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School Meal Polices and Children's Right to Food in the UK and Ireland

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Abstract

This article evaluates school meal policies in the UK and Ireland as a means to ensure the fulfilment of children's right to food, as protected under international law. It adopts a comparative approach, assessing the varying strategies adopted across the two jurisdictions and their challenges. Whilst new developments, including the recent expansion of both hot meal provision in Ireland and universal free school meals in Wales and Scotland, are welcomed, the article argues that school meal policies across the UK and Ireland need to be radically rehauled if they are to make any headway in the realisation of children's right to food.

Keywords

right to food – school meals – Convention of the Rights of the Child – UK – Ireland

1 Introduction

The potential benefits of the provision of free lunches within educational institutions are manifold, including a discernible improvement in attendance rates and students' concentration which may enhance performance within the classroom and beyond (Belot, M. and James, J., 2011; Kitchen *et al.*, 2012; Holford and Rabe, 2020, 2022). The school setting has the chance to offer a safe and nurturing environment where *all* children can enjoy healthy foods, free from financial constraints (Borkowski *et al.*, 2021). Indeed, the disruption to

the delivery of school meals precipitated by the COVID-19 pandemic has drawn attention to the critical role schools can play in ensuring children's nutritional needs are fulfilled.

This article will examine school meal policies in the United Kingdom (UK) and Ireland, evaluating their effectiveness as a means to ensure the fulfilment of children's right to food as protected within the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the United Nations Convention on the Rights of the Child (CRC) (United Nations, 1989), of which both states are party to. It will focus on the state obligations to: provide food for families who cannot feed their children themselves (United Nations, 1989; United Nations Committee on Economic, Social and Cultural Rights (CESCR), 1999); ensure children have access to food that is of a sufficient nutritional quality to meet their developmental needs (United Nations, 1989; CESCR, 1999; Office of the United Nations High Commissioner for Human Rights (OHCHR) 2010); and remove any obstacles to the enjoyment of the right on the basis of the child's socioeconomic background via the treaties' catch-all category of 'other status' (United Nations, 1966: 5; United Nations, 1989: 2; CESCR, 2009: 8, 11).

It will adopt a comparative approach, assessing the varying strategies implemented across the UK and Ireland and against the aforementioned duties of the devolved administrations pertaining to children's right to food under international law. Beyond their geographical proximity, these two jurisdictions share a strong relationship between social welfare and household food security which is befitting for this comparative exercise (Dowler and O'Connor, 2012). The article utilises food insecurity, a 'condition that occurs when individuals and households do not have regular access to a supply of healthy and nutritious foods to meet their dietary needs', as an indicator of food poverty, referring to the 'economic and structural causes of food insecurity' (Long *et al.*, 2020: 1).

The article will focus on extant schemes which aim to facilitate children's access to food during term time, rather than the alternative forms explored by the national governments in response to the pandemic during school closures. Whilst the latter measures were heavily criticised within the academy (McNeill, 2021) and through traditional (Blackall, 2021) and social media (Britain, 2021; Monroe, 2021), the standard school meal policies within each nation have yet to receive the same level of scrutiny.

Drawing upon the three criteria of scope, nutrition and stigma, the article will demonstrate that whilst school meal policies in the UK and Ireland differ, they both suffer from inherent weaknesses. Although new developments, including the recent expansion of both hot meal provision in Ireland and free

school meals in Wales and Scotland, are welcomed, the article concludes that school meal policies across the UK and Ireland must be significantly reformed if they are to make any headway in the realisation of children's right to food.

2 Study Background

The right to adequate food is protected via Article 11 ICESCR as a key element of the right to an adequate standard of living, imposing obligations upon the state to respect, protect and fulfil the right (CESCR, 1999). In the CRC, children's right to food is located within the right to the highest standard of health under Article 24 as well as the right to an adequate standard of living under Article 27, the latter of which shall be the focus of this article. In comparison to Article 11 ICESCR, Article 27 CRC has instrumental value, for it serves to foster the physical, mental, spiritual, moral and social development of the child as opposed to being an end in itself (Nolan, 2019). Thus, it recognises the specific support children require to ensure they thrive during their adulthood.

More significantly, Article 27(2) states that the 'primary responsibility' to provide the requisite conditions for children's development, including their nutritional needs, resides with the child's parents or other caregivers (United Nations, 1989: 8), thereby departing from human rights treaties' standard address to the state as the principal duty-bearer (Eide and Eide, 2006; Vandenhole *et al.*, 2019). As such, the state bears only a supplementary duty to 'take appropriate measures' to assist parents/caregivers in the realisation of children's right to an adequate standard of living, including the right to food, subject to the resources of the state (United Nations, 1989: 2, 8). This tiered approach serves two main purposes; first, it protects against unnecessary interference in parents/caregivers' relationship with their children by the state and, secondly, it clarifies that the state is not *always* expected to intervene (Detrick, 1999). However, the Convention's idealisation of the family environment as the optimum setting for a child to be raised (Eide and Eide, 2006) is increasingly untenable, given that the cost of food is now a major concern for three out of four UK consumers (Connors *et al.*, 2022).

