

NATIONS UNIES
HAUT COMMISSARIAT DES NATIONS UNIES
AUX DROITS DE L'HOMME

PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME

UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on extreme poverty and human rights; and the Special Rapporteur on the right to food

REFERENCE: AL Housing (2000-9) Poverty (1998-11) Food (2000-9)
GBR 1/2014

20 May 2014

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extreme poverty and human rights; Special Rapporteur on the right to food; and Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context pursuant to Human Rights Council resolutions 17/13, 22/9 and 25/17.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the **current and potential impact of a reduction in public expenditure in the United Kingdom of Great Britain and Northern Ireland (UK), in particular on the right to social security, to an adequate standard of living (including food and housing), and to equality and non-discrimination, especially for people living in poverty.**

According to information received:

The United Kingdom ('UK') Government has undertaken a combination of wide-ranging legal reforms and policy interventions designed to reduce public expenditure at the national and local level. A number of these austerity measures have been brought into effect through the Welfare Reform Act 2012 and Regulations made thereunder. In January 2014, the UK Government announced that it would be seeking to continue its austerity cuts between 2015 and 2017, with a further £12 billion to be cut from the spending on welfare¹. On 19 March 2014, it was announced that UK spending on welfare is to be capped at £119bn for 2015-2016².

¹Chancellor of the Exchequer, New Year Economy Speech (January 2014)
<<https://www.gov.uk/government/speeches/new-year-economy-speech-by-the-chancellor-of-the-exchequer>>
accessed 5 May 2014.

²HM Treasury, 'Budget 2014' HC1104 (March 2014), p 87
<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/293759/37630_Budget_2014_Web_Accessible.pdf> accessed 5 May 2014.

According to concerned sources, the package of austerity measures enacted could amount to retrogressive measures, prohibited under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which the UK ratified in 1976.³ The interventions would also severely undermine minimum essential levels of economic and social rights (in particular the right to an adequate standard of living, the right to adequate housing, the right to food, and the right to social security) in certain circumstances. Allegedly the cumulative impact of these measures is having a disproportionate impact on the poorest sector of society. By adopting these measures, the UK is allegedly not complying with its obligation to devote the maximum available resources to ensure the progressive realization of economic, social and cultural rights including their equal enjoyment and without discrimination of any kind as required by the ICESCR. Its alleged actions also run contrary to the conclusions of the Committee on Economic, Social and Cultural Rights which has emphasized that “policies and legislation should not be designed to benefit already advantaged social groups at the expense of others.”⁴

The austerity measures reportedly include the following:

Housing benefit

Under Regulation B13 of the Housing Benefit Regulations 2006 (as amended), the rate of housing benefit payable to those in socially subsidised housing is capped based on the number of unoccupied rooms in the property; housing benefit payment to tenants in social housing has been cut by 14 per cent if there is one spare bedroom in the property, and by 25 per cent if there are two empty rooms in the property.

According to information received, the so-called ‘spare room subsidy’ is expected to affect 660,000 households, each of which will lose on average £740 per annum⁵. It is reported that just under two-thirds of the households affected are households with a family member with a disability, and 100,000 families affected are living in specially adapted properties.⁶ The regulations do not provide an exemption for a ‘spare’ room for the use of a relative who acts as an unpaid carer.⁷ The Government has provided local councils with funds to provide discretionary housing payments, but it is alleged that these funds are inadequate and fail to

³ See: UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)* (14 December 1990) E/1991/23.

⁴ *Committee on Economic, Social and Cultural Rights, general comment No. 4, para. 11.*

⁵ Beatty and Fothergill, *Hitting the Poorest Placed Hardest: The Local and Regional Impact of Welfare Reform* (Centre for Regional Economic and Social Research, Sheffield Hallam University, 2013) <http://www.shu.ac.uk/research/cresr/sites/shu.ac.uk/files/hitting-poorest-places-hardest_0.pdf> accessed 5 May 2014.

⁶ Papworth Trust, *Nowhere to go, no way to pay: applying the bedroom tax with discretion*, (April 2013), p 2 <http://www.papworth.org.uk/downloads/nowheretogo.nowaytopay_130501135552.pdf> accessed 5 May 2014.

⁷ *ibid*, pp 4-5.

provide long-term security.⁸ According to information received, 51 per cent of households affected by the spare room subsidy were unable to pay their rent between April and June 2013.⁹

Furthermore, Local Housing Allowance ('LHA'), which constitutes the rent element of Housing Benefit payable to those living in the private rental sector, has undergone successive reforms since April 2011 regarding the method of calculating the level of benefit entitlement, with the effect of dramatically reducing the amount paid.¹⁰ In addition, absolute national caps have been implemented for LHA payments in relation to different sized properties. It has been reported that these absolute caps will affect 21,000 households whose benefits will be cut by, on average, £74 per week.¹¹

Disability benefits

The UK Government replaced the Disability Living Allowance ('DLA') with a Personal Independence Payment ('PIP') for all new benefit claimants and all existing DLA recipients who were aged between 16 and 64 on 8 April 2013. The Government announced in June 2010 that the reform would result in overall savings equivalent to 20 per cent of forecast working age DLA expenditure.¹² The Government has estimated that, by 2018, there will be 607,000 fewer people receiving PIP than would have received DLA if these reforms had not been implemented.¹³ This amounts to a cut of 27.8 per cent in the number of people who would have been entitled to DLA. It is estimated that the total financial loss suffered by persons with disabilities as a result of this reform will be £2.62 billion by 2018.¹⁴

Determining eligibility for PIP involves an assessment that focuses on an individual's ability to carry out key activities necessary for everyday life. The descriptors for PIP include a much narrower range of activities than those for DLA, and focus only on those activities required for the bare essentials for

⁸ *ibid*, p 6.

⁹ National Housing Federation, 'More than half of families hit by bedroom tax pushed into debt' <<http://www.housing.org.uk/media/press-releases/more-than-half-of-families-hit-by-bedroom-tax-pushed-into-debt>> accessed 5 May 2014.

¹⁰ See, inter alia, the Rent Officers (Housing Benefit Functions) (Amendment) Order 2012, and the Rent Officers (Housing Benefit and Universal Credit Functions) (Amendment) Order 2013.

¹¹ New Policy Institute and Joseph Rowntree Foundation, *Benefit Changes and their Estimated Impact* (2013) <http://npi.org.uk/files/7613/7477/4989/Table_of_changes_to_welfare.pdf> accessed 5 May 2014.

¹² Department for Work and Pensions, *Impact Assessment: Disability Living Allowance Reform*, p 3 <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220176/dla-reform-wr2011-ia.pdf> accessed 5 May 2014.

