



The Scottish Parliament  
Pàrlamaid na h-Alba

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**SPICe Briefing**

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# **Key Issues for Session 6 - 2023 Update**

**SPICe Research and SPICe Data Visualisation Team**

This briefing has been produced by researchers in the Scottish Parliament Information Centre (SPICe). It provides updates on some of the key issues SPICe identified as likely to be of particular interest at the start of Session 6 along with a number of new policy issues that have emerged since May 2021. The briefing is intended to assist MSPs and their staff, who are encouraged to contact SPICe if they require further information on these or any other topics.



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# Foreword

At the beginning of Session 6, SPICe published a briefing setting out what [researchers thought would be the key issues the Parliament would consider between 2021 and 2026](#). At the half-way point in the Session, we have decided to revisit the briefing and provide an update.

The 2021 Scottish Parliament election took place during a global pandemic, a climate emergency and whilst the UK was adjusting to no longer being a member of the European Union. As a result, the overarching themes SPICe identified for Session 6 were COVID, climate and the constitution.

Whilst these themes continue to be important, SPICe has identified a further two overarching themes which are also commanding attention during Session 6. The first of these is the impact in devolved policy areas of the geopolitical crises caused by Russia's illegal invasion of Ukraine and more recently the situation in the Middle East. The second is the impact of inflation on public services and the cost-of-living crisis. Both these new themes provide additional complexity when considering the key issues which the Parliament continues to face during Session 6.

Beneath these overarching themes, SPICe has updated 20 of the 26 issues identified at the start of Session 6. Researchers have also identified a further 4 issues which have emerged to be significant for the Parliament and are likely to continue to be significant through to the next Scottish Parliament election.

A further consideration in informing the Parliament's work this Session has been the Scottish Government and Scottish Green Party Parliamentary Group Agreement announced in September 2021, which set out how the Scottish Government and the Green Party intended to work together over the course of the Session 6 Parliament. A [SPICe blog published at the time the Agreement was announced](#) provides more information on the content of the Agreement and its impact on Parliamentary business.

The key issues identified in this briefing cover all major areas of devolved policy, from reform of school qualifications to the business base in Scotland, and from changes to family law through to changing car use. As with the original Key Issues briefing, you can read the briefing from cover to cover, or you can easily dip into the issues that interest you most.

SPICe continues to provide impartial, factual, accurate and timely information and analysis to support MSPs in undertaking parliamentary business. If you have any questions about how SPICe can help you in your duties please contact SPICe – contact details and much more can be found in the SPICe service guide, accessible on the Parliament's intranet.

**Nicola Hudson, SPICe, Head of Research and Financial Scrutiny**

# COVID-19 Recovery Update

*Kathleen Robson, Senior Researcher, Health and Social Care*

At the time of the 2021 Key Issues briefing, COVID-19 was still dominating the news and driving health policy decisions and spending.

On the 5th May 2023, the World Health Organisation (WHO) declared that COVID-19 no longer constituted a public health emergency of international concern. It had been over a year since pandemic restrictions were lifted and life in Scotland had essentially returned to normal.

However, this apparent normality disguises the other health consequences that have been left in the wake of the pandemic.

For more than two years the focus was on the direct health harms of covid. Infections, hospitalisations, ITU admissions, long-COVID and death. The grim tally is shown in Figure 1 and for many that impact is still being felt. However, attention has now shifted to the non-COVID health harms.

Figure 1: Data on the impact of COVID-19, including infections, hospitalisations, deaths and long COVID

Total number of confirmed cases

**2,191,243**

As at 12 November 2023

Total hospitalisations

**64,212**

As at 12 November 2023

Total number of deaths involving covid-19

**18,212**

As at 13 November 2023

Estimated long-covid cases

**175,00**

As at February 2023

Source: National Records of Scotland and Public Health Scotland

The Scottish Parliament's COVID-19 Recovery Committee has now been wound up. There is no longer a Cabinet Secretary for COVID-19, and the virus is monitored in the same way as other respiratory illnesses such as flu. The COVID-19 recovery has been 'mainstreamed'.

Business as usual?

Not quite.

The following sections focus on changes in the nation's health and the recovery of the NHS.

## Indirect Health Impacts

It was always recognised that the pandemic restrictions would have wider harms but their extent was unknown. It was suggested that the shut-down of services could lead to the late presentation of conditions such as cancer, and in turn lead to poorer survival rates and excess deaths.

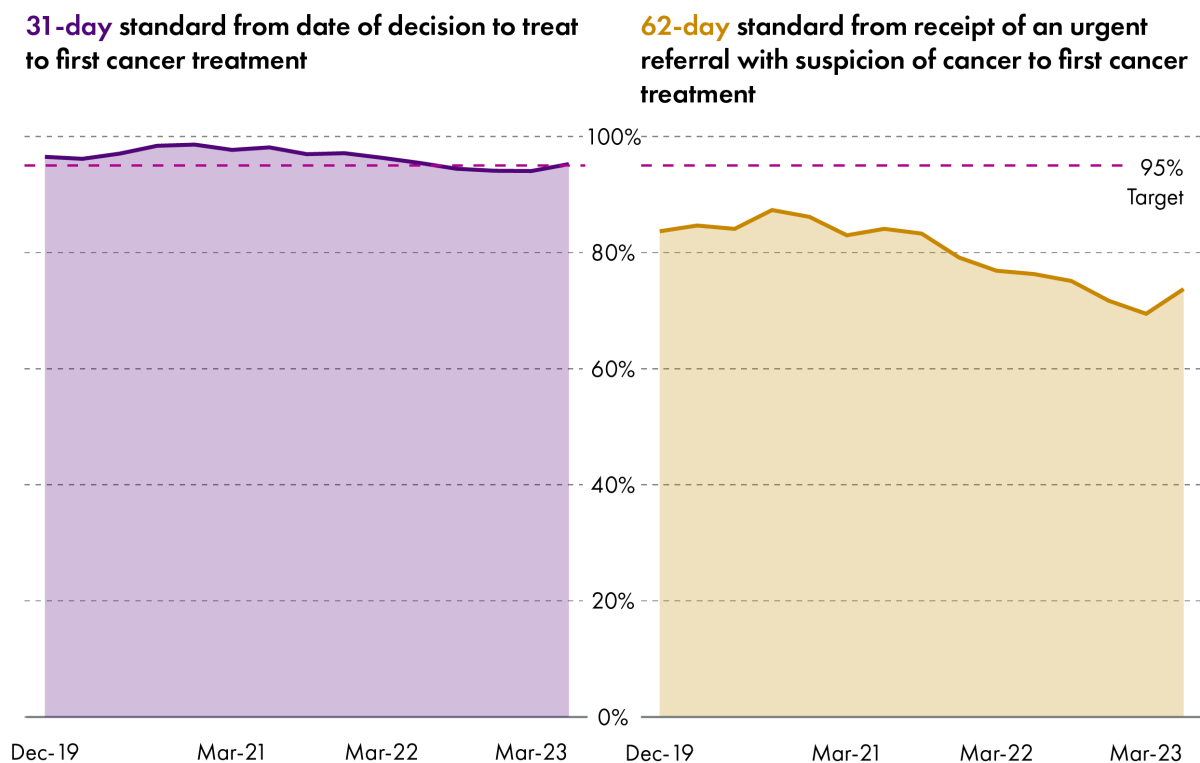
Subsequent analysis did indeed show that there were **7,000 fewer cancer diagnoses made in 2020 compared to the previous year**.

Data suggests that some of the 'missed' cancer cases may now be filtering through. Most notably this is seen in an increase in urgent GP referrals for suspicion of cancer, with many NHS boards reporting referrals considerably higher than pre-pandemic levels. This increase is creating pressure on the pre-diagnosis part of the patient pathway such as outpatients and diagnostics.

This is evident in the cancer waiting times figures which show that performance against the 62-day treatment target (that 95% of patients should wait no longer than 62 days from urgent suspicion of cancer referral to first cancer treatment) declined over the course of the pandemic. It began to recover at the start of 2023 but no NHS board in Scotland is meeting the target. In fact, the target has not been met at a Scotland-wide level since 2013.

**The waiting time target from diagnosis to treatment is being met, but the target that includes referral to diagnosis is not**

Figure 2: NHS Scotland Performance against the 62-day and 31-day standards December 2019 and March 2023



Source : Public Health Scotland

The data also shows that for some of these cancers, there may have been a shift in the

stage at which they are diagnosed.

“ There has been a significant stage shift ( $p=0.009$ ) for breast cancer since the pandemic. This was largely driven by an increase in stage 3 diagnoses (8.4% in 2022 vs 6.6% in 2018-2019). This stage shift was more apparent for patients resident in the least deprived areas of Scotland ([Public Health Scotland](#))”

It is too early to tell whether delays in diagnosis and treatment will continue and if they will influence survival rates. However, it is generally accepted that diagnosing and treating cancer at an earlier stage results in better outcomes for patients.

One way of monitoring this will be through the recording of excess deaths in Scotland. Excess deaths refer to the number of deaths in a certain time-period compared to the ‘expected’ number of deaths.

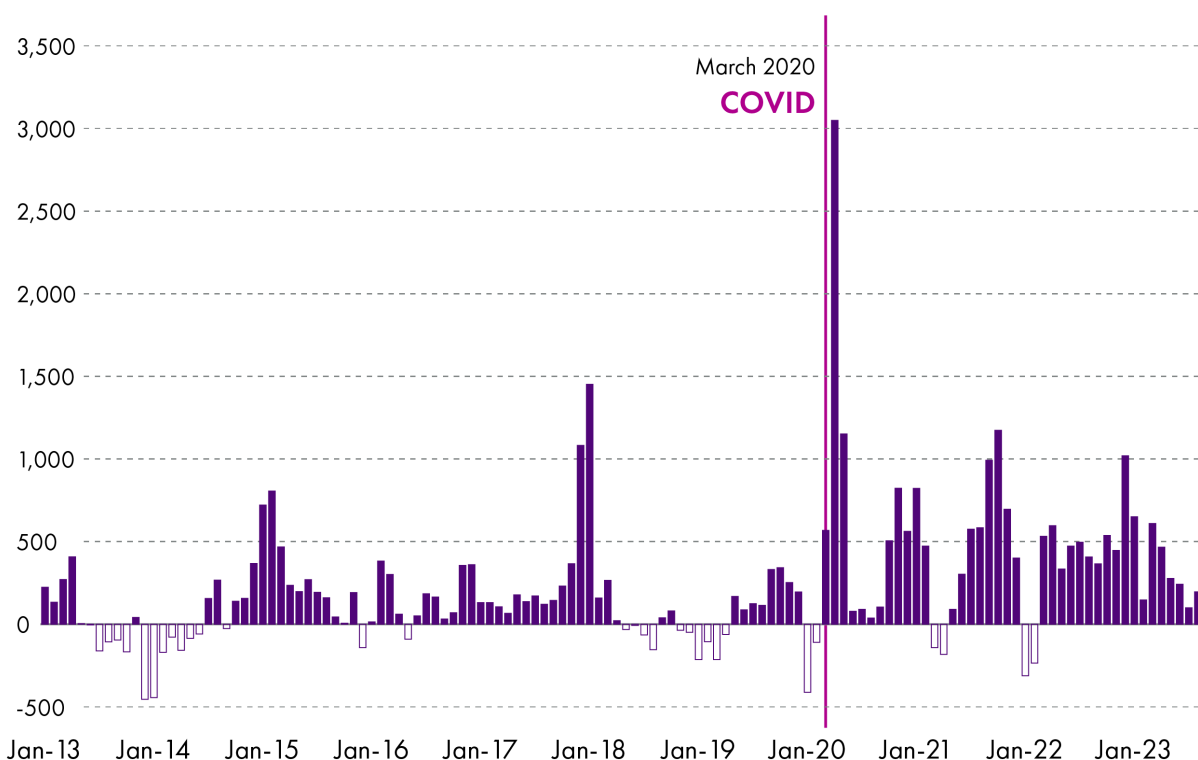
This was a key indicator used during the pandemic for measuring the non-covid health harms and the data showed that Scotland had excess mortality continuing after the worst of the pandemic was over.

The underlying causes of these deaths (aside from COVID-19) were attributable to cancer, dementia/Alzheimer’s, circulatory disease and respiratory conditions.

However, on a more positive note, the most recent data shows a decline in excess deaths and a return to expected levels.

### Excess deaths have declined and are around expected levels

Figure 3: Excess deaths in Scotland from January 2013 onwards



Source: National Records of Scotland

## Performance of the NHS

The pandemic forced NHS Scotland to suspend much of its normal activity and encouraged people to stay away except in an emergency. This caused a sharp decline in activity and a backlog in the flow of patients.

This backlog now sits at 525,654 people waiting for an outpatient appointment and 151,093 people waiting for inpatient or day case treatment. These figures should not be added together for a proportion of the population waiting. This is because individuals may be included on more than one list.

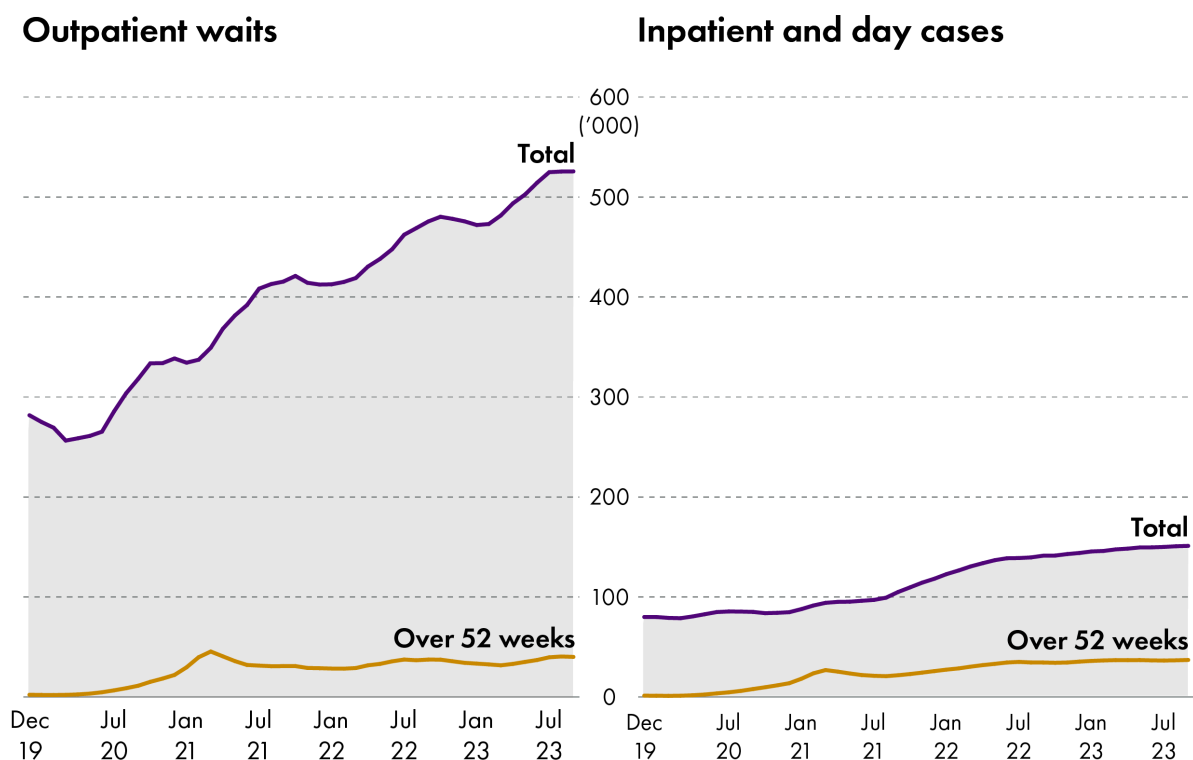
The length of waits also increased and the Scottish Government implemented [new targets to reduce waiting times](#) by the end of 2022. However, these have not been met yet.

The level of activity in many areas has not returned to pre-pandemic levels and therefore the backlog has been growing.

Since last year, the number of people waiting for an outpatient appointment has increased by 10.5% and those waiting for inpatient or day case treatment increased by 6.9%.

### The number of people on waiting lists has almost doubled since the start of the pandemic

Figure 4: Number of ongoing waits for outpatient appointments and inpatient and day case treatment, December 2019-September 2023



Source: Public Health Scotland

Funding and staffing have increased so the reasons for the drop-off in productivity are unclear but likely to be multifaceted.

A similar pattern is seen in the rest of the UK and [research by NHS Providers in England](#)

found that the main reasons given by NHS Trusts for not being back at pre-pandemic levels were:

- Staff exhaustion and burn out/low morale
- Increased patient acuity (i.e. sicker patients)
- Delayed discharges and disruptions to patient flow
- Sustained pressure in emergency care
- Increased reliance on agency spend
- Limited use of available capacity
- Continued impact of COVID-19

As well as applying further pressure to stretched services, the pandemic also served as a catalyst for reform.

One specific example of this is NHS dentistry where issues arose post-pandemic as people found it hard to access dental services at all.

Because of the aerosol generating nature of dental procedures and the need for ventilation between patients, dental services were among the last to return to normal after the pandemic.

Dentists saw their incomes drop and costs rise. Some practices responded by closing their lists to NHS patients, with others withdrawing completely from providing NHS services. This prompted reform work by the Scottish Government in association with the profession. For more information please see the [SPICe blog on Dentistry](#).

It is yet to be seen whether these reforms will ensure NHS dental services are sustainable, but it potentially highlights the need for similar reform across the rest of the NHS.

The Scottish Government published its [NHS Recovery Plan in 2021](#) and has made several commitments for reform including; increasing capacity, increasing spending, improving waiting times and redesigning care pathways. Innovation is also being supported by the new Centre for Sustainable Delivery and a network of National Treatment Centres.

However, the recovery plan has been [criticised by Audit Scotland](#) for not containing detailed actions which progress can be measured against. Audit Scotland also outlined that just 3 out of 14 NHS boards were expecting to break even in 2022/23 if their savings targets were met.

Against this backdrop of growing pressures and declining performance despite the raft of Scottish Government action, is it now time to consider more radical NHS reform?

# Scrutiny in a climate and nature emergency – engaging with disruptive change

*Alexa Morrison, Niall Kerr and Abbi Hobbs, Senior Researchers, Environment and Climate Change*

Climate change is considered by some to be the ‘[biggest threat that modern humans have ever faced](#)’. The impacts of climate change and the changes necessary to address them concern almost all parts of our society, they cut across government departments and parliamentary committees.

## The climate and nature scrutiny challenge – what has changed?

There were significant climate policy changes that closely preceded the beginning of Session 6. In 2019, the Scottish Government declared a climate emergency, and set a target for [net zero greenhouse gases by 2045](#). In 2020, it [updated the Climate Change Plan](#) (CCP) setting out how Scotland would reduce its emissions until 2032, on the road to reaching net zero. As a result, ‘climate’ was highlighted as one of [the key issues for Session 6 of the Scottish Parliament](#), as the Scottish Government began to grapple with the task of implementing the policies and programmes necessary to achieve net zero.

Alongside the net zero challenge, [international reviews of biodiversity decline](#), with an [increased understanding of how fundamentally nature underpins our wellbeing and economies](#), has led to an understanding that we are experiencing a twin climate and nature crisis, and increased global calls for transformative change. In 2022, COP15 of the UN Biodiversity Convention [led to the adoption of the Kunming-Montreal Global Biodiversity Framework \(GBF\)](#), which sets out a global target to halt biodiversity loss by 2030 and adopted a global vision of a world living in harmony with nature by 2050.

## Enhancing climate scrutiny in Session 6

Turning back to domestic efforts, the publication of a CCP and a Scottish Climate Change Adaptation Programme at five yearly intervals are a requirement of the [2009 Climate Change \(Scotland\) Act](#). A [later section of the briefing on ‘the climate emergency’](#) sets out the major policy developments that have taken place or are due to take place in this session with respect to these documents.

A further requirement of the 2009 Act was for the Scottish Government to set out the greenhouse gas emissions impacts of its spending decisions. A ‘carbon assessment’ is carried out annually alongside the Scottish Budget. The [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) sought to advance this by committing the Scottish Government to work with the Parliament to review budget information related to climate change and a Joint Budget Review Group comprising officials from the Scottish Government and Scottish Parliament was established.

The Joint Budget Review on matters related to climate change between the Scottish Government and the Scottish Parliament [recommended three strands of work](#); an enhanced climate narrative was included in the Budget documentation in 2023-24 and a revised approach to the climate taxonomy of budget lines including the expansion from solely capital to both capital and resource will be applied to the 2024-25 spending lines. A Net Zero Assessment methodology - to improve how carbon assessment is embedded in policy making and spending decisions – has been developed, with a pilot to commence before the end of the calendar year.

Work has also been carried out by Audit Scotland to assess [How the Scottish Government is set up to deliver climate change goals](#). It highlighted that the 'delivery of climate change ambitions is dependent on all eight Director Generals' and that 'cross-government collaboration is required to progress climate change policies and manage competing priorities'. It found that while the Government has improved how it organises itself to support delivery of its climate change goals, more systematic risk management is needed to identify the key risks to meeting climate goals.

To strengthen cross-cutting scrutiny of climate change and net zero, the Conveners Group has agreed a package of proposals, as part of Session 6 strategic priorities. The package includes annual updates to the Conveners Group from the UK Climate Change Committee and capacity building for MSPs, their staff and staff of the Parliament on sustainable development and net zero. Work is underway to deliver these proposals and to continue at the forefront of innovative climate change and net zero scrutiny by [developing a model for parliamentary scrutiny of climate change](#). As part of this, another area of focus to the end of the Session is to build on the activities already offered to individual academics and higher education institutions through the Parliament's [Academic Engagement programme](#), to strengthen capacity in climate change knowledge exchange.

