



Close the Gap and Engender joint submission to the Scottish Government consultation on Building Community Wealth in Scotland

1. Introduction

Close the Gap and Engender have developed a joint response to this consultation on Building Community Wealth in Scotland. Our organisations are clear that if new Community Wealth Building duties, guidance, and engagement are to be successful in achieving intended outcomes, gender and equalities approaches must be mainstreamed from the outset of their development. This means starting from a place of understanding that as a group, women have less access to resources, safety, and power and that women continue to provide most of the care for others and are over-represented in types of work which are lower paid and undervalued. Community Wealth Building must, from its foundations, pro-actively serve to disrupt existing patterns of inequality to advance intersectional gender equality. Otherwise, it risks simply reproducing the undercurrents of economic exclusion and inequality that already exist across Scotland's communities.

2. Answers to questions

Q1a. We are proposing a duty to advance Community Wealth Building, which form do you think this duty should take:

Option C

We do not have a strong position on which form a new duty to advance Community Wealth Building (CWB) should take, however we would favour the combined approach set out in option C. This could help to ensure that communities are meaningfully engaged with decision-making on CWB and that this process is given weight alongside consultation with local and national

business interests. It could also help enable greater coherence in duty bearers' and other key stakeholders' approaches to the duty, and to secure accountability for delivery on commitments.

Engagement

Between our organisations, we have more than 50 years' experience of advocating for gendered perspectives to be integrated into policymaking. It is our experience that consideration of gender in policy areas such as planning and economy is marginal, and decision-making and design are often entirely gender-blind. Any new duty to advance CWB must be implemented alongside the meaningful participation of women and marginalised populations within local and regional communities when creating place-based strategy and action plans. These groups should be identified by understanding who experiences economic inequality and exclusion from well-paid work.

The inclusion of women and marginalised groups in any involvement of local communities in implementing a new duty on CWB must be explicitly required. Engender has previously drawn attention to critical considerations regarding women's representation in community planning processes and the extent to which gender considerations can be ensured.

In response to the Scottish Government's consultation on Local Place Plan Regulations in 2021, we highlighted evidence that women are vastly under-represented in local government.¹ Less than 30% of councillors elected at the last local government elections were women and figures are not available for community councils or for community development trusts.²

The Community Council Framework notes that community councils should represent a full cross section of the community, and encourage the involvement of people regardless of gender, race, age, disability, nationality or sexual orientation.³ Yet, studies by the Women's Design Service show an under-representation of disabled women in consultation processes.

¹ Engender (2021) *Engender response to the Scottish Government consultation on Local Place Plan Regulations*. Available at: <https://www.engender.org.uk/content/publications/Engender-response-to-the-Scottish-Government-consultation-on-Local-Place-Plan-Regulations.pdf>

² Engender (2020) *Sex and Power 2020*. Available at: <https://www.engender.org.uk/content/publications/Engenders-Sex-and-Power-2020.pdf>

³ The Community Council Framework. Available at: <https://www.communitycouncils.scot/what-is-a-community-council/the-community-council-framework>

New duties on CWB must be complemented by adequate support and resources so that the communities behind them are provided with the necessary framework to ensure that diverse women are included, and that gender is robustly considered as part of their processes. For example, these steps should include gender-sensitive consultation practices, such as active outreach to different groups of women, flexible meeting times, women-only spaces, childcare support, accessibility, and different participation formats.

An open meeting or survey which passively assumes the participation of people from groups typically excluded would not be sufficient to correct the structural exclusions of people and perspectives from these groups. Instead, seeking views must be proactive, and this is likely to require resourcing and upskilling support.

As currently outlined, CWB implementation may be presented as representative, while continuing to speak only to the needs of a subset of residents and communities with most access to power and decision-making processes. **To address this, specific requirements need to be outlined that will ensure the capturing of views and engagement of women and other groups currently under-represented in many community-led consultation processes, such as in local planning.** Without this, women, and particularly women from further marginalised groups and communities, will not see their needs met.

Accountability

The requirement to produce a collective strategy and plan that sets out specific actions is an essential part of ensuring accountability for delivery of the CWB duty and wider approach. It also has the potential to support coherence in duty bearers' and other key stakeholders' approaches to compliance with the duty. However, evidence on public bodies' performance of the Scottish Specific Duties (SSDs) of the public sector equality duty (PSED) shows that this is not a given. **A duty to publish a strategic plan must be explicit on what public bodies must include and report on as part of this plan.**

Many of the key aspects of CWB and potential implementation challenges are synonymous with those associated with PSED. The SSDs are intended to support public bodies to advance equality, tackle discrimination and place the use of evidence at the heart of policymaking and equality outcome-setting. However, successive assessments by Close the Gap, Engender and other

equality bodies, and the Equality and Human Rights Commission, have highlighted that this has not been achieved.⁴

This consultation highlights the challenges of embedding CWB in ‘anchor organisations’, including the need for leadership, resourcing, and capacity building. The same challenges apply to PSED, however assessments of public bodies’ performance of the duties have demonstrated that there has been almost no progress in meeting these challenges. A lack of leadership, resourcing and accountability have been repeatedly highlighted as central to the failure of PSED to advance equality and tackle discrimination in Scotland. Ten years on from the enactment of the duties, this is deeply concerning.⁵

As stated in the consultation, it is essential for CWB to be “consistently represented in key operating plans, economic strategies and impact measures”. This is closely aligned with the duty on public bodies to mainstream equality across all their functions.⁶ The mainstreaming duty is arguably the most important duty in PSED, with the greatest transformative potential. Public bodies must make equality central to how they carry out their work to meet their obligations to their employees and service users.