¹³ Department for Work and Pensions, *Government's Response to the consultation on the Personal Independence Payment assessment criteria and regulations* (December 2012), para 1.7 <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181181/pip-assessment-thresholds-and-consultation-response.pdf> accessed 5 May 2014.

¹⁴ Demos, *Destination Unknown* (April 2013) <<http://www.demos.co.uk/files/Table1-headline.pdf>> accessed 5 May 2014.

survival.¹⁵ Under the PIP scheme, a 20-metre benchmark distance is specified to determine eligibility for the enhanced rate mobility component for PIP for people who have physical mobility difficulties. It is alleged that, because the majority of wheelchair users can walk some distance, the use of this benchmark risks persons with disabilities with significant mobility difficulties losing essential adapted cars or specially converted wheelchair-accessible vehicles.¹⁶

Reforms to other benefits:

Working Age Benefits: Universal Credit

Universal Credit is to replace all means-tested working age benefits, including income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Housing Benefit, and Child and Working Tax Credits. Universal Credit has been gradually introduced to different job centres starting from October 2013. The main impact of the Universal Credit system is not expected to be felt until after 2015.¹⁷

Universal Credit is a monthly sum, based on family composition plus allowances for rent and any eligible childcare costs, paid in full to those who are not working and to those earning less than a set level, and reduced by 65p in the pound for post-tax income above that level. Earning over £25 per week leads to a reduction in Universal Credit by 65 per cent of additional wages (net of tax). For the Minimum Wage, this means working an additional working hour per week produces £2 or less in disposable income, making it impossible to reach the minimum income standard; a single parent on a low wage and with childcare costs cannot generally get above about 80 per cent of the income required for a minimum acceptable living standard.¹⁸

¹⁵ Crohn's and Colitis UK, *Personal Independence Payment* (n.d.)

<<http://www.crohnsandcolitis.org.uk/get-involved/campaigningsubhomepage/Welfare+Benefits/PersonalIndependencePaymentcampaigningGTP>> accessed 5 May 2014.

¹⁶ Ekklesia, *Response to DWP Consultation* (5 August 2013)

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/252428/pip-moving-around-consultation-response-ekkleisia.pdf> accessed 5 May 2014.

The Government acknowledged that some Motability Scheme users will no longer be able to access this support in its *Response to the Consultation on the PIP assessment: Moving around activity*, para 1.16

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251631/pip-mobility-consultation-government-response.pdf> accessed 5 May 2014.

¹⁷ Beatty and Fothergill, *Hitting the Poorest Placed Hardest: The Local and Regional Impact of Welfare Reform* (Centre for Regional Economic and Social Research, Sheffield Hallam University, 2013) <

http://www.shu.ac.uk/research/cresr/sites/shu.ac.uk/files/hitting-poorest-places-hardest_0.pdf> accessed 5 May 2014.

¹⁸ Donald Hirsch and Yvette Hartfree, *Does Universal Credit enable households to reach a minimum income standard?* (Joseph Rowntree Foundation, July 2013) <<http://www.jrf.org.uk/sites/files/jrf/universal-credit-income-standards-full.pdf>> accessed 5 May 2014.

Overall, 45 per cent of households of ‘working age’ receive one of the main State benefits (i.e. a Department for Work and Pensions benefit or tax credits).¹⁹ Based on an estimate of £79.2 billion expenditure on key working age benefits in 2015-16 in the absence of reform, it is alleged that the impact of the reforms will be to reduce incomes for households receiving State benefits by an equivalent of £1 for every £7 of household income, on average.²⁰

In total, benefit cuts for working age people (and, by extension, the children they support) will account for £18 billion per year by 2014-15.²¹ It is alleged that the amount being cut from the budget is 36 times greater than the amount being invested in the new Universal Credit system.²²

Council Tax Benefit Reforms

The Council Tax Reduction Schemes (Prescribed Requirements and Default Scheme) (England) (Amendment) Regulations 2012 was implemented in April 2013. This reform replaced the previous scheme which provided full relief from council tax for those on low incomes and in receipt of certain benefits, and will reportedly require almost all working age households to contribute to the cost of local authority services.

This shift is affecting 2.4 million claimants who were previously exempt from local taxation but who will now have to pay an average £138 per year. This change disproportionately affects those on low incomes. Two million of the 2.4 million households affected are believed to be in poverty, and 1.75 million are believed to be in ‘deep’ poverty.²³ 20 per cent of the families affected are working families.²⁴

Income Support Reforms

The Social Security (Lone Parents and Miscellaneous Amendments) Regulations 2012 reduce the income support age threshold for the youngest child of an unemployed single parent to 5, where previously it was 7. Where the child is 5 or older, the parent becomes ineligible for income support and is required to seek work under the normal Jobseeker’s Allowance system.²⁵

¹⁹ Tony Wilson, Gareth Morgan, et al, *The local impacts of welfare reform: An assessment of cumulative impacts and mitigations* (Centre for Economic and Social Inclusion, Local Government Association, August 2013)

<<http://www.cesi.org.uk/sites/default/files/publications/The%20local%20impacts%20of%20welfare%20reform%20version%207.pdf>> accessed 5 May 2014.

²⁰ Ibid, p.55

²¹ Oxfam, *The perfect storm: Economic stagnation, the rising cost of living, public spending cuts, and the impact on UK poverty* (June 2012), p 4 <<http://policy-practice.oxfam.org.uk/publications/the-perfect-storm-economic-stagnation-the-rising-cost-of-living-public-spending-228591>> accessed 5 May 2014.

²² Ibid, p 26.

²³ Monitoring Poverty and Social Exclusion 2013, MacInnes, Aldridge, et al, (Joseph Rowntree Foundation 2013, p 7. <http://www.jrf.org.uk/sites/files/jrf/MPSE2013.pdf>, last accessed 5 May 2014p 7.

²⁴ Ibid.

²⁵ Ibid.

According to information received, single parents received formal notification that their entitlement to income support was ending only eight weeks before the implementation date.²⁶ They were thus not given time to take up further education courses while still receiving income support (which is a benefit with less conditionality than Jobseeker's Allowance).²⁷

68 per cent of single parents enter employment in one of the three lowest paid occupational groups and low-paid work is often insecure, characterised by irregular hours and short-term contracts, making it hard to fit around caring responsibilities.²⁸ It is reported that many single parents are already struggling to secure employment that fits around their caring responsibilities. The problem is exacerbated by the fact that formal affordable child care provision is limited outside standard hours (before 8am, after 6pm, or at weekends),²⁹ with reports suggesting that in the last five years only a third of local authorities in the UK had enough childcare available for children aged 5-11. Childcare costs have also reportedly risen by 27 per cent in recent years with parents now paying £1,214 more in than they did in 2009.³⁰ For those single parents who do succeed in finding work, 20 per cent will move out of employment again within 12 months.³¹ They will however still be entitled to Jobseekers Allowance if they can demonstrate that they are available and are actively seeking work.

