



Engender Response to the Scottish Government Consultation on the Equality and Human Rights Mainstreaming Strategy

February 2025

1. INTRODUCTION

Engender is a leading feminist policy and advocacy organisation working to secure women's social, political and economic equality and realise women's rights in Scotland. We aim to make visible the impact of structural inequalities on women and wider society, and work at Scottish, UK and international levels to produce research, analysis and recommendations for intersectional feminist legislation and policy development.

We have existed as an organisation for 30 years and have garnered significant insight and expertise into the successful design and application of equalities mainstreaming approaches. In recent years, we published a detailed report exploring the potential for a national approach to Gender Mainstreaming in Scotland.¹

We have also provided detailed, regular feedback on existing statutory mechanisms for equalities mainstreaming, specifically the Public Sector Equality duty under the Equalities Act 2010 and the design and implementation of the Scottish Specific Duties.² In our practice, we have also collaborated extensively with public institutions and other organisations in Scotland and internationally to determine how mainstreaming approaches can be successfully applied and sustained to achieve strong equalities outcomes.

Much of the learning on equalities mainstreaming stems from the 3 decades of practice that have emanated from gender mainstreaming internationally, particularly from EU and UN institutions. There is now a major body of research – reflecting on the strengths and weaknesses of different approaches and

¹ 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>

² Engender (2022) Response to the Scottish Government's 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>

parameters of good practice.³ We are not aware of any evidence that supports the specific approach being outlined by the Scottish Government in this strategy. Specifically, the generalised, expansive approach of ‘equalities and human rights’ mainstreaming.

The Scottish Government has demonstrated it can successfully show leadership and take strategic action to tackle gender inequality through gendered approaches to policymaking, such as the Equally Safe strategy and the Women’s Health Plan 2021-24. These targeted approaches are vital to ensure gender inequality is made visible and prioritised within critical policy areas.

We have also welcomed the Scottish Government’s ongoing commitment to supporting the recommendations of the National Advisory Council for Women and Girls. It may be that some of our concerns outlined in our response to the consultation can be addressed through more targeted work on gender mainstreaming via the NACWG proposals.

We note that: *“The Strategy will be the overarching framework within which Scottish Government’s current work to strengthen the legislative environment for equality and human rights in Scotland sits.”*

The National Performance Framework is ultimately the overarching framework for policy development in Scotland. As such, it will be critical to the success of this mainstreaming strategy that it is directly connected and integrated into the implementation of the National Performance Framework. Ensuring mainstreaming is integrated into high-level policy architecture is fundamental to its success.

This should include improvements to the NPF’s mainstreaming approach, including adopting a standalone outcome on gender equality that aligns with international best practices. (We have provided further detail in our answers to Q14 and 15 below).

Current scope

Introducing a mainstreaming strategy is a welcome step in realising the Scottish Government’s commitment to eradicating intersectional gender inequality in Scotland. However, we are concerned that the strategy presented in the consultation is extremely high-level in its focus. It is also mostly aimed externally at supporting public bodies with mainstreaming approaches and lacks focus on the detailed change required internally within the Scottish Government. As we detail throughout this response, this includes the blurring of external outcomes of what equality should look like in our communities with operational issues relating to existing barriers that need to be tackled to embed mainstreaming in practice.

³ Gender at Work, ‘Gender at Work Framework’: <https://genderatwork.org/analytical-framework/>

The consultation lacks critical details of a strategy, making it difficult to judge how effective the different drivers, objectives or any new reporting requirements would be in creating change over time. Further consultation on a more developed strategy document, action plans and toolkits would be advisable. The strategy document should include a fully developed theory of change and strategic goals attached to a monitoring and evaluation framework, mapping out a course of action over the 5-year period it is set to cover.

We would argue that the consultation does not cover the key tenets of a robust gender mainstreaming approach, an internationally recognised and well-evidenced tool for advancing women's equality. The concept of equality utilised is also limited to the Equality Act 2010 'Equality of Opportunity' definition.⁴ We would encourage future work to consider progressing substantive approaches to equality in practice.

Homogenisation

We welcome the fact that the consultation argues against homogenisation. However, we believe the approach will work to enable it. There is a lack of evidence provided for why the strategy combines all equality areas and human rights treaties into one mainstreaming strategy. Without a clear evidence base to support that this works as an approach, we are unsure how this will lead to the necessary changes in policy and practice required to reduce inequality.

The strategy proposals are wide in scope, and we are very concerned about the risk of overpromising and underdelivering. This could damage the case for equalities mainstreaming in the longer term, impacting the perception of the value of mainstreaming approaches.

Scale of challenge

The consultation does not adequately capture the current scale of the challenge and the existing barriers to effectively embedding equalities work across Government and public bodies. In particular, the significant barriers to progressing intersectional gender equality as a central aim of policymaking. This includes a lack of recognition of the significant failures in the application of the Public Sector Equality Duty and Scottish Specific Duties to create tangible change in embedding equalities approaches. There is significant learning on PSED that needs to be understood and acknowledged to effectively address why previous efforts to mainstream equality have not succeeded.

⁴ OECD webpage on Gender Mainstreaming: <https://www.oecd.org/en/topics/sub-issues/gender-mainstreaming-in-policy-making.html>

Rhetoric and announcements to progress equality that come without implementation cause harm as they create the impression of a commitment to equality without follow-up investment to ensure meaningful change.

The case for mainstreaming – what is to be gained?

It is also vital that equalities work and the adoption of mainstreaming approaches is not reinforced in the strategy as a burden on public bodies. We would ask that further work be undertaken in the delivery of the strategy to show the value mainstreaming equalities creates for public bodies by allowing them to work more efficiently and maximise the impact of their work. This omission is particularly apparent in the consultation's context setting, which includes only a short paragraph under the heading 'Why mainstreaming is important' (page 9.) We recommend providing illustrative examples of how transformative equalities work can affect policy design, delivery, and impact across public bodies.

2. CONSULTATION QUESTIONS

Question 1

Do you agree with the vision?

No

Please explain your answer or provide further information.

Whilst we agree with the broad sentiment of this vision, we do not think it is specific enough to set out the purpose of this strategy, what action and change it intends to realise, and how the Scottish Government intends to get there. The proposed wording lacks clarity and is too vague to articulate a vision, promote an increased understanding of what mainstreaming does, or motivate stakeholders to act.

We are also concerned that the vision focuses solely on high-level external change rather than reflecting the need for change and ownership within the Scottish Government and public bodies. In our view, the vision should clearly set out the deep connection between internal action and change across government, the impact this will have on those who are subject to discrimination and systemic inequality, and the transformational benefits for communities as a whole.

We note that the vision links mainstreaming to securing communities that are "diverse, inclusive, empowered, resilient and safe." Whilst we recognise these characteristics as important, we do not think they are comprehensive enough to effectively communicate the centrality of mainstreaming to good governance.

Instead, we would recommend that the vision and objectives make a direct link between this strategy and securing *all* the National Outcomes set out in the

National Performance Framework. Indirectly referencing only two of these outcomes effectively siloes mainstreaming, contradicting its purpose.

To deliver effective governance and sound policymaking for Scotland, public bodies must design their interventions and systems to meet the needs of the most marginalised and those who have been historically disadvantaged by structural biases, including women. If this is not done, then public bodies will ultimately fail to achieve their objectives for communities and the country more broadly.

