

# **Engender submission of evidence to the Equality, Human Rights and Civil Justice Committee call for views on the impact of human rights budgeting**

September 2022

## **1. INTRODUCTION**

Engender welcomes this opportunity to comment on the committee's pre-budget scrutiny and its focus on human rights budgeting. Within this, it is crucial that the committee interrogate the ways in which the Budget cumulatively impacts on the human rights of women and men as part of a cross-portfolio approach throughout the Scottish Parliament. There is no area of policy whereby women and men do not have different experiences or differential access to power, resources, and safety. Budgets are not neutral. They often re-enforce these inequalities, but in fact present an opportunity to account for and address them according to political and public policy goals.

### **1.1 Gender budget analysis and human rights budgeting**

This submission reiterates previous concerns expressed to the committee<sup>1</sup> about the lack of attention the Scottish Budget process pays to structural gender inequality, and women's and men's differing lived experience. Whilst we welcome the focus on human rights budgeting as an approach to analysing the 2023-24 Budget, we also highlight that this risks a diminished focus on how structural equality issues can be considered and how different analytical frameworks can be applied to budget-setting and analysis.

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<sup>1</sup> Engender (2021) Engender submission of evidence to the Equalities, Human Rights and Civil Justice Committee call for views on its pre-budget scrutiny 2022-23. Available at:

<https://www.engender.org.uk/content/publications/Engender-submission-of-evidence-to-SP-EHRCJ-Committee-PreBudget-Scrutiny-2022-23.pdf>

Engender (2020) Engender submission of evidence to the Equalities and Human Rights Committee call for evidence of the impact of Covid-19 on equalities and human rights as part of its pre-budget scrutiny of the Scottish Government's Budget for 2021-22. Available at:

<https://www.engender.org.uk/content/publications/Engender-evidence-to-EHRiC-pre-Budget-scrutiny-2021-22--FINAL.pdf>

Existing commitments to gender budgeting have not led to its consistent application,<sup>2</sup> and greater attention to human rights approaches, including budgeting and wider mainstreaming, must be managed in such a way that does not exclude a structural analysis of identity-based inequality. The draft Human Rights Bill, including incorporation of CEDAW,<sup>3</sup> and the Scottish Government's forthcoming equality and human rights mainstreaming strategy may offer opportunities to further embed these analyses in a complementary way.

## 1.2 Crises

Times of crisis expose the faultlines and reveal the extent of women's inequality in the UK. Scrutiny of the Draft Budget 2023-24 must also fundamentally take stock of emerging impacts of the cost of living crisis on women and on equality gaps that are deepening.<sup>4</sup> Women in Scotland are and will be disproportionately hit by acute ramifications in terms of economic and physical security, health and wellbeing. Within this, Black women and women from certain ethnic minority communities, disabled women, lone parents, unpaid carers, older women and women with insecure immigration status are particularly disadvantaged.<sup>5</sup> This is the result of existing economic inequality and income gaps that repeatedly see women, and especially minoritised groups of women, at the sharp end of economic and other crises.

A gender analysis of the costs crisis, requiring targeted solutions through budgeting processes, would include exploration of the following: older people, disabled people and unpaid carers (all a majority women) are amongst those with the highest energy needs; lone parents (91% women) are set to experience the steepest hikes in energy bills per proportion of income; women experiencing domestic abuse are being trapped in relationships with abusive partners; women are the majority of those in temporary work and on zero hours contracts and thus vulnerable to impacts on businesses; women tend to act as managers of household budgets and 'poverty managers' in relation to spending on children; women in both rural and urban areas are more reliant on public transport and face isolation and income loss when services are cut or amended.<sup>6</sup>

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<sup>2</sup> Scottish Government (2020) Equality and Fairer Scotland Budget Statement 2020-21, Annex B. Available at: <https://www.gov.scot/publications/equality-fairer-scotland-budget-statement-scottish-budget-2020-21/documents/>

<sup>3</sup> The UN Convention on the Elimination of all forms of Discrimination Against Women

<sup>4</sup> Engender (2022) Engender Parliamentary Briefing: Cost of living crisis. Available at:

<sup>5</sup> Women's Budget Group (2022) The gendered impact of the cost of living crisis. Available at: <https://wbg.org.uk/wp-content/uploads/2022/03/The-gendered-impact-of-the-cost-of-living-crisis.pdf>.

<sup>6</sup> Engender (2022) Engender Parliamentary Briefing: Cost of living crisis. Available at: <https://www.engender.org.uk/content/publications/Engender-briefing-cost-of-living-crisis.pdf>

Nor can this be divorced from the egregious impact of the Covid-19 pandemic on equality, which has already placed women at greater risk of economic insecurity.<sup>7</sup> A rollback on women's rights and equality since 2020 is widely recognised,<sup>8</sup> with specific issues and their ongoing implications manifesting for Black and minority ethnic women, young women, disabled women, unpaid carers, mothers, pregnant women, LGBT women, and women with insecure immigration status, amongst other groups. Against this baseline, the current cost of living crisis will further exacerbate women's economic inequality, pushing many into poverty. The harm this will cause will resound throughout the course of women's lives and those of their children.

Allocation of resources across budget portfolios must proactively seek to address this compounding set of dangerous circumstances for diverse groups of women and for others at the sharpest end of these crises.

## 2. BACKGROUND

### 2.1 About gender budgeting

Gender budgeting is based on the premise that budgets have real consequences for people and systems. Gender budgeting is the application of gender mainstreaming to the process(es) for allocating resources:

“[...] conducting a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process, and restructuring revenues and expenditures in order to promote gender equality. In short, gender budgeting is a strategy and a process with the long-term aim of achieving gender equality goals.”<sup>9</sup>

There is no policy area in which it is not vital to think about how women's and men's experiences differ nor how these differences should shape revenue-raising and expenditure across portfolios. Gender budget analysis does not entail a separate budget for women, nor aim at equal spending on women and men. Rather, it is a process that

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<sup>7</sup> Engender and Close the Gap (2020) Gender and economic recovery. Available at:

<https://www.engender.org.uk/content/publications/Gender--Economic-Recovery---Engender-and-Close-the-Gap.pdf>; Engender (2020) Women and unpaid work: the impact of Covid-19 on women's caring roles. Available at: [https://www.engender.org.uk/content/publications/1594974358\\_Gender--unpaid-work---the-impact-of-Covid-19-on-womens-caring-roles.pdf](https://www.engender.org.uk/content/publications/1594974358_Gender--unpaid-work---the-impact-of-Covid-19-on-womens-caring-roles.pdf).

<sup>8</sup> See Engender and Close the Gap websites for reports and briefings on COVID-19 and different aspects of women's equality, e.g. [https://www.engender.org.uk/content/publications/1594974358\\_Gender--unpaid-work---the-impact-of-Covid-19-on-womens-caring-roles.pdf](https://www.engender.org.uk/content/publications/1594974358_Gender--unpaid-work---the-impact-of-Covid-19-on-womens-caring-roles.pdf); <https://www.engender.org.uk/content/publications/Gender--Economic-Recovery---Engender-and-Close-the-Gap.pdf>.