As recognised in the Government's Impact Assessment, given that 96 per cent of lone parents on Income Support with a child aged 5 or 6 are female, this austerity measure impacts women disproportionately.³²

Tax Credit Reforms

Extensive reforms have been made to the tax credit system as part of the Government's austerity measures. In April 2011, four main measures were implemented:³³ (i) the percentage of childcare costs eligible to be paid through tax credits was reduced from 80 per cent to 70 per cent; (ii) the baby element of

²⁶ Gingerbread, *It's off to work we go? Moving from income support to jobseeker's allowance for single parents with a child aged five* (2012), p 1 <gingerbread.org.uk/file_download.aspx?id=7690> accessed 5 May 2014.

²⁷ *ibid.*

²⁸ *ibid.*

²⁹ Equality and Human Rights Commission, *Childcare Matters: improving choices and chances for parents and children* (2010), p.14

http://www.equalityhumanrights.com/uploaded_files/research/working_better_childcare_matters.pdf

³⁰ Family and Childcare Trust, *Childcare Costs Survey 2014*, p.3

³¹ Gingerbread, *It's off to work we go? Moving from income support to jobseeker's allowance for single parents with a child aged five* (2012), p 1 <gingerbread.org.uk/file_download.aspx?id=7690> accessed 5 May 2014.

³² Department for Work and Pensions, *Removing Income Support Equality Impact Assessment* (2011), para 38 <<http://www.parliament.uk/documents/impact-assessments/IA11-022BB.pdf>> accessed 5 May 2014.

³³ Monitoring Poverty and Social Exclusion 2013, MacInnes, Aldridge, et al, (Joseph Rowntree Foundation 2013), , p 138. <http://www.jrf.org.uk/sites/files/jrf/MPSE2013.pdf>, last accessed 5 May 2014

Child Tax Credit was abolished;³⁴ (iii) the ‘taper’ of tax credit once income exceeds a threshold was increased; and (iv) the basic and 30-hour elements of Working Tax Credit were frozen for three years. In April 2012, a reform was implemented so that couples with children have to work 24 hours a week between them, with one working at least 16 hours, to qualify for Working Tax Credits;³⁵ previously, only one adult had to work at least 16 hours to qualify.

It is reported that tax credit tapering from April 2011 has affected 3.5 million working families.³⁶ Reduced childcare ‘Working Tax Credits’ has affected 490,000 families by up to £1560 per year.³⁷ Freezing the basic and 30 hour elements of working tax credit has affected around 2.4 million families, with 2.3 million losing £296 per year and the rest losing £208 per year.³⁸ Abolition of the baby element of Child Tax Credit in April 2011 caused 470,000 families to lose £545 per year.³⁹ The increase in working hours to qualify for Working Tax Credit is reported to have affected 212,000 families and 470,000 children with sums of up to £3900 per year being lost.⁴⁰ These reforms will have a disproportionate impact on new parents, including single parents who are predominantly women. However, we have also been made aware that in the 2014 Budget, the Government announced some measures to help with childcare costs for working families.⁴¹

Benefit Caps and Up-rating Caps

Household Benefit Cap

Pursuant to the Housing Benefit (Benefit Cap) Regulations 2012 and the Universal Credit Regulations 2013, a household benefit cap is being phased in between April 2013 and 2017. The cap covers a broad range of non-disability related benefits and is set at £500 per week for households with children and £350 per week for those without. The adequacy of benefits reportedly declined as of April 2013, with working-age benefits rising by just one percent as a result of the benefit cap⁴², compared to three to four percent rises in the minimum required for an acceptable standard of living.⁴³

³⁴ i.e. whereby parents were entitled to claim an additional payment of up to £545 in the baby’s first year

³⁵ The Tax Credits (Miscellaneous Amendments) Regulations 2012.

³⁶ Monitoring Poverty and Social Exclusion 2013, MacInnes, Aldridge, et al, (Joseph Rowntree Foundation December 2013) p 136. <http://www.jrf.org.uk/sites/files/jrf/MPSE2013.pdf>, last accessed 5 May 2014pp 136 ff.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Including the Tax-Free Childcare costs cap

⁴² From April 2013 total household benefit payments for working-age claimants have been capped at £500 per week for couples and lone parent households, and £350 per week for single adults - please see DWP, *Benefit Cap, Equality impact assessment*, 2012, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220153/eiabenefit-cap-wr2011.pdf.

⁴³ Joseph Rowntree Foundation, *A Minimum income standard for the UK in 2013*, 2013, p. 5.

While targeted at adults, and with a stated aim of encouraging adults to work at least 16 hours a week, it is reported that the change disproportionately affects children.⁴⁴ Around 90 per cent of the households that will lose benefit from the introduction of the cap will be families with children.⁴⁵ As a result of the cap, it is reported that any family on benefits with two adults and four or more children will move below the UK Government's preferred definition of the poverty line.⁴⁶

The UK's Equality and Human Rights Commission has criticised the Government for failing to produce evidence that any gender analysis or equality screening of the cap was provided to HM Treasury ministers prior to the announcement of the measure.⁴⁷ According to the Department for Work and Pensions' impact assessment, it is estimated that 60 per cent of claimants who are likely to have their benefit reduced by the cap will be single females, but only around 3 per cent will be single men.⁴⁸ The Secretary of State for Work and Pensions conceded in litigation that the cap has a disproportionately adverse impact on women generally: lone parents (who are more likely to be on benefits than other members of the population) are disproportionately affected by the imposition of the cap and 92 per cent of lone parents who have children living with them are women.⁴⁹ The Court of Appeal of England and Wales has remarked that it is 'a striking feature of the scheme ... that the cap applies equally to a childless couple in an area with cheap and plentiful social housing as it does to a lone mother of several children in inner London who is compelled to rent on the private market'.⁵⁰

As mentioned previously, the cap will disproportionately affect larger families who are out of work, and households in high rent areas who receive substantial Housing Benefit payments.⁵¹ This will have a considerable impact on ethnic minorities.⁵² It is estimated that approximately 40 per cent of the households affected by the cap will comprise of someone who is from an ethnic minority.⁵³

Welfare Benefits Up-rating Cap

Under the Welfare Benefits Up-rating Act 2013, a one per cent cap was imposed on benefit and tax credit increases, rather than an increase in accordance with the

⁴⁴ Children's Society, *Numbers and proportions of children affected by the benefit cap* (Children's Society 2012).