The vision and objectives as currently drafted do not make it clear enough that mainstreaming is not an 'optional extra', 'something that is good to have, if and when resources allow', or a tool linked to one NPF outcome'. Rather, it is *a fundamental, basic component of good governance* that is critical to achieving *all* National Outcomes.

Given the huge scale of ambition for this strategy, we would advise the consideration of a trial in the first instance within the Scottish Government. This would afford the opportunity to develop pockets of innovation, good practice and learning that can then be shared with the wider public sector. Demonstrating 'what works' and 'how to' is often more effective than outlining theory in a rollout of organisational mainstreaming.

Question 2

Do you agree with the objectives?

No

Please explain your answer or provide further information

The objectives positively identify the need for equalities work to be embedded into the public sector's policy process in design and delivery. We support some of the objectives' broad aims, such as the need for more transparency in decision-making and the removal of systemic barriers.

However, as currently proposed, the strategy risks homogenising different issues for equality groups into a one-size-fits-all approach. Mainstreaming's purpose is to support policymakers in identifying specific groups experiencing structural inequality, such as women, deepen their analysis and ensure reducing inequality is an integrated goal of policy design.

We know this one-size-fits-all approach is ineffective at reducing specific forms of inequality, as we have seen it frequently applied in the implementation of the Public Sector Equality Duty (PSED) in Scotland. We commonly see public bodies attempting to consider all inequalities simultaneously without adequate data, resources or expertise. This often leads to the dilution of targeted action on different areas of inequality and to public bodies developing policies and practices

that fail to address intersectional discrimination.⁵ It is vital to recognise that an effective intersectional approach involves *increased specificity* of analysis that identifies the specific experiences of groups facing intersecting disadvantage, as opposed to a one-size-fits-all approach.

From a gender mainstreaming perspective, the objectives do not articulate a ‘twin-track approach.’ This requires having specific, focused goals for gender equality that are then further supported by embedding gender across all other policy areas. This dual approach, which is absent from the strategy proposals, is recognised internationally as a necessary and effective component of mainstreaming.⁶

Overall, we are concerned that the objectives are too high-level, lack vital detail and are not attached to a monitoring and evaluation framework. For example, the third objective lists “leadership, capability, culture and practice of Government and the public sector” across equality and human rights. The huge scope of this one objective means it is vague in intent and inadvertently diminishes the importance of each of the critical areas listed.

We would recommend redrafting the objectives to be narrower and more specific in focus by separating them into targeted aims for different areas of policy and practice change, which can be measured and evaluated at regular intervals across the first five years of the strategy. These need to be specific, measurable, achievable, realistic, and time-bound.

We would also welcome much stronger and clearer objectives for accountability for the Scottish Government and among public sector leaders. Currently, there is a lack of clarity on where responsibility for accountability will lie if mainstreaming fails to progress. A more fully articulated theory of change, which acknowledges the significant barriers to mainstreaming that currently exist across the public sector and strategies to overcome them, is also critically needed.

⁵ Engender (2022) Engender response to the Scottish Government’s consultation on the operation of the Public Sector Equality Duty (PSED). Available at:

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

⁶ UN Women (2020) UN Strategic Planning and Gender Equality and the Empowerment of Women: Guidance. Available at:

<https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/How%20We%20Work/UNSystemCoordination/UN-SWAP/UN-SWAP-2-Guidance-on-UN-strategic-planning-and-gender-equalityandempowerment-of-women-en.pdf>

The Six Key Drivers:

Driver 1. Strengthening Leadership

Question 3

Do you agree that strengthening leadership is a key driver for mainstreaming equality and human rights?

Yes

Please give reasons for your answer or provide more information.

International best practice indicates that strong leadership is essential for the effective implementation of gender and equality mainstreaming.⁷ The Scottish Parliament's Finance and Public Administration Committee's recent inquiry into effective Scottish Government decision-making highlighted the importance of leadership. The inquiry noted that Ministers have a role to play in creating the culture for effective decision-making, while senior civil servants can set the agenda on how high-level commitments, like mainstreaming, can be implemented.⁸

Since its establishment in 2017, the First Minister's National Advisory Council on Women and Girls (NACWG) has explored how the Scottish Government and public sector can improve their leadership on gender equality. Over the years, the Scottish Government has accepted several recommendations, including creating a standalone Equalities Directorate and establishing a senior officials and leaders' group on equalities.⁹

Similarly, in response to the work of the Equality and Human Rights Budget Advisory Group (EHRABG), the Scottish Government is committed to improving equality and human rights leadership in policy development and budget decisions. In particular, the Government outlined that Scottish Ministers have individual and collective responsibility for embedding equality and human rights across their portfolios.¹⁰

⁷ Rao, A., Sandler, J., Kelleher, D. & Miller, C., (2015) Gender at Work. Theory and Practice for 21st Century Organisations. See also [UN Women Handbook for Gender Mainstreaming](#), [European Institute for Gender Equality Gender Mainstreaming Toolkit](#) and [OECD Toolkit for Mainstreaming and Implementing Gender Equality](#).

⁸ Scottish Parliament Finance and Public Administration Committee (2023) Report on Public Administration – effective Scottish Government decision-making. Available at: <https://bprcdn.parliament.scot/published/FPA/2023/7/3/f8fd92f0-dd28-42aa-b379-3c68f3d33249/FPA062023R6.pdf>

⁹ First Minister's National Advisory Council on Women and Girls (NACWG) NACWG Phase One 2017-2021. Available at: <https://www.generationequal.scot/phase-two-priorities/nacwg-phase-one/>

¹⁰ Scottish Government (2023) Scottish Government response to the Equality and Human Rights Budget Advisory Group's recommendations. Available at: <https://www.gov.scot/publications/scottish-government-response-equality-human-rights-budget-advisory-groups-recommendations/>

However, despite these pockets of progress, existing work to demonstrate leadership on equality and human rights is not translating into meaningful change within the Scottish Government or wider public sector. Indeed, the latest NACWG report in 2024 found that there is still a need for “greater political leadership that is backed with sufficient resourcing” for the Scottish Government to meaningfully prioritise intersectional gender equality in its work.¹¹

Through our own practice, we routinely encounter what we perceive to be significant gaps in gender and broader equalities competence and capacity at all levels of leadership within the Scottish Government. Often, this is characterised by a willingness to speak broadly about the importance of equality but inertia or reticence in terms of practical delivery, investment, or action. This can be particularly damaging as it can create the impression of prioritisation of the issues whilst obscuring a real lack of progress.

Question 4

Do you agree with the focus on different levels of leadership?

Yes

Please give reasons for your answer or provide more information.

We welcome that the strategy will focus on strengthening leadership across different levels within the Scottish Government and public sector. However, it is important that this focus extends to leadership at mid-management levels. Without this, it is possible that commitments to equality and human rights expressed at the political and executive team levels could be undermined because of resistance or inaction from mid-level managers.

Resistance or obstruction commonly occurs during processes of organisational change, driven in part by a bias towards the comfort level offered by the status quo.¹² Examples of this kind of resistance include denial of the need for change or specific action, pushing sole responsibility for achieving equality outcomes onto specialists and using resourcing or timing arguments as reasons for inaction.