However, assessments have consistently highlighted an absence of meaningful equality mainstreaming in a majority of Scotland’s public bodies.⁷ Many public bodies still do not understand what mainstreaming is and require significant capacity building on both the process of mainstreaming and on the inequalities affecting each protected group. Understanding of intersectionality, and how to apply this lens to their work is rarer still. This has particular salience for the development of a CWB duty, and ensuring duty bearers are able to embed CWB in key operating plans and strategies, measure impact and create change.

⁴ Close the Gap (2022) *Submission to the Scottish Government Consultation on the Review of the operation of the Public Sector Equality Duty in Scotland*. Available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-submission-to-the-SG-consultation-on-the-review-of-the-operation-of-the-PSED-in-Scotland.pdf>, and Engender (2022) *Submission to the Scottish Government Consultation on the Review of the operation of the Public Sector Equality Duty* <https://www.engender.org.uk/content/publications/Engender-response-to-PSED-consultation.pdf>, and Engender (2022) *Proposed Draft Regulations for the Scottish Specific Duties of PSED*. <https://www.engender.org.uk/files/annex-engender-draft-regulations.pdf>

⁵ Ibid

⁶ <https://www.legislation.gov.uk/sdsi/2012/9780111016718/contents>

⁷ Close the Gap (2022) *Submission to the Scottish Government Consultation on the Review of the operation of the Public Sector Equality Duty in Scotland*. Available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-submission-to-the-SG-consultation-on-the-review-of-the-operation-of-the-PSED-in-Scotland.pdf>

Evidence already suggests that equality is not being mainstreamed in current approaches to CWB. For example, the consultation states that “[t]he systematic approach of CWB means that some Regional Economic Partnerships are placing CWB at the centre of their regional economic strategies” and refers to the Ayrshire Growth Deal. The content of this strategy indicates that partners have not applied an equality mainstreaming approach to its development. The progress report states that project leads are required to complete equality impact assessments for their projects⁸, however we were only able to identify one project that has an associated equality impact assessment, with the assessment being of poor quality.⁹ Detail on the strategy is not included in the three member councils’ most recent PSED reports, and the strategy itself contains only marginal reference to equality. Furthermore, the Preston approach fails to mention equality beyond socioeconomic inequality. **This is a clear example of the need for specific action to ensure CWB duty bearers are mainstreaming equality into their work.**

We call for a specific accountability duty on senior leadership of organisations subject to the CWB duty as an essential step. Along with other equalities organisations, we have consistently called for greater accountability of public bodies’ senior leaders as a means of securing prioritisation of PSED as a central part of public bodies’ work. Senior leaders set the culture of public bodies, decide how internal resources are distributed and are responsible for ensuring their organisations meet their duties. However, our experience has highlighted a range of concerning attitudes among senior leaders.¹⁰ The failure of public sector leaders to ensure meaningful action to deliver equality through PSED demonstrates that there must be a duty to ensure executive accountability on the CWB.

It is essential that the development of a CWB duty is informed by lessons learned from the implementation of PSED. If it is to be effective, the requirements of duty bearers be clear, measurable and enforceable, and duty bearers must have adequate capacity building and resourcing to deliver. Duty

⁸ <https://www.ayrshiregrowthdeal.co.uk/wp-content/uploads/2022/02/Ayrshire-Growth-Deal-Annual-Performance-Report-February-2022-final-version.pdf>

⁹ <https://www.east-ayrshire.gov.uk/Resources/PDF/L/LDP2-Equalities-Impact-Assessment.pdf>

¹⁰ Close the Gap (2022) *Submission to the Scottish Government Consultation on the Review of the operation of the Public Sector Equality Duty in Scotland*: Available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-submission-to-the-SG-consultation-on-the-review-of-the-operation-of-the-PSED-in-Scotland.pdf>.

bearers must be required to report on how they are meeting the CWB duty, including providing evidence of actions and impacts.

A CWB duty has the potential to help tackle women's labour market inequality, and wider inequality, in Scotland. However, to do so, **the duty and its implementation must be gender-competent**¹¹. As detailed above, the PSED requires public bodies to mainstream equality in their policy development. This should therefore require those public bodies covered by a CWB duty to mainstream equality in associated strategy and policy. However, evidence shows that PSED cannot be relied upon to ensure public bodies do this. **It is therefore essential that gender equality is made explicit throughout the CWB duty and approach, and that duty bearers are required to provide evidence of how they have mainstreamed equality into their work to meet the new duty.** For public bodies covered by PSED, this could mean including detail around CWB in their mainstreaming reports, or in specific reports on the CWB duty.

The proposal to create a statutory requirement to include business, third sector and communities in the development of a strategy and action plan has the potential to strengthen work on CWB. However, it will require significant capacity building among prescribed public bodies to ensure they have the competence to steer such engagement. This is particularly relevant for ensuring equality is embedded in work to meet the CWB duty. Private sector businesses are unlikely to see action to tackle gender inequality as a priority in this work, and it could prove difficult for duty bearers to influence this. Careful consideration is needed to understand how private sector, and other organisations, can be enabled to embed equality considerations in their own work on CWB.

Q1b. One way Scottish Government could support the implementation of the proposed Community Wealth Building duty is to provide statutory or non-statutory guidance. Would this be helpful to partners in meeting the proposed duty?

Yes

¹¹ Gender competence refers to the skills, knowledge, and analytical capability to develop statistics, data, policy, or programmes that are well-gendered and take account of the socially constructed difference between men's and women's lives and experiences.

We call for the guidance on the implementation of the CWB duty to be statutory in order that it can be a strong lever for enforcement action. We know that public bodies require clear and specific guidance to enable them to meet their duties, however it is our experience that the guidance must be enforceable if it is to be effective.

During the development of PSED, public bodies strongly advocated for guidance to be *as broad as possible* to allow them to develop the most appropriate action for their organisation.

However, since PSED has been in force, public bodies have stated that the extensive guidance provided by the Equality and Human Rights Commission is *not specific enough*. They have called for more prescriptive guidance setting out step-by-step processes for meeting the duties. This demonstrates that public bodies need guidance that is as detailed as possible to provide a step-by-step work through of some of the more complex aspects anticipated in meeting the CWB duty.