## Continued nature decline – but opportunities ahead for change

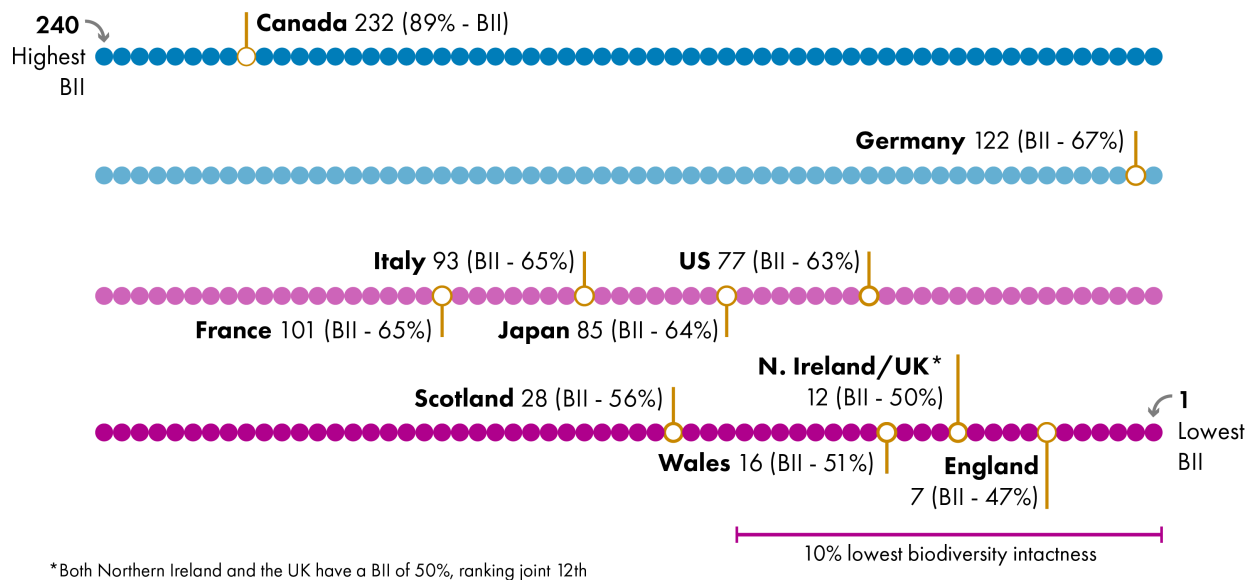
Evidence of the nature crisis led [the previous Scottish Government to commit in 2019 to a 'step change' in efforts to tackle biodiversity loss](#). The SPICe Key Issues briefing in 2021 highlighted the extent of the problem in Scotland, and our failure, as with most countries, to meet most [of the 2020 global 'Aichi' targets](#). A 2021 review also found that [Scotland's level of 'biodiversity intactness' is amongst the lowest in the world](#), meaning Scotland is one of the most nature-depleted countries. Scotland's biodiversity intactness was found to be 28<sup>th</sup> from bottom out of 240 countries and territories assessed.

## National and regional biodiversity intactness rankings

Figure 5: How Scotland's biodiversity measures up

**The four nations of the UK are in the bottom 25% of nations and territories for biodiversity intactness, ranking the lowest of the G7 countries**

1 (lowest Biodiversity Intactness Index, BII) to 240 (highest BII)



This figure uses data from [a collaborative project between the Natural History Museum and the RSPB](#).

The [2023 State of Nature report for Scotland](#) (generally considered to be best evidence on biodiversity trends) showed that the national picture is still of nature decline:

- 1 in 9 species in Scotland is threatened with extinction from Great Britain. This figure is much higher for some groups such as vertebrates.
- There has been a 15% decline in average species abundance across monitored wildlife since 1994. In the last decade, **43% of monitored species have declined strongly**.
- Scotland's globally important seabird populations are among the biggest concern – declining by nearly half between 1986 and 2019 – before taking into account the recent impacts of avian flu.

Key pressures on our biodiversity include intensive use of land for agriculture and forestry, overgrazing and overfishing. These pressures are exacerbated by climate change, pollution, inappropriate development, invasive non-natives and disease. The State of Nature report highlights the crucial role of natural resource management sectors in both nature recovery and tackling climate change:

“ Farming, fishing and forestry are important industries in Scotland, providing food, timber and livelihoods, and the current and future state of nature depends on these industries pursuing nature-friendly, sustainable approaches. The geographic extent of these industries means that careful planning and sustainable management is essential to help halt biodiversity loss and mitigate and adapt to the effects of climate change.”

Against this backdrop of complex drivers, in September 2023 the Scottish Government published [Tackling the Nature Emergency - strategic framework for biodiversity](#) for consultation, which seeks to incorporate targets in [the new Kunming-Montreal Global Biodiversity Framework](#). The Scottish Framework includes:

- A Strategy – with a vision to halt biodiversity loss and be Nature Positive by 2030 and to have restored and regenerated biodiversity across Scotland by 2045.
- A five-year Delivery Plan – including proposals to scale up nature restoration and develop an Investment Plan to target public investment
- Consulting on achieving key international goals such as protecting 30% of land and sea by 2030 ('30 by30')

The Strategy is expected to be followed by a Natural Environment Bill before the end of this Session, including legal targets for nature restoration – potentially moving biodiversity governance closer to the structure developed to tackle the climate emergency.

Proposed interventions in the Delivery Plan, similarly to the CCP, affect a wide range of sectors across the Scottish economy – from agriculture, to fisheries, development, and local government from establishing “nature networks” to public procurement. There continues to be a mainstreaming challenge for biodiversity policy – with expectations that key forthcoming areas of reform will need to integrate biodiversity goals. Opportunities include:

- reform of agricultural support (with [the Agriculture and Rural Communities \(Scotland\) Bill currently at Stage 1](#))
- approaches to land reform (legislation is expected in the forthcoming year), and
- how biodiversity is tackled hand-in-hand with the climate crisis in the forthcoming CCP.

There are also global justice considerations around how supply chains and consumption in Scotland drive nature loss abroad, and how this is tackled, for example through circular economy policy (with the Circular Economy (Scotland) Bill currently being scrutinised in the Parliament). [Around 80% of Scotland's carbon footprint comes from consumption](#) i.e. from all the goods, materials and services used and disposed of. There is yet to be an attempt to quantify Scotland's 'nature footprint'.

The integration of nature across Government policy, and how this is scrutinised in the Scottish Parliament – will be a test of Scotland's response to the nature crisis in the remainder of Session 6.

# The devolution settlement post EU exit and UK relations

*Sarah McKay, Senior Researcher, Constitution*

The UK leaving the European Union (EU) was a seismic constitutional shift. EU exit removed an element of the UK's constitutional framework which had been in place for nearly 50 years. The move away from EU membership has brought the devolution settlement, and how it operates outside the framework which the EU provided, into sharp focus.

This has been reflected in the work of the Parliament's Constitution, Europe, External Affairs and Culture (CEEAC) Committee so far this session. The CEEAC Committee has held a significant inquiry into '[How Devolution is Changing Post-EU](#)' and has produced two reports (the [Impact of Brexit on Devolution](#) in September 2022 and [How Devolution is Changing Post EU](#) in October 2023) which address some of the key changes in the way that devolution works outside of the EU and note some of the challenges for the Parliament as a result.

In June 2023, the Scottish Government published a paper '[Devolution since the Brexit Referendum](#)' which addressed many of the same areas as the CEEAC Committee has in its work to date this session.

## The devolution settlement and new constitutional arrangements

In its report 'The Impact of Brexit on Devolution' the CEEAC Committee noted the view of its adviser, Dr Christopher McCorkindale, that:

“ Brexit “has posed a number of significant challenges to the effective functioning of the UK constitution.” In his view, “territorial tension has been exposed and exacerbated by the relatively weak constitutional safeguards for devolved autonomy and the relatively weak mechanisms that have existed for shared governance as between the UK and the devolved institutions.”

As part of its work, the CEEAC Committee has considered legislative consent, the UK Internal Market Act 2020, intergovernmental activity including common frameworks and delegated powers in particular detail. These issues are covered in more detail in the section of this briefing titled '[The changing face of devolution and scrutiny](#)'.

## Key legislation and policy commitments

### The Retained EU Law (Revocation and Reform) Act 2023

The Retained EU Law (Revocation and Reform) Bill was introduced in the UK Parliament on 22 September 2022 and received Royal Assent on 29 June 2023.

Retained EU law (“REUL”) is a category of domestic law applicable in the UK at present.

REUL was created by taking a “snapshot” of EU law and rights that applied in the UK at the end of the implementation period on 31 December 2020. REUL was not fixed in time at 31 December 2020. As such, the REUL that is in force today is that snapshot (taken on 31 December 2020) as it has been amended by other domestic legislation since then.

The Retained EU Law (Revocation and Reform) Act 2023 (“REUL Act”) has four main effects:

- “Sunsets” REUL listed in Schedule 1 on 31 December 2023 (i.e., the pieces of REUL listed in Schedule 1 will cease to be in force at the end of the year).
- Gives powers to UK Ministers and Ministers in Scotland, Wales and Northern Ireland to enable them to amend, revoke and/or replace, and update pieces of REUL.
- Changes the rules on how REUL is to be interpreted, by removing the principle of supremacy of EU law and other retained general principles of EU law by the end of December 2023, increasing the scope for UK courts to depart from retained EU case law, and downgrades the status of retained “direct” EU legislation, making it easier to amend and requiring it to be interpreted and applied consistently with domestic legislation.
- Renames REUL which remains on the statute book after 31 December 2023 as “assimilated law”.

The REUL Act gives UK Ministers, Scottish Ministers and Ministers of the other devolved governments, extensive powers to make changes to REUL and assimilated law. UK Ministers are able to make changes to any REUL or assimilated law, including that within devolved areas. Scottish Ministers are only able to make changes to REUL within devolved areas.

These powers are granted to UK Ministers and devolved Ministers concurrently and jointly. ‘Concurrently’ means that they can be used either by a UK Minister or a devolved administration independently of each other in devolved areas. ‘Jointly’ means a UK Minister and a devolved administration acting together. The powers generally allow Ministers to change REUL or assimilated law by secondary legislation and are (with one exception in relation to the updating power) available until 23 June 2026. A [SPICe blog on the REUL Act](#) gives more detailed information on each of the main powers within the Act.

### **Scottish Government’s policy commitment to align with European Union law**

Before EU exit, the UK as a member state (and Scotland as a nation of the UK) was required to comply with EU law in many areas. From 1 January 2021, the need to comply with EU law fell away. Scottish Ministers have, however, indicated that, where appropriate, they would like to see Scots Law continue to align with EU law.

As the [CEEAC Committee guidance on post-EU scrutiny](#) explains:

“ Scottish Ministers have a number of different options for securing that alignment. Part 1 (section 1(1)) of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (the Continuity Act) confers a power on Scottish Ministers to allow them to make regulations with the effect of continuing to keep Scots law aligned with EU law in some areas of devolved policy. This is known as the “keeping pace” power. Scottish Ministers may also have existing powers in other Acts which would allow them to align Scots law with EU law. Primary legislation may also be used to introduce legislation with the purpose of keeping Scots law aligned with EU law.”

The Continuity Act requires Scottish Ministers to report to the Parliament annually on the intended and actual use of the keeping pace power.

The CEEAC Committee has commissioned Dr Lisa Whitten to produce an EU law tracker and report which are provided twice each year (in January and September). Dr Whitten’s research highlights a number of case studies detailing instances of potential divergence and/or alignment between EU Law and Scots Law that have taken place during the reporting period. The [first tracker and report](#) were published in September 2023.

## Challenges for the second half of Session six

The Scottish Parliament continues to evolve its practices to meet the scrutiny challenges of post-EU constitutional arrangements. The CEEAC Committee has taken a lead on this and, in September 2023, issued [guidance on post-EU scrutiny to subject committees](#).

Finally, it’s likely that there will be interest in the Court of Session’s decision on the Petition of the Scottish Ministers for Judicial Review of the [Gender Recognition Reform \(Scotland\) Bill \(Prohibition on Submission for Royal Assent\) Order 2023](#).

On 16 January 2023, the [UK Government announced](#) that the Secretary of State for Scotland, Alister Jack MP, was planning to make an Order under Section 35 of the Scotland Act 1998.

The Section 35 Order prevented the [Gender Recognition Reform \(Scotland\) Bill](#), which the Scottish Parliament passed on 22 December 2022, from being submitted for Royal Assent. This was the first use of a Section 35 Order and [SPICe produced an explainer on it](#).

The use of the Section 35 Order in relation to the Gender Recognition Reform (Scotland) Bill has been challenged by Scottish Ministers at the Court of Session. A [separate section of this briefing looks at the Gender Recognition Reform \(Scotland\) Bill in more detail](#).

# The unpredictable impact of geopolitical developments

*Iain McIver, Senior Researcher, EU and International Affairs*

Whilst foreign affairs and international relations are reserved matters, the impact of geopolitical events can influence devolved policy areas. An example of this is Russia's illegal invasion of Ukraine in February 2022.

At the time of the invasion Russia was a provider of a significant amount of Europe's energy supplies whilst Ukraine was the source of much of Europe's grain. In addition, Russia's invasion led to the [displacement of over 6 million people from Ukraine to other countries along with over 5 million people being internally displaced with Ukraine](#).

Whilst these issues are outwith the Scottish Government's control, they have had an impact on the Scottish Government's policy programme during Session 6.

## Rising energy prices

A [SPICe blog published in April 2022 set out the detail of the energy price rises, the impacts of these and the remedies proposed](#). Whilst energy prices had been rising during 2021 and the early part of 2022, Russia's invasion of Ukraine exacerbated these issues. Sanctions placed on Russia meant the sale of Russian gas to Europe (including the UK) dried up leading to greater demand for the more limited supplies available. This led to [volatility in gas prices and record wholesale prices](#).

The UK was particularly hit by the rise in wholesale gas prices as a result of its reliance on gas imports as explained by the [April 2022 SPICe blog](#):

“ Whilst around 60% of Scotland's total electricity generation and around 36% of the total for Great Britain's market comes from renewable sources, the market is designed so that the wholesale cost reflects the price of the last unit of energy bought to balance the grid and to make sure there is enough to meet demand, which is predominantly gas. So even in energy markets such as GB's, gas is still driving the wholesale electric price. And as the gas price has soared, so has the price of electricity.”

According to the [Energy and Climate Intelligence Unit](#), up to February 2023 (a year after Russia's invasion), the UK Government spent:

“ In the region of £60–70bn buying gas on wholesale markets in the 12 months since 24th February 2022, adding around £50–60bn of additional costs to the UK economy compared to before the gas crisis and pandemic.”

The rise in gas prices leading to rising energy prices in the UK has affected both domestic and business customers. According to the Energy and Climate Intelligence Unit, the increased cost in gas prices as a result of the Russian invasion cost the average household £1,000 on wholesale gas over the past 12 months (between March 2022 and February 2023), this is £800 more than in a typical year.

For UK businesses, the cost was estimated to be around £30 to £35 billion because of the

increase in gas wholesale prices.

A further SPICe blog published in January 2023 explored the [Energy price crisis and the current policy and outlook for 2023](#).

## Rising food prices

Ukraine is often referred to as the “[breadbasket of Europe](#)” with more than 70% of the country made up of agricultural land. Ukraine’s main crops include sunflower, corn, soybeans, wheat and barley and it is a key food exporter around the world including to Europe and Africa. Russia’s invasion of Ukraine led to difficulties for Ukraine in producing, harvesting and exporting those crops. These factors have led to food shortages and rising food prices.

The Bank of England’s Chief Economist identified Russia’s invasion of Ukraine as being a key factor in the rise in food prices that the UK has experienced over the last eighteen months. Food price inflation [peaked at 19.1% in March 2023, it had fallen to 10.1% in October 2023](#). According to Huw Pill, [much of that inflation is as a result of Russia’s invasion of Ukraine](#) which caused disruption to the supply chain of staples grown in Ukraine such as wheat and sunflower oil, and brought up costs of raw materials and basic food.

A [King’s College London blog](#) concluded that the Russian invasion of Ukraine was one of the reasons for food shortages and consequent rising prices across the world. Other reasons identified include bad weather affecting harvests in other countries and stockpiling by nations seeking to avoid the impact of those shortages:

“ On its own, the war in Ukraine has caused some food prices to rise. However, only when paired with other factors like bad weather and environmental changes resulting in poor harvests, and speculation and panic resulting in stockpiling does the war have a truly significant effect on food security.”

## Displaced persons from Ukraine

Russia’s illegal invasion of Ukraine resulted in [millions of people being displaced](#), both within Ukraine and across Europe. In response to the unfolding humanitarian crisis, the UK Government established three visa schemes for displaced people from Ukraine:

- a [Family Scheme](#) for those with family members in the UK
- an [Extension Scheme](#) for those who held a valid UK visa on or after 1 January 2022
- a [Sponsorship Scheme](#) through which displaced people from Ukraine are sponsored by hosts that offer them accommodation for at least six months. The Scottish Government [acted as a supersponsor](#) for the scheme but applications to the Scottish scheme have been [paused since July 2022](#).

Whilst there are no figures for the total number of displaced persons from Ukraine who have come to Scotland, by 3 October 2023, [25,701 displaced people from Ukraine had](#)

[arrived in the UK with a Scottish sponsor.](#)

Seeking to move on from providing an emergency response to support displaced persons from Ukraine arriving in Scotland, on 27 September 2023, the Scottish Government published a strategy paper entitled '[A Warm Scots Future](#)'. The strategy, written in partnership with COSLA and the Scottish Refugee Council, "outlines the transition from an emergency response to Russia's illegal invasion of Ukraine, to a long-term and holistic approach that supports the integration of displaced people from Ukraine." [SPICe has published a blog that summarises](#) the Warm Scots Future strategy.

## Conclusion

Russia's illegal invasion of Ukraine early in 2022 has triggered a number of events which have impacted on devolved policy areas, or which have led to Scottish Government approaches such as the Ukraine supersponsor scheme.

Whilst more recent, the situation in the Middle East following the Hamas attack on Israel and the subsequent Israeli military action in Gaza could also potentially have impacts in devolved policy areas. The Scottish Government pledged an initial [£500,000 towards the United Nations Relief and Works Agency's \(UNRWA\) flash appeal in response to the ongoing escalation in the Gaza Strip](#). It then followed up with a further [£250,000 to support displaced people in Gaza access food, water, shelter and medical supplies](#). The [Scottish Parliament also called for a ceasefire following a debate on 21 November 2023](#).

As with Russia's invasion of Ukraine, the situation in the Middle East creates instability across a number of countries. This instability has impacts far beyond just the countries directly affected and is an important factor when considering the environment in which Session 6 of the Scottish Parliament is taking place.

# Inflation and the cost of living

*Ross Burnside, Senior Researcher, Finance*

One story that was perhaps not envisaged at the start of session 6, was the dramatic impact inflation would have on individuals, households and government spending.

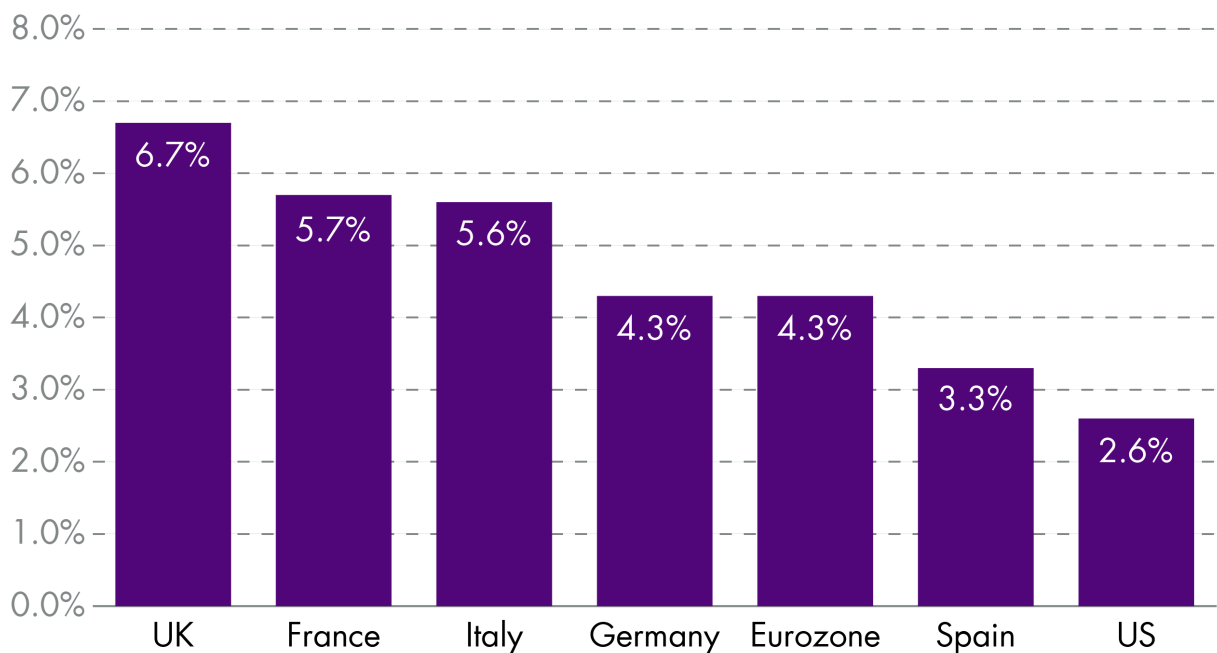
Following the [Russian invasion of Ukraine in February 2022](#), the world has seen steep increases in inflation, driven by high energy and food costs, and exacerbated by supply chain issues from a slowing Chinese economy.

## Inflation impacts all aspects of life

In the UK, the [annual rate of inflation reached 11.1% in October 2022, a 41 year high](#). The UK economy has continued to see stubbornly high inflation well into 2023, with higher price increases than in several similar economies (see figure below).

### UK inflation has remained higher than many similar economies

Figure 6: Annual percentage change in consumer prices, September 2023



ONS, series D7G7 and Eurostat, image based on chart from the House of Commons Library

## What does high inflation mean for people?

High inflation impacts on the affordability of goods and services for individuals and households, and has contributed to the cost of living crisis so frequently referred to in recent times.

