poor families in the UK report increasing hunger. This increase comes despite the efforts of domestic anti-poverty campaigners, charitable food aid organizations, schools and community centers trying to fill the gap. Government policies are either not addressing rising hunger, or worse, are exacerbating it.

The UK, as the fifth largest economy in the world with public spending at approximately 39 percent of GDP, has considerable resources at its disposal to ensure that its poorest families and children do not go hungry and fall through the net of the welfare state. Yet, the UK government is failing to do so. It is failing in particular to ensure that the changes it

A couple and their two children leave the food bank in Wisbech, Cambridgeshire, after collecting a three-day emergency supply of food, April 2019. They told Human Rights Watch the benefit cap left them unable to pay rent and afford food. © Kartik Raj/Human Rights Watch

has made to its welfare architecture, does not leave children and families to fall through the net.

This report documents the lives of families living on the breadline, the work of voluntary organizations stepping in to help, and identifies areas where the UK government is falling short in ensuring people's right to food. It includes the perspectives of people who cannot adequately feed their families, and it looks at how welfare changes have exacerbated those problems. Human Rights Watch also interviewed volunteers and staff at food aid projects, and professionals working in education and family support. The report focuses on the experiences of families with children with access to the welfare benefit system, including families with parents in and out of work. In addition to these interviews, Human Rights Watch examined publicly available data and statistics held and provided by some of the organizations interviewed.

The report examines how this rise in food poverty has intersected with a far-reaching restructuring of how the welfare benefit system works, and austerity-motivated reductions in government expenditure on the welfare budget for children and families. The analysis in this report is limited to cases in England, although the UK government's international responsibility for ensuring human rights treaty compliance extends to all its regions.

The report does not address the situation of single adults or adult couples without responsibility for children. The report also does not address other poverty-related issues linked to the right to an adequate standard of living, such as lack of adequate housing or heating, or issues specific to food poverty among older people, living on limited fixed incomes such as a state pension, or among people with disabilities. Nor does it address food poverty among asylum seekers whose claims have been rejected or irregular migrants, who do not have access to the public welfare system. Its focus is on the way in which changes to the welfare system in the context of austerity relate to the dramatic increase in food poverty in the UK among families with children.

This report is Human Rights Watch's first project explicitly focused on obstacles to ensuring the right to food, as part of the right to an adequate standard of living, in the context of a welfare system in a rich democracy with a relatively well functioning rule of law system. Previous work by the organization on the right to food has focused on countries facing famine, or acute food shortages, usually linked to the state's decision to withhold food from or obstruct access to food for some groups.

The right to food, understood as an integral part of the right to an adequate standard of living, exists in international treaties to which the UK is a state party, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the UN Convention on the Rights of the Child, the UN Convention on the Elimination of all Forms of Discrimination Against Women and the UN Convention on the Rights of Persons with Disabilities. It is also set out in the UN Food and Agriculture Organization's (FAO) 1996 Rome Declaration — a document the UK helped pioneer — and subsequent voluntary FAO guidelines.

And yet, the right to food, as a human right, has so far played little role in UK domestic policies. It is not part of the UK's domestic Human Rights Act. The UK has not incorporated the ICESCR into domestic law and provides no legal remedy for those who are denied the

right to food. In public debates, the term "human rights" is rarely mentioned when discussing people's reliance on sources of assistance for food such as food banks, community pantries, pilot projects for children in deprived areas, and low-cost redistribution schemes.

The rise in reliance on food aid has surged over a decade, coinciding with a period in which three successive governments have sought to stabilize growing public fiscal deficits through austerity policies emphasizing significant reductions to government expenditure. Since 2010, in significant part responding to the impact of the global financial crisis, successive Chancellors (the cabinet post responsible for finance and the economy) in a Conservative-Liberal Democrat coalition government, and in subsequent Conservative governments, have made the case that financial austerity is an "unavoidable" choice characterized by "tough, but fair" decisions. Each government focused its attention on achieving savings by reducing the overall welfare budget.

Although austerity measures are not violations of rights per se, such decisions should not be taken without examining the impact on human rights. International human rights bodies have repeatedly made this point clear to governments, including the UK. In the UK, the impact of deep cuts in the welfare system since 2010 has been disastrous for poor families' living standards and in particular their access to adequate food. Our analysis of government data shows that the budget allocated for welfare for children and families has borne the brunt of public expenditure cuts, falling by 44 percent between 2010 and 2018.

Three fiscal policies on the one hand, have exerted a particularly detrimental impact on people on the lowest incomes in the UK. The fiscal policies include caps on benefits, freezing the rate at which benefits increase, and limiting child tax credits to just two children:

- Since 2013, the government has introduced an arbitrary financial *cap* on the amount of welfare benefits a family can receive. The government further lowered the cap in 2016. This cap has negatively affected income levels of families with children under the age of five, and single parents (the overwhelming proportion of whom are women).

- For four years, starting from 2016, the government has implemented a *freeze* on most working-age welfare benefits to "workless" (unemployed) households, so they did not keep pace with inflation, partly reflecting a belief that the "positive and dynamic behavioral effects" of reduced welfare payments would incentivize work among poor people claiming welfare benefits. Data from specialist organizations show that single-parent and two-parent families in the poorest deciles of the population stood to lose between £580-770 and £650-825 respectively per year as a result of these changes. Data also shows that the transition into work has occurred at a rate far below that expected by the government. Welfare advisers have also estimated that 40 percent of those affected by the freeze were responsible for children. Welfare benefits have also not kept pace with rising food prices, even though the government's own macroeconomic data showed food prices rising faster than income levels for the poorest segments of the population.
- A third, particularly egregious policy, which began in 2017, is a "two child limit," curtailing any child tax credit (a means-tested cash benefit) to families for any child after their first two (with some exceptions, i.e. multiple births, adoption and children born from rape). This arbitrary limit on a means-tested benefit penalizes low- and middle-income families for having more than two children. Although in January 2019 the government announced a partial reversal of this policy, to ensure it is not applied retrospectively to children born before that date, its effect on all families with a third or further additional child born after April 6, 2017, remains in place.

The other major change that has been particularly harmful is the transition to the Universal Credit system, the government's signature welfare policy that began in 2012 to replace a complex set of six "legacy" social security benefits. Food aid providers, academic researchers and nongovernmental welfare advice providers have established clear links between the restructuring of the welfare system and a marked increase in food poverty among low income families who receive such support.

The Universal Credit system has been beset with delays in its rollout, which remains ongoing. Furthermore, whereas social security benefits used to be paid in advance, this is no longer the case under Universal Credit. The wait for payment is a significant source of

delay and debt. It also relies on a punitive system that sanctions claimants by withholding funds from those who do not meet conditions, usually related to showing evidence of being in or seeking employment, while making it extremely difficult to appeal such decisions. These and other problems have made it difficult for claimants to navigate the system and receive needed funds. The official oversight mechanism for auditing public expenditure has raised serious concerns that the new system does not represent "value for money".

Joanne, a 47-year-old single mother of four, interviewed at Wisbech Food Bank in Cambridgeshire on May 23, 2018, described the impact of benefit cuts on her ability to ensure her children are fed adequately:

> The only time I come [to the food bank] is if my benefits have been stopped or cut. I had a sanction once, so they stopped the payment completely … I've had cuts to my benefits.… At least the children get a hot meal at school. But they break up for half term on Friday. And until my money gets sorted, it's going to be a long few days. As a parent you really feel like you've let your kids down.… I'll have to gather my pennies together for a loaf of bread and 50p of butter, so they have some toast.

Emma Middleton, a welfare adviser with 15 years of experience in Hull explained to Human Rights Watch what has happened since austerity programs were implemented:

> In the first few years food poverty was not an issue.… You never saw families like that. What we see now is a constant stream of food poverty. Benefits haven't kept up with inflation, and you can't survive on welfare. A few years ago, we used to be able to help people with an answer, direct them somewhere for help, but increasingly there's not much we can do. The safety nets to which we used to direct them, which they may not have known about, aren't there anymore.

One particularly troubling aspect of the overhaul of welfare and tax policy over the past decade has been the way the government ignored growing warnings and evidence from a range of expert sources that these policies are exacerbating poverty. It is only recently,

after almost a decade of implementing these measures, that it began to acknowledge these problems, including for the first time, in February 2019, admitting a possible link between the rollout of Universal Credit and increased food bank use.

However, the government has not established a cumulative impact assessment of its welfare and tax changes as recommended by three UN committees (in 2016 and 2017) and repeatedly by its own domestic national human rights institution (since 2015). There is no clear policy or department that is responsible for ensuring that no one in the UK suffers from hunger as a result of inadequate or curtailed social security benefits or other government policies, or for monitoring food poverty and developing a national anti-hunger plan. In 2016, the government also did away with previously existing child poverty targets and the requirement to develop a child poverty strategy, as part of its broader post-2010 legislative overhaul of the welfare system.

The current government appears to now be taking some steps to address these critiques. In January 2019, a junior government minister tempered the government's earlier rejection of the criticism of UK government welfare policy by Philip Alston, the UN special rapporteur on extreme poverty and human rights, following Alston's official visit to the country in November 2018. In February 2019, the Work and Pensions Secretary acknowledged that problems accessing welfare payments had led to an increase in food bank usage. The statement was a marked departure from the previous position to deny any link between changes to how welfare worked and food poverty.

In March 2019, the government committed to improve its measurement of household food insecurity but did not take on board other suggestions by anti-poverty campaigners contained in draft legislation to make this a statutory requirement with an annual report to Parliament. Nevertheless, this represents an important step since the government does not systematically gather such data across all parts of the UK at present. Separate pilot schemes have also been funded by the Department for Education and Minister for Children and Families to address children showing up to school hungry in the mornings, and those going hungry during the holidays. Although a further, larger-scale pilot project is now planned, it remains unclear whether the lessons from these projects will develop into more systematic efforts to combat childhood food poverty.

This report is Human Rights Watch's first project explicitly focused on obstacles to ensuring the right to food, as part of the right to an adequate standard of living, in the context of a welfare system in a rich democracy with a relatively well-functioning rule of law system.

Universal Credit itself can be improved to better respect the rights of people, including those living in poverty, to an adequate standard of living. This report calls on the UK government to use the opportunity of its current pause on the further rollout of Universal Credit to evaluate and address the system's structural flaws, and not just problems with delivery. The government should also ensure everyone has access to adequate food, including in emergency situations through a system of grants. It should introduce technical changes such as paying benefits in advance to avoid debt from the outset. It should review the excessive use of punitive sanctions, reducing repayment rates on advances, and hardship payments. And it should improve processes by which people in financial crisis can access emergency assistance.

The government should accept the right to food as a basic human right, equivalent to others, and ensure everyone in the UK has access to an adequate remedy for violations of the right to food, including legal remedies and compensation.

It should incorporate ICESCR into domestic law and ratify the revised European Social Charter. It should keep the EU Charter on Fundamental Rights in UK law post-Brexit.

Parliament should quickly pass proposed legislation to measure household food insecurity, which would require the government to do so and report annually to Parliament, and consider establishing a national mechanism for mapping and monitoring food insecurity, food poverty, and vulnerability to food poverty.

The government should also establish clear responsibility and coordination on a national anti-hunger strategy between the various government departments, and should consider reintroducing a definition of poverty, for example as proposed recently by the Social Metrics Commission, and, on that basis, developing a proactive anti-poverty strategy.

The government should also give serious consideration to taking on board recommendations from international bodies to conduct a broader cumulative assessment

of the impact of post 2010 austerity-based tax and welfare changes on people living on low incomes (including the benefit cap, the uprating freeze and the two-child limit). It is, for example, well within the government's power to lift the real value of welfare benefit levels to keep pace with inflation as part of its next budget, particularly to ensure that people have sufficient income to afford adequate food.

International actors, such as the various UN Committees overseeing the human rights record of the UK, and UN's special rapporteur on extreme poverty and human rights can play a role in providing guidance and recommendations to the UK government.

The cost of inaction is high. The current welfare system overhaul, which places poor people generally at risk and raises particular concerns around poor families with children, is likely to lead to more people becoming food insecure and desperate for help from charities, schools, children's centers and community projects.

Emma Revie, Chief Executive of the Trussell Trust network of food banks, told Human Rights Watch:

> Food banks have tried to stem the tide, but no charity can replace the dignity of people having enough money to afford a decent standard of living. The failure to tackle the structural problems at both a national and local level has left people with nowhere else to turn. We have the power to tackle these structural problems as a nation.

The government will have to re-evaluate the harsh caps, freezes and limits on benefits that have hurt the poorest residents of the UK. Otherwise more people will find that they fall below the line from "just about managing" to having to rely on emergency food aid to meet their basic needs.

The problem of escalating food poverty in the UK can be fixed. But it cannot be fixed without concerted effort by the government to take clear responsibility in developing solutions to the problem, to gather better data, and to muster the political will to revise or change the policies that have led to people going hungry and not being able to realize their right to food. Ensuring that vulnerable people in society do not go without food on the

table for their families, and that their basic rights, including their right to food, are protected is a legal duty that the UK government owes its least well-off citizens and residents.

Key Recommendations

Urgent Key Recommendations

- The **government** should announce publicly that it accepts the right to food as a basic human right, and part of the human right to an adequate standard of living, and accept its duty to ensure that no one in the United Kingdom goes hungry. The government should ensure an effective remedy (including legal protection) for those whose right to food has been violated by state action or inaction, so that they can effectively challenge government policy and laws to ensure that everyone has access to adequate food, and that those who do not receive compensation.
- The **Department for Work and Pensions** should take immediate steps to abolish the discriminatory two-child limit policy, both as it applies to "legacy" benefits and as it will apply to future Universal Credit claimants in households with more than two children, and in the interim disapply it to ensure that it no longer affects any child whether or not they were born before April 2017.
- The **Department for Work and Pensions** should consider revising the current system in which Universal Credit payments are made in arrears, to either:
  - Make Universal Credit payments in advance, with no penalty for, or recovery of, overpayment from the first payment; or
  - Offer a one-off, non-recoverable, grant-like payment to cover the period between entering the Universal Credit system and receiving the first payment, and thereafter continue to pay benefits in arrears. This grant should include a cash component, and could also include vouchers redeemable at food retail outlets (supermarkets and convenience stores, rather than food banks).
- The **Treasury** should adopt policies to ensure that relevant welfare benefits are not eroded by inflation and rising living costs (including the cost of food) and thus reducing assistance to beneficiaries.
- The **government** and **parliamentarians** should support draft legislation seeking to develop a statutory requirement to measure and monitor food insecurity, with periodic reporting to parliament.
- The **government** should establish a cross departmental working group under the supervision of the Cabinet Office — comprised of senior representatives of all relevant departments, including the Department for Work and Pensions,

Department for Environment, Food and Rural Affairs, Department for Education, Department for Health, HM Revenue and Customs, and the Treasury, at a minimum – to review the human rights and policy implications of escalating levels of food poverty, to ensure better coordination between ministries and government agencies, and to take responsibility for developing a nationwide anti-hunger strategy.

Further Key Recommendations

- The **government** should:
  - Establish a cumulative human rights impact assessment of post 2010 tax and welfare restructuring, which is independent of government, with particular attention to impact on people with specific additional protections under domestic anti-discrimination laws and those arising from international human rights treaty obligations.
- The **Department for Work and Pensions** should:
  - Use the opportunity of the current pause in rollout of Universal Credit to review structural failures rather than focusing primarily or solely on delivery and implementation problems;
  - Review the rollout of Universal Credit, with particular attention to areas with documented increase in food bank usage, including examining the possibility of allowing Universal Credit recipients who are pregnant women or families with dependent children to request a return to prior "legacy" welfare benefit arrangements for a fixed period until the rollout schedule is finalized;
  - Consider removing the benefit cap, or in the alternative, increase it so it maintains parity with 2010 levels in real terms;
  - Introduce an explicit prohibition on applying benefit sanctions to pregnant women claimants or claimants with young dependent children.

Methodology

This report is based on research conducted in England between December 2017 and June 2018.[1] On the ground research focused on Wisbech (Cambridgeshire), Kingston-upon-Hull and Oxford (Oxfordshire). Human Rights Watch selected these regions and local authority areas out of an initial, open-ended, interest in investigating links in areas which had high levels of relative deprivation, which had seen rapid increases in levels of immigration, and where populist political positions such as those expressed during the 2016 Brexit referendum had enjoyed support. During a scoping exercise in early 2018, the research centered its attention on the all-too-evident poverty in the areas visited, with a focus on food poverty among families in receipt of welfare benefits and obstacles people face in securing their right to food. The research also examined data and national trends regarding reliance on food aid by consulting available statistics and relevant expert NGOs and academics.

A Human Rights Watch researcher based in the United Kingdom conducted 126 interviews with a wide variety of stakeholders including staff, volunteers and users of food banks and low-cost food pantries; staff and volunteers at community centers, schools, family support and children's centers; NGOs, churches and academics working in the areas of poverty, and in particular food poverty and child poverty; and some local authority representatives.

Most interviews were conducted in private (where the interviewee was interviewed in their place of paid or voluntary work) or as conversations in public spaces (such as food banks, food pantries, community centers and cafes) with the interviewee's consent. Three sets of interviews were carried out as group discussions with established groups of young women familiar with each other, many of whom experienced food poverty. Some interviews were conducted by telephone, and these are indicated as such in footnotes. Where interviews in person or telephone were not possible with service providers, NGOs or officials, or where a query could be resolved without a full interview, Human Rights Watch sought responses in

[1] The research did not examine first-hand developments in Scotland, Wales or Northern Ireland, the three other main constituent regions of the United Kingdom, as each of these has varying degrees of devolved power over education, health and social care. The researcher did however, in the process of gathering information, hear from national or regional NGOs and local community organizations from these regions about their experiences of addressing food poverty.

writing, and these are also indicated clearly in footnotes. All interviews were conducted in English.

Interviews were semi-structured and covered a range of topics relating to welfare, rights and access to food. Before each interview the researcher described Human Rights Watch's work and explained the purpose of the research and its voluntary nature and sought verbal informed consent for the interview. All interviewees were told they could decline a question or could end the interview if they chose to do so. Interviewees did not receive compensation or remuneration for participation, but in some cases the researcher provided a modest sandwich meal and drink when the interview took place during mealtimes.

Real names of interviewees are used, except where the interviewee requested that we use a pseudonym or refer to them simply by their professional role. Those who opted to use a pseudonym largely did so owing to the stigma associated with being identified as poor and reliant on food aid. Pseudonyms are indicated clearly as such with quotation marks on the first use in relation to each interview requesting anonymization.

In addition to interviews, Human Rights Watch examined other reports, legislation, policy documents and publicly available data and statistics held and provided by some of the organizations interviewed. Data on public expenditures comes from the HM Treasury Public Expenditure Statistical Analysis publications while other economic (including gross domestic product data and inflation indices) and demographic (population totals) data is from the Office of National Statistics.[2] For inflation adjustments, the Consumer Price Index used was the all items index and the index was set to 2016 pounds.[3] Per capita adjustments used the full (all ages) population.

Human Rights Watch sent letters detailing our key findings and requesting comment and clarification to the Secretary of State for Work and Pensions; the Secretary of State for Environment, Food and Rural Affairs; the Chief Secretary to the Treasury; the Secretary of State for Education; and the Parliamentary Under Secretary of State for Children and

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[2] https://www.gov.uk/government/collections/public-expenditure-statistical-analyses-pesa (accessed May 13, 2019) and https://www.ons.gov.uk/ (accessed May 13, 2019).

[3] Some HM Treasury Public Expenditure Statistical Analysis data already includes inflation-adjusted spending set to 2005 pounds.

Families. We received replies from the Department for Education, HM Treasury and the Department for Work and Pensions, which we have aimed to include in the report. Human Rights Watch will publish copies of the responses received from government departments on its website.

The issues discussed in this report arise within a UK public policy debate about poverty among families with children. While the definition of poverty, both relative and absolute, remains contested, many UK sources referred to relate their definition of low income or living "below the poverty line" either explicitly or implicitly to a governmental measurement called Households Below Average Income (HBAI). HBAI is an important basis for understanding UK data around how families are understood to fall within certain income brackets. The approach uses a measure of equivalized household income (before and after housing costs) as a proxy for living standards. The data are updated annually. As of March 2019, a household is said to be in relative low income (or relative poverty) if its household income is below 60 percent of the current median, and a household is considered to be in absolute low income (or absolute poverty) if its household income is below 60 percent of the inflation-adjusted 2010/11 median.[4] The HBAI report satisfies the UK statutory requirement currently set out in the Welfare Reform and Work Act 2016, to maintain and publish data on children living in low-income households.[5] This report also makes reference to a separate Minimum Income Standards approach being developed by a group of academics and public policy practitioners at Loughborough University (including how it relates to a poverty threshold), and a definition of poverty being developed by the Social Metrics Commission, both of which seek to examine factors beyond household income.

The terms "food poverty" and "food insecurity" are sometimes used interchangeably in public debate around reliance on food aid. This report focuses on "food poverty," as it

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[4] Department of Work and Pensions and Office of National Statistics, "Households Below Average Income: An analysis of the UK income distribution: 1994/95-2017/18," March 28, 2019, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/789997/households-below-average-income-1994-1995-2017-2018.pdf (accessed May 8, 2019).

[5] Welfare Reform and Work Act 2016, Section 4, http://www.legislation.gov.uk/ukpga/2016/7/crossheading/children-living-in-lowincome-households/enacted (accessed May 8, 2019). For the most recent presentation of this data (for financial year 2017/18), see Department of Work and Pensions and Office of National Statistics, "Households Below Average Income: An analysis of the UK income distribution: 1994/95-2017/18," p. 8.

focuses on decreasing affordability and access to nutritious food for people on low incomes, and makes reference to "food security" and "food insecurity" when referring to more formal, systemic measurements or efforts to develop measurements at the individual or household level. [6]

This statistical information in this report was accurate as of April 4, 2019. It includes developments as of May 10, 2019.

[6] Each of the terms "food insecurity" (and its converse "food security") and "food poverty" has several definitions. The definitions are included with further discussion in an Appendix to this report. This report focuses on "food poverty," as it focuses on decreasing affordability and access to nutritious food for people on low incomes, and makes reference to "food security" and "food insecurity" when referring to more formal, systemic measurements or efforts to develop measurements at the individual or household level.

I. Growing Levels of Hunger: From Skipping Meals to Queues at Food Banks

> Often, I have nothing left at the end of the week. When you're a single mum there are very few jobs you can do that let you drop your child to school in the morning, then go to work and be back at 2.30 to pick them up. I skip meals, so my daughter can eat, and coming to a food pantry … means we can both eat. When I skip meals, I get easily tired and don't have energy, but you get used to it. I'd rather that she have something to eat than me.
>
> – "Sarah Nor", a 23-year-old woman with a 4-year-old daughter, interviewed at the Goodwin Pantry in Hull[7]

Tens of thousands of families in the United Kingdom (UK) every year do not have enough food to live on, and are turning to sources of non-state, charitable aid. This new phenomenon of growing hunger for some of the least well-off people in the country has emerged alongside a wide-ranging and draconian restructuring of the country's welfare system since 2010. With reductions in welfare support year on year, the number of people, including families with children, going hungry is rising at an alarming rate and represents a troubling development in the world's fifth largest economy. The right to food is a fundamental human right contained in treaties the UK has long signed up to, and remains unrealized for the increasing numbers of people living on the breadline.

A series of studies carried out between 2013 and 2018 by domestic anti-poverty organizations, non-governmental food aid providers, and parliamentarians have documented how growing numbers of children and families in the UK have begun to depend on emergency food aid, a phenomenon which was largely unknown in the country prior to 2008.[8] The overwhelming view among these studies is that austerity-led policy

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[7] Human Rights Watch interview with "Sarah Nor," Goodwin Community Pantry user, Hull, February 9, 2018. Sarah Nor was subsequently interviewed again as a Goodwin Community Pantry volunteer in June 2018.

[8] Greater London Authority/IPSOS MORI, "Child Hunger in London: Understanding Food Poverty in the Capital," August 2013, https://www.ipsos.com/sites/default/files/publication/1970-01/sri-ews-education-child-hunger-in-london-2013.pdf (accessed May 8, 2019); Rachel Loopstra, Hannah Lambie-Mumford and Ruth Patrick, "Family hunger in times of austerity: families using food banks across Britain," SPERI British Political Economy Brief No 32, March 2018, Sheffield Political Economy Research Institute, http://speri.dept.shef.ac.uk/wp-content/uploads/2018/03/SPERI-Brief-32-Family-hunger-in-times-of-austerity.pdf (accessed May 2, 2018); Rebecca O'Connell et al., "Which Types of Family are at Risk of Food Poverty

making has increased reliance on emergency and ongoing food aid resulting in nongovernmental providers — many of whom did not exist or operated on a much smaller scale a decade ago — to fill this need.

Niall Cooper, the director of Church Action on Poverty, a faith-based NGO, told Human Rights Watch:

> The growth in food aid over the past 10-15 years has been unprecedented. In 2003, Sustain [a UK based food and agriculture security and sustainability organization] published a Community Food Projects directory. The directory listed over 260 different community food projects across the UK including food co-operatives, community cafés, school breakfast clubs, cooking clubs, food growing projects and farmers' markets. Only two were specifically described as food banks — one of which was the original Trussell Trust food bank in Salisbury. Now, in contrast, there are 428 food banks within the Trussell Trust network [see below for clarification on numbers from Trussell Trust], and a further 803 independent food banks across the UK.[9]

This human rights crisis affects families and children, and Human Rights Watch research from the field, focused on three communities in England, bears this out. Families with children are facing significant challenges in being able to access their right to food, as an

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in the UK? A Relative Deprivation Approach," *Social Policy and Society*, February 5, 2018, doi:10.1017/S1474747464180000015; Rebecca O'Connell, "Families and Food in Hard Times: rising food poverty and the importance of children's experiences" SPERI British Political Economy Brief No 33, March 2018, Sheffield Political Economy Research Institute, http://speri.dept.shef.ac.uk/wp-content/uploads/2018/03/SPERI-Brief-33-Families-and-Food-in-Hard-Times.pdf (accessed May 2, 2018); Jane Perry et al., for Child Poverty Action Group, Church of England, Oxfam GB and The Trussell Trust, "Emergency Use Only: Understanding and reducing the use of food banks in the UK," November 19, 2014, https://policy-practice.oxfam.org.uk/publications/emergency-use-only-understanding-and-reducing-the-use-of-food-banks-in-the-uk-335731 (accessed March 1, 2018); Hannah Lambie-Mumford, Elizabeth Dowler, "Rising use of "food aid" in the United Kingdom", *British Food Journal*, 2014, Vol. 116 Issue: 9, pp.1418-1425, doi:10.1108/BFJ-06-2014-0207; and Andrew Forsey, "An Evidence Review for the All-Party Parliamentary Inquiry into Hunger in the United Kingdom," 2014, https://www.feedingbritain.org/Handlers/Download.ashx?IDMF=5ee29278-e391-4e11-92fc-0370f310e3c5 (accessed March 1, 2018).

[9] Email to Human Rights Watch from Niall Cooper, Director, Church Action on Poverty, March 1, 2019. Cooper referred in his email to three sources for his data: Sustain's 2003 directory (downloadable from https://www.sustainweb.org/publications/community_food_projects_a_directory), the Trussell Trust's latest statistics (https://www.trusselltrust.org/news-and-blog/latest-stats/mid-year-stats/) and the Independent Food Aid Network's mapping project (http://www.foodaidnetwork.org.uk/mapping). The latter two networks are described further in greater detail below in this section. (All three links last accessed May 8, 2019)

"Sarah Nor," a volunteer and pantry user at the Goodwin Community Pantry in Hull, puts fresh produce on the shelves, June 2018. The pantry receives redistributed food from a local scheme and makes it available to community members at low cost. © 2018 Kartik Raj/Human Rights Watch

integral and essential part of their right to an adequate standard of living. They are going hungry in a country with ample resources to make sure that does not happen.

A Backdrop of Recession and Austerity-Based Policy

The UK felt the crunch of the global economic crisis beginning in 2007 and lasting into the early 2010s. It was no exception to the global trend.

The recession and the decisions by subsequent UK governments to manage growing budget deficits through a program of public spending cuts is critical background for this report. In particular, the policy choices taken in response to the recession led to cuts to

overall welfare spending and a complicated set of changes to many tax and welfare rules, rates, thresholds and limits that had a serious negative impact on poorer people.[10]

As these policies were implemented, reliance on food aid spiraled exponentially, with nongovernmental or charitable organizations stepping in to fill the hunger gap arising from this restructuring of the welfare architecture. A detailed exposition and analysis of policy changes on welfare and tax, essential to fully understanding the rise in food aid, follows in Chapter II.

Families Facing Hunger: A Human Rights Crisis

In England, and across the UK more generally, more families are food insecure or have fallen into food poverty. Families on low incomes, in receipt of benefits, are at particular risk of falling into food poverty or becoming food insecure.[11] In the simplest sense, people experience food poverty or become food insecure when their economic or social constraints mean they cannot afford to consume a diet that meets nutritional needs.[12]

For those who experience food poverty, emergency food aid is a critical resource. Reliance on emergency food aid has increased dramatically in the UK. The Trussell Trust, the main provider of emergency food aid, has seen a 50-fold growth in the last decade (see section immediately below for statistics).[13] Food bank usage, a phenomenon which barely existed two decades ago, has increased exponentially across the UK.[14]

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[10] See Jonathan Portes and Howard Reed, "Distributional results for the impact of tax and welfare reforms between 2010-17, modelled in the 2021/22 tax year: Interim findings," Equality and Human Rights Commission (Research report), November 2017, https://www.equalityhumanrights.com/sites/default/files/impact-of-tax-and-welfare-reforms-2010-2017-interim-report_0.pdf (accessed May 8, 2019); and Nathan Hudson-Sharp et al (National Institute of Economic and Social Research, NIESR), "The impact of welfare reform and welfare-to-work programmes: an evidence review," Equality and Human Rights Commission (Research Report 111), March 2018, https://www.niesr.ac.uk/sites/default/files/publications/The%20impact%20of%20welfare%20reform%20and%20welfare-to-work%20programmes.pdf (accessed May 8, 2019), for two detailed macroeconomic analyses of the impact of these changes.

[11] See Rebecca O'Connell et al., "Which Types of Family are at Risk of Food Poverty in the UK?"; Rebecca O'Connell, "Families and Food in Hard Times"; and Rachel Loopstra et al., "Family hunger in times of austerity."

[12] The terms "food insecurity" and "food poverty" have varying definitions, which are included with further discussion in an appendix.