Despite high-level political commitment to gender equality, this resistance is present at different levels of the Scottish Government and the wider public sector and is evidenced, for example, by routinely poor-quality Equality Impact Assessments (EQIAs). We also see a consistent lack of resources being identified for equality and human rights mainstreaming, including a lack of investment in necessary staffing. A specific example of this is that the Scottish Government’s

¹¹ NACWG (2024) First Minister’s National Advisory Council on Women and Girls. 2024 Report. Available at: <https://www.generationequal.scot/app/uploads/2024/05/NACWG-Report-May-2024.pdf>

¹² Lombardo, E. & Mergaert, L. (2016) Resistance in Gender Training and Mainstreaming Processes. Available at: https://link.springer.com/chapter/10.1057/978-1-137-48685-1_3

own equality mainstreaming team has been significantly understaffed compared to other Directorate teams in recent years.

In 2024, the NACWG raised concern that there remains a “lack of recognition across the Scottish Government that this [intersectional gender equality] is a priority and an important part of the work of civil servants.”¹³ Therefore, it is important to strengthen leadership’s focus and understanding of the value of equality and human rights mainstreaming across all levels of Government and public bodies. This should include managers and senior staff regularly demonstrating their commitment to its implementation, including via resourcing and staffing decisions, to overcome resistance.

Question 5

Have we captured the core elements of strengthening leadership within the context of mainstreaming?

No

Please give reasons for your answer or provide more information.

We are concerned that the strategy does not acknowledge or discuss the existing barriers to implementing equality and human rights mainstreaming, even when there is buy-in at senior levels of leadership. Without this understanding, any potential actions to strengthen leadership will struggle to overcome existing obstructions.

One of the biggest barriers to effective equality and human rights mainstreaming within the Scottish Government and public sector has been a lack of adequate resources. Committing resources, including financial investment, towards mainstreaming within an organisation is one of the most visible ways to demonstrate leadership.¹⁴

In October 2024, Audit Scotland forecasted £1 billion shortfalls for the public sector.¹⁵ This is worrying, as we have previously seen the de-prioritisation of work on equality when there have been additional pressures on funding and resources. Even in times of relative financial stability, equality considerations are still not viewed as an integral part of policymaking. As such, we would welcome more specific details on how the strategy will address these challenges.

¹³ NACWG (2024) NACWG Meeting Note: Second Focus of Scrutiny Accountability Event. Available at: <https://www.generationequal.scot/app/uploads/2024/05/NACWG-Meeting-Note-2024-SFS-Accountability-Event-28-February-2024-FINAL.pdf>

¹⁴ NACWG (2024) First Minister’s National Advisory Council on Women and Girls. 2024 Report. Available at: <https://www.generationequal.scot/app/uploads/2024/05/NACWG-Report-May-2024.pdf>

¹⁵ Audit Scotland (2024) The 2023/24 audit of the Scottish Government Consolidated Accounts. Available at: <https://audit.scot/publications/the-202324-audit-of-the-scottish-government-consolidated-accounts>

In the context of real terms budget cuts and increasing pressure on decision making, we are not at all confident that all leaders will give due consideration to equalities, without improvements in transparency and oversight. Critically we would like greater emphasis given in the strategy to accountability among leadership.

This should include ‘softer’ accountability mechanisms via leadership job descriptions and appraisal and performance management requirements. We would also strongly recommend greater consideration of regulatory accountability mechanisms to underpin the aims of this strategy and ensure action by leaders. We believe there is a strong case for a statutory duty to ensure executive accountability for mainstreaming and equality impact assessment. We are unconvinced that mainstreaming will happen without this.

Finally, we are of the view that the strategy should take more necessary action to secure greater diversity in leadership across the public sector, including the Scottish Government. Despite positive moves towards equal gender representation on public boards, women and minoritised groups are still significantly underrepresented in leadership across the public sector. For example, research undertaken by Engender in 2023 found that only 35% of Chief Executives of public bodies are women.¹⁶

Question 6

What actions would you recommend to ensure strengthening leadership as outlined above will contribute to mainstreaming?

- Ensure that this driver's focus extends to leadership at middle-management levels within the Scottish Government and public sector.
- Provide greater detail on how public bodies should implement mainstreaming within the context of budgetary pressures
- Ensure accountability mechanisms are in place to enable strong leadership. These should include linking requirements on equality and human rights mainstreaming to recruitment processes, job descriptions, work plans and performance assessments.
- Identify and apply regulatory accountability mechanisms for senior leaders.

¹⁶ Engender (2023) Sex and Power. Available at:
<https://www.engender.org.uk/content/publications/SP2023NEW.pdf>

Driver 2. Developing Accountability and Transparency

Question 7

Do you agree accountability and transparency are a key driver for mainstreaming equality and human rights?

Yes

Please give reasons for your answer or provide more information.

Accountability mechanisms are crucial to effective gender mainstreaming. We welcome targeted action to address this, as there are significant and widespread challenges regarding scrutiny, compliance, and accountability for embedding equality goals into the work of government and public bodies. Academic research on gender mainstreaming indicates that reliance on ‘soft accountability’ measures alone, which are often difficult to enforce and lack penalties, has significantly undermined the impact of mainstreaming policies to date.¹⁷

In Scotland, we have seen how a lack of accountability for not complying with requirements related to the Public Sector Equality Duty (PSED) has led to poor implementation. This has contributed to a steady deterioration of quality in PSED reporting, with an increasing number of public bodies failing to produce mainstreaming reports altogether.¹⁸

Transparency is an important component of mainstreaming. It requires making the necessary information publicly available- detailing how policy decision-making happens. Again, there are significant weaknesses in the information available on how equality considerations influence public bodies’ practice. An example of this can be seen in a review conducted by the Scottish Women’s Budget Group of local authority budgets for 2024/25.¹⁹ This showed issues with accessing budget information, specifically information on how decisions have been made. Fourteen out of 32 local authorities did not publish impact assessments along with their budget papers.

Question 8

Have we captured the core elements of accountability and transparency within the context of mainstreaming?

¹⁷ Sophie Jacquot (2010) ‘The paradox of gender mainstreaming: unexpected effects of new modes of governance in the gender equality domain’ West European Politics Volume 33 Issue 1. Available at: <https://doi.org/10.1080/01402380903354163>

¹⁸ Equality and Human Rights Commission (2018) Effectiveness of the PSED Specific Duties in Scotland. Available at: <https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/specific-duties-scotland/effectiveness-psed-specific-duties>

¹⁹ Scottish Women’s Budget Group (2025) Local Authority Budget 2024/25 Review. Available at: https://www.swbg.org.uk/content/publications/1736844318_SWBG-LA-Budget-2024-25-Briefing-final.pdf

No

Please give reasons for your answer or provide more information.

Further work is required to review and strengthen existing mechanisms, both internal and external, for the Scottish Government to ensure accountability, monitoring, and transparency on equality and human rights mainstreaming. The consultation lists these mechanisms as examples of existing avenues for accountability and transparency but does not identify any improvements in these approaches or where learning to date can be applied. Instead, the driver focuses on introducing new mechanisms, including via the Human Rights Bill.

Engender and other women's and equalities organisations have provided a wealth of detailed feedback to the Scottish Government regarding the specific weaknesses within current equality accountability measures, including PSED.²⁰ Over the last several years, we have made multiple approaches to securing improvements in these mechanisms.²¹

We are therefore disappointed that the strategy does not sufficiently acknowledge these widely recognised challenges and does not appear to offer any substantive route forward to achieve essential improvements.

As we documented in our response to the Scottish Government consultation on the Human Rights Bill, we are concerned that in the absence of any meaningful reflection exercise or corrective action on the effective implementation of PSED, the Human Rights Bill is likely set to replicate the same weaknesses.²²

Without action on PSED, there is a real risk that the Human Rights Bill will simply add greater complexity to a system of duties that is already failing to deliver on its aims.