The success of the CWB duty is dependent on gender equality being effectively mainstreamed into its development and delivery. **It is therefore critical that guidance includes specific instruction on how to use PSED to shape work on CWB.** This could speak to each of the five pillars in turn. For example, on the workforce pillar, guidance could focus on the necessity of action to tackle the gender pay gap and occupational segregation to the delivery of Fair Work and cover the breadth of causes of women's labour market inequality. Further, on the spending pillar, guidance could set out that public bodies must use the procurement duty contained in the SSDs to shape their approach to commissioning and procurement in CWB. There is more detail on equality in commissioning and procurement in our answer to question 3.

Q2a. Are there other non-legislative measures that you believe are required to accelerate the implementation of the Community Wealth Building approach in Scotland?

Yes

Our answers throughout contain further information on non-legislative measures that may support the CWB approach. Specific requirements must be set out that will ensure the capturing of views and engagement of women and

other groups currently under-represented in many community-led consultation processes, such as in local planning.

- A duty to publish a strategic plan must be explicit on what public bodies must include and report on as part of this plan.
- We call for a specific accountability duty on senior leadership of organisations subject to the CWB duty as an essential step.
- Gender equality must be made explicit throughout the CWB duty and approach, and duty bearers must be required to provide evidence of how they have mainstreamed equality into their work to meet the new duty.
- New, statutory guidance must include specific instruction on how to use PSED to shape work on CWB.
- Policy analysis that informs revenue-raising and spending decisions must be underpinned by an intersectional gender analysis, identifying, and responding to the structural barriers experienced by women and marginalised groups.
- CWB must include a duty to collect intersectional gender-sensitive data to measure impact of wealth building in local communities.
- We call for public bodies to be given clear direction and support on embedding gender equality in procurement, in order that they can meet their legal duties under PSED and deliver well-gendered commissioning and procurement standards under CWB.
- CWB's definition of 'green jobs' must include care work, and investment in green jobs must not leave this critical sector behind.
- If the CWB duty/approach is to improve women's access to local labour markets and training programmes, it must engage with the issue of childcare.
- Scottish Government must ensure that the well-documented patterns of gender inequality found in business practice and leadership, are not replicated in community-run businesses as CWB approaches are implemented.
- Lessons must be learned from the lack of robust action in both SNIB and NSET to tackle gender inequalities in how men and women can participate and benefit from the way the economy is structured. Women's equality as part of CWB must go beyond recognising and addressing the gender pay gap, which is one part of a complex number

of factors that causes women to have less access to wealth and power in local economies.

Q2b. Are there specific actions required to advance delivery of the items contained within the Shared Policy Programme outlined on page 11 of the consultation paper?

Yes

Within the Shared Policy Programme (SPP), it states that the policy intention behind the creation of a Community Wealth Building Bill is to “focus on encouraging diverse and **inclusive local economies**, finance, land, and ownership models.” The SPP also states that public sector capital and revenue funding decisions should be based on “**targeted social, economic and environmental outcomes**” where possible, and that procurement practices should “**improve[d] access to training and labour markets** for disadvantaged communities and individuals”.

Gender mainstreaming

To achieve local wealth building, which is truly inclusive and benefits communities as a whole, there must be clear recognition of the structural inequalities which women and other marginalised groups face in participation in the economy and access to wealth. We would argue that a key ‘social outcome’ must be to achieve intersectional gender equality, for example in closing the gender pay gap – as Moray Council have included as part of their CWB pilot and in their local Economic Strategy for 2022.¹²

Specific action must take place to ensure a gender and equalities mainstreaming approach is applied to the creation of any legislation, guidance, and implementation efforts to deliver CWB across Scotland. **Policy analysis that informs revenue-raising and spending decisions must be underpinned by an intersectional gender analysis, identifying, and responding to the structural barriers experienced by women and marginalised groups.**

Without addressing the need for gender mainstreaming, a CWB approach is likely to widen inequality for women, as regional and place-based models can exclude women and other protected groups. There is evidence that place-based programmes can redistribute spending away from women, racially

¹² Page 11: <http://www.moray.gov.uk/downloads/file147200.pdf>

minoritised groups, and disabled people.¹³ For example, spending at local level that is not subject to a gender budget analysis may result in proportional overspending on community facilities typically used by men and boys, such as football pitches, over those more likely to be used by women and girls, such as hockey pitches, or netball courts.¹⁴

The main mechanism for equality mainstreaming – PSED – is not sufficient to ensure that local decision-making is gender-sensitive.¹⁵ **The CWB duty and approach must include explicit requirements to mainstream gender, and equality throughout development, implementation, and evaluation.**

Economic strategy

Engender and Close the Gap have been concerned, alongside others in the women’s sector, about the lack of gender mainstreaming in economic strategy by Scottish Government. In our joint submission on the Development of the National Strategy on Economic Transformation (NSET), we stressed that NSET must integrate gender perspectives and women’s needs into economic policymaking.¹⁶ We made it clear that this means recognising that women and men experience the economy in very different ways. These differences are underpinned by outdated gendered expectations about the types and relative value of economic activities undertaken by men and women, the persistence of gendered labour market barriers and occupational segregation, and a system of national accounting that focuses solely on measures of paid labour at the expense of unpaid care and reproductive labour.