<sup>9</sup> EIGE (2022) What is gender budgeting? European Institute for Gender Equality. Available at: <https://eige.europa.eu/gender-mainstreaming/toolkits/gender-budgeting/what-is-gender-budgeting>.

ensures that spending decisions respond to both women's and men's social and economic realities.

Gender budgeting, like all gender mainstreaming, requires introducing a gender perspective from the very beginning and through every step of the formulation of policies and programmes. Policy analysis that informs revenue-raising and spending decisions must therefore be underpinned by equality objectives that reflect women's lives, such as addressing the disproportionate delivery of care and reproductive labour that is often excluded from economic discussions.<sup>10</sup> GBA can therefore expose unwitting bias within budgetary processes that are otherwise assumed to be gender-neutral. Used well, it will strengthen gender equality of outcomes across all public expenditure and government departments.

## 2.2 Gender budget analysis in Scotland

Since devolution, Scotland has made some progress towards gender-responsive budgeting, primarily in the form of the Equality and Budget Advisory Group (EBAG) and Equality Budget Statement (EBS), now the Equality and Fairer Scotland Budget Statement (EFSBS). Published in parallel to the Draft Budget, the EFSBS assesses the Ministerial Portfolios' proposed spending plans for their impact on equality and socioeconomic inequality. It is currently the only process of its kind in the UK, although the Welsh Government has articulated ambitions to apply intersectional gender budgeting from 2022.

While the EBS was an important step towards gender budgeting when first introduced in 2009, it does not fully accord with definitions of gender budgeting. Rather, it can be seen as comprising a list of gender and equalities-inflected spend, describing spending decisions that have already been made, rather than as a tool for driving the budget process itself. This is reflected in the final report of the Budget Process Review Group, which considers that further equalities analyses should be published and considered throughout all aspects of a year-round budget approach. In 2021, the Equality Budget Advisory Group (EBAG) published a comprehensive set of recommendations that build on this.<sup>11</sup> (Please see pages 21-22 for further information on EGAG's proposals.)

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<sup>10</sup> Engender and Close the Gap (2020) Making inclusive growth work for women in Scotland. Available at: [https://www.engender.org.uk/content/publications/1591173199\\_Gender--Inclusive-Growth---Making-inclusive-growth-work-for-women-in-Scotland.pdf](https://www.engender.org.uk/content/publications/1591173199_Gender--Inclusive-Growth---Making-inclusive-growth-work-for-women-in-Scotland.pdf).

<sup>11</sup> Scottish Government (2021) Equality Budget Advisory Group: recommendations for equality and human rights budgeting - 2021-2026 parliamentary session. Available at: <https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/pages/executive-summary/>

The latest Equality and Fairer Scotland Budget Statement (2022-23) does attempt to link key rights and inequalities for protected groups to government spending portfolios. However, as set out in Annex A, “portfolios were restricted to a maximum of two inequalities per protected characteristic or socio-economic disadvantage and were asked to concentrate on key policies and areas of spend”. While there is some recognition of the limitations of this approach (“we are aware it is not perfect”) and of the long-standing calls for improved intersectional budgeting processes, this somewhat glosses over the superficiality of such narrow selectiveness. The resulting EFSBS consequently reads as a list of disconnected issues that appeared to have been picked at random and which give merely a flavour of spend on equalities issues across government. It suggests examples being retrospectively applied to the template in order to fulfil an obligation, rather than reporting on mainstreamed equality considerations that have been embedded across government.

Crucially, such a scattergun approach does not allow for analysis of the cumulative impact of spending on women, men and gender equality, offers no explanation as to why specific inequalities were included at the expense of others, and limits the ability to make clear connections between the rights and inequalities identified, as well as across protected characteristics.

Annex A acknowledges the recommendations of the Equality Budget Advisory Group, which were published in July 2021 and aimed at improving these processes. It states that the Scottish Government “will respond to the recommendations in detail in spring 2022, aiming to build learning into future EFSBS products.” However, this is yet to be published, with the response now expected in September 2022. Committees’ scrutiny of the Scottish Budget must include oversight of this delayed response and subsequent implementation of plans to improve equality budgeting.

### 3. QUESTIONS

#### 3.1 Budget process

**What data and information is needed to assess whether budget decisions are helping to progressively realise human rights?**

Lacking data

A critical question within this is ‘whose human rights?’ Unexamined assumptions that a policy aimed at improving, for instance, the right to adequate housing or the right to health would deliver equality of outcomes (e.g. for women and men, for BME and white populations, for disabled women and disabled men) must be brought to light and challenged.

A key limitation in undertaking a gender analysis of Scottish budgeting processes is the inconsistency and availability of quality data. Gender-sensitive and sex-disaggregated data is far from the norm in Scotland, and the possibility of further disaggregation by race, class, disability, sexual orientation, age or other groups is even more remote. This fundamentally undermines the ability of public and third sector bodies to undertake intersectional analysis of inequality across different domains. Much data continues to be collected at household level, and while households often share resources it is vital to be cognisant of inequalities that underpin access to household resources.

The Scottish Government's Gender Equality Index sets a baseline score for women's equality at 73/100 (with 100 being 'full equality'). This methodology masks deeper inequality experienced by different groups of women and relies on selective and limited data. For example, the health indicator erroneously suggests there is near equality between women and men (99/100), despite Scottish Government's Women Health Plan and other health-related work acknowledging significant disparities. This reliance on existing data and evidence is acting as a barrier to understanding and measuring progress on identified inequalities.

In addition, reliance on the National Outcomes established in the National Performance Framework (NPF) to measure progress of budgetary decisions is not likely to achieve much in relation to gender. In our view, the NPF is not well gendered. Only two of its 81 indicators relate specifically to women, and where sex-disaggregated data on individual indicators does exist, this is not well integrated. It is possible, and indeed likely, that progress will be made towards NPF outcomes in a way that entrenches and deepens women's inequality. In our 2017 submission to the Budget Process Review Group, we called for the Scottish Budget Process to be strategically linked to a well-gendered National Performance Framework. Given that this is not currently the case, linking the Budget process to the NPF will reduce the gender-sensitivity of the Scottish Budget and is likely to entrench existing inequalities between women and men.

#### A requirement for intersectional 'gender data'

To assess whether human rights for women and girls are being progressively realised, intersectional gendered data collection and use across public bodies must therefore be improved significantly. Engender advocates for a set of principles for 'gender data', including those enumerated by the UN and European Institute of Gender Equality, to be operationalised in Scotland as the default.<sup>12</sup> This means going beyond disaggregation by sex through the design and collection of 'gender-sensitive data'. This means data on

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<sup>12</sup> Engender (2021) Engender response to "sex and gender in data: collection and publication"; guidance from the Chief Statistician to Scottish Public Bodies. Available at: [Engender-response-to-Chief-Statistician-working-group-consultation-on-sex-and-gender-and-data-FINAL.pdf](#)

gendered issues that is built on a gender analysis, and reflects the diverse realities of women's lives.