[13] Rachel Loopstra et al., "Austerity, sanctions, and the rise of food banks in the UK," *BMJ*, April 8, 2015, doi:10.1136/bmj.h1775 and Trevor Jackson, "Austerity and the rise of food banks," *BMJ*, April 9, 2015, doi:10.1136/bmj.h1880.

[14] Jane Perry et al "Emergency Use Only."

Families with children make up over half of food bank users according to academic research, carried out in large part by the Sheffield Political Economy Research Institute, sometimes commissioned by food aid providers. That research also shows that food bank users are more likely to have dependent children than the UK average.[15] Single-parent households (mostly women-led) are significantly impacted.[16] People with disabilities are also disproportionately affected.[17]

UNICEF's 2017 survey of "rich countries" highlights the way food poverty and food insecurity are affecting children in the UK. Data shows that approximately one in five (19.7 percent) children under the age of 15 in the UK lives in a situation of food insecurity.[18]

Food Banks: A Key Indicator of the Food Poverty Problem

Food banks are charitable organizations that provide donated food, and sometimes other basic hygiene and toiletry supplies, to people in acute need for free. In the United Kingdom, unlike in other states, food banks are not funded by the state, and are charitable, non-governmental or church or community-led initiatives, catering to a wide variety of people in need of emergency assistance getting food.[19]

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[15] Rachel Loopstra, Hannah Lambie-Mumford and Ruth Patrick, "Family hunger in times of austerity". For wider studies into food bank usage and food aid usage, see, inter alia, Rachel Loopstra et al., "Austerity, sanctions, and the rise of food banks"; Rebecca O'Connell et al., "Which Types of Family are at Risk of Food Poverty in the UK?".; Hannah Lambie-Mumford and Lily Sims, "Children's experiences of food and poverty: the rise and implications of charitable breakfast clubs and holiday hunger projects in the UK," SPERI British Political Economy Brief No 31, March 2018, Sheffield Political Economy Research Institute, http://speri.dept.shef.ac.uk/wp-content/uploads/2018/03/SPERI-Brief-31-Children's-experiences-of-food-and-poverty.pdf (accessed May 2, 2018); Rebecca O'Connell, "Families and Food in Hard "; Rachel Loopstra and Doireann Lalor, "Financial insecurity, food insecurity, and disability: The profile of people receiving emergency food assistance from the Trussell Trust foodbank Network in Britain," June 2017, https://www.trusselltrust.org/wp-content/uploads/sites/2/2017/07/OU_Report_final_01_08_online2.pdf (accessed March 1, 2018); and Greater London Authority/IPSOS MORI, "Child Hunger in London".

[16] Rebecca O'Connell, "Families and Food in Hard Times."

[17] Rachel Loopstra and Doireann Lalor, "Financial insecurity, food insecurity, and disability.'

[18] UNICEF Office of Research. 'Building the Future: Children and the Sustainable Development Goals in Rich Countries', Innocenti Report Card 14, June 2017, UNICEF Office of Research – Innocenti, Florence, https://www.unicef-irc.org/publications/pdf/RC14_eng.pdf (accessed May 2, 2018), page 17. This UNICEF survey includes all EU and OECD member states. As UNICEF notes, "although the general availability of food is not a problem in any of these countries, too many families struggle to satisfy their children's nutritional needs" (quote from p.17). A related UNICEF study shows that within the EU, apart from Bulgaria, Lithuania and Romania, the UK has the highest proportion of children under 15 in a food insecure household. See Audrey Pereira, Sudanshu Handa and Goran Holmqvist, "Prevalence and Correlates of Food Insecurity among Children across the Globe." Innocenti Working Paper 2017-09, UNICEF Office of Research – Innocenti, Florence. https://www.unicef-irc.org/publications/pdf/IWP_2017_09.pdf (Accessed July 1, 2018), pages 27-29.

[19] See exchange between Lord Greaves and Lord de Mauley in House of Lords Debates, April 22, 2013, Column WA372-373, https://publications.parliament.uk/pa/ld201213/ldhansrd/text/130422w0001.htm (accessed May 1, 2019).

Volunteers at the Wisbech food bank, Cambridgeshire make up an emergency parcel suitable for a large family. This food bank can sometimes offer families with children an additional £5 voucher to be redeemed at the local butcher or greengrocers. © 2018 Kartik Raj/Human Rights Watch

Food banks and other schemes which redistribute surplus food at low or no cost to those who need it have grown dramatically in the last decade in the UK. A key indicator of the growth in food insecurity is that many more people in the UK are using food banks.

The former UN Special Rapporteur on the right to food, Olivier de Schutter, has noted that "the uncomfortable reality of food poverty," which had been widely (but wrongly) assumed to have been eradicated in rich countries, has been rendered visible by the recent emergence of food banks.[20]

The largest nationwide network of emergency food distribution in the UK is organized by the Trussell Trust, an anti-poverty charity that has over 1,200 centers, run by over 420 food

[20] Olivier de Schutter, foreword to "First World Hunger Revisited: Food Charity or the Right to Food?" 2nd Edition, ed. Graham Riches and Tiina Silvasti (Basingstoke: Palgrave Macmillan, 2014), ix.

banks. These food banks are independent charities, and members of the Trussell Trust network.[21] For the purposes of this report, we use the term "food bank" to refer to both individual Trussell Trust food bank centers and regular food parcel distribution coordinated by other organizations or independent charities.

Food bank users must be referred to the Trussell Trust by professionals or organizations authorized to do so by the Trust, where the referring organization has determined that the person does not have sufficient food to eat in the immediate future.[22] Trussell Trust food bank staff and volunteers have guidance to say individuals can receive up to three three-day emergency food parcels every six months.[23] Other types of food banks may not always require referrals or have guidance on limits of visits or handouts per year.[24]

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[21] By way of further explanation in the difference between food banks and food bank centers, one of the Trussell Trust food banks interviewed for this project in Ely, Cambridgeshire had six distribution centers dotted around rural East Anglia, and gave out 45 tons of food from those centers (Human Rights Watch interview with Cathy Wright, Manager, Ely Food Bank, Ely , January 12, 2018), whereas the Wisbech food bank had one distribution center open three days a week. For service users, each of those distribution centers is effectively a food bank in and of itself, even if a group of them may in some cases be administered by a charity working in a given area. These statistics and description of the work of the Trussell Trust were subject to further review by Sumi Rabindrakumar, Head of Policy and Research, Trussell Trust, in an email exchange with Human Rights Watch between February 14 and February 18, 2019, and amended accordingly. In this exchange, the Trussell Trust confirmed that it had recently amended the way it presents data on its total number of food banks to make their network more easily comparable with independent food bank figures.

[22] The Trussell Trust food banks that Human Rights Watch visited were staffed by volunteers, and sometimes one or two paid staff. Foodbank users arrived during opening hours with referral forms filled out by the referring organizations, detailing the size of their household and what the reason was for referral (including low income, debt, benefit delays, homelessness, and no recourse to public funds). Then they received a three-day supply of food for their household. A typical parcel included tins of soup, meat, fish, baked beans, vegetables, bottled or tinned sauce, pasta, rice, UHT milk, coffee or tea, sugar, packaged pudding or custard, and sometimes (depending on availability) additional items like salt, oil, toilet paper, toothbrushes, sanitary towels, soap and diapers on request.

[23] See Trussell Trust descriptions on its website under the following pages: "Emergency Food" (https://www.trusselltrust.org/get-help/emergency-food/), "Food Vouchers" (https://www.trusselltrust.org/get-help/emergency-food/food-vouchers/) and "Visiting a food bank" (https://www.trusselltrust.org/get-help/emergency-food/visiting-a-foodbank/) (All links last accessed May 8, 2019). Note that although some food bank users, volunteers and local staff interviewed by Human Rights Watch for this report referred to the three parcel guidance as a limit, Sumi Rabindrakumar from the Trussell Trust's head office clarified by email: "There is no annual limit on Trussell Trust provision; if people are referred, they will receive a parcel. The 'three parcel' guidance (which you might have in mind) applies to a six-month period. It is not a limit but a flag for the food bank to contact the referral agency and work with them to create a more sustainable, long-term solution. It may be that as part of this, people will need the food bank's help for a longer period, which is why it's discussed on a case by case basis with the referral agency." (Email to Human Rights Watch from Sumi Rabindrakumar, Trussell Trust, February 18, 2019).

[24] As noted from Human Rights Watch visits to independent food banks, and from conversations with Sabine Goodwin, Coordinator, Independent Food Aid Network (IFAN), while discussing the Network's mapped database of existing independent food aid providers, http://www.foodaidnetwork.org.uk/mapping (accessed May 8, 2019).

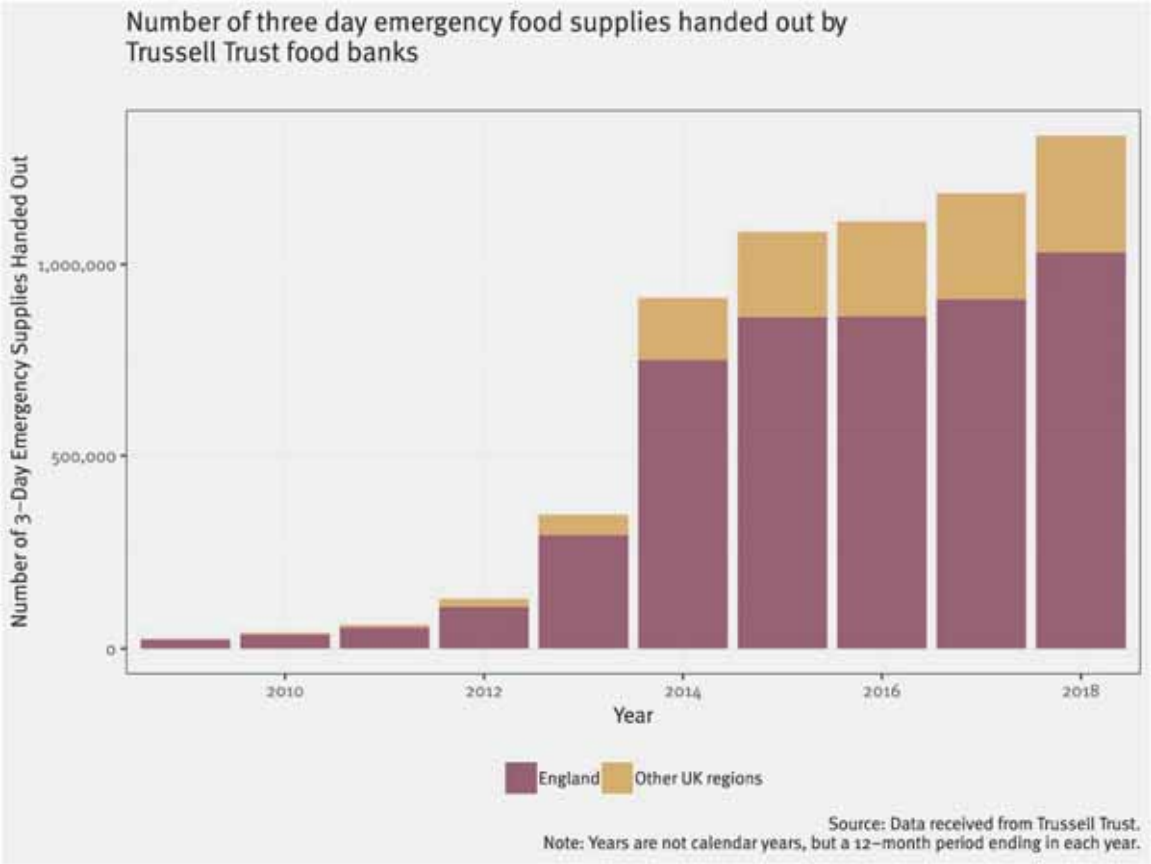

Figure 1: Trussell Trust Emergency Food Supplies 2008/09 to 2017/18 .
Source: Data received from Trussell Trust

The Trussell Trust foodbanks gave out 1.33 million emergency three-day supplies of food in the calendar year 2017/18.[25] The food packages given out by the Trussell Trust consist of packaged food with a long-shelf life, such as tinned vegetables, meat, grains, pasta, sauces, soup, cereal, coffee, tea, and UHT milk. Other food aid providers may offer fresh fruit and vegetables.

The Trussell Trust's[26] network of food banks has grown exponentially in size since its inception in 2004. The Trust's food banks have gone from handing out slightly under 26,000 parcels containing a 3-day emergency supply of food in 2008-9 to distributing over 1.33 million such parcels in 2017-18. That is a 5,146 percent increase in a decade.

[25] Disaggregated UK data (UK wide and England, 2008/09 to 2017/18) received from Trussell Trust on February 15, 2019.
[26] Disaggregated UK data, Trussell Trust on February 15, 2019.

Emma Revie, Chief Executive of the Trussell Trust, explained the alarming rise in food bank referrals to Human Rights Watch:

> No one in the UK should need a food bank. And yet, we're seeing referrals for emergency food soar year on year. This isn't right.
> We know there are particular issues which lock people into poverty. Benefit payments not covering the rising cost of essentials, and delays or errors with those benefit payments, are some of the most common reasons for referral to a food bank. Funding cuts for local authorities have stripped away local crisis support and charities have been left to pick up the pieces. Low paid or insecure work is behind the damning figure that one in six people at food banks either work or live with someone that does.[27]

Unlike the food banks that make up the Trussell Trust network, independent food banks are not uniformly organized, and follow varied models for collecting and distributing food. As a result, it is difficult to find comparable statistical information for numbers of parcels or the amount of food handed out by independent food banks.

However, the total number of independent food banks has increased dramatically. The Independent Food Aid Network (IFAN) estimates that there are 803 independent food banks in operation across the UK at present.[28] IFAN's most recent published estimates in 2018 suggest that independent food banks make up 38.5 percent of the total number of food banks across the country.[29] The number of independent food banks appears to be growing, as IFAN reported that there were 651 in mid-2017, 774 by mid-2018, and 803 in March 2019.[30]

IFAN's Coordinator, Sabine Goodwin, explained to Human Rights Watch that the independent food banks she adds to IFAN's list are "either newly formed or I haven't come

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[27] E-mail to Human Rights Watch from Trussell Trust, April 1, 2019 (on file).

[28] "Independent Food Aid Network: Mapping" (website), http://www.foodaidnetwork.org.uk/mapping (accessed May 8, 2019).

[29] "Independent Food Aid Network: Mapping" (website).

[30] William Eichler, "Study reveals hundreds more food banks than previously recorded," *Localgov*, May 30, 2017, https://www.localgov.co.uk/Study-reveals-hundreds-more-food-banks-than-previously-recorded/43153 (accessed July 23, 2018).

across them yet; usually they are new community-led initiatives," adding that she also found "that a small number of independent food banks have closed and of course I amend the list accordingly."[31]

Goodwin offered further clarification about her impression that independent food banks are a relatively new phenomenon, pointing to further research she is currently conducting jointly with Rachel Loopstra, a leading expert on food insecurity in the UK:

> The number of independent food banks operating across the whole of the UK is in all likelihood growing given my understanding is that most did not exist a decade ago. However, this question needs systematic investigation.[32]

Information previously collected by the Food Access Network (part of the UK organization Sustain) in 2003 suggests only two food banks existed nationally then.[33]

The emergence of food banks is however dependent on voluntary action, and ad hoc responses at a community level. The support they can offer is often time-limited and designed not to encourage long-term dependency. The Trussell Trust network in effect, as seen above, has a guideline limit on the number of emergency three-day parcels a person can receive during a six- or 12-month period. Neither the Trussell Trust network, nor independent food banks which may or may not be affiliated to the Independent Food Aid Network, can realistically be expected to cover the entire country, with a consistent food supply available in all outlets at all times. Nor should volunteers or nongovernmental welfare advisers, however much they are able to achieve on a voluntary or charitable basis, be expected to take on the state's role of identifying those citizens and residents most vulnerable to fall into food poverty, particularly when this vulnerability arises from problems with access to or levels of state welfare payments.

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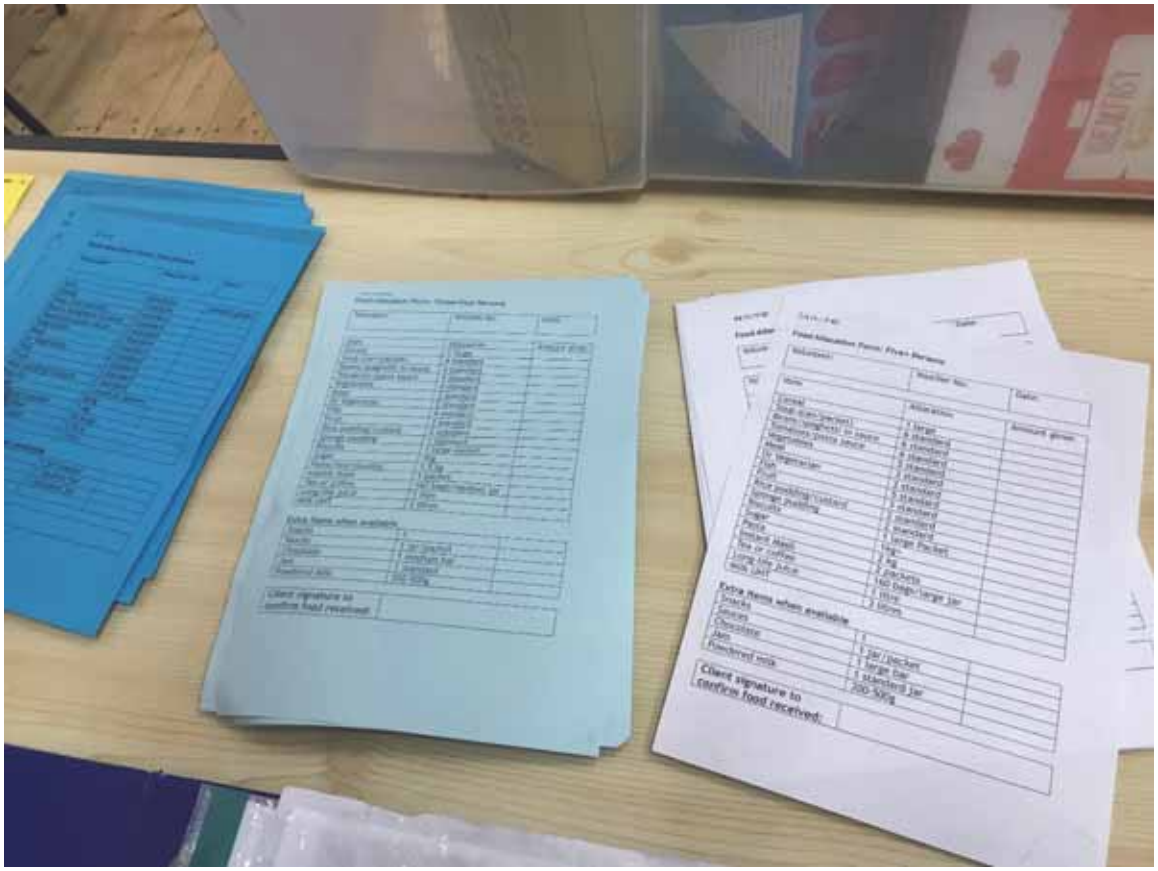
[31] Multiple telephone conversations and e-mail correspondence with Sabine Goodwin, IFAN Coordinator, between April 2018 and April 2019. The citation is to an email from Sabine Goodwin to Human Rights Watch dated February 15, 2019.

[32] Email from Sabine Goodwin to Human Rights Watch dated February 21, 2019. Dr Loopstra is Lecturer in Nutrition, Kings College, London and Associate Researcher in Sociology, Oxford University.

[33] Sustain, "Community Food Projects: A directory of projects on the Food Poverty Projects Database," 2003, https://www.sustainweb.org/publications/community_food_projects_a_directory/ (accessed April 1, 2019).

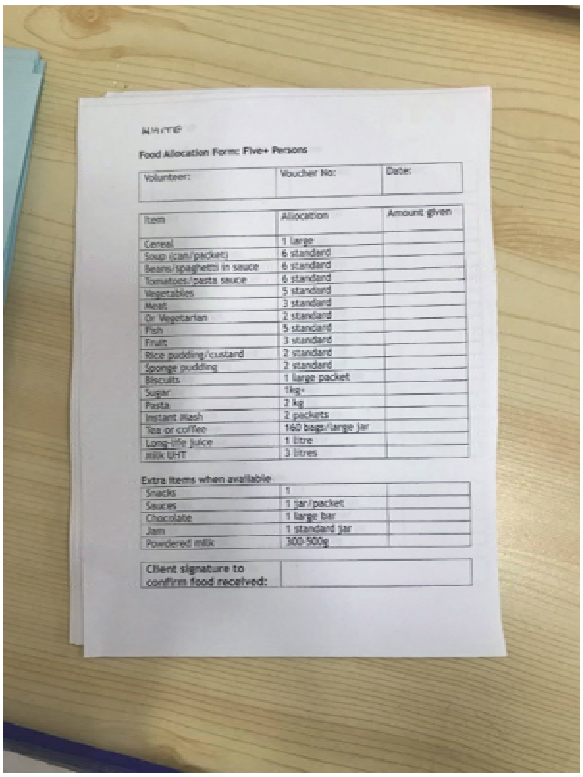


Food bank distribution forms at Ely Food Bank, Cambridgeshire, February 2018. Volunteers make up three day emergency supply parcels for food bank users based on the size of the family unit.
© 2018 Kartik Raj/Human Rights Watch

Emma Middleton, a caseworker at the Hull and East Riding Citizens Advice, who has worked there in various capacities since 2003, said that the situation and need for emergency food aid had changed significantly over the last 15 years, as the cost of living increased and the existing safety nets disappeared. She said:

> In the first few years [of this work], food poverty was not an issue. The soup kitchens and churches could deal with it, and it was mainly homelessness. You never saw families like that. What we see now is a constant stream of food poverty. Benefits haven't kept up with inflation, and you can't survive on welfare. A few years ago, we used to be able to help people with an answer, direct them to somewhere for help, but increasingly there's not

much we can do. The safety nets to which we used to direct them, which they may not have known about, aren't there anymore.[34]



Food Allocation Form: Five+ Persons

Volunteer:	Voucher No:	Date:

Item	Allocation	Amount given
Cereal	1 large	
Soup (can/packet)	6 standard	
Beans/spaghetti in sauce	6 standard	
Tomatoes/pasta sauce	6 standard	
Vegetables	5 standard	
Meat	3 standard	
Or Vegetarian	2 standard	
Fish	5 standard	
Fruit	3 standard	
Rice pudding/custard	2 standard	
Sponge pudding	2 standard	
Biscuits	1 large packet	
Sugar	1kg+	
Pasta	2 kg	
Instant mash	2 packets	
Tea or coffee	160 bags/large jar	
Long-life juice	1 litre	
Milk UHT	3 litres	

Extra items when available

Snacks	1	
Sauces	1 jar/packet	
Chocolate	1 large bar	
Jam	1 standard jar	
Powdered milk	300-500g	

Client signature to confirm food received:	

Detail of what a three-day emergency supply for a "large family" contains, Ely Food Bank, Cambridgeshire, February 2018. © 2018 Kartik Raj/Human Rights Watch

Food Banks: Only the Visible Tip of an Iceberg

Food aid reliance, however, goes beyond food banks, and the fifty-fold increase in the use of one network of food banks is only one indicator of a much wider level of food insecurity. IFAN's Coordinator Sabine Goodwin has argued that food bank use is only "the tip of the food insecurity iceberg."[35]

In 2013, researchers for Oxfam GB and Church Action on Poverty offered a rough estimate that over half a million people in the UK were reliant on food aid, an estimate based on 350,000 individual parcels handed out by the Trussell Trust network that year.[36] No current estimate exists of how many people in the UK rely on food aid more generally (i.e. including, but not limited to, food banks), or how much food aid is available, but it is fair to surmise that it has grown significantly since 2013. This lack of data is an identified gap in UK food security policy. Just as there is no single, comprehensive statistic that captures total food bank use in the UK, nor is there any single statistic about the wider variety of food aid initiatives, which, as

[34] Human Rights Watch interview with Emma Middleton, Hull and East Riding Citizens Advice, February 9, 2018.

[35] Sabine Goodwin, "Food poverty, what we don't know," End Hunger UK Blog, January 24, 2018, http://endhungeruk.org/food-poverty-dont-know/ (accessed March 26, 2018).

[36] Niall Cooper and Sarah Dumbleton, for Oxfam GB & Church Action on Poverty, "Walking the Breadline: The scandal of food poverty in 21st-century Britain," May 30, 2013, https://policy-practice.oxfam.org.uk/publications/walking-the-breadline-the-scandal-of-food-poverty-in-21st-century-britain-292978, page 3 (accessed June 19, 2018).

a Department for Environment, Food and Rural Affairs (DEFRA) commissioned 2014 study noted are "diverse and difficult to document."[37]

As food banks have multiplied, so too have other types of food aid provision.[38] These include low cost community supermarket and pantry schemes,[39] free or subsidized breakfast and afterschool healthy snack and/or meal provision for children (some of whose families are otherwise unable to afford these items),[40] out-of-term/holiday food provision schemes,[41] soup kitchens, pay-as-you-feel cafes,[42] and charities using and redistributing surplus or near-expiry food delivered to them through schemes like FareShare and independent local initiatives like the Oxford Food Bank.[43]

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[37] Hannah Lambie-Mumford, et. al. "Household Food Security in the UK: A Review of Food Aid," February 2014, Department for Environment, Food & Rural Affairs commissioned research, https://www.gov.uk/government/publications/food-aid-research-report, p. viii-ix (accessed July 30, 2018). See also Elizabeth Dowler and Hannah Lambie-Mumford, "Food aid: living with food insecurity," Communities and Culture Network+ Food Aid Call, February 2014, page 7-9, http://www.communitiesandculture.org/files/2013/01/Living-with-FoodInsecurity-CCN-Report.pdf (accessed July 30, 2018).

[38] For a full typology of food aid provision operating in the UK, see Hannah Lambie-Mumford, et. al. "Household Food Security in the UK," 2014, p. 19-21. This includes types of food aid not covered in this report: food stamps or vouchers (e.g. "Healthy Start"), community care distribution (e.g. "meals on wheels", building-based food provision (day centers), non-building based provision (e.g. soup runs and drop-in lunches), additional measures to institutional feeding (e.g. in schools or day care centers), supplementary feeding for newborns and recent mothers, and food-for-work or food-for-volunteering schemes.

[39] Rebecca Smithers, "UK's first 'social supermarket' opens to help fight food poverty," *The Guardian*, December 9, 2013, https://www.theguardian.com/society/2013/dec/09/goldthorpe-social-supermarket-community-shop-food-poverty (accessed July 30, 2018) and Kate Burgess, 'Social supermarkets serving struggling UK families,' *Financial Times*, March 11, 2016, https://www.ft.com/content/4e49db3e-e3f1-11e5-bc31-138df2ae9ee6 (accessed July 30, 2018).

[40] Meabh Ritchie, "Breakfast club boom reveals reality of child poverty," *Channel 4*, February 8, 2012, https://www.channel4.com/news/breakfast-club-charity-reports-four-fold-rise-in-demand (accessed July 30, 2018); Jay Rayner, "Why school breakfast clubs are on the education frontline," *The Observer*, September 16, 2012, https://www.theguardian.com/education/2012/sep/16/breakfast-clubs-schools-funding (accessed July 30, 2018); and Seeta Bhardwa, "Breakfast clubs vital for disadvantaged children," *Nursery World*, March 27, 2013, https://www.nurseryworld.co.uk/nursery-world/news/1106690/breakfast-clubs-vital-disadvantaged-children (accessed July 30, 2018).

[41] "Food banks warn of school holiday hunger," *BBC News*, July 25, 2017, https://www.bbc.co.uk/news/education-40704186 (accessed July 30, 2018) and Colette Hume, "Foodbanks in Wales brace for hungry children over summer," *BBC Wales News*, July 19, 2018, https://www.bbc.co.uk/news/uk-wales-44874405 (accessed July 30, 2018).

[42] A pioneering project of this nature in Leeds, Yorkshire is described here: Joseph Matthews, Bibi van der Zee and Michael Tait, "The cafe that feeds Leeds with waste," *The Guardian*, Live Better: Food waste issues blog (Video), March 27, 2014, https://www.theguardian.com/lifeandstyle/video/2014/mar/27/cafe-food-past-sell-by-date-video (accessed July 30, 2018).

[43] Oxford Food Bank, "Oxford Food Bank 2014" (Video), June 11, 2014, https://www.youtube.com/watch?v=HhyEmHvZnfk (accessed July 30, 2018); Jack Marshall, "FareShare tackling food poverty head on," *Burnley Express*, January 31, 2017, https://www.burnleyexpress.net/news/business/fareshare-tackling-food-poverty-head-on-1-8362774 (accessed July 30, 2018) and Emily Bright, "FareShare launches summer holiday hunger campaign," *The Grocer*, July 6, 2018, https://www.thegrocer.co.uk/home/topics/waste-not-want-not/fareshare-launches-activeate-summer-holiday-hunger-campaign/569040.article (accessed July 30, 2018).

Surplus Food Redistribution: Free and Low-Cost Schemes

Surplus food redistribution schemes take donated food from supermarkets and other food retailers (bakeries, grocers, wholesalers), including food nearing its expiry date, and offer it to community groups and charities, who, in turn:

- cook or prepare for their own planned activities, such as free community lunches, extracurricular programs and preschool age children's groups;
- give away, for free, limited amounts of fresh and packaged food to their service users, as and when available, to supplement what they can afford to purchase; and
- set up community-based social enterprise or membership schemes to create a form of "supermarket-like" interaction, where members of a community or participatory scheme can access low cost food, and work or volunteer in the project.

During the financial year 2016-17, FareShare, the UK's longest-running and largest surplus food redistribution charity, redistributed 10,580 tons of food (plus another 2,972 tons at store level) to 6,723 charities and community organizations, allowing them to prepare an estimated 28.6 million meals.[44] There is no composite figure available for other food surplus redistributors in the UK.

[44] FareShare, "Annual report and financial statements for the year ended 31 March 2017," July 2017, http://fareshare.org.uk/wp-content/uploads/2017/10/FareShare-annual-report-and-financial-statements-2016-2017.pdf (accessed July 23, 2018). By 2018, the total ton-weight redistributed (including store level) rose 25% to 16,992 tons and was given to 10,000 charities. The organization estimated that between 2017 and 2018 the number of people FareShare food helped feed rose from 484,000 to 772,000. See FareShare, "UK still way behind France in putting surplus food to good use," (Press release), May 28, 2018, http://fareshare.org.uk/uk-france-surplus-food-good-use/ (accessed July 23, 2018).