That being said, in instances of need, the state's duty to 'provide material assistance and support programmes' to parents/caregivers is engaged, 'particularly with regard to nutrition' (United Nations, 1989: 8). The Committee on the Rights of the Child (the Committee) has clarified that the assistance envisioned includes the provision of income support to families living in poverty and efforts to ensure equitable access to nutrition (Vandenhole, 2014). Though this guidance seemingly leaves considerable discretion to the state, it has been

argued that the measures taken ought to be 'constructive and sufficient' for the parent/caregiver to realise the child's right to an adequate standard of living without encroaching upon the parent/caregiver's role as primary duty-bearer (Eide and Eide, 2006: 30–31). School meal policies are one of the main methods by which the UK and Ireland respond to child food insecurity, particularly amongst those from low-income backgrounds, and thus will be assessed against the state's obligation under Article 27(3).

Furthermore, children are particularly vulnerable to violations of their economic and social rights on account of their bio-developmental disadvantage, referring to their ongoing physical and mental development in comparison to adults, and their dependency on others for the fulfilment of their needs, which heightens the importance of state feeding programmes for children (Wringe, 1981; CRC, 2013; Nolan, 2013). Violations of the right to food at a young age are likely to have a protracted, potentially irreversible, effect upon their physical and psychological development (CRC, 2013; Nolan, 2013; Rougeaux *et al.*, 2016; Pearce *et al.*, 2019). This is particularly worrisome in light of the stark socioeconomic inequalities manifested in patterns of food purchase behaviour and consumption in the UK and Ireland, affecting dietary-related health (Friel *et al.*, 2006; Sugrue, 2015; Corfe, 2018; Goudie, 2022). There is a rich literature evidencing the difficulties low-income families face in ensuring that their children have access to a healthy diet, with cheap, energy dense food, such as crisps, biscuits and chocolate, often the more economical option compared to perishable fruits and vegetables (Surgue, 2015; Corfe, 2018; O'Connell *et al.*, 2019). Thus, such children are less able to enjoy their right to food and are at a higher risk of poor health, being overweight or obese (Cronin *et al.*, 2022), which may compromise their future prosperity (De Schutter, 2021). Within the human rights system, these sustained inequalities amount to 'systemic discrimination' against those living in poverty contrary to both Article 2(2) ICESCR and Article 2 CRC (De Schutter, 2021: 19).

At the outset, it must be stressed that state-funded provision of school meals alone will not eradicate child food insecurity. Hunger and malnutrition are symptoms of poverty and thus will endure without the treatment of its underlying causes, most notably income inequality, unemployment, insufficient social welfare and public services (De Schutter, 2021). Such action is necessary for families to escape the 'vicious cycle of poverty', as emphasised by De Schutter (2021: 15–16). Systemic discrimination necessitates systemic remedies, namely state investment into the wellbeing, cognitive and physical development of children from low-income backgrounds (De Schutter, 2021). That being said, in the absence of the strengthening of the welfare state in both

countries, an examination of the existing school meal programmes with a view to improve their efficacy is the most pragmatic action.

Whilst the normative content of the right to food continues to evolve, now firmly encompassing the concept of sustainable production and consumption (CESCR, 1999, 2008; De Schutter, 2014; Elver, 2015; Fakhri, 2020), this article will hereinafter focus on two central aspects of the right in its examination of the school meal policies operating in the UK and Ireland. First, adequate food must meet dietary needs, which includes providing the range of nutrients essential during childhood (CESCR, 1999; OHCHR, 2010). Secondly, the right to food, like all rights contained within the ICESCR and CRC, must be enjoyed without discrimination of any kind (United Nations, 1966, 1989). The article will focus on the prohibition of differential treatment of individuals, including by state policy, on the basis of their socioeconomic background, which the CESCR has confirmed is a subset of the 'other status' category of discrimination (CESCR, 2009, 11). Such discrimination encompasses both barriers to access to adequate food of those with a low socioeconomic status, as well as the stigmatisation experienced (Sepúlveda Carmona, 2013; De Schutter, 2021).

3 School Meal Policies in the UK and Ireland

3.1 *Nature and Scope*

All four nations in the UK offer free school meals (FSM) to 'the most disadvantaged pupils', provided by local authorities or private catering companies, however the eligibility criteria differ (Department for Education (DfE), 2018: 3). In England, all state school children in Reception to Year Two are entitled to FSM, beyond which they are offered on a means-tested basis (DfE, 2018). For a student in Key Stage Two or above to be eligible for FSM, their household must be in receipt of either Universal Credit or at least one of a number of legacy benefits (DfE, 2018). Households pursuing the Universal Credit route must have an income of less than £7,400, after tax and excluding other benefits, to be eligible – an extremely restrictive limit which ignores families with marginally higher incomes who nonetheless struggle to afford to feed their children three substantial meals a day (DfE, 2018). Whilst there has been an increase in the number of children eligible for FSM since 2015 in conjunction with the introduction of Universal Credit (Department for Environment, Food and Rural Affairs (DEFRA), 2021), with over 1.2 million children in England offered FSM in 2018/2019 (Clark, 2022), there remain serious concerns regarding the number of children in need who are currently excluded from the programme