The main drivers of high inflation have been food and energy price increases in 2022 and 2023. Over the two years from September 2021 to September 2023 food prices increased

by 28.4%. The House of Commons library point out that it previously took [13 years, from April 2008 to September 2023, for average food prices to rise by the same amount.](#)

Energy prices have also increased, with household energy bills and road fuel costs increasing rapidly in 2022. Gas prices increased to record levels after Russia invaded Ukraine in February 2022 and continued to rise in the remainder of 2022. Electricity prices, which are linked to gas prices also rose.

High inflation has resulted in the Bank of England taking monetary policy action to try to reduce the rate at which prices are growing. The Bank of England 'Bank Rate' has been increased from 0.1% in December 2021 and now sits at 5.25%. [Increasing interest rates are designed to get the rate of inflation back to the Bank's 2% target, but have knock on implications on borrowing costs for individuals and businesses as well as higher mortgage costs and prices in the rental market too.](#)

## What does high inflation mean for Government and the public finances?

Inflation also has significant impacts on public spending and both the UK and Scottish governments have taken measures to support individuals and households with rising costs. The UK government, for example, responded to increased domestic heating costs with the [Energy Price Guarantee](#) which capped the unit cost of energy for households. This policy is estimated to have costs of around [£27 billion over the period 2022 to 2024.](#)

[To support people through the cost of living crisis the Scottish Government has provided a range of additional funding.](#) Examples of financial support include [increasing certain social security benefits by 6% instead of 3.1%, increasing the Scottish Child Payment, additional funding for benefit cap mitigation and the fuel insecurity fund](#) .

There's also been legislative change. Emergency legislation, [the Cost of Living \(Tenant Protection\) Act 2022](#) introduced [a rent increase cap for existing tenants and a pause on the enforcement of some evictions.](#)

Perhaps the most notable Scottish budgetary impact has been in the realm of public sector pay. With the cost of living increasing to such a significant extent, public sector unions have pushed for higher than normal increases in paydeals. This has led the Scottish Government to offer significantly higher pay deals than had been planned for in the budget.

For example, the 2022-23 Scottish Budget was introduced in December 2021, prior to Russia invading Ukraine. At the time of its introduction, the Scottish Government was planning for the public sector paybill to increase by around 2-3%. However, faced with the prospect of widespread industrial action across the public sector workforce, improved pay deals had to be offered, thus increasing the share of the Budget comprising pay. At around £24 billion per year, the public sector paybill accounted for more than half of all resource spending. An in-year [Emergency Budget Review resulted in the movement of around £1.2 billion](#) from other Budget lines to fund improved public sector pay offers and cost of living interventions.

The higher pay deals agreed present challenges to subsequent budgets as these increases are baselined into future pay negotiations.

It is not only pay where inflation impacts arise. Inflation touches on all areas of public spending. For example, rising energy costs impact on the bills for heating schools, hospitals, libraries and all public buildings. Increases in the cost of raw materials and labour costs means that infrastructure spending goes less far than previously planned.

Inflation has arguably been the most significant story of this Parliamentary session to date, largely due to its impact on all areas of life. Inflation has eased from the peak of Autumn 2022 and stood at 4.6% in October 2023. It is to be hoped that inflation will continue to ease over the remainder of this Parliament. However, the ramifications of higher shares of the Budget being spent on pay will be felt on other areas of “unprotected” spend. This means that Scottish Government efforts in [improving affordability, restraining unnecessary costs and reforming the public sector](#) will become increasingly important in the second half of this Parliamentary session.

# Reform of school qualifications

*Ned Sharratt, Senior Researcher, Education*

Education reform has been a constant within Scotland's school education system for many years. Education reforms over the past decade or so have had a number of areas of focus. Central to most of this work is the process of ensuring that schools and teachers have the support, the structures, the capacity and the agency to enact the [Curriculum for Excellence](#). Alongside this is a focus to reduce the poverty related attainment gap and to support pupils with additional support needs. This section of the briefing focuses on another area where reform has been considered, namely the suite of qualifications taken in schools, however, this issue sits in a wide range of work to improve the education system.

## OECD Review

In 2021 the OECD published a review on the implementation of CfE, [Scotland's Curriculum for Excellence Into The Future](#). The purpose of the OECD's work was to explore "how the curriculum is being designed and implemented in schools and to identify areas for improvement across the country." The review had been commissioned by the Scottish Government in response to debates in Parliament where concerns were voiced around previous reforms had been implemented, particularly the introduction of National qualifications.

One of the issues that the OECD identified was a disconnect between Broad General Education (BGE) (education up to S3) and the Senior Phase (S4-S6). This disconnect was in relation to the focus on passing exams in Senior Phase in contrast to a broader educational focus in BGE. In 2021, the OECD also published a complementary analysis on '[Upper-secondary education student assessment in Scotland](#)'. The paper was authored by Professor Gordon Stobart and it compared Scotland's system of certification in upper secondary to a variety of other countries' systems. The paper noted that Scotland's students are more frequently examined than in other jurisdictions and that the implementation of the reforms to the National Qualifications had not removed the 'two-term dash' – where in consecutive years there is compressed learning in the first two terms to prepare for exams after Easter.

## Independent Review of Qualifications and Assessment (the Hayward Review)

Following the two OECD publications on Scottish Education in 2021, the Scottish Government commissioned Professor Louise Hayward to lead an Independent Review of Qualifications and Assessment. The [review began its work in early 2022 and through 2022 and 2023 undertook a number of phases of consultation](#). Its final report [was published in June 2022](#).

Some of the key recommendations in the report are:

- Adopting an SDA (Scottish Diploma of Achievement) as a graduation certificate.

- Removing exams in all subjects up to SCQF level 5 (e.g. National 5s), examinations may be retained in levels 6 and 7 (e.g. Highers and Advanced Highers).
- A digital profile for all learners which allows them to record personal achievements, identify and plan future learning.

The Review recommended that the SDA be made up of three, equally weighted parts. These are set out in the box below.

### **Programmes of Learning**

"In-depth study of individual areas of the curriculum, subjects and vocational, technical and professional qualifications, will remain a fundamental part of qualifications. However, the new approach to qualifications should go further to improve alignment with CfE."

### **Project Learning**

"Learners should have opportunities to demonstrate how they can use knowledge from across subjects/technical and professional areas to tackle challenges. These kinds of experience are closer to those learners will have beyond school or college, for example being able to work as part of a team, to investigate, to solve problems and to look for creative solutions."

### **Personal Pathway**

"Learners are individuals and should have opportunities to demonstrate their individuality- the courses they choose, the projects they undertake, their interests, their contributions and aptitudes. Together, these combine to help learners make good decisions about what they might do next. This wider, more personalised information will provide colleges, employers and universities with a better evidence base to inform their decisions about which students or employees are likely to be best suited to which course or job."

When [giving evidence to the Education, Children and Young People Committee in September 2023](#), [Professor Hayward](#) said that the vision for the future of qualifications and assessment in Scotland is a crucial part of this work. The proposed vision is for:

" an inclusive and highly regarded Qualifications and Assessment system that inspires learning, values the diverse achievements of every learner in Scotland and supports all learners into the next phase of their lives, socially, culturally and economically."

Professor Hayward also stated that the report provides a "longer-term direction of travel for qualifications and assessment in Scotland".

## **Response to the Review**

The review was welcomed in some quarters. [EIS highlighted](#) that the approach suggested by the Independent Review of Qualifications and Assessment would need additional resource to be successfully implemented, the EIS stated:

“ We need bold and innovative change to deliver a qualifications system that best meets the needs of young people, from all backgrounds, in schools and colleges across Scotland. Recommendations to reduce the emphasis on high-stakes exams, place a greater emphasis on continuous assessment, and provide space for greater breadth, depth, and enjoyment of learning across all areas of the curriculum, can deliver positive change for all of Scotland’s young people.”

Other commentators were less enthusiastic (see for example, this [Blog by Professor Lindsay Paterson](#)).

In [her statement to Parliament on 22 June](#), the Cabinet Secretary, Jenny Gilruth said that she would, in respect of the Hayward Review, seek further views from teachers and to consider the response in the context of wider education reform. Ms Gilruth gave a further update on [7 November 2023](#) when she said:

“ Since the conclusion of the Hayward review in June, I have been seeking views on the recommendations pertaining to the national qualifications. We undertook a survey with teachers and lecturers on the report, which received more than 2,000 responses. Although agreement on the need for change was clear, there were varying views on next steps, and on the perceived appetite for radical reform. In that context, I cannot ignore the challenges that our schools are currently responding to, and I must balance that reality with any reform of our qualifications system. With that in mind, I propose—subject to parliamentary agreement—to return to the chamber in the new year to debate the proposals fully. In the meantime, I will engage with Opposition spokespeople on the next steps, to ensure that we use any parliamentary debate to encourage greater support for political consensus.”

Whether the Scottish Government chooses to take forward the recommendations of the Independent Review of Qualifications and Assessment wholesale, in part, or not at all, it will be a significant decision which will affect secondary education for many years to come.

# Increasing public participation in the Scottish Parliament

*Ailsa Burn-Murdoch, Senior Researcher, Public Participation*

Citizen Participation has been a growing theme in democratic practice in recent years, to the extent that it has now become an area of scrutiny, as well as a growing area of practice, so this section includes a brief overview which builds on a [briefing published in February 2022](#).

## Public participation in the Scottish Parliament

[The Commission on Parliamentary Reform](#), in 2017, highlighted the importance of engaging the public in parliamentary processes and recommended that “The Parliament should establish a dedicated team whose main purpose is to support (and challenge) committees to undertake more innovative and meaningful engagement”.

The Committee Engagement Unit was formed soon afterwards and became the Participation and Communities Team at the start of Session 6, which coincided with the name and remit of the Public Petitions Committee [being expanded to include Citizen Participation](#).

In parallel, the [Scottish Parliament Corporate Body's Strategic Plan for Session 6](#) includes a commitment to “embedding deliberative democracy in the work of the Parliament”.

Since the development of specialised services to support participation in the Scottish Parliament, several high-profile engagement and deliberative activities have taken place. This has included citizens' panels on [primary care](#) (2019) and [Covid-19](#) (2021), and a citizens' jury on [land management](#) (2019).

## Scottish Government

The Scottish Government has been on a similar path, having convened the first [National Citizens' Assembly in Scotland](#) in 2019 and [Scotland's Climate Assembly](#) in 2020-21. It set up a Working Group in summer 2021 to make recommendations to Ministers on “institutionalising participatory and deliberative democracy”, which [reported in March 2022](#). It recommended that the Scottish Government “Connect to the Scottish Parliament Committee system for scrutiny of Citizens' Assembly processes and recommendations”.

The Scottish Government [responded in March 2023](#), confirming that it would adopt the [values, principles and standards for institutionalising participatory and deliberative democracy in Scotland](#) and, in time, establish a team which is multi-disciplinary and practice led with overall responsibility for Participation. It also said that “During this Parliament, consideration will be given to how government can best set in place longer term resourcing that delivers a clear programme of Citizens' Assemblies”.

The Scottish Government has also set out its commitment to [advancing its approach to human rights budgeting](#), a [core principle of which is participation](#) (along with accountability

and transparency). It is expected that emphasis on these principles will increase as the Government progresses forthcoming [human rights legislation](#).

## Citizen Participation and Public Petitions

### Committee inquiry into public participation

In February 2022, the Citizen Participation and Public Petitions Committee agreed to launch an [inquiry into Public Participation in the work of the Scottish Parliament](#). As part of this, it asked a group of 19 randomly selected people from across Scotland, who were broadly representative of Scotland's population, to [come together as a Citizens' Panel](#) to answer the question "How can the Scottish Parliament ensure that diverse voices and communities from all parts of Scotland influence our work?". [SPICe acknowledged at the time](#) that an inward-looking scrutiny focus was novel in the Scottish Parliament.

The panel came up with [17 recommendations in December 2022](#), and the Committee took [further evidence](#) around these recommendations, which SPICe supported by looking at examples of [practice similar to the Panel's suggestions](#), and [deliberative processes in other legislatures](#).

### Political support for deliberative democracy

The Committee set out its vision for embedding deliberative democracy in the work of the Scottish Parliament [in its final report](#) in September 2023, [agreeing to the majority of the panel's recommendations](#), at least in principle. Most significantly, the Committee concluded that [the Parliament should use Citizens' Panels more regularly to help committees with scrutiny work](#), and made several recommendations for pilot and preparatory work, with certain guiding principles. The expectation is that, by the end of Session 6, the Committee will recommend a model that the Parliament can use after the 2026 election. The Committee concluded:

- That deliberative democracy should **complement the existing model of representative democracy** and be used to **support the scrutiny process**.
- That the way in which deliberative methods are used, from recruitment through to reporting and feedback, should be **transparent** and **subject to a governance and accountability framework**.
- That the deliberative methods used should be **proportionate and relevant** to the topic, and the scrutiny context.
- That participants in deliberative democracy should be **supported, empowered and given feedback** on how their recommendations are used.

The Committee's anticipated timeline for implementation of its recommendations is set out in the following infographic:

## What is happening next with the recommendations?

Figure 7: Timeline of implementation of its recommendations



Scottish Parliament

A [debate in the Chamber on the Committee's report on 26 October](#) showed that the panel process and recommendations have been well received, with strong cross-party support and willingness across parties, and the Scottish Government, to work together in meeting the Committee's aspirations. Members of the Parliament agreed unanimously to endorse the Committee's report and recommendations.

## Implementation of Committee recommendations

[Work is now underway to build on practice expertise and pilot approaches.](#) The first of the two people's panel pilots commissioned by the Committee will focus on post-legislative scrutiny of the Climate Change (Scotland) Act 2009. This, and a subsequent panel on an area of public interest in late 2024-early 2025, will provide an opportunity to test emerging practice principles.

## Scrutiny of participation

In the meantime, Committees have also begun to increase scrutiny of the Scottish Government's use of participation. Both the [Citizen Participation and Public Petitions Committee](#) and the [Equality, Human Rights and Civil Justice Committee](#) included a focus on participation within their 2024-25 pre-budget scrutiny. The latter did so by asking members of an existing citizens' panel to engage in a deliberative process and [come up with questions for the Scottish Government](#).

As participation in democracy becomes an increasing area of focus and interest, it is likely that it will be an increasing area of Parliamentary activity, in terms of both practice, and scrutiny of Scottish Government activities.

# The Promise: Care system reform

*Lynne Currie, Senior Researcher, Children's social work, child protection and adoption*

'The promise' is the commitment made to children and young people in Scotland's care system to reform the system and address stigma and inequality of outcomes faced by care experienced people by 2030. The goal of 'the promise' is for all children and young people in Scotland to grow up loved, safe and respected.

## The Independent Care Review

Moves to reform Scotland's care system began in the last session of Parliament. The Independent Care Review was commissioned in February 2017 by then-First Minister Nicola Sturgeon MSP. This followed [calls from Who Cares? Scotland for a 'root and branch review'](#) addressing stigma and inequality of outcomes faced by care experienced people.

People with experience of the care system represented half of the review group's co-chairs and working group members. During the lifetime of the review, the views of over 5,500 care experienced children and adults, as well as parents, carers and the care workforce, were listened to.

The review findings were [published in February 2020](#), setting out steps Scotland can take to embed significant change to the care system. The main findings were set out in [The Promise](#), alongside the [Pinky Promise](#) for younger readers.

The Promise set out a vision for a Scotland where all children grow up loved, safe and respected. This vision is built on five foundations:

- **Voice:** Children must be listened to and involved in decisions about their care.
- **Family:** Children feel loved and safe in their families and families are given the support they need.
- **Care:** Children must not be separated from their brothers and sisters wherever possible. Legislation to help siblings in care stay together has [since come into force in July 2021](#).
- **People:** Care experienced children must be supported to develop relationships.
- **Scaffolding:** Children, families and the workforce must be supported by an accountable system that provides help and support when required.

Responding to the publication of the review report, the then-[First Minister said in a statement to the Scottish Parliament](#) on 5 February 2020:

"We will work with local authorities, care providers and all other relevant partners to make the necessary changes to care. We will deliver that change as quickly and as safely as possible - and starting now. And we will ensure that people with care experience remain at the heart of the process."

## Implementing the recommendations

Following publication of the recommendations, [The Promise Scotland](#) was set up by Scottish Ministers as an independent organisation.

The Promise Scotland does not hold statutory powers or responsibilities; its role is to oversee, drive and support reform by 2030. It works with organisations and individuals all over Scotland to help others deliver change for care experienced children and young people.

[Plan 21-24](#) sets out the initial steps of care reform. The Promise Oversight Board reviews progress annually.

The Scottish Government published its [Promise implementation plan](#) in March 2022. This sets out the Scottish Government's actions and commitments on care reform.

[Minister for Children, Young People and Keeping the Promise, Natalie Don MSP](#), currently has responsibility for overseeing progress on care reform.

## Progress so far

Actions toward achieving the vision set out in the Independent Care Review in the three years following its publication include:

- [Legislation to help siblings in care stay together](#) came into force in July 2021. This is set out in the Children (Scotland) Act 2020.
- The [2021-22 Programme for Government \(PfG\)](#) committed to a [Whole Family Wellbeing Fund](#) of £500m over Session 6 of Parliament. This is aimed at tackling issues faced by families before they need crisis intervention. The PfG also stated that from 2030, at least 5% of community-based health and social care spend will be focused on preventative measures. The overall intention of this preventative spend is to reduce the number of children being taken into care.
- The Hearings System Working Group (HSWG) facilitated by The Promise Scotland [published its redesign report](#) in June this year. The Scottish Government response is expected by the end of the year.
- [The Children \(Care and Justice\) \(Scotland\) Bill](#) is currently making its way through Parliament. If passed, this will raise the age of referral to the Children's Hearings System from 16 to 18 and end the placement of 16- and 17-year-olds in young offenders' institutions.
- [The introduction of a Scottish Recommended Rate](#) of allowance for foster and kinship carers was announced in August this year. Local authorities are at various stages of implementing this.
- The Scottish Government has [launched a consultation on introducing a Care Leaver Payment](#). This is a proposed one-off payment of £2,000 for those leaving care.

The Promise Oversight Board's latest progress report published in June 2023 concluded

that delivering Plan 21-24 will be challenging:

“ Sadly, due to the worsening circumstances for so many and the current pace of change, the Promise Oversight Board does not believe that delivering the original aims of Plan 21- 24 is realistic within its given timeframe. However, 2030 remains the date by which the promise must be kept and if everyone plays their part over the next seven years, this is still achievable.” – [Promise Oversight Board, Report Two, June 2023](#) ”

The report calls for “leadership and drive” from the Scottish Government and scrutiny bodies to put in place clear “principles, outcomes and milestones that will guarantee the promise”.

It also states the Scottish Government should set out an investment plan to deliver the change.

## Recent developments: Programme for Government 2023-24

In his [statement to Parliament on the 2023-24 Programme for Government](#) (PfG), First Minister Humza Yousaf MSP announced he would chair a Cabinet sub-committee on The Promise to enable cross-portfolio change.

In [response to a subsequent Parliamentary Question](#) asking for further detail on meetings and membership of the Cabinet sub-committee the Scottish Government stated that the first meeting would take place when the membership and remit of the group was confirmed.

A Promise Bill is expected before the end of this Parliamentary session. This will include legislation relating to the redesign of the Children’s Hearings System and any other legislative changes required to implement reforms.

# Just Transition

*Rob Watts, Senior Researcher, Economy*

The transition to net zero has been an overarching focus for policy in Session 6 and is discussed in other sections of this briefing. This section focuses on what the transition means for the Scottish economy and key industries that will be affected.

The transition will involve structural changes to the economy that will have significant impacts on communities and industries across Scotland. Managing these changes in a way that spreads the benefits and risks equitably is a key challenge for policy makers. In general terms, this is referred to by the Scottish Government as delivering a “just transition”.

## What is a “just transition”?

The concept of a just transition encompasses a range of policy areas and industries in the economy. Issues around energy, agriculture and land use, transport, housing and construction are all relevant to the transition to net zero and whether this happens in a ‘just’ fashion. Decisions around skills, planning and infrastructure investment will all have a bearing on how successful the transition to net zero is, and these are taken by different layers of government.

An obvious example is what will happen in the energy sector, as industry and jobs transition from fossil fuels to renewables, and whether this transition can be managed in a way that is ‘fair’ or ‘just’ to those most affected.

But a just transition also touches on other industries and policy issues. In transport, for example, the Scottish Government has a target to reduce road vehicle mileage by 20% by 2030. How this can be done in a ‘fair’ way that protects those on the lowest incomes and those most reliant on car usage is a key challenge for policy makers. It raises questions about the accessibility and affordability of public transport, and how the use of roads is taxed.

In construction, significant changes to the way buildings are built and heated will be required to meet statutory emissions reduction targets. How the Scottish Government and stakeholders can ensure the workforce has the correct skills to deliver this and that opportunities to re-skill or up-skill are open to all those who could benefit, are questions that surround the idea of a just transition.

A key aspect of this is defining what a just transition is and how the extent to which it has been delivered can be measured.

## Scottish Government Just Transition Plans

The Scottish Government has published a draft [Energy Strategy and Just Transition Plan](#).

The Scottish Government has also published three discussion papers ahead of the forthcoming publication of three sectoral plans – one each for [agriculture and land use](#), the

[built environment and construction](#), and [transport](#). A key commitment in these just transition plans is co-design with those most affected by the transition to net zero.

It will also publish a place-based [just transition plan for the Grangemouth industrial cluster](#).

The cluster is a significant employer in the region and accounts for around a third of total emissions from companies in Scotland who have a mandatory reporting duty (some large businesses [are required to report](#) on climate-related financial risk). The Scottish Government [aims to reduce industry emissions](#) by 43% between 2018 and 2032.

The Economy and Fair Work Committee conducted an [inquiry into a Just Transition for Grangemouth](#) and [reported in June 2023](#).