Prioritising action on gender equality as part of economic strategy benefits women and girls by targeting investment and encouraging growth in sectors where women’s work is concentrated. This further enhances the quality of infrastructure that supports women to progress within the labour market and

¹³ O’Hagan A, Hill-O’Connor C, McRae C, Teedon P (2019) *Evaluation of participatory budgeting activity in Scotland 2016- 2018: research findings* Scottish Government. Available at:

<https://www.gov.scot/publications/evaluation-participatorybudgeting-activity-scotland-2016-2018/>

¹⁴ <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-and-Engender---Evidence-for-the-Advisory-Council-on-Economic-Transformation-August-2021.pdf>

¹⁵ Close the Gap (2022) *Submission to the Scottish Government Consultation on the Review of the operation of the Public Sector Equality Duty in Scotland*. Available at:

<https://www.closesthegap.org.uk/content/resources/Close-the-Gap-submission-to-the-SG-consultation-on-the-review-of-the-operation-of-the-PSED-in-Scotland.pdf>, and Engender (2022) *Submission to the Scottish*

Government Consultation on the Review of the operation of the Public Sector Equality Duty in Scotland

Available at: <https://www.engender.org.uk/content/publications/Engender-response-to-PSED-consultation.pdf>

¹⁶ Close the Gap & Engender (2021) *Submission to the Advisory Council: Development of the National Strategy on Economic Transformation*. Available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-and-Engender---Evidence-for-the-Advisory-Council-on-Economic-Transformation-August-2021.pdf>

alleviates women's and child poverty. We have continually highlighted the clear and mounting global evidence that gender equality is good for economic growth: research by Close the Gap found that tackling the gender gap in employment is worth up to £17bn to Scotland's economy.¹⁷

When NSET was published, we were very concerned to see a largely gender-blind approach taken to the creation of the Strategy and extremely limited mainstreaming of intersectional gender equality outcomes throughout the pillars. For example, the Strategy failed to recognise the reliance of the 'formal economy' on women's unpaid labour, and how reliance on women to carry out this work perpetuates economic inequality. The Scottish Government's own figures suggest unpaid care, predominantly carried out by women, is currently saving £13.1 billion per year.¹⁸ The lack of gender mainstreaming in NSET is also reflected in the minimal consideration of gender economic inequality in this consultation on CWB, with closing the gender pay gap being the only specific outcome which focuses on women's economic inequality.

Intersectional, gender-sensitive data

A specific action required to advance delivery of CWB in line with the SPP is to ensure that it includes **a duty to collect intersectional gender-sensitive data to measure impact of wealth building in local communities**. In every policy area we work across, without exception, a lack of gender-sensitive data undermines the capacity of policy and legislation to meet women's needs, to treat women fairly, and to bring about women's equality and rights. It is clear to us that a failure to gather, analyse, and use gender-sensitive data has been a serious impediment to gender mainstreaming within economic policy and programme development to date.

Access to the labour market

Work to deliver the SPP must also engage with women's labour market inequality if it is to ensure access to training and employment is improved for the most disadvantaged groups. The gender pay gap, the key indicator of women's labour market equality, represents the divergent experiences men and women have not only in employment but also in education, training, care, and other domestic labour. It is a persistent feature of Scotland's labour

¹⁷ Close the Gap (2016) *Gender Equality Pays: The economic case for addressing women's labour market inequality*. Available at <https://www.closesthegap.org.uk/content/resources/Gender-Equality-Pays.pdf>

¹⁸ Scottish Government (2022) *National Care Service Bill Financial Memorandum*

market, with Scotland's gender pay gap remaining stubbornly high at 10%.¹⁹ Women's labour market experience continues to be characterised by low pay, discrimination, insufficient working hours and precarious work. This is particularly true for specific groups of women including young, disabled and racially minoritised women.

CWB initiatives to improve women's access to the labour market and women's economic inequality must therefore not be limited to considerations connected specifically to employment, but must also consider women's caring roles, the availability of childcare, women's experiences of primary and secondary education, and further and higher education, skills acquisition, and economic development. Action must be explicitly intersectional to ensure all women are able to benefit from CWB.

Duty bearers and "anchor organisations"

The extent and complexity of the causes of women's labour market inequality mean that duty bearers and partners engaged in this aspect of CWB and the SPP will require significant capacity building to ensure they are able to develop effective action. The proposal that anchor organisations should develop and commit to local or regional fair employment charters is a key intervention that could help improve women's access to the labour market. However, if such charters, and actions to deliver them, are not adequately gendered they will simply replicate and reinforce existing inequalities. Consideration should also be given to recent research from the Equality and Human Rights Commission on the effectiveness of charters in delivering equality.²⁰

The consultation correctly highlights that anchor organisations can exert considerable influence through their commissioning and procurement of goods and services. Local authorities in particular have the potential to use their wage-setting ability to raise the wage level of women working in undervalued, traditionally female occupations, such as social care, cleaning and childcare, which are often publicly funded but delivered by private or third sector employers. Public bodies subject to PSED are required to consider how they can use procurement to advance equality, however to date there is limited evidence of this duty being used effectively, if at all.

¹⁹ Close the Gap (2022) *Gender pay gap statistics*. Available at: <https://www.closesthegap.org.uk/content/resources/Working-Paper-22---Gender-Pay-Gap-Statistics-2021.pdf>

²⁰ Equality & Human Rights Commission (2022) *Review of social covenants and charters*

There is more detail on action to tackle women’s labour market inequality in our answer to question 4, and on the use of procurement to advance equality and wellbeing in our answer to question 3.

Q3. Are there ways in which the law could be changed to advance the spending pillar of Community Wealth Building?

Yes

Please provide a reason for your answer. In your response you may wish to consider the stakeholder suggestions outlined in the consultation paper which have arisen from early engagement.

Procurement

Despite its focus on procurement, this section of the consultation does not mention PSED, the specific duty on procurement, or equality at all. This indicates a lack of consideration of equality at this stage in the development of a CWB duty. Further, the recently published Scottish Government ‘Public Procurement Strategy for Scotland 2023 to 2028’, also does not mention the specific duty on procurement, or equality.²¹ Given the critical nature of the procurement duty and its potential for good, it is a significant concern that equality appears not to have been considered in the development of the core procurement strategy. The absence of equality mainstreaming at this crucial stage means the Strategy is unlikely to encourage the consideration of equality in procurement and may even obscure the regulatory requirement on public bodies to do so.

