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26th October 2026

Equality, Human Rights and Civil Justice Committee,

Via email: EHRCJ.committee@parliament.scot

Engender - follow-up to human rights roundtable on 17th September 2026

Dear Convenor,

I am writing to follow up on the evidence I gave to the Committee during its introductory roundtable on Human Rights, held on 17th September. I would like to thank the Committee for the opportunity to share Engender's insights on feminist policymaking.

Across its introductory sessions, the Committee explored the Public Sector Equality Duty (PSED) and potential implications of the Scottish Government's commitment to introduce a Human Rights Bill. As raised in our evidence, Engender has worked with a large coalition of equalities organisations over many years to advocate for urgent action to improve PSED in Scotland. We also have significant experience working with the UN's Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and have campaigned for many years for incorporation of the Convention at the Scottish and UK level.

We want to now share additional background detail on matters that we referenced in our discussion with the Committee. We specifically wanted to share more detail on PSED and mainstreaming of equalities into policymaking as we know this is likely to be central to the Committee's work in the coming years. We believe this is particularly relevant in the context of growing threats to equality, diversity and inclusion approaches and the prospect of significant public service reform.

Reforming the Public Sector Equality Duty (PSED)

The PSED was introduced as a mechanism to embed equality into the design and delivery of public services, to reduce inequality. The duties aim to address institutional biases in

decision-making and ensure policymaking improves the lives of people across the protected characteristics.

Despite its legal status and transformative potential, after 15 years of implementation, PSED is failing to deliver. Evidence from the Equality and Human Rights Commission (EHRC) and equalities organisations across Scotland shows that compliance by public bodies is poor, enforcement is weak, and the current framework does not focus on improving outcomes. Equality duties are often treated as a bureaucratic exercise and an 'add-on' to decision-making, rather than a central driver of public bodies' work.

The impacts of these failures are profound and wide-ranging. From inaccessible transport systems to the persistence of deep health inequalities in Scotland, many areas of policy consistently fail to meet the needs of those that PSED is intended to consider. There are real opportunities in Scotland to improve PSED; however, it has been challenging to secure meaningful or timely action.

- **2018:** a commitment was made by the Scottish Government to review the Scottish-specific duties.
- **2021:** the Scottish Government held a formal public consultation on reviewing the operation and effectiveness of the Scottish Specific Duties (SSDs),
- **2022**: a coalition of 26 equality organisations published a joint statement highlighting the lack of meaningful engagement on reform and outlining significant missed opportunities for improvements.
- **2023:** the Minister for Equalities announced a phased approach to reform focussed on two actions: revising the pay gap reporting duty to include ethnicity and disability pay gaps and a new duty on public bodies in relation to their use of inclusive communication.
- **2025:** the Scottish Government established a PSED Improvement Stakeholder Reference Group and published a Regulation 12 Report which sets out improvement activity for the four years from December 2025 to December 2029.

Whilst all progress in this area is welcome. Engender and the wider Equalities sector share the view that the scale of change over the last decade has been painfully slow and lacking in ambition.

In 2022 Engender worked with Professor Nicole Busby- Professor of Human Rights, Equality and Justice at Glasgow University's School of Law, and an expert in equality law - to draft model regulations for the Scottish Specific Duties of PSED. These 'model regulations' sought to demonstrate how PSED requirements *could* be revised and



enhanced to address ingrained shortcomings. They include proposals for additional duties on intersectional data gathering, gender budget analysis and capacity building.

What do we need to see?

Alongside a range of equalities organisations, we are currently making the following 5 calls to Scottish Government Ministers. We ask for the Committee's support to help us progress these shared calls to action in its work on PSED:

1. **Strengthened and more prescriptive regulations**
   We welcome the Scottish Government's planned regulatory changes to drive action on pay gaps and improve equality outcomes. However, reform must go further. Strengthened and more prescriptive regulations are needed to ensure equality is embedded in decision-making, rather than a 'tick box' exercise.

2. **Collaboration with expert equality organisations**
   Public bodies must meaningfully engage with lived and learned expertise via equality organisations. To protect the rights of protected groups, policy and practice must reflect the realities of their lives.

3. **A framework for intersectionality**
   A clear framework for intersectionality is essential to move beyond one-size-fits-all approaches that obscure inequality. Public bodies must be required to collect, analyse, and use intersectional equality data, and to apply this analysis in policymaking. Without this, inequalities experienced by those facing multiple forms of disadvantage will continue to be overlooked.

4. **Capacity building on PSED across public bodies**
   Scottish Government's Equality and Human Rights Mainstreaming strategy and toolkit are a step in the right direction. However, public bodies have not developed the equalities competence, including the ability to understand and apply intersectional analysis, required to deliver mainstreaming. Sustained and well-resourced capacity building is essential to enable meaningful implementation of the duties.

5. **Leadership, accountability and enforcement**
   Progress on equality has been constrained by a lack of leadership, limited accountability, and ineffective enforcement. Senior leaders set priorities and allocate resources, yet equality is routinely deprioritised, without consequence. Evidence shows that public bodies are unlikely to act without accountability. Beyond current proposals, robust enforcement mechanisms, clear lines of responsibility, and consequences for non-compliance are needed to drive sustained action.



Improving PSED and mainstreaming equalities approaches across Scottish policymaking closely links with our work on the Scottish Government's Human Rights Bill. As re-committed to in the 2026 Programme for Government, we understand the Bill will create additional duties for public bodies to embed human rights approaches.