## The Just Transition Fund

The Bute House Agreement commits to a 10-year £500 million Just Transition Fund for the North East and Moray. The [stated aim of this Fund](#) is to “identify key projects, through co-design with those impacted by the transition to Net Zero, to accelerate the development of a transformed and decarbonised economy in the North East and Moray.” The first year of funding was allocated in 2022-23 and it has been announced that the Scottish National Investment Bank will play a role in allocating funds, in line with its remit over the transition to net zero.

Currently, the North East and Moray’s industrial base has relatively high emissions intensity. Across Aberdeen, Aberdeenshire and Moray, industry accounts for 890 Kt CO<sub>2</sub> emissions (25.5% of emissions from the region). However, these industries also generate significant economic activity and energy supply. Scotland gets [79% of its energy from oil and gas](#) and [the sector supports 65,000 jobs in the North East and Moray](#). In 2019, oil and gas were responsible for [gross value added \(GVA\) of £16 billion](#) (around 9% of Scottish GDP).

The Economy and Fair Work Committee are currently conducting an [inquiry into a Just Transition for the North East and Moray](#).

## The Just Transition Commission

The Just Transition Commission has been established to provide an independent advisory and scrutiny role of Scottish Government policy around a just transition. It recently published three briefings ahead of the Scottish Government’s forthcoming just transition plans. These produced a series of recommendations for government.

- The first briefing focused on [transport](#), and in particular, the Scottish Government’s target to reduce car mileage by 20% by 2030 and the justice considerations of this.
- The second was centred around [land use and agriculture](#). It focused on the communication of major changes to land managers, communities and impacted groups.
- The third briefing on the [built environment and construction](#) discussed how a new

workforce can be delivered for retrofitting existing buildings.

Members of the Just Transition Commission appeared at a [recent seminar for Scotland's Futures Forum](#).

# Health and social care integration

*Anne Jepson, Senior Researcher, Health and Social Care*

The Key Issues briefing for Session 6 outlined progress on the integration of health and social care through Session 5, as well as the impact of the pandemic on public understanding of social care in relation to the NHS. Focus and action followed the pandemic with the [Independent Review of Adult Social Care \(IRASC\)](#), published in January 2021.

Prior to the Parliamentary Session's first Programme for Government, the Scottish Government launched a [consultation for a national care service in August 2021](#), which picked up on some of the recommendations from IRASC. In July 2022, the Scottish Government established a [Social Covenant Steering Group](#).

The first [Programme for Government \(PfG\)](#) 2021-22, reflected on the contribution of the care sector and spoke in terms of 'reforms which start with people and places, rather than services.' The commitment to bring forward the legislation for a national care service (NCS) was made. The PfG stated that the Scottish Government would 'take forward the biggest reform of health and social care since the founding of the NHS'. The NCS would:

- Address the human rights and needs of people needing care and support
- Provide national accountability
- Embed ethical commissioning with minimum standards for procurement decisions
- Support Fair Work commitments including collective national negotiating for workers' terms and conditions and representation for workforce and trade union representation in its governance
- Bring terms and conditions of nursing staff working in care in line with those in the NHS.

In addition, [options to remove non-residential care charging](#) were to be developed, actions to increase early intervention and prevention and a [national induction programme for new entrants to adult social care would be developed by end of Spring 2022](#).

## The National Care Service

The [National Care Service \(NCS\) Bill](#) was introduced on 20 June 2022. It is fair to say it has had a bumpy ride so far. A series of blogs have followed progress of the Bill, collated within a [SPICe spotlight NCS hub](#). The Bill is framework in nature, leaving many key elements to secondary legislation and co-design. A number of committees have engaged in Stage 1 scrutiny, and the understanding of what co-design is and entails has dogged a number of committee meetings.

In the [PfG for 2022-23](#), the need to focus on prevention (of admission to hospital) and early intervention was reiterated, referring to community health and social care. The tone for the legislation was slightly less ambitious, but the PfG stated that the Bill would "pave the way for more integrated and person-centred care, ending the postcode lottery of care that exists across Scotland under the current system." There was a commitment to deliver

a £10.50 minimum wage for all adult social care staff in commissioned services, through £200 million of funding to local authorities.

In the [2023-24 PfG](#), the Scottish Government announced an increase in the hourly rate for care staff to £12 per hour, but this will not be introduced until April 2024. Mechanisms to support national wage bargaining are not in the Bill, although discussions are ongoing about sectoral bargaining. Given that over 75% of care is provided by independent providers and many small, ununionized employers, national wage bargaining will be a challenge for the realisation of this commitment.

## The bumpy ride

Under the original plan, [it was agreed by Parliament on 5 October 2022 \(prior to any evidence being taken\) that Stage 1 would be completed by 17 March 2023.](#)

On 8 March 2023 [Parliament agreed that Stage 1 would be extended to 30 June 2023.](#) On 7 June 2023, after the [Minister for Social Care, Mental Wellbeing and Sport, Maree Todd, had written to, and been in front of, the Committee on 9 May](#), the Parliament agreed that [Stage 1 consideration would be extended to 31 January 2024.](#)

In the Bill as introduced, legal accountability was to move to the Scottish Government, away from local authorities. However, while this pleased some stakeholders, COSLA and the unions were not happy. It was unclear what this change would mean for local authority staff, social work services, including justice and children's services, and also what it would mean for integration joint boards (and for the Public Bodies (Joint Working)(Scotland) Act 2014).

The postponement of Stage 1 was to allow for further engagement by the Scottish Government over the summer of 2023. [The Scottish Government and COSLA reached agreement](#), in July 2023, that accountability would be shared between government, the NHS and local authorities.

The opposition to the Bill from a wide range of stakeholders, was acknowledged by the [Minister for Social Care, Mental Wellbeing and Sport \(Maree Todd\) on 3 October 2023:](#)

“ We paused and then worked very hard with partners, local government, trade unions and people with lived experience to try to find a way forward. You will be aware that we were pretty much in a situation in which we could not move forward because the level of opposition to the bill was so great.”

However, [additional scrutiny carried out in the autumn of 2023](#) suggests that key stakeholders remain unclear about the structures, governance and legal accountability that a national care service will entail. Many stakeholders are now unclear as to how a national care service will be different from the status quo.

## Non-residential social care charging

There is nothing in the Bill about removing non-residential social care charging. Charging for social care is a complex area. It is not clear whether the commitment was to remove charging for all non-residential social care support or just those that are not subject to a financial assessment – that is: day care meals, alarms and alarm monitoring, day care centres and transport. Currently, free personal care and nursing care are free to everyone

assessed as needing it. Assessing need is a statutory duty of local authorities. They use national eligibility criteria. Many people have to contribute to or fully fund care and support they need. The level of unmet need is not known.

The [PfG 2023-24](#) reflects some of the issues described above, and the changes made to the plans for a national care service in terms of accountability, and made reference to further engagement over the summer of 2023. Mention of integration has returned to the narrative, but also highlighted is the view of social care as a way to ease pressure on the NHS, potentially undermining the parity between health (the NHS) and social care support (the NCS) that heralded the announcement of the National Care Service.

“ We are working towards the introduction of a National Care Service so that everyone has access to consistently high quality social care, whenever they need it. Getting this right will remove barriers, tackle inequalities and allow people to flourish by living independent lives in communities of their choice. It will also ease pressure on our NHS and continue the integration of community health and social care support.”

# Mental health and COVID-19

*Lizzy Burgess, Senior Researcher, Health and Social Care*

The [Key Issues for Session 6 briefing](#) outlined the impact the COVID-19 pandemic and associated restrictions had on the mental wellbeing of people in Scotland. It also looked at some of the actions taken by the Scottish Government to address these, such as the [Mental Health Transition and Recovery Plan](#), which set out a wide range of actions aimed to address some of the impacts on mental health arising from the pandemic. [Audit Scotland](#) has said that the plan did not outline timescales for all the actions and the Scottish Government has not carried out a review of progress towards meeting the plan's objectives (September 2023).

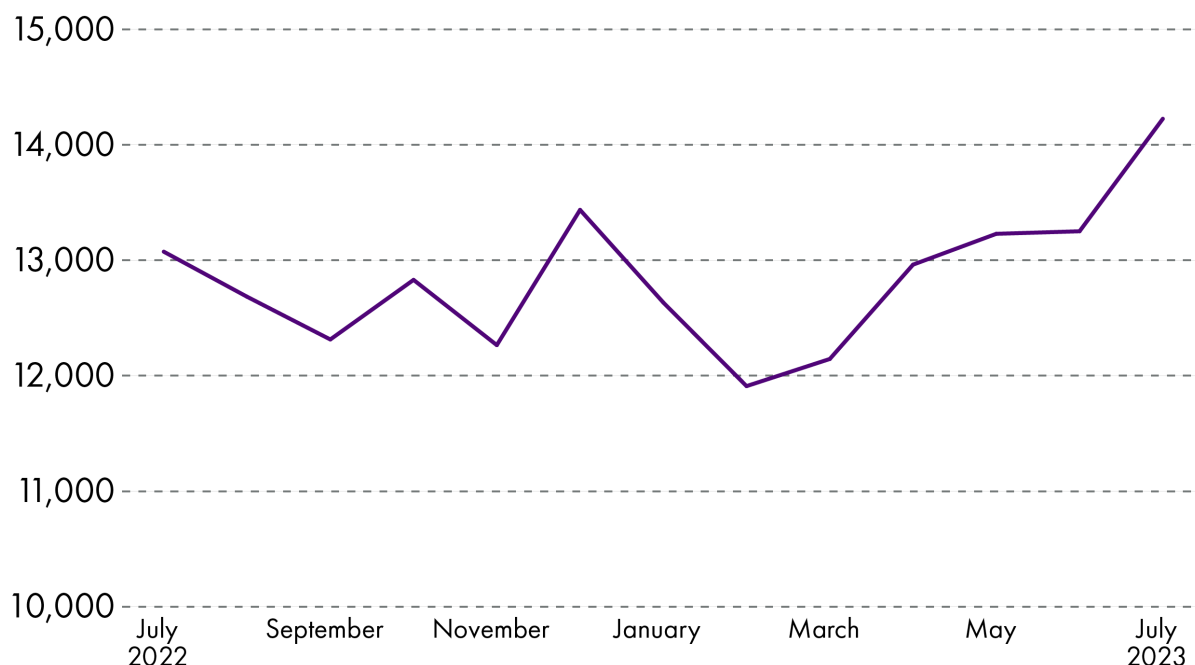
This briefing provides an update on the current level of demand for mental health services, outlines recent policy developments and discusses potential legislative changes.

## Demand for services

Following the COVID-19 pandemic, demand for mental health services remains high. In July 2023, NHS 24 reported that its mental health service [Breathing Space](#) had its busiest month on record, with 14,225 calls offered to service.

**July 2023, mental health service Breathing Space had its busiest month on record**

Figure 8: Number of calls made to Breathing Space in Scotland, July 2022 to July 2023



NHS24

Mental health services are still unable to meet the Scottish Government standard that [90% of people should start their treatment within 18 weeks of referral to psychological therapies](#). For the quarter ending June 2023, 78.8% of people started their treatment within 18 weeks, compared to 80.0% of people for the previous quarter, and 81.6% of people for the quarter ending June 2022.

A similar picture is seen in [Child and Adolescent Mental Health Services \(CAMHS\) waiting times](#). In the quarter ending June 2023, 73.8% of children and young people were seen within 18 weeks, which is a decrease from 74.2% for the previous quarter but an increase from the 68.3% for the same quarter ending June 2022.

Public Health Scotland has started to publish [quality indicators for Mental Health](#). This pulls together 19 of the 30 quality indicators included in the Quality Indicator Profile for Mental Health, from the [Mental Health Strategy 2017-2027](#) (Action 38).

The Auditor General for Scotland and the Accounts Commission has recently carried out a [performance update on Adult Mental Health](#). This noted that information about demand for mental healthcare only covers people already accessing, or trying to access, some mental health services. It does not reflect levels of unmet need. However, it goes on to state that there are indications that demand for mental health treatment has increased.

## Accessing services

The [performance update on Adult Mental Health](#) also found that accessing adult mental health services in Scotland remains slow and complicated for many people.

“ In particular, ethnic minority groups, people living in rural areas and those in poverty all face additional barriers.”

The report included many recommendations for the Scottish Government, Integration Joint Boards, Health and Social Care Partnerships and NHS boards. [The Public Audit Committee is currently considering the report](#).

## Mental health policy

Since 2020 there have been some developments in the Mental Health policy landscape. In relation to CAMHS, in February 2020, the [Child and Adolescent Mental Health Services \(CAMHS\) NHS Scotland national service specification](#) was published. This sets out the provisions young people and their families can expect from the NHS in Scotland. In September 2023, the [Children and Young People's Mental Health and Wellbeing Joint Delivery Board](#) published its final report. This made nine strategic recommendations.

In June 2023, the Scottish Government and COSLA published a new [mental health and wellbeing strategy](#). This was followed by a [delivery plan](#) and [Mental Health and Wellbeing Workforce Action Plan](#).

The Scottish Government's new [mental health and wellbeing strategy](#) states:

“ Our vision is of a Scotland, free from stigma and inequality, where everyone fulfils their right to achieve the best mental health and wellbeing possible.”

This is similar to, but has a few key differences, to the vision set out in the [2017 -2027 strategy](#) which was:

“ Our vision for the Mental Health Strategy is of a Scotland where people can get the right help at the right time, expect recovery, and fully enjoy their rights, free from discrimination and stigma.”

An [outcomes framework](#) has been developed to help monitor and evaluate progress towards achieving the vision.

## Mental health legislation

The [Scottish Mental Health Law Review](#) published its final report in September 2022. The review suggested over 200 proposals for reform. This review followed two earlier independent reviews the [Independent Forensic Mental Health Review](#) (February 2021) and the [Independent Review of Learning Disability and Autism in the Mental Health Act](#) (December 2019).

The [Scottish Government responded](#) to the Mental Health Law Review in June 2023.

The Scottish Government has stated that it will establish a new Mental Health and Capacity Reform Programme to drive further change and improvement in the system. It outlines the high-level priorities for the reform programme as:

- Adults with Incapacity Law Reform
- Supporting Decision-Making
- Mental Health Law Reform
- Human Rights Enablement
- Enhancing carers' rights and role
- Reducing Coercion across the system
- Strengthening Accountability, and Scrutiny in the mental health system

Three workstreams have been proposed focusing on law reform, improving services and improving accountability, including work focused on data collection, monitoring and scrutiny and regulation.

What is clear is that decisions around improving the mental wellbeing of people and the delivery and sustainability of mental health services for those who require them will continue to be a key issue for the remainder of Session 6 and beyond.

# Gender recognition reform

*Nicki Georghiou, Senior Researcher, Equalities and Human Rights*

Reform of the Gender Recognition Act was highlighted as a key issue for Session 6, following two Scottish Government consultations on the subject in Session 5.

The [Gender Recognition Reform \(Scotland\) Bill](#) was introduced on 2 March 2022.

It proved to be one of the most controversial Bills scrutinised in the Parliament's history. Throughout its passage there was regular commentary in the mainstream and social media. Sometimes opinions were focused on how the Parliament was scrutinising the Bill. There were public demonstrations of support and opposition to the Bill. There was also a [government resignation](#) over the Bill and a [late intervention from the UN Special Rapporteur](#) on violence against women and girls, just before Stage 3. Over 150 amendments were debated over two days at late night sittings at Stage 3, and [ultimately the Bill was passed on 22 December 2022](#) with 86 in favour and 39 Against; 4 did not vote.

The aim of the Bill is to simplify the application process for legal gender recognition. It will introduce a statutory declaration-based system for obtaining a gender recognition certificate (GRC). This is often referred to as 'self-id'.

The Bill (as introduced) will remove the need for medical evidence of gender dysphoria, and reduce the time of living in the 'acquired gender' from two years to three months, with an additional three-month reflection period. It will also lower the age for applications from 18 to 16. Applications will be made to the Registrar General for Scotland, rather than the Gender Recognition Panel.

Those who support the Bill said it creates a new process which is more straightforward and less intrusive and view it as a progressive step forward for trans people, providing dignity. Those who oppose the Bill said it risks the safeguarding of single sex spaces, such as prisons, hospitals, and refuges, where 'predatory males' might use the GRC reforms to 'gain access' to women's spaces. Further, that the new process could undermine women's rights.

Key changes made to the Bill during the Parliamentary scrutiny include:

- a requirement for 16 and 17 year old applicants to have lived in their acquired gender for six months rather than three
- the creation of a new statutory aggravator where an offence is connected to the fact that a person has fraudulently obtained a GRC
- a risk-based approach in relation to GRC applicants who are on the sex offenders register.

However, the Bill has not received Royal Assent. For the first time since devolution, the UK government used powers under [section 35 of the Scotland Act 1998](#) to prohibit the Presiding Officer from submitting the Bill for Royal Assent. This was because the UK government considered the Bill to have adverse effects on the operation of the Equality Act 2010, which is a reserved matter.

The Secretary of State for Scotland, Alister Jack MP, made an [oral statement to the House of Commons](#), published his [Statement of Reasons](#) and laid [The Gender Recognition Reform \(Scotland\) Bill \(Prohibition on Submission for Royal Assent\) Order 2023](#) on 17 January 2023.

On 12 April 2023, the [Scottish Government announced](#) it would lodge a petition for judicial review on the Secretary of State for Scotland's use of Section 35.

The hearing was held at the Court of Session on [19 and 20 September 2023](#). A ruling on the case is pending.

Whatever happens next, it seems unlikely that it will be the end of the debate on gender recognition.

# Social security

*Camilla Kidner, Senior Researcher, Social Security*

The Session 6 Key Issues briefing outlined the timetable for devolution of social security benefits. This section provides an update on progress in this area.

Since 2021, [new benefits have started and the timetable for remaining benefits is becoming clearer](#). More benefits are being administered directly by Social Security Scotland as clients are transferred from the UK Government's Department for Work and Pensions (DWP), and the [Scottish Government is spending more on social security than was forecast in 2021](#).

Over the last two years [Child Disability Payment \(CDP\)](#), [Adult Disability Payment \(ADP\)](#) and [Winter Heating Payment](#) have started. The [Scottish Child Payment](#) has increased from £10 to £25 per week and it is now available to all children under 16 in eligible families. Carer Support Payment is being phased in from November to replace Carer's Allowance. Processing times have been an issue – particularly for ADP and CDP, although there are some indications that they are starting to come down. In July 2023 [ADP decisions were taking, on average, 88 days, down from 96 days in April](#). In June 2023, [CDP decisions were taking 102 days, down from 105 in March](#).

There are three benefits still to start.

- **Pension Age Disability Payment** is due to start in Autumn 2024. [Draft regulations](#) have been sent to the Scottish Commission on Social Security.
- **Pension Age Winter Heating Payment** is due to start in winter 2024/25. [A consultation is running from October 2023 to January 2024](#).
- There is no date or policy detail for **Employment Injury Assistance** which is due to replace Industrial Injuries Disablement Benefits. A consultation is expected. [Mark Griffin MSP has introduced a Members' Bill](#) to establish a Scottish Employment Injury Advisory Council. The Scottish Government opposes the Bill.

What is becoming less clear is whether there really is much scope to differ from DWP disability benefits – the Scottish Government is increasingly discussing budgetary pressures, and the expected 'Independent Review of Adult Disability Payment' has not yet been established. There was a [consultation in January on the mobility component](#).

Those budgetary pressures are worse now than they were in 2021. In 2021, the [Scottish Fiscal Commission forecast](#) that, by 2025-26, the Scottish Government would be spending around £0.5 billion more on social security than it received from the UK government through the social security spending block grant adjustment. In [May 2023, the SFC forecast](#) that it would be spending around £1 billion more. A lot of this is due to the costs of the Scottish Child Payment and expected additional spend on Adult Disability Payment compared to Personal Independence Payment which it replaces.

Reducing child poverty is a central focus for the Scottish Government which is relying on the Scottish Child Payment for a lot of the impact. It seems clear that the Scottish Child Payment is making a contribution to lowering child poverty. [Estimates published in June 2023](#) suggested that the Scottish Child Payment had lowered child poverty by around five

percentage points. However, [current expectations are that the 2023-24 child poverty statutory interim target will be missed](#). Data confirming this will not be available until 2025.

# A new human rights framework for Scotland

*Nicki Georghiou and Angus Evans, Senior Researchers, Human Rights and Civil Justice*

As outlined in our key issues for session 6 briefing, the previous Scottish Government [announced in March 2021](#) that a new Human Rights Bill would be introduced in Session 6 subject to the outcome of the election. The aim behind the Bill is to introduce a new human rights framework for Scotland by incorporating a range of UN treaties on economic, social and cultural rights into Scots law.

[A consultation on the Bill was launched on 15 June 2023 and closed on 5 October 2023.](#) The [Programme for Government 2023-24](#) states that the Bill will be introduced in the coming parliamentary year.

The Scottish Government will now have to consider the implications of the Supreme Court ruling on the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Bill](#) (UNCRC Bill) as it develops the Human Rights Bill.

The UNCRC Bill was passed unanimously on 16 March 2021. Its main purpose is to incorporate the UNCRC into Scots law.

However, the Bill did not receive Royal Assent after UK Law Officers referred the Bill to the Supreme Court over its legislative competence. On 6 October 2021, the [Supreme Court](#) agreed that four provisions of the Bill would be outside the legislative competence of the Scottish Parliament. There was no dispute about the Scottish Parliament's right to incorporate the UNCRC, within the limits of legislative competence.

Following the ruling, the Scottish Government maintained its commitment to UNCRC incorporation. It has now brought back [amendments](#) under the [Reconsideration Stage](#); this is the first time a Bill has been reintroduced after it has passed.

The Scottish Government has had to limit the coverage of the UNCRC Bill. This means that the UNCRC compatibility duty on public authorities will only apply to functions that are required by Acts of the Scottish Parliament, and not Acts of the UK Parliament in devolved areas. Key legislation will not be covered, such as the Education (Scotland) Act 1980 and the Children (Scotland) Act 1995.