(O'Connell *et al.*, 2019; Sinha *et al.*, 2020; Patrick *et al.*, 2021). The exact number of food insecure children in England who are ineligible for FSM is uncertain, particularly in light of the lack of governmental data monitoring food security prior to the first UK Food Security Report (DEFRA, 2021) issued pursuant to the state's new statutory duty (Agriculture Act 2020, s.19), yet estimates currently range from 800,000 to 1.2 million – over 37 per cent of children growing up in poverty (CPAG, 2020b, 2022). These alarming figures severely undermine the effectivity of the state's programme as a means to facilitate the universal enjoyment of children's right to food, as was rightfully denounced by the Committee in 2016 (UN CRC, 2016). The use of household benefit entitlement as a barometer of need for FSM lays bare the inadequacy of the welfare system, as its narrow reach leaves a worryingly high number of food insecure children excluded from the regime (Patrick *et al.*, 2021). As such, it can hardly be said that the programme has provided assistance to all parents/caregivers in England in need of additional support in realising their children's right to food, as required under Article 27(3) CRC.

In Wales, FSM were originally entirely means-tested, regardless of age of the student, marking it the 'least generous provider' within the UK (Johannes, 2021). Thus, the devolved government did not make specific provision for the nutritional needs and heightened importance of a balanced diet for children in the early years of education, unlike in England (Public Health Agency, 2018). The restriction of FSM to children from households in receipt of the same legacy benefits as those used in England, and now Universal Credit, has similarly failed in its aforementioned aim of supporting all children from disadvantaged backgrounds, with 42 per cent of children in poverty in Wales excluded from the programme (Patrick *et al.*, 2021). However, in 2021, following lobbying by non-governmental organisations such as CPAG (2020a) and the Bevan Foundation (Macor *et al.*, 2021), the Welsh Government announced its plans to provide FSM to all primary school children, surpassing the support currently offered in England (Miles, 2021). Consequently, an additional 196,000 students in Wales are expected to gain access to FSM by September 2024 alongside the 87,000 who are already eligible, greatly reducing the number of children going hungry at school (Ahmed *et al.*, 2021; Miles, 2021; Welsh Government, 2023). This pivotal development, whilst long overdue, is illustrative of the overwhelming force of civil society in recent years within the area of children's access to food in response to Westminster's neglect of its obligations owed under international law, including the campaigns led by footballer Marcus Rashford in relation to the provision of FSM s during school holidays in 2020 (Plant, 2020).

Progress has also been made in Scotland: since 2015, the Scottish Government has provided universal FSM for children in Primary 1 (P1) to 3 (P3), however, in

2022, this policy was extended to students in Primary 4 (P4) and 5 (P5) and is hoped to include P6 and P7 in the future (Scottish Government, 2021; Scottish National Party, 2022). Like England and Wales, FSM are means-tested for students in secondary education (MyGov.Scot, 2022). Uniquely, the Scottish government makes provision for families experiencing 'financial hardship', including those subject to the austere five-week wait before their first Universal Credit payment, offering temporary FSM for children in such households during this time (MyGov.Scot, 2022). Undoubtedly the preferable solution would be the removal of this arduous waiting period altogether, which is a principal cause of stress, homelessness and debt for many applicants (Sosenko *et al.*, 2019; Select Committee on Food, Poverty, Health and the Environment, 2020). That being said, Scotland's programme is therefore the most inclusive of the four nations at present, which mirrors the strides taken towards the protection of children's socioeconomic rights via UNCRC (Incorporation) (Scotland) Act 2024 and the proposed Right to Food (Scotland) Bill (Smith, 2020; Grant, 2021). However, the Scottish scheme still fails to extend to all children in need, with 17 per cent of children in poverty in Scotland ineligible for FSM in 2020 (Patrick *et al.*, 2021). Whilst this is set to decrease following the extension of the scheme to children in P4 and P5, this reform will not offer any further support for those in secondary schools and thus leaves room for improvement in regard to its efficacy as a means of assisting parents/caregivers in their duty to fulfil children's access to adequate food.

Lastly, Northern Ireland's programme shares characteristics of the other three nations examined above. FSM are not universally offered at any age, similar to the Welsh system prior to the announced changes (Education Authority, 2021). Eligibility is again conditional upon receipt of either one of the legacy benefits or Universal Credit, however the limit on net household earnings for families claiming Universal Credit is the highest at £14,000 per year (Education Authority, 2021). Furthermore, in Northern Ireland, children with special educational needs with specific dietary requirements may also receive FSM as a standalone category – an exemplary policy which appreciates the individual child's requirements and alleviates the financial and time-related pressures for parents/caregiver in feeding their children who may not qualify under the means-tested route (Education Authority, 2021). Northern Ireland's somewhat inconsistent approach of less rigid means-testing for FSM coupled with the lack of universal school meals for young children has resulted in approximately 22 per cent of children in poverty falling outside of the scope of the programme (Patrick *et al.*, 2021). Whilst it is therefore not the worst performing nation in the UK, Northern Ireland's FSM programme is demonstrably still falling short of its purpose to bolster the physical and mental development of children from

deprived backgrounds as it does not extend to all those in need and therefore also does not live up to the expectations of the state under Article 27(3) CRC.