Internal accountability

Scottish Government Ministers already have individual and collective responsibility for ensuring equality and human rights are embedded in their portfolios, yet this is not happening at the level that it should. This responsibility includes holding senior officials accountable for progress towards this goal. We would recommend this driver looks to strengthen the role of Ministers in creating

²⁰ Engender (2022) Engender response to the Scottish Government's consultation on the operation of the Public Sector Equality Duty (PSED). Available at:

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

²¹ Engender (2021) Draft Regulations for the Scottish Specific Duties of the Public Sector Equality Act. Available at: <https://www.engender.org.uk/content/publications/engender-draft-regulations-table-of-changes.pdf>

²² Engender (2023) Response to the Scottish Government's consultation on A Human Rights Bill for Scotland. Available at: <https://www.engender.org.uk/resources/Engender-response-to-the-SG-consultation-on-A-Human-Rights-Bill-for-Scotland.pdf>

accountability for internal processes to embed equalities approaches into the work of government.

The Scottish Government must work to identify how using existing internal mechanisms such as EQIAs, the role of Accountable Officers, and budget monitoring can improve accountability and transparency of mainstreaming efforts. We would welcome further practical actions detailed in the final version of the strategy.

For example, we know that the Best Value Guidance for Accountable Officers already stresses the importance of mainstreaming equality into public bodies' work. It identifies equality as a cross-cutting theme that “focuses on how a Best Value organisation has embedded an equalities focus...[and] continuous improvement in delivering equality.”²³

We would suggest that evidence on the lack of equalities focus in the work of public bodies means the role of Accountable Officers should be reviewed.²⁴ This is critical to better understand how they can be utilised effectively to create compliance with the Best Value Guidance.

In addition, Equality impact assessments (EQIAs) need to be utilised much more effectively as policy development tools for staff working within policy design. They hold the potential to enrich policymaking and deliver real change for women and girls and marginalised communities in Scotland. EQIAs are a vital internal accountability mechanism to ensure equalities mainstreaming is taking place and demonstrate transparency in the process, including how key policy decisions are made to further equality outcomes.

At present, however, the potential of these tools is not being realised, and the system is not working. We have shared concerns over a sustained period of years about the poor quality of EQIA practice across the public sector in Scotland.²⁵ Practices that need to be urgently addressed include:

- EQIAs that are overly focused on process, or box-ticking, over the substantive aim of creating more inclusive policy.

²³ Scottish Government (2011) Best Value in Public Services Guidance for Accountable Officers. Available at: <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2011/03/best-value-public-services-guidance-accountable-officers/documents/0115733-pdf/0115733-pdf/govscot%3Adocument/0115733.pdf>

²⁴ Equality and Human Rights Commission (2018) Effectiveness of the PSED Specific Duties in Scotland. Available at: <https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/specific-duties-scotland/effectiveness-psed-specific-duties>

²⁵ Engender (2022) Engender response to the Scottish Government's consultation on the operation of the Public Sector Equality Duty (PSED). Available at: <https://www.engender.org.uk/content/publications/Engender-response-to-PSED-consultation.pdf>

- Timing, where EQIAs are undertaken as an adjunct to the development of policy or even retrospectively.
- The limited use of relevant equalities evidence and data.
- A lack of transparency in how EQIAs are used within policy processes.

As part of our work advocating for reform of the PSED regulations, we proposed that public bodies be required to follow a prescribed set of criteria when undertaking an EQIA.²⁶ We also propose adding an annual reporting process to PSED regulations. Public bodies should be required to provide details on EQIAs undertaken during the reporting period. This would include all relevant data collected and analysed in the process, along with a summary of how analysis was considered in the resulting policy or programme.

As part of the mainstreaming strategy, we suggest including an improvement programme for EQIA practice as a key action. We have developed the set of steps below following years of being approached on EQIAs, as well as regular analysis of those relating to key policy areas:

1. Relevant qualitative and quantitative evidence relating to women and critical intersectional experiences is described.
2. Gaps in evidence are identified, and the additional research that is needed is outlined.
3. Existing evidence is analysed from a gender equality perspective and its intersections
4. This analysis is applied to identify where gender inequality and discrimination against women can be reduced and where women's intersectional equality can be advanced.
5. Policy is developed or adapted to address the inequalities and opportunities to advance equality that have been identified, including steps to fill gaps in the evidence base.

External accountability

It is vital that existing stakeholder groups established to create external accountability can be utilised to support equality and human rights mainstreaming where appropriate. The bodies identified as responsible for scrutinising mainstreaming work must be properly resourced to carry out this work.

For example, a key barrier to enforcing PSED regulations in Scotland has been a lack of resources for the regulator, the Equality and Human Rights Commission

²⁶ Engender (2022) Engender response to the Scottish Government's consultation on the operation of the Public Sector Equality Duty (PSED). Available at: <https://www.engender.org.uk/content/publications/Engender-response-to-PSED-consultation.pdf>

(EHRC). This relative lack of funding, which has only worsened in recent years, has arguably prevented the EHRC from undertaking sustained compliance proceedings and from delivering the level of resource-intensive work necessary to support public bodies in their obligations.

The scope for enforcement action is very narrow, which means the main avenue for challenge has instead become judicial review instigated by individuals.²⁷ Relying on this mechanism to drive change places an unacceptable burden on those experiencing discrimination and ultimately slows the pace of development.

In our response to the Human Rights Bill consultation, we reflected on the potential for expanded powers for the Scottish Human Rights Commission (SHRC).²⁸ Specifically, given that the Equalities Act is reserved, we are unclear what powers on equality could be expanded to the SHRC.

We recommend that this driver include more detail on who will be accountable for the strategy's success and scrutiny of equality mainstreaming over the life of the strategy. For example, in Wales, there is a 'Future Generations Commissioner' who supports enforcement of the Well-being of Future Generations (Wales) Act.²⁹ This Act creates legal duties for listed bodies to improve Wales's social, economic, environmental, and cultural well-being. Since its introduction, the Commissioner has followed up directly with public bodies and used the role to highlight areas of change required.

Question 9

What actions would you recommend to ensure greater accountability and transparency contribute to mainstreaming?

- Identify how **existing internal and external accountability mechanisms can be improved** to embed equalities mainstreaming. Specifically, invest in further review and action to improve the implementation of PSED.
- Review how existing stakeholder groups responsible for external accountability can be better utilised and funded to support mainstreaming equalities and human rights approaches in the public sector.