Public authorities are concerned about how they will navigate this new legislative landscape, the gaps created in the enforceability of children's rights, and practical implementation issues. Children's rights and human rights organisations have said that public authorities should be complying with the UNCRC regardless of the Bill. There is a shared view that the Scottish Government must provide clear information and guidance on the Bill.

There have been calls for a legislative audit to decide what is in and out of scope of the UNCRC Bill, as well as to identify which provisions could be brought within scope over time. [The Cabinet Secretary for Social Justice, Shirley-Anne Somerville, has said](#) that the Scottish Government will commission a review of UK Acts in devolved areas. The aim would be to identify which provisions in those UK Acts could be converted into Acts of the Scottish Parliament.

All these issues for the UNCRC Bill are now an issue for the Human Rights Bill, which is also likely to be far more complex in its technical scope and reach.

# Further and Higher education - how might the landscape change?

*Lynne Currie, Senior Researcher, Further and Higher Education*

The COVID-19 pandemic brought with it significant challenges for Further Education (FE) and Higher Education (HE). Lockdowns caused major disruption to in-person teaching and the delivery of assessment. Practical learning was also impacted, with many work-related placements halted for months.

At the time of the 2021 election, the full impact of the pandemic was still being realised. Concerns around the future sustainability of college and university finances led the Scottish Government to commission the Scottish Funding Council's 2021 [Review of Coherent Provision and Sustainability](#).

The resulting review report sets out recommendations for change to the FE and HE landscape. It calls on the Scottish Government to establish an overall vision and strategy for further and higher education, increase collaboration between colleges and universities and move to multi-year funding assumptions.

In the years following the 2021 election, further reviews have recommended reform of FE and HE.

The 2023 [Independent Review of the Skills Delivery Landscape](#) carried out by James Withers sets out recommendations for transforming the skills delivery landscape. This review calls for the Scottish Government to:

- Take responsibility for skills planning at national level.
- Create a single funding body bringing together many of the functions of the Scottish Funding Council, Skills Development Scotland and the Student Awards Agency Scotland.
- Introduce a universal skills framework with consistent language around qualifications.
- Develop a clear map of the post-school system to help learners navigate it.

The 2023 [Independent Review of Qualifications and Assessment](#) also sets out recommendations that impact on FE, HE and training, as does the [2020 review of the Scottish technology ecosystem](#) carried out by Professor Mark Logan.

Following the publication of these reviews, the Scottish Government published '[Purpose and Principles for Post-School Education, Research and Skills](#)' in June 2023. This is a framework intended to set the overarching policy direction for HE and FE.

Creating parity of esteem where all post-school learning pathways are valued equally is an aim of the Purpose and Principles framework and a recurring theme in the Skills Review. It looks likely that this will become a key element of policy in the years ahead.

The [Scottish Government's Initial Priorities document](#) published alongside the Purpose and Principles document identifies development of a "a new model of public funding for all forms of provision". As part of this, the possibility of delivering a single funding body for the

sector – taking in student support and funding for institutions – will be investigated.

The Scottish Government also intends to take overall responsibility for skills planning, with more involvement from employers, a regional approach and a key role for colleges.

Reforms will also be aligned with reform of school education and the [Scottish Government's National Strategy for Economic Transformation \(NSET\)](#). NSET sets out priorities for the economic and workforce development up to 2032 and is discussed in a separate section of this briefing.

However, the reform of the skills landscape will be taking place at a time when budgets are constrained. Earlier this year the Scottish Government announced that a planned uplift of £46m for college and university resource budgets in 2023-24 would not go ahead. A flat-cash settlement for the sectors is [set out in the Resource Spending Review](#) up to 2026-27.

The Scottish Government is expected to set out its response to James Withers' Skills Review later this year.

# The Expansion of Early Learning and Childcare

*Ned Sharratt, Senior Researcher, Education*

In 2021, SPICe identified the expansion of Early Learning and Childcare (“ELC”) as being a key issue for Session 6.

## The policy has been delivered

In August 2021, the number of hours of funded ELC rose to 1,140 hours per year [for eligible children](#). These hours are the number of hours a local authority has a duty to secure for eligible children in their area; parents or carers may choose not to take up some or all of these hours. Funded ELC in Scotland has been around since 2002. Between 2014 and 2021, the number of funded hours was 600 hours per year.

Research shows that this expansion of the service has been successfully delivered. The [Improvement Service has been publishing annual reports](#) on the delivery of the expansion of ELC. The most recent is based on data from September 2023. This found:

“Across the key indicator measurements and incorporating returned narrative, the national picture shows continued high uptake of the expanded offer, and success in resourcing the requisite capacity and workforce to support this.”

In addition, the Scottish Government has expanded the rights to funded ELC for parents/carers who choose to defer the start of their child’s entry to P1.

While the delivery of the policy has been successful, there have been tensions, particularly in relation to the role and funding of the Private and Voluntary Sector and Childminders.

## Funding for the Private, Voluntary and Independent Sector

Local authorities are responsible for securing funded ELC for families. Local authorities have a dual role of being an ELC provider and a commissioner of ELC services from private voluntary and independent (“PVI”) nurseries and childminders.

The PVI sector is key to the delivery of statutory funded ELC; it accounts for around 30% of the service nationally.

A concern from the sector has been the amount of money PVI settings receive from councils to provide this service. Local authorities set rates that they pay PVI providers in their area and while there is national guidance on this process the rates vary from local authority to local authority. In [2022-23 rates for delivering ELC](#) for 3-5 year olds (excluding childminders) ranged from £5.45 to £6.40 per hour.

While the hourly rate for funded ELC has increased over the past five years, so too have the costs faced by the sector. The Scottish Government has undertaken work to

understand the sustainability of the sector. [A report published in July 2023](#) found:

“ The childcare sector, like many other parts of Scotland’s economy, is currently facing real challenges due to the ongoing costs crisis, workforce pressures and the lasting impacts of the pandemic. Some types of services have been disproportionately impacted due to their business models and changes in demand for different types of childcare provision.”

Another concern for the PVI sector has been the differential between the pay and conditions for staff in the public sector compared to what the PVI sector can offer. It has been argued that this means that the PVI sector struggles to compete for staff. In June 2023, the Scottish Social Services Council (“SSSC”) produced research on the [Movement of Day Care of Children Staff](#). This research was based on registration data and it found that the “proportions of staff moving from the private and voluntary to the public [sectors] are close to what we would predict” based on the number of practitioners in those sectors. However, it continued:

“ The big difference is with the public sector which ... retains over 90% of those within it who change post. The issue therefore appears to be less about a disproportionate flow of staff from the private and voluntary to the public, than the almost complete absence of a flow from the public to the private or voluntary.”

## Strategy and future expansion plans

The [Programme for Government in 2021-22](#) said that the government would, “work to expand funded early learning and childcare for children aged 1 and 2, starting with low-income households within this Parliament.” The most recent [Programme for Government](#) tweaked the policy position and said that this expansion would cover children from 9 months old. The Scottish Government is also seeking to build a new system of wraparound childcare for school age children.

On 6 October 2022, the Scottish Government published [Best Start: Strategic early learning and school age childcare plan for Scotland, 2022-26](#). This strategic plan identifies the following outcomes for childcare policy:

- Children’s development improves and the poverty-related outcomes gap narrows
- Family wellbeing improves
- Parents’ and carers’ opportunities to take up or sustain work, training and study increase

# Tenements and repairs

*Kate Berry, Senior Researcher, Housing*

The 2021 Key Issues for Session 6 briefing covered the topic of [tenements and repairs](#) and why this was a common postbag issue for MSPs.

As highlighted in the 2021 briefing, there are a range of factors that can prevent people maintaining and improving the tenements they live in. The [Scottish Parliament Working Group on Tenement Maintenance's](#) final report, published last parliamentary session in 2019, set out three main recommendations for reforming [the law of the tenement](#) to improve the situation:

- requiring buildings to be inspected every five years
- establishing compulsory owners' associations - the key purpose would be to manage maintenance and repair of the building
- establishing [building reserve funds](#) which all owners in a building pay into on a regular basis to pay for repairs.

The [Scottish Government's response](#) acknowledged the need for reform and stated that it would engage with the [Scottish Law Commission](#) given the complexity of the legislation.

## What's happened since 2021?

On 10 January 2022, the [Scottish Government made a reference to the Scottish Law Commission](#) asking the Commission to review tenement law in Scotland and to make recommendations for reform to implement the working group's recommendation to establish compulsory owners' associations.

The [Delegated Powers and Law Reform Committee](#) asked the Scottish Government if the timescale for this project could be shortened. [In response, the Scottish Government set out why it considers this timescale appropriate and stated that the Commission's work is only one aspect of the Tenement Maintenance project.](#)

In another letter to the [Delegated Powers Law Reform Committee in January 2022](#), the Scottish Government outlined other work it planned to take forward. For example plans were set out to develop proposals to include tenement condition as part of a review of the home report (the document that sellers must have when they want to sell their home) and there was also a plan to consult on a new housing standard – [this would set out a minimum level of house condition that all homes would need to meet](#). This work appears to be still under development.

The Scottish Government has also published a [report on the provision of building reserve funds](#).

SPICe's Key Issues briefing also considered how the Scottish Government's ambitious climate change agenda will require major changes to buildings to improve energy efficiency and use zero emissions heating systems. On 28 November 2023, the Scottish Government published its consultation on [Delivering Net Zero For Scotland's Buildings](#). The Scottish Government refers to the Short Life Working Group it established to look at

the ways in which their approach and regulations would need to take the needs and circumstances of those in tenements, flats and similar properties fully into account. It [refers to the report of the group](#), published at the same time and states that it will be “guided by its recommendations”.

Meanwhile the [Scottish Parliamentary Working Group on Tenement Maintenance](#) has started to meet again and sub-groups are considering topics that are seen as ‘sticking points’ or areas need to develop in parallel to the work of the Scottish Law Commission.

So, while there is work ongoing it might still be some time before there is any major legislative or policy change in this area.

# Family law

*Sarah Harvie-Clark, Senior Researcher, Civil Justice*

The 2021 Key Issues Briefing [set out some issues in family law to look out for in Session 6](#), with a focus on how family law treats relationships between adults.

Specifically, the section looked at:

- possible reforms to the law which applies to relationship breakdown, in respect of couples who live together but who are not married or in a civil partnership
- civil partnerships for mixed-sex couples, which became available the month after the briefing was published
- reforms to the law on divorce or dissolution of civil partnerships which happened south of the border, considering whether pressure for reform would head north.

This family law update explores progress on these various issues at this stage in the parliamentary session. It also flags a new issue to keep an eye on – [the age at which someone can marry or enter a civil partnership](#).

## The law applying to cohabiting couples

At the time the Key Issues Briefing was published, a report reviewing part of the law which applies to cohabiting couples was expected from [Scottish Law Commission](#) ('the Commission'). The Commission is the independent statutory body which makes recommendations for law reform to Scottish Ministers.

This [report](#), with an [executive summary](#) and [news release](#), was ultimately published in November 2022. The report covers the law which applies to decide what happens to a couple's finances and property when the couple's relationship ends.

In 2021, when the report was anticipated, it was not clear how radical or otherwise the Commission would be with its proposals.

One possibility was that the Commission would recommend significantly reducing, or eliminating, the gap between a) the legal consequences of cohabitation; and b) the legal consequences of marriage and entering a civil partnership. However, the policy question for the Scottish Government might then be whether all parts of Scottish society were ready for such a change.

Another feasible approach was recommendations aimed at a more modest increase in the legal protections available for cohabitants on relationship breakdown, but which also seek to simplify and clarify the law. [The existing legislation has been criticised for being unclear and overly complicated, making it hard for lawyers to advise their clients on what to expect.](#)

Ultimately, the Commission went for the second, more pragmatic, approach to reform. However, it has left open the possibility of more fundamental changes later.

In February 2023, [the Scottish Government said](#) it would "consider consulting" on the

Commission's recommendations. Detailed work has now been started by the Government in this area. However, [when asked, the Government was not able to say whether there will be relevant legislation prior to the 2026 election](#). It also remains to be seen if a public consultation on the topic will follow any time soon.

## Civil partnerships for mixed-sex couples

Entering a civil partnership, [an option for same-sex couples since 2005](#), became [available to mixed-sex couples in Scotland](#) on 1 June 2021.

Prior to the change in 2021, [and after the introduction of marriage for same-sex couples in 2014](#), annual numbers of civil partnerships had declined to low levels. For example, [in 2019](#), there were 83 civil partnerships.

Now the first data is available since the 2021 change, which made civil partnerships available to mixed-sex couples:

- [In 2021](#), there were 499 civil partnerships, of which 411 (around 80%) were for mixed-sex couples.
- [In 2022](#), there were 630 civil partnerships, of which 529 (around 84%) were for mixed-sex couples.

It is not possible yet to say whether the initial popularity of civil partnerships with mixed-sex couples will last. Early figures may include several generations of unmarried mixed-sex couples who wanted legal recognition of their relationship, but who did not consider marriage a good option. More years of data will be needed to assess the situation properly.

Marriage also remains a popular institution with mixed-sex couples relative to civil partnerships. [For example, in 2022, a year which saw a post-pandemic boom in the number of marriages](#), there were 30,033 marriages, 96% of them of mixed-sex couples.

## The end of a marriage or civil partnership – does anyone need to be at fault?

In 2020, England and Wales [passed legislation to introduce what is known as 'no fault' divorce or dissolution](#). The new system ultimately came into force a little later than originally anticipated, in April 2022.

This system allows a person to end a marriage (by divorce) or civil partnership (by dissolution) without having to prove their spouse or civil partner was at fault in any way. It aims to encourage a good relationship between the former couple afterwards.

### The Scottish system

In Scotland, there is currently a 'mixed system.' A person can obtain a divorce or dissolution of a civil partnership by proving fault on the part of their spouse or civil partner. A person can also obtain a divorce or dissolution simply by showing they have lived apart from their spouse or partner for a certain period.

## Possible pressure for reform in Scotland?

In the [Key Issues Briefing](#), SPICe suggested that the Scottish Government may come under pressure to look again at this area in [Session 6](#). However, so far this pressure has not materialised, and no relevant commitment has appeared in any programme for government to date.

## Minimum age for marriage and civil partnership

On 27 February 2023, [the minimum age of marriage and civil partnership in England and Wales was raised from 16 to 18](#).

This means that, in England and Wales, [in a change to the existing law](#), 16- and 17-year-olds will no longer be allowed to marry or enter a civil partnership, even if they have parental consent.

A key policy aim of the change is to better protect vulnerable children against the damaging impact of forced marriage.

In Scotland, [mixed-sex and same-sex couples can get married or enter a civil partnership if they are both at least 16 years old](#). There is no requirement for parental consent for 16- and 17-year-olds<sup>i</sup>.

Developments south of the border do not necessarily predict what will happen in Scotland, as the [earlier section on divorce/dissolution demonstrates](#). However, it is possible that the Scottish Government may come under pressure to legislate on the minimum age of marriage and civil partnership.

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<sup>i</sup> [Marriage \(Scotland\) Act 1977](#), section 1; [Civil Partnership Act 2004](#), section 86

# The National Performance Framework

*Nicola Hudson, Head of Research and Financial Scrutiny*

The 2021 Key Issues for Session 6 briefing provided detail on the National Performance Framework (NPF) and how it might be used to support parliamentary scrutiny.

During this session, the [Finance and Public Administration Committee has undertaken an inquiry](#) to establish how the NPF and its associated National Outcomes shape Scottish Government policy and spending decisions, and in turn, how these drive delivery at national and local level. The Committee's report concluded that:

“ The NPF remains an important vision of the type of place Scotland should aspire to be but there needs to be more sustained progress towards achieving that vision.”

The Committee found that progress towards achieving the vision of the NPF had been 'mixed' or 'patchy' and it was not considered to be the intended 'golden thread' from which all other frameworks, strategies and plans flow. The Committee also noted a lack of connection between the NPF and financial decision-making:

“ ...the NPF is not seen as explicitly or transparently driving financial decisions by the Government nor as a mechanism by which organisations are held to account for spending funding effectively.”

In the wider best-practice context, [the OECD explains that](#) the setting of clear 'performance information' (goals, outcomes, targets, indicators, benchmarks) is an essential building block in effective performance budgeting. [SPICe has also explored the use of the NPF in the Scottish Budget](#) in the context of human rights budgeting.

The NPF is underpinned by eleven 'National Outcomes' and 81 associated 'National Indicators'. The [Community Empowerment \(Scotland\) Act 2015](#) requires the Scottish Government to review the National Outcomes every five years and [this review is now underway](#).

As part of this review, the Scottish Government [launched a consultation](#) in Spring 2023 to invite views on the NPF and the National Outcomes. The [Scottish Government said](#) that due to 'consultation fatigue' in communities, it was analysing existing citizen engagement exercises, rather than carrying out extensive new public engagement. The [context for the review and some of the challenges that have been identified in using the NPF effectively are highlighted in this SPICe blog](#).

Draft National Outcomes will be published in 2024 and the Parliament's Committees will undertake scrutiny of the proposed National Outcomes and report back to the Scottish Government ahead of revised National Outcomes being agreed.

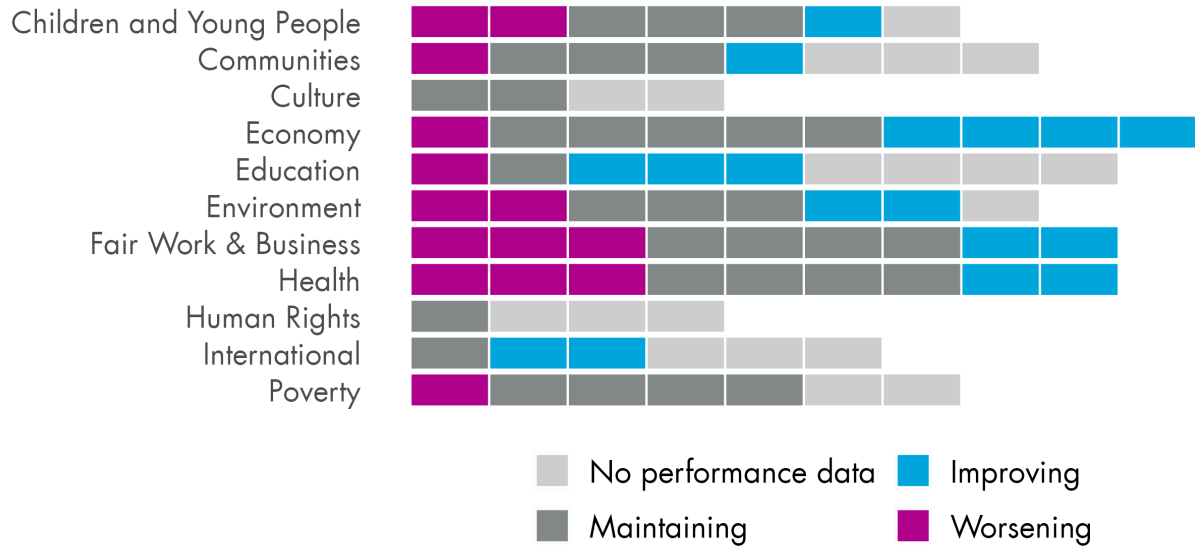
To support more effective use of the NPF and monitoring of progress, SPICe has been publishing [regular blog updates on the indicators identified in the NPF](#). The blog aims to help simplify a complex array of statistical measures and give a sense of the overall direction of the NPF. As well as providing links to all the data updates, grouped by outcome, the blog provides a visual summary of what the indicators show in terms of progress. The blog also highlights areas where data does not currently allow for monitoring of progress. The latest summary is presented below.

**Of the 62 indicators with performance data, 17 are improving, 31 maintaining performance and 14 worsening**

Figure 9: The performance of the National Performance Framework national indicators grouped by outcome, at 13 November 2023

## How is Scotland performing?

National Indicator performance | As at 13 November 2023



Source: Scottish Government

Source: Scottish Government

# The National Strategy for Economic Transformation

*Andrew Feeney-Seale, Senior Researcher, Economy*

In the Key Issues for Session 6 briefing, SPICe summarised the 10 strategies aiming to develop Scotland's economy since devolution, and previewed the key themes which were likely to feature in Session 6. Since then, the Scottish Government published its 10-year [National Strategy for Economic Transformation](#) (NSET) in March 2022. Its ambition is to improve Scotland's economic performance by 2032, but also to achieve a “step change” in tackling some structural and longstanding weaknesses in the Scottish economy. In particular, it aims to address “weak productivity compared to international competitors, a relative lack of new business growth and persistent poverty”.