Overall, approximately a million children living in poverty in the UK are denied access to FSM, revealing that the scope of the state's principal scheme to combat child food insecurity is insufficient (Patrick *et al.*, 2021). This has emerged as a key trend across the four nations in spite of the variations in eligibility criteria, considerably reducing the efficacy of the programme as a means of levelling inequalities and working towards the universal enjoyment of the right to food. The welfare reform undertaken since 2010 has evidently compromised the utility of the state's policy, with FSM entitlement determined by receipt of benefits. For example, many families in low-income households, who nevertheless may be engaged in some paid work, have faced a two-pronged attack; state support has been withdrawn, reducing their ability to feed their children (Innes, 2020). Simultaneously, such families who are no longer eligible for benefits under the new Universal Credit system will also be refused FSM, as the latter is predicated upon receipt of the former. Thus, the UK's FSM programme as it currently stands falls short of the required state action to ensure the right to food is enjoyed regardless of the child's socioeconomic background due to its narrow reach, as the Committee (2016) has concluded. As has been heavily campaigned for amidst the upsurge in child food insecurity produced by the COVID-19 pandemic, universal FSM across all year groups would be the most desirable, yet admittedly costly, solution in furtherance of the right in the absence of greater income support which would also remove the separate issue of stigmatisation to be discussed subsequently (Patrick *et al.*, 2021; Good Food Working Group, 2021; Sustain, 2022; Food Foundation, 2022). Nonetheless, the expansion of FSM to all children from families receiving Universal Credit irrespective of household income should be the next logical step to ensure that the support of those most in need is prioritised, as is demanded by the Feed the Future Campaign led by a coalition of organisations including the Food Foundation, School Food Matters, Sustain and CPAG (Food Foundation, 2022).

In contrast to the UK, in Ireland, provision of food has hitherto predominantly been arranged by school principals and private contractors at a local level (Browne *et al.*, 2016), largely determined by the institution's dining and kitchen facilities (Walton *et al.*, 2015; Darmody, 2021). Insufficient physical infrastructure, staff and funding have traditionally precluded the provision of freshly cooked meals in many Irish schools (Walton *et al.*, 2015), though this option is currently being made more widely available via the state's Hot Meals Programme to be discussed shortly (Department of Social Protection, 2021a, 2021b). As a result, packed lunches prepared at home have generally been more popular than school meals in both primary (Walton *et al.*, 2015) and secondary

schools in Ireland (Browne *et al.*, 2016) and outnumber those consumed in the UK (Browne *et al.*, 2016). Thus, the resources of the school is a key determinant of the type of food eaten by pupils at lunch time – although this is equally applicable to the internal divergence in amenities between schools in UK and Ireland as it is between the two countries (Farthing, 2012; O'Connell *et al.*, 2019).

Whilst school meals are not provided in *all* educational institutions in Ireland, the Irish government has nonetheless made provision for 'disadvantaged' (Citizens Information, 2022) children deprived of 'regular, nutritious food' (Humphreys, 2020) through its School Meals Programme, similar to FSM. However, whilst the UK has a singular scheme which operates across the four nations, albeit with slight variations in eligibility, the Irish government's School Meals Programme is markedly more fragmented, comprised of three separate initiatives (Educational Disadvantage Centre, 2022). Collectively, the schemes aid approximately 1,500 schools and organisations and 230,000 children, though, as will be demonstrated, the degree of support is not uniform (Humphreys, 2021).

The first, and oldest, component of the School Meals Programme is the Urban School Meals Scheme, established by the Education (Provision of Meals) (Ireland) Act 1914 (Carney, 1985). Traditionally offering pupils buns and milk, the scheme now provides a sandwich, drink and, on occasion, fruit for over 44,000 children across 301 primary schools in predominantly urban areas (O'Connor *et al.*, 2008; Morgan, 2009; Humphreys, 2021). Local authorities can request funding for up to 50 per cent of their expenditure on food and drink for schools participating in the scheme from the Department of Social Protection (2022); however, they are wholly responsible for administration costs (Humphreys, 2021). Schools seeking to take part in the scheme must kickstart the process (Morgan, 2009), though it is not mandatory for local authorities to participate (O'Connor *et al.*, 2008). Consequently, whether pupils can make use of this scheme is contingent upon the local authorities' enthusiasm for the project and its financial capabilities, creating discrepancies between the support given (Morgan, 2009). Similarly, schools are involved in the process of determining the eligibility of individual pupils, therefore the assumption is that staff are always aware of each child's socioeconomic background and needs (Morgan, 2009). Whilst in many instances school faculty are alert to any signs of food insecurity displayed by students, particularly where they interact with the child on a daily basis, this may not be the case in larger institutions (Gooseman *et al.*, 2020). Moreover, the ability for children to downplay their hunger due to embarrassment or fear of their parents/caregiver being blamed cannot be understated, which further illustrates the potential limits of this subjective assessment of eligibility (O'Connell *et al.*, 2019).