This is not routinely undertaken in Scotland. At present, in each and every policy area that we work in, a lack of gender-sensitive sex-disaggregated data undermines the potential for legislation and policy to improve women's equality and to meet women's needs.<sup>13</sup> Public bodies are working with wholly inadequate data. They are not systematically collecting and utilising data regarding sex and other protected characteristics to fulfil their mainstreaming obligations under the public sector equality duty. Intersectional data collection is even more patchy, meaning that outcomes for women that experience multiple inequalities are yet harder to track. This includes the monitoring of rights fulfilment for Black and minority ethnic women, disabled women, LGBT women, women from minority faith backgrounds, young women and older women.

As such, Engender has advocated for a regulatory requirement for public bodies to gather, publish and use data that is gender sensitive, sex disaggregated and enables intersectional analysis where possible, within our work on the public sector equality duty.<sup>14</sup> This is broadly in line with recommendations from the First Minister's Advisory Council on Women and Girls in its third annual report. At present there is no requirement for public bodies to **publish** data, which would allow for more effective scrutiny of human rights outcomes.

In order to maximise the effectiveness of such a duty and related obligations, a suite of enabling measures would be needed to support public bodies in understanding and gathering effective data. The Scottish Government's revised Equality Evidence Strategy (currently out for consultation) must include a focus on creating leadership and ownership over the drive to improve equality data, including accountability mechanisms for the quality, use and in/exclusion of data in policy and programme design. Engender has also suggested a new duty on data be directly connected to the performance indicators for specific bodies or policies. For example, the Scottish National Investment Bank is legally required to gather information and data in relation to the performance of the Bank's investments, outcomes and development of services, in order to report on its Gender Equality Strategy and other indicators.<sup>15</sup>

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<sup>13</sup> In recent years this has included care, economic development, employability, hate crime, health, housing and homelessness, mainstreaming, planning, social security, transport

<sup>14</sup> Engender (2020) What works for women: improving gender mainstreaming in Scotland. Available at: <https://www.engender.org.uk/content/publications/WHAT-WORKS-FOR-WOMEN---improving-gender-mainstreaming-in-Scotland.pdf>

<sup>15</sup> Scottish National Investment Bank Act 2020

Improved gathering, use, collation and publishing of intersectional equality data by public bodies will allow for strengthened monitoring of human rights ambitions.

### Outcomes-based analysis

To assess whether budget decisions are having a positive impact on human rights, there needs to be tighter and more transparent monitoring of how broad commitments and policy intentions on human rights in fiscal documents are enacted; spending that is targeted at addressing specific human rights from an intersectional equalities perspective; and evaluation of spending that is tied to outcomes.

Engender produced a set of recommended draft regulations as part of our response to the Scottish Government's consultation on the public sector equality duty.<sup>16</sup> Within this, we propose that listed authorities are required to allocate and publish budgets for work towards to each of their equality outcomes, broken down by protected characteristic.

The anticipated Human Rights Bill, and within it the incorporation of CEDAW into Scots law, could also provide an avenue to strengthen scrutiny and accountability around human rights spending. We encourage the committee to explore this in due course.

### **What needs to change to increase meaningful participation in the budget process, particularly for marginalised groups?**

Scottish Government should turn the Equality Budget Advisory Group's recommendations into a prioritised and well-resourced action plan. Several of these proposals relate to engaging and increasing public participation in budget processes. At the time of writing the Scottish Government had not published its response.

Engender welcomes intentions to strengthen participatory budgeting and policymaking. However, such approaches often entail the contribution of time and resources, often at short notice, and with unclear impacts and/or little further engagement or feedback. While participation and expertise by experience is increasingly recognised as vital to effective policymaking, the measures in place to gather and analyse this input are still developing. Efforts such as the Christie Review to develop effective ideas around participation have not themselves considered gender, although have sought to enhance equality in an unspecific way. Additionally, lived experience is vital but must sit alongside comprehensive structural analyses that at present listed authorities do not have the capacity to undertake and do not attempt to systematically apply. One person's experience is informed by structural oppression but is not alone reflective of it

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<sup>16</sup> Engender (2022) Scottish Specific Duties of the PSED: Engender draft regulations. Available at: <https://www.engender.org.uk/content/publications/ANNEX-Engender-draft-regulations.pdf>

and individuals may not identify their own experience as gendered, racialised or impacted by other discriminations covered by the Equality Act.

Reflection on the capacity for participatory processes to be representative is also vital. Gendered barriers to participation include the impact of childcare and unpaid caring on the ability to donate time and when; the need for accessible and culturally competent meeting places; formats that can be intimidating in the context of gendered power dynamics, including bullying behaviour; lack of women-only spaces, which are particularly vital for victim-survivors of domestic abuse and sexual violence, and women from certain ethnic or faith communities; time-consuming processes, and lack of travel expenses or other remuneration - women are particularly poor in time and resources compared with men; opportunities to participate that are routinely set on the same days/times of the day, which can exclude part-time workers and carers (predominantly women); and the use of digital engagement which excludes those without access, and some BME women in particular. Relying on individuals to relate their experiences of trauma and discrimination is ethically complex and must be adequately supported, financially and emotionally, in line with best standard practice. Participants must be kept informed regarding outcomes of the engagement, and where input does not lead to demonstrable change this must be explained.

The Poverty and Inequality Commission's intention to trial new approaches to involvement of people with lived experience offers some opportunity for an intersectional good practice model which secures the involvement of diverse groups.<sup>17</sup>

### **What can be done to make budget information more transparent and accessible?**

Again, we urge the committee to back EBAG's call for Scottish Government to implement and resource their recommendations around equality and human rights budgeting. These include several proposals around accessibility and transparency, including the introduction of a 'Citizens' Budget' that would see a condensed and accessible version of the budget published annually, in line with international standards.

Accessibility should be improved in close collaboration with disability and race organisations, as well as those supporting people with insecure immigration status.

## **3.2 Budget content**

### **Do the Resource Spending Review or previous Scottish fiscal documents demonstrate a commitment by the Scottish Government to realising rights over time?**

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<sup>17</sup> Poverty and Inequality Commission (2020) Guidance for the Poverty and Inequality Commission: Involving experts by experience

The Resource Spending Review does not demonstrate commitment to the realisation of human rights, and misses an opportunity to integrate a rights-based analysis. The document is 72 pages long and includes one peripheral reference to human rights, within a description of the Global Affairs Framework. This is not in line with intentions set out in the Resource Spending Review Framework,<sup>18</sup> published and consulted on in 2021. It states that “we shall consider the impact of spending and specifically how it contributes to tackling inequality and realising human rights” and “The Resource Spending Review’s process and findings will be subject to appropriate impact assessments, taking into account the Scottish Government’s responsibilities under both the Public Sector Equality Duty and the Fairer Scotland Duty as well as our human rights commitments.” There is no evidence of this in the final report. Rather, consideration of human rights is confined to the accompanying Equality and Fairer Scotland Statement. Broad commitments towards realising rights and reducing inequality in Scotland are routinely seen in high-level Scottish Government strategies, including the Government Economic Strategy and the National Strategy for Economic Transformation, or in the impact assessments that sit alongside policy or budget documents. However, these are rendered relatively meaningless unless supported by **targeted** and outcomes-based activity at the programme level that is specifically budgeted for.

