

Engender response to the Scottish Government's Equality Evidence Strategy 2023 to 2025 consultation

October 2022

1. INTRODUCTION

Engender is Scotland's feminist policy and advocacy organisation, working to secure women's political, economic and social equality with men. Our aspiration is for a Scotland where women and men have equal access to and enjoyment of rights, resources, decision-making and safety. We were formed with the purpose of ensuring that the detail of women's lives is visible, counted, and understood in policymaking processes.

In order to make public policy and legislation that works for all women, and that can advance equality and realise women's rights, it is imperative that public bodies, including Scottish Government, generate and use data that captures women's range of intersecting experiences. During Engender's near 30-year history, we have worked consistently to advocate for better quality gender-sensitive, sex-disaggregated, and intersectional data.

We therefore welcome the opportunity to respond to this consultation on Scottish Government's Equality Evidence Strategy 2023-25. It is beyond the capacity, resources, and scope of Engender to be able to offer detailed analysis on each of the individual actions outlined in the consultation document. Instead, we wish to outline key overarching reflections for consideration, and to offer our broad support for the actions outlined as selective components of what will need to be an incremental, progressively expanding, long-term approach to substantively improving the use of equality data in policy-making in Scotland.

2. VISION (SECTION 1)

We support the intention of Scottish Government to revisit and revise the vision for the Equality Evidence Strategy as set out in 2017. That vision set out the primary aim of the strategy to ensure:

“Scotland’s equality evidence base becomes more wide-ranging and robust, enabling national and local policymakers to develop sound, inclusive policy and measure the impact on all of Scotland’s equality groups.”

Whilst the individual components of this vision are all still relevant, the scale of ambition outlined reflects the developing nature of the initial strategy and is somewhat hesitant. Historically, we know that equalities data has tended to be seen as something that is ‘optional’, ‘optimal but not necessarily essential’, that is relevant only in equalities policy-making and impacts only certain equalities groups. The strategic vision, as currently written, does not do enough to challenge these historical biases.

The use of equality evidence needs to be understood as foundational and critical to ensuring equitable and evidence-based decision-making. It is relevant across all policymaking and has the potential to help create transformational improvements in equality outcomes, minimise bias in policymaking and subsequent harms caused to equality groups, as well as systemic change in how our society operates with benefits across communities.

If this data analysis is not used to inform and frame policy decision-making, then policymakers run the very real risk of upholding systemic biases in how our public services are designed and delivered and the outcomes they achieve, further entrenching existing inequalities.

As such, we believe a revised strategic vision should be bolder and aim to move the narrative on equality evidence beyond the nascent framing in the existing vision. We would suggest that reframing is necessary to better underline the critical importance and centrality of this project to Scottish Government ambitions. This should include the precept that gathering and using gender-sensitive sex-disaggregated data be the default and not an exception.

In revising the vision and purpose for the new Equality Evidence Strategy 2023-25, we would encourage increased focus and articulation of the following issues:

- That inequalities are evident in most areas of life in Scotland
- That entrenched structural biases in our public institutions and decision-making architecture act as a major remaining barrier to equality
- Data is essential to ensuring that the systemic nature of inequality is better understood
- Policymaking across the board in Scotland provides opportunities for us to either adequately address inequality, act in a neutral way, or further compound and entrench inequality

- The collection, dissemination, and use of equality data in policy-making in Scotland provides a primary means by which we can ensure we design, deliver and evaluate what we do to identify and counter discrimination and structural biases and ensure the best possible equality outcomes

Legal basis

The strategy should also underline that gathering and using equalities data, including gender-sensitive sex-disaggregated data, is a requirement placed on Scottish public bodies by both domestic law,¹ in the form of the public sector equality duty in the Equality Act 2010, and international obligations, in the form of the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).²

Indeed, the UN's CEDAW Committee expressed concern in 2019 during its examination of the UK:

“regarding the lack of systematic collection of data, disaggregated by sex, gender, ethnicity, disability and age, in particular with regard to intersecting forms of discrimination, to identify areas in which women lack substantive equality with men, **inform policymaking** and assess the impact of measures taken.”³ [our emphasis]

Public bodies that fail to gather and use gender-sensitive data may also be in breach of the public sector equality, which mandates the collection and publication of employment data by listed public authorities and necessitates that all public authorities use equality evidence when making decisions.⁴

Other key areas of focus

Scotland's Equality Evidence Strategy 2017-2021 has been a welcome first step to engaging strategically with the question of equality data. However, an overarching weakness has been that it did not include additional resources for delivery or timescales against which further development in gender-sensitive data might be measured. It has also remained relatively untethered from broader

¹ EHRC Scotland (2016) Technical Guidance on the Public Sector Equality Duty: Scotland. Available at: https://www.equalityhumanrights.com/sites/default/files/redraft_of_psd_tech_guidance_-_v6sc.pdf.