Low-cost redistributed or near-expiry food available to scheme members at EMS Yorkshire's community shop in Hull, May 2018. © 2018 Kartik Raj/Human Rights Watch

FareShare's national distribution in 2013 was 4,200 tons, a mere 40 percent of the levels it had reached by 2017. The organization's CEO, Lindsay Boswell, explained in 2013 that increased demand arose from broader socioeconomic pressures, coupled with charities facing tighter budgets, rather than supply simply additional demand:

> Last year we fed more people than ever before, but we know the demand for our services is increasing at an alarming rate. The recession, rising cost of living, and unemployment all mean there are more people turning to charities for food.[45]

[45] FareShare, "As demand soars, FareShare feeds more people than ever before," May 1, 2013, https://www.fareshare.org.uk/wp-content/uploads/2014/01/As-demand-soars-FareShare-feeds-more-people-than-ever-before.pdf (accessed July 23, 2018).

FareShare reported then that "more than a third of the [food aid] charities FareShare supports are facing funding cuts, with 70 percent fearing demand for their services will only increase in the future."[46] Demand, in fact, outstripped supply as Boswell explained in a media interview at the time:

> What this tells us is that more and more front line charities who are providing front line support to the most vulnerable people are turning to us as a financial coping mechanism because local authority grants, statutory funding and funds from other sources are hard to come by.... If you look at the number of charities out there providing food, we could expand 50 times over. The need is absolutely enormous.[47]

"Community pantries" and "social supermarkets" are a new, and increasingly common, outlets for surplus food distributors. These organizations respond to a routine level of food insecurity and obstacles accessing food for people who are not in an emergency of food insecurity or acute financial crisis.[48] Academic experts refer to this new phenomenon as "austerity retail,"[49] or "alternative food retail enterprises"[50] that simultaneously fulfil a need and a social purpose. Since the establishment of the first social supermarket in 2013, at least seven parent schemes have emerged in England, each with branches, franchises and plans for expansion in other low income areas, some of which are part-funded or supported by local government.[51] There is clear evidence they are growing in number,

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[46] FareShare, "As demand soars."

[47] Patrick Butler, "Austerity: boom times for the soup kitchen food supplier," (Patrick Butler's Cuts Blog), The Guardian, May 1, 2013, https://www.theguardian.com/society/patrick-butler-cuts-blog/2013/may/01/fareshare-boom-time-for-soup-kitchen-food-supplier (accessed July 30, 2018).

[48] See Patrick Butler, "Are pantry schemes the new food banks?" The Guardian, March 22, 2017, https://www.theguardian.com/society/2017/mar/22/pantry-tackles-chronic-food-insecurity (accessed July 30, 2018).

[49] Lopamudra Saxena and Chiara Tornaghi, The Emergence of Social Supermarkets in Britain: Food poverty, Food waste and Austerity Retail (Research Report), Centre for Agroecology, Water and Resilience, Coventry University, 2018. https://pure.coventry.ac.uk/ws/portalfiles/portal/19497607, p. 12-21 (accessed July 5, 2018).

[50] Morven G McEachern, "The sustainability of social supermarkets: Can they solve food insecurity?," (Conference Paper), ENUF Evidence Network on UK Food Insecurity, "Multi-disciplinary research conference on food and poverty in the UK: Taking stock, moving forward." April 16-17, 2018, King's College London, Strand Campus, Conference Program https://www.enuf.org.uk/sites/default/files/2018_food_poverty_conference_programme.pdf (accessed April 17, 2018).

[51] The study is Lopamudra Saxena and Chiara Tornaghi, "The Emergence of Social Supermarkets in Britain." For details on particular schemes, see for example: Mark Molloy, "The 'social supermarket': 25p store helps tackle food poverty," Daily Telegraph, October 26, 2015, https://www.telegraph.co.uk/finance/newsbysector/retailandconsumer/11956452/Bargain-Brand-Food-Outlet-Social-supermarket-for-25p-tackles-food-crisis.html (accessed July 30, 2018); and Mayor of London,

responding to greater food insecurity.[52] They are organized in a variety of ways. Some are run as parts of a larger charitable organization such as a housing trust, others are social enterprises, and yet others are for-profit cooperatives. What unites them is that they offer food at significantly reduced cost to a membership that is identified through some combination of need, common interest, referral, and/or residence in a geographic area.

Niall Cooper, from Church Action on Poverty, which is currently coordinating the expansion of a scheme of community pantries across the UK,[53] explained the motivation for this sort of project:

> The emergence of food poverty has taken us by surprise. I've been doing this, working against poverty for 20 years. I would never have said 10 years ago that I'd be running a national campaign to end hunger in the UK or that CAP would be developing a series of low-cost pantries to deal with hunger. Hunger wasn't even a word that featured in anti-poverty language within the UK five or ten years ago. There's a need for policy solutions and local programs that give voice and give people a sense of agency and involvement in solutions. We're developing a network of local food pantries built around principles of dignity, participating in developing your own solutions, and addressing the longer-term issues of food poverty. Food poverty is more than food banks.[54]

"Mayor announces new 'social supermarkets' to cut food poverty" (press release), March 18, 2016, https://www.london.gov.uk/press-releases/mayoral/new-social-supermarkets-to-cut-food-poverty (accessed July 30, 2018).

[52] Lopamudra Saxena and Chiara Tornaghi, "The Emergence of Social Supermarkets in Britain."

[53] Liam Purcell, "The new food banks? Our plans for a social supermarket franchise!," Post to Church Action on Poverty (Blog), March 22, 2017, https://blog.church-poverty.org.uk/2017/03/22/the-new-food-banks-our-plans-for-a-social-supermarket-franchise/ (accessed July 30, 2018).

[54] Human Rights Watch telephone interview with Niall Cooper, Director, Church Action on Poverty, July 27, 2018.

Members of the Goodwin Community Pantry can choose a limited number of low-cost items, every week for a fixed total price of £3 or £5. These are the contents of individual shopping baskets chosen by pantry users, May 2018. © 2018 Kartik Raj/Human Rights Watch

How do these low-cost food schemes operate?

Human Rights Watch visited two such schemes in areas of Hull which experience high levels of deprivation, the Goodwin Community Pantry in central Hull and EMS Yorkshire's community shop in East Hull.

The Goodwin Community Trust, effectively a charitable neighborhood association in central Hull runs a community pantry for which it receives supermarket surplus produce and non-perishables via FareShare. Members can purchase four items for £1 or 15 items for £3, and choose from a variety of products, including frozen products. The pantry soon plans to expand to carry frozen meat and healthy ready meals.

Jan Boyd and Andy Rees, from EMS Yorkshire, a food-related social enterprise that runs a community shop, explained that their social supermarket initially began from a project running community allotments and teaching residents in and around the East Hull estate on which they are based about cooking healthy, affordable food. EMS Yorkshire received funding in January 2016 to pilot a community shop that redistributed surplus collected from local supermarkets to members, who could be residents of any part of Hull whose situation meant that they were finding it difficult to afford food. The scheme allows members (who pay no membership fee) to pay £1 for 4 tins of food or £1 for 4 items from a box of assorted food products and toiletries (e.g. coffee, tea, pasta, rice, noodles, cereal, sanitary products). Their initial estimated membership of 20 people has grown to 85. Jan Boyd explained that the problems with poverty were endemic, but exacerbated by recent welfare changes:

"Of the 85 members maybe three quarters have children or grandchildren they're caring for. There's one woman who comes regularly who takes care of her grandchild because the mother is in prison. The people on Universal Credit so far are mainly singles and couples. With them we're seeing that they're short on money because of problems making joint benefit claims and delays and sanctions because the forms are difficult. There's a super thin, very pale woman who is sacrificing her food to feed the kids. They take a couple of tins of soup and bread to fill themselves up, so the kids

can eat. And families here are taking care of grandchildren and extended family, there's a mentality of 'mine, hers and ours'." [55]

Andy Rees expressed concern about the rolling out of Universal Credit to families, saying, "It's bad already. When Universal Credit gets extended to families it's going to be awful." [56]

Schools, Afterschool Clubs and Family/Children's Centers

Schools, along with children's centers and family support centers, which also serve pre-school age children and their families in areas of high deprivation, report that they are increasingly finding themselves on the frontline of providing emergency and ad hoc ongoing food aid to families and children they believe to be at risk of going hungry.

Representatives of eleven out of twelve schools and/or children's or family centers that Human Rights Watch interviewed or exchanged written correspondence with expressed concern about food poverty, their existing ability to offer support whilst being put under further financial strain following cuts to state funding for primary education and children's centers.[57] One community worker in Hull, who did not wish to be identified when making this point, said, "Schools are getting side-tracked from teaching and they're doing more and more social work."[58]

Daniel Stone, a Policy Officer in the National Education Union (NEU), a recently amalgamated teachers' union which published a survey of over 900 teachers conducted jointly with the Child Poverty Action Group (CPAG), explained the concerns expressed by head teachers who spoke at their April 2018 press conference:[59]

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[55] Human Rights Watch interview with Jan Boyd and Andy Rees, EMS Yorkshire, East Hull, May 29, 2018.

[56] Human Rights Watch interview with Jan Boyd and Andy Rees, EMS Yorkshire, East Hull, May 29, 2018.

[57] Human Rights Watch field interviews, telephone interviews and written correspondence, February to June 2018. School and center names on file. Not all agreed to be identified publicly.

[58] Human Rights Watch interview with a community worker, Hull, June 6, 2018.

[59] National Education Union & Child Poverty Action Group (hereafter NEU & CPAG), "Child poverty and education: A survey of the experiences of NEU members," April 2, 2018, https://neu.org.uk/latest/child-poverty (accessed April 2, 2018).

> The teachers who spoke when we published our survey talked about children coming to school clearly hungry, children without warm clothes and dry shoes in winter, in ill-fitting and worn out clothes. Several head teachers talked about tired children, with a grey pallor, poor skin and complexion and an inability to concentrate. And especially Monday morning being very difficult, as kids come in without having eaten. The first thing they do is supply toast and fruit to the kids. And this is even worse when returning from the school holidays. Feeding hungry children is increasingly a priority for schools: providing toast and food at the start of the day, making sure kids from poorer families get a second helping, and packaging up leftovers for the families they know are struggling.[60]

The NEU and CPAG's survey findings themselves offer a grim picture of the grinding reality that teachers are dealing with. Sixty percent of the survey's respondents thought that the extent of poverty in their schools and its effect on pupils from low-income families had worsened since 2015. Almost half of respondents said their school directly provided one or more of a range of anti-poverty services: 18 percent said their school runs a low-cost food club; 13 percent reported that their schools runs a free food bank; 16 percent said their school offers free or subsidized family meals.[61] Among those surveyed, over half said they personally provided (out of their own pocket) support for pupils from low-income families, with over a third saying they bring food in for children; with many doing so at least once a week.[62]

It is hard to estimate the totality of food assistance provided by schools in England how much is provided on an ad hoc basis.

Staff at a children's and family center in Hull also explained that they had begun to receive weekly deliveries from FareShare which they set out on a table, allowing families to help themselves as they drop off or collect their children. They said they always keep a set of

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[60] Human Rights Watch interview with Daniel Stone (Policy Officer) and Celia Dignan (Senior Policy Adviser), National Education Union, London, June 5, 2018.

[61] NEU & CPAG, "Child poverty and education," April 2, 2018.

[62] NEU & CPAG, "Child poverty and education," April 2, 2018 and "School Staff step in as 9 pupils in every class slip into poverty," *The Teacher*, May/June 2018, page 11.

pre-packed food parcels back to hand discreetly to those families they over time recognized as those most likely to be in food poverty. As one of the staff said, "Those who don't ask for the food are often the most needy and we recognize them."[63]

Teachers spoke of the need to ensure that children whose families were receiving additional food support from the school were not identified and that their privacy and dignity be respected.[64] member of staff at a primary school in an area of Wisbech, Cambridgeshire, with high levels of deprivation, with a specific pastoral role supporting families, explained how she assesses and refers families of pupils to the local food bank:

> We see kids come in often not having had their breakfast. And there's lots of reasons for this: some kids aren't keen on eating in the morning, some households are busy, some parents may not have been shopping. Kids don't say why, they just say 'I didn't eat breakfast.' If we see it on a regular basis, we contact the parents and ask if we can support them. We maintain a log of concern at the school, and someone will investigate it. Sometimes it's a recent case of unemployment or benefit change, and we refer them to Citizens Advice or give them a food bank voucher. Years ago, it was harder to approach the issue of the food bank, but now it's more well known, it's in the press and on the internet, people are more aware of it.[65]

Another school leader in Wisbech painted a similar picture:

> Yes, we see food poverty. Yes, we make food bank referrals. In every class of 30 children, I'd say that school lunch is the only hot meal of the day for between 2 and 5 of them. We have children arriving at school hungry. They usually arrive late, and we ask if they've had breakfast. We don't pry or fish about poverty, but we discuss things like attendance and other concerns

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[63] Human Rights Watch interview with a community worker, Hull, June 6, 2018.

[64] Human Rights Watch interview with "June," a professional supporting family at a Wisbech primary school (name of school and staff member on file), May 23, 2018, and Human Rights Watch telephone interview with the headteacher of a primary school in Wisbech (name of school and teacher on file), June 4, 2018.

[65] Human Rights Watch interview with "June," a professional supporting families at a Wisbech primary school (name of school and staff member on file), May 23, 2018.

> about the child with their parents, and encourage them to attend breakfast club, which they can have for free if they are eligible for free school meals. We support some families a lot, through early help assessments, building a team around the child, or just informally.[66]

The first few weeks of every school holiday present an additional challenge for low-income families, who often struggle to ensure that children can eat lunches out of term time. This was a concern among recipients of food aid, teachers, and community and food bank workers alike.

For example, Joanne, a single mother of four, one of whom had just turned 18 and was no longer considered a dependent child, explained the additional burden on finance during holiday periods when speaking to Human Rights Watch a few days prior to a half-term holiday:

> I've had cuts to my benefits. My oldest daughter is now 18 and is looking for work, so obviously my benefits are cut back. Right now, I have 34p on the gas meter and I can't top it up until the weekend. You need gas to cook food for the kids. At least the children get a hot meal at school. But they break up for half term on Friday. And until my money gets sorted, it's going to be a long few days. As a parent you really feel like you've let your kids down, especially in the holidays. I'll have to gather my pennies together for a loaf of bread and 50p of butter, so they have some toast.[67]

In the week leading up to the school summer holidays which began in July 2018, food banks nationwide started to send out alerts over social media saying they were running low on stocks of staple items such as tinned soup, rice, pasta, sugar, or baked beans.[68] By the second week of the holiday, the Trussell Trust was documenting that demand during Summer 2018 was higher than in previous years, and sought additional donations of food

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[66] Human Rights Watch telephone interview with the headteacher of a primary school in Wisbech (name of school and teacher on file), June 4, 2018.

[67] Human Rights Watch interview with Joanne, Wisbech food bank, May 23, 2018.

[68] See @helpmyfoodbank's twitter feed: https://twitter.com/helpmyfoodbank (last accessed May 8, 2019).

warning that stocks were running low.[69] It also stated publicly that it was donating food to holiday clubs, following reports that children were going hungry during the holidays.[70] FareShare, similarly, earlier in the same month announced a program to provide food to 200 holiday clubs around the country.[71]

The All-Party Parliamentary Group on Hunger heard evidence from food aid providers and school staff in its 2017 Inquiry that increasing numbers of children were going hungry over the holidays, in recent years. Their study estimated that some three million children went hungry at some point during the holidays, and they forecast a rise in need, attributing this to rising food prices and static wages and benefit levels (Chapter III, below, contains further analysis of food prices in relation to wage and benefit levels).[72]

The government seems to have recognized the increasingly visible phenomenon of "holiday hunger" and the need for "holiday provision", and announced a new, limited pilot project — the Holiday Activities and Food Research Fund — with £2m of funding, in three regions of England.[73] Critics, however, point out that the limited funding appears to have

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[69] Frances Perraudin, "Food banks appeal for help to feed children during school holidays," *The Guardian*, August 3, 2018, https://www.theguardian.com/society/2018/aug/03/food-banks-appeal-for-help-to-feed-children-during-school-holidays (accessed August 3, 2018) and "Foodbank calls for donations over fears children going without food during summer holidays," *SKY News*, August 3, 2018, https://news.sky.com/story/foodbank-calls-for-donations-over-fears-children-going-without-food-during-summer-holidays-11458781 (accessed August 3, 2018).

[70] Frances Perraudin, "They hadn't eaten all day': food banks tackle holiday hunger," *The Guardian*, August 3, 2018, https://www.theguardian.com/society/2018/aug/03/they-hadnt-eaten-all-day-food-banks-tackle-holiday-hunger (accessed August 3, 2018). Holiday clubs are daycare and play schemes run during school holidays by schools, private businesses and voluntary organizations, and often involve at least one cooked meal. The available evidence shows that holiday clubs can have a positive role in mitigating food insecurity among poorer households. See Michael A. Long et al., "The impact of holiday clubs on household food insecurity – A pilot study," *Health and Social Care in the Community*, 2017, doi:10.1111/hsc.12507; and Pamela Louise Graham et al., "School Holiday Food Provision in the UK: A Qualitative Investigation of Needs, Benefits, and Potential for Development," *Frontiers in Public Health*, August 2016, doi:10.3389/fpubh.2016.00172. Note, however, that the unreliability and inaccessibility of some of this sort of holiday provision, as well as its geographically patchy nature, means that in some cases the evidence of benefit is inconclusive (see Hannah Lambie-Mumford and Lily Sims, "Children's experiences').

[71] Stuart Mitchell, "FareShare launches nationwide campaign to fight hunger among schoolchildren over summer holiday," Ethical Marketing News, July 3, 2018, http://ethicalmarketingnews.com/fareshare-launches-nationwide-campaign-to-fight-hunger-among-schoolchildren-over-summer-holiday (accessed August 3, 2018).

[72] Andrew Forsey, "Hungry Holidays: Report on hunger amongst children during school holidays," All Party Parliamentary Group on Hunger, April 25, 2017, https://feedingbritain.files.wordpress.com/2015/02/hungry-holidays.pdf (accessed August 3, 2018), p. 11-15.

[73] Department for Education, "Boost to support disadvantaged children during the holidays," March 28, 2018, https://www.gov.uk/government/news/boost-to-support-disadvantaged-families-during-the-holidays (accessed August 3, 2018) and Catherine Gaunt, "Holiday hunger projects underway in pilot areas," *Nursery World*, July 27, 2018, https://www.nurseryworld.co.uk/nursery-world/news/1165138/holiday-hunger-projects-under-way-in-pilot-areas (accessed August 3, 2018).

been a move to stave off an attempt to legislate for a duty on local authorities to make such provision, by delaying those proposals until the pilot projects commencing in summer 2018 were implemented and evaluated.[74] In April 2019, the Under-Secretary of State for Children and Families, Nadhim Zahawi, told Human Rights Watch in a letter that a further £9m had been earmarked for similar projects during summer 2019 in all nine regions of England, adding that the projects would be subject to external evaluation which "will allow the government to consider if and how it should intervene long-term."[75]

In a similar pilot designed to alleviate hunger among children in poor areas, in March 2018, the Department for Education (DfE) announced a new targeted scheme for additional breakfast club provision, with a promise of £26m funding, in 12 regions, and has now begun the process of rolling this out in targeted "opportunity areas".[76] The program appears to build on the findings of DfE-commissioned evaluations of breakfast clubs in disadvantaged areas concluded the previous year,[77] although its announcement faced criticism for delay.[78] The two designated charities – Magic Breakfast and Family Action – are actively recruiting schools to participate in this program (and the former continues to support schools through its existing charitable breakfast provision program already operating in almost 500 schools).[79]

If the state scales back its public spending, arguing that doing so is an unavoidable necessity, for those decisions to comply with its international human rights law obligations, it must ensure that the policies adopted do not permanently and negatively

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[74] See Freddie Whittaker, "Holiday hunger: Government promises research and pilot projects," *Schools Week,* January 19, 2018, https://schoolsweek.co.uk/holiday-hunger-government-promises-research-and-pilot-projects/ (accessed August 3, 2018).

[75] Letter from Nadhim Zahawi, Parliamentary Under-Secretary of State for Children and Families to Human Rights Watch, April 30, 2019 (on file).

[76] Department for Education, "Funding boost to give more children healthy start to the day," (News story), March 19, 2018, https://www.gov.uk/government/news/funding-boost-to-give-more-children-healthy-start-to-the-day (accessed August 3, 2018).

[77] Noreen Graham, Elbereth Puts and Shane Beadle, "Evaluation of Breakfast Clubs in Schools with High Levels of Deprivation," (research report), Department for Education, March 2017, https://www.gov.uk/government/publications/breakfast-clubs-in-high-deprivation-schools (accessed August 3, 2018).

[78] Alix Robertson, "Two charities to run breakfast clubs in 1,775 schools from the spring," Schools Week, March 19, 2018, https://schoolsweek.co.uk/two-charities-to-run-breakfast-clubs-in-1775-schools-from-the-spring/ (accessed August 3, 2018).

[79] See Family Action, "National School Breakfast Programme" (webpage), https://www.family-action.org.uk/what-we-do/children-families/breakfast/, and Magic Breakfast, "Apply for Magic Breakfast provision," (webpage), https://www.magicbreakfast.com/apply-for-magic-breakfast-provision (all three websites last accessed August 2018).

affect fundamental rights, such as the right to food as part of the right to an adequate standard of living. It must also take measures to ensure that its policies do not negatively affect or discriminate against, groups to whom it owes additional human rights protections, such as women, children, or people with disabilities.

II. Austerity-Motivated Cuts to Welfare: A Political Choice or a Necessary Bitter Pill?

In the kitchen Mama's
weeping chemical tears whilst
chopping bitter onion ends.
She'll sauté them with mushrooms
(so small you could
swallow them like pills)
we bought for 10p three days ago
reduced to clear.

Last night we mixed water with
the milk to make it last,
and my mother went hungry
so she could watch me
grow
since she'd rather drink
endless cups of tea (black),
although she hates the taste, than see me with an empty
plate.

– An excerpt from Meredith LeMaître's poem, "Yellow Stickers"[80]

As the global financial crisis hit starting in 2007, the UK's budget deficit swiftly ballooned. The current budget deficit rose from £9bn in 2008, to £60.4bn in 2009 and exceeded £100bn in 2010.[81] A new coalition government elected in May 2010, began a policy

[80] The Poetry Society & authors, *Poems to end UK hunger: Young writers speak out*, (London: The Poetry Society, with the collaboration of Oxfam GB and End Hunger UK, 2018), available to download: http://endhungeruk.org/poetry/ (accessed April 20, 2019). Meredith LeMaître's full poem, "Yellow Stickers," appears on p. 12-13.

[81] Data from HM Treasury Public Expenditure Statistical Analysis (PESA) reports, compiled by and downloaded from https://www.ukpublicspending.co.uk/.

program to address the sharp increase in national debt, and chose to achieve this primarily through reductions in state spending.[82]

Critics and proponents of the government's fiscal contraction refer to this decision to reduce the deficit by focusing primarily on cutting state spending instead, for example by raising taxes, and the amalgam of resultant policy changes, as "austerity." For this reason, we use the term to refer to this set of policy decisions motivated at least in part by a government's objective of cutting the annual deficit.

Some politicians have presented fiscal contraction, or deficit reduction through spending cuts, and changes to the welfare state as an unavoidable necessity. George Osborne, then-Chancellor of the Exchequer (the senior UK minister responsible for finance and economy, and generally referred as "the Chancellor"), announced the 2010 budget as an emergency budget to address a large budget deficit and sovereign debt from the preceding government. He characterized it as "tough, but fair," calling it "the unavoidable [b]udget."[83] Chancellor Osborne was clear that the fiscal contraction would require cuts to welfare expenditure, saying:

> It is simply not possible to deal with a budget deficit of this size without undertaking lasting reform of welfare.... Here in Britain, the explosion in welfare costs contributed to the growing structural budget deficit in the middle part of this decade.[84]

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[82] See HM Government, "The Coalition: Our Programme For Government," May 20, 2010, Section 9 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf (accessed May 8, 2019).

[83] George Osborne MP, Chancellor of the Exchequer, "Budget Statement 2010," June 22, 2010, Reproduced in *The Telegraph*, https://www.telegraph.co.uk/finance/budget/7846849/Budget-2010-Full-text-of-George-Osbornes-statement.html (accessed June 19, 2018).

[84] George Osborne MP, "Budget Statement 2010".

This view gained acceptance among some financial commentators in the UK, who referred to it as the "kill or cure budget"[85] and characterized the UK's austerity program "as a necessary pill to swallow."[86]

By contrast, the UN Special Rapporteur on Extreme Poverty and Human Rights, Professor Philip Alston, concluded at the end of an investigative visit to the UK in 2018 that even if austerity was unavoidable, the way the welfare system was cut and reshaped arose from political choices that resulted in greater poverty. Alston said the UK's experience since 2010 "underscore[d] the conclusion that poverty is a political choice. Austerity could easily have spared the poor, if the political will had existed to do so."[87]

As set out in the sections below, human rights law requires these decisions to cut public expenditure to reduce deficits to meet a set of stringent tests in order to be lawful. Even where a state considers such cuts to be genuinely unavoidable, it cannot impose them with disregard for basic human rights, including the right of people to have sufficient food, as part of their right to an adequate standard of living.

Austerity and Policy Choices on Welfare Spending

In a landmark 2009 speech delivered to his Conservative Party setting out a vision for government, David Cameron, then leader of the opposition and soon to become Prime Minister, set out an agenda explicitly rejecting the previous Labour government's "fiscal stimulus" response to the UK's economic crisis. Cameron said at the time, "The age of irresponsibility is giving way to the age of austerity.... *The age of austerity demands responsible politics*. Over the next few years, we will have to take some incredibly tough decisions on taxation, spending, borrowing – things that really affect people's lives."[88] The

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[85] Chris Giles and Daniel Pimlott, "Osborne deliver kill or cure Budget," *Financial Times*, June 22, 2010, https://www.ft.com/content/de6ba960-7dde-11df-b357-00144feabdc0 (accessed June 19, 2018).

[86] Charles Calomiris, "The UK Election Shows Growth Sometimes Wins," (Hamilton's Corner Column), *Forbes*, May 11, 2015, https://www.forbes.com/sites/charlescalomiris/2015/05/11/growth-sometimes-wins/#7830ea65142a (accessed June 19, 2018).

[87] Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, London, November 16, 2018 https://www.ohchr.org/Documents/Issues/Poverty/EOM_GB_16Nov2018.pdf (accessed November 16, 2018), p. 22.

[88] David Cameron, "The age of austerity," (Speech) April 26, 2009, Conservative Party conference, Cheltenham, UK, Archived by SayIt: https://conservative-speeches.sayit.mysociety.org/speech/601367 (accessed May 8, 2019), emphasis added.

Conservative-Liberal Democrat coalition government elected in 2010, and subsequent Conservative governments annually reduced public sector net borrowing since 2010/11 both as a percentage of GDP and in real terms.[89] These reductions in borrowing have also led to reductions in spending.

Newspapers reported in October 2018 that current Prime Minister Theresa May said in a speech to the Conservative Party that the government had ended its austerity policies, nine years after the original vision was set out.[90] On closer reading, May said that easing austerity measures would be contingent on a favorable Brexit agreement, and subject to the annual "Spending Review" process in 2019 and future years.[91]

The extent to which austerity policies have in fact ended, or will end soon, is subject to debate. Independent analysis shows that if austerity programs, and in particular the significant contraction in welfare expenditure continue, the impact will continue to be severe (documented further below in this Chapter and Chapter III). Analysis by the Resolution Foundation, a UK thinktank focused on living standards of low- and middle-income families, shows that although a decision not to increase benefits for four years in

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[89] Matthew Keep, "Government borrowing, debt and debt interest: historical statistics and forecasts," House of Commons Library Briefing Paper No. 05745, June 29, 2018, http://researchbriefings.files.parliament.uk/documents/SN05745/SN05745.pdf (accessed July 30, 2018).

[90] Jess Shankleman, "May tells UK Conservatives End of Austerity is in Sight," *Bloomberg.com*, October 3, 2018, https://www.bloomberg.com/news/articles/2018-10-03/may-tells-u-k-conservatives-end-of-austerity-is-in-sight (accessed December 1, 2018) and William Schomberg, "UK austerity is over nearly a decade after crash- May," *Reuters*, October 3, 2018, https://uk.reuters.com/article/uk-britain-eu-may-austerity/uk-austerity-is-over-nearly-a-decade-after-crash-may-idUKKCN1MD1GH (accessed December 1, 2018).

[91] Theresa May, Speech to Conservative Party conference, October 3, 2018, as reproduced by *The Daily Telegraph,* https://www.telegraph.co.uk/politics/2018/10/03/theresa-mays-conservative-party-conference-speech-full-transcript/ (accessed November 1, 2018). In his speech at the same Conservative Party conference, the current Chancellor, Philip Hammond, said: "Austerity is coming to an end, but discipline will remain." His speech was followed by an autumn budget later the same month, which contained short-term increases in some spending (including social security). See Philip Hammond, Autumn 2018 Budget speech, October 29, 2018, available here: https://www.conservativehome.com/parliament/2018/10/under-this-conservative-government-austerity-is-coming-to-an-end-but-discipline-will-remain-hammonds-budget-speech-full-text.html (accessed November 1, 2018) and "Autumn budget - Hammond declares 'austerity coming to end' – as it happened," Financial Times live blog, October 29, 2018, https://www.ft.com/content/2692aff5-303b-35bc-92c9-9aeca325958b (accessed November 1, 2018).

Spending reviews, now conducted annually in the UK, are a form of periodic budgetary checking process used by the governments in countries with advanced economies to restrain aggregate expenditure and to better prioritize government funding, not just for situations requiring fiscal contraction (See OECD/Marc Robinson, "Spending Reviews," Paper prepared for the OECD Public Governance Committee, GOV/PGC/SBO(2013) 6, May 28, 2013, http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=GOV/PGC/SBO(2013)6&doclanguage=en) (accessed November 1, 2018).

line with inflation, announced in 2015 and expected to end in 2019 (see section below on freezes), the final year of the freeze remains to be implemented and its impact on low income families will likely be severe, as it comes on the back of the cumulative impact of the first three years.[92]

Reducing the public deficit can be a legitimate aim for state policy and may be genuinely unavoidable, and may, within certain circumstances, cut state expenditure. In carrying out such cuts to spending a state cannot, however, disregard its duty to protect people's human rights.

Even where unavoidable, decisions taken in the context of fiscal contraction should not have a disproportionately negative impact on rights. States are required to assess their plans against their obligations under international human rights law.