To note, the RSR also makes only one generic reference to women, affirming that the Justice portfolio will continue to work to tackle violence against women and girls.

Demonstrating a commitment to realising human rights in budgeting would involve a cross-portfolio approach that set out the human right protection targeted, the intervention, a breakdown of costs and rationale for this, and projected outcomes. Again, the critical question ‘whose human rights?’ applies here. A budget allocated for realising the right to adequate housing would fail women, if the work did not take a gendered approach recognising that women experience different types of homelessness and housing insecurity to men that is not often captured in mainstream analysis. Spending allocated for rights-based approaches to healthcare would fail women if a gendered approach reflecting sexist discrimination throughout medical and healthcare systems, and women’s differing health needs was not applied. Rights to education, fair and just conditions of work, an adequate standard of living, and social security, amongst many others, are profoundly gendered.

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<sup>18</sup> Scottish Government (2021) Resource Spending Review Framework. Available at: <https://www.gov.scot/publications/investing-scotlands-future-resource-spending-review-framework/documents/>

Whilst the RSR projects increased spending envelopes for some of these areas, including housing and social security assistance, it is not possible to say whether equality and human rights will be advanced as a result without a breakdown of how these budgets will be used.

Our comments on the Equality and Fairer Scotland statement that accompanied the RSR are found on p.25.

**For example, is it possible to look at Budget documents and decipher if expenditure on realising rights is increasing or decreasing?**

Expenditure on realising human rights is not presented in a way that enables this analysis. Our comments cover the central equalities budget, the need for mainstreaming human rights throughout government spending, intersections between equality and human rights, and the need for secure and sustained funding.

The central equalities and human rights budget

The central equalities budget has seen three increases well above the rate of inflation since 2019. Since 2020-21, this has been badged as the ‘Promoting equality and human rights’ budget line, though previous expenditure through the equalities budget is described in line as ‘spending on equalities and human rights activities’. Last year’s budget, for 2022-23, saw a 39% increase, to cover “new funding commitments arising from the [SNP parliamentary election 2021] manifesto and Programme for Government, including additional support for specialist services that tackle gender-based violence and support delivery of the Equally Safe strategy.”<sup>19</sup>

Year	Budget in £m	Increase on previous year
2016-17	20.3	-
2017-18	20.9	3%
2018-19	20.3	Reduction of 3%
2019-20	24.6	18%
2020-21	30.2	19%
2021-22	32.2	6%
2022-23	44.9	39%

Overall spending in the draft budget for 2022-23 was set at £56.5 billion, compared with around £37.1 billion in 2016-17; an increase of 52% over six years. The equality

<sup>19</sup> SPICE (2021) Scottish Budget 2022-23. Available at: <https://sp-bpr-en-prod-cdnep.azureedge.net/published/2021/12/13/8e5259cb-f6d1-4e2c-8a0f-52c1bb35aba7/SB%2021-89.pdf>

and human rights budget, albeit with some lack of clarity over what the funding stream covers, has increased by 121% over the same time period.

This upwards trajectory, above the rate of inflation and as a proportion of the budget, is positive and has been welcomed by Engender. However, breakdown that would allow analysis of how the £45m for 2022-23 has been allocated, is not readily available, and it has not been possible for us to examine this as part of this response. Without rigorous evaluation of how the central EHR budget is being spent over time, it is not possible to comment incisively on whether increases to the funding line signify demonstrable progress against human rights commitments.

The Resource Spending Review, however, forecasts a £1m reduction and subsequent freeze to the equalities budget. In light of current inflation, this is likely to amount to a significant cut in the coming years. As the RSR does not adopt an equality and human rights analytical framework, and does not map coherently onto the Equality and Fairer Scotland Statement that accompanies it (itself light on detail), it is not possible to assess whether commitments to advance equality and human rights are envisaged as being picked up in other spending envelopes across portfolios.

<b>Year</b>	2023-24	2024-25	2025-26	2026-27
<b>Spend £m</b>	45	44	44	45

#### Cross-portfolio spending on human rights

Monitoring expenditure allocated to EHR within the dedicated equalities funding stream can only offer a very superficial understanding of the Scottish Government's commitment to and progress against realising human rights.

A demonstrable commitment to realising rights in fiscal documents would also entail robust equality and human rights mainstreaming and targeted funding across portfolios. This would need to increase proportionally and responsively over time, and be pegged against specific activities that are subject to rigorous monitoring and evaluation. A sustained proportional increase in human rights spending would entail non-linear expansion of cross-portfolio budgets, above the rate of inflation, in line with costed and clearly delineated expansion of the rights-based work that is needed across different strands of human rights protection. It would need to be adequately flexible to respond to emerging and systematic breaches of human rights, for example in connection with climate change, austerity, lack of action on the costs crisis, or immigration policy (regardless of where respective powers lie).

#### Intersections between equality and human rights

Gender budget analysis and other forms of equality budgeting must be applied and scrutinised to assess whether spending on human rights is increasing or decreasing for women and other groups. An intersectional approach must be embedded and used wherever data allows. Without this, rights-based approaches and spending could deepen equality gaps for those facing identity-based discrimination and inequality.

### Securing equality and human rights expenditure

Finally, commitments and positive directions of travel in the world of equality and human rights can all too easily be reversed by changes in political leadership, government or other high-level decision-making. This has been amply demonstrated by the UK Government's track record on human rights,<sup>20</sup> and by the U.S. Supreme Court decision to overturn the ruling that protects women's right to abortion in the United States (*Roe v. Wade*).

We therefore urge the committee to explore how sustained equality and human rights expenditure could be embedded and future-proofed in Scotland's public institutions.

### **Is government funding directed to the right areas to enable the public sector to meet its human rights obligations?**

At present, government funding is not adequately targeted to enable the public sector to meet its human rights obligations. With regards to women's rights, international and European human rights frameworks, including the UN Convention on Elimination of all forms of Discrimination Against Women (CEDAW), cover a broad spectrum of economic and social policy. These map across areas including social security, employment, education, care, health, housing, transport, violence against women, access to justice, cultural stereotyping, and participation in politics and public life.

If the Scottish Government is to ensure existing international obligations are met, and pivot towards realising provisions of the anticipated Scottish Human Rights Bill, it must comprehensively mainstream equality and human rights policy and programmes across portfolios. In terms of women's equality and rights, this will entail comprehensive gender budget analysis that is intersectional where data allows, being applied to all spending decisions throughout the year.

