

Engender response to the Social Security Scotland Draft Equality Outcomes Consultation

1. INTRODUCTION

Engender is a feminist policy and advocacy organisation working to realise women's economic, social and political rights and gender equality in Scotland. We have worked across welfare reform for nearly a decade, and latterly have engaged closely with the developing Scottish social security system and Agency. As part of this work we have drawn attention to the ways in which social security affects women differently to men, and the ways in which social security policies frequently exacerbate women's lesser access to resources, increase women's exposure to poverty, place women at risk of gender-based violence, and undermine women's rights.

We therefore welcome this opportunity to comment on Social Security Scotland's first set of draft equality outcomes, which are intended to set out how the Agency will use its power and resources to reduce discrimination against women and advance equality between women and men. We believe that Social Security Scotland can, and should, work closely with the Scottish Government to increase women's access to social security in a way that reflects their needs.

We are concerned that the draft outcomes put forward in this consultation do not take sufficient cognisance of women's experiences and lives and are therefore insufficiently targeted to address inequalities in access to social security in Scotland.

2. GENERAL COMMENTS ON THE DRAFT OUTCOMES

As a listed public body, Social Security Scotland is required to publish equality outcomes which it considers will enable it to better perform against the General Equality Duty, as set out in s.149 of the Equality Act 2010. The general duty requires public authorities to reduce discrimination against women (and other protected groups), advance equality between women and men (and between other protected groups), and foster good relations between women and men (and between other protected groups). As a Scottish agency, the duty to publish outcomes and report on

progress is found in the Scottish Specific Regulations,¹ which also include additional requirements such as gathering, using and publishing employee information and undertaking and publishing assessments of policies and practices.

Social Security Scotland has published the following draft equality outcomes for comment in this consultation:

1. Social Security Scotland will deliver a seamless service that is inclusive and where our clients are able to access the support they need.
2. Social Security Scotland will have a culture built on inclusivity where differences are supported, our people feel valued and they have opportunities to reach their full potential.
3. Social Security Scotland will be an employer of choice and through our recruitment process we will look to build a workforce that is representative of the population of Scotland.
4. Social Security Scotland uses the equality data (evidence) collected from clients, our people and other sources to respond to feedback and continually improve the service provided to all clients.
5. Social Security Scotland's service is delivered through having established partnerships with relevant public sector, third sector and community bodies providing clients person centred advice no matter their circumstances.

The very purpose of equality work is to address structural barriers which affect groups of people who share a protected characteristic, such as sex. The Public Sector Equality Duty (PSED) is one tool by which Public Bodies must undertake a (gender) mainstreaming approach.

This means that in preparing equality outcomes required by PSED, public bodies must have regard to the specific experiences of women and men, as well as the specific experiences of other protected characteristics.

As a general observation, public bodies' compliance with PSED has been weak across the board and shows signs of negative progress as opposed to improvement.² Equality outcomes in particular, have been commonly observed to be generic, non-specific and vague in nature, and increasingly failing to take into account the evidence about the particular barriers to equality experienced by each group with a shared protected characteristic. Instead, 'protected characteristics' are treated as a homogeneous group.

¹ The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 as amended

² Close the Gap (2015) Working Paper 15 Making Progress? An assessment of public sector employers' compliance with the public sector equality duty <<https://www.closesthegap.org.uk/content/resources/Making-Progress---An-assessment-of-employers-compliance-with-PSED-November-2015.pdf>>

The draft outcomes presented in this consultation are exceptionally and inappropriately vague. It is unclear which specific gendered inequalities the Agency wishes to address. Although Social Security Scotland is a new agency, some existing benchmarks and considerable definition of the issues affecting particular groups around social security are available. There is also a wealth of evidence about gendered inequalities in Scotland, including the gender pay gap, men’s violence against women, the burden of carrying out the majority of unpaid domestic and reproductive labour, and women’s unequal enjoyment of public services and goods such as transport, the built environment, and employability programmes. None of this evidence is cited in the consultation document, nor linked to the draft outcomes. It is next to impossible to assess how the stated draft outcomes will have any impact for women or for any other group, nor which inequalities they are intended to address.