²⁷ Equality and Human Rights Commission (2018) Reviewing the aims and effectiveness of the public sector equality duty in Great Britain EHRC. Available at: <https://www.equalityhumanrights.com/sites/default/files/review-of-public-sector-equality-duty-psedeffectiveness.pdf>

²⁸ Engender (2023) Response to the Scottish Government's consultation on A Human Rights Bill for Scotland. Available at: <https://www.engender.org.uk/resources/Engender-response-to-the-SG-consultation-on-A-Human-Rights-Bill-for-Scotland.pdf>

²⁹ Welsh Government (2025) Well-being of Future Generations (Wales) Act 2015: the essentials. Available at: <https://www.gov.wales/well-being-future-generations-act-essentials-html#:~:text=The%20Act%20puts%20in%20place,term%20challenges%20we%20are%20facing>

- Better utilise the EHRC's role in Scotland to scrutinise public bodies' practice and implementation of PSED as part of delivering the mainstreaming strategy.
 - Clarify what, if any, additional powers can be extended to the SHRC on equality.
- Adequately resource the staff within the Scottish Government responsible for mainstreaming equalities to ensure they can review and quality assure work underway to improve practice.
- Create a programme to pro-actively improve the practice of Equality Impact Assessments within the Scottish Government and public bodies' policymaking through specific capacity-building and identification of best practice approaches.
- Review how the Equality and Fairer Scotland Budget Statement is used to set budgets and fully embed Gender Budget Analysis (GBA) into the Scottish Government budget process.
- Create routine scrutiny of how GBA is being utilised by local authorities and public bodies, especially in relation to funding cuts of services.
- Improve the creation of meaningful 'equality outcomes' for the Scottish Government as part of fulfilling PSED requirements, which can be measured and reported on more robustly. This should include better scrutiny of outcomes by engaging *meaningfully* with equalities organisations and experts beyond the currently limited approach, including when the outcomes are being reviewed periodically.
- Engender supports the NACWG's recommendation that a Ministerial annual statement on intersectional gender policy coherence, followed by a debate, be delivered to the Scottish Parliament. This recommendation was accepted by the Scottish Government but has yet to be delivered.

Driver 3. Ensuring an effective regulatory and policy environment

Question 10

Do you agree that ensuring an effective regulatory and policy environment is a key driver for mainstreaming equality and human rights?

Yes

Please give reasons for your answer or provide more information.

A regulatory and policy environment that can facilitate progress and change in practice is vital for effective equalities mainstreaming. We welcome the commitment to create new legislation which aims to strengthen equality and human rights approaches in policy development.

However, the aims of this driver are severely undermined by the Scottish Government's minimal action to address significant issues with existing PSED regulations that could better drive equality mainstreaming. As a cornerstone of equalities mainstreaming regulation, we will continue to raise the need for significant reform of these duties.³⁰ As part of this work, we have drafted a set of improved regulations for PSED.³¹

As we outlined in our response to the Human Rights Bill consultation, the introduction of new regulations on human rights reporting must not replicate the same weaknesses as the PSED approach.³² In particular, we are cautious about the suggested action of introducing new Human Rights Impact Assessments when we know there are already significant issues in the quality of existing EQIA processes.

In our answer on the 'Developing Accountability and Transparency' driver (Q8), we have summarised our concerns with existing EQIA practice and recommendations for improvement, including both regulatory and non-regulatory changes.

Question 11

Have we captured the core elements of ensuring an effective regulatory and policy environment within the context of mainstreaming?

No

Please give reasons for your answer or provide more information.

³⁰ Engender (2024) Engender briefing on the public sector equality duty. Available at: <https://www.engender.org.uk/content/publications/Engender-PSED-briefing-June-2024.pdf>

³¹ Engender (2021) Draft Regulations for the Scottish Specific Duties of the Public Sector Equality Act. Available at: <https://www.engender.org.uk/content/publications/engender-draft-regulations-table-of-changes.pdf>

³² Engender (2023) Response to the Scottish Government consultation on A Human Rights Bill for Scotland. Available at: <https://www.engender.org.uk/resources/Engender-response-to-the-SG-consultation-on-A-Human-Rights-Bill-for-Scotland.pdf>

The Public Sector Equality Duty (PSED) and Scottish Specific Duties (SSDs) are key components of the regulatory environment and were intended to enable mainstreaming in Scotland. However, to date, there is little evidence of this practice taking root and these duties have not resulted in public bodies mainstreaming equality considerations in their decision-making processes in a meaningful way. Our experience working on public bodies' delivery of PSED over the last decade shows that there are significant weaknesses with the current regulations and a pressing need for reform.³³

There is a substantial body of evidence and learning on the operation of PSED from across the equalities sector, which shows that the current implementation of the duties has failed to advance inequality in Scotland.³⁴ This was detailed extensively to the Scottish Government as part of the review of PSED in 2022. However, critical learning, particularly regarding the weaknesses of the regulations, does not appear to have been taken into consideration when approaching the equality and human rights mainstreaming strategy or the Human Rights Bill.

We continue to be disappointed with the limited ambition of the Scottish Government to undertake the reform PSED requires, and we do not agree that the PSED actions undertaken so far amount to “specific and significant transformation” on equalities.

We would like to see urgent and meaningful development of PSED to include:

- Addressing homogenised approaches to equalities. We have repeatedly outlined how the current approach to PSED has resulted in public authorities diluting their focus on identity-based inequality. This is done in favour of an approach that attempts to consider all characteristics simultaneously without adequate data and equalities-specific expertise.
- Examine how a more intersectional approach can be integrated into best practice on PSED. This requires increased specificity in analysis, and better collection and use of intersectional data.
- The Scottish Government has already identified the lack of accountability on PSED as an area that needs to be addressed. We continue to argue that the mainstreaming duty within PSED should be more prescriptive, with the aim of supporting listed authorities in fulfilling their obligations. We have advocated for greater prescriptiveness across the regulations.

³³ Engender (2024) Engender briefing on the public sector equality duty. Available at: <https://www.engender.org.uk/news/blog/a-new-look-for-the-public-sector-equality-duty/>

³⁴ Engender (2022) Engender response to the Scottish Government's consultation on the operation of the Public Sector Equality Duty in Scotland. Available at: <https://www.engender.org.uk/content/publications/Engenderresponse-to-PSED-consultation.pdf>

- We believe that this will help to make the regime more cohesive by clarifying how different aspects of the regulations fit together throughout the cycle of policymaking and programme design, and therefore also bringing into focus the purpose and ambition of the requirements.
- Arguments have been made that PSED is a bureaucratic burden on public bodies and that, therefore, reporting requirements should be reduced. **We reiterate our position that regular reporting on activity to progress equalities that are sustained and embedded in an organisation's day-to-day business should not be onerous if the right structures and support are in place.**

Question 12

What actions would you recommend to ensure that an effective regulatory and policy environment will contribute to the achievement of mainstreaming?

- We must see further commitment from the Scottish Government to reform the PSED³⁵ as part of creating a functioning regulatory environment to facilitate equalities mainstreaming:
 - Revisit and expand on proposals to reform the Scottish Specific Duties, focused on improved outcomes for protected groups.
 - Co-produce revised regulations with a PSED Advisory Group of equalities experts.
 - Create new duties on intersectional gender data, gender budget analysis, equalities competence and sexual harassment prevention.
- Furthermore, we support NACWG's call that, in line with international best practice, the Scottish Government implement a twin-track approach to mainstreaming and develop a national strategy on intersectional gender equality.
- As it is the overarching framework for policy development in Scotland, it will be critical to the success of this mainstreaming strategy that it is directly connected and integrated into the implementation of the National Performance Framework.
- This should include improvements to the NPF's mainstreaming approach, including the adoption of a standalone outcome on gender equality that is in line with international best practices. (We have provided further detail on this in our answers to Q14 and 15 below.)

³⁵ Engender (2024) Engender briefing on the public sector equality duty. Available at: <https://www.engender.org.uk/news/blog/a-new-look-for-the-public-sector-equality-duty/>

Driver 4. Utilising Evidence and Experience

Question 13

Do you agree that utilising evidence and experience is a key driver for mainstreaming equality and human rights?

Yes

Please give reasons for your answer or provide more information.

Collecting and effectively utilising equalities data and qualitative research in the design, implementation, monitoring and evaluation of policy is critical to securing policy outcomes. It is a primary mechanism through which government and public bodies can understand the makeup and needs of the communities they serve and monitor the impact that their policies and services have on the lives of people in those communities.