Resources must also be explicitly allotted to any policy intention that refers to realising human rights and reducing inequality, and to mainstreaming activities, including competence building for staff and embedding equality and human rights architecture across government. The Scottish Government's forthcoming equality and human rights

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<sup>20</sup> Including austerity, immigration policy and plans to repeal the Human Rights Act. The UK has been criticized by various UN bodies, including with regards to women's human rights.

mainstreaming strategy must be very clear on what is expected in terms of equality and human rights budgeting. Likewise, the new equality evidence strategy must be aimed at supporting the realisation of human rights for different groups, as well as the practical application of data to enable spending decisions geared at better outcomes for diverse groups of women and other marginalised communities.

**Does the Scottish Government raise sufficient revenue to realise human rights? If not, how could the government raise more revenue to ensure rights realisation?**

We are not aware of existing analysis that attempts to map and cost the realisation of human rights for all in Scotland. Calculation of even a ballpark figure against this would be extremely complicated, not least as human rights violations for many groups are comparatively hidden and/or continually emerging and evolving in ways that are difficult to anticipate.

Engender does, however, fully support the use of Scotland's revenue raising powers to pay for robust rights-based policy development and programmes. We also note that existing revenue could be reprioritised towards human rights realisation and would support the diversion of spending slated for projects that undermine progress towards a net-zero economy towards the protection of human rights.

**Is revenue raised in an equitable way?**

Despite longstanding commitments to the principles of equality budgeting and gender budgeting, a very basic implementation gap remains with regard to the Scottish Government's approach to revenue-raising. For example, its 2021 consultation on tax policy and the budget outlined four strategic objectives for tax, including:

- Delivering national outcomes by reducing inequality and funding the public services that promote and protect the wellbeing and rights of our citizens.<sup>21</sup>

There was, however, no further discussion of tax and equality issues and no reference to gender or women in the consultation document. Subsequent analysis of the consultation responses includes three quotes from the Scottish Women's Budget Group, but no mention of identity-based inequality or gender in the analysis itself.<sup>22</sup>

Clearly, revenue can be raised in ways that redistribute wealth and bring benefits to those on lower incomes, through a progressive taxation system that increases revenue

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<sup>21</sup> Scottish Government (2021) Tax policy and the budget – a framework for tax. Available at: <https://www.gov.scot/publications/tax-policy-budget-consultation-scotlands-first-framework-tax-tax-policy-relation-scottish-budget-2022-23/documents/>

<sup>22</sup> Scottish Government (2021) Tax policy and the budget – a framework for tax: Analysis of consultation responses. Available at: <https://www.gov.scot/publications/tax-policy-budget-framework-tax-analysis-consultation-responses/documents/>

available for spending on social security, services and other support. Redistribution of wealth would reduce income inequality between women and men, whilst raising revenue to augment the Scottish Government's budget could allow for targeted spending on public services that are particularly relied upon by women. The Women's Budget group cover these and other issues in a discussion paper on taxation and gender equality, published in 2020.<sup>23</sup>

We note, however, that the Equality and Fairer Scotland statement that was published alongside the Resource Spending Review does not identify 'rights for women' amongst human rights relevant to the pillar on devolved taxation.

**What is the distributional impact of budget decisions? Do budget decisions have a discriminatory impact on different groups of the population? Do budget decisions help reduce structural inequalities?**

Budget decisions that do not actively seek to reduce structural inequalities often perpetuate the status quo and thus often have a discriminatory impact on women, BME people, disabled people, LGBTI people and other marginalised groups. This means that people with multiple protected characteristics or oppressed identities, including BME women, disabled women, trans women, and women with insecure immigration status are routinely and especially discriminated against by budgeting decisions that are not made with them in mind and do not reflect their experiences and needs.

Proactive equality budgeting that seeks to reduce discrimination and advance equality, therefore, can help to reduce structural inequality. As set out in the background section of this paper, Scotland has made some progress towards gender-responsive budgeting, primarily in the form of the Equality and Budget Advisory Group (EBAG) and the Equality and Fairer Scotland Budget Statement (EFSBS). Published in parallel to the Draft Budget, the EFSBS assesses the Ministerial Portfolios' proposed spending plans for their impact on equality and socioeconomic inequality. However, the analysis in the EFSBS still does not inform spending decisions in an integrated way. Rather, it sits alongside the Draft Scottish Budget as a commentary on its contents.

In Engender's 2017 Gender Matters Roadmap, we called for the Scottish Government to extend the Equality Budget Statement into a full gender analysis of the Scottish Budget process, where the cumulative impact of spending decisions on women's equality is considered. Whilst we welcome the latest Equality and Fairer Scotland Statements, we continue to believe that these need a clearer purpose and revised timing to

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<sup>23</sup> Women's Budget Group (2020) Policy briefings on coronavirus and inequalities: Taxation and gender. Available at: <https://wbg.org.uk/wp-content/uploads/2020/11/tax-with-cover.pdf>

substantively inform the development of the Scottish Draft Budget and other fiscal documents.

### Budget setting

Analysis of how budget decisions impact on women and men should involve not only examination of the central equality budget and ad hoc programme spending (for instance, £521.9 million assigned to Early Learning and Childcare Expansion in 2021-22), but comprehensive gender budget analysis. Outside of these specific and ad hoc funds, spend around women's equality must also be mainstreamed across portfolios, such that transport funding aims to meet women's and men's needs for public transport provision, funding for economic development agencies aims to meet the needs of female entrepreneurs, and so on.

Scottish Government's priorities on women's equality and rights are set out in individual policy frameworks, including Equally Safe<sup>24</sup> (Scottish Government and COSLA's joint strategy on ending violence against women) and the Fairer Scotland for Women action plan on the gender pay gap.<sup>25</sup> We continue to see very little connection between Scottish Government's policy frameworks that include women's equality and rights and spending allocations in the Budget.

Methodology trialled over recent years<sup>26</sup> can be seen as steps in the right direction, particularly given the commitment to further thinking and development on equality and human rights budgeting in the Bute House Agreement, Programme for Government 2021-22, and response to recommendations from the First Minister's National Advisory Council on Women and Girls. However, gender budget analysis (GBA) should now be embedded within all Scottish Government's budgeting and policymaking routines, in line with proposals from the Equality Budget Advisory Group.<sup>27</sup> It is vital that gender analysis is not used only as an extrinsic form of analysis. Instead, Government should be able to demonstrate how GBA has informed resource reprioritisation and reallocation decisions across spending portfolios and throughout the formulation of the budget. This must apply to the forthcoming Emergency Budget Review and any other packages of support that may be made available.