PSED guidance explains the requirement that public bodies set **outcomes** rather than objectives. Outcomes demand description of “changes that result for individuals, communities, organisations or society as a consequence of the action” taken by the body.³ Not only do the draft outcomes fail to be recognised as outcomes, but the example activities that the Agency references under each one also fail to target women in any meaningful way. In some instances, the activities simply repeat the legal duties placed on Social Security Scotland by other elements of the Scotland Specific Duties themselves, for example “roll out of the Social Security Scotland Equality Impact Assessment process” and pay gap reporting.

Additionally, all outcomes are stated to meet all three limbs of the General Duty. Not only is this unnecessary for compliance with the Duty,⁴ it is vanishingly unlikely that every outcome could realistically do this. This blanket assertion of impact suggests that the Agency has not understood the task that it is trying to achieve.

Outcomes should be set based on evidence available regarding the experiences of those who share each of the protected characteristics. The evidence-base relied on by Social Security Scotland is not provided in the consultation paper, and it is unclear to what extent the draft outcomes have been crafted based on evidence specific to women’s experiences. This inevitably impacts measurement, as it is unclear how an agency could use the variety of tools and indicators listed to evaluate broad aspirations such as “inclusivity.”

³ Equality and Human Rights Commission Equality outcomes and the Public Sector Equality Duty Prejudice and Equality and Human Rights Commission Equality and Human Rights Commission: A guide for public authorities in Scotland <<https://www.equalityhumanrights.com/sites/default/files/equality-outcomes-public-sector-equality-duty-scotland.pdf>>

⁴ Equality and Human Rights Commission Essential Guide to the Public Sector Equality Duty Equality and Human Rights Commission Equality and Human Rights Commission: A guide for public authorities in Scotland <<https://www.equalityhumanrights.com/sites/default/files/essential-guide-public-sector-equality-duty-scotland.pdf>>

There are some issues of particular concern in the specific draft outcomes. **Outcome 1** is not an outcome per the meaning of the Scotland Specific Regulations and Public Sector Equality Duty, but is the bread and butter role of the Agency. Noting that the service will be 'inclusive' is not sufficient to describe meaningful responses to gendered issues. The same assessment can be made of **Outcome 2**, which describes an organisational culture, focused on the experiences of staff at the agency. It is unclear what specific issues the Agency seeks to address here and what action could create measurable change for women and other protected groups.

Outcome 3 is at least measurable in theory if the demographics of agency staff are intended to mirror that of Scotland's population. However, this does not necessarily address the inequalities in recruitment processes that leave some groups under or over-represented and implies no vision of where in the Agency particular populations are concentrated. It would not be incompatible with the Agency's draft outcome if all staff identified as being part of an under-represented or protected group were concentrated at lower levels of the Agency's hierarchy, but it would be incompatible with the principles of equality. As all the draft outcomes do, Outcome 3 is also said to meet all three aspects of the general duty, but it is not clear how it is envisioned to foster good relations, for example.

Outcome 4 appears to confuse outcomes with outputs. The Agency is required to articulate outcomes which are a description of "changes that result for individuals, communities, organisations or society as a consequence of the action" taken by the body. Using equality data (evidence) is an output or an activity, it does not describe a change for any of the groups the agency is required to consider.

Finally, **Outcome 5** invokes the activities of other bodies to deliver a person-centred approach. Delivering a person-centred approach is not clearly linked to realising equality in some way for some or all groups. It is also unclear how or why relationships with external bodies are part of the change the Agency wishes to realise, and this again suggests the purpose of outcomes has been misunderstood.