² UN Committee on the Elimination of Discrimination against Women (2019) “Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland.” United Nations. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GBR/CO/8&Lang=En.

³ Ibid.

⁴ EHRC Scotland (2016) Technical Guidance on the Public Sector Equality Duty: Scotland. Available at: https://www.equalityhumanrights.com/sites/default/files/redraft_of_psd_tech_guidance_-_v6sc.pdf.

Scottish Government ambitions for women's equality and rights, and from the project of gender mainstreaming itself.

We have previously expressed the following concerns around the existing strategy (2017-21).⁵ The consultation document for the 2023-25 strategy does not provide any detail on, or response to these issues, and we would therefore strongly encourage further consideration of these areas as we move forward with a revised strategy:

- **The previous strategy did not set out proportionate actions to create gender competence across the public sector.** Although the revised strategy plans to develop additional gender-sensitive statistics, it does not address the critical question of how to make gender-sensitivity the default in data gathering and production.
- **The previous strategy outlined very limited forward planning.** The information available on the revised strategy includes mainly data projects that have been generated from past policy work and does not take on the task of forward planning in response to the Programme for Government, manifesto commitments, or the National Performance Framework.
- **There is a disconnection between the data strategy and gender mainstreaming.** Effective gender mainstreaming requires qualitative and quantitative gender-sensitive data.⁶ Whilst EQIA's, PSED and the forthcoming Gender Mainstreaming Strategy are mentioned in the consultation document, there is little explanation of how these will interconnect and reinforce each other.

3. PROPOSED ACTIONS (SECTION 2)

We note that the consultation, for the most part, focuses on technical actions around existing data or new data sets. The limits of our resourcing and capacity mean it is not possible for us to fully analyse, and reflect in depth on the merits and potential implications of each of these individual actions to the extent that we would consider necessary to determine which are more or less important.

⁵ See for example: Engender (2022) Engender response to the Scottish Government's consultation on the operation of the Public Sector Equality Duty in Scotland.

⁶ EHRC Scotland (2016) Technical Guidance on the Public Sector Equality Duty: Scotland. Available at: https://www.equalityhumanrights.com/sites/default/files/redraft_of_psd_tech_guidance_-_v6sc.pdf.

Indeed, to improve equality data, a systemic approach that is multipronged and works methodically through most, if not all available data sets, to integrate gendered analysis and disaggregate by sex and other protected characteristics will ultimately be needed.

In terms of priorities around effective data collection and analysis, there are emblematic issues for women's equality and rights, including: women's representation in political and public life, anti-discrimination law and access to justice, violence against women, participation in the labour market and the gender pay gap, publicly-funded childcare, maternity and parental leave, abortion and reproductive justice, and divorce and family law. However, gender justice concerns do not stop there. Policy within transport, planning and public space, social and unpaid care, women's health, employability, social security, and economic development must also be gender-sensitive if women and girls are to enjoy equal access to public goods and services.⁷

In every policy area we work across, without exception, a lack of gender-sensitive data undermines the capacity of policy and legislation to meet women's needs, to treat women fairly, and to bring about women's equality and rights. It is rare for any research report, parliamentary briefing, or consultation response that we publish to miss out a call for gender-sensitive data to be produced. As an indicator, recommendations for substantive programmes of gender-sensitive data development can be found in our reports on such diverse topics as hate crime,⁸ disabled women's health,⁹ employability,¹⁰ and social security,¹¹ and in all of the advocacy with policymakers and parliamentarians that has followed. These are not wish-lists peripheral to the central issue: it is clear to us that a failure to gather, analyse, and use gender-sensitive data has been a serious impediment to gender mainstreaming within policy and programme development.