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<sup>24</sup> Scottish Government (2018) Equally Safe: Scotland's Strategy for Preventing and Eradicating Violence against Women and Girls. Available at: <https://www.gov.scot/publications/equally-safe-scotlands-strategy-prevent-eradicate-violence-against-women-girls/>

<sup>25</sup> Scottish Government (2019) A Fairer Scotland for Women: Gender Pay Gap Action Plan. Available at: <https://www.gov.scot/publications/fairer-scotland-women-gender-pay-gap-action-plan/>

<sup>26</sup> See annexes to the Equality and Fairer Scotland Budget statements for 2021-22 and 2022-23

<sup>27</sup> Scottish Government (2021) Equality Budget Advisory Group: recommendations for equality and human rights budgeting - 2021-2026 parliamentary session. Available at: <https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/pages/executive-summary/>

## Budget scrutiny

A gender lens must be applied to budget scrutiny, not only by the EHRCJ committee but across the committee system, including that of the Finance and Public Administration committee. Parliament has a key role to play in scrutinising Scottish Government's development of these tools and its capacity to undertake GBA. This includes ensuring that officials are undertaking adequate gender equality analysis in each department and across each spending portfolio, and holding government to account with regards to investment in equality and human rights across all sectors, and in line with the scale of commitments on paper.

## Legislative and regulatory measures

Engender has advocated for legislation and regulation to make clear the requirements on Scottish Government to undertake gender budget analysis in all public spending and revenue-raising.<sup>28</sup> This would strengthen accountability and make robust equality budgeting a legal obligation for listed public bodies in Scotland. For example, amendments could be made to the Public Finance and Accountability (Scotland) Act 2000 or the Scottish-specific duties under the current review of the public sector equality duty (PSED). This was addressed in the First Minister's National Advisory Council on Women and Girls (NACWG) report of 2020, which calls for a statutory footing for integrating intersectional gender budget analysis into the Scottish Budget process.<sup>29</sup> The Scottish Government have committed to considering this, as well as to further integrating intersectional gender budget analysis into the Scottish Budget process in its response of 2021.<sup>30</sup> Further details on our proposals for such a duty are set out on p. 20-21 of this paper.

The NACWG has set out further recommendations on gender mainstreaming and budgeting in its respective reports. In its response to the 2019 Report and Recommendations, the Scottish Government committed to an annual statement on Gender and Policy Coherence that includes demonstration of how work on gender equality is being aligned with the budget process, and to be guided by the recommendations for equality and human rights budgeting developed by EBAG for the parliamentary term to 2026.<sup>31</sup>

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<sup>28</sup> Engender (2020) What works for women: Improving gender mainstreaming in Scotland

<sup>29</sup> NACWG (2020) First Minister's Advisory Council on Women and Girls: 2020 report and recommendations

<sup>30</sup> Scottish Government (2021) Scottish Government's response to the First Minister's National Advisory Council on Women and Girls: 2020 Report Recommendations. Available at: <https://www.gov.scot/publications/scottish-government-response-first-ministers-national-advisory-council-women-girls/documents/>

<sup>31</sup> Scottish Government (2020) Scottish Government's response to the First Minister's National Advisory Council on Women and Girls: 2019 Report Recommendations

In addition to a statutory footing for GBA, the NACWG 2020 Report and Recommendations also recommends that the Scottish Parliament establish an “Equality Focused Review Body” to provide high-quality research, evidence gathering and evaluation of the impact of all proposed Bills, amendments, Committee enquiries, and the Scottish Budget. We urge the committee to explore how this could be implemented.

### 3.3 The Equality and Fairer Scotland Statement

The Equality and Fairer Scotland statement sets out the following opportunities and challenges for the spending review period:

1. Support an economic recovery which continues to progress action to tackle structural inequality in the labour market, including through good green jobs and fair work.
2. Ensure that the devolved taxation system is delivered in a way which is based on ability to pay and that the devolved social security funding increases the resources available to those who need it.
3. Ensure that inequalities in physical and mental health are tackled through the effective delivery of health and social care services as well as broader public health interventions.
4. Build digital services that are responsive to individuals and address inequality of access to digital participation.
5. Deliver greater progress towards meeting statutory child poverty targets.
6. Deliver greater progress towards closing the attainment gap.
7. Improve the availability and affordability of public transport services, to ensure those more reliant on public transport can better access it.
8. Ensure that policies, action and spend necessary to mitigate and adapt to the global impacts of climate change deliver a just transition for people in Scotland.
9. Better realise the right to an adequate home that is affordable, accessible, of good quality, and meets individual need whilst ensuring that progress on tackling current inequality of housing outcome is addressed.

**The Committee would welcome views on whether these opportunities and challenges are correctly focused, whether they are tangible and whether they are measurable?**

**Specifically:**

- **Does the current approach to Equality Impact Assessments and Fairer Scotland Duty Assessments produce a fair budget/meaningfully impact budget decisions?**

The current approach categorically does not produce a fair budget, and we have seen no evidence that equality impact assessments (EQIAs) routinely have meaningful impacts on budget decisions. Gender budget analysis is also a form of EQIA,<sup>32</sup> and our analysis of the application of GBA in Scotland is integrated throughout this response.

EQIAs hold the potential to transform budgeting and policymaking to deliver real change for women and girls in Scotland. The current approach, however, is simply not working. Critique of EQIA within the Scottish Government’s review of the public sector equality duty (PSED) in Scotland covers a set of critical issues that have been of major concern to Engender for many years. These include “a focus on process, or box-ticking, over the substantive aim of creating more inclusive policy; timing, whereby EQIAs are undertaken as an adjunct to the development of policy, or even retrospectively; the limited use of evidence and data; the lacking ambition and missed opportunity to proactively advance equality; and the lack of transparency”.<sup>33</sup>

Furthermore, the general quality of EQIAs is alarmingly low, and the current review glosses over integral issues with capacity, leadership and accountability that have been repeatedly raised by stakeholders. We have written extensively on the capacity building, development and scrutiny work that is sorely needed to drive up standards of EQIA, both within and outwith the scope of regulatory change that is being examined in the review of PSED.<sup>34</sup>

- **If not, how can this be improved?**

Review of the public sector equality duty: the duty to assess and review policies and practices (EQIA)

We agree with the Scottish Government’s view<sup>35</sup> that many of the pressing issues regarding EQIA relate to implementation of the Scottish specific duties of the PSED,

<sup>32</sup> Women’s Budget Group (2020) Equality impact assessments. Available at: <https://wbg.org.uk/wp-content/uploads/2020/02/final-impact-assessments-2020.pdf>

<sup>33</sup> Scottish Government (2021) Review of the operation of the public sector equality duty in Scotland: Consultation paper. Available at: <https://www.gov.scot/publications/public-sector-equality-duty-scotland-consultation/>

<sup>34</sup> Engender (2022) response to the Scottish Government consultation on 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>

Engender (2020) What works for women: improving gender mainstreaming in Scotland. Available at: <https://www.engender.org.uk/content/publications/WHAT-WORKS-FOR-WOMEN---improving-gender-mainstreaming-in-Scotland.pdf>

<sup>35</sup> Scottish Government (2021) Review of the operation of the public sector equality duty in Scotland: Consultation paper. Available at: <https://www.gov.scot/publications/public-sector-equality-duty-scotland-consultation/>

rather than to the intention of the duty on paper. However, we believe that more can and must be done to tackle the woeful underperformance of EQIA that has become customary, both within regulations and statutory guidance.