Social Security Scotland expresses its hope that its equality strategy, which will be based on the outcomes, will "**ensure we meet, and wherever possible, exceed the public expectations of us as a public body** under both the Equality Act 2010 and the Social Security (Scotland) Act 2018" (*our emphasis*). For the reasons outlined above, we do not believe Social Security Scotland will achieve this goal with the draft outcomes it has put forward. **In fact, we are concerned that these do not meet the minimum standards described in the regulations and will not achieve change for women in Scotland.**

3. DO YOU FEEL THESE OUTCOMES MEET THE NEEDS OF PROTECTED GROUPS? (YES?/NO)

No. **None of the outcomes are focused on the distinct needs of women engaging with Social Security Scotland and none appear to be based on a rigorous gendered analysis of the issues which may prevent or impede delivery of an appropriate service to women by the Agency.** Furthermore, none of the outcomes reference any specific action targeted at women, or any other protected group, except to acknowledge the existence of specific duties to publish sex-disaggregated workforce data as part of the activities that could support the achievement of outcome 4.

While the EHRC's Guidance for Public Bodies suggests that if a bodies' set of outcomes do not address all protected characteristics the body should explain why, this is not the same as suggesting that all individual outcomes must concern all protected characteristics.⁵ Experience tells us that generic outcomes that, in the Agency's words, "cut across all protected characteristics" are unlikely to focus action on the specific barriers for women or any other protected group, which limits the success of any action. Even looking at example outcomes provided by the EHRC, such as "reduce the levels of homophobic bullying in schools; reduce the concern of people from ethnic minority backgrounds about violent crime in the local area; improve uptake of cervical smear services among lesbian women,"⁶ it is clear that targeting outcomes for specific groups provides a more measurable and concrete direction which then enables specific evidence-based action.

This diminution of attention to the experiences of any one group is itself contradictory to the very principle of equality work, which focuses on the structural barriers to equality that are experienced differently by women and other protected groups.⁷

Engender would wish to see the draft outcomes fully revised and accompanied by an evidence base which sets out the available data and research on women's experiences of claiming and receiving social security.

⁵ Equality and Human Rights Commission Equality outcomes and the Public Sector Equality Duty Prejudice and Equality and Human Rights Commission Equality and Human Rights Commission: A guide for public authorities in Scotland <<https://www.equalityhumanrights.com/sites/default/files/equality-outcomes-public-sector-equality-duty-scotland.pdf>>

⁶ Equality and Human Rights Commission Equality outcomes and the Public Sector Equality Duty Prejudice and Equality and Human Rights Commission Equality and Human Rights Commission: A guide for public authorities in Scotland <<https://www.equalityhumanrights.com/sites/default/files/equality-outcomes-public-sector-equality-duty-scotland.pdf>>

⁷ Engender (2017) The socio-economic duty: a consultation; equality sector response, September 2017 (this is a joint response between Inclusion Scotland, Close the Gap, Engender, CRER, Equality Network, LGBT Youth Scotland, Scottish Women's Aid, Scottish Women's Convention, Stonewall Scotland, and Health and Social Care Alliance Scotland) <<https://www.engender.org.uk/content/publications/Equality-sector-response-to-the-Scottish-Government-consultation-on-Socioeconomic-Duty-September-2017.pdf>>

4. DO YOU FEEL THAT THE SUPPORTING ACTIVITIES STATED WILL HELP ACHIEVE THE STATED OUTCOME? (YES/NO)

No. **None of the potential activities outlined are concrete examples of work being undertaken or planned, but instead are broad areas of work that the Agency wishes to pursue.** For example, “delivery of the Social Security Charter,” “Engagement with Equality Groups” and an “inclusive communications project” which includes “various formats” are all imprecise and offer no insight into how their activity or outputs actually relate to the outcomes as currently expressed.

The use of the qualifier “could” in the list of activities potentially demonstrates a lack of strategic thinking, which further undermines the connection between the outcomes and the action the Agency will take to deliver them. The actions should be strengthened, and convincingly linked to the outcomes.