As highlighted in our response to question 2b, commissioning and procurement have significant potential to be used to advance wellbeing and tackle inequality. Indeed, the Scottish Specific Duties of the public sector equality duty require public bodies to give due regard to equality in procurement

²¹ <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2023/04/public-procurement-strategy-scotland-2023-2028/documents/public-procurement-strategy-scotland-2023-2028/public-procurement-strategy-scotland-2023-2028/govscot%3Adocument/public-procurement-strategy-scotland-2023-2028.pdf>

decisions.²² However, evidence suggests that most public bodies are failing to apply this duty meaningfully or meet its requirements at all.²³

Close the Gap's PSED assessment work found that procurement has always been one of the weakest areas in public bodies' performance of the duties²⁴. The most recent assessment was only able to identify one public body that described an action they were planning to take on procurement, and it was assessed as poor quality. Local authorities were assessed as having the poorest performance: we were unable to identify any evidence of equality being considered in procurement.²⁵

This is of particular concern given that local authorities are CWB anchor institutions, and the biggest users of procurement in the public sector, with this procurement having the potential to influence significant inequalities. This issue was also identified in the report of the Independent Review of Adult Social Care, which was highly critical of local authorities' approaches to commissioning and procurement in relation to social care.²⁶

We are concerned about the assumptions made about the effectiveness of existing procurement legislation in advancing economic, social, and environmental wellbeing, and equality. It is not clear if any assessment of the effectiveness of procurement legislation in this regard has been undertaken. We are also not aware of evidence of the success of the sustainable procurement considerations of the Procurement Reform (Scotland) Act 2014 in delivering Fair Work. To rely on existing procurement legislation to deliver wellbeing and equality without evidence it is already doing so is, at best, ill-considered.

²² <https://www.legislation.gov.uk/sdsi/2012/9780111016718/regulation/9>

²³ Close the Gap (2020) *Internal assessment of local authorities' performance of the public sector equality duty* (Not published), and E.K. Sarter (2016) *Public procurement and the public sector equality duty: equality sensitive tendering in Scotland*.

²⁴ Close the Gap (2020) *Internal assessment of local authorities' performance of the public sector equality duty* (Not published); and Close the Gap (2015) *Making Progress? An assessment of public sector employers' compliance with the public sector equality duty*. Available at:

<https://www.closesthegap.org.uk/content/resources/Making-Progress---An-assessment-of-employers-compliance-with-PSED-November-2015.pdf>, and Close the Gap (2014) *Monitoring public bodies' compliance with the public sector equality duty* Available at:

https://www.closesthegap.org.uk/content/resources/1450180414_CTG-Working-Paper-12---Monitoring-Scottish-public-bodies-compliance-with-the-public-sector-equality-duty.pdf

²⁵ Close the Gap (2020) *Internal assessment of local authorities' performance of the public sector equality duty* (Not published)

²⁶ Scottish Government (2021) *Independent Review of Adult Social Care in Scotland*

Integrating equality in procurement has the potential to ensure public expenditure on goods and services is used as a lever to achieve women's equality. There are several ways public bodies could do this, including by:

- Incorporating gender equality in the **subject of the contract** itself, including the requirement of gender technical competence on the part of the contractors. This will enhance the gender-sensitivity of the goods and services themselves, as well as acting as a driver of gender competence in the goods and services providers.
- Fostering equality within the workforce of a specific contract, for example by including targets for the employment of women or men in works contracts.
- Including gender criteria for the **evaluation of the submitted tenders, which will award contracts to those demonstrating superior gender competence, and the most gender-sensitive product and service design.**
- Incorporating gender equality clauses into the **conditions for implementation** of the contract and managing these during the delivery of the contract. This will ensure gender-sensitive monitoring, evaluation, and performance management.²⁷

Integrating gender equality considerations into procurement may enable public bodies to mitigate some of the disproportionate impacts of competition-based tendering on women's employment. As a result of occupational segregation, where women and men are clustered into different types of work, this contributes to the undervaluation of women's work and de-skilling²⁸.

In addition to curbing the impact of gender inequality in women's labour market participation, procurement that actively looks at gender equality considerations could lead to funding projects better designed to meet the needs of women service-users. For example, in public transport-related procurement, contracts could designate that providers actively look at how their services meet needs of women in the community it impacts. We know from recent research that women feel unsafe using public transport at certain

²⁷ Adapted from <https://eige.europa.eu/gender-mainstreaming/methods-tools/gender-procurement>

²⁸ E.K. Sarter (2016) *Public procurement and the public sector equality duty: equality sensitive tendering in Scotland*

times of the day and due to a lack of safety infrastructure²⁹ – these are examples of how a service could adapt to look at gender equality as part of the procurement process.

This is a critical lesson for the development of the CWB duty and its proposals around commissioning and procurement, and the role of anchor organisations. **We call for public bodies to be given clear direction and support on embedding gender equality in procurement, in order that they can meet their legal duties under PSED and deliver well-gendered commissioning and procurement standards under CWB.**

In line with evidence presented in our responses to the Scottish Government consultation on the reform of the public sector equality duty³⁰, **we have also called for the Scottish specific duty on procurement in PSED, and its accountability mechanism, to be strengthened and supported by statutory guidance.**

Green jobs

The consultation states that “CWB can support the creation of fair, green jobs which are anchored to local communities”. This is welcome, however despite care jobs being valuable low-carbon work, care work is excluded from the current framing of green jobs in Scotland. A recent report, supported by Scottish Government and Skills Development Scotland, defined green jobs as “new and emerging”, “enhanced skills and knowledge jobs”, and “increased demand jobs”.³¹ The report set out that green jobs are concentrated in professional; associate professional; skilled trades; and process plant and machine operatives professions. It also highlighted that women make up only 27.8% of the green jobs workforce.