Engaging communities to better understand individuals' lived experiences and to facilitate their engagement in the co-design of policies and services is a fundamental component of the democratic process. Done well, it can improve the quality and impact of policy, enhance accountability and empower communities and individuals.

Question 14

Have we captured the core elements of utilising evidence and experience within the context of mainstreaming?

No

Please give reasons for your answer or provide more information.

The Scottish Government has introduced some welcome initiatives in recent years to improve the collection and use of equality data, as demonstrated by the Equalities Evidence Strategy. However, as the consultation acknowledges, significantly more work is required to address the challenges of collecting, analysing, and reporting intersectional equality data across government and public bodies.

Specifically, if the Scottish Government is serious about its ambition to integrate an intersectional approach, significant investment and capacity building will be required to enable this. We support this ambition and believe it will be critical to improve policy outcomes across the board.

However, the consultation document provides little detail on the specific challenges within the Scottish Government and public bodies that hinder the collection, dissemination, analysis, and application of data and evidence. It also lacks detail on what actions the strategy will require or initiate to address these

barriers. In the absence of this detail, it is difficult for us to provide constructive feedback.

We know from our practice that public bodies regularly report that they don't have the systems in place to collect mandated data. It appears that the Scottish Government is also not realising its role in ensuring information flows into the public sector. To our knowledge, there is a significant lack of coherent mechanisms to get equality evidence from those in the public sector designing policies and services. In the context of budgetary pressures, we are particularly concerned that evidence is not being used effectively to consider the consequences of cuts on specific communities.

We recognise that there have been examples of lived experience engagement work by the Scottish Government and via Expert Groups that it facilitates, such as NACWG's 'Circle' mechanism. We support the development of participatory, lived experience engagement. However, we would urge the Scottish Government to recognise that this work requires time and investment if it is not to be approached in a tokenistic way.

It is likely unavoidable that significant investment will be needed to facilitate a step change in the public sector's approach to data, evidence and experience. It is our view that this investment would likely represent value for money as it would lead to significant improvements in how policies are designed and implemented. It is also vital to future-proof policy-making processes in the context of a rapidly changing environment and in line with advances in technology. This is also commented on in more detail in our answers to questions 20-22 under the capacity driver.

We welcome recognition of the National Performance Framework's role in helping create equality indicators that could be used to measure the impact of mainstreaming efforts. We have repeatedly called for improvements to the NPF to ensure it supports progressing intersectional gender equality in Scotland, including the need for a specific gender outcome to ensure the collection of adequate data on intersectional gender equality is part of the measurement framework.³⁶

As it is the overarching framework for policy development in Scotland, it will be critical to the success of this mainstreaming strategy that it is directly connected and integrated into the implementation of NPF. In this instance, we believe it could help drive enhanced action and transparency on the use of evidence.

³⁶ Engender (2023) Engender Response to the Scottish Government's Call for Evidence on the National Outcomes. Available at: <https://www.engender.org.uk/content/publications/National-Outcomes-Review---Engender-Call-for-Evidence---Final.pdf>

However, it is also critical to the profile and success of all the drivers outlined in the consultation, including accountability.

Question 15

What actions would you recommend to ensure that utilising evidence and experience as outlined above will contribute to the achievement of mainstreaming?

As previously outlined, the strategy provides little detail on the specific barriers to the effective use of evidence and experience. Without this information, it is difficult to suggest meaningful actions for improvement.

As a starting point, we recommend the following actions:

- Undertaking an exercise that gathers learning from across the public sector to understand the barriers and what public bodies consider necessary to improve their practice. While there will be a need for internal, context-specific solutions within different organisations, we anticipate a huge scope for shared learning across the public sector.
- The Scottish Government play a leadership role in identifying key gaps, facilitating the sharing of expertise and solutions between bodies, and developing national mechanisms, guidance, and accountability. This exercise should be linked to the PSED reform we have outlined throughout this document, as well as the specific improvements in the EQIA process suggested in our answer to Q8.
- Re-iterating that significant investment will be needed to facilitate change in the public sector's approach to data, evidence and experience. This should be framed as value for money due to the significant improvements in policy design and delivery that would result from better equality data collection.
- In the immediate term, specific consideration must be given to building out a comprehensive set of equality indicators, backed by enhanced data collection, across the Outcomes of the National Performance Framework (NPF).
 - This should include improvements to the NPF's mainstreaming approach, including the adoption of a standalone outcome on gender equality in line with international best practices.
 - Support the NACWG call for a measurement framework to track progress on women's equality in Scotland as part of the NPF.

Driver 5. Enhancing Capability and Culture

Question 16

Do you agree that enhancing capability and culture is a key driver for mainstreaming equality and human rights?

Yes

Please give reasons for your answer or provide more information.

Culture

Ensuring a more equitable and empowering culture is essential for the successful implementation of an effective mainstreaming strategy. Without this supportive culture, even the most well-designed strategy is likely to fail.

The term ‘deep structure’ has been used within scholarship on mainstreaming to denote “the collection of values, history, culture and practices that form the “normal” unquestioned ways of working in organisations.”³⁷ This includes discriminatory norms that reproduce inequality in organisations, create power imbalances, and sustain biases in decision-making. These norms are often diffuse but can be evident when individuals resist the need for change in equality, see responsibility for equality as residing with experts only, and use arguments around resources or time as justification for inaction. Consequently, this deep structure can sabotage high-level commitments to equality and human rights.

Culture and deep structure are also heavily influenced by accountability mechanisms or lack thereof and by leadership approaches, including where the rhetoric on equalities is not matched by meaningful action. These issues have a trickle-down effect and can mean that staff feel disempowered to act. Therefore, it is vital that the Scottish Government considers how to create an empowering and supportive culture for mainstreaming equality internally and within other public bodies.

Capability

For many years, Scotland’s women’s sector organisations have repeatedly raised concerns about the lack of gender and equalities competence and skills in the Scottish Government and public sector. This has been particularly evident in various EQIAs for major policies, which have failed to critically engage with equality issues or ensure that the policy in question advanced equality.³⁸ A key example of this can be seen in the National Strategy for Economic Transformation,

³⁷ Rao, A., Sandler, J., Kelleher, D. & Miller, C. (2015) *Gender at Work: Theory and Practice for 21st Century Organisations*. (1st ed.). Routledge. <https://doi.org/10.4324/9781315693637>

³⁸ 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>

which demonstrates little understanding of women's experiences and roles within the economy.³⁹

Gender competence is a critical foundation for effective mainstreaming. However, according to the Scottish Government's own admission, it is "not well understood within the Government."⁴⁰ The Equality and Human Rights Mainstreaming Strategy needs to serve as a lever to address these skills and knowledge gaps.

Question 17

Have we captured the core elements of enhancing capability and culture within the context of mainstreaming?

No

Please give reasons for your answer or provide more information.

We are concerned by the conflation of capability and culture within the same driver for change. These are two distinct and substantial issues that require specific attention and resources to address. We are specifically concerned that this will lead to a conflation of the issues, specifically that improving capability is all that is needed to address culture. Whilst it is a critical component, changing culture requires a much greater range of initiatives.

Culture

There is a worrying lack of reflection on the existing culture within the Scottish Government and wider public sector. Many years of political commitments and legal duties under the PSED have failed to bring about effective equality mainstreaming, with culture being a critical barrier. However, the consultation document fails to acknowledge the impact or form of the existing culture.