⁴⁵ Department for Work and Pensions, *Removing Income Support Equality Impact Assessment* (2011),

⁴⁶ Children's Society.

⁴⁷ House of Commons Library, *The Household Benefit Cap* SN/SP/6294, p 21.

⁴⁸ Department for Work and Pensions, *Removing Income Support Equality Impact Assessment* (2011),

⁴⁹ *R (SG and others) v Secretary of State for Work and Pensions* [2014] EWCA Civ 156, [25].

⁵⁰ *R (SG and others) v Secretary of State for Work and Pensions* [2014] EWCA Civ 156, [12].

⁵¹ Department for Work and Pensions, *Removing Income Support Equality Impact Assessment* (2011), para 14.

⁵² Families from ethnic minorities are most likely to be large: 16-17 per cent of families in these groups have three or more dependent children. (<http://www.jrf.org.uk/blog/2012/02/benefit-cap-what-do-we-know-about-large-families>)

⁵⁴ Department for Work and Pensions, *Welfare Benefits Up-rating Bill, Impact Assessment* (January 2013), para 16 <<http://www.parliament.uk/documents/impact-assessments/IA13-001.pdf>> accessed 5 May 2014.

Consumer Price Index as had been the practice previously. This up-rating cap is to apply for three tax years starting in 2013.

The Department for Work and Pensions' distributional analysis on the impacts of up-rating limits indicates that the average household income change for those in the lowest income decile is significantly greater than that applicable to those in higher deciles.⁵⁴ The Impact Assessment recognises that families with children are likely to be disproportionately affected by the measure.⁵⁵ The family type most likely to be affected by the measure is single parent families, of which women constitute 92 per cent.⁵⁶ It is alleged that failing to uprate in line with inflation will increase absolute child poverty, relative child poverty and the material deprivation of children.⁵⁷

Other austerity measures:

Cuts to Legal Aid

The impact of many of the austerity measures outlined above may be intensified by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ('LASPO'). LASPO amended the way that civil legal aid funding is awarded and limited the range of issues eligible for civil legal aid funding. It also removed a large section of civil law from the scope of public funding; this includes advice on benefits, most debt and housing issues, and matters involving education and employment.⁵⁸ Shortly after the provisions of the LASPO Act 2012 came into effect on 1 April 2013, the Ministry of Justice published proposals that would further reduce the availability of legal aid, including refusing legal aid to those who do not meet a residence test.⁵⁹

It is alleged that these limits on public funding will severely impede the capacity of individuals, particularly those who are economically vulnerable or who belong to one or more historically disadvantaged groups, to seek accountability and remedy for any policies of executive decisions that threaten or violate their human rights.⁶⁰

⁵⁴ Department for Work and Pensions, *Welfare Benefits Up-rating Bill, Impact Assessment* (January 2013), para 16 <<http://www.parliament.uk/documents/impact-assessments/IA13-001.pdf>> accessed 5 May 2014.

⁵⁵ *ibid*, p 8.

⁵⁶ *R (SG and others) v Secretary of State for Work and Pensions*, [25].

⁵⁷ Child Poverty Action Group, *Welfare Benefit Up-rating Bill Briefing* (2013) <http://www.cpag.org.uk/sites/default/files/CPAG_briefing_WelfareBenefitUp-ratingBill_Commons2ndReading.pdf> accessed 5 May 2014

⁵⁸ Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1, Part 2.

⁵⁹ Ministry of Justice, 'Transforming Legal Aid: Delivering a more credible and efficient system' (April 2013). The legality of this reform is doubted by counsel in the following Joint Opinion: <<http://www.liberty-human-rights.org.uk/materials/pub-counsels-opinion-on-legality-of-proposed-residecy-test.pdf>> accessed 5 May 2014.

⁶⁰ Byrom, 'The State of the Sector: the impact of cuts to civil legal aid on practitioners and their clients.' (Centre for Human Rights in Practice, the University of Warwick, 2013) <<http://downloads.ilegal.org.uk/2013/SOSReport.pdf>> accessed 5 May 2014.

Abolition of the Social Fund

The Welfare Reform Act 2012 sections 70-73 abolished the Social Fund (Crisis Loans for living expenses and Community Care Grants). Since April 2013, new local welfare assistance schemes have been introduced by local authorities to provide emergency and community support. It is reported that the total funding for local welfare assistance schemes was reduced by £250 million (in real terms) in 2013, as compared with equivalent expenditure on the discretionary Social Fund in 2010.⁶¹ Gross expenditure on Crisis Loans fell from £228.3 million in 2010-11 to £133.3 million in 2011-12.⁶² Nearly two-thirds of the new localised schemes were identified as no longer providing loans in emergencies.⁶³ The Crisis Loans were reported to offer a crucial form of interest-free credit for families in the most desperate circumstances.⁶⁴

Cumulative impact of the measures

It is reported that in 2011-12, (before most of the measures discussed above were implemented) 13 million people in the UK were living in poverty and more than half of these people lived in a family where someone worked.⁶⁵ The proportion of working adults without children living in poverty was 20 per cent in 2012, the highest rate in 30 years.⁶⁶ The austerity measures are being introduced while real incomes are decreasing: it is reported that, as compared with 2010-11, real incomes dropped by 3 per cent per annum in 2011-12.⁶⁷ Over this period, an extra 900,000 people were in the category of people receiving less than 60 per cent of the average household income,⁶⁸ while absolute poverty among children rose by 300,000.⁶⁹ Allegedly, this situation is worsening because of the aforementioned austerity measures.

According to information received, the aggregated impact of the austerity measures will result in the number of families in the UK living in poor quality or overcrowded housing increasing by 40,000 between 2010 and 2015.⁷⁰ In addition, more than 53,540 households were declared homeless during the financial year

⁶¹ Royston and Rodrigues, 'Nowhere to turn? Changes to emergency support', (Children's Society, 2013), p 9 <www.childrenssociety.org.uk/sites/default/files/tcs/nowhere_to_turn_final.pdf> accessed 18th March 2014 [note that page 3 states the amount is £150 million].

⁶² House of Commons Library, 'Localisation of the Social Fund', (SN/06413, 16 November 2012).

⁶³ Royston and Rodrigues, 'Nowhere to turn? Changes to emergency support', (Children's Society, 2013), p 3 <www.childrenssociety.org.uk/sites/default/files/tcs/nowhere_to_turn_final.pdf> accessed 5 May 2014

⁶⁴ *ibid*, p 12.

⁶⁵ MacInnes, Aldridge et al, *Monitoring Poverty and Social Exclusion* (Joseph Rowntree Foundation 2013), p 6.