The Chair of the UN Committee on Economic, Social and Cultural Rights (CESCR) explained the correct approach in an open letter to governments at the height of the global financial crisis, explaining these principles:

> … under the Covenant all States parties should avoid at all times taking decisions which might lead to the denial or infringement of economic, social and cultural rights. Besides being contrary to their obligations under the Covenant, the denial or infringement of economic, social and cultural rights by States parties to the Covenant can lead to social insecurity and political instability and have significant negative impacts.

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[92] Adam Corlett, "Despite the "end of austerity", April promises another deep benefit cut," (Blog) Resolution Foundation, October 13, 2018, https://www.resolutionfoundation.org/media/blog/despite-the-end-of-austerity-april-promises-another-deep-benefit-cut/ (accessed November 1, 2018). Further analysis by the Resolution Foundation shows that if the "end of austerity" is measured when the budget is balanced, the government is falling short of its target to have done so by 2027-28, and if public spending is considered in detail as resources spent per person (i.e. beyond crude overall government expenditure which includes capital expenditure), the downward trend will continue until at least 2022-23. The least well off will see little change; the same analysis projects that, for example, the second lowest deciles by income will by 2022-23 have seen a reduction in average income of £900/year (in 2016-17 CPI terms) or 4.5%, solely as a result of tax and social security policy changes. See Torsten Bell, "The end of austerity? Not so much," *Resolution Foundation*, October 3, 2018, https://www.resolutionfoundation.org/media/blog/the-end-of-austerity-not-so-much/ (accessed November 1, 2018).

> … the Committee realizes that some adjustments in the implementation of some Covenant rights are at times inevitable. States parties, however, should not act in breach of their obligations under the Covenant.
>
> In such cases, the Committee emphasizes that any proposed policy change or adjustment 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 marginalized individuals and groups are not disproportionately affected. Fourth, the policy must identify the minimum core content of rights or a social protection floor, as developed by the International Labour Organization, and ensure the protection of this core content at all times.[93]

According to an independent macroeconomic analysis commissioned by the Equality and Human Rights Commission (EHRC), one of the UK's national human rights institutions, and conducted by economists Jonathan Portes and Howard Reed, the brunt of the impact of government spending cuts has fallen on the country's poorest citizens and residents.[94] Further analysis by the National Institute for Economic and Social Research (NIESR), an independent, charitable organization specializing in macroeconomic studies and econometrics, also commissioned by the EHRC, confirmed that welfare benefit recipients from groups they assessed as being at risk, such as people with disabilities, women, and children had been disproportionately affected by welfare and tax changes, and the shift towards welfare-to-work policies.[95]

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[93] CESCR, Open Letter from the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights, May 16, 2012, http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1_Global/INT_CESCR_SUS_6395_E.doc (accessed June 25, 2018). These principles and the international human rights law test relating to austerity measures are set out in greater detail in the separate chapter entitled "Legal Standards on the Right to Adequate Food."

[94] Jonathan Portes and Howard Reed, 'Distributional results for the impact of tax and welfare reforms: Interim findings."

[95] See Nathan Hudson-Sharp et al (National Institute of Economic and Social Research, NIESR), "The impact of welfare reform and welfare-to-work programmes."

The Impact on Children and Families of Reduced Welfare Spending

A Program of Disproportionate Cuts to Children and Family Welfare Spending

Low income families with children have been particularly hard hit by the decision to reduce welfare spending. The government's own expenditure figures show the part of the welfare budget allocated to spending on children on families has seen disproportionate cuts since 2010, when compared against other areas of public expenditure.

Human Rights Watch analysis of Treasury and public expenditure data illustrates that public expenditure on welfare for children and families was almost cut in half, or about 44 percent of pre-2010 expenditures (see figure below). The cuts to the Family and Children component of Welfare were far more substantial in comparison to other cuts such as Defence (7 percent), Education (17 percent), Protection (23 percent).[96] No other cuts were as large a percentage of their budget as the cuts to assistance for children and families.

This suggests that rather than the argument being a straightforward one of cuts across the board dictated by austerity, in fact, the more significant cuts to welfare spending for "Family and Children" are the result of more complex decision making. The category that has seen the most drastic reductions is "Family and Children". Two areas have not seen reductions at all. Still, the fact remains that "Family and Children" have been particularly hard.[97] These figures have been adjusted for inflation and population change.

The data also show that, as a percentage of the overall Gross Domestic Product, the annual value of the UK's economy, the proportion spent on the budget for Welfare for "Family and Children" has fallen to a half of its 2010 levels. Although the expenditure on Defense and Protection fell by similar percentages, proportionate to their 2010 position they fell less.

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[96] Data from HM Treasury Public Expenditure Statistical Analysis (PESA) reports, compiled by and downloaded from https://www.ukpublicspending.co.uk/ (accessed May 13, 2019). The term "Protection" is used to refer to policing, fire services, law courts, prisons, and public order and safety (including research and development). Welfare spending on "Family and Children", and other areas (including unemployment, housing, social exclusion and research & development) are based on PESA figures compiled by the UK Public Spending website. Welfare spending on "Family and Children" includes child-related benefits and personal tax credits for families with children.

[97] One other important area of public expenditure reduction since 2010, which is not readily discernible in the PESA data as presented on UK Public Spending, is the legal aid budget. Analysis of expenditure data by the *Guardian* newspaper suggest that spending on legal aid fell by 37% between 2010/11 and 2017/18. See Owen Bowcott, "Legal Aid: How has it changed in 70 years?", *The Guardian*, December 26, 2018, https://www.theguardian.com/law/2018/dec/26/legal-aid-how-has-it-changed-in-70-years (accessed May 1, 2019).

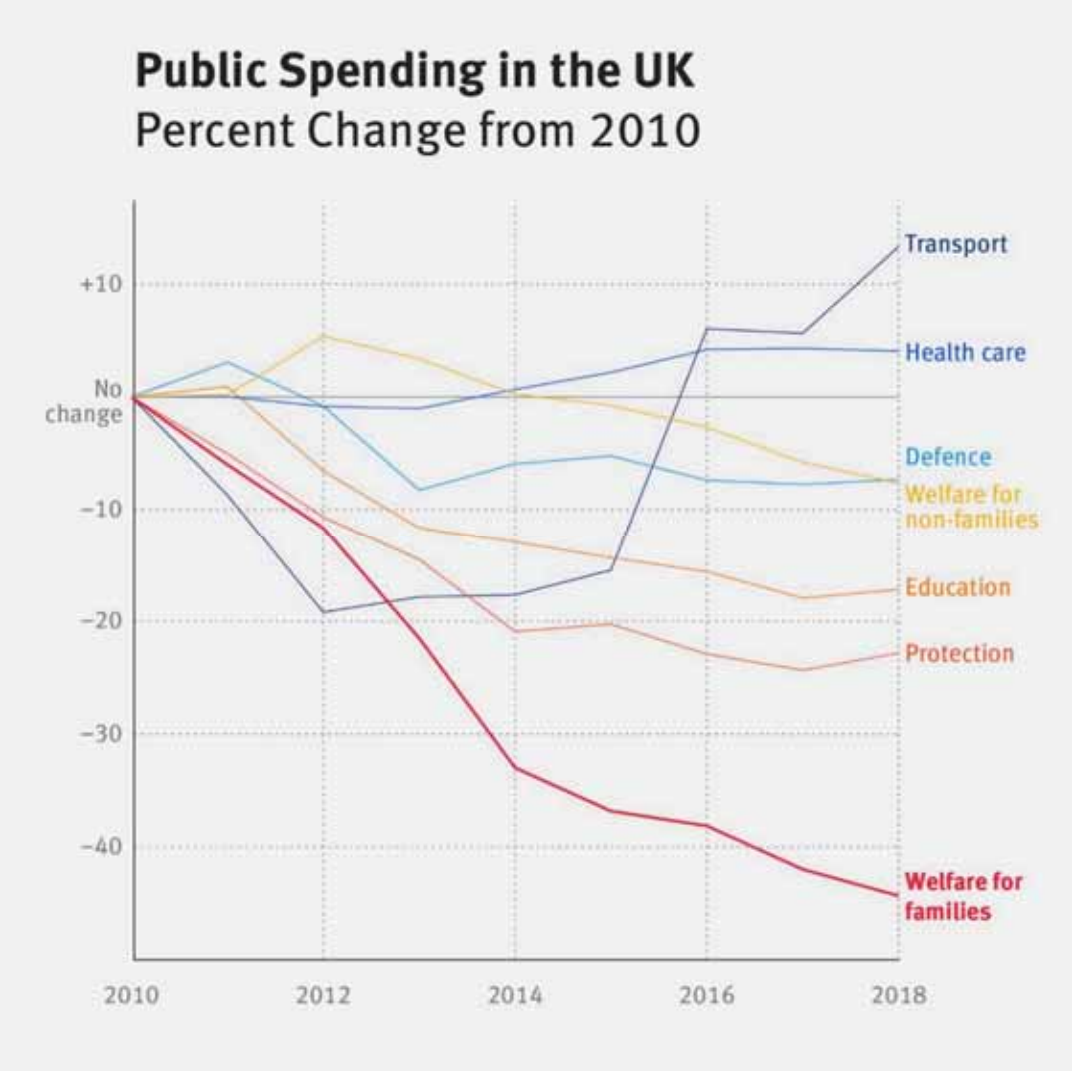

Figure 2: Reduction in Spending on Families. Source: Human Rights Watch analysis of HM Treasury (HMT) Public Expenditure Statistical Analyses (PESA) data.

Taking into account changes in population, inflation and GDP growth, per person public spending on welfare for "Family and Children" has decreased from £403 in 2010 to £222 in 2018.[98]

[98] Between 2010 and 2018, real GDP (which takes into account changes in prices (i.e. inflation)) grew 16 percent, the UK population grew by 5 percent, and the amount of the money spent on families and children dropped by 44 percent. Human Rights Watch estimated per person spending using the following calculation: (Real GDP * % of GDP spending on families and children)/Population of the UK. GDP (2016 constant pounds) data from Office of National Statistics: https://www.ons.gov.uk/economy/grossdomesticproductgdp/datasets/uksecondestimateofgdpdatatables and Population data from Office of National Statistics: https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/populationestimates/datasets/populationestimatesforukenglandandwalesscotlandandnorthernireland (both accessed on May 13, 2018)

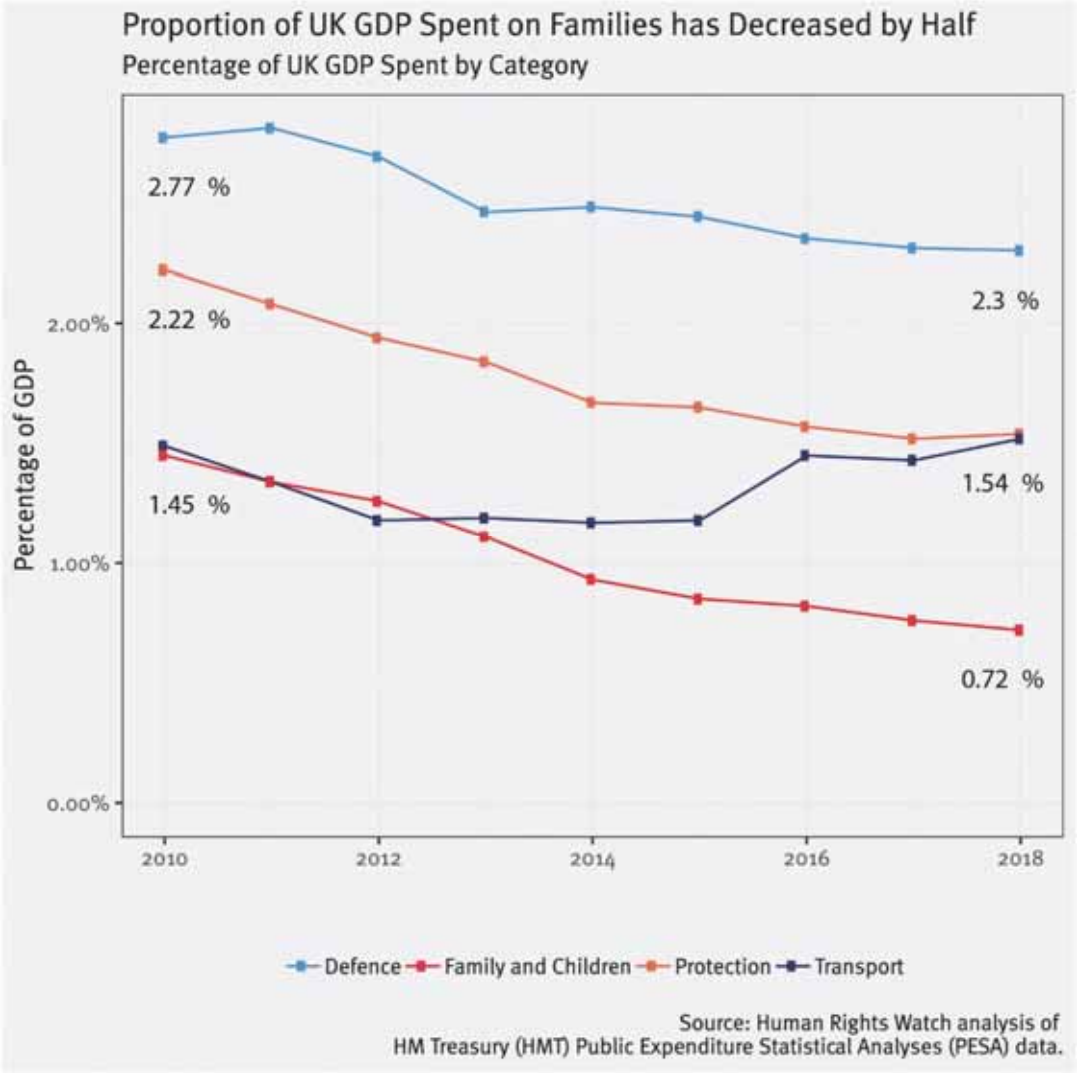

Figure 3: Proportion of UK GDP Spent on Families Has Decreased by Half

The government's latest statistics on childhood poverty, published in March 2019, showed that the number of children in even what it considers absolute poverty had increased by 200,000 in the previous calendar year to approximately 3.7 million children.[99]

[99] DWP and ONS, "Households Below Average Income: An analysis of the UK income distribution: 1994/95-2017/18," p. 8. See also May Bulman, "The government can no longer claim that 'absolute child poverty' is falling - it is time to acknowledge the crisis and act," *The Independent*, March 28, 2019, https://www.independent.co.uk/voices/child-poverty-crisis-relative-absolute-theresa-may-uk-government-austerity-conservative-a8844211.html (accessed April 4, 2019) and CPAG, "Child poverty in working families on the rise," (Press Release), March 28, 2019, http://www.cpag.org.uk/content/child-poverty-working-families-rise (accessed April 4, 2019).

A Program of Welfare Caps, Freezes and Limits

The last three successive governments have rolled out policies that introduce new maximum caps, freeze existing benefit levels, and reduce existing allowances for new applicants. Then-Chancellor Osborne stated the rationale for reducing welfare spending through freezes, limits and caps as part of moving the UK from being a "low-wage, high-tax, high-welfare society to a higher-wage, lower-tax, lower-welfare economy," arguing that taxpayers should not have to fund welfare at existing levels, as doing so crowded out other areas of government spending.[100] In reality, each of these policy decisions has affected families with children – some with parents who work – adversely. Groups organizing food banks, and welfare advisors (as discussed further in Chapter II) point to low income, welfare benefit changes or reductions, and inadequate levels of support as reasons people rely on emergency food aid.

Benefit Caps for Unemployed Households

In 2013, the government introduced a new monetary limit, or "benefit cap", on total welfare benefits payable to what the UK government calls "workless households," i.e. those in which no one was in employment, as part of the Welfare Reform Act 2012 and related regulations. The benefit cap, as initially introduced, limited benefits payable to households – i.e. couples (with or without children) or single-parents with children – to £500 per week or £26,000 per annum. No cap existed previously. The cap piloted in London from April 2013 and was introduced nationally from September of the same year.

The government argued for a cap on overall benefits because it believed that applying such a limit would incentivize people in "workless households" to return to work and reduced the burden on taxpayers. Iain Duncan Smith, Work and Pensions Secretary at the time, summarized this logic in a statement that was widely quoted in subsequent parliamentary debates: "The benefit cap will restore fairness to the taxpayer and fairness to those who do the right thing on benefits."[101] Lord Freud, one of the Ministers at Department for Work and Pensions (DWP) at the time, explained the logic behind the cap

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[100] George Osborne MP, Chancellor of the Exchequer, "Summer Budget 2015 speech ," July 8, 2015, https://www.gov.uk/government/speeches/chancellor-george-osbornes-summer-budget-2015-speech (accessed April 4, 2019).

[101] "Benefits cap: No retreat on £26,000 limit, insists Iain Duncan Smith," *Mirror.co.uk*, June 13, 2011, https://www.mirror.co.uk/news/uk-news/benefits-cap-no-retreat-on-26000-181315 (accessed April 4, 2019).

in a subsequent debate in the House of Lords, as follows: "The aim of this policy is to achieve positive effects through changed attitudes to welfare, responsible life choices and strong work incentives."[102]

The Children's Society, a national children's charity associated with the Church of England, warned at the time that the benefit cap would affect children disproportionately, based on its estimate that children were seven times more likely than adults to be affected by this cap.[103] It argued that "children should not be punished for the choices made by their parents".[104]

The impact of the benefit cap on households with children and single-parent households was soon evident from the government's own statistical analyses of its welfare data.[105] Of the 76,200 households which had had their benefits capped between 2013 and May 2016, 94 percent of households had children. Of these, two thirds were single-parent families and 78 percent of all families capped had at least one child under the age of five.[106]

Early litigation to challenge the legality and discriminatory aspects of the benefit cap were unsuccessful, although the judiciary made clear its discomfort with aspects of the cap's logic. A case against the 2013 cap brought by three London based claimants, all of whom were single mothers among the first group of people affected, was unsuccessful before the

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[102] Lord Freud, Parliamentary Undersecretary of State, Department for Work and Pensions, House of Lords Debate, November 21, 2011, Column GC345, https://publications.parliament.uk/pa/ld201011/ldhansrd/text/111121-gc0001.htm (accessed April 4, 2019).

[103] The Children's Society, "A Briefing from The Children's Society The Distributional Impact of the Benefit Cap," (Updated March 2013), https://www.childrenssociety.org.uk/sites/default/files/tcs/distributional_impact_of_the_benefit_cap_revised_march_2013.pdf (accessed December 1, 2018).

[104] The Children's Society, "A Briefing from The Children's Society The Distributional Impact of the Benefit Cap," (Updated March 2013), https://www.childrenssociety.org.uk/sites/default/files/tcs/distributional_impact_of_the_benefit_cap_revised_march_2013.pdf (accessed December 1, 2018), p 4.

[105] DWP, "Benefit cap data to May 2016," August 4, 2016, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/542734/benefit-cap-statistics-to-may-2016.pdf (accessed December 1, 2018).

[106] DWP, "Benefit cap data to May 2016," p 5. Gingerbread, a specialist UK charity working to ensure equal treatment for single-parent families, recently estimated that there are 1.8 million single-parent families (making up a quarter of all families with dependent children) in the UK, and that 90 percent of single-parents are women. Gingerbread's estimates relate to the population as a whole and not those subject to a benefit cap, as described in the DWP data above. See Gingerbread, "Single parents in the UK: prevalence, characteristics and impact," September 20, 2018 (updated February 2019), https://www.gingerbread.org.uk/policy-campaigns/publications-index/statistics/ (accessed April 4, 2019).

High Court.[107] Although the court found that the imposition of the cap infringed the right to family life (Article 8 of the European Convention on Human Rights or ECHR), it ruled that the breach was proportionate and justified and therefore not a violation.[108] The court recognized "that the benefit cap has a disproportionate adverse impact on women," but found that this potential indirect discrimination (engaging Article 14 of the ECHR) did not violate women's right to be free from discrimination because it could be justified in a social security context, and was "ultimately a policy issue."[109]

In one of the cases, the claimant was a single mother of four children, whose lawyers argued that the cap would leave each member of the family on £2.98 per day for living costs, including food, and utilities. Two of the claimants, both victims of domestic violence, appealed to the Court of Appeal and UK Supreme Court. The latter delivered judgment in March 2015, stating that the 2013 benefit cap breached the UK's legal obligations to ensure children's best interests under the UN Convention on the Rights of the Child, with one of the Justices ruling:

> It cannot be in the best interests of the children affected by the cap to deprive them of the means of having adequate food, clothing, warmth and housing. Depriving children of (and therefore their mothers of the capacity to ensure that they have) these necessities of life are simply antithetical to the notion that first consideration has been given to their best interests.[110]

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[107] See judgment in *R(JS and others) v Secretary of State for Work and Pensions* [2013] EWHC 3350 (QBD). November 5, 2013, https://www.bailii.org/ew/cases/EWHC/QB/2013/3350.html (accessed December 1, 2018). See also discussion of the judgment by one of the intervening organizations, Child Poverty Action Group: CPAG/Mike Spencer, "Single mothers lose legal challenge to the benefit cap," December 2013, http://cpag.org.uk/content/single-mothers-lose-legal-challenge-benefit-cap (accessed December 1, 2018).

[108] *R(JS and others)*, para 69.

[109] *R(JS and others)*, para 76 and 95.

[110] Lord Kerr, in *SG & Ors, R (on the application of) v Secretary of State for Work and Pensions (SSWP)* [2015] UKSC 16 (18 March 2015), http://www.bailii.org/uk/cases/UKSC/2015/16.html (accessed December 1, 2018), paragraph 268. For a useful summary of the case particulars and the judgment, respectively, see CPAG, "Benefit cap – CPAG intervention – R*(SG and others) v SSWP formerly JS and others*," last update March 18, 2015, http://www.cpag.org.uk/content/benefit-cap-cpag-intervention (accessed December 1, 2018) and CPAG, "Benefit cap breaches children's rights, says Supreme Court," (Press release) March 18, 2015, http://cpag.org.uk/content/benefit-cap-breaches-childrens-rights-says-supreme-court (accessed December 1, 2018).

The Supreme Court also held that the cap did not amount to unlawful discrimination against children because the rights contained in that Convention have not been incorporated into UK domestic law. In short, the majority of the Supreme Court justices found that the cap breached the UK's international duty to uphold the best interests of children living in the UK. Since it lacked the power to overturn the policy, the court could not do more than call on the government to review its scheme.[111]

The government ignored the Supreme Court's recommendation, and instead proceeded to lower the benefit cap further in 2016 from the then existing rate of £500.[112] The new rate, in place since November 2016, for a two-adult couple, or a single-parent with children (regardless of how many) is £384.62 per week outside London, and £442.31 per week in greater London (weighted to factor in higher living costs).[113] For single-parent "workless households" outside London with multiple children, this represented a further 23 percent cut in the maximum available welfare benefits. For those in London, it represented an 11.5 percent reduction.

By February 2017, the anti-poverty organization, Joseph Rowntree Foundation, estimated that the benefit cap affected over 66,000 families, of whom 72.3 percent were single-parents and 20.7 percent were couples with children.[114] In addition to cuts, the real value of out-of-work benefits since 2013 has not kept pace with inflation. On average, by the government's own 2016 figures, the benefit cap was forecast to reduce household benefits for affected families by £60 per week (or just over £3,000 per year).[115]

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[111] Lord Carnwath, in *SG & Ors*, R, paragraph 133, but see also 119-120.

[112] Department for Work and Pensions, "Lower benefit cap comes into effect," November 7, 2016, https://www.gov.uk/government/news/lower-benefit-cap-comes-into-effect (accessed November 21, 2018).

[113] Gov.uk, "Benefit cap amounts," https://www.gov.uk/benefit-cap/benefit-cap-amounts (as at November 21, 2018).

[114] JRF Analysis Unit, "UK Poverty 2017," (Report), Joseph Rowntree Foundation, December 4, 2017, https://www.jrf.org.uk/file/50890/download?token=3jsCmyhA&filetype=full-report (accessed March 1, 2018), page 39-40 and 24. Current benefit cap levels are available at https://www.gov.uk/benefit-cap/benefit-cap-amounts (accessed May 13, 2019). The legality of aspects of the benefit cap are currently subject to two joined-up legal challenges heard by the Supreme Court in July 2018, in which judgment is pending: *R (on the application of DS and others) v Secretary of State for Work and Pensions* Case ID: UKSC 2018/0074, https://www.supremecourt.uk/cases/uksc-2018-0074.html (accessed December 1, 2018)., and *R (on the application of DA and others) v Secretary of State for Work and Pensions* Case ID: UKSC 2018/0061 (appealing [2018] EWCA Civ 504), https://www.supremecourt.uk/cases/uksc-2018-0061.html (accessed December 1, 2018)., heard together July 17-19, 2018. The Supreme Court announced on May 9, 2019 that it would give its judgment in the case on May 15, 2019 (see: https://twitter.com/UKSupremeCourt/status/1126443333625290752, accessed May 9, 2019).

[115] DWP, "Welfare Reform and Work Act: Impact Assessment for the benefit cap," August 2016, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/548741/welfare-reform-and-work-act-impact-assessment-for-the-benefit-cap.pdf#page=2 (accessed July 19, 2018), p. 10.

Evidence to date suggests that these changes have not had the expected impact on incentivizing (re-)entry to work. Research conducted by the Institute of Fiscal Studies, a thinktank closely following the impact of the overhaul of the welfare system, as well as research commissioned by the EHRC and carried out by the NIESR, shows that many of those affected appear to be accepting or adjusting to their lower income, rather than moving into work (despite entry or re-entry to paid work being a key objective of current welfare changes) or moving into cheaper accommodation.[116] The UK Statistics Authority, a non-ministerial government department responsible for official statistics, has also examined and raised serious doubts about the validity of the causal link the DWP has sought to draw between the introduction of the benefit cap and claimants' return to work.[117]

Further research and cases documented by the Child Poverty Action Group (CPAG), show that, in addition to only having achieved a modest increase in return to work in its first year of operation (16 percent, as opposed to 11 percent had the cap not been imposed),[118] the benefits cap has caused severe hardship as families have cut back on essentials, "with consequences for children's diets, health and educational opportunities."[119]

In a letter to Human Rights Watch, the DWP's Minister for Family Support, Housing and Child Maintenance, Will Quince, wrote that the benefit cap's aims were to incentivize work, ensure fairness between taxpayers and welfare recipients, and to make fiscal savings, but that the government was aware that some people needed further protection. Quince noted

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[116] Andrew Hood and Robert Joyce, "A tighter benefit cap," Institute for Fiscal Studies, November 6, 2016, https://www.ifs.org.uk/publications/8717 (accessed December 1, 2018). See also Nathan Hudson-Sharp et al (National Institute of Economic and Social Research, NIESR), "The impact of welfare reform and welfare-to-work programmes: an evidence review," section 3.

[117] See note by Ed Humpherson, Director General for Regulation , UK Statistics Authority, December 2014, cited in Letter from Sir Andrew Dilnot CBE, Chair of the UK Statistics Authority to Jonathan Portes, NIESR, December 17, 2014, https://www.statisticsauthority.gov.uk/archive/reports---correspondence/correspondence/letter-from-sir-andrew-dilnot-to-jonathan-portes-171214.pdf (accessed December 1, 2018).

[118] DWP, "Benefit cap: review of the first year," December 15, 2014, cited in CPAG, "Impact of the lower benefit cap: Submissions to the Work and Pensions Committee," April 2017 and updated evidence September 2018, http://www.cpag.org.uk/sites/default/files/CPAG%20Updated%20Response%20-%20Work%20and%20Pensions%20Committee%20Inquiry%20into%20the%20Benefit%20Cap.pdf (accessed December 1, 2018).

[119] CPAG, "Impact of the lower benefit cap: Submissions to the Work and Pensions Committee," April 2017 and updated evidence September 2018, http://www.cpag.org.uk/sites/default/files/CPAG%20Updated%20Response%20-%20Work%20and%20Pensions%20Committee%20Inquiry%20into%20the%20Benefit%20Cap.pdf (accessed December 1, 2018) , page 9.

that the government had made additional support available to people with disabilities, who required or provided care, or were vulnerable and in need of housing.[120]

The Four-Year Benefit Uprating "Freeze"

Alongside its decision to introduce a benefit cap to "workless households" in two phases, the government also announced in its 2015 budget that it would "freeze" most working-age benefit levels for four years starting in 2016.[121] This "freeze," meant stopping the earlier policy to increase working-age benefits annually at 1 percent between 2013 and 2016 (at a rate below inflation, measured as CPI). Prior to 2013, these benefits generally tracked inflation. The four-year benefit uprating freeze, often referred to simply as the "benefit freeze", was intended to reduce government spending; in its impact assessment proposing the freeze, the government reasoned that there would be "no cash losers as a result of this policy," as households could "accept the changed benefit entitlement in the future or move into work."[122] The government offered little evidence to support this assertion. It is not clear, however, how reducing the real value of a benefit would not lead to a cash loss for recipients (see also section below on rising food prices, and impact on low-income families).

The government proceeded with this measure, despite criticism and early warnings from specialist organizations. In 2015, Citizens Advice, the main UK network of free, independent benefit advice providers warned that the freeze's impact would be felt hardest by those on low incomes as the policy in place at the time of capping benefits below the rate of inflation was already causing hardship for their service users; with inflation projected to rise (as it did), over two thirds of 200 advisers surveyed saying that their clients were by 2015 "in a worse position to cope with the impacts of a freeze, in comparison to circumstances in 2012." [123] In the same report, Citizens Advice estimated

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[120] Letter from Will Quince, Minister for Family Support, Housing and Child Maintenance to Human Rights Watch, May 7, 2019 (on file).

[121] George Osborne MP, "Summer Budget 2015 speech".

[122] DWP, "Welfare Reform and Work Bill: Impact Assessment of the Benefit rate freeze," July 2015, https://www.parliament.uk/documents/impact-assessments/IA15-006C.pdf (accessed December 1, 2018), page 6.

[123][123] Citizens Advice, Freeze to working age benefits - Citizens Impact Assessment, July 2015, https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Benefit%20freeze%20impact%20assessment.pdf (accessed December 1, 2018), quote from p. 12.

that at least 40 percent of their clients likely to be affected by the first freeze had dependent children.[124]

The UK-based thinktank Resolution Foundation has developed an alarming projection of the impact of the benefits freeze on the income of families with working-age household members, and poorer households with children and single-parents in particular, if the current trends continue.[125] Their analysis estimates that the lowest three income deciles of couples with children stand to see an annual household income loss of £650 - £825 per year as a direct effect of benefit caps and associated freezes, and the bottom six income deciles of single-parents stand to lose approximately £580-770 in annual household income.[126]

The benefits such families receive is also worth less than previously. The same Resolution Foundation analysis of official data shows child benefit a family receives for the second child onwards to be worth 14 percent less in real terms by April 2019 than it was in 1979 when first introduced, following a steady decline commencing in 2009.[127]

Although HM Treasury and the DWP have confirmed separately, in writing, that the government does not intend to continue the "freeze" beyond 2020, Human Rights Watch considers that significant harm has already taken place for the poorest families' ability to afford food, by the loss in the real value of welfare benefits since the beginning of the "freeze".[128]

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[124] Citizens Advice, Freeze to working age benefits - Citizens Impact Assessment, July 2015, https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Benefit%20freeze%20impact%20assessment.pdf (accessed December 1, 2018), p. 2.