5. DO YOU FEEL THAT THE MEASURES OF SUCCESS STATED WILL HELP SOCIAL SECURITY SCOTLAND MEASURE THE PROGRESS OF THIS OUTCOME? (YES/NO)?

No. **It is unclear how the agency intends to use the wide variety of measurement sources listed under each draft objective to measure progress.** While it is inevitable that some objectives may not be measurable in numerical terms and could instead be measured through things like qualitative feedback, the draft objectives are framed so imprecisely as to be almost impossible to measure.

None of the draft outcomes are ‘specific and measurable.’ The closest draft objective on recruitment diversity includes no baseline or targets and is framed in such terms as to cover all or potentially none of the protected characteristics. It is unclear how protected characteristics are currently represented in the agency, and whether all groups require the same actions to increase the access to entry or to promotion into roles.

6. DO THE OUTCOMES STATED TARGET THE AREAS OF MOST RELEVANCE FOR SOCIAL SECURITY SCOTLAND (YES/NO)

We do not think so. Social Security Scotland has an important role in the delivery of devolved social security payments, which while separate from policy decisions regarding delivery, is closely interrelated with take-up strategy. Because application information has until relatively recently excluded mandatory equalities data, it is difficult to be precise about the specific circumstances of women in Scotland making

applications to Social Security Scotland. The Agency will have a vital role in recording equality information, and this will be of considerable use in setting future outcomes going forward.

Nonetheless, the Agency's first set of outcomes should be more tightly focused around its role as an administrator of payments, and the individual outcomes crafted using the existing evidence from Scotland, the UK and comparative bodies or countries.

7. ARE THERE ANY SPECIFIC INEQUALITIES THAT YOU WOULD WISH TO HIGHLIGHT THAT ARE RELEVANT TO THE DELIVERY OF SOCIAL SECURITY BENEFITS? ANY INFORMATION OR EVIDENCE YOU CAN PROVIDE OR SIGNPOST US TO WILL BE GREATLY APPRECIATED

Social security is a highly gendered phenomenon.⁸ **Women are twice as likely to rely on social security payments as part of their income, with social security amounting to 20% of women's total income in the UK.**⁹ Over the decade of austerity, 86% of cuts to the UK tax and benefits system will have come from women's resources.¹⁰ Women are more likely to shoulder unpaid care responsibilities and are more likely to give up work in order to provide care - 74% of Carers' Allowance claimants are women.¹¹ The introduction of Universal Credit has had serious negative consequences for women and for women's equality, including the single household payment which further undermines equal access to resources, replicates an out-dated traditional breadwinner-caregiver dynamic and puts women at an increased risk of financial abuse.¹² The family cap, or two-child limit, and rape clause frame the cost of children as a commentary on women's capacity to 'responsibly' plan for their families' continued financial security and punishes women and their children with increased poverty for exercising their reproductive autonomy.¹³

While these policy decisions are implemented at UK Government level, the Scottish

⁸ See Engender (2016) *Securing Women's Futures: Using Scotland's New Social Security Powers to Close the Gender Equality Gap*

⁹ The Fawcett Society (2006) *Who benefits? A gender analysis of the UK benefits and tax credit system*

¹⁰ Women's Budget Group (2016) *The impact on women of the 2016 Budget: Women paying for the Chancellor's tax cuts*, citing House of Commons Library Analysis for Kate Green MP, April 2016. 2

¹¹ Carers UK (2014) *Caring and Family Finances Inquiry: Carers struggling with alarming levels of hardship* available at <https://www.carersuk.org/news-and-campaigns/press-release-rss/580-nation-s-carers-struggling-with-alarming-levels-of-hardship> Accessed February 2020

¹² Engender (2016) *Gender Matters in Social Security: Individual Payments of Universal Credit* <https://www.engender.org.uk/content/publications/Gender-matters-in-social-security--individual-payments-of-universal-credit.pdf>

¹³ Engender (2017) *Parliamentary Briefing: Child Tax Credit and Child Element of Universal Credit*