These priority sectors highlight that green infrastructure continues to be understood by the Scottish Government in traditional terms, focused on

²⁹ <https://www.transport.gov.scot/publication/summary-report-womens-and-girls-views-and-experiences-of-personal-safety-when-using-public-transport/main-findings-and-recommendations/>

³⁰ Close the Gap (2022) *Response to the review of the operation of the Public Sector Equality Duty in Scotland*, Available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-submission-to-the-SG-consultation-on-the-review-of-the-operation-of-the-PSED-in-Scotland.pdf>, and Engender (2022) *Response to the review of the operation of the Public Sector Equality Duty in Scotland* Available at: <https://www.engender.org.uk/content/publications/Engender-response-to-PSED-consultation.pdf>

³¹ https://www.skillsdevelopmentscotland.co.uk/media/49856/green-jobs-in-scotland-report_final-4.pdf

physical infrastructure. Caring jobs are low carbon jobs³² and data analysed by the Women's Budget Group suggests that investment in the care industry is 30% less polluting than the equivalent investment in construction and would produce 2.7 times as many jobs³³. Yet, little consideration has been given to the importance and opportunities of implementing large scale investment in all forms of green social infrastructure, including childcare and social care.

CWB's definition of 'green jobs' must include care work, and investment in green jobs must not leave this critical sector behind. It has been a long-standing call of Close the Gap and Engender to designate care, including both social care and childcare, a key growth sector. This has been reiterated in our joint paper, Gender and Economic Recovery, which sets out nine principles for a gender-sensitive economic recovery³⁴.

Public sector equality duty

Our answer to question 1a set out the mainstreaming duty of the public sector equality duty and how this is critical to the development of a CWB duty that delivers wellbeing for all members of the community. It also highlighted the requirement of public bodies to use equality impact assessment as a key tool in policy development.

Equality mainstreaming is critical to ensure public funding is used to its fullest potential. The CWB consultation highlights the challenging fiscal backdrop and asks for views on ways in which existing investment can be maximised. If public spending on a particular policy is to be effectively targeted and its benefits maximised, the specific experiences and needs of different protected groups affected must be considered in the design process. **If equality is not mainstreamed into policymaking, public bodies are not developing good policy, as well as not delivering value for public money and not fulfilling their purpose. They also risk further engraining inequality and causing harm.**

³² <https://www.engender.org.uk/news/blog/guest-post-a-recovery-plan-which-works-for-women-also-works-for-the-planet---/>

³³ Women's Budget Group (2020) *A Care-led Recovery from Coronavirus: The case for investment in care as a better post-pandemic economic stimulus than investment in construction* <https://wbg.org.uk/wp-content/uploads/2020/06/Care-led-recovery-final.pdf>

³⁴ Close the Gap & Engender (2020) *Gender & Economic Recovery* <https://www.closesthegap.org.uk/content/resources/Gender--Economic-Recovery---Engender-and-Close-the-Gap.pdf>

The failure of PSED to ensure the use of equality mainstreaming in policy development highlights the need for the CWB approach to contain its own mechanism for ensuring this.

Q4. Employment law is reserved to the UK Parliament. Are there other devolved areas where the law could be changed to advance the workforce pillar of Community Wealth Building?

Don't Know

Current employment law contributes to the persistence of women's labour market inequality. However, it is also important to note that most of the causes of women's inequality at work are not unlawful, and instead can be tackled by gendering policy responses for which Scottish Government has responsibility, including CWB.

Fair Work and gender

The Gender Pay Gap Action Plan³⁵ was the first cohesive strategic approach to tackling the pay gap in Scotland and included several bold and wide-ranging actions. In 2022 Scottish Government subsumed the pay gap action plan into a refreshed fair work action plan³⁶ along with the action plan for the disability employment gap and the anti-racist employment strategy, with the aim of mainstreaming equality in fair work policy.

The gender pay gap is the headline indicator of the divergent experiences women have, not only in employment but also in education and training, care and other domestic labour, and men's violence. The breadth of the gender pay gap action plan recognised this, and set out action around critical systemic influencers such as employability programme design, social security, and violence against women. The fair work action plan, by its nature, is more narrowly focused on the workplace. The merging has resulted in diminished attention on the complex, interrelated causes of the pay gap, a much more limited range of actions to address these causes and will ultimately mean less progress on women's labour market equality.

³⁵ Scottish Government (2019) *A Fairer Scotland for Women: Scotland's gender pay gap action plan*

³⁶ Scottish Government (2022) *Fair Work action plan: becoming a leading Fair Work nation by 2025*.

While the refreshed fair work action plan is more gendered than its predecessor, the current fair work policy framework and supporting tools do not afford sufficient attention to women's experiences of employment including the breadth of its causes. While the action plan commits to an intersectional approach, there are limited actions that are meaningfully intersectional. The current policy framework is therefore unlikely to promote transformational change for women or enable employers to operationalise fair work for women.