Furthermore, producing gender statistics requires statisticians and analysts to move beyond simply counting women, and to fundamentally reconsider some of their assumptions about the world. In doing so, those responsible for the

⁷ Engender (2017) Gender Matters Roadmap: Towards Women's Equality in Scotland.

⁸ Engender (2019) Making women safer in Scotland: The case for a standalone misogyny offence. Available at: <https://www.engender.org.uk/content/publications/Making-Women-Safer-in-Scotland---the-case-for-a-standalone-misogyny-offence.pdf>.

⁹ Engender (2018) Our Bodies, Our Rights: Identifying and removing barriers to disabled women's reproductive rights in Scotland. Available at: [engender.org.uk/content/publications/Our-bodies-our-rights---Identifying-and-removing-barriers-to-disabled-womens-reproductive-rights-in-Scotland.pdf](https://www.engender.org.uk/content/publications/Our-bodies-our-rights---Identifying-and-removing-barriers-to-disabled-womens-reproductive-rights-in-Scotland.pdf).

¹⁰ Engender (2016) Unblocking the Pipeline: Gender and Employability in Scotland. Available at [engender.org.uk/content/publications/Unblocking-the-Pipeline---Gender-and-Employability-in-Scotland.pdf](https://www.engender.org.uk/content/publications/Unblocking-the-Pipeline---Gender-and-Employability-in-Scotland.pdf).

¹¹ Engender (2016) Securing women's futures: Using Scotland's new social security powers to close the gender equality gap. Available at: [engender.org.uk/content/publications/Securing-Womens-Futures---using-Scotlands-new-social-security-powers-to-close-the-gender-equality-gap.pdf](https://www.engender.org.uk/content/publications/Securing-Womens-Futures---using-Scotlands-new-social-security-powers-to-close-the-gender-equality-gap.pdf).

production of these data must acquire sufficient gender competence to wrestle with these considerations. In an evaluation of EU member state production of gender-sensitive labour market statistics, Nicot and Houtman write:

“The shift from sex-disaggregated data collection to genuine gender statistics requires a profound evolution in some of the concepts used in the field concerned by the study or survey, along with a questioning of the pertinent boundaries of investigation. For instance, the assessment of the actual contribution of women to society systematically stumbles over the concept of work as defined by economists, which only includes remunerated work. Questioning this definition challenges the bases of modern economics for which market value and solvable demand are core concepts. As this definition is used for the calculation of gross domestic product (GDP) - which plays a central role in national policies - it can be easily understood why unremunerated work becomes a blind spot in decision making most if not all of the time.”¹²

We therefore welcome the additional actions set out in the consultation, and specifically the intended work on Scotland’s Gender Equality Index, data relating to women’s health and the Diversity in Political Representation in Scotland Data Improvement Project. These represent areas where there is undoubted need for better gender-sensitive and sex-disaggregated data. At present there are still weaknesses in these areas, such as low take-up rates by electoral candidates in the Diversity in Political Representation project. We are keen to work with Scottish Government on these specific initiatives. However, overall we would like to see the Strategy go further than the consultation indicates, and specifically in the areas of building competence and accountability set out below.

Whilst we appreciate the budgetary pressures facing Scottish Government in the current climate, as we have previously stated, we consider this work to be critical to equitable and sound policymaking, and it should be prioritised and resourced in a way that reflects its importance.

¹² Nicot, A and Houtman, I (2007) Gender Mainstreaming in Surveys, Eurofound. Available at: <https://www.eurofound.europa.eu/publications/report/2006/gender-mainstreaming-in-surveys>.

Competence

The next Equality Evidence Strategy must set out how gender competence,¹³ and competence across the protected characteristics, will be significantly built across the public sector. This is a crucial element of improving both the collection and use of data and evidence. Without design and development of data that has been informed by an intersectional gender analysis, women will not benefit from interventions in a targeted way. This will require financial investment and the strategy must therefore be explicitly pegged to expenditure. It should also be fully integrated with the equality and human rights mainstreaming strategy as it is developed.