Engender has set out detailed calls on how to improve the use and impact of EQIA in our response to the Scottish Government's consultation on the PSED and in our own recommended draft regulations, developed in collaboration with Professor Nicole Busby.<sup>36</sup> A renewed and resourced approach to ensure that EQIAs function as intended is vital. This would see EQIA actually embedded in the policy design process at the effective point, and supported by a comprehensive programme of capacity building on all equality strands and on the process of intersectional gender mainstreaming. Sustainability must be a key consideration in attempts to transform the use of EQIAs. Whilst the First Minister's Advisory Council on Women and Girls (NACWG) and welcome policy developments over recent years<sup>37</sup> point to a relatively positive environment for women's equality within the policy landscape in 2022, other strands including race equality have not received the same attention in recent years,<sup>38</sup> and future political leadership in Scotland may not prioritise equality at all. Further, the chronically poor performance and low level of compliance with the basic requirements of the duty to assess and review policy and practice (EQIA) indicates a clear need for leadership and scrutiny.

Our proposals can be summarised as follows:

- A requirement for listed authorities to follow a prescribed set of criteria that must be met in undertaking an EQIA. This should be summarised in regulation and set out in detail in statutory guidance. We have developed such a standard for consideration.<sup>39</sup>
- Annual reporting to include details on each EQIA undertaken, including all relevant data collected and analysed, along with a summary of how analysis was taken into account in the resulting policy or programme.
- A duty on Scottish Ministers to make provision for the development and operation of a well-resourced EQIA improvement programme within a new

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<sup>36</sup> Engender (2022) response to the Scottish Government consultation on 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>

Engender (2022) Scottish Specific Duties of the PSED: Engender draft regulations. Available at: <https://www.engender.org.uk/content/publications/ANNEX-Engender-draft-regulations.pdf>

<sup>37</sup> For instance, the Domestic Abuse (Scotland) Act 2018 and A fairer Scotland for women: gender pay gap action plan

<sup>38</sup> CRER (2022) Response to the PSED consultation from the Coalition for Racial Equality and Rights

<sup>39</sup> Ibid. See p. 8

regulation on capacity building. This would aim to address the fundamental weaknesses that have been identified throughout the review.

- Amendments to strengthen wording around the driving purpose of the duty to ‘assess and review policy’ and to ensure that EQIAs are undertaken and used to inform decision making at the earliest possible point in the process.

All of this holds true for budgetary decision-making as well as policy development; indeed the two must become much more robustly integrated. Our proposals on the PSED also include a requirement on public bodies to attach costs to their equality outcomes for each protected characteristic. More broadly, initiatives to advance equality tend to be sorely lacking in detail around resourcing. Integrated gender budget analysis across the Scottish Budget has a key role to play in addressing this.

#### Review of the public sector equality duty: a new duty on intersectional gender budget analysis

The First Minister’s National Advisory Council on Women and Girls has recommended that the Scottish Government integrate intersectional gender budget analysis into the Scottish Budget process, and place this on a statutory footing. The Scottish Government has accepted this recommendation in principle.<sup>40</sup>

We have included a provisional new duty on intersectional gender budget analysis in our recommended Scottish-specific PSED regulations.<sup>41</sup> In line with thinking from Scottish Women’s Budget Group, we propose that Scottish Ministers make provision for intersectional gender budget analyses in:

- All central budget-setting processes relating to the Scottish budget
- All devolved budget-setting processes relating to the Block Grant and related budgetary matters including arrangements made under the Internal Market Act 2020
- All budgetary arrangements between Scottish Government and public bodies funded through the Scottish Budget
- All revenue raising processes

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<sup>40</sup> Scottish Government (2021) Scottish Government response to the First Minister’s National Advisory Council on Women and Girls. Available at: <https://www.gov.scot/publications/scottish-government-response-first-ministers-national-advisory-council-women-girls/documents/>

<sup>41</sup> Engender (2022) Scottish Specific Duties of the PSED: Engender draft regulations. Available at: <https://www.engender.org.uk/content/publications/ANNEX-Engender-draft-regulations.pdf>

We are also calling for a duty that requires reporting on intersectional GBA to be published by spending portfolio as part of the budget reporting process, and for Scottish Ministers to publish related guidance.

However, we have not engaged extensively or developed detailed thinking about intersectional GBA and how this would work in practice, and note that capacity to apply an intersectional model hinges on issues with data collection identified in the Scottish Government's consultation document.<sup>42</sup> We recommend that further research and development work is undertaken – within the broader programme of research regarding PSED reform equality stakeholders recommend<sup>43</sup> - before revised regulations are developed.

### The Equality Budget Advisory Group's recommendations to Scottish Government

Gender budget analysis is a form of equality impact assessment that is explicitly pegged to fiscal processes. In 2021, the Equality Budget Advisory Group (EBAG) produced a set of 31 recommendations on equality and human rights budgeting for the 2021-2026 parliamentary session. The response from Scottish Government was pushed back from 'spring' to 'summer' 2022, however this is yet to be published.

EBAG's comprehensive recommendations cover the wider budget process; integrating equalities and human rights analysis into policymaking and budgetary cycles; internal communications; external communications; organisation and culture; and knowledge and understanding. Key proposals include:

- Application and evidence of equality analysis at each stage of the budget process
- Actions to advance equality and realise human rights are reflected in a pre-budget statement, in-year reports and a mid-year review
- Multi-year spending reviews, including production of a pre-budget framework, developed in dialogue with partners
- Processes for public bodies funded through the Scottish Budget to report on past spend and budget allocations on equality and human rights
- Improved and published evaluation of outcomes that informs the different stages of pre-formulation, budget preparation, and evaluation.

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<sup>42</sup> Scottish Government (2021) Review of the operation of the public sector equality duty in Scotland: Consultation paper. Available at: <https://www.gov.scot/publications/public-sector-equality-duty-scotland-consultation/>

<sup>43</sup> Joint submission (2022) Equality stakeholders' submission on common concerns

- Improved transparency and public participation in the budget process, ensuring lived experience of policy decisions
- Integration of the annual wellbeing report (evaluation of Scotland's national outcomes) into respective stages of the budget process
- Integration of equality and human rights analysis in the Scottish Government's wellbeing report, which should evaluate outcomes and spend
- A Pre-budget Equality and Human Rights Assessment, and an Annual Portfolio Performance Update, within a new Pre-budget Statement
- A 'Citizens' Budget' – a condensed and accessible version of the budget – in line with international standards
- Clear articulation of equality and human rights responsibilities within performance management systems for all staff
- Processes to facilitate this close working of finance, policy and analyst staff to produce equalities and human rights analysis of spend
- Mandatory and regular equality impact training
- Continuous improvement of the equality evidence base.