[125] Adam Corlett, 'Despite the "end of austerity."

[126] Adam Corlett, 'Despite the "end of austerity"." (including figures updated on October 16, 2018).

[127] Heather Stewart and Richard Partington, "Poorest families to lose out on £210 a year owing to benefits cap," *The Guardian*, October 13, 2018, https://www.theguardian.com/politics/2018/oct/13/poorest-families-to-lose-out-on-210-a-year-owing-to-benefits-cap/ (accessed October 16, 2018), and Adam Corlett, 'Despite the "end of austerity"'.

[128] Letter from Charles Grainger, Welfare Spending and Reform, HM Treasury, to Human Rights Watch, May 2, 2019 (on file) and Letter from Will Quince, Minister for Family Support, Housing and Child Maintenance to Human Rights Watch, May 7, 2019 (on file).

Regressive New Limits to Child Related Tax Benefits

One tax policy stands out as carrying particularly negative consequences for those on the lowest incomes, and as inherently discriminatory against children living in poverty—the post-2017 limit to the child tax credit that caps the credit at two children for low income families for children born after 2017. Tax credit is a means-tested benefit made up of various components, with varying value depending on an individual family's circumstances. The implication is that a poor family that has more than two children will not receive any additional support in the form of tax credit for them.[129] This policy financially penalizes large numbers of children and their families and impacts negatively on children living in poorer households with a parent or parents who rely on welfare benefits. It also is a policy that punishes parents if they want to have more than two children, including through blending families (i.e. a family in which two parents have children from previous relationships, but bring them together to live as one household).

The Welfare Reform and Work Act 2016 and accompanying regulations introduced a two-child limit, meaning that no tax credit will be awarded for any child beyond the first two born after April 6, 2017, except in special circumstances (such as adopted children, multiple births, or children conceived as a result of rape).[130]

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[129] The child tax credit and child element of Universal Credit are distinct from the "child benefit," which is a separate scheme in which the UK government offers an opt-in additional welfare payment per child (child benefit) to all households with dependent children (minor children and children under the age of 20 who remain in approved education or training) in which no responsible adult earned in excess of £50,000/year. The modest monthly payment is tax free – at a current rate of £20.70 per week for the first child, and £13.70 for each additional child (with no limit on the number of children), which has been nearly constant since 2010 – and offers important support in particular to low and middle-income households, and acts as an additional guarantee for some state pension benefits. For current rates, see Child Benefit Rates, https://www.gov.uk/child-benefit-rates and IFS table of Child Benefit rates; https://www.ifs.org.uk/uploads/publications/ff/childbenguardian.xlsx (both accessed December 1, 2018)

[130] See DWP & HMRC, "2 child limit: claiming benefits for more than 2 children," April 2017, updated November 2017, https://www.gov.uk/guidance/claiming-benefits-for-2-or-more-children (accessed December 1, 2018). See also Steven Kennedy, Alex Bate and Richard Keen, "The two child limit in child tax credits and Universal Credit," Briefing Paper 7935, *House of Commons Library,* April 10, 2017, http://researchbriefings.files.parliament.uk/documents/CBP-7935/CBP-7935.pdf (accessed December 1, 2018) for a detailed, accessible explanation of how the child tax credit and working tax credit allowance was calculated, and the impact of the 2017 changes on six hypothetical family examples, pp. 5-6, 16-18. The briefing paper also contains discussion of the so-called "rape exception," which has been implemented in a manner that has generated criticism from women's rights advocates. See also May Bulman, "Government policy forced 190 women to prove they were raped in order to get child benefits, figures show," *The Independent*, June 28, 2018, https://www.independent.co.uk/news/uk/home-news/rape-victims-child-benefits-women-dwp-universal-credit-work-pensions-support-a8421086.html (accessed April 4, 2019), and House of Commons Work and Pensions Committee, "Two-child limit: Twenty-Third Report of Session 2017–19 (HC1540)," January 10, 2019, https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/1540/1540.pdf, p. 9. (accessed April 4, 2019)

Lord Freud, then a minister in the Department for Work and Pensions explained the rationale simply: "The tax credits system has become too generous.... The average number of dependent children in families in the UK in 2012 was 1.7, so the Government feel that it is fair and proportionate to limit additional support provided by the taxpayer through child tax credit and the child element of Universal Credit to two children."[131]

The policy faced criticism from specialist civil society organizations, thinktanks, and a coalition of religious leaders and parliamentarians, in its first year and a half of implementation but received less media attention than other welfare and tax changes which made their impact felt more immediately.

The End Child Poverty coalition has summarized this problem succinctly, saying:

> The two-child limit has not attracted as much attention as other welfare reforms ... even though its long-term impact will be greater in terms of both the number of families affected and the impact on poverty. Because it only currently applies to children born after April 2017, the impact of the two-child limit will be more gradual, with the full effects not being felt for at least a decade. Nor does it lead to a sudden fall in a family's income.... Instead, families having a third or subsequent child will experience a tight squeeze on their finances, because they no longer qualify for additional support.[132]

An analysis by the Child Poverty Action Group and the Institute for Public Policy Research warned of the consequences for low income families with more than two children. These included disincentivizing single parents from creating "blended families" with a new

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[131] Lord Freud, House of Lords debate of Work and Welfare Reform Bill, Committee Stage, 1st Day, HL Deb, 7 December 2015, c1328 https://www.theyworkforyou.com/lords/?id=2015-12-07a.1317.0#g1328.2 (accessed December 1, 2018). Further comparative analysis conducted by the End Child Poverty Coalition of child-related welfare benefits and tax credits in OECD countries, and Professor Kitty Stewart of the London School of Economics' Centre for Analysis of Social Exclusion, shows that the UK is unique among its peers for offering no benefits beyond the second child. Most countries offer increasing benefit for additional children, several maintain fixed levels for each child, and only two others offer reduced support levels for additional children beyond the second or third child. See End Child Poverty Coalition, CPAG and Church of England, *Unhappy Birthday!: The two-child-limit at one year old,* April 2018, http://www.endchildpoverty.org.uk/wp-content/uploads/2018/04/Unhappy-birthday-report-on-two-child-limit-final.pdf (accessed December 1, 2018), page 19-20, citing Prof Kitty Stewart's research.

[132] End Child Poverty Coalition, CPAG and Church of England, "*Unhappy Birthday!*", page 9.

partner and lost income of up to £2,780 per year for a family with a working parent if they have a third child.[133]

A similar study by the thinktank Policy in Practice warned that by 2020, 69,000 children would fall below the poverty line within a year as a result of the birth of a third or additional child in the household under this policy.[134] By June 2018, CPAG confirmed that 71,000 families had lost entitlement to child benefits as a result of the cap under the child tax credit (or the child-related portion of Universal Credit payments).[135]

In April 2018, one year after the two child limit was introduced, a group of sixty senior Church of England clerics, including 19 of the 26 bishops who sit in the House of Lords, and representatives of other Christian denominations as well as Muslim and Jewish faiths, began a public campaign calling on the government to rethink the policy.[136] The religious leaders published an open letter, saying that in addition to being a regressive measure that could have punitive effects on families as a result of factors out of their control (loss of employment, illness, etc.), the policy "conveys the regrettable message that some children matter less than others, depending on their place in the sibling birth order."[137]

The Bishop of Durham, one of the Church of England's representatives in Parliament, said, "It is simply not right that some children get support and others don't. We share a moral responsibility to make sure that everyone in our country has a decent standard of living and the same chances in life, no matter who they are or where they come from."

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[133] CPAG and IPPR, "Broken promises: What has happened to support for low-income working families under universal credit?," March 2017, http://www.cpag.org.uk/sites/default/files/Broken%20promises%20FINAL%20for%20website.pdf (accessed December 1, 2018).

[134] Deven Ghelani and Giovanni Tonutti, "The impact of the two child limit to tax credits," (Briefing Paper), Policy in Practice, April 2017, http://policyinpractice.co.uk/wp-content/uploads/2017/04/Limiting-Child-Tax-Credits-to-Two-Children_PIP_Briefing-Paper_April2017.pdf (accessed December 1, 2018), Annex 1. The "poverty line" is defined in UK public policy terms based on the Households Below Average Income measurement described earlier in the report.

[135] CPAG, "71,000 Families hit by the Two-Child Limit policy in its first year," (Press Release), June 28, 2018, http://www.cpag.org.uk/content/71000-families-hit-two-child-limit-policy-its-first-year (accessed December 1, 2018).

[136] See End Child Poverty Coalition, "Faith leaders urge the government to loosen the grip of poverty on families by removing the two child limit policy," (Press release), April 6, 2018, http://www.endchildpoverty.org.uk/faith-leaders-urge-the-government-to-loosen-the-grip-of-poverty-on-families-by-removing-the-two-child-limit-policy/ (accessed December 1, 2018).

[137] Bishop of London et. al. "Letters to the editor: Two-child limit on Universal Credit," *The Times*, April 6, 2018, Republished online by the Church of England in Parliament here: https://churchinparliament.org/2018/04/06/bishops-highlight-consequences-of-the-two-child-limit-in-letter-to-the-times-and-blog-post/ (accessed December 1, 2018).

The policy has also been subject to a legal challenge brought by two single mothers and an unmarried couple responsible for the care of their child and one of their grandchildren. Part of the High Court's April 2018 ruling (which found the two-child limit compatible with the ECHR) was appealed and judgment from the Court of Appeal remains pending.[138]

The policy as originally designed would have had more draconian effect than it does presently because it was drafted to apply retroactively to children born before the law came into force. However, in January 2019, the government announced a partial reversal of its two child limit policy.[139] The Secretary of State for Work and Pensions, Amber Rudd, delivered a speech in which she accepted that it was unfair to apply the limit retrospectively to children born before April 2017 (when the policy came into force), but insisted that the policy remained fundamentally fair and would continue to apply to families which had grown beyond two children after that date.[140]

Turn2Us, a specialist welfare advice organization, and the Institute for Fiscal Studies, a UK thinktank analyzing welfare issues, expressed skepticism about the announced change, noting that while it addresses the retrospective aspect of children born before April 6, 2017, the fundamental policy remained in place and that its impact on poorer families with third children born after that date would not be felt fully for another decade.[141]

The Cumulative Impact of Changes to Welfare on Children and Families

On the front line, at welfare advice services and food banks, evidence of the cumulative impact of the welfare changes on families is plain to see.

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[138] CPAG, "Two child limit challenge," Last updated December 14, 2018. http://www.cpag.org.uk/content/two-child-limit-challenge (accessed April 4, 2019). Note that in this case CPAG is acting on behalf of the claimants. See SC & Ors, v Secretary of State for Work and Pensions and Ors., [2018] EWHC 864 (Admin), April 20, 2018, https://www.bailii.org/ew/cases/EWHC/Admin/2018/864.html (accessed April 4, 2019). The appeal was heard in December 2018, and judgment is awaited.

[139] Laura Hughes, "Amber Rudd to relax two-child limit on universal credit," FT.com, January 10, 2019, https://www.ft.com/content/91a57e5a-14fa-11e9-a581-4ff78404524e (accessed April 4, 2019).

[140] Secretary of State for Work and Pensions, Amber Rudd MP, "Universal Credit: personal welfare," (Speech), January 11, 2019, Kennington JobCentre, https://www.gov.uk/government/speeches/universal-credit-personal-welfare (accessed April 4, 2019).

[141] Liam Evans, "Two child limit announcement," Turn2Us, January 11, 2019, https://www.turn2us.org.uk/About-Us/News/Two-child-limit-announcement (accessed April 4, 2019) and Tom Walker, "Reform to two-child limit addresses retrospection, but does not change long-run cut to support for big families," Institute for Fiscal Studies, Observation (Blog), January 11, 2019, https://www.ifs.org.uk/publications/13804 (accessed April 4, 2019).

Sarah Thacker, from Hull and East Riding Citizens Advice, one of the welfare advisors Human Rights Watch interviewed in that region, and who has over a decade and a half experience of casework in the area, said that her clients often arrive at a point of crisis. They may have experienced changes to benefits, problems with housing ranging from rent arrears to imminent eviction, domestic violence, or have mental health conditions. She explained how the impact of those pressures is felt and seen in food insecurity:

> We refer clients to the food bank [emergency assistance] and food aid [ongoing free or low cost food such as community pantries and community centers]. Now we're seeing families affected by the child benefit cap. I have client with a son who has a learning disability, who I help access food aid via a children's center. They get their food from FareShare and she has a food parcel picked out for her. For others we show them the Goodwin Pantry, and we let them choose items for a free food parcel on their first visit, and then we either pay for a few weeks or help them budget for it. Paying £3 out of their pocket helps reduce the stigma attached. [142]

A community worker who runs projects from the Marfleet Community Centre in East Hull reported that she had referred "at least a hundred people" to sources of food aid of different kinds, ranging from Citizens' Advice to get a food bank referral, community pantry and social supermarket initiatives, the local council for emergency help, and specific support services for women and families in situations of domestic violence. She discussed the stigma attached to asking for help, discussing some cases where she had referred people to food aid:

> They would rather go without than ask for help, so it's important not to make judgments out loud. I just say, oh I'm going to nip to EMS [the local social supermarket] or Goodwin [a community pantry] to get some veggies and see if they'll come. There's one single mum, she's struggled through life, she works odd hours, but not regularly. One day she just broke down in tears when she was here and said she has no food in the cupboards, no toilet roll, and wasn't entitled to any more benefits. She can't get the 30

[142] Human Rights Watch interview with Sarah Thacker, Hull and East Riding Citizens Advice, June 8, 2018.

> hours of work she needs to get by, so I helped her get registered with [the local social supermarket]. [143]

The cumulative impact of these benefit freezes, tax credit reductions and caps to welfare benefits reflect the twin punitive and motivational components of welfare policy directed towards people on low incomes. These changes, characterized by their proponents as "unavoidable" changes necessitated by austerity, are concrete political choices intended to scale back the welfare state, which has had the effect of plunging people further into poverty and vastly exacerbating food insecurity.

Rather than being a necessary, bitter pill, these are policy choices taken by political leaders to cut state financial support, and they have negatively affected the human rights of people on low incomes, in particular their right to an adequate standard of living, including their right to food. For women, children and people with disabilities, as set out in the legal chapter, these impacts may also be discriminatory.

[143] Human Rights Watch interview with Kerry Hought, Marfleet, Community Centre, East Hull, June 8, 2018.

III. Welfare Changes and Families on the Breadline

The UK welfare system has been scaled back significantly through funding cuts and reductions to welfare benefits since 2010. The poor implementation of many of these structural changes has exacerbated food insecurity. Wage stagnation and rising food prices have contributed to the problem as well, but changes to the social support and welfare benefits architecture are key factors.

Koldo Casla, Policy Director at Just Fair, one of the leading domestic human rights organizations working on economic and social rights, has argued post-2010 tax and welfare policies have amounted to "an unacceptable regression" in the human rights to social security and to an adequate standard of living.[144] Casla told Human Rights Watch, "We live in one of the wealthiest countries on earth. Everyone should have the means to ensure an adequate standard of living for themselves and for their loved ones. We should not resign ourselves to anything less than that. However, tax and social security cuts of recent years have compromised this essential ingredient of a truly free and just society."[145]

The impact of these changes on the poorest families, who rely more on emergency food aid, has been reinforced by a government that has until recently, largely been unwilling to take on board evidence-based criticism and review its policies.

Since early 2019, the previous point-blank unwillingness of government ministers to respond to criticisms of the impact of welfare changes, and its link to rising food poverty, has been tempered by an acknowledgment that there may be a connection. This marked change in tone is discussed further at the end of this section.

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[144] See Koldo Casla, "You can't silence the data when it's so deafening: The poor have borne the cost of tax and welfare reforms," Just Fair (Blog), November 17, 2017, http://justfair.org.uk/you-cant-silence-the-data-when-its-so-deafening-the-poor-have-borne-the-cost-of-tax-and-welfare-reforms/ (accessed April 4, 2019), originally published in *Left Foot Forward*.

[145] Multiple meetings and e-mail correspondence with Koldo Casla, Policy Director of Just Fair, between April 2018 and April 2019. The citation is to an email from Koldo Casla to Human Rights Watch, March 27, 2019 (on file). See also Koldo Casla, "Britain's devastating cuts to social security breach international human rights law, NGOs find," *OpenDemocracy*, January 18, 2019, https://www.opendemocracy.net/en/opendemocracyuk/britain-s-devastating-cuts-to-social-security-breach-international-human-rights-law-ngos/ (accessed January 18, 2019).

Welfare changes have exacerbated vulnerability to indebtedness and failed to alleviate chronically low income. Much of this is due to the flawed implementation of the Universal Credit scheme that has led to payment delays, unanticipated deductions and administrative problems.[146]

Three specific aspects of welfare changes have further squeezed families on low incomes.

- the series of freezes, caps and limits applied to child-specific benefits (detailed in the background section above);
- the Universal Credit system; and
- the attrition of local welfare assistance schemes.

Low Levels of Social Support, Rising Food Prices and Human Rights

Current levels of social support resulting from legislative changes beginning in 2012 are too low to allow many poor families to meet their basic needs. The government has faced repeated criticisms that these changes undermine the UK's international human rights obligations.

UN and Council of Europe experts, in periodic assessments of the UK's compliance with international treaties, have criticized the inadequacy of social security benefits in the UK, and problems with welfare change implementation and their impact on the ability of the UK to meet its human rights duties to those living in the country.

The European Committee of Social Rights, the body tasked with assessing compliance of Council of Europe member states with the European Social Charter (1961), found the UK's levels of sick pay, incapacity, unemployment and disability allowance inadequate, and not in conformity with the European Social Charter (1961) Art 12.1 (the right to social security).[147] In these findings it noted that it had earlier, in 2013, found the minimum levels of benefits "manifestly inadequate."

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[146] Suzanne Fitzpatrick et. al., 'Destitution in the UK 2018,' pages 27-38 and
The Trussell Trust, "Left Behind: Is Universal Credit Truly Universal?" April 2018, https://www.trusselltrust.org/wp-content/uploads/sites/2/2017/07/OU_Report_final_01_08_online2.pdf, pages 16-25 (accessed April 27, 2018).

[147] ECSR, Conclusions XXI-2 - United Kingdom - Article 12-1, XXI-2/def/GBR/12/1/EN (01/01/2012 - 31/12/2015), December 8, 2017 and ECSR, "European Committee of Social Rights: annual conclusions for 2017," January 24, 2018,

In their most recent concluding observations on the UK, the UN Committee on the Rights of Persons with Disabilities and the UN Committee on Economic, Social and Cultural Rights, each detailed a list of concerns around welfare change, including the impact of conditionality and sanctions associated with the new welfare regime being rolled out at the time they issued their conclusions.[148] Both of these UN committees, and the UN Committee on the Rights of the Child, also raised concerns about the lack of a comprehensive anti-poverty strategy, and called for cumulative impact assessment, with disaggregated data, of tax and welfare changes.[149]

Those critiques are borne out by quantitative research. The Minimum Income Standards (MIS) project at Loughborough University offers one useful budgeting tool for assessing how low-income families in two-parent and single-parent households have been affected. It assesses income relative to a "socially acceptable minimum."[150]

Academic research into food bank use shows that based on the 2017 MIS standards of £2,056 per month needed for a couple with two dependent children, 96 percent of food bank-using families of this size received less than £1,000 (below half the socially acceptable minimum), and among single-parent families with one child, in which the MIS standard was £1,338 per month, 76 percent received less than £500 monthly (less than a

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https://www.coe.int/bs/web/portal/-/european-committee-of-social-rights-annual-conclusions-for-2017 (accessed April 4, 2019).

[148] UN Committee on the Rights of Persons with Disabilities, Concluding observations on the initial report of the United Kingdom of Great Britain and Northern Ireland** , CRPD/C/GBR/CO/1*, October 3, 2017, Paragraphs 58-59 and UN Committee on Economic, Social and Cultural Rights, Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*, E/C.12/GBR/CO/6, July 14, 2016, Paragraphs 40-41.

[149] UN CRPD, CRPD/C/GBR/CO/1*, Paragraphs 58-59; UN CESCR, E/C.12/GBR/CO/6, Paragraphs 47-48; and Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, CRC/C/GBR/CO/5, July 12, 2016, Paragraphs 70-71.

[150] The MIS research tool has been pioneered by the Centre for Research in Social Policy at Loughborough University. See https://www.lboro.ac.uk/research/crsp/mis/ (last accessed April 4, 2019). It is a UK-based tool, but is being tested or used in nine other countries. The method's pioneers have explained the concept's usefulness in understanding poverty: "MIS cannot therefore be described as a 'poverty line', it could act as a useful reference point in producing an indicator of poverty. An income at a certain percentage of MIS can be seen as having more intrinsic meaning, in terms of the ability of households to meet their needs, than an income at a given percentage of the median. This is because the former but not the latter is referenced on a living standard with a defined meaning, the identification of a tangible set of goods and services required to meet it and the calculation of the cost of buying these items at current prices." See Donald Hirsch, Matt Padley and Laura Valadez, "A poverty indicator based on a minimum income standard," (CRSP Working Paper 656), https://www.lboro.ac.uk/media/wwwlboroacuk/content/crsp/downloads/A%20poverty%20indicator%20based%20on%20a%20minimum%20income%20standard.pdf (accessed April 4, 2019), page 6-7.

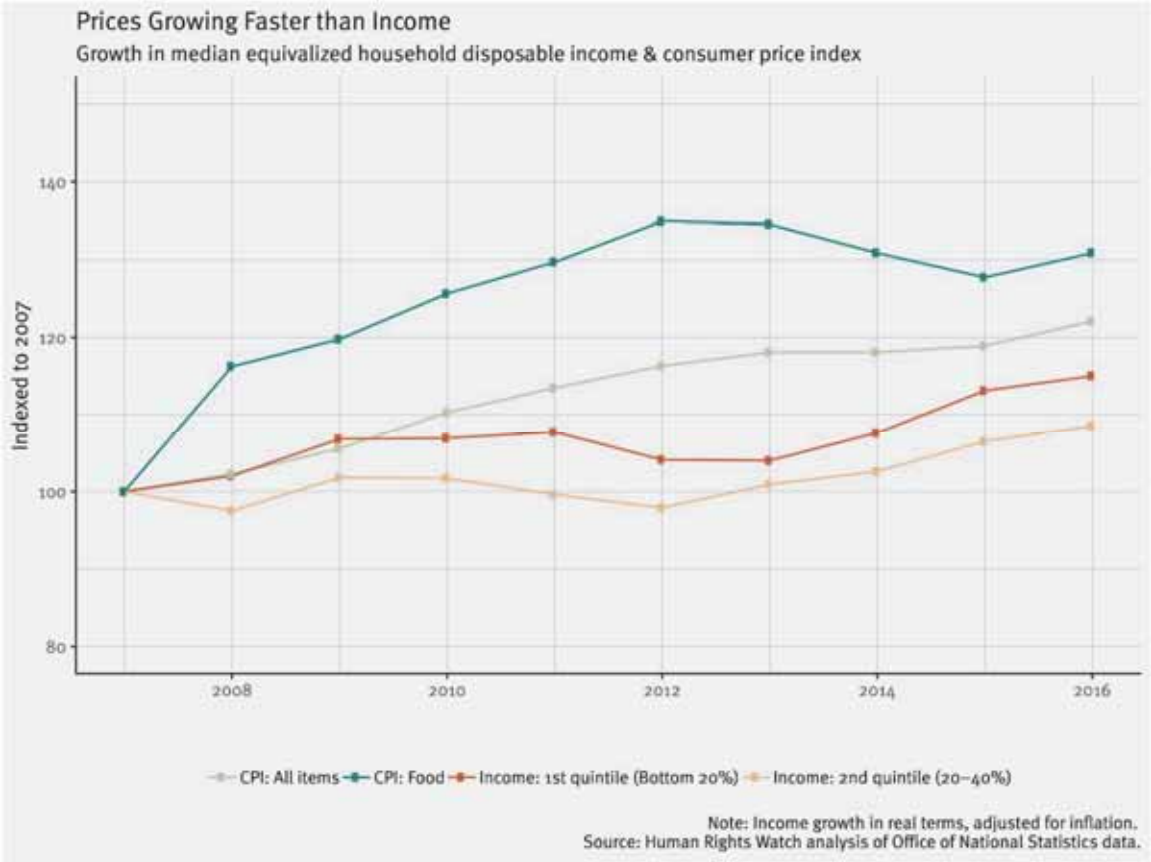

Figure 4: Prices growing faster than income

quarter of the socially acceptable minimum), and almost all of them received less than £1,000.[151]

Another problem exacerbating the situation in the UK is that the poorest fifth of households have not seen their incomes keep pace with inflation in the prices of goods and services. Prices for food in the UK increased 31 percent between 2007 and 2016. During the same time frame, real income for the poorest fifth of households only increased 15 percent.[152] That means a greater percentage of their income must be spent on food which is also becoming more expensive.

[151] Rachel Loopstra, Hannah Lambie-Mumford and Ruth Patrick, "Family hunger in times of austerity: families using food banks across Britain," SPERI British Political Economy Brief No 32, March 2018, Sheffield Political Economy Research Institute, http://speri.dept.shef.ac.uk/wp-content/uploads/2018/03/SPERI-Brief-32-Family-hunger-in-times-of-austerity.pdf (accessed May 2, 2018).

[152] Human Rights Watch analysis of Office of National Statistics data.

According to government food cost surveys, people in the poorest fifth of the population are spending less and buying less food than they were previously, in part because food is becoming more expensive and their incomes are not keeping pace with inflation. For example, the UK government's 2014 statistics showed that the poorest 10 percent of people bought 6.7 percent less food annually but spent 22 percent more on that food between 2007 and 2013. Moreover, the overall percentage of income spent on food increased while the quantity of food decreased during that period. Food is becoming less affordable in the UK for the poor and it is reflected by the fact that the quantity of their food purchased is declining.[153]

A team of Oxford University-based academic researchers, has sought to test at EU-wide level whether the hypothesis that the gap between food price increases and wage stagnation explain increased food insecurity; their findings strongly suggest that states (like the UK) which scale back welfare regimes are less able to mitigate food insecurity arising from these pressures.[154]

The impact of these tax and welfare policies for poor families, alongside rising costs for poor families, has been to negatively affect their right to an adequate standard of living and social protection. At the most basic level, in some cases, these changes have left families unable to access adequate nutritious food.

The Impact of Declining Social Support for Families

Charities, thinktanks and academic researchers have undertaken a number of assessments on the cumulative financial impact of the changes to child-related welfare benefits for families. Many found that poorer families with more children, and children in households led by single-parents or young parents, are likely to be worse off as a result of changes to the welfare and tax system.[155]

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[153] DEFRA, "Family Food 2016/17," April 26, 2018.

[154] Aaron Reeves, Rachel Loopstra and David Stuckler, "The growing disconnect between food prices and wages in Europe: cross-national analysis of food deprivation and welfare regimes in twenty-one EU countries, 2004-2012," *Public Health Nutrition*, 2017, Vol.20 (No.8). pp. 1414-1422, doi:10.1017/S1368980017000167. See also wider research by the same group of investigators on food insecurity in Europe: Rachel Loopstra, Aaron Reeves and David Stuckler, "Rising food insecurity in Europe," *The Lancet*, May 12, 2015, doi.org/10.1016/S0140-6736(15)60983-7.

[155] See CPAG and IPPR, "Broken promises," and also Sam Royston, "The Future of Family Incomes: How key tax and welfare changes will affect families to 2020," The Children's Society, February 2016,

For example, an EHRC-commissioned analysis modeled the annual cash impact of the welfare and tax overhaul undertaken between 2010 and 2017 to estimate how they would impact people in 2021-22. It found that the people most negatively impacted by these changes would be single-parent households (which are predominantly women-led), multigenerational households with children, and couples with children.[156] The same analysis found that the cumulative 2010-17 tax and welfare changes, including the child-related changes since 2015, would leave families with three or more children with an average drop in benefits of £5,400/year by 2021.[157]

The Joseph Rowntree Foundation studied the impact of benefit and tax-credit changes on "working-age people with children."[158] Since the application of the benefits caps of 2013 and uprating freeze of 2016, benefit levels, which had at least kept pace with inflation between 1998 to 2013, have decreased in real value every year since 2013.[159] The Foundation's future modelling suggests that by 2022, low-income two-parent households where both parents work full time will benefit modestly (£8/week increase in net income), but single-parents working full and part-time stand to lose significantly (£16 and £26/week loss in net income respectively) relative to their income in 2010.[160]

During a group meeting with seven young mothers claiming benefits, four expressed a concern that one impact of the benefit cuts includes the fear that they may lose their children because they cannot support them.[161] Human Rights Watch spoke further with one of them, Alicia, a pregnant 18 year old woman living in Hull with one child and who relies on benefits. She explained that there is little in the way of a safety net for pregnant women

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https://www.childrenssociety.org.uk/sites/default/files/the-future-of-family-incomes-23-2-16.pdf (accessed December 1, 2018), Paola de Agostini, John Hills and Holly Sutherland, "Were we really all in it together? The distributional effects of the UK Coalition government's tax-benefit policy," Social Policy in a Cold Climate Working Paper 10, Centre for Analysis of Social Exclusion, London School of Economics and Political Science, http://sticerd.lse.ac.uk/dps/case/spcc/wp10.pdf (accessed December 1, 2018); and Nathan Hudson-Sharp et al (NIESR), "The impact of welfare reform and welfare-to-work programmes."

[156] Portes and Reed, pp. 20-22, and Figure 8 in particular.

[157] Portes and Reed, pp. 23-25, and Figure 11 in particular.

[158] JRF Analysis Unit, "UK Poverty 2017," (Report), Joseph Rowntree Foundation, December 4, 2017, https://www.jrf.org.uk/file/50890/download?token=3jsCmyhA&filetype=full-report, pp. 22-25 (accessed December 1, 2018).

[159] JRF Analysis Unit, "UK Poverty 2017," (Report), pp. 22-25.

[160] JRF Analysis Unit, "UK Poverty 2017," (Report), pp. 24-25.