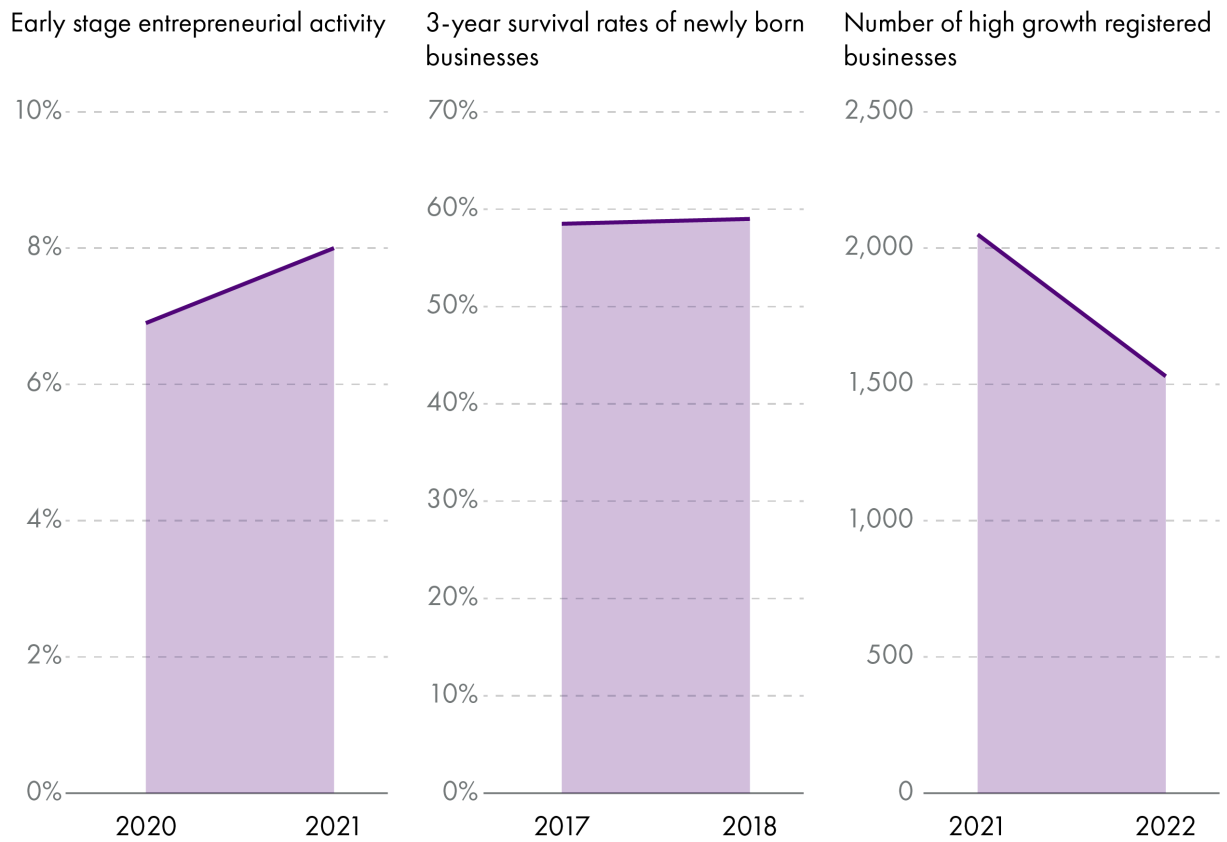
This vision is to be achieved through five programmes of actions:

- Entrepreneurial People and Culture
- New Market Opportunities
- Productive Businesses and Regions
- Skilled Workforce
- A Fairer and More Equal Society.

These feed into three ambitions – for Scotland to be fairer, wealthier, and greener. The five programmes of actions have been chosen by the Scottish Government as they are the areas where it considers progress is likely to have the greatest impact, with the supporting evidence and stakeholder engagement supporting these areas of focus. The economic modelling suggests that the economy could be 4.9% (£8 billion) larger in 2032 than it would otherwise have been if NSET projects to boost exports and productivity are implemented successfully.

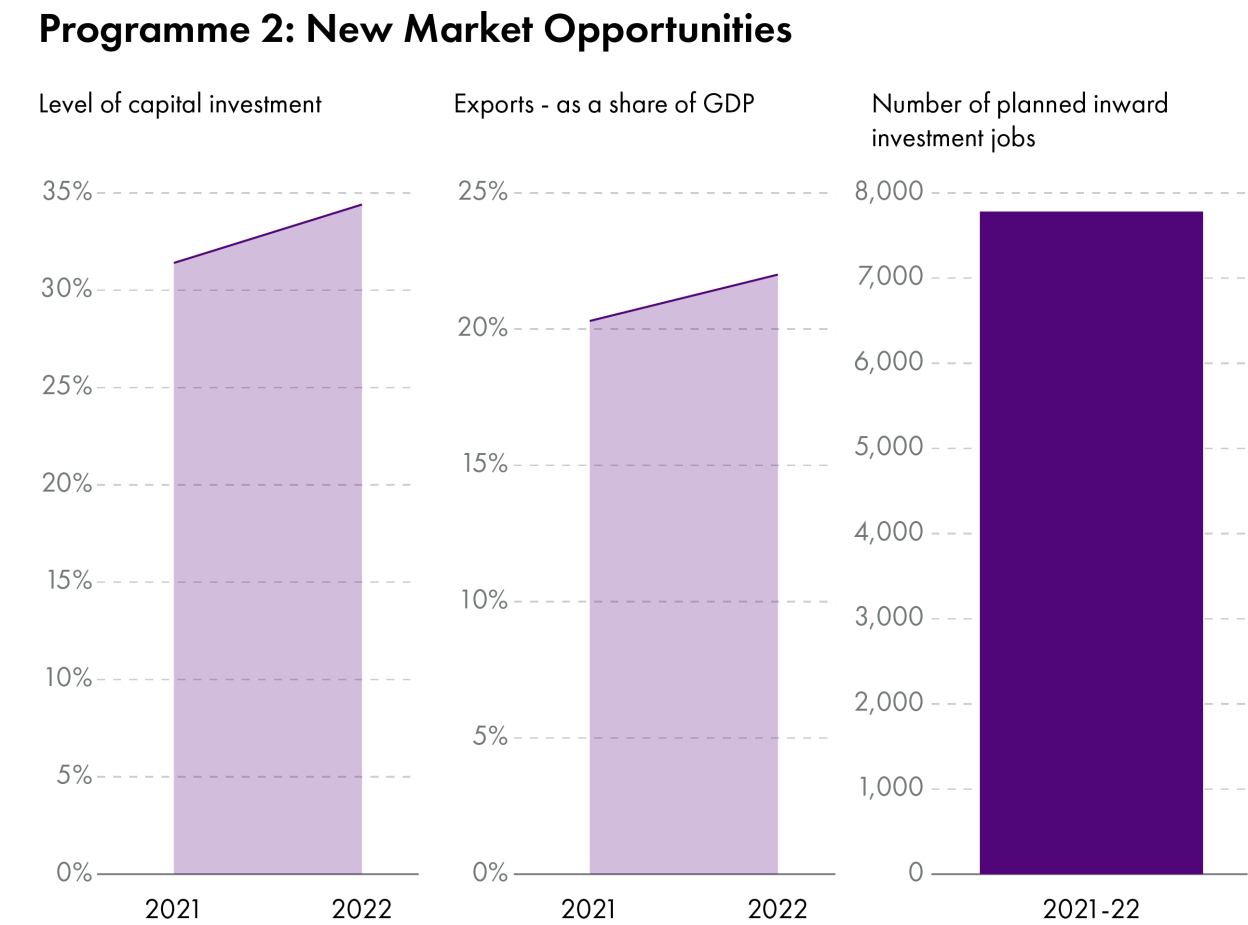
On 31 October 2022, the Scottish Government published its [delivery plans for NSET](#) which set out how it will work with partners to implement the strategy, and in June 2023 the first [Annual Progress Report was published](#). This report included measures of success for each of the five programmes of action set out above.

Figure 10: Performance of Entrepreneurial People and Culture indicators

**Programme 1: Entrepreneurial People and Culture**

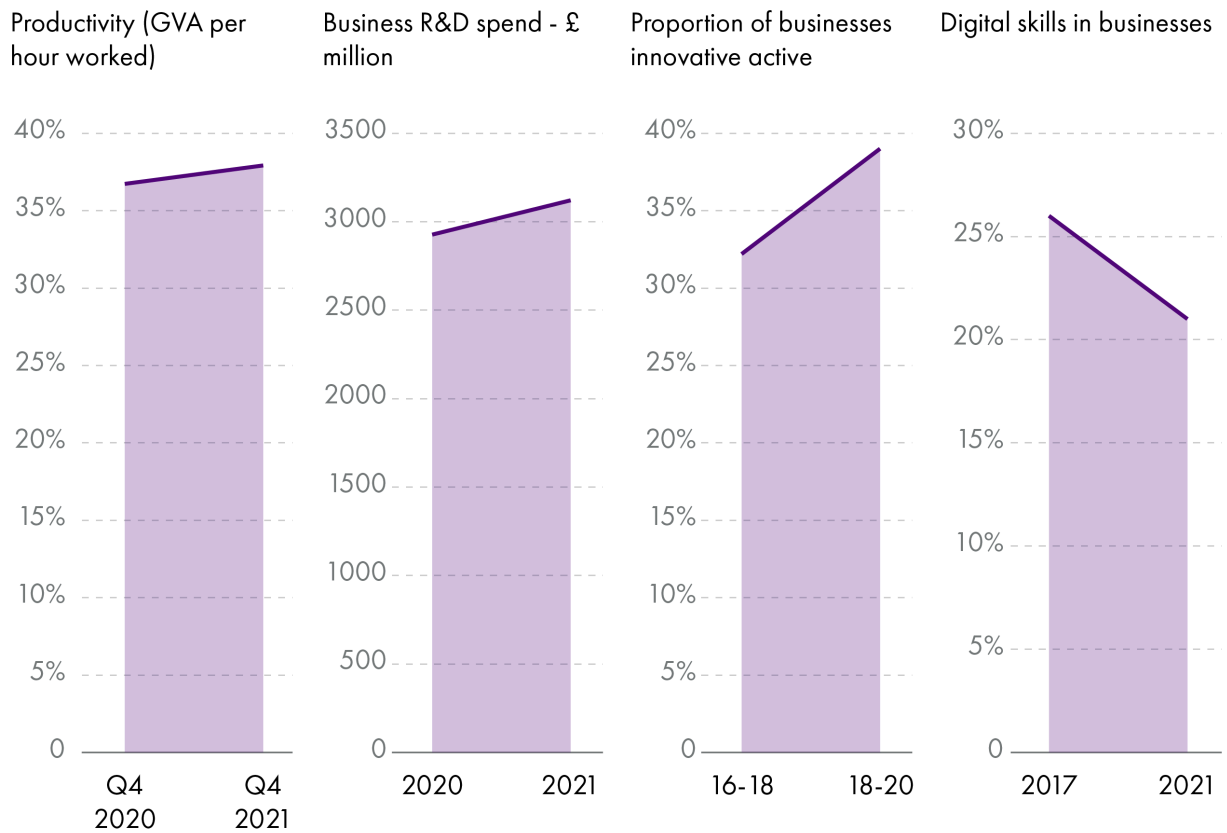
Source: Scottish Government

Figure 11: Performance of New Market Opportunities indicators



Source: Scottish Government

Figure 12: Performance of Productive Businesses and Regions indicators

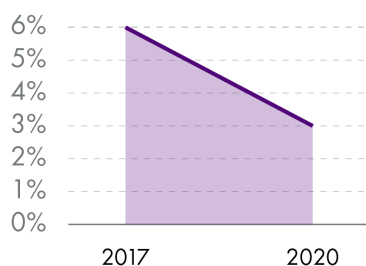
**Programme 3: Productive Businesses and Regions**

Source: Scottish Government

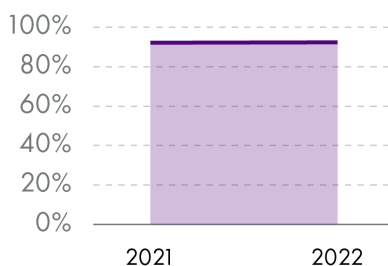
Figure 13: Performance of Skilled Workforce indicators

## Programme 4: Skilled Workforce

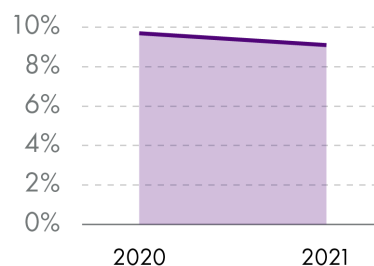
Skill shortage vacancy rate



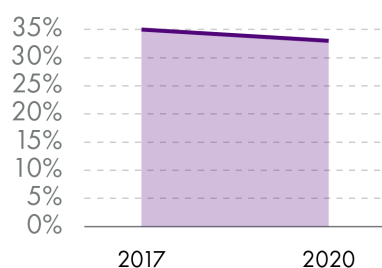
Percentage of young people (16-19) participating in education, training or employment



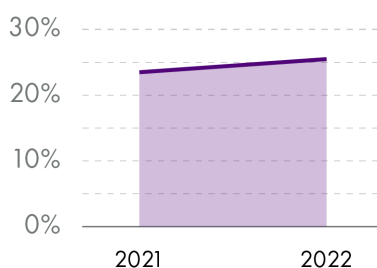
Percentage of adults (16-64) with low/no qualifications (SCQF Level 4 qualifications or below)



Proportion of establishments reporting at least one employee whose skills are under-utilised



Percentage of people in employment aged 16-64 (excluding full-time students) receiving job related training



Source: Scottish Government

Figure 14: A Fairer and More Equal Society indicators

## Programme 5: A Fairer and More Equal Society



Source: Scottish Government

The sixth programme of action set out in NSET is 'A Culture of Delivery', which sets out how this enhanced focus on delivery will be achieved, including the following measures:

- Restructuring the Enterprise and Skills Strategic Board (ESSB) to become the National Strategy for Economic Transformation Board (NSET)
- Provide multi-year budgets through the resource spending review to provide greater certainty to business
- Finalise detailed delivery plans within six months of the publication of this strategy, publish annual reports from the NSET board, and publish a wellbeing economy monitor
- Publish annual progress reports to improve public accountability.

Throughout the remainder of the session, key questions for parliamentarians include how well this strategy is being implemented, whether the progress being tracked throughout the measures of success identified above will contribute to the success of NSET, and crucially how new strategies announced since NSET was published are aligned to the goals of this overarching strategy for the economy.

# Tax powers: a process stalled

*Ross Burnside, Senior Researcher, Finance*

In the [Key issues for Session 6 briefing in 2021](#), SPICe speculated over whether some of the unfinished business of the Smith Commission and Scotland Act 2016 might be progressed during this Parliamentary session.

The briefing noted that Scotland Act 2016 had still not been implemented in full, with issues around the practicalities of assigning VAT to the Scottish Budget and implementing the Air Passenger Duty power (or Air Departure Tax, as it is to be called in Scotland).

Two years in and there is very little new to report. VAT remains unassigned, Air Departure Tax has still to be introduced, and there appears little prospect of either of these issues being resolved anytime soon. On the other hand, the devolution of Aggregates Tax, which generates around £60 million per annum, does appear to be imminent, with the [recent introduction of the Aggregates Tax and Devolved Taxes Administration \(Scotland\) Bill](#).

Brexit has not resulted in any further devolution of tax powers now that restraints around EU rules on differing member state tax rates in certain areas (like for example, VAT) no longer apply. Instead, there has been stalemate and disputes between the Scottish and UK governments over the adequacy (or not) of public spending and [whether levelling up funds constitute an attack on the devolution settlement](#).

There has, however, been some recent progress with the publication of an [updated Fiscal Framework agreement between the Scottish and UK Governments](#) over the summer of this year. Following delays and seeming stalemate over the terms of the review, the revised Fiscal Framework was finally agreed, somewhat out of the blue, in August 2023.

As with the original Fiscal Framework, the mechanisms protect the Scottish budget from differential population growth in Scotland relative to the UK as a whole. However, the new Fiscal Framework does also introduce some new flexibilities: it increases the Scottish Government's borrowing powers to smooth forecasts errors; links borrowing to inflation; and removes constraints around Scotland Reserve access.

Interestingly, the new Fiscal Framework leaves the door open for VAT assignment to happen. The new agreement states:

“ Once completed and agreed by officials, the assignment methodology and operating arrangements will be presented for joint ministerial sign-off at a future meeting of the Joint Exchequer Committee. The JEC will also agree arrangements for production of VAT revenue forecasts and a suitable point for the commencement of VAT assignment. To allow the development and testing of the methodology for calculating Scotland's aggregated share of VAT liabilities, VAT assignment will continue to be forecast and calculated each year, but with no impact for the Scottish Government.”

If VAT assignment is to progress in the remainder of this Parliament, the Scottish and UK governments will need to agree a methodology for assigning the tax. This has so far proved challenging given [the complexities involved in estimating revenues generated from VAT in different parts of the UK, and the large fluctuations in the Scottish data](#). Without any say over the rates, or items, on which VAT applies, the Scottish Government may continue to judge that VAT assignment is not worth the budgetary risk.

# A New Deal for the Scottish business base

*Rob Watts, Senior Research, Economy*

In 2021, the business landscape was highly uncertain and supporting businesses through a Covid recovery was a top priority for policy makers to navigate. Since then, high inflation and rising interest rates have piled further pressure on Scotland's business base, at a time when the Scottish Government implements its 'New Deal for Business'.

## The Scottish business base – some facts and figures

Scotland's business base is overwhelmingly comprised of small businesses that employ fewer than 50 people (98.3%). However, as at March 2022, the 0.65% of firms that employ 250 or more people accounted for 44.1% of employment and 59.8% of turnover in Scotland's private sector. Evidence suggests that large businesses tend to be significantly more productive than smaller ones, yet small firms dominate Scotland's economy.

Compared with other parts of the UK, Scotland also has fewer high growth businesses, and foreign-owned firms are nearly 10 times more likely to be considered high-growth than Scottish-based firms. The [Fraser of Allander Institute](#) has noted there is evidence that:

“foreign firms acquire high-growth Scottish firms which partly explains why there is such a large share of high-growth foreign firms in the country.”

## Key issues for business

The Fraser of Allander Institute's quarterly [Scottish Business Monitor](#) provides a useful source of Scottish business sentiment and the key issues businesses are reporting. In August 2023, they found that key concerns include:

- The increasing cost of borrowing. Around 40% of surveyed firms reported cancelling or delaying investments over the past year. “The most common reasons for these cancellations and delays have been economic uncertainty, affordability, and the cost of borrowing.”
- Inflation and cost pressures. The cost of energy and price of inputs were reported as the biggest cost concerns for businesses.
- Labour supply issues. 84% of firms with vacancies found it difficult or very difficult to fill them.

## A New Deal for Business

On overarching policy issue for the business base in Scotland is the implementation of the

## Scottish Government's 'New Deal for Business'.

This was first announced on 18 April 2023, when the new First Minister made a [statement to Parliament](#) setting out his government's priorities for the remaining three years of this Parliamentary session. According to the First Minister, these priorities will involve a *"transformation of the delivery of business, enterprise, and innovation support"*.

The New Deal for Business Group was then established and published a [progress report in June 2023](#), including a series of recommendations for the Scottish Government. In response, the Scottish Government has pledged, over the next year, to:

- Reset the relationship with business through implementing recommendations made by the New Deal for Business Group, including on the development and implementation of regulation.
- Work with business to develop a process for identifying, considering and if appropriate removing regulations no longer required, and to propose new regulations to support businesses in Scotland, especially our small businesses.
- Bring business representatives and other stakeholders together to advise on the successful implementation of new regulations through the Regulatory Review Group and ensure the consistent and effective use of the Business and Regulatory Impact Assessment, with businesses engaged from the earliest stage of policy development.

# Infrastructure investment: a balancing act

*Nicola Hudson, Head of Research and Financial Scrutiny*

In the Key Issues briefing published at the outset of Session 6, SPICe commented that “... deciding what to build, how much to spend, and how to pay for it is not straightforward for any government. Balancing limited budgets and competing priorities is challenging”. This has certainly been the case in the first half of Session 6, with pressures from a range of factors impacting on plans for infrastructure spending.

As noted in the Session 6 Key Issues briefing, the Scottish Government had published a five-year [Infrastructure Investment Plan](#) (IIP) covering the period to 2025-26. The Scottish Government sets out progress on these plans by way of its [Major Capital Project \(MCP\) updates](#), which are published on a six-monthly basis and are scrutinised by the [Parliament's Public Audit Committee](#).

Throughout Session 6, these reports and scrutiny sessions have highlighted the pressures facing capital investment and the need for plans to adapt to reflect changing circumstances, in particular inflationary pressures, supply chain issues and labour market shortages.

The [latest \(March 2023\) MCP update](#) noted that:

“ In recent reports, cost increases have been driven by inflation caused by Brexit and the war in Ukraine. Delays in projects have been down to supply-chain issues and labour shortages again driven by Brexit and the war in Ukraine. In this latest report, whilst inflation remains a factor for cost increases, delays are more often reported as resulting from changes to the scope of a project driven by the likes of accessibility enhancements, delivering net zero building standards, and new carbon emission targets. All planned dates and costs therefore are best estimates and may subsequently be subject to further impact.”

The [2022-23 Progress Update to the Infrastructure Investment Plan](#), highlighted the Scottish Government's intention to review and re-prioritise capital spending plans in the light of the changing economic conditions and noted that not everything that had been planned would be deliverable:

“ These [economic and financial] challenges also mean that we cannot deliver all of the Scottish Government's capital commitments within the funding available and to the original timescales. To address this, we will publish refreshed multi-year spending envelopes for capital alongside the 2024-25 Budget and extend the Capital Spending Review and Infrastructure Investment Plan period by one year, to 2026-27. This will allow us to reflect the new economic reality, while prioritising capital spend to support employment and the provision of high-quality public infrastructure as we move towards achieving net zero.”

The [Progress Update](#) also noted that the Scottish Government expected to take longer to meet its National Infrastructure Mission target of increasing annual investment by 1% of 2017 Scottish Gross Domestic Product by the end of the Parliament.

The 2024-25 budget should provide further information on what shape the revised plans will take. In recent reports, both the [Parliament's Finance and Public Administration](#)

[Committee](#) and [Audit Scotland](#) have stressed the need for these updated plans to provide transparency around the decisions taken and sufficient detail to enable effective scrutiny.

# How has Scotland's labour market fared during the pandemic?

*Andrew Feeney-Seale, Senior Researcher, Economy*

In the Key Issues for Session 6 briefing, the key questions on Scotland's labour market were all around the impact that the Covid-19 pandemic would have, [with forecasters largely projecting a spike in unemployment which did not materialise](#). In 2023, rather than the pandemic, the questions are about how the labour market will be impacted by the cost crisis, the significant increased cost of borrowing and the expectation of muted economic growth and constrained public finance in the medium term.

At 4.3%, Scotland's unemployment rate is rising but remains low compared with historical trends and is comparable to the UK average. In the [November 2023 Monetary Policy Report](#), the Bank of England expected unemployment in the UK to increase from 4.3% in Q4 2023 to 5.1% by the end of 2026.