Government has continuously expressed a desire to ‘do things differently’ and discussed social security within a human rights language framework. This has been borne out to some degree with initial steps such as the commitment to introduce individualised payments of Universal Credit.¹⁴

While we have a considerable body of evidence around women’s experience of utilising social security payments, less is known about how women in Scotland have navigated the new system to date. Without equality data it is impossible to measure the success of efforts to target take-up or reveal groups that may be under-claiming when measured against a demographic baseline. It will also be impossible without this data to identify and respond to issues such as a pattern of appeals decisions amongst groups which could indicate discrimination. These concerns are compounded by the limited data collection and analysis produced by the Department for Work and Pensions.

We therefore welcome the recent introduction of mandatory equality data collection and monitoring and hope that the Agency remains closely involved in the analysis of initial results as it refines its outcomes. In the meantime, we would highlight the need for a gender analysis of existing processes and increased consultation with women and other groups where initial feedback can be provided.

8. DO YOU HAVE ANY OTHER COMMENTS OR SUGGESTIONS ON OUR APPROACH TO EQUALITY?

With the devolution of social security to Scotland, the Scottish Government has already displayed a new approach which has clearly influenced the culture of Social Security Scotland.

It is entirely open to the Agency to give effect to its ambition that it be a leading institution when it comes to equality. Women’s experiences of engaging with the UK ‘welfare’ system must, however, be consistently considered as the Agency develops if this is to be the case. Revising the equality outcomes and some clear focus on women and other protected groups is a key first step in this process and delivering against PSED.

¹⁴ S94 (not in force). See also: Scottish Parliament Official Report, 7 March 2019, Minister for Older People and Equalities; Social Security (Scotland) Act 2018; Engender blog <<https://www.engender.org.uk/news/blog/successscottish-government-commit-to-individual-payments-ofuniversal-credit/?>>

9. CONCLUSION

Engender believes that the draft outcomes are incompatible with Social Security Scotland's aspiration that it “**meet, and wherever possible, exceed** the public expectations of us as a public body under both the Equality Act 2010 and the Social Security (Scotland) Act 2018.” As we have set out in this consultation response, our belief is that the existing draft outcomes fail to meet the minimum standards required for compliance with PSED in Scotland.

We believe that the Agency should reconsider its approach to drafting its equality outcomes, and re-examine the existing evidence-base around women's experiences of engaging with the social security system, and other comparable public services, to get a true sense of the barriers and challenges the Agency should be seeking to dismantle. This may involve steps such as conducting comparative analysis, research from literature and data evaluation and insight from lived experience and feedback. While we accept that initial weaknesses in the availability of equality data within the new social security system may act as an impediment to precision at this stage, the Agency must still refine the problems it seeks to address in its outcomes.

The outcomes themselves must be more precise and articulate the changes for women that the Agency is working to secure based on this evidence. The current framing of the outcomes does not do this, and demonstrates potentially some misunderstanding in the purpose of outcomes.

In summary, Engender recommends:

- The draft outcomes must be fully revised to meet minimum standards as required by the Scottish Specific Duties, including steps to target barriers specifically affecting women and those affecting other groups with a protected characteristic;
- The new outcomes should be developed on the basis of and accompanied by a compilation of the evidence which sets out the available data and research on women's experiences of claiming and receiving social security;
- The Agency should adopt a strategic approach to the activities it plans to undertake in realising each of the outcomes, and should avoid unnecessary restatements of action required elsewhere, such as publishing Equality Impact Assessments;
- Similarly, measurement tools should be streamlined, and tied specifically to the challenge the Agency seeks to address in achieving an outcome;
- The Agency should play a key role in the analysis of initial results from equalities data collected from social security applications in Scotland.

FOR FURTHER INFORMATION

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ABOUT US

Engender is a membership organisation working on feminist agendas in Scotland and Europe, to increase women's power and influence and to make visible the impact of sexism on women, men and society. We provide support to individuals, organisations and institutions who seek to achieve gender equality and justice.