[161] Human Rights Watch group discussions with Goodwin Trust Youth Employment Initiative/Single Parents Project, Goodwin Community Hub, Hull, June 7, 2018.

and young mothers facing food poverty. Social services may signpost them to food banks, which she and other young mothers in the same group felt carried an implicit suggestion that the referred person's child could be removed from their care:

> I have milk tokens for the bairn [baby], but formula is expensive and there's nowt [nothing] left for fruit and veg. How can we pregnant mams [mothers] fork out enough for our kids to eat and make sure we're eating enough to take care of the bairns? We don't find out about food parcels until social services become involved and we've got to the point where they're saying we'll take your kids off you.[162]

In food banks and food pantries, people who relied on food aid, overwhelmingly women heading single-parent households, spoke about the impact of these technical, often marginal, benefit changes which they did always not fully understand, but by which they felt squeezed.

Joanne, a resident of Wisbech with four children, who reported having visited the Wisbech food bank six or seven times over the course of three years, said that she had first been referred to the food bank by one of her children's youth offending officer who had realized the family's situation.[163] Joanne, whose entitlement to benefits had changed as a result of the benefit cap, and one of her children recently having turned 18, but who was yet to transition to Universal Credit, said:

> The only time I come [to the food bank] is if my benefits have been stopped or cut. I had a sanction once because I was overpaid child tax credit, so they stopped the payment completely. It's not a nice way of living, literally living day by day… We're lucky the food bank is here but there should be a system to catch us before we fall through the net.[164]

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[162] Human Rights Watch interview with "Alicia" (name on file), Goodwin Community Hub, Hull, June 7, 2018.

[163] A youth offending officer is a member of local authority organized multi-agency team (the Youth Offending Team), which works with children in the UK's juvenile justice system, in the fields of community service, reparation and preventing re-offending.

[164] Human Rights Watch interview with Joanne, Wisbech food bank, May 23, 2018.

"Roseanne", a 39-year-old woman living in Hull, said she had five children, two of whom were adults, and three grandchildren, whom she helps take care of when her adult children work. She explained she found herself needing food as a result of her welfare benefits being withheld to deal with what the DWP considered an overpayment in the past:

> They've stopped my benefit money for four or five weeks now. I'm waiting for a payment to be received but every week there's a delay, because they said my circumstances changed when one of my sons was 18. They told me I now have to pay backdated bedroom tax of £20 a month that gets taken out of my benefit. I've been using the pantry for 3 or 4 weeks now … if I can't get the food, I'm worried I'll have my kids taken off me by social services. I have to ask my grown-up kids to help me out. When I had no money, I was begging and borrowing, and I was so ashamed and embarrassed. It costs a fortune to keep the kids healthy with fruit and veg and salad, but at the pantry we can make sure the kids have stuff.[165]

Sometimes the impact of changes in child-related benefit levels are compounded by other changes to social support when the recipient has multiple challenges.

"Stacey", a 46-year-woman with disabilities who uses a wheelchair and lives in a village near Wisbech, was unable to attend the food bank in person to redeem the voucher with which she had been issued by Cambridgeshire social services.

Instead, Stacey's mother "Emma," had come with a neighbor, who owned a car, to collect a second set of food parcels on behalf of Stacey's household. She told Human Rights Watch that Stacey cares for three of her children and a 7-year-old grandson, and had been referred recently to the food bank after she ran out of money following a delay in her disability-related welfare payment and reductions to her child tax credit. Emma said:

> I don't know what she'd do if there was no food bank. I don't have spare money to help. I've never been in this situation and don't know where she can turn to. The last time she saw the food parcels when we took them

[165] Human Rights Watch interview "Roseanne" (name on file), Goodwin Community Pantry user, Hull, June 6, 2018.

> home, she cried because of the generosity … emotionally, it got to her. The kids are managing now, they're getting pasta and sauce. [166]

In two group meetings, each with seven young women in Hull, five and six women respectively reported having gone hungry to ensure their children were eating. During these sessions, some spoke about situations in which they did not have enough food to provide their children with breakfast or hot meals at home.[167]

The Human Rights Impact of the Universal Credit Benefit System

Universal Credit is the UK's flagship welfare program introduced in the Welfare Reform Act 2012, which has attempted to consolidate into one simplified benefit six existing means-tested "legacy" benefits: Income Support, income-based Jobseeker's Allowance, income-related Employment Support Allowance, Housing Benefit, Working Tax Credit and Child Tax Credit. The government has also sought to take the opportunity of the Universal Credit change to incentivize many categories of welfare recipients into work by introducing work requirements (referred to in the UK as "work-based conditionality"), and to reduce the overall amount of state expenditure on welfare benefits.

Philip Alston, the UN Special Rapporteur on Extreme Poverty and Human Rights, NGOs, people subject to the scheme, parliamentary oversight bodies, the courts and independent government agencies have severely criticized the scheme for its poor implementation and its emphasis on sanctions and withholding funds to punish people. The critics characterize the scheme as a draconian measure to incentivize benefit recipients to return to work. Most notably, the UN Special Rapporteur concluded at the end of his November 2018 visit to the UK:

> Social support should be a route out of poverty, and Universal Credit should be a key part of that process. Consolidating six different benefits into one makes good sense, in principle. But many aspects of the design and rollout of the programme have suggested that the Department for Work

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[166] Human Rights Watch interview with "Emma", mother of "Stacey" (names on file), Wisbech Food Bank, March 29, 2018.

[167] Human Rights Watch group discussions with Goodwin Trust Youth Employment Initiative/Single Parents Project, Goodwin Community Hub, Hull, in February and June 2018.

> and Pensions is more concerned with making economic savings and sending messages about lifestyles than responding to the multiple needs of those living with a disability, job loss, housing insecurity, illness, and the demands of parenting. [168]

The implementation of Universal Credit has been beset with delays and problems with new computer systems. The government had to also change aspects of the program following successful litigation, such as how it provided benefits to people with disabilities.[169]

The Universal Credit system has been rolled out in two systems, the first serving as a pilot. The first, "live service" for new claimants making relatively simple claims in trial areas was rolled out gradually, beginning in 2013, while most other people in those areas remained on "legacy" benefits, and closed in April 2019. A subsequent, second system called "full service" began in mid-2016 allowing anyone to make a Universal Credit claim (including those on "legacy" benefits), and has now replaced "live service."

Full service, unlike live service, is a system designed to be operated exclusively online, with "legacy" claimants starting to transition onto the new system steadily. A document leaked to media – and as yet only confirmed in part by ministerial responses to parliamentarians[170] – suggests that the mass "managed migration" of about 2 million "legacy" welfare benefit claimants to the new system, scheduled for 2019, is likely to be delayed further until at least the end of 2020, and may be accompanied by additional procedural changes to the way Universal Credit works.[171]

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[168] Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, London, November 16, 2018, p. 4-5.

[169] See the Public Law Project's discussion of a case that it brought (RF, referred to in earlier litigation stages as SM and RF) at Public Law Project, "DWP to review thousands of benefits decision to check they are fair," (Press Release), January 25, 2018, https://publiclawproject.org.uk/latest/dwp-to-review-thousands-of-benefits-decisions-to-check-they-are-fair/ (accessed December 1, 2018). The judgment is available here: RF v Secretary of State for Work And Pensions [2017] EWHC 3375 (Admin) (21 December 2017) http://www.bailii.org/ew/cases/EWHC/Admin/2017/3375.html (accessed December 1, 2018).

[170] Alok Sharma MP, Minister of State for Employment, in answers to an urgent question tabled in the House of Commons on Universal Credit and related debate, October 16, 2018, *Hansard* Volume 647, Column 505 onwards. https://hansard.parliament.uk/Commons/2018-10-16/debates/308B3E5C-BB61-4655-8747-673E2732B094/UniversalCredit#contribution-965E7103-A6D0-4777-BE95-41DF8638B945 (accessed December 1, 2018).

[171] Michael Buchanan, "Universal credit rollout delayed again," *BBC News Online*, October 16, 2018 https://www.bbc.com/news/uk-45870553 (accessed December 1, 2018); Ashley Cowburn, "Universal Credit rollout to be 'delayed' once more, reveals leaked documents," *The Independent*, October 16, 2018,

Punitive Deductions, Sanctions and Hardship Payments

The Department for Work and Pensions can impose cuts to welfare payments, "called sanctions," if it determines that a welfare recipient has failed to meet their requirements when they entered the Universal Credit system. The conditions vary, depending on how the individual claimant is classified by the DWP. In general, they require a non-working claimant to take part in work-focused interviews, work preparation, actively look for work, and may require a claimant already in work to take steps to increase their earnings.[172]

The government has said repeatedly that no welfare claimant should have to go without essentials such as food, shelter or fuel as a result of such "conditionality"-based cuts or "sanctions."[173] For example, in a 2013 parliamentary debate about food banks which took place during the initial pilot rollout of Universal Credit "live service", Lord de Mauley (then Parliamentary Under-Secretary at DEFRA) responded to a query about how a post-sanction £42 weekly welfare benefit could ensure a healthy diet, by saying: "If claimants demonstrate that they cannot buy essential items, including food, as a result of their sanction, they can claim a hardship payment. This means that no claimant should ever have to go without essentials as a result of their sanction."[174] In practice, however, claimants do often go without essentials, including food, when their social security payments are cut as a form of punishment for not meeting new state requirements to show they are seeking work.

On May 9, 2019, the Secretary of State for Work and Pensions, Amber Rudd, announced to Parliament that the government would be scaling back the duration for which it would apply "sanctions" to people who had failed to meet their work-related conditions on three

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https://www.independent.co.uk/news/uk/politics/universal-credit-rollout-delay-dwp-esther-mcvey-leak-benefits-a8585776.html (accessed December 1, 2018); and Patrick Butler, "Has universal credit been delayed again?" *The Guardian*, October 16, 2018, https://www.theguardian.com/society/2018/oct/16/has-universal-credit-been-delayed-again (accessed December 1, 2018).

[172] See DWP Guidance document, "Universal credit and your claimant commitment," last updated April 2016, https://www.gov.uk/government/publications/universal-credit-and-your-claimant-commitment-quick-guide/universal-credit-and-your-claimant-commitment (accessed December 1, 2018) and Turn2Us: "UC: Claimant commitment/Conditionality," https://www.turn2us.org.uk/Benefit-guides/Universal-Credit/Claimant-Commitment-Conditionality (accessed December 1, 2018).

[173] See for example Lord de Mauley, in House of Lords, Hansard, November 26, 2013, Vol 749, column 1293 https://hansard.parliament.uk/Lords/2013-11-26/debates/13112646000932/FoodFoodBanks (accessed December 1, 2018).

[174] See exchange between Lord McKenzie and Lord de Mauley at https://hansard.parliament.uk/Lords/2013-11-26/debates/13112646000932/FoodFoodBanks#contribution-13112646000015 (accessed December 1, 2018).

or more occasions. The DWP's policy, which currently allows for sanctions to be imposed for up to three years, will, from the end of 2019, limit their use to a maximum of six months. Rudd's rationale for the change was that the effect of extended sanctions may have been disproportionate for the most vulnerable. Rudd announced, "the additional incentive provided by a three-year sanction can be outweighed by the unintended impacts to the claimant due to the additional duration." [175]

The law provides for a one-off "hardship payment" if they have faced financial difficulty as a result of sanctions applied under the Universal Credit system or the jobseekers' and employment support benefits under the "legacy" system. The hardship payment is a loan that must be repaid through deductions from future benefits.[176] That advance system can push people into debt.

The system to obtain hardship payments is riddled with obstacles. The application form itself is complex.[177] The appeals process for denied claims is cumbersome. For example, decisions to refuse hardship payments can only be appealed after the person has first asked for and received a written explanation for the decision, and then asked the DWP to reconsider the decision and received a "mandatory reconsideration" notice.[178] Once these steps have been taken, the person can appeal the decision to a specialist social security court (the First Tier Tribunal). For someone facing an immediate financial crisis due to the loss or withholding of benefits, this process is time-consuming, and can have the impact of discouraging applicants from trying to get key financial support to meet their basic needs as defined in the legislation: accommodation, heating, hygiene and food.[179]

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[175] See Hansard, Vol 659, Column 34WS, May 9, 2019, https://hansard.parliament.uk/commons/2019-05-09/debates/19050918000017/WelfareSanctions (accessed May 10, 2019).

[176] The Universal Credit Regulations 2013 (2013, no. 376), Chapter 3, Hardship Payments, https://www.legislation.gov.uk/uksi/2013/376/part/8/chapter/3/made (accessed December 1, 2018).

[177] See "UC10 Recoverable hardship payment application form" https://www.whatdotheyknow.com/request/223852/response/558247/attach/3/FM%20Hardship%20application%20form%201.pdf (accessed December 1, 2018).

[178] The process for challenging hardship decisions under UC and the varied pre-UC systems are complex, but have been described clearly by Turn2Us here: https://www.turn2us.org.uk/Benefit-guides/Challenge-Work-and-Pensions-benefit-Decision/What-are-my-options (accessed December 1, 2018).

[179] The Universal Credit Regulations 2013, s. 116(3)

People who have not been sanctioned, but who face financial hardship (referred to officially as "financial need")[180] while waiting for their initial payment of Universal Credit, which can take up to five weeks, can also apply for a short-term financial advance through a similar scheme.[181] People who are transitioning from the "legacy" welfare system can apply for an advance in person from a JobCentre or make an application over the telephone or in writing. That advance is repaid over six or twelve payments under Universal Credit. The repayment rate is between 15-40 percent of the standard amount received monthly. People who are new Universal Credit claimants, or who are simply reporting a change in circumstances cannot make face to face applications for advances at a JobCentre.

Evidence published by the Trussell Trust in 2017 and 2018 based on surveys of its service users is clear that these changes to welfare levels, the delays in receiving the first payment, deductions from subsequent payments, and debt for people already on low incomes left people hungry or unable to provide food for themselves and their dependents, and seeking emergency food assistance.[182]

The government's own 2017 analysis of people transitioning from tax credits in the "legacy" system to Universal Credit, made public only in April 2019, confirmed that delays in receiving the first Universal Credit payment were causing financial hardship for many claimants.[183] The analysis, carried out jointly by HMRC and the DWP, noted that "Universal Credit claimants typically experience a payment gap of about six weeks [the report noted that the gap had since decreased] from making their UC claim until their first UC payment is made. Once the UC claim is made, tax credits stop."[184] The report found that the

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[180] For a succinct explanation of this term as applied by the DWP in the context of short-term benefit advances, see CPAG, "What is 'financial need'?" http://www.cpag.org.uk/stba/financial-need (accessed December 1, 2018). The term is defined in secondary legislation in The Social Security (Payments on Account of Benefit) Regulations 2013, Section 7, http://www.legislation.gov.uk/uksi/2013/383/regulation/7 (accessed December 1, 2018).

[181] CPAG has provided a useful guide to this complex system, here: "Universal Credit Advances," http://www.cpag.org.uk/stba/uc-advances (accessed December 1, 2018).

[182] Trussell Trust, "Early Warnings: Universal Credit and Foodbanks," April 2017, https://www.trusselltrust.org/wp-content/uploads/sites/2/2017/04/Early-Warnings-Universal-Credit-and-Foodbanks.pdf (accessed February 1, 2018), and Trussell Trust, "Left Behind."

[183] Patrick Butler, "Study found universal credit causing hardship a year and half ago," *The Guardian*, April 4, 2019, https://www.theguardian.com/society/2019/apr/04/study-found-universal-credit-causing-hardship-a-year-and-half-ago (accessed April 4, 2019).

[184] HMRC and DWP, "The transition from tax credits to Universal Credit: qualitative and quantitative research with claimants," (HM Revenue and Customs Research Report 526, November 2017), April 4, 2019,

payment gap has caused financial difficulty for some claimants: 38 percent fell behind on bills and other commitments, and of that group, 62 percent said their difficulties began in the month they were moved onto to Universal Credit or subsequently. It also identified that single parents and women claimants seemed less well informed than other claimants about the delay, and that single claimants (of whom a high proportion were single parents) struggled most as a result of the delay.[185]

Even though advance provision is increasing, groups like Citizens Advice and the Trussell Trust continue to raise concerns about the inadequacy of the advances to meet basic subsistence needs[186] and the design of a welfare system where payments are made monthly, and in arrears, to low-income claimants (effectively building in a delay before the first payment is received).[187]

In practice, advance payments can have adverse effects, because when the benefit payment does eventually reach the claimant's account, a portion is deducted to recover the advance.

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https://www.gov.uk/government/publications/transition-from-tax-credits-to-universal-credit-qualitative-and-quantitative-research-with-claimants (accessed April 4, 2019), p. 44.

[185] HMRC and DWP, "The transition from tax credits to Universal Credit," Chapter 4. In September 2017, Citizens Advice published alarming findings which showed that about 40 percent of UC claimants in "full service" areas were not aware of possible advance payments. Half of them said they would have sought them had they known. To its credit, the following month, the DWP revised guidance to its staff regarding informing claimants about the availability of advances, and the evidence into early 2018 showed an increase in Universal Credit claimants applying for advance payments. By October 2018, an estimated 60 percent of Universal Credit claimants were taking up advance payments (see Chris Drake, "Universal Credit and debt," Citizens Advice, September 11, 2017, https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Universal%20Credit%20and%20Debt%20-%20final.pdf (accessed December 1, 2018); and National Audit Office, 'Rolling out Universal Credit,' Report by the Comptroller and Auditor General, HC 1123, June 15, 2018, https://www.nao.org.uk/wp-content/uploads/2018/06/Rolling-out-Universal-Credit.pdf, p. 41, paragraph 2.23 and figure 13. The 60 percent figure cited is found in a letter from Gillian Guy, Chief Executive, Citizens Advice to Frank Field MP, Chair, Work and Pensions Committee, January 14, 2019, available at: https://www.parliament.uk/documents/commons-committees/work-and-pensions/Correspondence/Letter_from_Gillian_Guy.pdf (accessed April 1, 2019).

[186] Chris Drake, "Universal Credit and Debt," p. 18, and Letter from Emma Revie, Chief Executive, Trussell Trust to Frank Field, Chair, Commons Work and Pensions Committee, December 21, 2018, https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/Correspondence/Trussell_Trust_Letter_to_Frank_Field_WPSC_181221.pdf (accessed April 1, 2019).

[187] Beth Foley, "Delivering on Universal Credit," Citizens Advice, July 2017, https://www.citizensadvice.org.uk/Global/CitizensAdvice/welfare%20publications/Delivering%20on%20Universal%20Credit%20-%20report.pdf (accessed December 1, 2018).

Crucially, Citizens Advice points out that giving people advances "means people are getting into debt at the very beginning of the process – if they aren't already – and that a claimant's income is then reduced while they make repayments.... In practice this can leave people struggling to afford basic bills and potentially turning to other sources of borrowing."[188]

In fact, Citizens Advice's Chief Executive has recently written to the House of Commons Work and Pensions Committee, saying that improvements in availability of advances had "only made a dent in the problem [the impact of the five-week wait] rather than fixed it. Some people we interviewed told us they had refused their full advance because they did not want to get into further debt, and many of those who did take them out felt they had no other choice. Advances were the largest single cause of deductions from Universal Credit.... Along with other debt problems commonly arising in the five-week wait, they are leaving too many people with unmanageable deductions from already tight budgets long into their claims."[189]

In its recent examination of Universal Credit claimant debt, the House of Commons Work and Pensions Committee expressed serious concern that a recent DWP initiative to encourage food banks to publicize the availability of advances "would simply pile another debt on top and add to their [Universal Credit claimants'] misery, particularly if sums are deducted from their Universal Credit payments … to begin repaying this debt."[190]

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[188] Kayley Hignell, "How Universal Credit advance payments can force struggling people into debt," *New Statesman*, October 5, 2017, https://www.newstatesman.com/politics/welfare/2017/10/how-universal-credit-advance-payments-can-force-struggling-people-debt (accessed December 1, 2018).

[189] Letter from Chief Executive, Citizens Advice to Chair, Work and Pensions Committee, January 14, 2019, p 2.

[190] Letter from Frank Field MP, Chair, House of Commons Work and Pensions Committee to Neil Couling, December 18, 2018, https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/Correspondence/181218_FF_to_Neil%20Couling.pdf (accessed April 4, 2019). The Trussell Trust's Chief Executive, Emma Revie, clarified that although technically speaking an advance payment is not a loan (as it does not include additional money to be repaid) in terms of the practical of repayments for claimants, it has similar effect. Revie puts it simply: "Advance Payments may provide a temporary solution, but repayments will mean that this shortfall in income is simply deferred. The current system leaves claimants with the impossible choice of hardship now or hardship later." (See Letter from Emma Revie, Chief Executive, Trussell Trust to Frank Field, Chair, House of Commons Work and Pensions Committee, December 21, 2018.) The full set of correspondence between the House of Commons Work and Pensions Committee, the DWP, the Trussell Trust and Citizens Advice can be found along with the Committee's October 2018 report on Universal Support here: https://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/news-parliament-2017/uc-hardship-report-publication-17-19/ (accessed April 4, 2019).

People granted advances have also spoken publicly about the additional financial difficulty caused by the repayment rates.[191] Benefit claimants, as well as various welfare advice organizations have provided testimony to the House of Commons Work and Pensions Committee detailing how sanctions have led to the accumulation of debt, exacerbation of physical and mental health conditions, and increased reliance on food banks and sources of food aid.[192]

The Observer newspaper has obtained figures through Freedom of Information requests which show that the proportion of Universal Credit recipients facing deductions (for recovery of advanced hardship payments as well as other reasons such as rent, utility or council tax arrears) had risen from one in ten in May 2017 to one in three by May 2018.[193]

The National Audit Office (NAO), which scrutinizes public spending and reports to the Parliamentary Public Accounts Committee, has reviewed the Universal Credit system and concluded that "the [DWP] does not accept that Universal Credit has caused hardship among claimants, because it makes advances available, and believes that if claimants take up these opportunities hardship should not occur. This has led it to often dismiss evidence of claimants' difficulties and hardship instead of working with these bodies to establish an evidence base for what is actually happening."[194]

Human Rights Watch concludes that people in these straitened circumstances have little option left other than to rely on emergency food aid, as a direct result of a shortfall in available disposable income from a change in their welfare payments.

"Allie", a 20-year old woman with a one-year-old daughter "Georgia", who was living together with her boyfriend when interviewed by Human Rights Watch, talked about going hungry both during her pregnancy, and as a young mother. She explained that she enrolled for Universal Credit when she turned 18 during the initial "live service" rollout to single

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[191] Speakers in "In conversation with experts by experience" panels, End Hunger UK National Conference 2018, Westminster Hall, London, October 16, 2018.

[192] House of Commons Work and Pensions Committee, "Benefit Sanctions: Nineteenth Report of Session 2017–19," HC 955, November 6, 2018, paras 25-28 and Box 4 on page 24.

[193] Chaminda Jayanetti and Michael Savage, "Third of UK's universal credit claimants hit by deductions from first payments," *The Observer*, August 11, 2018, https://www.theguardian.com/society/2018/aug/11/third-of-universal-credit-claimants-face-payment-deductions (accessed August 11, 2019).

[194] National Audit Office, 'Rolling out Universal Credit,', page 63 (figure 23: conclusion).

adults. She says she found out two weeks later that she was pregnant, and thinks she was pregnant at the time she enrolled for Universal Credit, but that there was no way for her to be placed back into the "legacy" benefit system, once she was aware of her pregnancy. A single, expectant mother at the time would not have been introduced onto Universal Credit during the initial rollout phase. Allie told Human Rights Watch that she suffered from severe morning sickness through most of her pregnancy and missed JobCentre appointments as a result. She had her benefits withheld as part of the sanction for the failure to comply with the conditions of Universal Credit. She said:

> I was literally throwing up down the phone saying I couldn't come to the appointments. They took £60 off my benefits for 2 months. When I first went on Universal Credit, after all the bills I have about £10 left, so when they sanctioned me £60, I got into debt with council tax, water and the rent. And I couldn't attend the appointments. I was stuck most of the time in the flat on my own. At that time, I starved. I was diagnosed with depression but didn't want to take the pills because I was pregnant. And I didn't want to leave the flat because I didn't like people seeing me be sick. My sister came round sometimes with shopping or friends would drop something off once every week or two weeks. It went on like that for 4-5 months. Even now it stresses me out when I don't have food. There's been a couple of days when I wake up and there's nothing to eat.[195]

Criticisms of Universal Credit by Domestic Statutory Oversight Bodies

Two of the UK's statutory oversight bodies, the Office of Budget Responsibility (OBR) and the NAO (whose criticisms are partly described in the section above), have been very critical of the Universal Credit program. This in turn has led to further delays in the implementation of Universal Credit as the government addresses some of those criticisms. The projected completion date for the entire process of rolling out Universal Credit, at present, has been delayed until at least 2022/23, five years behind the initially scheduled timetable of 2017. As of June 2018, 815,000 people (only about 10 percent of the final estimated number of people expected to receive Universal Credit) were claiming it.[196]

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[195] Human Rights Watch interview with Allie (name on file), Goodwin Community Hub, Hull, February 8, 2018.

[196] National Audit Office, "Department for Work and Pensions: Rolling Out Universal Credit," (Summary), June 15, 2018, https://www.nao.org.uk/wp-content/uploads/2018/06/Rolling-out-Universal-Credit-Summary.pdf.

The OBR, the independent body tasked since 2010 with fiscal oversight of public spending, raised serious questions about the costs associated with the shift to Universal Credit and suggested the savings generated were likely to be significantly smaller than anticipated. In one illustrative figure from its 2018 assessment, the OBR forecasted that in the absence of Universal Credit, the previous "legacy" benefit system would have cost £63.2bn by 2022-23; once the savings generated as well as additional costs incurred by the rollout of Universal Credit were factored in, it forecast a cost of £62.2bn, a net saving of approximately 1.5 percent.[197]

The NAO was altogether more scathing in its June 2018 overall assessment of the design and implementation of Universal Credit, concluding that "it has not delivered value for money and it is uncertain that it ever will."[198] The NAO's report criticized several aspects of the program, including the fact that 4 in 10 claimants surveyed experienced financial difficulties; delays in payments were endemic; the DWP lacked "sufficient sensitivity" to claimants facing or reporting hardship; and food bank usage increased in areas where Universal Credit had been rolled out.[199] Despite these and a long list of further criticisms, the NAO concluded that, given the level to which Universal Credit had been introduced and the new practices embedded across the department and JobCentres Plus, there was "no practical choice but to keep on keeping on with the rollout."[200]

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[197] Office of Budget Responsibility, "Welfare Trends Report," January 25, 2018, https://www.pbr.uk/wtr/welfare-trends-report-january-2018/ (accessed April 4, 2019).

[198] National Audit Office, "Rolling Out Universal Credit," (Press Release), June 15, 2018, https://www.nao.org.uk/press-release/rolling-out-universal-credit/. The NAO defines value for money as "the optimal use of resources to achieve the intended outcomes." In this definition, "optimal" means "the most desirable possible given expressed or implied restrictions or constraints" rather than simply achieving the lowest price. The NAO uses three criteria to assess the value for money of government spending i.e. the optimal use of resources to achieve the intended outcomes: (1) Economy: minimizing the cost of resources used or required (inputs); (2) Efficiency: the relationship between the output from goods or services and the resources to produce them; and Effectiveness: the relationship between the intended and actual results of public spending (outcomes). It sometimes uses an additional criterion: (4) Equity: the extent to which services are available to and reach all people that they are intended to – spending fairly. Some people may receive differing levels of service for reasons other than differences in their levels of need. These criteria and interplay in NAO analyses are explained further on the NAO's website: https://www.nao.org.uk/successful-commissioning/general-principles/value-for-money/assessing-value-for-money/ and https://www.nao.org.uk/successful-commissioning/general-principles/value-for-money/ (both links last accessed May 8, 2019).

[199] National Audit Office, "Department for Work and Pensions: Rolling Out Universal Credit," (Report).

[200] National Audit Office, "Rolling Out Universal Credit," (Press Release), June 15, 2018, https://www.nao.org.uk/press-release/rolling-out-universal-credit/.

These criticisms were echoed by the UN Special Rapporteur on Extreme Poverty, who said, "… Universal Credit and the other far-reaching changes to the role of government in supporting people in distress are almost always 'sold' as being part of an unavoidable program of fiscal 'austerity', needed to save the country from bankruptcy. In fact, however, the reforms have almost certainly cost the country far more than their proponents will admit."[201]

Ignoring the Evidence and Failing to Measure the Problem

There are numerous instances where the UK government was made aware that its radical overhaul of tax and welfare policies would create food poverty and leave people hungry. The government's response ranged for several years from superficial changes to outright dismissal of these problems. Until early 2019, however, the government did not meaningfully pause the rollout of a fault-ridden welfare system or offer anything other than a blanket denial of any linkages between the restructuring of the welfare system and food insecurity. As of early 2019, the government's tone appears to have softened slightly on acknowledging that such a link may exist, and now includes an implicit acceptance that it may be necessary to better measure food insecurity.

The Government Repeatedly Ignored the Warning Signs of Growing Hunger

As far back as 2014, in research conducted prior to the "live service" phase of Universal Credit, the Child Poverty Action Group, the Child Poverty Action Group in Scotland, the Church of England, Oxfam, and the Trussell Trust published their joint research drawing clear links between changes to the administration of the "legacy" benefits system and a surge in food bank use.[202] The research was unambiguous in its conclusion that the overwhelming reason that people turned to emergency food aid was "an immediate, acute financial crisis," defined as "either a complete loss of income or a very significant reduction in income." About two-thirds of the cases attributed food insecurity to problems with inadequate benefit payments, administrative problems, or sanctions applied to benefit payments.[203] Moreover, the research found that emergency payments meant to

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[201] See Statement on Visit to the United Kingdom, by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights London, November 16, 2018, , p. 2.

[202] Perry et al., "Emergency Use Only.".

[203] Perry et. al. "Emergency Use Only," quote from p.79. See sections 2 and 4.

offset the costs of sanctions were not sufficient at the time to prevent reliance on food banks.[204]

By early 2017, the Trussell Trust had published its first study about the impact on food bank use *after* the Universal Credit rollout.[205] The Trussell Trust warned that long benefit delays (with a wait of up to six weeks for the first payment at that early stage of the Universal Credit rollout) and changes were the primary reason for 42 percent of food bank referrals.

A year later, the Trussell Trust published new research and noted that there were different reasons why the Universal Credit, led to increased food bank use, but that these "different reasons disguise a striking similarity across everyone's journeys from starting an application to Universal Credit and arriving at a foodbank: there was nowhere else to turn, and Universal Credit let them down."[206] In the absence of a social security system able to guarantee that people had sufficient income to be able to afford food, many have been left with no option other than to seek food aid from charitable, nongovernmental organizations.