The second element of the School Meals Programme is the School Meals Local Projects Scheme, whereby the Department of Social Protection provides funding for individual food provision initiatives established and led by primary and secondary schools, as well as community groups (Department of Social Protection, 2022). Thus, whether the child is able to receive help in accessing nutritious foods is again arbitrarily determined by the locality and/or institution's capacities and funds (Doherty, 2019). Moreover, funding is awarded yearly on the merits of the application made, leaving principals competing for children in their schools to receive sufficient food (Morgan, 2009: Darmody, 2021). Applications made by schools who are part of the DfE's "Delivering Equality of Opportunity in Schools" (DEIS) programme have traditionally been prioritised (Morgan, 2009: 19), however, consideration is also given to schools with discernible 'levels of concentrated disadvantage' in fitting with the overall programme's underlying purpose of redressing inequalities (Doherty, 2019; Darmody, 2021: 4–5). The scheme has a considerably broad reach, benefitting 214,574 students across 1,393 schools – although, whilst some of these pupils will be provided with a warm meal cooked onsite, others may only receive a snack depending on the nature of their school/organisation's project (Humphreys, 2021). As the state's funding under the School Meals Local Projects Scheme only covers food, and not staff or equipment, the majority of schools/organisations who make successful applications are only able to offer pupils pre-packaged food such as sandwiches and biscuits – the nutritional value of which may be low and therefore unable to meet children's developmental needs (Darmody, 2021).

Nevertheless, the Hot Meals Programme, the latest addition to Ireland's School Meals Programme, is a welcomed departure from the two other schemes. Piloted in 37 primary schools in 2019, the Hot Meals Programme introduced the provision of cooked lunches funded solely by the state (Department of Social Protection, 2021b). In recognition of many schools' limited onsite facilities, the programme covers the cost of an independent supplier preparing and delivering hot meals to the primary school, including both a vegetarian/vegan option as well as one which accommodates cultural dietary requirements (Department of Social Protection, 2021a), in accordance with the principle of consumer acceptability (CESCR, 1999). Commendably, the Hot Meals Programme has been extended over time, with approximately 316,000 pupils benefitting from the scheme in 2024, though it has yet to be introduced in secondary schools (Department of Social Protection, 2024). Although the provision of freshly cooked meals is often comparably more expensive than pre-packaged foods in schools, the costs are outweighed by the multitude of benefits offered including improvements to the child's nutritional consumption, positive relationship

with food and educational performance (Taher *et al.*, 2020; Evans *et al.*, 2020; Darmody, 2021). Accordingly, whilst economic feasibility of offering the programme to secondary school students is a legitimate concern, this proposal ought to be given real consideration – particularly in light of the observed negative correlation between secondary schools' proximity to fast-food establishments and intake of fruit and vegetables to be discussed subsequently (Browne *et al.*, 2016, 2020). In sum, although the creation of the Hot Meals Programme further complicates Irish school meal policy, with a hodgepodge of three different schemes pursuing the same objective, its contribution towards the goal of improving children's access to nutritious food in the school environment, in line with international expectations, cannot be denied (CESCR, 1999; OHCHR, 2010; Darmody, 2021).

3.2 *Nutrition*

Following an investigation into the quality of school dinners led by TV chef Jamie Oliver in the mid 2000s (Garner, 2009), various nutritional standards have been implemented across the UK to regulate the content of food provided in educational institutions (The Education (Nutritional Standards and Requirements for School Food) (England) Regulations 2007, SI 2007/2359; Nutritional Requirements for Food and Drink (Scotland) Regulations 2020, SSI 2020/153; The Healthy Eating in Schools (Nutritional Standards and Requirements) (Wales) Regulations 2013, SI 2013/1984 (W 194); Public Health Agency, 2010). Now, school dinners generally emerge as healthier than packed lunches in the UK, particularly in primary schools, which adds credibility to the government's FSM Programme (Browne *et al.*, 2016; Taher, A.K. *et al.*, 2020; Evans, C.E.L. *et al.*, 2020). However, enforcement of the regulations remains an issue; in England, inadequate monitoring compromises the effectiveness of the standards in place, as the Select Committee on Food, Poverty, Health and the Environment (2020) have highlighted, with over 60 per cent of secondary schools failing to meet these requirements (Food for Life, 2019). Again, Scotland's engagement with children's access to food is prominent in this regard, with Education Scotland's Health and Nutrition Inspectors routinely assessing compliance with the nation's recently revised Nutritional Requirements for Food and Drink in Schools (Scotland) Regulations 2020 (Education Scotland, n.d.). Nevertheless, the realisation of these standards remains a key challenge across the UK, especially in light of the changes to the distribution, and quality, of school meals necessitated by the COVID-19 pandemic (Rose *et al.*, 2021).