From an external perspective, the Scottish Government and public sector appear to be unequal workplaces. For example, women's representation is below 50% in the Senior Civil Service despite women being overrepresented in the wider Scottish Government workforce at 57.4%. Women in the Scottish Government are more likely to report being bullied and harassed (7.7% compared to 5.5% of men)

³⁹ Close the Gap and 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>

⁴⁰ NACWG (2023) First Minister's National Advisory Council on Women and Girls (NACWG) First Focus of Scrutiny Accountability Event. Summary Notes. Available

at: <https://www.generationequal.scot/app/uploads/2023/03/NACWG-Accountability-Event-Meeting-Note-11-Jan-2023.pdf>

and discriminated against (6% compared to 4.7% of men).⁴¹ In the public sector, women make up just 35% of public body chiefs.⁴²

This data is not intersectional. However, evidence from other sources shows how women who experience intersecting forms of inequality experience greater discrimination in the workplace, including in the civil service and public sector:

- In a survey of BME women in Scotland, about three-quarters (72%) said they had experienced racism, discrimination, racial prejudice and/or bias in the workplace, with those working in the public sector more likely to report this.⁴³
- Disabled women experience poorer labour market outcomes and lower pay than disabled men.⁴⁴
- In the UK civil service, women from lower socio-economic backgrounds are more underrepresented in senior grades than their male peers.⁴⁵

Uncovering the hidden gendered norms and discriminatory cultures within the Scottish Government and public bodies is essential for effective mainstreaming. However, the consultation document suggests that the Scottish Government's belief is that organisational change will be achieved through a more diverse workforce and improving capability. While these aspects are important, they will not be enough to achieve the necessary cultural change for equality and human rights mainstreaming.

Across the public sector, there is evidence that equalities mainstreaming is poorly understood, viewed as administratively burdensome and as an optional extra. In our experience, we see frequent examples of 'deep structural' obstruction and resistance to action and change on equalities.

We urge the Scottish Government not to underestimate the scale of the challenge of changing culture, to examine the extensive evidence base on gender

⁴¹ Scottish Government (2024) Diversity and inclusion of the Scottish Government workforce – 2023. Available at: <https://data.gov.scot/workforce-diversity-2023/>

⁴² Engender (2023) Sex and Power 2023 Report. Available at: <https://www.engender.org.uk/content/publications/SP2023NEW.pdf>

⁴³ Close the Gap (2019) Still Not Visible. Research on Black and minority ethnic women's experiences of employment in Scotland. Available at: https://www.closesthegap.org.uk/content/resources/1557499847_Still-Not-Visible.pdf

⁴⁴ Close the Gap (2023) Close the Gap submission to the Economy and Fair Work Committee disabled employment gap inquiry. Available at: <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-submission-to-the-Economy-and-Fair-Work-Committee-disabled-employment-gap-inquiry.pdf>

⁴⁵ Social Mobility Commission (2021) Navigating the labyrinth. Socio-economic background and career progression within the Civil Service. Available at: <https://assets.publishing.service.gov.uk/media/60a4eb62d3bf7f288c716097/SMC-NavigatingtheLabyrinth.pdf>

mainstreaming and culture, and to build out this section of the strategy significantly. We would be keen to work with you on this.

Capability

Whilst welcome, we are concerned that reliance on ‘just in time’ training will not be enough to secure the necessary uplift in gender and equalities competence across the Scottish Government and public sector.

Conducting an EQIA is a particular skill that should be a core competency for all policy and analytical staff. Staff must have the capability to carry out meaningful intersectional gender analysis, which is currently not being achieved.

Effective equality and human rights mainstreaming requires a gender and equality-competent workforce. Gender competence refers to the capacity of an individual or organisation to apply gender analysis to policy or programme development to advance gender equality. It particularly pertains to the skills, knowledge and analytical capability to develop statistics, data, policy or programmes that acknowledge and respond to the socially constructed differences between men's and women's lives.

We would like to see a comprehensive approach to the development of gender and equalities competence adopted within the Scottish Government. This should extend beyond training and utilise the full range of levers the Scottish Government has as an employer and organisation. This should include ensuring basic equalities knowledge is integrated into all relevant recruitment processes, with requirements expanding depending on specialism and seniority of role.

Equalities competence and professional development should also be integrated into appraisal and performance management processes for all staff. We would also recommend the development of and funding of a network of gender and equalities champions across the organisation and potentially across the public sector. This can help facilitate shared learning, identify pockets of innovation and best practice and provide vital support to equalities staff who face huge challenges and are at increased risk of burnout.

Finally, we would recommend investment in a fund for equalities innovation which would provide teams with small grants to trial new ways of working or mechanisms for shared learning.

We also support NACWG's 2019 recommendation that National Standards be developed to support quality standards and accountability on intersectional gender competence in policymaking, with a requirement that all policy and analytical staff adhere to them. The Scottish Government has accepted this recommendation but not implemented it.

Question 18

What actions would you recommend to ensure that enhancing capability and culture as outlined above will contribute to the achievement of mainstreaming?

- Separate out changing culture into a separate driver for change, as the combination of capability and culture conflates two substantial areas of work.
- Ensure the development of the Scottish Government Policy Profession and its associated Policy Profession Standards will set out gender competence and gender budgeting as integral to policymaking processes.
- Develop and fund a network of gender and equalities champions across the organisation and potentially across the public sector.
- Investment in a fund for equalities innovation, which would provide teams with small grants to trial new ways of working or mechanisms for shared learning.
- Develop a comprehensive strategic approach to building gender and equality competence across the Scottish Government and public sector.
- Ensure basic equalities knowledge is integrated into all relevant recruitment processes, with requirements expanding depending on specialism and seniority of role.
- Ensure these competencies are treated as core skills for all policy and analytical staff.
- Equalities competence and professional development should also be integrated into appraisal and performance management processes for all staff.
- We also support NACWG's 2019 recommendation that National Standards be developed to support quality standards and accountability on intersectional gender competence in policymaking, with a requirement that all policy and analytical staff adhere to them. The Scottish Government has accepted this recommendation but not implemented it.

Question 19

Do you agree that this Strategy will provide a foundation to influence a culture of mainstreaming equality and human rights within Scottish Government and the wider public sector?

No

Please give reasons for your answer or provide more information.

In our answers to questions 17 and 18, we have already outlined why we do not think the Strategy will provide a foundation for influencing a culture of

mainstreaming. The strategy's lack of specific actions to address culture presents a significant gap. Again, we urge the Scottish Government not to underestimate the scale of the challenge of changing culture, to examine the extensive evidence base on gender mainstreaming, and to build out this section of the strategy significantly. We would be keen to work with you on this. We reiterate that separating out culture change as a distinct driver would be helpful to ensure that the significant barriers it can create to progressing mainstreaming approaches are adequately recognised and addressed.

6. Improving Capacity

Question 20

Do you agree that improving capacity is a key driver for mainstreaming equality and human rights?

Yes

Please give reasons for your answer or provide more information.

We agree that a lack of sufficient resources and capacity creates significant barriers to progressing mainstreaming approaches and must be addressed in the Strategy. Alongside leadership and accountability, resources and adequate investment are the most vital drivers in ensuring successful mainstreaming.

The failure of public bodies and the Scottish Government to invest in equality and human rights work has led to stagnation. This is most evident in the lack of investment attached to operationalising PSED in Scotland, which has led to the duties being seen as a tick-box exercise of little consequence as outcomes for groups with protected characteristics get worse.