Employer action on gender equality

Despite the clear business case to advance gender equality at work, employer complacency remains a critical challenge to addressing women's labour market equality. Close the Gap's recent assessment of Scottish private and third sector employers' gender pay gap reporting found that almost two-thirds of employers have still not committed to action to tackle their pay gap.³⁷ Consecutive assessments have found that, despite the requirements of PSED, most public bodies are not taking action on women's labour market inequality, whether within or outwith their organisation.³⁸ Small and medium enterprises are even less likely to be engaged on this subject.³⁹

This is salient to the role of anchor organisations and wider employer stakeholders in the delivery of work on CWB, on which the consultation places great importance. Community wealth cannot be built, nor wellbeing delivered, without action to tackle women's inequality in employment. If stakeholder employers, particularly anchor organisations, are to support CWB through improved employment practice, they will require clear direction on what they are required to do to achieve this. There must also be a mechanism to ensure duty bearers are accountable for the mainstreaming of gender and wider equality into the development and delivery of this work. This requires that suitable indicators are identified to measure progress. These must go beyond

³⁷ Close the Gap (2023) *Positive shifts, persistent problems: A five year analysis of Scottish employer gender pay gap reporting*, Available at: <https://www.closesthegap.org.uk/content/resources/Positive-shifts-persistent-problems-A-five-year-assessment-of-Scottish-employer-gender-pay-gap-reporting.pdf>

³⁸ Close the Gap (Unpublished) 2020 Internal assessment of public bodies' compliance with the public sector equality duty

³⁹ IFF Research (2015) *Company Reporting: Gender pay data*, Government Equalities Office

the headline gender pay gap and include indicators on the breadth of its causes.

Childcare

In addition to employer action on women's workplace inequality, CWB must consider the impact of childcare on women's access to the labour market and training. The availability of accessible, affordable, and flexible childcare is critical to the realisation of women's equality in Scotland. Childcare is vital social infrastructure which is key to tackling women's economic and labour market inequality and meeting Scottish Government's child poverty targets. Childcare provision is of particular importance to the economic wellbeing and employment of single parents, 90% of whom are women.

Women's poverty is inextricably linked to child poverty, rendering action to tackle women's inequality in the labour market critical to addressing child poverty. As women's unpaid childcare roles are a key cause of the gender pay gap, access to affordable and flexible childcare is both an enabler of women's employment and an important anti-poverty measure.

Childcare and social care is critical infrastructure which enables women's access to paid work, but it also supports the realisation of women's equality and rights, and children's rights.⁴⁰ It is of particular economic and social benefit to the poorest families, including those headed by single mothers.⁴¹

In its initial report⁴², the second Just Transition Commission highlights the importance of high-quality social infrastructure to a just transition, and notes that investment in social infrastructure has many positive multiplier effects including tackling the systemic inequality experienced by women and other marginalised groups. In response to the CWB consultation's call for views on

⁴⁰ See: De Henau J, Himmelweit S, Lapniewska Z, Perrons D (2016) *Investing in the Care Economy: A gender analysis of employment stimulus in seven OECD countries*, International Trade Union Confederation, available at: https://www.ituc-csi.org/IMG/pdf/care_economy_en.pdf and Lapniewska Z (2016) *Growth, Equality and Employment: Investing in Childcare in Scotland*, WiSE Research Centre, Glasgow Caledonian University, Available at:

<https://www.gcu.ac.uk/wise/media/gcalwebv2/theuniversity/centresprojects/wise/98178%20WiSE%20BRIEFING%20PAPER%204%20August.pdf>

⁴¹ Women's Budget Group (2020) *Childcare and gender*. Available at: <https://wbg.org.uk/analysis/uk-policy-briefings/2019-wbg-briefing-childcare-and-gender/>

⁴² Scottish Government (2022) *Making the Future: Initial report of the 2nd Just Transition Commission*. Available at: <https://www.gov.scot/publications/making-future-initial-report-2nd-transition-commission/documents/>

how to make the most of existing investment, investment in childcare and social care can deliver significant returns to communities.

If the CWB duty/approach is to improve women’s access to local labour markets and training programmes, it must engage with the issue of childcare.

Gender-sensitive upskilling and reskilling support

The commitment to improve access to training and the labour market, contained in the Shared Policy Programme and the workforce pillar, is welcome. In order to support women to access a wider range of better quality employment options whether that is entering the labour market for the first time, re-entering after time out, or progressing, there is a need to develop gender-sensitive upskilling and reskilling support.⁴³

Evidence shows that women are less likely to have access to training, particularly women working in low-paid part-time jobs⁴⁴; less likely to undertake training that will enable them to progress or secure a pay rise; and more likely to have to do training in their own time and to contribute towards the cost⁴⁵. Mainstreaming gender in the development of skills and training interventions would give prominence to factors which influence women’s access to skills including women’s propensity to have a caring role; the need to provide support with childcare and travel costs for women living in poverty; gender norms and stereotyping; occupational segregation; women’s experiences of male violence; the timing and location of skills and training opportunities; and whether any course costs present a gendered financial barrier.

Skills and training interventions need to integrate a gender analysis and be designed to take account of women’s greater propensity to have caring roles, gender norms stereotyping, and should challenge occupational segregation as a central aim. We call for this to be embedded in activity under the CWB workforce pillar.

⁴³ Close the Gap (2023) *Submission to the Social Justice and Social Security Committee inquiry into child poverty and parental employment*. Available at: <https://www.closesthegap.org.uk/content/resources/CtG-submission-SJSS-Committee-inquiry-into-child-poverty-and-parental-employment.pdf>

⁴⁴ House of Commons Women and Equalities Committee (2016) *Inquiry into the gender pay gap*.

⁴⁵ Aldrige, F. and Egglestone, C. (2015) *Learning, Skills and Progression at Work: Analysis from the 2015 adult participation in learning survey*, UK Commission for Employment and Skills

Q5. Are there ways in which the law could be changed which are not already covered in the proposals for the Land Reform Bill to advance the land and property pillar of Community Wealth Building?

N/A

Q6. Are there ways in which the law could be changed to advance the inclusive ownership pillar of Community Wealth Building?

Don't Know

In terms of specific changes to the law to advance the inclusive ownership pillar of the CWB approach, we do not have a position on the exact legal mechanisms required. However, we ask that Scottish Government consider how any changes in the law can ensure that progressing intersectional gender equality is a core part of realising inclusive ownership models.

Engender's Sex and Power⁴⁶ reporting shows the stark inequalities for women in businesses leadership. Although this reporting focuses on the numbers of women leading businesses in the private sector, inequality of access to business opportunities and benefits is highly likely to be replicated in the operation of social enterprises, locally-owned businesses, co-operatives and other business model examples included in the inclusive ownership pillar.