Furthermore, even where nutritional food is available in schools, it is not always accessible for students on the FSM programme. In contrast to direct provision of a hot dinner, which is the main means by which the scheme runs

in primary schools, it is commonplace for eligible secondary school students to receive a stipend to be used to purchase their lunch at the school canteen (Farthing, 2012). As such, older pupils are seemingly given an element of choice over the food and drink they consume, with a greater variety of options available compared to the standard selection between the meat or vegetarian dish at primary schools (Whole School Meals, 2022). However, the allowance awarded in schools operating on this basis is in many instances insufficient; whilst the sum varies in each institution, a survey conducted by CPAG (2012) found that one in seven secondary school students eligible for FSM were unable to purchase a full meal and drink using only the stipend. Faced with the decision to either put back their selection or pay for their overspend, the only option for many is to substitute the healthy dinner for cheaper, less nourishing alternatives such as a slice of pizza (Farthing, 2012). Furthermore, unspent funds are in most cases cleared from their account at the end of the day, equating to a loss of approximately £65 million-£88.3 million in FSM funds every year (Defeyter *et al.*, 2020). Demonstrably, the UK's FSM programme has only cemented socioeconomic health inequalities, with eligible students constrained by the allowance system. As such, two core components of the right to food, namely nutritional quality and non-discrimination, are called into question.

Comprehensive school meal guidelines are a relatively recent development in Ireland, with the Nutritional Standards for School Meals belatedly published in 2017 to regulate food served as part of the School Meals (Local Projects) Scheme (Healthy Ireland, 2017). Prior to this, schools were left to establish and monitor their own policies and thus, unsurprisingly, only one third of post-primary schools were found to be actively promoting 'healthy eating' (Kelly *et al.*, 2010: 340). Adapted from the Northern Ireland's own Food in Schools Policy, Ireland's standards require food served in participating schools and organisations to offer 'healthy balanced meals', with particular recognition of the support 'disadvantaged children' need in accessing nutritious foods (Healthy Ireland, 2017: 5). The Nutritional Standards for School Meals are highly detailed, providing several examples of what may constitute a suitable breakfast, snack, lunch or after-school meal and dinner (Healthy Ireland, 2017). Nevertheless, whilst the standards have only recently been adopted, with little explanation of how schools will be assessed for their compliance with the standards (Healthy Ireland, 2017), the nutritional quality of food provided through this component of Ireland's School Meals Programme may similarly fail to materialise in practice. Notably, Ireland's schemes, whereby food is provided directly, avoid the pitfall of the allowance system operated in many UK secondary schools whereby the sum awarded may only be sufficient

to purchase an unhealthy snack in comparison to a nutritious dinner, yet this is somewhat counterweighed by the child's ability to benefit from the School Meals Local Projects Scheme dictated by the resources and willingness of their school or local organisation to assist.

Though the Hot Meals Programme has been praised for introducing a greater emphasis on the availability of nutritious food for schoolchildren regardless of household income, several challenges must be overcome for this goal to be achieved in its entirety. The Hot Meals Programme has yet to reach post-primary schools, where there are greater concerns regarding the quality of food students consume; studies by Kelly *et al.* (2010) and Browne *et al.* (2016) have highlighted the trend of post-primary students in Ireland purchasing their lunch, or other snacks, from fast-food environments, supermarkets and convenience stores, which are invariably low in nutrients and high in sugar and fat. Proximity to such establishments encourages the consumption of cheap, unhealthy foods in preference to fruit and vegetables, inordinately impacting children from low-income households who are already less likely to have access to a balanced diet (Sugrue, 2015; *Browne et al.*, 2016; Corfe, 2018; O'Connell *et al.*, 2019). Proprietors have been able to capitalise upon the limited catering facilities of post-primary schools in Ireland, as well as the adolescent culture of frequenting fast-food establishments, at the expense of students' health (Kelly *et al*, 2010; Browne *et al.*, 2016). Whilst pupils also represent a lucrative opportunity for retailers in the UK, this behaviour is comparatively less widespread due to the mandatory provision of an optional school dinner, combined with many schools only granting students in the eldest years the privilege to buy lunch offsite (DfE, 2022). Nevertheless, children's health in the UK is similarly threatened by a "Junk Food Cycle", as termed by Dimbleby (2021: 44–55) in his independent review of the state's food system, whereby the development and marketisation of high calorie foods has seen the human diet shift away from natural substances and towards overconsumption. The postponement of the UK Government's plans to restrict the promotion of food and drinks high in fat, salt or sugar (HFSS) further highlights that the neglect of children's health in the pursuit of economic growth is not confined to Ireland, for the policies have ostensibly been delayed due to the current cost of living crisis, in spite of repeated findings that multibuy offers on such items are a 'false economy' (Obesity Health Alliance, 2022) which encourage unnecessary purchases rather than saving families money (Tedstone *et al.*, 2015; Holt and Bradshaw, 2019; Department of Health and Social Care, 2022).