The ONS publish data on vacancies across the UK by sector. The [latest data covers the quarter ending in September 2023](#), and notes there were a total of 988,000 vacancies across the UK, a decrease of 43,000 compared to Q2 2023. This marks the 15<sup>th</sup> consecutive fall in vacancy numbers, with falls across 14 of the 18 industry sectors. The most significant falls were real estate (down 29.6 per cent since Q2) and administrative & support services (down 15.5% since Q2).

Concerns around Scotland's relatively high economic inactivity rate have eased. Between February 2023 and April 2023, Scotland's economic inactivity rate rose from 21.0% to 22.9% - the largest quarterly increase since the data series began in 1992. It has since fallen back to 21.4% and is comparable to the UK average, although it is too early to tell whether this is a trend or a one-off.

Regarding earnings, it is well documented that inflation has eroded real wages and put pressure on household finances. In May 2023, PAYE [real median earnings in Scotland](#) fell 0.3% on an annual basis, following sharper annual declines throughout 2022.

Wage stagnation pre-dates the cost-of-living crisis. In October 2021, the [OBR forecast](#) that UK-wide real wages would be lower in 2026 than they were in 2008, marking almost two decades of stagnant wage growth.

Regarding the distribution of earnings, [Scotland's gender pay gap](#) was 12.0% in 2022 (up from 11.1% in 2021 but below the UK-wide figure of 14.9%) and the [disability pay gap](#) was 16.2% in 2019 (the latest year for which reliable data is available, due to a [coding error by the ONS](#)). This gap has risen from 12.8% in 2014.

Taking the latest indicator from the National Performance Framework, the share of employees earning less than the real living wage was 14.4% in 2021, down almost a quarter in 9 years and lower than the UK. The [difference between the Scottish and UK-wide performance](#) here is almost entirely in the public sector.

# Local Government – council tax and the Verity House Agreement

*Greig Liddell, Senior Researcher, Local Government*

SPICe's Key Issues briefing published at the start of Session 6 discussed developments in the relationship between the Scottish Government and local government. Since then, the first part of a "New Deal" between the two tiers of government has been agreed.

Local government finance is one of the most contested areas of Scottish politics. This is because councils rely on Scottish Government funding whilst the Scottish Government needs local authorities to deliver many of its national priorities. Both tiers of government have legitimate democratic mandates and are accountable to their electorates. As such, the funding of local government can lead to a great deal of political friction, whilst the issue of having adequately funded local services is relevant to the millions of Scottish households who use them every day. This is especially true during periods of budget restraint.

Council tax has an important role to play in local government finance, raising around £2.6 billion per year. However, as the Local Government Information Unit [recently pointed out](#), the majority of local government funding across Scotland still comes in the form of grants from the Scottish Government. Council tax income accounts for less than 20% of local government revenue spend, and as the only genuinely *local* tax in Scotland, this represents a low proportion [compared to many other European countries](#). Nevertheless, council tax Band D rates are set annually by locally elected councillors, the tax is collected by local authorities, retained by them and spent entirely on local services. It may be a relatively small source in terms of overall local government funding, but council tax is clearly important to local democracy and accountability.

## The Verity House Agreement

The [Verity House Agreement](#) (VHA) was signed by the First Minister Humza Yousaf and COSLA President Shona Morrison on 30 June 2023. With its aim of reducing ring-fencing (whereby funds are allocated for a specific purpose) and a focus on shared outcomes, the Verity House Agreement is similar to the "historic" [Concordat of 2007](#). And like its predecessor, the new agreement aims to reset the relationship between two of Scotland's spheres of government, whilst establishing foundations for future developments in the often-fraught areas of council funding and national/local policy delivery.

The VHA sets out, at a very high level, what the Scottish Government and local government want to achieve and how they will work together to achieve it. As part of this, they have agreed on three shared priorities: tackling poverty, a just transition to net zero, and sustainable public services. Although not a legally binding document - "it does not create legal obligations" - the VHA nevertheless represents a public commitment from both partners, backed-up by years of consultation, research and discussion. Work is now progressing on more detailed fiscal and functional arrangements.

Confirming the principle of joint leadership, the VHA talks about "mutual trust and respect" whilst committing to involve local government in future national policy developments at the earliest possible stage. This should, for example, include "meaningful early budget

engagement” with an underlying principle of “no surprises”. Four months later, however, this underlying principle appeared to be challenged when the First Minister announced at the SNP party conference the Government’s intention to freeze council tax next year, without having first consulted, or indeed informed, COSLA. [Council leaders expressed](#) their “extreme disappointment” with the announcement, stating that “the First Minister chose to undermine the spirit and the letter of the Verity House Agreement, so soon after it being signed”. Despite this, the [Scottish Government](#) states that it remains “wholly committed” to the VHA, with the Minister for Community Wealth and Public Finance [telling the Local Government, Housing and Planning Committee](#):

“ We are very much committed to partnership working right across all aspects of the new deal with local government and specifically with regard to the council tax freeze. We are committed to ensuring that we can implement it in a way that meets the requirements set by the First Minister that it be fully funded and that it deliver a freeze that will be of benefit to people across Scotland.”

## Council tax freezes: a brief history and future costs

Since the SNP first came into government in 2007, council tax freezes and national caps have pretty much been the norm. For example, between 2008-09 and 2016-17, the Scottish Government worked with local government to freeze rates at 2007-08 levels. This was followed by four years of a national upper cap. There was one further freeze in 2021-22, but for the past two years councils have been free to increase council tax by whatever rates they felt were necessary. [BBC Scotland published figures](#) showing how much each council had raised council tax by in 2023-24, with most opting for increases of between 4 and 6%. Orkney Council, somewhat of an outlier, raised council tax by 10% this year.

The First Minister (FM) sought to [reassure councils](#) that the Government would be “fully funding this freeze to ensure they can continue providing the services on which we all rely”. But what does this actually mean? Soon after the FM’s announcement, the Fraser of Allander Institute (FAI) [published its analysis of the announcement's costs](#). Assuming that councils were intending to increase council tax by similar amounts as 2023-24, the FAI estimates the freeze will cost £148 million in 2024-25. Of course, there is the possibility that councils were planning to raise council tax by even larger rates. The FAI estimates that the cost of compensating councils for an 8% council tax increase across the board would be around £229 million. The FAI also notes that proposed changes to the multiplier used for upper bands [have now been scrapped](#) meaning councils will forgo an additional £183 million which could have come from that proposal. The total “shortfall” from these national council tax decisions may therefore be closer to £417 million.

## What next?

In its recent [Local Government Overview 2023](#), the Accounts Commission found that Scottish local authorities are under severe financial strain whilst demand for services continues to grow. It calls for urgent action to finalise a fiscal framework “that supports sustainable funding”. No framework has appeared yet, despite the Verity House Agreement stating that one would be concluded by the end of September 2023. There is

much that councils would like to see in the forthcoming Scottish Government budget, due for publication on the 19 December, not least a real terms increase in their settlements, a reduction in ring-fencing and some multi-year commitments to support financial planning. The council tax freeze adds another layer of complexity to the budget process this year and with it comes the potential for further political friction at a time when the Scottish Government and local government are seeking to “reset” their relationship.

# The changing face of devolution and scrutiny

*Sarah McKay, Senior Researcher, Constitution*

In the Key Issues briefing published at the start of this Session, SPICe highlighted that the move away from EU membership has brought the devolution settlement into sharp focus and that issues related to this would be central to the work of the Parliament during Session 6.

This update explores some of the key constitutional issues which have been considered by the Parliament so far this session. The Parliament's Constitution, Europe, External Affairs and Culture (CEEAC) Committee has been focused on how the UK leaving the EU has affected devolution – looking at issues like legislative consent, the UK Internal Market Act 2020, delegated powers and intergovernmental relations each of which is discussed in more detail below. It has also highlighted that the Parliament will also need to be aware of the impact of, for example, future international trade agreements on devolved areas.

It is clear from the CEEAC Committee's work that devolution is now much more complex and challenging to understand. The Session 6 Parliament has been working, and continues to work, to ensure that its scrutiny processes take account of the way that devolution is operating post EU exit.

## The Sewel Convention

[The Sewel Convention](#) is the mechanism for obtaining the consent of the devolved legislatures where the UK Parliament intends to pass primary legislation in a devolved area. According to the Convention, the UK Parliament will not normally legislate on devolved matters without consent (i.e., in Scotland without the consent of the Scottish Parliament).

The Convention is not legally binding, meaning that the UK Parliament is able to pass primary legislation in devolved areas even where the Scottish Parliament withholds consent.

The CEEAC Committee has stated that the Sewel Convention is 'under strain' and has noted that by 2015 the Sewel convention had been engaged more than 140 times, with consent withheld on only one occasion (in relation to the Welfare Reform Bill) and that the UK Government amended aspects of the Bill as a result. Since 2018 the UK Parliament has passed a number of Acts without the consent of the Scottish Parliament, including in relation to the European Union (Withdrawal) Act 2018, the UK Internal Market Act 2020; the Subsidy Control Act 2022 and the Retained EU Law (Revocation and Reform) Act 2023.

The CEEAC Committee concluded in its report '[The impact of Brexit on Devolution](#)' that "the Sewel Convention is under strain following Brexit", noting "the view of some of our witnesses that without reform, "there is a risk of the convention, and the legislative consent process that puts Sewel into practice, collapsing altogether."

In its most recent report '[How devolution is changing post-EU](#)' , the CEEAC Committee

concluded that:

“ there is clearly a fundamental difference of viewpoint between the UK Government and all the devolved governments with regards to how the Sewel Convention has been operating since EU-exit. It is also clear that this has led to a deterioration in relations between the UK Government and all the devolved Governments.”

## The UK Internal Market Act 2020

The UK Internal Market Act 2020 (UKIMA) establishes two market access principles of mutual recognition and non-discrimination. The market access principles are intended to facilitate trade, the provision of services and recognition of professional qualifications across the UK.

As the CEEAC Committee explained in its [guidance to subject Committees on 'Post EU scrutiny'](#) in September 2023:

“ All devolved policy areas are potentially affected by the market access principles, although there are some exemptions provided in the UKIMA”

The UKIMA “may not affect the Scottish Parliament's ability to pass a law but may have an impact on whether that law is effective in relation to goods and services which come from another part of the UK”.

A SPICe blog '[Scotland's Ban on Single Use-Plastics: a case study of the impact of the UK Internal Market Act](#)' explores these UKIMA issues in more detail.

UK Ministers have the power to create new or change the exclusions provided for in the UKIMA. The UK Government and devolved governments have agreed [a process for considering exclusions to the market access principles](#) through common frameworks. A SPICe blog '[From single-use plastics to the deposition return scheme: How are Common Frameworks and the UK Internal Market Act exclusion process operating](#)' looks at how the process has operated to date in more detail.

The Scottish Government's paper [Devolution since the Brexit Referendum](#) also highlighted that the UKIMA gave the UK Government powers to spend in devolved areas. It states:

“ The UK Internal Market Act also gave UK Ministers new powers to take decisions on public spending for devolved services in Scotland, bypassing the Scottish Government and Scottish Parliament.”

## Delegated powers

In its [Impact of Brexit on Devolution report](#), the Constitution, Europe, External Affairs and Culture Committee (CEEAC) has stated that:

“ there has been a significant step change in the approach to the use of delegated powers during the preparations for EU exit and its aftermath.”

The report explained that when the Scottish Parliament was established, UK Ministers'

powers to make secondary legislation in devolved areas were transferred to Scottish Ministers with only a few exceptions, and that one key exception was the power to make secondary legislation that implemented European Union obligations. The Committee noted that:

“ Beyond this key exception, the UK Government did not generally have powers to make secondary legislation in devolved areas and did not often do so.”

Since EU exit, a number of UK Acts have given UK Ministers delegated powers to act in devolved areas. These are Acts both in areas of former EU competence and not in areas of former EU competence, and include, for example the Environment Act 2021, the Professional Qualifications Act 2022, the Police, Crime, Sentencing and Courts Act 2022, the Health and Care Act 2022 and the Retained EU Law (Revocation and Reform) Act 2023.

The Committee's view is that “the extent of UK Ministers' new delegated powers in devolved areas amounts to a significant constitutional change” and it has also stated that it has “concerns that this has happened and is continuing to happen on an ad hoc and iterative basis without any overarching consideration of the impact on how devolution works.”

Most recently, in its [How Devolution is Changing Post-EU](#) report, the CEEAC Committee has stated that:

“ one of the most striking aspects of how devolution is changing outside of the EU is the extent of primary legislation enacted at Westminster which includes delegated powers exercisable within devolved legislative competence by UK Ministers. While this mostly relates to policy areas previously within the competence of the EU there is also a significant number of powers for UK Ministers conferred in subject areas that were not formerly governed by the EU.”

Referenced in the [same report](#), the CEEAC Committee's adviser, Dr Christopher McCorkindale, has highlighted that the:

“ ad hoc and inconsistent development of UK Ministers taking powers to act in devolved areas has been accompanied by ad hoc and inconsistent consent mechanisms” in relation to delegated powers.”

The extent to which UK Ministers are required to seek the consent or consult with the Scottish Ministers when exercising delegated powers in devolved areas varies: in some instances consent must be obtained, in others it must be sought, and in some cases consultation with Scottish Ministers is sufficient.

## Intergovernmental activity

‘Intergovernmental activity’ refers to work between governments. It can include discussions on areas of mutual interest, policy development, and policy implementation.

Intergovernmental interactions can take place in formal structures often called ‘intergovernmental relations’ (IGR) as well as more informally. The formal structures, through which governments meet regularly, have been in place since January 2022 following a joint review of the system by the UK Government and devolved governments.

[A SPICe blog](#) explains how IGR mechanisms changed in 2022.

The UK's exit from the EU has made intergovernmental work even more important to understand. While the UK was a member of the EU, decisions in many devolved policy areas were made at an EU level. Arrangements put in place following EU exit, such as [common frameworks](#) (intergovernmental agreements which set out how governments will work together to make decisions about policy in certain devolved policy areas, in particular decisions about policy divergence) and the process for considering exclusions to the UK Internal Market Act 2020, mean many more decisions across policy areas are now made at an intergovernmental level.

The [SPICe intergovernmental](#) activity hub collates information on intergovernmental activity between the Scottish Government and the UK Government, Welsh Government, and Northern Ireland Executive.

The CEEAC Committee's most recent report [How Devolution is Changing Post-EU](#) states that the inquiry was focused on "the increased interaction between devolved and reserved competence and the greater complexity and 'shared' space between the UK and devolved governments."

In the report, the CEEAC Committee noted the view of its adviser, Professor Michael Keating, that there is now:

"a complex landscape of intergovernmental mechanisms, which has grown incrementally rather than following from a clear constitutional design" and concluded that "there is a lack of clarity and consistency with regards to how each of these mechanisms work together."

## A second referendum on independence

At the start of the session, the question of Scottish independence looked set to dominate and work in advance of a second referendum on independence had already been undertaken.

On Tuesday 28 June 2022 the then First Minister made [a statement to Parliament on a second independence referendum](#). Following the First Minister's statement the Scottish Government published a draft '[Scottish Independence Referendum Bill](#)'. The draft Bill set the date of the proposed referendum as 19 October 2023.

In her statement on a second independence referendum on 28 June 2022, the First Minister said that she had [written to the Prime Minister](#) indicating that she stands:

"ready to negotiate the terms of a section 30 order with you, as we did with the UK Government in 2012, to respect the mandate given by the people of Scotland."

Anticipating, however, that a Section 30 Order may not be forthcoming from the UK Government, the First Minister used the statement to set out how the Scottish Government planned to proceed in the absence of a Section 30 Order to ensure that the "issue of independence" is "resolved democratically... through a process that is above reproach and commands confidence."

The First Minister announced that the [Lord Advocate](#) had exercised the power under

[paragraph 34 of schedule 6 of the Scotland Act 1998](#) to refer the provision in the draft Scottish Independence Referendum Bill to the Supreme Court. The [reference to the Supreme Court](#) was filed on the afternoon of 28 June 2022. The [Court heard the case over two days](#) – 11 and 12 October 2022.

At 9:45 on Wednesday 23 November 2022 the UK Supreme Court delivered its judgment on the reference. The Court's judgment on the substance of the case – specifically, whether section 2 of the Scottish Government's draft Scottish Independence Referendum Bill related to reserved matters – was unanimous. The Court decided that the section of the Bill did relate to reserved matters. As such, the Court's judgment was that it is not within the Scottish Parliament's legislative competence to legislate for a referendum on independence.

As such, it is difficult to see how an independence referendum could be achieved without the UK Government agreeing to a Section 30 Order.

The Scottish Government continues to publish a series of papers '[Building a New Scotland](#)'. Taken together the [Scottish Government states](#) that they "form a prospectus for an independent Scotland".

To date, eight papers have been published on the following topics:

1. [Independence in the modern world](#) (June 2022)
2. [Renewing democracy through independence](#) (July 2022)
3. [A stronger economy with independence](#) (October 2022)
4. [Creating a modern constitution for an independent Scotland](#) (June 2023)
5. [Citizenship in an independent Scotland](#) (July 2023)
6. [Migration to Scotland after independence](#) (November 2023)
7. [An independent Scotland in the EU](#) (November 2023)
8. [Our marine sector in an independent Scotland](#) (November 2023)

# The climate emergency: just tackle, adapt and transition

*Al Reid and Niall Kerr, Senior Researchers, Climate Change*

At the start of Session 6, the Key Issues briefing focussed on Scotland and in particular [Glasgow gearing up for COP26](#), the global United Nations (UN) summit about climate change and how countries are planning to tackle and adapt to it. The central objective of the [UN's Paris Agreement](#) is to hold global temperature increases to “well below 2°C above preindustrial levels” and to pursue “efforts to limit the temperature increase to 1.5°C above pre-industrial levels”.

## The global picture

The [Scottish Parliament engaged heavily at COP26](#). This included hosting a Global Legislators Summit and working with partners to deliver activity in the UN ‘blue zone’ and elsewhere in Glasgow. The Scottish Parliament is continuing work to support innovative climate change and net zero scrutiny at COP28, in partnership with the [Global Legislators Organisation \(GLOBE International\)](#).

The [outcome of COP 26 was described as a “fragile win”](#). There was agreement about providing more money for climate adaptation in developing countries and common time frames for the implementation of emissions reduction targets. There was disagreement over phasing out coal use, and reparation payments for [loss and damage](#) – the serious and largely irreversible impacts already being caused by climate change in the global south.

[Global emissions are still rising](#) (expected to peak by 2025), and the most recent statistics show that [UK emissions fell slightly](#) last year (attributed to a warmer winter in 2021/22 and high energy prices). For the 1.5°C Paris Agreement target to be achieved, it is thought that [net zero CO2 emissions must be achieved globally by between 2044 – 52, and all GHGs must be net zero between 2063 – 68](#). For 2°C of warming, net zero GHG should be achieved globally by the end of the century.

The gravity of climate breakdown has been highlighted by a number of severe weather events in recent months, with June 2023 [confirmed as the hottest June on record in the UK](#), and the [Energy and Climate Intelligence Unit reporting that](#):

“ 2023 has seen the world's hottest June on record; a succession of the hottest days ever recorded; the hottest sea surface temperatures and, in July, the hottest month ever experienced by modern humans.”

These temperatures led to [intense wildfires in Europe](#) and [megafires in Canada](#). Closer to home, Storm Babet which caused devastating flooding in Brechin, was [60 years earlier](#) than predicted by the [Scottish Environment Protection Agency's most recent Flood Risk Management Plan](#).

Not only will societies and economies have to transform their energy and land use systems to radically reduce emissions, they will also have to rapidly adapt to the warming that is already occurring. The window to do this safely, justly, and at least cost is closing, and

Parliamentarians have a key role in ensuring that their constituents' voices are heeded, and that Government's plans are scrutinised, taking account of the latest scientific analysis.

This section sets out the key issues that the Scottish Parliament will examine through to the end of Session 6.

## What's happening at home?

The [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#) sets stringent and legally binding commitments to achieving net zero emissions by 2045 (against a 1990 baseline), with a fast-approaching interim target of reducing emissions by 75% by 2030.

In Scotland, the [most recent statistics show that emissions rose slightly in 2021](#), with the main contributor being domestic transport, climbing again following the impact of Covid lockdowns the previous year. The overall picture shows that emissions have halved since 1990, however they are not falling nearly fast enough to achieve key targets, and [eight of the last twelve annual targets have been missed](#). Emissions will need to halve again by 2030 to achieve statutory targets and to play Scotland's part in [UK and international commitments](#) to limit global temperature rises to "well below" 2°C and to "pursue efforts" to limit temperature increase to 1.5°C above pre industrial levels.

Apart from [ongoing and mainstreamed climate scrutiny across Parliament](#), there are three key areas that will require joined-up and (in some cases) cross committee scrutiny through to the end of Session 6.

## Climate Change Plan

The Scottish Government has a [statutory duty](#) to produce a plan setting out proposals and policies for meeting GHG emissions reduction targets across eight key sectors. Known as the Climate Change Plan (CCP), it is normally published every five years (most recently in 2018), covering a 15-year timespan. The Scottish Government had undertaken to revise the 2018 CCP within 6 months of the 2019 Act, however this was postponed due to the Covid pandemic and [Securing a Green Recovery on a Path to Net Zero: Climate Change Plan 2018 – 2032 - update](#) (CCPu) was finally published in draft form late in 2020.

Building on the collaborative scrutiny of previous CCPs, four Parliamentary Committees took a joint approach to reviewing the draft CCPu, looking at the sectors that related to their remit. The Session 5 [Environment, Climate Change and Land Reform Committee led cross committee scrutiny of the CCPu](#), and in its report noted that the scale of change needed in emissions reductions and in social and technical systems has no precedent in human history.

The most recent [assessment of progress by statutory advisers the Climate Change Committee](#) found that "Scotland is still not delivering on key milestones such as energy efficiency in homes and peatland restoration". The Government therefore "urgently needs to provide a quantified plan for how its policies will combine to achieve the emissions reduction required to meet the challenging 2030 target".