Accountability

The revised Equality Evidence Strategy must include a focus on creating leadership and ownership over the drive to improve equality data, including accountability mechanisms for the quality, use and in/exclusion of data in policy and programme design. Engender has suggested a new duty on data be directly connected to the performance indicators for specific bodies or policies. For example, the Scottish National Investment Bank is legally required to gather information and data in relation to the performance of the Bank's investments, outcomes and development of services, in order to report on its Gender Equality Strategy and other indicators.¹⁴

4. USE OF EQUALITY EVIDENCE (SECTION 3)

At the most strategic and overarching policymaking level in Scotland, there is very little evidence of gender-sensitive data informing the content of priorities or even their measurement. Sex-disaggregated data that lacks gender sensitivity is more frequently gathered, although it is often not published. Of significant concern is that even this sex-disaggregated data is not analysed and used in policy formulation.

We offer the following as examples of central mechanisms of government and policy-making where equalities data and mainstreaming is not being adequately

¹³ Gender competence is individual and organisational capacity to apply gender analysis to policy or programme development with the aim of advancing gender equality. It refers to the skills, knowledge and analytical capability to develop statistics, data, policy, or programmes that are well-gendered; that take account of the socially constructed difference between men's and women's lives and experiences.

¹⁴ Scottish National Investment Bank Act 2020.

used to inform or evaluate outcomes, and as such, represent major missed opportunities to move us closer to substantive equality in Scotland.

National Performance Framework

Only two of the 81 indicators in the National Performance Framework¹⁵ (NPF) relate specifically to women,¹⁶ and to view sex-disaggregated data about individual indicators requires a visit to the separate Equality Evidence Finder website.¹⁷ Although there is supposed to be a link between the NPF to the global Sustainable Development Goals (SDGs), there is no direct read across from SDG5 on gender equality and women and girls' empowerment.¹⁸ As a result, it is Engender's view that the NPF is not well-gendered. It is possible, and indeed likely, that progress will be made towards NPF outcomes in a way that entrenches and deepens women's inequality.¹⁹

Intersectional gender budget analysis

The First Minister's National Advisory Council on Women and Girls (NACWG) has also called for the Scottish Government to integrate intersectional gender budget analysis into the Scottish Budget process, and to place this on a statutory footing.

Gender budget analysis (GBA) is a methodology that mainstreams gender equality as a decision-making factor in budgeting processes. It weighs up the impact of spending decisions on women and girls, men and boys, and the inequalities between them. GBA should act as a guide against unequal investment in terms of gender. Ultimately, gender equality will not be achieved without significant financial commitment, and alignment between policymaking and resource allocation is vital.

Engender supports the NACWG recommendation to create a statutory footing for the integration of intersectional GBA in Scottish Budget processes. Since devolution, Scotland has made some progress towards gender-responsive

¹⁵ Scottish Government (2019) National Indicator Performance. Available at:

<https://nationalperformance.gov.scot/index.php/measuring-progress/national-indicator-performance>.

¹⁶ These are the gender pay gap and the difference between women's and men's labour market participation rates (called 'organisational gender balance').

¹⁷ Scottish Government (2019) Equality National Performance Framework Dashboard. Available at: <https://scotland.shinyapps.io/sg-equality-evidence-finder/#equality-npf-top>.

¹⁸ This position is shared in the analysis of Dr Graham Long, who notes that the NPF's alignment with the UN Sustainable Development Goals is weak when it comes to gender equality and its indicators. Accordingly, Scotland currently appears unlikely to meet SDG 5. See: Long, G (2019) The SDGs and Scotland: a discussion paper and initial analysis.

¹⁹ For example, the indicator on 'skill profile of the population' is the proportion of adults aged 16-64 with low or no qualifications at SCQF level 4 or below. Modern Apprenticeships are an intermediate skills programme that acts as a key entry point to the labour market but spend on this programme is currently widening the gender pay gap because of the starkly different experiences for women and men. If efforts to reduce the proportion of adults with low or no qualifications involve expansion of existing skills programmes, then these may intensify the gender segregation that is a feature of the Scottish labour market.

budgeting, primarily in the form of the Equality and Budget Advisory Group (EBAG) and Equality Budget Statement (EBS), now the Equality and Fairer Scotland Budget Statement (EFSBS).