⁶⁶ *ibid*, p 16.

⁶⁷ Department for Work and Pensions, *Low Income and Material Deprivation in the UK* (June 2013) <www.gov.uk/government/uploads/system/uploads/attachment_data/file/206850/first_release_1112.pdf> accessed 5 May 2014.

⁶⁸ In 2011-12, someone was considered to be in absolute low income if they received less than 60 per cent of average income in 2010-11 adjusted by inflation.

⁶⁹ *ibid*.

⁷⁰ Reed, *In the Eye of the Storm* (2012), p 9, <http://www.actionforchildren.org.uk/media/4012135/in_the_eye_of_the_storm.pdf> accessed 5 May 2014.

2012-13, an increase of 6 per cent from 50,290 in 2011-12.⁷¹ It is reported that the number of households forced to live in temporary bed and breakfast accommodation dramatically increased between 2011 and 2013; on 31 March 2013 there were 4,500 households in bed and breakfast accommodation compared with 2,310 on the same date in 2011.⁷²

According to information received,⁷³ the number of UK families who meet five of the seven Cabinet Office criteria for ‘vulnerability’ in 2015 is likely to have increased by 14 per cent from 2010 levels.⁷⁴ In real terms this represents an additional 54,000 children living in vulnerable households.⁷⁵

Following the recession, the number of people receiving emergency food annually has increased, but the recent rise has been particularly dramatic. According to one report from a reliable source, 500,000 people in Britain resorted to food banks in 2013, three times more than in the previous 12 months.⁷⁶

The UK economy has returned to growth since the second quarter 2013 with GDP having risen for four successive quarters. However, it is reported that net household income is continuing to fall sharply.⁷⁷ For example, it is forecast that a single mother with two children can expect her household income to fall 11 per cent from 2010-11 to 2015-16.⁷⁸ Although the welfare reform measures were reportedly partly aimed at moving people from benefits into work, it is estimated that, by 2015, there will be 120,000 more workless families than there were in 2010 before austerity measures were introduced.

Further, the measures allegedly have a disproportionate impact on women; Black, Asian and Minority Ethnic groups (‘BAME’ groups); children; and, persons with disabilities and their carers. In addition to the alleged discriminatory impact of specific austerity measures, as outlined above, reports referred to below allege that the aggregate impact of the austerity measures disproportionately affects certain groups.

⁷¹ Department for Communities and Local Government, *Statutory Homelessness: January to March 2013 and 2012/13, England*

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/205221/Statutory_Homelessness_Q1_2013_and_2012-13.pdf> accessed 5 May 2014.

⁷² Local Government Ombudsman, *No Place Like Home: Councils’ use of unsuitable bed and breakfast accommodation for homeless families and young people* (2013), p 5.

⁷³ Reed, *In the Eye of the Storm* (2012), p 9

⁷⁴ The seven criteria are: worklessness; housing; qualifications; mental health; illness/disability; low income; material deprivation. Cited from Cabinet Office, *Families At Risk* (2007).

⁷⁵ Reed, *In the Eye of the Storm* (2012), p 9

⁷⁶ Niall Cooper and Sarah Dumbleton, *Walking the breadline: the scandal of food poverty in 21st-century Britain* (Oxfam GB and Church Action on Poverty, May 2013).

⁷⁷ Plunkett, Hurrell and Whittaker, *The State of Living Standards* (Resolution Foundation, February 2014), p 6 <<http://www.resolutionfoundation.org/media/media/downloads/The-State-of-Living-Standards-ResolutionFoundation-Audit2014.pdf>> accessed 5 May 2014.

⁷⁸ *ibid*, p 36.

Women

The austerity measures are alleged to have a discriminatory impact on women.⁷⁹ Benefits make up one fifth of an average woman's income, compared to only one tenth of an average man's.⁸⁰ Further, women are more likely than men to rely on benefits for the bulk of their income: twice as many women (30 per cent) as men (15 per cent) rely on state support for at least three-quarters of their income.⁸¹ Research by the House of Commons Library shows that, of the measures announced in the 2010 Emergency Budget, 72 per cent of cuts would result in women's income being reduced as opposed to 28 per cent of men's.⁸²

It is reported that, by 2015-16, single parent households (most of which are female headed) will lose 15.1 per cent of net income through combined spending cuts and tax and benefit reforms; as women are disproportionately affected by the austerity reforms, single mothers are expected to lose nearly 16 per cent of their net income.⁸³ Furthermore, reduced services for children, young people and older people are alleged to place additional burdens of unpaid care work on women,⁸⁴ which can in turn affect women's enjoyment of the rights to work and education, among others.⁸⁵

It has been reported that many of the spending cuts will have a disproportionate impact on minority women.⁸⁶ In a 2012 study on women of African, Bangladeshi and Pakistani origin in the North East of England, only a marginal number of research participants were found to be in paid employment; a lack of access to adequate and affordable childcare was identified as by far the biggest barrier to paid employment, education and training.⁸⁷

⁷⁹ UK Women's Budget Group, 'The impact on women of the coalition government's Spending Round 2013' (2013).

⁸⁰ Robson and Robinson, 'The Impact of Austerity Measures Upon Women: A case study of the North East of England', (Women's Resource Centre, June 2013), p24 <<http://thewomensresourcecentre.org.uk/wp-content/uploads/NEWN-impact-of-austerity-measures-case-study-June-2013-.pdf>> accessed 5 May 2014.

⁸¹ Haddad, *The perfect storm: Economic stagnation, the rising cost of living, public spending cuts, and the impact on UK poverty* (Oxfam, June 2012).

⁸² *ibid.*

⁸³ UK Women's Budget Group 'The impact on women of the coalition government's Spending Round 2013' (2013)), cited in Rabindrakumar, 'Paying the Price: Single parents in the age of austerity' (Gingerbread, December 2013), p 22 <www.gingerbread.org.uk/uploads/media/17/8737.pdf> accessed 5 May 2014.

⁸⁴ Robson and Robinson 'The Impact of Austerity Measures Upon Women: A case study of the North East of England', (Women's Resource Centre, June 2013), p7, <<http://thewomensresourcecentre.org.uk/wp-content/uploads/NEWN-impact-of-austerity-measures-case-study-June-2013-.pdf>> accessed 5 May 2014.

⁸⁵ See report of Special Rapporteur on extreme poverty and human rights to the General Assembly, 2013 (UN Doc. A/68/293)

⁸⁶ Sandhu, Stephenson, Harrison, 'Layers of Inequality: A Human Rights and Equality Impact Assessment of the Public Spending Cuts on Black Asian and Minority Ethnic Women in Coventry' (Coventry Women's Voices et al 2013), p 3 <www2.warwick.ac.uk/fac/soc/law/chrp/projects/humanrightsimpactassessments/women/layers_of_inequality.pdf> accessed 5 May 2014.