A new draft CCP (covering the period 2025 – 2040) was expected before the end of 2023, [however this has recently been delayed](#), with the Scottish Government stating:

“ The UK Government’s unprecedented and unexpected decision to renege or roll back on their net zero commitments, including those already announced and accounted for by the Scottish Government, have repercussions in respect of our ability to produce a draft Climate Change Plan that is just and fair by the end of November. This, tied with the uncertain economic outlook for the UK as a whole and the constraints of devolution, make what is already a challenging task, ever more difficult.”

The [reasons for this delay have been questioned by the CCC](#), with the Chief Executive noting that there were “minor” impacts for Scotland from [recent changes to UK net zero policy](#). However, “these are reasons to go faster”.

When the CCP is published, the Scottish Parliament may wish to consider whether it sets out the credible proposals and policies that are necessary to achieve stringent emissions reduction targets. Parliament may also wish to consider whether the Scottish Government has provided the funding and supports the structural change required to achieve the targets.

## Climate Change Adaptation Programme

Projections for the next century indicate that climate trends observed over the last century will both continue and intensify. There are unavoidable consequences of historic emissions and significant changes projected over the coming decades. Planning for and adapting to climate change is therefore necessary regardless of how swiftly emissions are cut.

At a global level, 2023 is “[virtually certain](#)” to be the warmest year on record. Domestically, [UK Met Office Projections](#) show that Scotland’s top 10 warmest years have all occurred since 1997 (2022 was Scotland’s warmest year on record), meaning that summers are warmer and drier, winters are milder and wetter, and intense, heavy rainfall events will increase throughout the year. The annual average rainfall in the last decade (2010-2019) was 9% wetter than the 1961-1990 average, with winters 19% wetter. Mean sea level around the UK has risen by approximately 1.4 mm/year from the start of the 20th century.

While Scotland progresses to net zero, there needs to be much greater thought and investment into how Scotland will adapt to the changing climate. There are some measures that both mitigate the impact of climate change and help areas to adapt to it (e.g tree planting along a river bank to sequester carbon, shade the river and reduce flood risk), and vice-versa. There is therefore a pressing need to put as much emphasis on adaptation and resilience as there is on emissions reduction. The [Chief Executive of the Environment Agency recently stated](#):

“ Even if we stopped all emissions of greenhouse gases tonight, those that have occurred over the last two hundred or so years since the Industrial Revolution mean that the climate will still continue to change. Which is why the other side of the climate coin – adaptation to make us more resilient in a climate changed world – is just as important as the mitigation which Net Zero provides.”

The 2009 Act sets statutory requirements to produce a Scottish Climate Change Adaptation Programme (SCCAP) every five years. These programmes are required to address current and projected risks from climate change, as identified in the [UK Climate Change Risk Assessment](#).

The [current SCCAP covers the period 2019 – 2024](#) and has three overarching themes (natural environment, buildings and infrastructure networks, and society), with related priorities. It sets out over 170 policies and proposals to build climate resilience in Scotland.

The [CCC's March 2022 assessment of SCCAP](#) found that:

“Progress in delivering adaptation has stalled. Available evidence indicates that across most sectors progress in delivering adaptation has stagnated, despite a limited number of areas where good progress is being made.”

The Government's [most recent annual progress report on SCCAP](#) (May 2023) shows that some progress has been made, e.g. in relation to flood forecasting and coastal change adaptation planning, however “more needs to be done to build resilience in Scotland as part of our just transition”.

Public consultation on the next five-year adaptation programme is anticipated for the start of 2024, with the aim of publishing a final statutory programme in autumn of the same year.

Given the [economic and societal costs of recent floods in the north-east](#), and the certainty of future significant disruption across Scotland, Parliamentary scrutiny of the next SCCAP, and regular consideration of the implementation of measures to protect vulnerable individuals, businesses and communities will be required.

## Just Transition

A Just Transition involves [maximising the social and economic opportunities of climate action, while minimising and carefully managing any challenges](#). The Scottish Government states that it is “committed to ending our contribution to climate change in a way that is fair and leaves no one behind”. A [Draft Energy Strategy and Just Transition Plan](#) was published in early 2023, with three further sectoral Just Transition Plans, on Transport, Buildings and Construction, and Land Use and Agriculture in development.

A Just Transition is [covered in more detail here](#).

# Sowing the seeds of a new agricultural policy

*Anna Brand, Senior Researcher, Agriculture and Rural Affairs*

The [Key Issues for Session 6 briefing](#) discussed the development of a new agriculture policy post-EU exit.

Since the beginning of Session 6, the Scottish Government has held two consultations on a future agricultural policy. In August 2021 it published the consultation '[Agricultural transition - first steps towards our national policy](#)'. This consultation asked for views on the recommendations and key issues arising from the [farmer-led climate change groups](#) set up in Session 5. A second consultation was held on specific legislative proposals. '[Delivering our Vision for Scottish Agriculture - Proposals for a new Agriculture Bill](#)' was published in August 2022 and sought views on proposals for the structure of a new agricultural policy, and the powers to be available to Scottish Ministers to deliver it.

The Scottish Government has made three high-level commitments to reforming agriculture policy. These are:

- To target at least half of all funding for farmers and crofters [towards actions with outcomes which support climate mitigation, adaptation, and biodiversity gain](#).
- To [maintain direct support for farmers and crofters](#). This means that there is an intention to continue some form of non-competitive payment for land managers based on the land that they farm.
- To [introduce conditions for receiving agricultural support](#).

The Scottish Government introduced the [Agriculture and Rural Communities \(Scotland\) Bill](#) ('the Bill') in September 2023. The Bill as introduced is a 'framework bill'. It confers a wide range of powers (e.g. to provide support for a number of different purposes), places some duties on Scottish Ministers (e.g. to produce a 'Rural Support Plan' and a 'Code of Practice on Sustainable and Regenerative Agriculture'), and enables changes to be made, but does not include the detail of a future agriculture policy for Scotland. This is expected to be set out in subsequent secondary legislation. Details available to date on the shape of a new policy and support system and the plan for transitioning to it have been set out in an [Agricultural Reform Route Map](#), first published in February 2023.

[Further information about the bill is available in the SPICe bill briefing.](#)

The bill is the key legislative vehicle for delivering a new agriculture policy, but it sits alongside a number of relevant developments which will also affect the use and governance of Scotland's land:

- New land reform legislation is expected [following consultation on legislative proposals in 2022](#). The consultation included proposals which may have implications for land use and management in Scotland, including requirements for large-scale landholdings, and a new 'flexible' land-use tenancy.
- [After a lengthy period of discussions around crofting](#) law reform, in the [2023-24](#)

[Programme for Government](#), the Scottish Government committed to, in the coming year “develop and consult on proposals to reform crofting law”.

- The Scottish Government is currently consulting on a [new biodiversity strategy and accompanying delivery plan](#), which includes several objectives and actions which are related to agriculture and other land uses, including an objective to “introduce an agricultural support framework which delivers for nature restoration and biodiversity alongside climate and food production outcomes”.
- A [new climate change plan \(CCP\)](#) must be in place before March 2025, and is expected to include policies and proposals for land use sectors, as the current and previous CCPs have done.
- Following from the passage of the [Good Food Nation \(Scotland\) Act 2022](#), the Scottish Government must produce a national Good Food Nation Plan. Scotland’s food production sectors will no doubt be a key consideration in this plan.

Taken together, these and other developments (e.g. [a recent consultation on changes to Scotland’s forestry grants scheme](#)) highlight that many of the policies related to Scotland’s land are in flux at the same time. The outcomes of each of them may influence the development and delivery of others.

# Turning the tide – Scotland's blue economy

*Damon Davies, Researcher, Marine Environment*

As at the start of Session 6, managing Scotland's marine environment and economy continues to present challenges for the Scottish Government.

As set out in previous sections, the impacts of the climate and nature emergency remain a major challenge. Recent evidence such as the [OSPAR 2023 Quality Status Report](#) and [State of Nature Report 2023](#) provides a mixed picture of the health of Scotland's marine environment. For example, there have been improvements in the health of some fish stocks, and marine mammal species. However, seabird species continue to be in trouble, some seabed habitats are in poor status and climate change is causing decreased oxygen concentrations, marine heatwaves and ocean acidification.

Scotland's waters are becoming increasingly crowded with the expansion of marine renewables which has prompted [fishing industry bodies to highlight the potential impact of 'spatial squeeze'](#) on fishing grounds.

At the start of Session 6, SPICe identified that a key challenge for the parliament would be to assess whether the Scottish Government took an integrated approach to marine and fisheries policy, linking to wider policy goals for a [Green Recovery from the COVID-19 pandemic](#). Other key challenges identified were:

- Tackling marine ecosystem decline while ensuring a collaborative approach to marine conservation among stakeholders with conflicting interests and views.
- Ensuring that the expansion of marine industries brings sustainable economic opportunities in coastal communities in a way that is compatible with addressing the twin climate and nature crises.

A key test of the Scottish Government's approach to tackling marine ecosystem decline was the implementation of its [commitment to designate 10% of Scotland's seas as Highly Protected Marine Areas by 2026](#). The approach to designating HPMAs intended to prohibit all extractive, destructive and depositional activities to allow the marine environment to return to a more natural state with the aim of restoring and recovering marine ecosystems and their services.

The Scottish Government concluded a [statutory public consultation on the proposed Policy Framework and Site Selection Guidelines](#) which ran from 12 December 2022 to 17 April 2023.

However, during this period there was growing controversy around a perceived lack of engagement and the potential impact of the policy on fishing communities, particularly in Scotland's island and rural coastal regions. Strong opposition was voiced by [Comhairle nan Eilean Siar](#), the [Shetland Islands Council](#) and [Tiree](#) as well as by [fishing and seafood industry bodies](#). Opposition to the policy even [inspired a protest song](#) which reached number 9 in the iTunes download charts.

In an effort to provide reassurance about these concerns, [the First Minister stated](#) that the

government “will not steamroll through or impose on any community a policy that it is vehemently opposed to”.

In June 2023, the Scottish Government announced its decision to not progress with its proposals for HPMAs as consulted on. The Cabinet Secretary stated:

“ We will develop a new pathway and a timetable for our work. Those will be in line with our draft biodiversity strategy and its ambition for Scotland to be nature positive by 2030, and they will recognise that the European Union has proposed a target of having enhanced marine protection in at least 10 per cent of its seas by 2030.”

The Cabinet Secretary also confirmed that the Scottish Government would be consulting on its other marine conservation commitments to introduce fisheries management measures in existing MPAs and priority marine features outside the MPA network. The Programme for Government 2023-24 also committed to “supporting community-led marine protection.”

On 7 November 2023, the Scottish Government published its HPMA consultation analysis which demonstrated polarised views either clearly for or against the proposals with 55% supporting the proposals and 43% opposed.

A key challenge for the Scottish Parliament for the remainder of the Session will therefore be to scrutinise how the Scottish Government will seek to empower communities in developing proposals on marine conservation while meeting its domestic and international obligations to tackle climate change and biodiversity loss. Additionally, the Scottish Government may need to consider how its approach can find common ground between different stakeholder interests to avoid further polarisation.

Key opportunities for scrutiny are:

- Consultations on management measures for existing MPAs and Priority Marine Features.
- The [development of the National Marine Plan 2](#).
- Proposed nature restoration targets in the anticipated Natural Environment Bill.
- [The development of fisheries management plans](#) as required by the Fisheries Act 2020.
- Scrutiny of the [Strategic Biodiversity Framework and Delivery Plan](#) .

# Food Policy in Scotland: The Good Food Nation Act

*Annie Bosse, Researcher*

The [Key Issues for Session 6 briefing](#) anticipated the introduction of legislation on food policy which would bring together cross-cutting policy in areas related to food including the environment, public health, the economy, animal welfare, and equality and social wellbeing. Other policy and legislative developments with links to food have taken place during Session 6, including the [introduction of the Agriculture and Rural Communities \(Scotland\) Bill](#).

A Good Food Nation Bill [had been consulted on in 2018](#) and committed to in the [2019-20 Programme for Government](#) but the introduction of the Bill [was postponed because of the Covid-19 pandemic](#). The [Good Food Nation \(Scotland\) Bill](#) was introduced on 7 October 2021 and became an Act on 26 July 2022. The [lead committee for the Bill](#) was the Rural Affairs, Islands and Natural Environment Committee. SPICe produced a briefing on the [Bill as introduced](#) and a [blog outlining its consideration at the Scottish Parliament during Stage 1 and Stage 2](#).

The main changes made by the [Good Food Nation \(Scotland\) Act 2022](#) ('the Act') are to place a duty on Scottish Ministers and certain public bodies (including local authorities and health boards) to produce Good Food Nation Plans. These plans set out food-related policies, how these will be implemented, and how progress will be measured. The Act also includes consultation and reporting requirements, including that Scottish Ministers must make the draft national Good Food Nation Plan available to the Scottish Parliament for scrutiny by December 2024. The Parliament will then have 60 days to scrutinise the plan. A commencement date for the duty on public bodies is yet to be set by Scottish Ministers in secondary legislation.

Other key provisions in the Act include:

- a requirement that those required to produce Good Food Plans have regard to them when exercising 'specified functions'. These functions are yet to be set out in secondary legislation.
- powers for Scottish Ministers to establish a Scottish Food Commission, which will provide scrutiny of progress in achieving the outcomes in the Good Food Nation Plans. This Commission has not yet been established.

A key proposal which was discussed during Stage 1 but not included in the Act relates to the incorporation of the right to food in domestic law. This right is recognised in the [International Covenant on Economic, Social and Cultural Rights](#) (which the UK has signed). Proposals to incorporate it had been [included in the Scottish Government's 2018 consultation](#) on the Bill and incorporation was [recommended by the National Taskforce for Human Rights Leadership in 2021](#). A [SPICe blog published ahead of the Bill's consideration at Stage 3](#) included discussion of the proposal. The Scottish Government [has consulted on including the incorporation of the right to adequate food](#) in the Human Rights Bill, which [is included in the 2023-2024 Programme for Government](#).

# Driving down driving

*Alan Rehfish, Senior Researcher, Transport*

The [Scottish Government's Climate Change Plan Update](#), published December 2020, included a commitment to reduce the annual distance driven by car by 20% between 2019 and 2030. That is an annual reduction of 7.34 billion car kilometres. This commitment was repeated in the [2020-21 Programme for Government](#). The following sections look at progress in meeting this goal, which was previously considered in the SPICe [Key Issues for Session 6 briefing](#).

The Scottish Government published [A route map to achieve a 20 per cent reduction in car kilometres by 2030](#) in January 2022. The route map described interventions under the following four headings:

- Reduce the need to travel
- Help people live well locally
- Help people switch modes
- Help people to combine trips or share journeys

There were no significant new policies or programmes included in the route map, nor any additional funding. The interventions largely focused on the publication, review or implementation of previously announced plans and policies, such as the [fourth National Planning Framework](#), the [R100 Programme on the rollout of broadband](#) across Scotland, the [Cycling Framework and Delivery Plan for Active Travel in Scotland 2022- 2030](#), and the completion of the fair fares review.

Specific interventions highlighted in the route map largely focus on improving alternatives to car use, such as investing in active travel freeways and free bus travel for those aged under 22. The Scottish Government recognised the need for additional policies which directly discourage or prevent car use. It committed to commissioning research on the subject during 2022, which would then influence a Car Demand Management Framework to be published in 2025. The [2023-24 Programme for Government](#) included a commitment to publish a new route map in the year ahead – although it is unclear whether this will include additional demand management policies.

It is worth noting that in 2022 academic researchers Paula Kuss and Kimberly A. Nicholas published a well-regarded journal article on [effective interventions to reduce car use in European cities](#), a meta-analysis of 24 studies into car use reduction. This identified the 12 most effective urban car demand management measures. The top three interventions being congestion charging, workplace parking levies, and limited traffic zones. Scottish local authorities already have legislative powers allowing them to introduce these measures.

[UK Government figures](#) show that weekday motor vehicle traffic returned to, and has even exceeded, pre-covid levels since mid-2021. However, weekday travel by bus and rail at a national level is currently running at around 10 to 15% below pre-pandemic levels, although there will be regional variation in these figures. Data also shows that weekend travel by all modes now exceeds pre-pandemic levels, which poses a capacity challenge

to rail and bus operators in some parts of the country.

[Scottish transport statistics](#) show that cycle use spiked during the pandemic years of 2020 and 2021. However, the more recent UK Government figures show cycling has returned to pre-pandemic levels – although data is only available up until April 2023. [Data on the frequency of walking](#) as a form of transport in Scotland from 2021 shows no increase from previous years. There is also a [national indicator on the proportion of trips made on foot or by bike](#), but recent changes to data collection methods mean that comparisons with previous years cannot be made.

While it is tricky to confidently identify transport trends as we exit the pandemic period, it seems clear that there has been no real reduction in car use. Despite the Scottish Government's focus on measures aimed at making alternatives to car travel more attractive, bus and rail use remains below pre-covid levels and there is no evidence of a significant increase in walking or cycling for transport purposes.

Any hope of meeting the 20% reduction in car mileage target will require continued, significant investment in alternatives to car travel and the speedy roll-out of demand management measures across the country.

# A Scottish foreign policy?

*Iain McIver, Senior Researcher, EU and International Affairs*

SPICe's Key Issues briefing published at the start of Session 6 noted suggestions that Scotland should adopt a distinctive foreign policy aimed at developing Scotland's profile internationally. A Scottish foreign policy led by the Scottish Government has been proposed despite [foreign affairs and international relations being a reserved competence](#). Despite this reservation, successive Scottish Governments going all the way back to 1999 have sought to ensure an overseas presence and pursue a foreign policy.

The discussion over whether Scotland should have a foreign policy has continued into Session 6 as [a recent Holyrood magazine](#) article outlined. The debate has recently been informed by the UK Government's new Foreign, Commonwealth Foreign, Commonwealth and Development Office (FCDO) guidance on "how to manage and support devolved government ministerial visits overseas". The guidance was issued as a result of what UK Ministers have described as Scottish Ministers engaging their hosts in discussions about reserved matters. This was discussed in a Scottish Affairs Committee evidence session ([see questions 293 and 294](#)) on 12 June 2023, and was the [subject of a letter from the Cabinet Secretary for the Constitution, Europe, External Affairs and Culture](#) on 1 May 2023.

Whilst debate over the nature of the Scottish Government's international engagement has continued, the engagement itself has continued.

## Extension of the international footprint

A key Scottish Government [commitment at the start of Session 6](#) was to extend its international footprint by opening an office in Copenhagen and a further office in Warsaw before the end of the Session.

The Copenhagen office was [officially opened in August 2022](#). Representing Scotland in the Nordics, the office is located within the British Embassy in Copenhagen.

The proposed office in Warsaw was not referenced in the most recent [Programme for Government](#)

## Scotland's international footprint

Figure 15: Scotland's international footprint



[Scottish Government](#) and [Scottish Development International](#)

## Scottish Council on Global Affairs

Another commitment made by the Scottish Government in its first [Programme for Government of Session 6](#) was to support the establishment of a Scottish Council on Global Affairs (SCGA) which would “coordinate Scottish expertise and research on global issues and their impact on Scotland”.

The SCGA was launched in April 2022. Both the Scottish and UK Governments supported its establishment with official launch events in [Edinburgh](#) and [London](#) and both have provided funding to the organisation. The [SCGA provides a hub for research and policy-informed, non-partisan debate on international relations and global politics](#).

## Diaspora

The Key Issues Briefing published at the start of Session 6 explored [how those with Scottish ancestry living abroad \(the “Scottish diaspora”\) might be used to boost economic growth](#).

In April 2023, the Scottish Government published the [Scottish Connections Framework](#), which set out the Scottish Government’s approach to engaging with Scotland’s diaspora. SPICe [published a blog](#) summarising the proposals in the Scottish Connections Framework. The summary stated:

“ The new Scottish Connections Framework proposes a definition of diaspora which goes wider than the traditional perspective of Scottish heritage or ancestry. The Framework also includes a number of commitments from the Scottish Government setting out how it will seek to engage with Scotland’s diaspora. Some of the proposals are informed by the experience of other countries, in particular Estonia and Ireland. However, the Framework is less clear on what measurable benefits Scotland will see from this engagement. Whilst there is a commitment to review the Framework every two years and a number of specific commitments are included, there is no articulation of what the Government hopes will be achieved in economic and cultural terms from deeper engagement with the diaspora. This may make Parliament scrutiny of the impact of the Framework more challenging.”

## Scottish Affairs Committee inquiry

As referred to above, the House of Commons Scottish Affairs Committee undertook an inquiry into [Promoting Scotland Internationally](#). The [Committee’s final report](#) was published on 13 September 2023. In relation to UK and Scottish Governments cooperation, the Committee concluded:

“ The UK and Scottish Governments share many of the same priorities for Scotland on the international stage and there is an important role for the Scottish Government to play in promoting Scottish interests overseas in areas of devolved competence. Despite recent publicised tension between the two governments surrounding international activity, we found there to be positive and constructive collaboration between officials during our visit to Washington DC earlier this year, where UK and Scottish Government officials are co-located in the British Embassy. This kind of collaboration should be encouraged across the wider Embassy network where teams are co-located. In locations where Scottish Government officials are not co-located or based, it is important to embed regular communication between the teams to facilitate or identify any opportunities for joint initiatives between the governments. We encourage the UK and Scottish governments to work constructively and cooperatively on Scottish interests internationally. Whilst recognising that foreign affairs and international trade are reserved to the UK Government, the Scottish Government have international interests in devolved policy areas.”

## Looking ahead

The [latest Programme for Government](#) sets out the Scottish Government’s policy approach for at least the next twelve months. In the international sphere it focuses on the Government’s international development work, establishing a Scottish Connections Fund (to deliver on one of the commitments in the Scottish Connections Framework) and continued engagement with the EU alongside consideration of how the Trade and Cooperation Agreement (TCA) can be developed ahead of the review due in 2026. The Scottish Parliament’s Constitution, Europe, External Affairs and Culture Committee is currently undertaking an inquiry into the [Review of the TCA](#).

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