As we explain in further detail in question 21, the lack of investment and resources in equality work has historically taken place without the means to challenge this practice. We reiterate again that stronger regulation, which creates greater accountability on compliance with PSED, would lead to higher levels of investment and the capacity of the workforce to undertake equality work being prioritised.

Question 21

Have we captured the core elements of improving capacity within the context of mainstreaming?

No

Please give reasons for your answer or provide more information.

As we have outlined in our previous answers, the consultation is silent on the significant issues caused by tightening public budgets. There must be a significant change in the current investment of resources. This is critical to enable high-quality impact assessments that influence policy decision-making and meaningfully engage with groups impacted.

We support the strategy of identifying the need for existing staff to have time protected to undertake mainstreaming work. However, this has not been sufficiently linked to the leadership driver. Senior leaders prioritising equalities work will allow more junior staff to undertake this work. A lack of leadership, conversely, can have a major negative impact on equality work taking place, in some cases being absent altogether in the work of Government public bodies. This crucial link needs to be clearer in this driver.

Funding is a key issue that this driver covers, and we would suggest adding specific calls for investment in gender expertise and civil society organisations that support mainstreaming in practice. The focus on the role of funding for civil society and partners to develop and embed equality and human rights within policy and practice is welcome. However, it vastly overestimates the current capacity of organisations, and particularly equality organisations, to cope with the scale of the current demand for equalities input and to plug the significant gaps created by failures within the public sector. Grant funding is already being used by such organisations to undertake programmes of equality work, and we are often unable to meet the existing cross-government demands for our expertise and input.

The role of the third sector in facilitating the capacity of Government and public bodies in mainstreaming needs to be carefully considered and not assumed. Many staff within equality organisations are experiencing burnout, precarious funding situations and a lack of capacity to take on the significant work required to improve practice.

We agree that civil society organisations play a key role in bringing specialist knowledge, training, and services to equality groups. However, referring to this work as able to ‘mainstream equality and human rights across society’ risks intertwining this work with the vast work required for public bodies to comply with legal duties to embed equalities in their day-to-day work. Again, this links to our concerns that the Strategy underestimates the level of resources and investment needed to really transform the practice of government and public bodies – a vast workforce covering a wide range of sectors.

The National Performance Framework is referenced in this driver as a mechanism to shape grant funding for civil society. We would like to reiterate our ask for the Scottish Government to create a standalone gender outcome in the NPF to ensure the work of the women's sector and gender equality experts is adequately supported in future funding arrangements.

There are also real opportunities for the Strategy to push forward equality budgeting approaches. We commented on the transformative role of intersectional gender budget analysis comprehensively in our response to the Scottish Government's review of PSED.⁴⁶

We welcome the recognition of the vital role budgeting plays in driving mainstreaming work. Gender budget analysis (GBA) is a tool that is currently vastly under-utilised by the Scottish Government and public sector. This work should also be explicitly linked with the driver on increased transparency. Equality impact assessing budget decisions allows the public to better understand where taxpayer money is being invested and spent to impact them (both positively or negatively.) Ultimately, gender equality will not be achieved without significant financial commitment, and alignment between policymaking and resource allocation is vital.

The Scottish Government should be leading in embedding gender budget analysis in the national budget process. There has been significant work underway to improve equalities approaches to the Budget. However, progress has been very slow in creating real change in how spending and investment decisions are made and impact assessed. Significant issues remain regarding the robustness of the Scottish Government's 'Equality and Fairer Scotland Budget Statement'. The most recent statement was scaled back from previous versions and again provided little analysis of how spending *cuts* would impact gender equality.

GBA and equality budgeting approaches must involve analysis of all spending decisions, not just positive ones. We ask that the Strategy recommit to the work of the Equality and Human Rights Budget Advisory Group and identify solutions to the barriers faced in implementing the EHRBAG's significant number of recommendations to improve Government budgetary practice. This is also a core recommendation of the NACWG.

The Scottish Government should also strengthen the use of gender budget analysis as a statutory matter by including a new duty on gender budgeting in the

⁴⁶ Engender (2022) Engender Response to the Scottish Government's 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>

PSED. This was initially included in Government proposals to reform PSED but then dropped when reforms were scaled back.

Question 22

What actions would you recommend to ensure that improving capacity will contribute to the achievement of mainstreaming?

- Assess the equalities approach of the Scottish Government Budget and ensure challenges to implementing the Equalities and Human Rights Budgeting Advisory Group are addressed.
- Ensure intersectional gender budget analysis is integrated into the Scottish budget process and give this a statutory footing.
- As part of the reform of PSED, place an additional duty on listed public bodies to embed intersectional gender budget analysis into budget processes.

How will the Strategy support real change?

Question 23

Do you think the proposed approach to a collated Action Plan will drive change?

Don't know

Please give reasons for your answer or provide more information.

As we have not seen the Action Plan in full, not enough detail is provided for us to comment on whether it will drive change. The consultation outlines that the action plan will include existing actions committed by the Scottish Government to mainstream equality and human rights.

It would be useful to see more detail on how the action plan will further detail the high-level commitments being collated together to create time-bound actions that can be measured and assessed throughout the life of the strategy.

We understand that using existing actions is positive in that it recognises the significant work that has been undertaken by bodies such as the NACWG to make evidence-based recommendations to improve mainstreaming. However, the large scope of the strategy and to whom it applies will require further action to be taken. Ultimately, the action plan will only be useful if it provides greater detail on the steps that need to happen over the 5 years of the strategy and how this will be monitored and assessed.

Question 24

Do you think there is a need for a cross public sector toolkit to support mainstreaming of Equality and Human Rights?

Don't know

Please give reasons for your answer or provide more information.

There is a real need to improve the Scottish Government's and the wider public sector's understanding of mainstreaming and its practice. However, we are unsure how a single cross-public sector toolkit will be able to address all equalities and human rights issues included and for the range of organisations in its scope.

In line with the recommendations we have made throughout this submission on the internationally recognised 'twin track' approach, we would suggest that there will be a need for multiple toolkits along equalities streams- for gender, disability, racial justice etc. We would also envisage that you may require different toolkits based on where different organisations are in their mainstreaming journeys and their size.

We are not aware of such a generalised approach being applied anywhere internationally. We do not believe that a ‘one size fits all’ approach to a toolkit will have enough specificity to provide meaningful guidance beyond the most basic of first steps.

There are risks that without having specific tools that focus on tackling different forms of inequality, the toolkit could lead to diluting the targeted steps that could be taken – such as with progressing gender mainstreaming, which we’ve provided detail on in our response.

Question 25

What practical steps would you include to make the toolkit an effective resource?

The toolkit will only be effective in creating change for gender equality if a specific approach is developed focused on improving intersectional gender analysis and competency within public bodies.

At a minimum, we would recommend a standalone gender mainstreaming toolkit, which would include existing resources already developed by expert organisations to strengthen the use of intersectional gender analysis in public bodies.

This could include existing training and resources which have been developed via the Equally Safe strategy to prevent violence against women and girls, which includes tackling gender inequality in policy design and delivery:

- Engender’s work on Primary Prevention of VAWG in policy, including briefings and examples of public functions where this could be applied strongly in practice: <https://www.engender.org.uk/primary-prevention/>
- Equally Safe at Work resources for public bodies: <https://www.equallysafeatwork.scot/res/>
- The Equally Safe in Practice toolkit: <https://equallysafeinpractice.scot/>

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.