⁸⁷ Robson and Imam 'Women's unpaid work and caring in Bangladeshi, Pakistani and African communities in Tyne and Wear: A research report for Oxfam's UK Poverty Programme' (Angelou Centre, October

Ethnic minority groups

Approximately two-fifths of people from minority ethnic communities live in low-income households, twice the rate for white people;⁸⁸ therefore, the changes to benefits may have a disproportionate effect on these groups. In 2009, it was reported that ‘51 per cent of black British children live in poverty compared with 27 per cent of white British children’.⁸⁹

Persons with Disabilities

It has been calculated that persons with disabilities, who constitute 8 per cent of the UK population, will bear 29 per cent of the UK Government’s cuts.⁹⁰ It is alleged that persons with disabilities will lose an average of £4,410 per person, nine times the burden placed on most other citizens.⁹¹ It is reported that, as a result of the reforms, one in ten households including persons with disabilities are fearful of losing their home.⁹²

Further, as around half of persons with disabilities are unemployed, and recipients of disability benefits are most likely to come from low-income or benefit-dependent households, the benefit reforms are expected to have a disproportionate impact on persons with disabilities.⁹³

While we do not wish to prejudge the accuracy of these allegations, we would appreciate information from your Excellency’s Government on the steps taken by the competent authorities to protect the human rights of the persons living in poverty in the UK in the context of austerity measures. In this context, and in connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which outlines applicable international human rights instruments and standards that we would like to recall.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

2012) < http://79.170.40.248/newwomens.net/images/stories/Gender__ethnicity_and_caring_-_FINAL_26_Sept_2012_doc.pdf> accessed 5 May 2014.

⁸⁸ Beasor, ‘Housing benefit and welfare reform: impact of the proposed changes on black and minority ethnic communities’, (Race Equality Foundation 2011), p 3 <www.better-housing.org.uk/sites/default/files/briefings/downloads/housing-brief18.pdf> accessed 5 May 2014.

⁸⁹ The Equality and Human Rights Commission, ‘The Equality and Human Rights Commission response to: Ending Child Poverty: Making It Happen’ (11th March 2009) <www.equalityhumanrights.com/legal-and-policy/consultation-responses/consultation-response-to-ending-child-poverty-making-it-happen/> accessed 5 May 2014.

⁹⁰ Duffy, *A fair society? How the cuts target disabled people* (The Centre for Welfare Reform, 2013), p 6.

⁹¹ *ibid*, p 7.

⁹² *ibid*, p 7.

⁹³ Demos, *Destination Unknown* (April 2013) p 36., <<http://www.demos.co.uk/files/Table1-headline.pdf>> accessed 5 May 2014.

1. Are the facts summarized above accurate?
2. What monitoring mechanisms have been put in place to assess the austerity measures outlined above and their impact on the rights of people living in poverty, including any disproportionate effects on disadvantaged groups including women, persons with disabilities and ethnic minority groups?
3. Were the austerity measures outlined above preceded by a human rights impact assessment? If so, please give details of its findings and of any follow-up given to such assessment.
4. Was a gender impact assessment carried out prior to the introduction of all of the above mentioned austerity measures? If so, please provide details of its findings and of any follow-up given to such assessment.
5. What measures have been put in place to ensure that individuals and families in the UK enjoy the right to social security, and the right to an adequate standard of living (including food and adequate housing) in the context of the austerity measures outlined above? Please include information about measures impacting on particular groups, including women, children and persons with disabilities.
6. What monitoring mechanisms and safeguards are in place to ensure the Government is allocating the maximum of its available resources to the realisation of social and economic rights, in particular of the most disadvantaged persons, and that minimum essential levels of these rights are being upheld?
7. Have complaints been lodged by individuals or groups about the impacts of the austerity measures described above? If so, how have such complaints been addressed, and what have the results been?
8. Were alternative measures to austerity carefully considered with reference to rights provided for in the ICESCR in the context of the full use of maximum available resources? If so, please provide details of this examination.
9. Has a comprehensive national anti-poverty programme been decided upon or implemented, as strongly recommended by the CESCR Committee, with specific measures and strategies to mitigate the adverse impacts of the current economic and financial crisis on disadvantaged and marginalised individuals and groups?

We would be most grateful to receive an answer within 60 days. We undertake to ensure that the response of your Excellency's Government to each of these questions is accurately reflected in the report we submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Maria Magdalena Sepúlveda Carmona
Special Rapporteur on extreme poverty and human rights

Olivier De Schutter
Special Rapporteur on the right to food

Raquel Rolnik
Special Rapporteur on adequate housing as a component of the right to
an adequate standard of living, and on the right to non-discrimination in this
context

Reference to international human rights law and standards Annex

In connection to the above concerns, we wish to refer your Excellency's Government to the rights enshrined, inter alia, in the International Covenant on Economic, Social and Cultural Rights (hereafter ICESCR, ratified by your Government on 20 August 1976); the Convention on the Elimination of all forms of Discrimination Against Women ('CEDAW', ratified by the UK on 7 April 1986); the Convention on the Rights of Persons with Disabilities (hereafter CRPD, ratified on 8 June 2009); and the Convention on the Rights of the Child (hereafter CRC, ratified on 15 January 1992). We would particularly like to draw your attention to the following applicable human rights norms and standards.

Article 2 of the ICESCR requires States to devote the maximum available resources to the progressive realization of the rights in the Covenant. In its general comment No. 3, the Committee on Economic, Social and Cultural Rights (CESCR) stated that this is so even during times of severe resource constraints, whether caused by a process of adjustment, economic recession, or by other factors. As emphasised in the report of the Special Rapporteur on extreme poverty which focuses on a human rights based approach to recovery from the global economic and financial crisis

(A/HRC/17/34), States cannot use the economic damage caused by the economic crisis to justify actions or omissions that amount to violations of basic human rights obligations.⁹⁴

While ‘progressive realisation’ of economic, social and cultural rights is dependent on the specific circumstances of the State concerned, article 2(1) also imposes obligations that considerably limit the discretion of States with regard to the implementation of the Covenant and require immediate implementation. States Parties are obliged to take steps to achieve progressively the full realisation of the rights recognised in the Covenant. This obligation is immediately applicable and is not subject to limitation. Hence, it is not an obligation to take action in the future. States, regardless of their economic situation, must take steps immediately to achieve the full realisation of the rights enshrined in the Covenant (General Comment No. 13 para 43).