A further point of interest is the relationship between the education children may receive at school regarding the importance of healthy eating and the food available. The promotion of food literacy in the classroom, defined

as 'the ability to make informed choices about food that support one's health, community and the environment' (Nourish, n.d.), is clearly undermined when the students are offered cakes, crisps and soft drinks at lunch time (Browne *et al.*, 2016). Ireland's Food Dudes Healthy Eating Programme, funded by the Department of Agriculture, Food and the Marine, with support from the European Union, is an illustration of how educational institutions can actively enhance both children's perception and consumption of nutritious foods (Horne *et al.*, 2009; Sugrue, 2015). Over a million pupils across 3,300 primary schools in Ireland have participated in the programme, which consists of daily exposure to different fruits and vegetables during school for over two weeks via the Food Dudes characters, followed by the encouragement of fruits and vegetables to be brought in from home for consumption at school in pursuit of a certificate and other awards (Healthy Ireland, 2017). The Food Dudes Programme has been found to produce lasting results, in terms of parents' willingness to provide children with fresh fruit and vegetables as well as the children's intake of such produce (Horne *et al.*, 2009). Yet, such progress appears to be undone at post-primary level, where students have a greater amount of autonomy over their food choices during the school day and a wider pool of options beyond the food provided onsite. This is further illustrated by the prohibition of vending machines in only primary, and not post-primary, schools (Kelly *et al.*, 2019), again inviting companies to profit from pupil's consumption of sweet treats and savoury snacks (Kelly *et al.*, 2019; Browne *et al.*, 2020). As evidenced by Browne *et al.*'s (2020) study, there is a genuine demand from Irish post-primary school students for healthier food options to be available at school. Though similar complaints of unhealthy food choices have arisen in the UK, the earlier regulation of the nutritious quality of food served at school and the existence of onsite facilities where fresh meals may be produced has seen the emergence of comparatively more supportive food environments (Browne *et al.*, 2020) – albeit subject to the willingness and resources of the school and its locality (Saunders *et al.*, 2015). Thus, investment into the expansion of hot meal provision across all post-primary schools at lunchtimes, either made onsite where possible, or via third parties as in the Hot Meals Programme, emerges as the most obvious solution to ensure students are not limited to 'low nutrient, energy dense' pre-packaged foods, in accordance with the right to food under international law (Browne *et al.*, 2020: 985). This must be coupled with a commitment to teaching students critical food literacy which situates individual choices within the global aim for sustainable food systems and environmental justice, necessary for the current and future enjoyment of the right to food worldwide (Meyer *et al.*, 2021).

3.3 *Stigma*

3.3.1 UK

A final point of comparison between school food policies in the UK and Ireland is the stigma, or lack thereof, affiliated with the provision of free meals or snacks for select pupils. From a rights-based perspective, stigmatisation is a defining feature of material deprivation, highlighted within the work of the Special Rapporteur on extreme poverty and human rights (Sepúlveda Carmona, 2013; De Schutter, 2021) – yet disappointingly largely overlooked by the CESCR and Committee. Whilst Scotland and Wales are currently expanding the provision of universal FSM for primary school pupils, the continued use of means-testing to determine eligibility to varying degrees across all of the UK has ironically only widened socioeconomic divisions. Different queuing systems for eligible and non-eligible children have ostracised children from low-income households with many separated from their friends during lunch times, subject to bullying and humiliation as a result of being 'poor' (O'Connell *et al.*, 2019: 13). Stigmatisation is a contributory factor to the low take-up of FSM, (Royston *et al.*, 2012) with only 71 per cent eligible secondary school students in England claiming their meal in 2012 (Nelson *et al.*, 2012).

However, the Welsh and Scottish Governments have made a conscious effort to erase the stigma associated with FSM by enacting legislation requiring FSM to be awarded discretely (Schools (Health Promotion and Nutrition) (Scotland) Act 2007, s. 8; Healthy Eating Schools in (Wales) Measure 2009, s. 7). Guidance issued by the Welsh Government (2013) provides a list of practical measures that schools are advised to adopt in furtherance of this aim, including allowing all students to eat in the same premises wherever possible and eliminating any actions required of FSM recipients which allows them to be identified, such as queuing for a meal ticket. Whilst this requirement is believed to be a contributory factor to Wales' relatively high uptake of means-tested FSM, with approximately 87.8 per cent of pupils claiming their meals in 2019–2020 (Welsh Government, 2021a, 2021b), levels are still low in Scotland where the uptake was only 76.2 per cent in the same academic year (Somerville, 2020). Thus, despite attempts to improve take up, the state's programme remains limited in ability to abolish socioeconomic inequalities in children's access to food, or combat the exclusion such children experience, both constituting discrimination within the human rights framework (Shinwell and Defeyter, 2021).