The Trust's 2018 research identified several alarming trends in the changes to the welfare system, including:

- Twenty-eight percent of surveyed claimants who had to use food banks said that they waited for more than the maximum six weeks the government promised for the first payment;
- The wait for the first payment left 70 percent of those surveyed in debt that led to 57 percent of those surveys saying the stress and indebtedness negatively impacted their mental or physical health;
- Difficulties with repaying hardship advances, including administrative problems that led to the government deducting too much money from people. [207]

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[204] Perry et. al. "Emergency Use Only," section 7.

[205] Trussell Trust, "Early Warnings."

[206] Emma Revie, "Foreword" to Trussell Trust, "Left Behind: Is Universal Credit Truly Universal?", p.2.

[207] Trussell Trust, "Left Behind," p. 7-11.

Statistics released by the Trussell Trust every six months have consistently shown a correlation between the rollout of Universal Credit in specific areas and an increase in food bank referrals.[208]

The NAO, in its role as the state comptroller, confirmed in its 2018 evaluation of Universal Credit that in three of the four areas it visited, for which it had data, food bank usage increased after Universal Credit rollout, with an increase of 80 percent in one specific area, in a manner consistent with the Trussell Trust's observations.[209]

In March 2018, three academic researchers, Rachel Loopstra, Hannah Lambie-Mumford and Ruth Patrick, partly funded by the Trussell Trust, published detailed findings on the impacts of welfare changes on families with children, and their ability to access adequate food.[210] Their study examined how impoverishment and a lack of food security correlated to changes to child-related benefits. The report stated that "it is likely not a coincidence" that during a period of rapid change in welfare entitlements for children, the number of children in poverty has increased, as has the number of children receiving assistance from Trussell Trust food banks.[211] The study also found:

- Seventy percent of families using food banks have children aged under 16, as opposed to 42 percent in the general population;
- Families with three or more children who were subject to the two-child benefit limit enacted in April 2017 were significantly overrepresented as food bank users; and
- Households with children that used food banks were more likely to have employed adults as opposed to those households without children. One inference from this

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[208] See coverage of Trussell Trust statistics released on a biannual basis, in, for example, Patrick Butler, "Food banks report record demand amid Universal Credit chaos," *The Guardian*, April 25, 2017, https://www.theguardian.com/society/2017/apr/25/food-banks-report-record-demand-amid-universal-credit-chaos (accessed April 4, 2019); Ben Glaze, "Trussell Trust foodbanks reports record surge in demand amid Universal Credit rollout," *Daily Mirror*, November 5, 2017, https://www.mirror.co.uk/news/politics/trussell-trust-foodbanks-report-record-11475727 (accessed April 4, 2019); May Bulman, "Food bank use in UK reaches highest rate on record as benefits fail to cover basic costs," *The Independent*, April 24, 2018 https://www.independent.co.uk/news/uk/home-news/food-bank-uk-benefits-trussell-trust-cost-of-living-highest-rate-a8317001.html (accessed April 4, 2019); and Helena Kelly, "Has Universal Credit led to a rise in food banks?" (Blog), The RSA (Royal Society for the encouragement of Arts, Manufacture and Commerce), June 8, 2018, https://www.thersa.org/discover/publications-and-articles/rsa-blogs/2018/06/has-universal-credit-led-to-a-rise-in-food-banks (accessed April 4, 2019).

[209] NAO, 'Rolling out Universal Credit,' (Report) page 46-47, para 2.35, figure 16.

[210] Rachel Loopstra, Hannah Lambie-Mumford and Ruth Patrick, "Family hunger in times of austerity"

[211] Rachel Loopstra, Hannah Lambie-Mumford and Ruth Patrick, "Family hunger in times of austerity," p.1, esp. figure 1.

finding is that diminished benefits, particularly reductions in child-related benefits, instead of unemployment has driven food bank use.[212]

According to Citizens Advice, people subject to the Universal Credit tend to experience greater indebtedness and payment delays, and significant financial hardship in comparison to those under the older "legacy" benefits system.[213] In a survey of 630 Universal Credit claimants between August 2016 and April 2017, Citizens Advice documented that 30 percent of people moved onto Universal Credit had to use a food bank.[214]

The Parliamentary Public Accounts Committee, tasked with parliamentary scrutiny of value for money in policy, has been extremely critical of the changes to the welfare system. An October 2018 review by the Committee has found categorically that "Universal Credit causes financial hardship for claimants including increased debt and rent arrears and forces people to use foodbanks," and that its effect is to cut costs of social welfare for the government by imposing those costs on recipients, local authorities, and voluntary organizations.[215]

A Belated Government Response to Problems with Restructuring Welfare

In response to these critiques, the government started to modestly examine possible links between Universal Credit and food banks. *The Guardian* reported in August 2018 that the DWP had begun to commission research into what impact departmental policy had on food bank use.[216] In May 2019, however, a junior minister at the Department for Work and Pensions wrote to Human Rights Watch saying that the "proposal referred to in the Guardian article has not been taken forward beyond the preparation stage," and that the

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[212] Rachel Loopstra, Hannah Lambie-Mumford and Ruth Patrick, "Family hunger in times of austerity," p. 3-10, quote from p.10.

[213] Chris Drake, 'Universal Credit and Debt: Evidence from Citizens Advice about how Universal Credit affects personal debt problems,' Citizens Advice, September 2017, https://www.citizensadvice.org.uk/about-us/policy/policy-research-topics/debt-and-money-policy-research/universal-credit-and-debt/ (accessed June 1, 2018).

[214] Chris Drake, "Universal credit and Debt," page 15.

[215] House of Commons Committee of Public Accounts, "Universal Credit," 64th Report of Session 2017-19, HC 1183, October 26, 2018, https://publications.parliament.uk/pa/cm201719/cmselect/cmpubacc/1183/1183.pdf (accessed April 4, 2019).

[216] Hilary Osborne and Nick Hopkins, 'Revealed: ministers' plan to research effect of policies on food bank use,' *The Guardian*, August 1, 2018, https://www.theguardian.com/society/2018/aug/01/revealed-ministers-plan-to-research-effect-of-policies-on-food-bank-use (accessed August 1, 2018).

DWP is now carrying out "a literature review on the factors driving use of food banks" instead.[217]

In an important new development in February 2019, for the first time, a government minister acknowledged the link between problems with the rollout of an overhauled welfare system and food insecurity.[218] Amber Rudd, Secretary of State for Work and Pensions, told Parliament, in responding to a series of questions on UC, "It is clear that there were challenges with the initial roll-out of Universal Credit, and the main issue that led to an increase in food bank usage could have been the fact that people had difficulty accessing their money early enough."[219] Rudd, however, went on in the same debate to say that the problem of individuals not having enough money had been solved by advance payments.[220] The fact that the rise in food bank usage has not been temporary strongly indicates that advance payments have not solved the problem of hardship caused by inadequate or delayed welfare payments.

Although successive UK governments have ratified a series of international human rights treaties that commit the UK to ensuring the right to food, or the right of everyone to be free from hunger (detailed in Chapter IV below), they have failed to take any steps to incorporate that right into UK law, make it effective and give those whose rights are violated the right to an effective remedy.

The government's failure to treat the right to food, and the right to be free from hunger, as a basic right is shown by its failure to monitor food insecurity.

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[217] Letter from Will Quince, Minister for Family Support, Housing and Child Maintenance to Human Rights Watch, May 7, 2019 (on file).

[218] See, for instance, BBC, "Amber Rudd links universal credit to rise in food bank use," February 11, 2019, https://www.bbc.com/news/uk-politics-47203389 (accessed February 12, 2019); Rob Merrick, "Universal credit to blame for soaring food bank use, government admits after years of denial," *The Independent*, February 11, 2019, https://www.independent.co.uk/news/uk/politics/universal-credit-food-bank-amber-rudd-welfare-department-work-pensions-dwp-a8773931.html (accessed February 12, 2019); Joseph Laws, "Food banks furore: Amber Rudd admits botched roll-out of Universal Credit DID drive more benefits claimants to use them," *Daily Mail*, February 11, 2019, https://www.dailymail.co.uk/news/article-6692437/Food-bank-use-increased-universal-credit-roll-admits-Amber-Rudd.html (accessed February 12, 2019); and Imogen Richmond-Bishop, ""Rollout of Universal Credit Linked To Rise In Food Bank Use, Amber Rudd Admits," RightsInfo, February 14, 2019, https://rightsinfo.org/universal-food-bank-use-amber-rudd/ (accessed February 14, 2019).

[219] Amber Rudd MP, House of Commons Hansard, Oral Answers to Question: Universal Credit: Food Insecurity, February 11, 2019, Vol 654 https://hansard.parliament.uk/Commons/2019-02-11/debates/3AF052EC-3800-4B86-ADDC-8BE7EC861FAF/UniversalCreditFoodInsecurity (accessed February 14, 2019).

[220] Amber Rudd MP, Oral Answers to Question: Universal Credit: Food Insecurity, February 11, 2019.

The Failure to Monitor Food Insecurity

The UK government has, until recently, fallen short in collecting, maintaining and monitoring data on food insecurity related to poverty, and its inaction has faced international and domestic criticism. This means the government officials still neither have in place a method of estimating who is going hungry, whether that hunger is as a result of its policies, nor what specifically and concretely needs to be done by which government departments to combat hunger and end food poverty.

In July 2016, two separate UN Expert Committees – the Committee on the Rights of the Child (CRC) and the CESCR – called out the UK government for a lack of systematic data on child food insecurity and for lacking a national strategy to address reliance on food aid respectively.[221] The CRC in particular set out a concern that lack of comprehensive data on child food security meant that research indicating childhood hunger could not be monitored systematically in order to identify root causes.[222] This failure is itself evidence that the UK is falling down in its responsibilities under human rights law.

In 2012, the UK parliament repealed the Child Poverty Act 2010, during the government's broader legislative effort to restructure the welfare system. The 2010 Act passed by the previous government had created a legal duty on the government to meet poverty and deprivation reduction targets by 2020 and to produce a child poverty strategy. In the absence of a governmental definition of poverty and a strategy to combat it, in September 2018, the Social Metrics Commission, an independent, non-partisan body, published a new approach to UK poverty measurement, which expanded the measurement beyond income, taking into account "inescapable" living costs and liquid assets.[223] However, the

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[221] CESCR, "Concluding Observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland," July 14, 2016, E/C.12/GBR/CO/6, para 53-54, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/GBR/CO/6&Lang=En (accessed April 4, 2019); and Committee on the Rights of the Child, "Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland," July 12, 2016, CRC/C/GBR/CO/5, para 66-67, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/GBR/CO/5&Lang=En (accessed April 4, 2019).

[222] Committee on the Rights of the Child, "Concluding observations 2016," para 66-67.

[223] Social Metrics Commission, "A new measure of poverty for the UK: a summary report of the report by the Social Metrics Commission", September 2018, The Social Metrics Commission, London, https://socialmetricscommission.org.uk/MEASURING-POVERTY-SUMMARY-REPORT.pdf (accessed December 1, 2018). The publication, accompanied with detailed findings of two years of research, contained a series of shocking figures about the scale and persistence of poverty in the UK. By this definition, 14.2 million people live in poverty, of whom 4.5 million are children. Over half of these (7.7 million people, 12.1% of the UK's population) are in persistent poverty (they have been in

government has not announced a plan for measuring poverty, nor has it indicated whether it is willing to adopt the Commission's suggested approach and measurement.

In the case of food insecurity and poverty, there is scant UK-wide government data on drivers of food aid use. Food aid providers have taken considerable steps within the scope of their own food delivery programs to monitor drivers of use and trends in aid distribution, as seen above in the data gathered by the Trussell Trust, the Independent Food Aid Network and FareShare. Systematic UK-wide information is still lacking, even though limited studies show food insecurity is increasing. For example, DEFRA (the government ministry broadly responsible for household food security) commissioned a study in 2013-14 that found food aid and food insecurity were on the increase in the UK, but that little systematic evidence gathering existed to map the broader food aid system in the country. The study also found that there has not been a concerted government effort to systematize the information. [224]

Until early 2019, the approach from the DWP was simply to deny the problem and resist compiling data on food bank usage. As recently as May 2018, Kit Malthouse, then Parliamentary Undersecretary at the DWP, told Parliament that "the Department has not carried out any research into trends in the number of people using food banks."[225] This approach dates at least as far back as 2013, when the government refused to gather food bank usage data, at that time on the grounds that it placed an onerous burden on

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poverty for at least two of the last three years. Among those in poverty are 5.6 million people in households made up of an adult couple and children (a quarter of such households), 2.6 million people (adults and children) live in single-parent families (over half of such households). The UK government's lack of a clear definition of poverty and its earlier decision to depart from child poverty targets as part of the Welfare Reform and Work Act 2016 were the subject of criticism by the UN CESCR, E/C.12/GBR/CO/6, para 47-48.

[224] Hannah Lambie-Mumford, et. al. "Household Food Security in the UK" February 2014, p. vi-vii.

[225] Parliamentary Under-Secretary (Department for Work and Pensions) (Kit Malthouse MP), 'Food Banks: Written question - 146351,' Hansard, May 29, 2018, https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-05-21/146351/ (accessed December 1, 2018). See also Parliamentary Under-Secretary (Department for Work and Pensions) (Kit Malthouse MP), 'Food Banks: Written question - 150777,' Hansard, June 11, 2018, https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-06-06/150777/ (accessed December 1, 2018), where the same minister clarified that the DWP was now "reviewing research carried out by several organisations including the Trussell Trust, to add to [its] understanding of food bank use, and will consider requirements to add to its evidence base". As noted above, a the current DWP Minister responsible for family support, housing and child maintenance has confirmed that the Department is carrying out a "literature review" (Letter from Will Quince, DWP Minister, to Human Rights Watch, May 7, 2019 (on file)).

volunteers staffing food banks, despite the facts that many food banks do (and did at the time) maintain, systematize, and publish such data.[226]

Another figure potentially available to government through data that could be (and possibly is) captured by the DWP is the number of people referred to food banks from JobCentres Plus (the government offices people attend for advice and interviews relating to the receipt of benefits).[227] On this point, Malthouse said that because JobCentres Plus did not refer people directly to a food bank (although this point remains contested) it does not keep data on how many people went to one. [228] In May 2019, Will Quince, a junior minister at the DWP, informed Human Rights Watch in a letter that although the DWP had long-standing guidance in place for JobCentre staff to "signpost customers to a food bank" where they expressed an interest and other sources of statutory support had run out, the DWP did not keep statistics on food bank use.[229] In 2014, Esther McVey, then the Cabinet Minister responsible for benefits and welfare said bluntly: "[f]ood banks do not form part of the Government's welfare system." [230] This suggests an ideological objection to maintaining and monitoring such data rather than a practical one.

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[226] Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs (Lord De Mauley), House of Lords, Hansard, November 26, 2013, Vol 749, column 1291-1293 https://hansard.parliament.uk/Lords/2013-11-26/debates/13112646000932/FoodFoodBanks (accessed December 1, 2018).

[227] The government has responded repeatedly to multiple questions in parliament, Freedom of Information Act (FOIA) requests by food poverty activists, and investigative journalism which revealed in 2014 the contents of a DWP document circulated to Jobcentres Plus entitled "Foodbank Referral Service High Level Process" – that it does not refer people to food banks directly, but merely signposts individuals who may need food aid to other organizations that can make a referral. (See Emma Downing and Steven Kennedy, "Food Banks and Food Poverty," House of Commons Library Standard Note SN06657, April 9, 2014, Section 1.2, http://researchbriefings.files.parliament.uk/documents/SN06657/SN06657.pdf (accessed December 1, 2018); FOIA request by Paul Morrison to DWP, January 16, 2018, and subsequent responses and annexes from DWP dated February 2, 2018, retrieved via What Do They Know? https://www.whatdotheyknow.com/request/foodbank_signposting (accessed December 1, 2018).; and Rowena Mason and Patrick Butler, "DWP advising Jobcentres on sending claimants to food banks – documents," The Guardian, March 11, 2014, https://www.theguardian.com/society/2014/mar/11/food-bank-jobcentre-dwp-referrals-welfare (accessed December 1, 2018))

[228] Parliamentary Under-Secretary (Department for Work and Pensions) (Kit Malthouse MP), 'JobCentre Plus: Food Banks: Written question – 137471,' Hansard, April 24, 2018, https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2018-04-24/137471/ (accessed December 1, 2018). On the ground, in Human Rights Watch's interviews in Hull, Wisbech and Oxford, there was significant confusion as to whether JobCentres Plus refer people directly to food banks or not, with some food bank users reporting to Human Rights Watch that they had been referred directly, others saying they had been referred directly in the past but were now instead given a sheet of paper listing organizations that made referrals.

[229] Letter from Will Quince, Minister for Family Support, Housing and Child Maintenance to Human Rights Watch, May 7, 2019 (on file).

[230] Secretary of State for Work and Pensions (Esther McVey MP), Hansard, HC Deb c512W, February 10, 2014, https://publications.parliament.uk/pa/cm201314/cmhansrd/cm140210/text/140210w0005.htm#140210w0005.htm_spnew39/ (accessed December 1, 2018).

The DWP can and should gather such data. Whether or not the DWP and JobCentres Plus refer or merely signpost, what is clear from the FOIA responses is that they have formal processes by which they can and do record referrals or signposting made. They can also obtain information about whether benefit claimants already use food banks. But it appears that the DWP has resisted efforts to measure systematically levels of food bank use among benefit claimants even though it already has access to some of this information.

Systematic measurement of food insecurity and food poverty would go some way towards allowing the UK government to assess the scale of the problem. Clear, transparent, systematic data would also offer a more robust basis on which to assess where the government is failing to meet its socioeconomic rights obligation to ensure people have food as part of their right to an adequate standard of living, or indeed for the government to rebut such allegations.

Government Response to Proposed Legislation on Improved Data Collection

In 2017, a member of parliament (MP) proposed legislation that would require the government to measure food insecurity, publish official statistics on it, and summarize what actions have been taken by the government in areas with high food insecurity. The proposed law, known as the Food Insecurity Bill, would address some key data deficits. The draft Bill, first proposed by Emma Lewell-Buck, a Labour MP, in November 2017 remained pending before the UK Parliament at the time of writing.[231]

The bill seeks to create a UK-wide duty on the government to monitor and report on food insecurity, to publish official statistics on food insecurity on an annual basis, and to offer a summary of actions it has taken in areas identified as exhibiting high food insecurity.

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[231] The bill was originally scheduled to have its second reading in the House of Commons on March 22, 2019, which has since been postponed. Parliament may not have time to debate it in the current session, meaning it will lapse. As a "private" members bill introduced by an individual MP rather the government it is unlikely to become law without government support. See the Food Insecurity Bill 2017-19 webpage with record of parliamentary progress: https://services.parliament.uk/bills/2017-19/foodinsecurity.html (last accessed April 4, 2019).

The draft legislation defines food insecurity as "a person's state in which consistent access to adequate food is limited by a lack of money and other resources at times during the year."[232]

Although the government objected to the bill when it was initially introduced, rejecting arguments that that welfare change has led to food insecurity arguing instead that existing DEFRA measures of expenditure on food and drink were sufficient and that there was no need to measure food insecurity, its position appears to have changed.[233]
The government has now softened its previous categorical opposition to measuring food insecurity, although it remains implicitly opposed to creating the sort of statutory requirement set out in the draft Food Insecurity Bill. The *Guardian* reported in February 2019 that the DWP had announced during an informal meeting with food poverty charities that it would introduce a food insecurity measurement into annual DWP monitoring of household income and living standards, with the assistance of the Office of National Statistics.[234] A junior DWP minister confirmed in Parliament on March 22, 2019 that the first

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[232] Food Insecurity Bill, Bill 136 57/1, November 29, 2017, https://publications.parliament.uk/pa/bills/cbill/2017-2019/0136/18136.pdf (accessed June 5, 2018). Note that the legislation proposes measuring *food insecurity*. However, the additional information circulated to parliamentarians when it was first tabled for debate begins with the FAO's definition of *food security* from the Rome Declaration's Plan of Action (FAO/World Food Summit, 'Rome Declaration on World Food Security,' November 13, 1996, http://www.fao.org/docrep/003/w3613e/w3613e00.HTM (accessed December 1, 2018), para 1): "Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food that meets their dietary needs and food preferences for an active and healthy life". It is worth noting that the Rome Declaration regards food security as inextricably linked to poverty eradication (FAO/World Food Summit, 'Rome Declaration,' para 2): "Poverty eradication is essential to improve access to food. The vast majority of those who are undernourished, either cannot produce or cannot afford to buy enough food."

[233] The Minister of State, Department for Environment, Food and Rural Affairs (George Eustice), "Household Food Insecurity" (Debate), *Hansard*, Vol 618, Col 11WH-14WH, December 6, 2016, https://hansard.parliament.uk/commons/2017-01-19/debates/16ED03A9-B0E2-4775-B4E1-0AB2E8F4E1F4/OralAnswersToQuestions (accessed March 24, 2019); The Minister of State, Department for Environment, Food and Rural Affairs (George Eustice), 'Oral answers to questions - Household Food Insecurity,' *Hansard*, Vol 619, 1045-6, January 19, 2017, https://hansard.parliament.uk/commons/2017-01-19/debates/16ED03A9-B0E2-4775-B4E1-0AB2E8F4E1F4/OralAnswersToQuestions (accessed March 24, 2019); and Tweet by @EmmaLewellBuck, July 10, 2018, (containing an exchange of letters between a group of parliamentarians led by Emma Lewell-Buck MP and the Prime Minister's Office: (1) Letter to the Prime Minister from Emma Lewell-Buck MP and 100+ Parliamentarians, April 30, 2018; (2) Response from Rebecca Hogg, Assistant Private Secretary, 10 Downing Street, June 8, 2018; and (3) Letter to the Prime Minister from Emma Lewell-Buck MP, July 7, 2018), https://twitter.com/EmmaLewellBuck/status/1016649049326456837 (accessed March 24, 2019).

[234] Patrick Butler, "UK hunger survey to measure food insecurity," *The Guardian*, February 27, 2019, https://www.theguardian.com/society/2019/feb/27/government-to-launch-uk-food-insecurity-index (accessed February 27, 2019). Human Rights Watch confirmed this report independently with representatives of two NGOs who attended the meeting, and with the parliamentary office, Parliamentary Under-Secretary of State for Work and Pensions, House of Commons, Food Insecurity e of Emma Lewell-Buck MP. Human Rights Watch has a copy on file of a letter from Liz McKeown, Director for Public Policy Analysis, Office for National Statistics to Emma Lewell-Buck MP, dated March 4, 2019, confirming the questions that will be asked on the survey.

set of measurements would be available in Spring 2021.[235] Although Lewell-Buck welcomed reports of this change, the proposal by the DWP to include the measurement remains a matter of policy discretion without any statutory requirement to maintain data and present them to parliament. [236]

Such monitoring would provide an important avenue for tracking the socioeconomic impact of government policy on the poorest parts of the population, and for developing an anti-poverty strategy that addresses hunger and food poverty. It would help the government where and how it could improve policy to ensure that people do not suffer a deterioration in their right to an adequate standard of living, including the right to food, and can, in time, provide a useful tool to arrest potential retrogression in the enjoyment of other socioeconomic rights.

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[235] Justin Tomlinson Bill: Written question - 234246, March 22, 2019, https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2019-03-19/234246/ (accessed March 24, 2019).

[236] https://twitter.com/EmmaLewellBuck/status/1100773087111454721 and https://www.emma-lewell-buck.net/emmas-food-insecurity-bill-is-happening/ (links last accessed April 4, 2019). Human Rights Watch e-mail correspondence with the office of Emma Lewell-Buck MP, March 29 to April 1, 2019 (on file).

IV. The UK's Legal Obligations on the Right to Food

The right to food exists clearly and explicitly in international human rights law, on its own, and as a component part of the right to an adequate standard of living. The key international human rights treaty requires the UK government to ensure everyone within the country is "free from hunger". The UK joined this treaty over 40 years ago and the obligation to respect the right to food has been binding on UK governments ever since.

States have an obligation to respect the right to food, and to ensure they fulfill this right through facilitating people's ability to access food in dignity, and to provide food through assistance programs or a safety net where people are unable to access food without such support.[237]

Yet successive UK governments have failed to make the right to food an effective right and to give individuals in the UK an effective remedy when this right is violated by the government.

International Human Rights Law and Standards

Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR), places the right to food within the broader concept of a "right to an adequate standard of living":

> Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.[238]

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[237] OHCHR, "The Right to Adequate Food," (Factsheet No 34), April 2010, https://www.ohchr.org/Documents/Publications/FactSheet34en.pdf (Accessed April 25, 2019).

[238] Art. 25, Universal Declaration of Human Rights, UNGA Resolution 217 III A http://www.un.org/en/universal-declaration-human-rights/index.html.

The UK voted for the adoption of the UDHR on December 10, 1948, and one of its drafters was a British representative.

International Covenant on Economic, Social and Cultural Rights

The ICESCR – signed by the UK in 1968 and ratified in 1976 – is the fundamental international treaty governing socioeconomic rights. Article 11 of the ICESCR sets out the concept of an "adequate standard of living":

> The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.[239]

The ICESCR specifically obliges states to ensure "the fundamental right of everyone to be free from hunger", through measures, including through measures, such as specific programs on food "production, conservation and distribution".[240]

The UK government is obliged by the same treaty to ensure the implementation of all the rights in the treaty, "by all appropriate means, including particularly the adoption of legislative measures" and to do so "to the maximum of its available resources". [241]

The UN Committee on Economic, Social and Cultural Rights (CESCR) — the body of independent experts established to monitor the implementation by states of the ICESCR and to provide authoritative interpretation of the specific rights in the covenant — has also offered its guidance setting out what the "right to food" within the ICESCR means and clarifying what duties states have. According to the CESCR:

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[239] Art. 11(1), International Covenant on Economic, Social and Cultural Rights https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx.

[240] Art. 11(2), ICESCR.

[241] Art. 2(1), ICESCR.

> The right to adequate food is realized when every man, woman and child, alone or in community with others, have physical and economic access at all times to adequate food or means for its procurement. The *right to adequate food* shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients. The *right to adequate food* will have to be realized progressively.[242]
>
> ... the core content of the right to adequate food implies:
> The availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;
> The accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights.[243]

The CESCR also sets out clearly how the right to food is inextricably linked to the broader requirement of states to eradicate poverty in order to ensure everyone can enjoy all their human rights:

> ... the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies, at both the national and international levels, oriented to the eradication of poverty and the fulfilment of all human rights for all.[244]

The current Special Rapporteur on the Right to Food defines the right as "the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding

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[242] CESCR, "General Comment 12: The Right to Adequate Food," May 12, 1999, para 6 (emphases in original).
[243] CESCR, "General Comment 12: The Right to Adequate Food," May 12, 1999, para 8.
[244] CESCR, "General Comment 12: The Right to Adequate Food," May 12, 1999, para 4.

to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear."[245]

The Office of the High Commissioner of Human Rights has further emphasized that:

> The right to food is not a right to be fed, but primarily the right to feed oneself in dignity.... The right to food requires States to provide an enabling environment in which people can use their full potential to produce or procure adequate food for themselves and their families.[246]

The Optional Protocol to the ICESCR (OP-ICESCR), which has entered into force in May 2013 is a legal instrument empowering the CESCR to hear individual complaints against states regarding treaty violations and conduct thematic inquiries into convention compliance in treaty states. Therefore, individuals could bring complaints concerning violations of the right to food (Art. 11 ICESCR) under this mechanism, although the CESCR has not to date examined any such complaints, nor are any pending. The UK has to date not signed the OP-ICESCR, meaning that people in the UK who suffer alleged violations of economic, social or cultural rights under the treaty violations are not able to bring individual complaints against the UK government.

Governments which are made aware of a decline in rights standards arising from their policy choices, and which fail to address the problem, are likely to violate their obligations especially for fundamental rights like the right to food. Not maintaining records in order to monitor trends, when it already has demonstrated it has the capacity and resources to do so, or failing to do so transparently, is one way that the government falls short of its international socioeconomic rights obligations.

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[245] UN Office of the High Commissioner of Human Rights, Special Rapporteur on the Right to Food (website), https://www.ohchr.org/EN/Issues/Food/Pages/FoodIndex.aspx (Accessed June 5, 2018).

[246] Office of the UN High Commissioner for Human Rights, "The Right to Adequate Food," Fact Sheet 34, 2010, 3-4, http://www.ohchr.org/Documents/Publications/FactSheet34en.pdf.

Other UN Human Rights Treaties

The UK has a number of further international treaty obligations to ensure the right to food for children, women and girls who are pregnant or breastfeeding children, and people with disabilities, all of whom are groups with additional legal protections.

The Convention on the Rights of the Child, which the UK signed in 1990 and ratified in 1991, places a duty on states to take appropriate measure to assist the parents or others responsible for the care of children, to ensure their access to adequate nutrition.[247] The Convention on the Elimination of Discrimination Against Women, which the UK signed in 1981 and ratified in 1986, contains a specific reference in the context of women's right to health to ensuring adequate nutrition during pregnancy and lactation.[248] The UN Convention of the Rights of Persons with Disabilities includes a negative obligation on states not to deny people "food or fluids on the basis of disability" and a positive obligation to ensure "adequate food" as part of the right to an adequate standard of living and social protection.[249]

UN Food and Agriculture Organization Standards

In addition to the formal canon of human rights law, the UK has signed the UN Food and Agriculture Organization's (FAO) 1996 Rome Declaration, which specifically sets out as an objective, "enable[ing] food insecure households, families and individuals to meet their food and nutritional requirements and to seek to assist those who are unable to do so," adding:

> "governments, in partnership with all actors of civil society, as appropriate, will:
> (a) Develop and periodically update, where necessary, a national food insecurity and vulnerability information and mapping system, indicating

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[247] UN Convention on the Rights of the Child, Art. 27 (3), https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx. (accessed May 13, 2018).