There is a strong presumption that deliberately retrogressive measures that affect the level of enjoyment of economic, social and cultural rights are in violation of human rights standards (see for example CESCR General Comment no. 3, para. 9 & 10 and General Comment 4, para. 11). Examples of retrogressive measures might include the adoption of policy or legislation with a direct or collateral negative effect on the enjoyment of rights by individuals, or unjustified reductions in expenditures devoted to implementing public services that are critical for the realization of economic, social and cultural rights (see also A/HRC/17/34 para. 18).

The CESCR has also made clear in General Comment No 3 that it is incumbent on each State Party to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights.⁹⁵ The CESCR has explained that, in order for a State Party to be able to attribute its failure to meet its core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposal in an effort to satisfy, as a matter of priority, those core obligations.⁹⁶

In a letter to all States Parties to the ICESCR in May 2012, the CESCR emphasised that all States Parties should avoid austerity measures which ‘might lead to the denial or infringement of economic, social and cultural rights’.⁹⁷ The CESCR has provided guidance for how a State Party can implement austerity measures while still meeting its obligations under the ICESCR: the policy must be temporary; necessary and

⁹⁴ A/HRC/17/34, UN General Assembly, Report of the Independent Expert on the question of human rights and extreme poverty, 17 March 2011, para 12,

[ny.un.org/doc/UNDOC/GEN/G11/118/72/PDF/G1111872.pdf?OpenElement](http://www.un.org/doc/UNDOC/GEN/G11/118/72/PDF/G1111872.pdf?OpenElement)>, accessed 5 May 2014.

⁹⁵ *ibid*, para. 10.

⁹⁶ *ibid*. See also CESCR, ‘An Evaluation of the Obligation to Take Steps to the ‘Maximum of Available Resources’ Under an Optional Protocol to the Covenant’, (10 May 2007), UN DOC E/C.12/2007/1, para 6 <<http://www2.ohchr.org/english/bodies/cescr/docs/statements/Obligationtotakesteps-2007.pdf>> accessed 5 May 2014.

⁹⁷ Committee on Economic, Social and Cultural Rights, ‘Open Letter to All States Party to the International Covenant on Economic, Social and Cultural Rights’ (12 May 2012), available at <<http://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf>> accessed 5 May 2014

proportionate; non-discriminatory; and, it must ensure the protection of the minimum core content of rights at all times (CESCR/48th/SP/MAB/SW).⁹⁸

Furthermore, Article 2(2) of the ICESCR requires the UK government to ‘guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’. This requirement to guarantee the rights in the Covenant without discrimination is immediately applicable, and is not subject to notions of progressive realisation, or maximum available resources.⁹⁹

We would like to remind your Excellency’s Government of Article 11(1) of the ICESCR, which holds that “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 CRC also enshrines the right to an adequate standard of living for all children (art. 27).

In General Comment No 12, the CESCR has defined the right to adequate food as being ‘realised when every man, woman and child, alone or in the community with others, has physical and economic access at all times to adequate food or means for its procurement.’¹⁰⁰

General Comment No 4 of the CESCR confirms that the right to housing should not be interpreted in a narrow or restrictive sense, but is instead concerned with ensuring that persons have the right to live in conditions of security, peace and dignity. The right to housing should be guaranteed to all persons irrespective of income or access to economic resources, and it is specifically noted that the right in Article 11(1) refers to the right to adequate housing, including a requirement that such housing be available and at a reasonable cost.¹⁰¹ The CESCR urges states to ensure the affordability of housing, especially in times of economic contraction.

With respect to affordability, the CESCR states that:¹⁰² (i) personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised; (ii) steps should be taken by States Parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels; (iii) States Parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs; and (iv) in accordance with the

⁹⁸ *ibid.*

⁹⁹ *ibid.*

¹⁰⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No 12: The Right to Adequate Food (Art 11 of the Covenant), (12 May 1999), E/C.12/1999/5, para 8(f).

¹⁰¹ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No.4: The Right to Adequate Housing (Art 11(1) of the Covenant), (13 December 1991), E/1992/23, para 7.

¹⁰² *ibid.*, para 8(c).

principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases.

The Committee also underlines that States parties must give due priority to those social groups living in unfavourable conditions and recommends that related policies and legislation should not be designed to benefit already advantaged social groups at the expense of others (General Comment 4, para. 11).

In this regard, we would like to refer your Excellency's Government to the report of the Special Rapporteur on the right to housing following her recent visit to the UK¹⁰³. In her report the Special Rapporteur recommends that the State 'assess and evaluate the impact of the welfare reform in relation to the right to adequate housing of the most vulnerable individuals and groups, in light of existing data and evidence; consider whether particular measures are having a disproportionate impact on specific groups; assess whether the overall costs of the implementation of some reforms might outweigh the savings intended, thereby violating the State's obligation to use the maximum of available resources; and consider alternative avenues to achieve similar objectives without affecting the poorest or most vulnerable'¹⁰⁴. Particular reference is made to the spare room subsidy which she suggests 'should be suspended immediately and be fully re-evaluated in light of the evidence of its negative impacts on the right to adequate housing and general well-being of many vulnerable individuals and households'¹⁰⁵

Article 28 CRPD provides that States Parties recognise the right to an adequate standard of living and social protection for persons with disabilities and their families, which includes adequate food, clothing and housing, and for the continuous improvement of living conditions, and obliges the State to take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability. Article 9 of the CRPD holds that the State must enable persons with disabilities to live independently and participate fully in all aspects of life. This includes the obligation to take all appropriate measures to identify obstacles and barriers to accessibility to housing.¹⁰⁶

Furthermore, Article 19 of the CRPD requires that the State recognise the equal right of all persons with disabilities to live in the community, with choices equal to others, and that it take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community. This includes ensuring that persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and that they are not obliged to accept a particular living arrangement.¹⁰⁷ Article 28(2)(d) CRPD makes specific provision in relation to public housing, requiring the State to ensure access by persons with disabilities to public housing programmes.

¹⁰³ A/HRC/25/54/Add.2

¹⁰⁴ Ibid. p. 20, para. 80 (a)

¹⁰⁵ Ibid, para. 80 (b)

¹⁰⁶ Article 9(1)(s) CPRD.

¹⁰⁷ Article 19(1)(a) CRPD.

The right of everyone to social security is enshrined in article 22 of the UDHR, article 26 of the CRC and article 9 of the ICESCR, which states that “The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance”.