Engender has backed EBAG's call for the Scottish Government to turn the full set of recommendations into a prioritised and well-resourced action plan. We urge the committee to do the same as part of its pre-budget scrutiny on human rights budgeting.

- **How can human rights be fully incorporated into the impact assessment process?**

Engender has long called for incorporation of CEDAW into Scots law and is supportive of human rights frameworks such as human rights budgeting. We also believe that gender budget analysis and human rights budget analysis are not antithetical to one another by any means. However, we remain concerned that thinking around incorporating human rights into the impact assessment process does not sufficiently engage with the structural power and disadvantage that underpins gender and other forms of social hierarchy. Gender budgeting is a well-established and long-term commitment for the Scottish Government, yet its implementation has not fully materialised. Our experience of adding and overlapping different analytical approaches without the resource to do each justice is that none are well-served in the end.<sup>44</sup>

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<sup>44</sup> Equality Sector Response (2017) [The socio-economic duty consultation. Available at: https://www.closesthegap.org.uk/content/resources/Socioeconomic-duty-consultation-equality-sector-response-September-2017.pdf](https://www.closesthegap.org.uk/content/resources/Socioeconomic-duty-consultation-equality-sector-response-September-2017.pdf)

The fact that CEDAW, CERD and CRPD are to be incorporated in the proposed new human rights framework presents an opportunity to ensure that equality-based approaches will feature in public body delivery of human rights obligations. Diane Elson has set out how GBA can aid compliance with CEDAW and how CEDAW can help set criteria for what constitutes gender equality<sup>45</sup> in budgetary matters and provide guidance for gender budgeting initiatives. She explains that:

“CEDAW requires that the raising and spending of public money be non-discriminatory and consistent with substantive equality between women and men, as autonomous possessors of rights. This implies that a gender perspective on budgets should be primarily concerned with the direct benefits from, and contributions to, government budgets that women and men get as persons in their own right.”<sup>46</sup>

CEDAW creates a gender obligation on State Parties to take ‘all appropriate measures’ to eliminate discrimination against women. A failure to allocate appropriate resources to women’s equality would therefore amount to a failure to comply, and GBA will be a vital tool in identifying appropriate resources.

It is vital that Scottish Government implements its commitment to further embedding equality and human rights within all stages of the Budget process in such a way that the existing focus on gender budget analysis is not lost, and with adequate attention to capacity-building on both equality and human rights budgeting.

- **Do the 9 key opportunities and challenges identified in the Equalities and Fairer Scotland Statement correctly identify the key opportunities and challenges around building a fairer Scotland?**

All of the key opportunities and challenges identified in this EFSS statement relate to gendered policy areas, with implications for intersectional inequalities faced by women in Scotland. Some of these, including economic recovery and structural inequality in the labour market (#1), increasing social security funding (#2), inequalities in physical and mental health (#3), progress towards child poverty targets (#5), and realising rights to housing (#9) are deeply bound with systemic inequality for women and map across core areas of Engender’s policy work. However, it has been outwith the scope of this response to analyse whether these areas cumulatively cover all current key issues.

There is some encouraging gender analysis integrated throughout the statement, but this is indicative rather than comprehensive and lacks an intersectional perspective. We also note that the table identifying ‘relevant human rights’ against each thematic area

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<sup>45</sup> CEDAW, General Recommendation 25, para. 8

<sup>46</sup> Elson (2006) Budgeting for women’s right: Monitoring governments for compliance with CEDAW

(on pages 7-9 of the EFSS), includes ‘rights for women’ only in relation to economic recovery and the labour market. We recommend future EFS statements of this type systematically consider the rights enumerated in CEDAW.

The statement is framed as a high-level ‘improvement piece’ that will feed into more detailed future work, including the development of specific equality impact assessments. It does not map coherently onto the spending decisions set out in the RSR, and it is fundamentally unclear how the EFSS and the RSR interrelate, and whether equality and human rights analyses were taken into account in the forecasted budget allocations. This represents a significant missed opportunity to embed equality and human rights budgeting in a major fiscal document, and improved outcomes for diverse groups of women and girls, and other marginalised groups, may have been compromised.

## 4. CONCLUSION AND RECOMMENDATIONS

At times of crisis equality and human rights budgeting are more vital than ever, to ensure that policy and spending responses are targeted where needed the most. This must include an intersectional gender analysis. The impact of the pandemic is ongoing for women, girls and gender equality in Scotland. Now this will be compounded and deepened by the cost of living crisis, causing catastrophic harm to women, particularly those who live with multiple discrimination and inequality.

We are calling on the committee:

1. To urge the Scottish Government to apply rigorous and intersectional gender budget analysis to its Emergency Budget Review and any other packages of support to ease the cost of living crisis
2. To systematically consider how spending decisions and revenue-raising cumulatively impact on women, men and structural gender inequality
3. To take stock of the rollback on women’s equality and rights as a result of the pandemic and cost of living crisis, and advocate for budgetary decisions that address this
4. To push the Scottish Government to turn EBAG’s recommendations for equality and human rights budgeting into a prioritised and well-resourced action plan
5. To consider how incorporation of CEDAW and other treaties might support future enhancement of both GBA and human rights budgeting approaches
6. To develop recommendations on building sufficient capacity on GBA and human rights budgeting within government and across parliamentary committees

7. To scrutinise proposals for the Scottish Government’s Equality and Human Rights Mainstreaming Strategy, and Equality Evidence Strategy for 2023-25
8. To raise the issue of lacking intersectional gender-sensitive and sex-disaggregated data in its scrutiny of budget processes at every opportunity
9. To explore how sustained equality and human rights expenditure can be embedded and future-proofed in Scotland’s public institutions
10. To consider revenue-raising activities as well as resource allocation in its examination of budgetary processes
11. To engage with proposals from the National Advisory Council on Women and Girls, and specifically:
  - To encourage Scottish Government to develop legal duties that require public bodies to undertake intersectional gender budget analysis and to gather, collect and use intersectional equality data
  - To advocate in favour of the parliamentary review body across the Scottish Parliament
12. To encourage the Scottish Government to strengthen obligations regarding equality impact assessment within its review of PSED regulations
13. To recommend Equality and Fairer Scotland statements systematically consider the rights enumerated in CEDAW
14. To monitor ‘more detailed future work’, including the development of specific equality impact assessments, highlighted in the RSR Equality and Fairer Scotland statement from an equality and human rights perspective.

## FOR FURTHER INFORMATION

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## ABOUT US

Engender is Scotland’s feminist policy and advocacy organisation, working to increase women’s social, political and economic equality, enable women’s rights, and make visible the impact of sexism on women and wider society. We work at Scottish, UK and international level to produce research, analysis, and recommendations for intersectional feminist legislation and programmes.