3.3.2 Ireland

In contrast, a study of the literature suggests that children who benefit from Ireland's School Meals Programme do not suffer from the same embarrassment that is associated with FSM in the UK, which surely relates to the different ways

eligibility is determined in the two countries (Kelly *et al.*, 2010; Browne *et al.*, 2016; Darmody, 2021). The means-tested element of the UK's approach which identifies specific pupils in need of support, coupled with their physical separation from their peers, "others" children from low-income households, whereas two out of the three Irish schemes studied are offered to whole schools rather than on an individual basis (James, 2012; Holford, 2015). As such, it is to be expected that stigma would not emerge within schools in the same way it has in the UK. Nevertheless, the same may not be said for Ireland's Urban School Meals Scheme, where pupils are selected to benefit due to their personal socioeconomic situation – like the UK's FSM Programme. Whilst this research area remains underdeveloped, it is postulated that the comparative lack of stigma arising from the Irish Urban School Meals Scheme compared to FSM is due to the age of students the respective schemes are offered to and their operation. The Irish Urban School Meals Scheme is confined to primary schools, where pupils may be less alert to socioeconomic disparities within the classroom and may not face the same amount of pressure from their peers as they do in secondary schools to "fit in" (Ahmed *et al.*, 2021). Additionally, the prominence of the class system within the UK even in the 21st century cannot be understated, which further compounds the experience of children singled out due to disadvantage, contrary to the non-discrimination requirement. Indeed, children's eligibility for FSM s is frequently used as a proxy measure for financial hardship or low socioeconomic status when tracking educational performance, illustrating the association between class and FSM s entitlement in the UK, whereas such studies are less routine in Ireland (DfE, 2015; Hughes, 2019).

As acknowledged earlier, the most certain way to remove the stigma from FSM would be through universal provision across the UK, thereby removing the existing divide between eligible and non-eligible students. However, in light of the state's resistance to this proposal due to its estimated cost of approximately £1.8 billion and concerns that it would provide unnecessary assistance to children from food secure households (Patrick *et al.*, 2021), at the very least all schools must be required to adopt 'inclusive' practices whereby the food available, ensuring the way it is served and where it is eaten, is the same for children in receipt of FSM and those who are not (O'Connell *et al.*, 2019: 65).

4 Concluding Thoughts

State funded school meals should not be viewed as the panacea to child food insecurity as they fail to challenge the underlying causes of poverty. Nevertheless, whilst calls for greater welfare provision in the UK and Ireland

have largely been ignored, school meal policies have constituted an active ground of negotiation, evidenced by the expansion of FSM in Scotland and Wales and the development of the Hot Meals Programme in Ireland. It was recognised such schemes can be of immense value for children from low-income households, who otherwise may have limited access to adequate food, let alone food of nutritious quality. However, this study has emphasised that both the UK and Ireland's school meal programmes suffer from significant weaknesses which undermine their capacity to provide material assistance to parents/caregivers struggling to realise their children's right to food, as per Article 27(3) CRC. The use of benefit receipt to determine eligibility for FSM where universal provision is not available was heavily criticised for its exclusion of over one million children across the UK who live in poverty, demonstrative of the failings of the welfare state. Contrastingly, the Irish School Meals Local Projects Scheme was critiqued as a mechanism for levelling inequalities in access to food due to its contingency upon the school or local organisation's resources.

Whilst it was recognised that concerns of the nutritional content of the food and drinks available via the respective schemes have been raised in both jurisdictions, this was particularly the case in Ireland where the absence of onsite facilities and funding to produce meals from scratch means that for many schools, pre-packaged foods are the only option. The Hot Meals Programme is now, commendably, assisting many primary schools in providing their pupils with fresh, nourishing dishes, though attention now must turn to post-primary schools to facilitate healthy food choices by older students. Comparatively, the mandatory provision of a hot meal option in UK schools distinguishes it from the Irish case study; nevertheless, there are similar worries of children eligible for FSM opting for less nutritious snacks at lunchtimes instead, due to the small allowance awarded. However, a distinct problem with the UK's programme is its stigmatisation, particularly in secondary schools, which may leave eligible students either excluded from their peers or choosing not to avail themselves of the scheme and thus frustrating its purpose. as well as violating the non-discrimination requirement under international law. Evidently, there are several improvements which need to be made to both states' programmes for significant progress to be made towards realising *all* children's right to food, specifically focusing on expanding the reach of the programmes, ensuring the food available is of the best nutritional quality available and removing exclusionary practices which contribute to the marginalisation of pupils from low-income households. Indeed, the cost benefit analysis of FSM expansion in England recently conducted by Impact on Urban Health (2022), affirms the overwhelming advantages of such an endeavour, including both core benefits to children in receipt of FSM as well as the wider indirect benefits to the economy and

society. Whilst it is parents/caregivers who bear the primary responsibility for realising children's right to adequate food, assistance by the state is more vital than ever – starting with, but certainly not limited to, school meal schemes.
The author reports that there are no competing interests to declare.

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