There continues to be a vicious cycle of inequality in opportunities for women to lead and work in business, as businesses continue to discriminate against women and provide very limited support in recognition of the realities of women's lives. Systemic pregnancy and maternity discrimination, male-centric working cultures and sexist norms, a lack of flexible working opportunities and quality part-time work, and inflexible working models for senior staff are all barriers to women's career progression. This is despite the clear-cut business case for women's leadership. It is widely recognised that greater diversity across management and company boards improves organisational performance and access to resources.⁴⁷

⁴⁶ Engender (2020) *Sex and Power*. Available at <https://www.engender.org.uk/content/publications/Engenders-Sex-and-Power-2020.pdf>

⁴⁷ Scottish Government (2016) *Increasing representation of women on private sector boards in Scotland*
Scottish Government

Another area of particular concern is the lack of funding available to the women and girls sector, with recent research finding a total of £4.1 billion worth of grants was awarded to charities in the UK, but the women and girls sector received just 1.8% of these. In addition, one third of all grants for ‘women and girls’-focused activity – worth £24.7m – went to organisations with no specific focus on women and girls.⁴⁸ In light of this serious funding imbalance, we urge Government to look at legal mechanisms to encourage investment in organisations that specialise in supporting women and girls.

We recommend Scottish Government engages with Women’s Enterprise Scotland (WES)⁴⁹ to understand in more detail how inclusive ownership can be designed to ensure women are able to be part of their communities’ businesses and benefit economically from these forms of local ownership. WES continually raises the statistic that just one in five entrepreneurs in Scotland is a woman and that this has not changed in many years, as it continues to be one of the most persistent gender gaps in participation in Scotland.⁵⁰ WES operates the Women’s Business Centre online portal⁵¹ and advocate for community-based Women’s Business Centre premises.⁵²

Scottish Government must ensure that the well-documented patterns of gender inequality found in business practice and leadership, are not replicated in community-run businesses as CWB approaches are implemented.

Q7. Are there ways in which the law could be changed to advance the finance pillar of Community Wealth Building?

Don’t Know

Again, we do not take a position on the specific changes in law required to advance the finance pillar of the CWB approach but do expect any such changes to include robust approaches to mainstreaming of gender equality in delivery. The finance pillar must build intersectional gender equality into all its functions and ensure investment of wealth in local economies prioritises

⁴⁸ Rosa (2023) *Mapping the UK Women and Girls Sector and its Funding: Where Does the Money Go?*

⁴⁹ <https://www.wescotland.co.uk/>

⁵⁰ <https://www.scotsman.com/business/analysis-can-scotlands-newly-published-women-in-entrepreneurship-review-really-engender-transformative-change-4039621>

⁵¹ <https://womensbusinesscentre.com>

⁵² <https://www.wescotland.co.uk/national-women-s-business-centre>

equality outcomes in policy design and implementation by local councils and communities.

Currently the description of the finance pillar includes “directing wealth to tackle inequality”, but there is lack of detail on how that will happen. To tackle inequality, robust analysis and data collection must take place to understand which groups are currently experiencing inequality in local economies and in their access to wealth. For example, one listed action is “ensuring micro-businesses and SMEs have access to finance”, yet we know that most micro-businesses and SMEs are run by men and that women are less likely to be in leadership positions within the current structure of small businesses.

Access to finance is consistently flagged by women-owned businesses as a barrier to business start-up and growth. Research by WES found access to micro grants (63%) start-up funding (58%) and growth funding (56%) were all improvement areas for current business support provision.⁵³ Analysis undertaken by WES also revealed structural inequalities in business relief grant funding disbursed during Covid-19 with women-led companies not receiving their fair share of grants.⁵⁴

The detail on the finance pillar within the consultation document also cites both the Scottish National Investment Bank and the National Strategy for Economic Transformation as good examples of existing work taking place on raising capital and creating values-led, responsible investment. However, both projects are vague on implementing meaningful approaches to tackling intersectional gender equality.

Engender and Close the Gap delivered joint advocacy on the development of the SNIB and made clear in our joint response to Scottish Government in 2020⁵⁵ that we had significant concerns on the lack of substantive action to achieve equality that was set out in the proposal on the SNIB. There was a clear dearth of information on gender equality and lack of clarity around both Ministers’ and the Bank’s equality obligations.

⁵³ Women’s Enterprise Scotland Survey Research (2023)

⁵⁴ <https://www.heraldscotland.com/news/homenews/19549400.stark-figures-show-scots-women-got-little-covid-business-support/>

⁵⁵ Close the Gap and Engender (2020) *Joint response to the Scottish Government’s Proposal to Set Missions for the Scottish National Investment Bank*. Available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-and-Engender-joint-response-to-the-Scottish-Governments-Proposal-to-Set-Missions-for-SNIB.pdf>

The Scottish National Investment Bank Act 2020 requires that the bank publishes and reviews a gender equality strategy, a progressive move that was one of several explicit provisions to integrate gender into the delivery of SNIB's work. However, a more generic equality strategy⁵⁶ was published with a substantially diminished focus on women's equality. There is no vision for advancing gender equality in the strategy, and it is not clear how women's equality specifically will be progressed as part of the Bank's mission to "reduce inequalities and improve opportunities and outcomes for people and communities."

It is vital that lessons are learned from the lack of robust action in both SNIB and NSET to tackle gender inequalities in how men and women can participate and benefit from the way the economy is structured. Women's equality as part of CWB must go beyond recognising and addressing the gender pay gap, which is one part of a complex number of factors that causes women to have less access to wealth and power in local economies.

⁵⁶ <https://www.thebank.scot/sites/default/files/2022-10/bank-equality-strategy-2022.pdf>