[248] UN Convention on the Elimination of Discrimination Against Women, Art. 12 (2), http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article12. (accessed May 13, 2018)

[249] UN Convention on the Rights of Persons with Disabilities, Art. 25 (f) and 28 (1), https://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx. (accessed May 13, 2018)

areas and populations, including at local level, affected by or at-risk of hunger and malnutrition, and elements contributing to food insecurity.... (c) Develop within available resources well targeted social welfare and nutrition safety nets to meet the needs of the food insecure, particularly needy people, children, and the infirm."[250]

Subsequent voluntary guidelines issued by the FAO set out further specifics on mapping food insecurity for specific vulnerable populations and establishing "food safety nets to protect those who are unable to provide for themselves" and articulates all the guidelines explicitly under the "right to adequate food".[251]

Relevant Regional Human Rights Instruments and Standards

At the level of the European Council, the revised European Social Charter 1996 does not explicitly recognize the right to food, but does focus on right to an adequate/decent standard of living and right to social protection for vulnerable groups (older people), and to right to protection against poverty and social exclusion. The UK has so far failed to ratify this revised Charter, claiming it contains "a large number of rights of very general scope" so individual complaints however cannot be taken against the UK to this body, although the UK government does report back periodically to the European Committee of Social Rights on the parts of the earlier 1961 European Social Charter, which it has accepted.[252]

At the EU level, although the EU Charter of Fundamental Rights does not include an explicit reference to the right to food or adequate nutrition, its provisions on the rights to social

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[250] Rome Declaration on World Food Security, Art. 20, November 13-17, 1996, http://www.fao.org/docrep/003/w3613e/w3613e00.htm. The UK signed the Rome Declaration with the then Foreign Office minister endorsing both the definition of food security and the need to link it with poverty eradication efforts, albeit with an emphasis on the role of donors in developing countries (See Speech by Baroness Chalker of Wallasey, Minister of State for Foreign and Commonwealth Affairs and Minister for Overseas Development of the United Kingdom, UK Lead Delegate at the World Food Summit, November 1996, http://www.fao.org/docrep/003/x0736m/rep2/uk.htm.

[251] FAO, Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security, Adopted by the 127th Session of the FAO Council, November 2004 http://www.fao.org/docrep/009/y7937e/y7937e00.htm. See in particular Guidelines 13-15. The cited text is from Guideline 15.

[252] See "Signatures and Ratifications" page of the Council of Europe's European Social Charter website, https://www.coe.int/en/web/european-social-charter/signatures-ratifications (accessed May 10, 2019).

security and social assistance requires states to ensure a "decent existence," The EU Charter states:

> In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.[253]

The Status of the Right to Food in the United Kingdom

The United Kingdom has been repeatedly criticized by the CESCR for failing to incorporate the ICESCR treaty into domestic law and give those whose rights are violated an effective remedy. Such an effective remedy, as with the incorporation of rights under the European Convention of Human Rights, would normally be both legal (judicial) and administrative. It would mean the government would accept it is legally bound to ensure everyone within the country is free from hunger, and that when the government violates this right those affected can take action. As a party to ICESCR the UK has a duty to ensure such effective remedies for violations of the treaty.[254]

UK governments have also failed to give people within the country the right to take action against the UK at an international level concerning violations of the right to food, in particular in not ratifying the protocol to ICESCR that allows such complaints to the UN expert body. The UK has permitted such complaints in other human rights treaties, such as the UN treaty prohibiting discrimination against women.

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[253] Charter of Fundamental Rights of the European Union, 2012/C 326/02, October 26, 2012, https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12012P/TXT&from=EN, Art. 34 (3).

[254] CESCR, "General Comment 9: The domestic application of the covenant," December 3, 1998.

The Socioeconomic Equality Duty in Domestic Law: Legislated For, but Not Yet in Force

The opening section of the UK's Equality Act 2010 sought to create a "socio-economic equality duty," potentially requiring all public bodies, once the relevant provision enters force, to "have due regard to the desirability of exercising [decisions of a strategic nature about how to exercise its functions] in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage."[255]

The "socio-economic equality" duty however remains an unrealized promise in the absence of secondary legislation allowing it to enter into force.

In 2010 Theresa May, then Home Secretary in a coalition government, dismissed the socio-economic duty as "ridiculous" and called for that section of the Equality Act to be scrapped.[256] It has not been repealed, however. The Scottish government has legislated for a socio-economic equality duty that applies specifically to Scotland, which entered into force on April 1, 2018, after obtaining a Scotland-specific amendment to the Equality Act as part of the settlement with the UK government after the region's unsuccessful September 2014 independence referendum.[257]

Applying the Right to Food in a Rich Country

The right to food has typically been associated most often with human rights concerns in developing countries in the context of food security, and international aid and relief programs, where hunger and malnutrition are widely accepted as part of the political agenda.[258] The right to food, however equally binds high and middle-income countries,

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[255] Equality Act 2010, Part 1, section 1, http://www.legislation.gov.uk/ukpga/2010/15/section/1.

[256] Amelia Gentleman, "Theresa May scraps legal requirement to reduce inequality," *The Guardian*, November 17, 2010, https://www.theguardian.com/society/2010/nov/17/theresa-may-scraps-legal-requirement-inequality and Home Office, "Socio-economic duty to be scrapped," (Press Release), November 17, 2010, https://www.gov.uk/government/news/socio-economic-duty-to-be-scrapped.

[257] Scotland Act 2016, Section 38, http://www.legislation.gov.uk/ukpga/2016/11/section/38 and Scottish Government, "Fairer Scotland Duty: interim guidance for public bodies," March 27, 2018, https://www.gov.scot/publications/fairer-scotland-duty-interim-guidance-public-bodies/. .

[258] Human Rights Watch has highlighted situations in which the right to food has been violated, fueled by and exacerbating ongoing a wider set of rights violations in such countries. See Human Rights Watch, *Not Eligible: The Politicization of Food in Zimbabwe*, vol. 15, no. 17(A) October 2003, https://www.hrw.org/report/2003/10/24/not-eligible/politicization-food-zimbabwe; *A Matter of Survival: The North Korean Government's Control of Food and the Risk of Hunger*, vol. 18, no. 3 (C) May

including advanced welfare states like the UK.[259] Therefore it becomes very relevant when large number of people start to be unable to access adequate food and risk going hungry, especially if this appears to be due to government policy.

The former UN Special Rapporteur on the Right to Food, Olivier de Schutter, has noted that his visit to Canada in 2012 was his first official mission to a developed country, and that it left him in no doubt about what he calls a "counter-intuitive truth: namely, that hunger can and does exist amid plenty."[260]

Focusing on the right to food in an advanced welfare state like the UK is an opportunity to examine the state's compliance with international obligations. It also lays the groundwork for an "adequate recognition of the right to food," as a coalition of UK-based socioeconomic rights groups have argued,[261] and to develop specific concrete recommendations for measuring, implementing, and improving national plans for food security based on the legal standards.[262] As with other human rights, the UK should ensure everyone has the right to an effective remedy if the government violates the right to food.

2006, https://www.hrw.org/sites/default/files/reports/northkorea0506webwcover.pdf; and *Venezuela's Humanitarian Crisis Severe Medical and Food Shortages, Inadequate and Repressive Government Response*, October 2016, https://www.hrw.org/report/2016/10/24/venezuelas-humanitarian-crisis/severe-medical-and-food-shortages-inadequate- and (all accessed on May 13, 2018).

[259] Graham Riches and Tiina Silvasti, eds., *First World Hunger Revisited: Food Charity or the Right to Food?* 2nd Edition (Basingstoke: Palgrave Macmillan, 2014) and Just Fair, *Going Hungry? The Human Right to Food in the UK*, April 2014, http://justfair.org.uk/wp-content/uploads/2018/05/Going-Hungry-The-Human-Right-to-Food-in-the-UK.pdf (accessed on May 13, 2018).

[260] Olivier de Schutter, foreword to *First World Hunger Revisited: Food Charity or the Right to Food? 2nd Edition*, ed. Graham Riches and Tiina Silvasti (Basingstoke: Palgrave Macmillan, 2014), ix. The former Special Rapporteur's resulting report on Canada (A/HRC/22/50/Add.1) can be found here: http://www.srfood.org/en/gender-and-the-right-to-food-3 (accessed on May 13, 2018). The CESCR has also made the same point in its authoritative comment on the right to food, saying: "The Committee observes that while the problems of hunger and malnutrition are often particularly acute in developing countries, malnutrition, under-nutrition and other problems which relate to the right to adequate food and the right to freedom from hunger, also exist in some of the most economically developed countries. Fundamentally, the roots of the problem of hunger and malnutrition are not lack of food but lack of *access* to available food, inter alia because of poverty, by large segments of the world's population" CESCR, "General Comment 12: The Right to Adequate Food," May 12, 1999, para 5 (emphases in original).

[261] Kath Dalmeny and Koldo Casla, "Beyond hunger and the food bank: a new right to food," post to "The Baring Foundation Blog" (blog), September 20, 2017, https://baringfoundation.org.uk/blog-post/beyond-hunger-and-the-food-bank-a-new-right-to-food/ (accessed April 19, 2018) and Imogen Richmond-Bishop, "Is there a Right to Food?: The UK's Growing Food Poverty Crisis" (blog), *RightsInfo*, June 18, 2018, https://rightsinfo.org/right-food-poverty-crisis/ (accessed on May 13, 2018).

[262] Elizabeth Dowler, "Food Banks and Food Justice in 'Austerity Britain'?," in *First World Hunger Revisited: Food Charity or the Right to Food? 2nd Edition*, ed. Graham Riches and Tiina Silvasti (Basingstoke: Palgrave Macmillan, 2014), 174-175 and Elizabeth Dowler and Deirdre O'Connor "Rights based approaches to addressing food poverty and food insecurity in Ireland and UK, "*Social Science & Medicine*, 2012, Vol.74 (No.1). pp. 44-51. doi:10.1016/j.socscimed.2011.08.036, http://wrap.warwick.ac.uk/37619/ (Accessed June 13, 2018).

V. UK Failures on Food Poverty Violate Rights

Given the size of the UK economy and size of overall government expenditure, the UK state should be able to ensure a minimum social floor to ensure that no one goes hungry, and in particular that families with children do not do so. However, it has not done so. In fact, it has made a new and growing problem worse with poorly implemented changes to the welfare system, and only mitigated its impact on children and families through limited pilot projects and operational tweaks such as reducing benefit payment delays by a week. In these circumstances, civil society organizations and charities have borne a disproportionate burden and stepped into an ever-growing gap, given the state's reluctance to accept that it has a duty to ensure the right to an adequate standard of living, including the right to food. Two further failures of the UK state are its failure to take on board and address criticism from experts who pointed out this crisis in the making, and the ongoing failure to even gather information that would enable to understand the scale of the problem and how best to address it.

The UK is bound by its obligations under a several international human rights treaties. Among its obligations are to ensure the right to an adequate standard of living and the right to food, and relatedly, to ensure that the policy decisions it takes do not lead to an unjustifiable decline in those standards and rights.

The policy choices that guided the UK government's austerity measures exacerbated and created new human rights problems and led to a failure on the part of government to ensure the protection of key human rights, such as the right to food, for all. The international standards specify that in at least two types of situations, austerity measures can themselves constitute human rights violations.[263]

The UN CESCR has made clear that where a state like the UK *fails to meet a minimum essential level*, "for instance any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education," the state violates its ICESCR obligation unless it can

[263] For a summary of the treaty law, jurisprudence and standards, see Council of Europe Commissioner for Human Rights, "Safeguarding human rights in times of economic crisis," Section 2.2.

"demonstrate that every effort has been made to use all [available] resources," to meet that absolute minimum.[264] Growing food insecurity and dramatically increasing reliance on food aid after dramatically reducing welfare payments appears to have violated the UK's obligations.

Second, austerity-led macroeconomic decisions can have the effect of causing a retrogression in the enjoyment of economic, social and cultural rights, which are supposed to be rights obligations that states progressively promote and realize. In other words, it is very likely to be a human rights violation when an increasing number of people in the UK are going hungry as a result of government austerity policies. The UN Office for the High Commissioner for Human Rights (OHCHR) has summarized the "human rights compliance criteria" set out by the CESCR for designing and implementing austerity measures in line with states' ICESCR obligations, into a six-part test.[265] The state bears the burden of proof to demonstrate that where austerity measures leading to retrogression are implemented:

i. a compelling state interest exists to impose those measures to ensure the totality of rights (and that a justification based solely on fiscal discipline or savings is insufficient);[266]
ii. the measures are temporary, necessary, reasonable and proportionate;
iii. all alternative and less restrictive measures have been exhausted;
iv. the measures are not applied in a directly or indirectly discriminatory manner;
v. the state establishes a minimum standard (sometimes referred to as a "social protection floor"),[267] especially to ensure that those most susceptible to socioeconomic rights violations have adequate structures in place to avoid such violations;[268] and groups and individuals most likely to be affected by the changes

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[264] CESCR, "General Comment 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)," December 14, 1990, para 10.

[265] OHCHR, *Report on austerity measures and economic and social rights*, 1-6.

[266] See also CESCR, "General Comment 3," para 9.

[267] See OHCHR, *Social protection floors and economic and social rights*, (A/HRC/28/35, submitted in accordance with resolution 25/11 of the Human Rights Council), https://www.ohchr.org/Documents/Issues/SocialSecurity/ReportSocialProtectionFloors.pdf (accessed June 26, 2018).

[268] Although "people in extreme poverty" and "welfare recipients" are not formally recognized protections under international human rights law treaty obligations binding the UK, such minimums should take account of the fact that "cuts disproportionately affect the poorest and most vulnerable in a society, especially those who rely more heavily on welfare benefits, because they spend a higher proportion of their income on food and basic services." (The longer quote is from OHCHR, *Report on austerity measures and economic and social rights*, page 11-12).

have been able to participate genuinely to express their needs and concerns in the decision-making process.[269]

The UK government welfare and tax changes since 2010 failed on several of the above counts. The process of welfare and tax change, while potentially justifiable on the basis of fiscal discipline and a need for saving in public expenditure, has taken place despite other areas of government expenditure seeing less severe cuts, or in some instances seeing increases, as documented above. In particular, welfare expenditure on children and families has suffered deep cuts. The compelling state interest test of restructuring the incentives around welfare and return to work have not been sufficiently clearly demonstrated by the government. Additionally, these measures are a permanent restructuring of the state's welfare architecture, and cannot be seen as a time-limited proportionate set of responses to address fiscal constraints. The measures, as shown above in repeated studies, have a disproportionate impact on households with children, and single-parent (primarily women-led) households and the existing processes fail to take this into account.

For austerity related cuts to be considered *reasonable*, they should not be either *arbitrary* or *discriminatory*. The successive use of crude financial targets for reducing public spending on welfare, with a limited assessment of the impact on those left most vulnerable to limitations on their access to food as a result of welfare cuts affecting their income adversely, cannot be justified. There is now ample evidence conducted by a variety of independent researchers — using different methods — to show that the complex of tax and welfare policy choices in place since 2010 has had a regressive and discriminatory impact, disproportionately affecting a wide range of characteristics protected by law, and people who are poor.[270]

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[269] See also CESCR, Open Letter from the Chairperson of the Committee on Economic, Social and Cultural Rights to States parties to the International Covenant on Economic, Social and Cultural Rights, May 16, 2012, http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/1_Global/INT_CESCR_SUS_6395_E.doc (accessed June 25, 2018).

[270] See for example Jonathan Portes and Howard Reed, "Distributional results for the impact of tax and welfare reforms"; JRF Analysis Unit, "UK Poverty 2017"; Suzanne Fitzpatrick et. al., "Destitution in the UK 2018"; Paola de Agostini, John Hills and Holly Sutherland, "Were we really all in it together?"; and Nathan Hudson-Sharp et al (NIESR), "The impact of welfare reform and welfare-to-work programmes." For a succinct summary of Portes and Reed's findings for the EHRC against the international human rights criteria, see Koldo Casla, "You can't silence the data when it's so deafening."

Like discrimination, international law is also clear that austerity measures which fail to *guarantee a minimum core content*, or a "social protection floor" or safety net for the protection of basic rights through which no one affected by the measure should fall, are unlawful.[271] Social welfare support has in some cases – particularly where sanctions have been applied under the new Universal Credit system, or where their value has decreased as a result of up[rating freezes and benefit caps – had the effect of not even meeting the minimum "social protection floor," and certainly more widely, has had the effect of pushing existing standards closer towards that floor.

The state's additional unwillingness to examine and address repeated evidence of these violations – indeed dismissing such concerns repeatedly – and to rectify its policies to ensure that standards and the level to which rights are enjoyed do not deteriorate, compounds the failure to comply with its social and economic rights obligations.

[271] For a useful summary of the concept of "social protection floors" and how states are obliged to work gradually to ensure them, and to make sure they don't disappear, see OHCHR, *Social protection floors and economic and social rights.*

Recommendations

Urgent Recommendations:

- The **government** should announce publicly that it accepts the right to food as a basic human right, and part of the human right to an adequate standard of living, and accept its duty to ensure that no one in the United Kingdom goes hungry. The government should ensure an effective remedy (including legal protection) for those whose right to food has been violated by state action or inaction, so that they can effectively challenge government policy and laws to ensure that everyone has access to adequate food, and that those who do not receive compensation.
- The **Department for Work and Pensions** should take immediate steps to abolish the discriminatory two-child limit policy, both as it applies to "legacy" benefits and as it will apply to future Universal Credit claimants in households with more than two children, and in the interim disapply it to ensure that it no longer affects any child whether or not they were born before April 2017.
- The **Department for Work and Pensions** should consider revising the current system in which Universal Credit payments are made in arrears, to either:
    - Make Universal Credit payments in advance, with no penalty for, or recovery of, overpayment from the first payment; or
    - Offer a one-off, non-recoverable, grant-like payment to cover the period between entering the Universal Credit system and receiving the first payment, and thereafter continue to pay benefits in arrears. This grant should include a cash component, and could also include vouchers redeemable at food retail outlets (supermarkets and convenience stores, rather than food banks).
- The **Treasury** should adopt policies to ensure that relevant welfare benefits are not eroded by inflation and rising living costs (including the cost of food) and thus reducing assistance to beneficiaries.
- The **government** and **parliamentarians** should support draft legislation seeking to develop a statutory requirement to measure and monitor food insecurity, with periodic reporting to parliament.
- The **government** should establish a cross departmental working group under the supervision of the Cabinet Office – comprised of senior representatives of all

relevant departments, including the Department for Work and Pensions, Department for Environment, Food and Rural Affairs, Department for Education, Department for Health, HM Revenue and Customs, and the Treasury, at a minimum — to review the human rights and policy implications of escalating levels of food poverty, to ensure better coordination between ministries and government agencies, and to take responsibility for developing a nationwide anti-hunger strategy.

Further Recommendations

To the United Kingdom Government

- Ratify the Optional Protocol to the International Covenant of Economic, Social and Cultural Rights;
- Ratify the Council of Europe's Revised European Social Charter (ETS No. 163, 1996);
- Make a statutory instrument to bring into force the socioeconomic equality duty provided for, but as-yet-unenacted, in domestic law under Equality Act 2010, Section 1;
- Maintain protections contained in the EU Charter of Fundamental Rights as part of UK law in the event of the UK leaving the European Union;
- Ensure that the cross departmental working group tasked with developing an anti-hunger strategy, once established, has the mandate and resources to draw on existing expertise on food poverty, food insecurity, and nutrition from relevant parliamentary committees, all-party parliamentary groups, civil society organizations and academic researchers, as well as government-commissioned research into specific subcategories of food poverty and food insecurity (e.g. as it relates to children, women single-parents, people with disabilities, older people, etc.);
- Establish a cumulative human rights impact assessment of post 2010 tax and welfare restructuring, which is independent of government, with particular attention to impact on people with specific additional protections under domestic anti-discrimination laws and those arising from international human rights treaty obligations. The government may choose to task a Parliamentary committee, non-ministerial department, or external organization, with this work, and it should ensure that the chosen body has adequate resources to complete this work;

- Consider adopting the approach of the Social Metrics Commission, an independent non-partisan UK body founded in 2016, for defining and measuring poverty.

To Parliamentarians

- Call on the government to take steps to ratify the Optional Protocol to the ICESCR, to ratify the Council of Europe's Revised European Social Charter (ETS No. 163, 1996), to make a statutory instrument to enact the socioeconomic equality under Equality Act 2010, Section 1, and to maintain protections guaranteed by the EU Charter of Fundamental Rights in UK law;
- Support draft legislation to require a statutory measurement of food insecurity in the UK, and ensure that the legislation contains a requirement for the government to report its findings periodically to parliament, in line with several other poverty and welfare-related monitoring duties;
- Restore the Charter of Fundamental Rights of the European Law to the EU law that will continue to apply in the UK after Brexit.

To the Department for Work and Pensions

- Use the opportunity of the current pause in rollout of Universal Credit to review structural failures rather than focusing primarily or solely on delivery and implementation problems;
- Review the rollout of Universal Credit, with particular attention to areas with documented increase in food bank usage, including examining the possibility of allowing Universal Credit recipients who are pregnant women or families with dependent children to request a return to prior "legacy" welfare benefit arrangements for a fixed period until UC's rollout schedule is finalized;
- Consider removing the benefit cap, or in the alternative, increase it so it maintains parity with 2010 levels in real terms;
- Establish a system of one-off grants (rather than advances or loans) when welfare recipients have insufficient disposable income and are likely to be imminently unable to provide food for themselves or their minor dependents;
- In the interim, simplify and speed up the application process (with face-to-face, electronic, and paper-based options) for hardship payments in cases where a sanction has been applied and advance payments in cases where no sanction has

been applied, and improve access to appeal against decisions to refuse hardship payments;

- Maintain clear data on grants, hardship payments, advances, and referrals to food aid from JobCentres (including where a claimant is referred onward or signposted to another organization to seek a food bank referral);
- Introduce an explicit prohibition on applying benefit sanctions to pregnant women claimants or claimants with young dependent children;
- Review the recourse to sanctions and excessive recovery rates on hardship payments and Universal Credit advances.

To the Department for Education and the Minister for Children and Families

- Publishing clear findings report on the pilot projects around holiday provision and breakfast club provision in areas of high deprivation, and ensuring a wide, transparent public consultation on any future expansion of holiday provision and breakfast club schemes;
- Investigating the extent to which schools, local authority-operated family centers and children's centers are currently offering ad hoc food aid to families in poverty, and taking steps to combat hunger among young children.

To the Department for Environment, Food and Rural Affairs

- Updating the 2014 DEFRA study on food poverty to take account of the impact of welfare change, which was not addressed in the report.

To the UN Special Rapporteur on Extreme Poverty and Human Rights

- Explain in openly published written communication to the UK government its obligations under international law to ensure non-retrogression in the right to an adequate standard of living in the context of austerity measures and the restructuring of welfare and tax policy;
- Call on the UK to establish a cumulative human rights impact assessment of post 2010 tax and welfare change, with particular attention to impact on people and groups with additional protections from discrimination under domestic and international human rights law;

- Urge the UK government to legislate for a clear measurement of food insecurity, which is subject to parliamentary review, and consider taking further steps to maintain and monitor systematic data around reliance on food aid;
- Recommend that the UK government consider adopting the definition and approach of the Social Metrics Commission;
- Urge the UK to have in place a comprehensive anti-poverty strategy;
- Urge the UK government to enact the socioeconomic equality duty contained in the Equality Act 2010;

To the UN Special Rapporteur on the Right to Food

- Encourage the UK government to incorporate the right to food into domestic law, with a plan for ensuring the full realization of the right, such as an anti-hunger strategy, and mechanisms through which people whose right to food is violated can access remedy, including compensation;
- Explain in openly published written communication to the UK government its obligations under international law to ensure the right to food in the context of austerity measures and the restructuring of welfare and tax policy;
- Proactively seek further information from UK civil society groups working on food poverty and the right to food, and assess whether to carry out a country visit in the near future.

To the UN Committees on Economic, Social and Cultural Rights (CESCR), the Rights of the Child (CRC), on the Elimination of All Forms of Discrimination Against Women (CEDAW), and on the Rights of Persons with Disabilities (CRPD)

- Use the next available opportunity of a periodic examination or list of issues prior to review to raise questions about how the UK's tax and welfare overhaul developed since 2010 is in compliance with the treaty which each committee oversees.

To the European Committee of Social Rights

- Use the next available opportunity in the reporting system of the European Social Charter to seek urgent clarification from the UK government about how its current welfare and social security system is in compliance with Articles 12, 13, 14, 16 and 17 of the European Social Charter 1961 (ETS No. 035).

Acknowledgments

This report was researched and written by Kartik Raj, Western Europe Researcher in the Europe and Central Asia Division. It was reviewed by Arvind Ganesan, director of the Business and Human Rights Division; Benjamin Ward, deputy director in the Europe and Central Asia division and (acting) UK Director; Hillary Margolis, researcher in the Women's Rights Division; Elin Martínez, researcher in the Children's Rights Division; and Jane Buchanan, deputy director in the Disability Rights Division. Brian Root, senior quantitative analyst, provided data analysis and reviewed the data used in the research for accuracy. Clive Baldwin, senior legal advisor, and Tom Porteous, deputy Program director, provided legal and programmatic reviews. Philippe Dam, advocacy director in the Europe and Central Asia Division and Myrto Tilianaki, (acting) UK advocacy and press officer, provided input on advocacy. Production assistance was provided by Elida Vikić, associate in the Europe and Central Asia Division. Additional production assistance was provided Fitzroy Hepkins, Administrative Manager, and Jose Martinez, Senior Coordinator. Alex Firth, associate in the Children's Rights Division, provided some additional administrative assistance during the research.

Human Rights Watch would like to thank all the food bank, food pantry, welfare advice center, school, children's center, community center, church and trade union staff and volunteers who spoke with us in the course of this research. We are particularly grateful to the people who were willing to discuss their own lived experience of food poverty with us.

Human Rights Watch benefited in particular from expert input provided by Koldo Casla of Just Fair and the Institute of Health & Society at Newcastle University; Imogen Richmond-Bishop of Just Fair and Sustain; the Trussell Trust's central office and regional food bank staff (in particular Sumi Rabindrakumar); Sabine Goodwin of the Independent Food Aid Network; Niall Cooper of Church Action on Poverty; Rachel Loopstra and colleagues running the Evidence Network on UK Household Food Insecurity; and the group coordinating the End Hunger UK Campaign.

The report's author is also grateful to Philip Alston, the UN Special Rapporteur on Extreme Poverty and Human Rights, and his staff Bassam Khawaja and Rebecca Riddell, for their

attention to food poverty and the restructuring of the UK's welfare system during their 2018 country visit.

The report's author would like to dedicate this report to our colleague David Mepham (1967-2018), UK Director of Human Rights Watch, whose interest in engaging the wider UK public in the debate around human rights and their relevance for everyday life provided a significant motivation for this project. David's work was conducted together with his colleagues Stephanie Hancock and Myrto Tilianaki. We hope this report takes on the challenges David identified, and plays some small part in making human rights more meaningful to people who feel left out of policy discussions which have affected their lives, and left behind once those policies have been implemented.

Human Rights Watch would like to thank players of People's Postcode Lottery for their generous support of this project through the Postcode Equality Trust.

Human Rights Watch is also particularly grateful to William von Mueffling. This project would not have been possible without his generous support of the organization's research and advocacy work in Europe.

Appendix: Terminology: Food Insecurity and Food Poverty

Each of the terms "food insecurity" (and its converse "food security") and "food poverty" has several definitions.[272]

The FAO uses the following working definition, emphasizing that food security and insecurity are phenomena relating to individuals (or small groups of individuals such as households):

> Food security exists when all people, at all times, have physical, social and economic access to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life.
> Household food security is the application of this concept to the family level, with individuals within households as the focus of concern.
> Food insecurity exists when people do not have adequate physical, social or economic access to food as defined above.[273]

The definition encompasses financial constraints and material deprivation as well as broader supply and demand factors.[274]

Food poverty is often used interchangeably with "food insecurity" in public commentary and contemporary discussions of use of food aid in the UK. Much of the UK's anti-poverty sector refers to a 2005 UK Department of Health definition of food poverty as:

> … the inability to afford, or to have access to, food to make up a healthy diet. Those experiencing food poverty may have limited money for food after paying for other household expenses; live in areas where food choice is restricted by local availability and lack of transport to large

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[272] Elizabeth Dowler and Deirdre O'Connor "Rights based approaches," pp. 44-51.
[273] FAO, Trade Reforms and Food Security: Conceptualizing the Linkages, Food and Agriculture Organization of the United Nations, 2003, http://www.fao.org/docrep/005/y4671e/y4671e00.htm#Contents (accessed May 13, 2019), Chapter 2
[274] See discussion in Hannah Lambie-Mumford, et. al. "Household Food Security in the UK: A Review of Food Aid," pp. iv-v.

supermarkets; or be lacking in the knowledge, skills or cooking equipment necessary to prepare healthy meals.[275]

The emphasis in these definitions is on affordability as well as availability of food, considering institutional, educational, skills or cultural barriers. In the context of a rich country, there is likely to be significant overlap between these definitions, because as experts point out in the aggregate sense because food is abundant, it is its distribution and accessibility that are the problem.[276]

This report focuses on "food poverty," as it focuses on decreasing affordability and access to nutritious food for people on low incomes, and makes reference to "food security" and "food insecurity" when referring to more formal, systemic measurements or efforts to develop measurements at the individual or household level.

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[275] Department of Health, Choosing a better diet: a food and health action plan, 2005, (Archived) http://webarchive.nationalarchives.gov.uk/20130105040029/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/@dh/@en/documents/digitalasset/dh_4105709.pdf (accessed May 13, 2019), page 7.

[276] For further discussion, see Graham Riches, review of "Food Poverty and Insecurity: International Food Inequalities," *Anthropology of Food*, Summer 2016, http://journals.openedition.org/aof/8125 (accessed September 18, 2018).

NOTHING LEFT IN THE CUPBOARDS

Austerity, Welfare Cuts, and the Right to Food in the UK

Access to adequate food is a basic human right. Yet tens of thousands of families in the United Kingdom every year do not have enough food to live on and seek help from non-state food banks and community centers. Over the past decade, assistance from the UK's main food bank network has increased fifty-fold. Growing hunger for some of the least well-off people has emerged alongside a draconian restructuring of the country's welfare system since 2010, and deep cuts to welfare in the context of budget austerity. Specifically a cap on benefits, a "two child limit," and a decision not to increase benefits in line with inflation, have affected the ability of people on low incomes to afford enough food for their families. Single-parent, women-led households have been hit particularly badly by these changes. Charities, schools, youth clubs, and children's centers are working to stave off growing hunger in the world's fifth largest economy.

Based on statistical analysis and interviews with affected families, welfare advisors, food aid providers and professionals working in schools and children's centers in England, *Nothing Left in the Cupboards* finds that families are living without adequate food and falling through the net of the welfare state. Even though the UK has a duty to ensure adequate food under international law, the UK government does not recognize food as a right in domestic law. This means the duty is not considered in policy decisions, and impedes efforts to address the increasing numbers of people living on the breadline. Human Rights Watch calls on the UK government to take concrete steps to recognize the right to food in domestic law, to better measure food poverty, and to make crucial specific changes to the welfare system to prevent more people falling into hunger.

A volunteer at a Trussell Trust food bank prepares food parcels from their stores of donated food, toiletries and other items. London, United Kingdom.

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