The Committee on Economic, Social and Cultural Rights, in its General Comment 19, held that “State parties must show that they have taken necessary steps towards the realisation of the right to social security within their maximum available resources, and have guaranteed that the right is enjoyed without discrimination”. While everyone has the right to social security, States parties should give special attention to those individuals and groups who traditionally face difficulties in exercising this right, in particular women, the unemployed, workers inadequately protected by social security, sick or injured workers, people with disabilities, and homeworkers (para. 31).

Furthermore, General Comment No 19, requires States Parties to establish non-contributory schemes or other social assistance measures to provide support to those individuals and groups who are unable to make sufficient contributions for their own protection.¹⁰⁸ Article 9 ICESCR includes the right to access and maintain benefits without discrimination in order to secure protection from (i) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (ii) unaffordable access to health care; and/or (iii) insufficient family support. In General Comment No. 5 on persons with disabilities, the CESCR emphasises the importance of providing adequate income support to persons with disabilities who, owing to disability or disability-related factors, have temporarily lost (or received a reduction in) their income, or have been denied employment opportunities.¹⁰⁹ The support provided should cover family members and other informal carers. Meanwhile, CRPD article 28 enshrines the rights of persons with disabilities to social protection, and obliges States Parties (inter alia) to ensure access by persons with disabilities to social protection and poverty reduction programmes, and assistance from the State with disability-related expenses.

Benefits must be adequate in amount and duration in order to ensure that everyone may realise his or her rights to family protection and assistance, an adequate standard of living and adequate access to health care, as contained in Articles 10, 11, and 12 of the ICESCR. While the CESCR acknowledges that the realisation of the right to social security carries financial implication for States Parties, the fundamental importance of social security for human dignity means that the right should be given appropriate priority in law and policy.¹¹⁰

The Committee has also stated that “there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under

¹⁰⁸ *ibid.*

¹⁰⁹ UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No. 5: Persons with Disabilities’, 9 December 1994, E/1995/22.

¹¹⁰ *ibid.*, para 41.

the Covenant.”¹¹¹ The State is under a burden to prove that any deliberately retrogressive measures have been introduced only after “the most careful consideration of all alternatives” and that they are “duly justified by reference to the totality of rights in the Convention, in the context of the full use of maximum available resources of the State party.” In addition, in considering whether there has been a violation, the Committee will examine whether there was “genuine participation of affected groups in examining the proposed measures and alternatives”, whether the measures were directly or indirectly discriminatory, and whether the measures will have “an unreasonable impact on acquired social security rights or whether an individual or group is deprived of access to the minimum essential level of social security.”

General Comment No. 19 also states that in the case of loss of employment, benefits should be paid for an adequate period of time and at the expiry of the period, the social security system should ensure adequate protection of the unemployed worker, for example through social assistance (para. 16). In addition, benefits must be “adequate in amount and duration in order that everyone may realize his or her rights to family protection and assistance, [and] an adequate standard of living” (para 22).

Article 3 CEDAW calls on States Parties to ‘take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men’. Article 11(2)(c) urges States Parties ‘to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of childcare facilities’.

In addition, Article 26 CRC provides that States Parties shall recognise for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realisation of this right under national law.

The UK Government has also undertaken ‘to establish or maintain a system of social security’ pursuant to Article 12(1) of the European Social Charter (‘ESC’). The European Committee of Social Rights (‘ECSR’) requires social security benefits to be ‘effective’, meaning that they should never fall below the poverty threshold defined as 50 per cent of median equalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value.¹¹² In its Conclusions XX-2 (2013), the ECSR held that the benefits provided by the UK Government were manifestly inadequate at the end of 2011,

¹¹¹ UN Committee on Economic, Social and Cultural Rights (CESCR), ‘General Comment No. 19: The right to social security’, 4 February 2008, E/C.12/GC/19

¹¹² European Committee of Social Rights, Conclusions XVIII-1 (United Kingdom), <http://www.coe.int/t/dghl/monitoring/socialcharter/conclusions/State/UKXVIII1_en.pdf> accessed 5 May 2014.

even before the austerity measures were implemented.¹¹³ As a signatory to the Charter we would encourage the UK Government to fulfil its international obligations by considering the recommendations made by the Committee when implementing the reformed benefits system.

Article 12 of the ICESCR recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. As held by the CESCR in General Comment No 14, the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food, nutrition and housing.¹¹⁴

In the CESCR's General Comment No. 14, the Committee identifies the obligation 'to ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone' as a 'core obligation' under Article 12.¹¹⁵

The right to work is enshrined in ICESCR articles 6 and 7. Pursuant to Article 3 ICESCR, States Parties undertake to 'ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights'. In its General Comment No. 18, the CESCR 'underlines the need to ensure equal opportunities between men and women in relation to their right to work.'¹¹⁶ Furthermore, Article 11(1) of CEDAW provides that States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular (inter alia): the right to work; the right to the same employment opportunities; and the right to social security.

In this regard, we would also like to draw the attention of your Excellency's Government to the principles of equality and non-discrimination, which are core elements of the international human rights normative framework and enshrined, inter alia, in article 2 of the UDHR and articles 2 of the ICESCR and the ICCPR. The equal right of men and women to the enjoyment of all civil and political economic and social rights should also be noted as set forth in Article 3 of the aforementioned Covenants. All the rights described above must be enjoyed equally and without discrimination; this is an immediate obligation of States.

In its General Comment No. 20 (para. 34 and 35), the CESCR noted that "economic and social status" is a prohibited ground for discrimination, implied in the phrase "other status" in article 2 of the ICESCR. The Committee also stressed that a discriminatory intent is not a necessary element of discrimination. Therefore, any

¹¹³European Committee of Social Rights, Conclusions XX-2 (Great Britain), (2013), <http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/State/UKXX2_en.pdf> accessed 5 May 2014.

¹¹⁴ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), 11 August 2000, UN Doc. E/C.12/2000/4, para 4.

¹¹⁵ *ibid*, para 43(b).

¹¹⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 18: The Right to Work (Art. 6 of the Covenant), 6 February 2006, UN Doc. E/C.12/GC/18, para 13.

measure with the purpose or effect of nullifying or impairing the equal enjoyment of human rights constitutes a violation of States' human rights obligations (para. 10 and 12). International human rights bodies have repeatedly recognised that groups which experience discrimination on multiple grounds will experience compounded disadvantage.

Finally, we would like to draw the attention of your Excellency's Government to the existence of the Guiding Principles on extreme poverty and human rights (contained in document A/HRC/21/39), adopted by the Human Rights Council by consensus at its 21st session (resolution 21/11). Your Excellency's Government may find paras. 51-55 (on the necessity for public policies to accord due priority to persons living in poverty), paras. 75-76 (on the right to food and adequate nutrition), and paras. 85-86 (on the right to social security) particularly relevant in this case.