Given the Committee's likely role in leading scrutiny of a Human Rights Bill, we urge members to use learning around PSED to ensure any new duties are effective and meaningful in practice. If work to reform PSED does not happen alongside the development of new human rights duties, there is significant risk of layering new duties onto an existing framework that fails to improve equality outcomes and has little accountability. This is especially important when considering how any new duties will be created in relation to the so-called 'group treaties' that cover the rights of disabled people, racialised people and women (CRPD, CERD and CEDAW).

We remain supportive of the intentions of the Human Rights Bill and agree there are significant opportunities to progress the economic, cultural and social rights for women via incorporating ICESCR. Whilst want to see incorporation of CEDAW, we know that questions remain on whether the convention can be fully integrated into this Bill. Scottish Government has the powers required to make improvements to PSED, which we know would make a tangible difference to women's lives. We therefore think it is vital that the Scottish Government consider these issues in tandem.

Engender's work on CEDAW

Engender has worked consistently with the international human rights framework, particularly CEDAW, on how it can be used to progress gender equality. This includes gathering evidence on women's rights in Scotland to share with the United Nations Human Rights Treaty Bodies, via shadow reports. Most recently, we reported on the International Covenant on Economic, Social and Cultural Rights (ICESCR) and CEDAW as part of the UN's examinations of the UK. These reports are shaped by evidence submissions from civil society organisations and by directly engaging with women across Scotland.

We are currently gathering evidence to inform our next shadow report for the UK's examination by the CEDAW Committee in 2027. This has included engaging with over 240 women directly, in partnership with over 20 civil society organisations, including grassroots women's groups. We are keen to share this work with the Committee when it is finalised.

Engender has long campaigned on the transformative potential of CEDAW for women in Scotland, because it allows for a more progressive and expansive approach to women's



equality than current UK equality law. As we raised in our evidence, CEDAW offers a substantive approach to equality, which recognises that men and women cannot be treated identically to achieve fairness. CEDAW recognises there are structural disadvantages and barriers women experience because of systemic gender inequality and that treating women and men the same can in many instances perpetuate this inequality.

The CEDAW Committee has made clear that women require protection from discrimination on the grounds of both their biological differences from men and the unequal impacts they experience due to *socially constructed conceptions of gender*. Such roles shape social norms and behaviours and determine women's access to social and economic power and resources through processes of gender stereotyping. Wrongful gender stereotyping has been recognised as a pervasive human rights violation, a key driver in discrimination against women and the full range of gendered human rights violations.

> *"It is not enough to guarantee women treatment that is identical to that of men. Rather, biological as well as socially and culturally constructed differences between women and men must be taken into account. Under certain circumstances, non-identical treatment of women and men will be required in order to address such differences."*
>
> *- General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures*

The CEDAW Committee publishes 'general recommendations' to raise issues affecting women which it believes State parties should focus on and to provide authoritative interpretation of the CEDAW Convention text. These recommendations function in line with the treaty interpretation rules outlined by Article 31 of the Vienna Convention on the Law of Treaties. Under Article 31.3 (b), consistent application and acceptance of CEDAW provisions by states, such as those set out over time by General Recommendations, establish a shared agreement on how obligations evolve. A key example of this can be seen in General Recommendation No. 19 (1992) and its update, General Recommendation No. 35 (2017), which established that gender-based violence should be interpreted as a form of sex discrimination beyond the limits of the original Treaty text.

The Committee's most recent General Recommendation 41 on 'Dismantling Gender Stereotypes, Prejudices, and Stigma and the Unequal Power Relations that Sustain them' was published on October 23rd. It contains critical guidance on addressing gender inequality that will be of use to the Committee in its work going forward.



We bring these points to the attention of the Committee because CEDAW and the work of the UN Committee provide a rich, expansive framework to understand and address the complexities of gender inequality in Scotland. The scrutiny of the UK and Scottish Government's record on CEDAW rights in 2027 will provide a significant opportunity for the Committee to advocate for policy and law reform which can progress gender equality in Scotland. We ask members to engage with the upcoming examination of the UK by the CEDAW Committee next year, and we will keep the Committee informed of this work as it progresses.

Further resources:

1. Engender briefing on PSED: https://www.engender.org.uk/resources/Engender-PSED-briefing-June-2024.pdf
2. Draft Regulations for the Scottish Specific Duties of the Public Sector Equality Act, developed by Engender with Professor Nicole Busby: https://www.engender.org.uk/content/publications/engender-draft-regulations-table-of-changes.pdf
3. A joint statement of concerns on the Scottish Government PSED Review from a coalition of 26 equalities organisations: https://www.closethegap.org.uk/content/resources/PSED-review-equality-stakeholders-common-concerns-April-2022.pdf
4. Engender 2018 Shadow Report on CEDAW: https://www.engender.org.uk/content/publications/Engender-CEDAW-report.pdf
5. Engender 2025 Shadow Report on ICESCR: https://www.engender.org.uk/content/publications/FinalICESCR-briefing2025.pdf

If you have any questions or would like to discuss these points further, please get in touch.

Yours sincerely,



Catherine Murphy

Executive Director
Engender

Engender is Scotland's feminist organisation. We work for women's economic, political, and social equality with men. Engender is a Scottish charity (SC029053) and a company limited by guarantee (SC 286639).