However, at present, the EBS is a list of gender and equalities-inflected spend, describing spending decisions that have already been made. It has limited impact on the budget process itself. In Engender's 2017 Gender Matters Roadmap,²⁰ we called for the Scottish Government to extend the Equality and Fairer Scotland statement process into a full gender analysis of the Scottish Budget, where the cumulative impact of spending decisions on women's equality is considered. GBA should become embedded within the Scottish Government's normal annual routines of budgeting and of policy-making, rather than be used only as an extrinsic form of analysis, and Government should be able to demonstrate how GBA has informed resource re-prioritisation and re-allocation decisions across spending portfolios.²¹

In our submission to the Budget Process Review Group, we identified the need for more gender-disaggregated data²² to be available to the revised Budget process. This was reflected in Recommendation 43 in the Budget Process Review Group's final report, which proposed that "additional equalities information" be published "prior to the summer recess" as part of work towards "a cycle of ex-ante, concurrent, and ex-post equalities scrutiny of the budget process as recommended by the OECD".²³

Gender budget analysis of the Scottish Budget process is a key example of the need for gender-sensitive data production to be combined with gender mainstreaming approaches. **We would therefore encourage greater consideration and inclusion of these issues in the future Equality Evidence Strategy for 2023-25.**

5. EQUALITY EVIDENCE COLLECTION (SECTION 4)

Intersectional data

The NACWG has also called for the Scottish Government to place an additional duty on listed authorities to "gather and use intersectional data, including employment and service-user data, to advance equality between protected groups, including men and women". Engender strongly supports this ambition and recommends that significant resources and energy are invested in developing the

²⁰ Engender (2017) Gender Matters Roadmap: Towards Women's Equality in Scotland.

²¹ Downes, R, von Trapp, L and Nicol, S (2017) *Gender Budgeting in OECD Countries* OECD Journal on Budgeting 16 (3): 71–107.

²² Engender (2017) Engender Submission to the Budget Process Review Group Consultation.

²³ Budget Process Review Group (2017) Budget Process Review Group: Final Report.

conditions that would enable this duty to be put in place. We believe that the Equality Evidence Strategy 2023-35 has a key role to play in underpinning such ambition.

Public bodies are currently working with wholly inadequate data. They are not systematically collecting and utilising data regarding sex and other protected characteristics to fulfil their mainstreaming obligations under PSED. At present, in each and every policy area that we work in, a lack of gender-sensitive, sex-disaggregated data undermines the potential for legislation and policy to improve women's equality and to meet women's needs.²⁴ As such, Engender has advocated for a regulatory requirement for public bodies to gather, publish and use data that is gender-sensitive, sex-disaggregated and enables intersectional analysis.²⁵

In order to maximise the effectiveness of such a duty and related obligations, however, a suite of enabling measures would be needed to support public bodies in understanding and gathering effective data. Engender has advocated for a set of principles for 'gender data', including those enumerated by the UN and European Institute of Gender Equality, to be operationalised in Scotland as the default.²⁶ These are:

- **Data are collected and presented by sex as a primary and overall classification**

All data from statistical and non-statistical sources should be gathered using an approach that captures the sex of individuals. The data should then be presented in such a way as to enable meaningful comparison between men and women.

- **Data reflect gender issues, such as childcare spending and provision**

Reflecting gender issues requires that all data from statistical and non-statistical sources should integrate considerations that are particularly salient for either women or men, as a result of gendered roles, for example, women's greater responsibility for unpaid care.

²⁴ In recent years this has included care, economic development, employability, hate crime, health, housing and homelessness, mainstreaming, planning, social security, transport.

²⁵ Engender (2020) What works for women: improving gender mainstreaming in Scotland

²⁶ Engender (2021) Engender response to "sex and gender in data: collection and publication"; Guidance from the Chief Statistician to Scottish Public Bodies.

- **Data are based on concepts and definitions that adequately reflect the diversity of women and men and capture all aspects of their lives**

Data must be produced in a way that pays attention to the differences between women's and men's lives.

- **Data collection methods take into account stereotypes and social and cultural factors that may induce gender bias in the data**

The instruments that are used to gather statistical data, and the mechanisms used to gather administrative data should be live to women's and men's lived experiences and specifically to stereotypes and gendered social factors.

Terminology

We note that the consultation document uses terminology around sex and gender interchangeably. The revised strategy will need to be mindful of the need to ensure consistency and coherence across data sets, while needing to be responsive to flexes in best practice of how to gather data about specific protected groups, and in line with guidance provided by the Chief Statistician.²⁷

FOR FURTHER INFORMATION

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ABOUT US

Engender is Scotland's feminist policy and advocacy organisation, working 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.

²⁷ Data collection and publication guidance Sex Gender Identity Trans Status, September 2021.