



The Scottish Parliament
Pàrlamaid na h-Alba

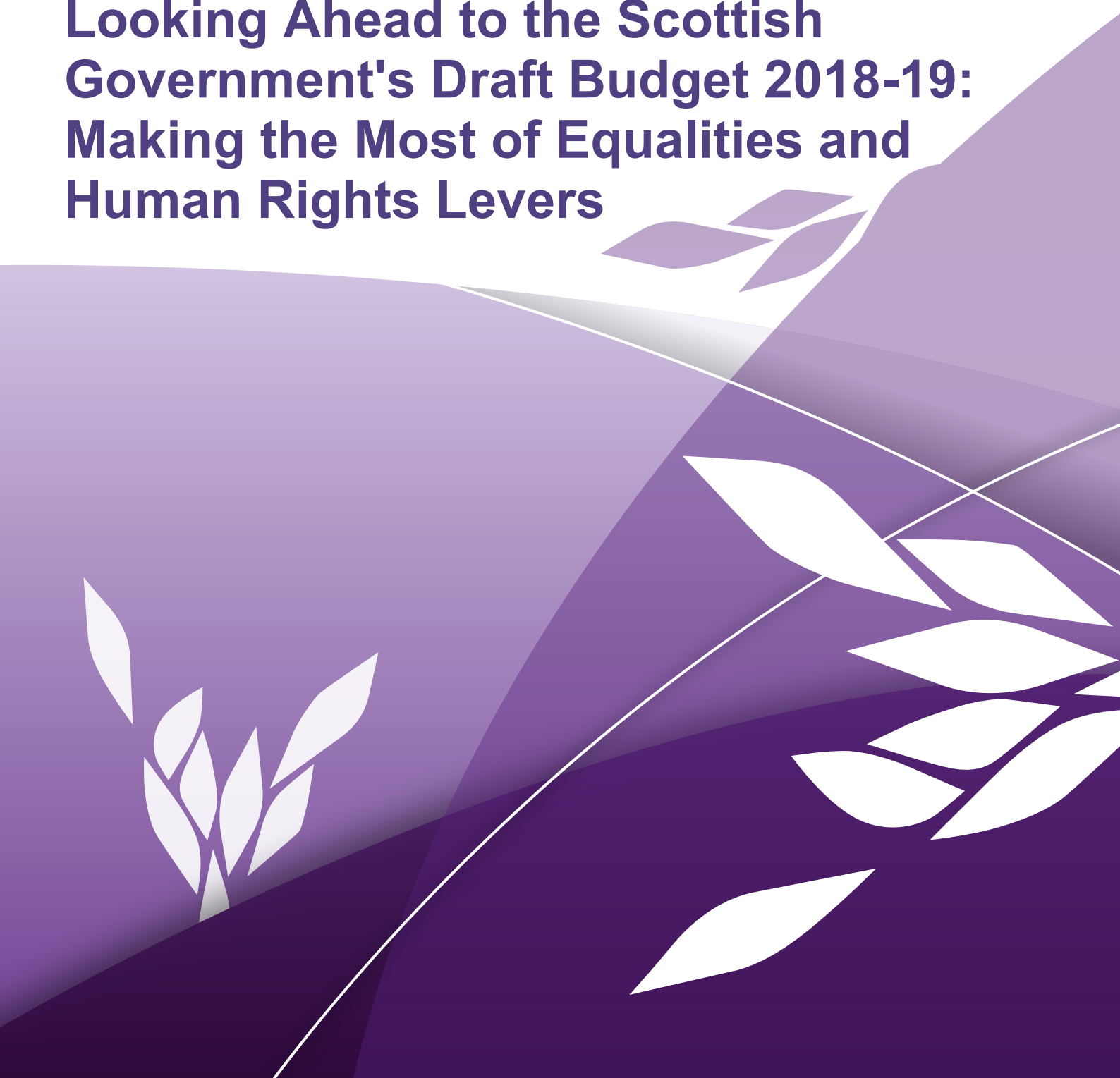
Published 10 December 2017

SP Paper 246

7th Report, 2017 (Session 5)

Equalities and Human Rights Committee Comataidh Co-ionannachd agus Còraichean Daonna

Looking Ahead to the Scottish Government's Draft Budget 2018-19: Making the Most of Equalities and Human Rights Levers



Published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish
Parliament website at:
[http://www.parliament.scot/abouttheparliament/
91279.aspx](http://www.parliament.scot/abouttheparliament/91279.aspx)

For information on the Scottish Parliament contact
Public Information on:
Telephone: 0131 348 5000
Textphone: 0800 092 7100
Email: sp.info@parliament.scot

Contents

Introduction	1
Approach to budget scrutiny	1
Evidence gathering	1
PACE OF PROGRESS	2
Budget Process Review Group	2
Human rights and the budget process	3
IMPROVING EQUALITIES DATA	6
Scotland's Equality Evidence Strategy 2017-2021	6
Measurement Framework for Equality and Human Rights	6
MAINSTREAMING OF EQUALITIES IN THE BUDGET	8
Race equality	8
Gender equality	9
Participation	10
Distributional analysis	10
Mainstreaming through initiatives and capital investment programmes	11
Monitoring and evaluation	13
ROLE OF EQUALITY BUDGET ADVISORY GROUP	14
Membership of EBAG	14
IMPROVEMENTS TO THE EQUALITY BUDGET STATEMENT	15
THE NATIONAL PERFORMANCE FRAMEWORK AND EQUALITY OUTCOMES	17
PUBLIC AUTHORITIES IMPLEMENTATION OF NATIONAL EQUALITY PRIORITIES	19
Ring fencing to deliver equality priorities	19
LINKING BUDGET SCRUTINY TO THE PUBLIC SECTOR EQUALITY DUTY	20
Local authority mainstreaming of equalities	21
Equality impact assessments	22
ADDITIONAL RESOURCES	23
OUR INQUIRY WORK 2017-18	24
National Performance Framework and outcomes	24
Disabilities and universities	24
Widening access	24
Student support	25
Avoiding litigation	26
Hidden Lives, New Beginnings; Destitution, asylum seekers and insecure immigration status in Scotland	26

Numbers of destitute asylum seekers and those with insecure immigration status __	26
Destitution crisis fund and assistance for people with No Recourse to Public Funds	27
Provision of accommodation to assist in the treatment of communicable diseases __	27
Travel assistance _____	28
Updating 'Establishing Migrants' Access to Benefits and Local Authority Services in Scotland' guidance _____	28
It's not Cool to Be Cruel: Prejudiced-based bullying and harassment of children and young people in schools _____	28
Budgetary issues _____	29
Annex A - Minutes of Meeting _____	31
Annex B - Evidence _____	33
Written evidence _____	33
Official Reports _____	33

Equalities and Human Rights Committee

To consider and report on matters relating to equal opportunities and upon the observance of equal opportunities within the Parliament (and any additional matter added under Rule 6.1.5A). In these Rules, “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Human rights, including Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights contained in any international convention, treaty or other international instrument ratified by the United Kingdom.



<http://www.parliament.scot/parliamentarybusiness/CurrentCommittees/Equalities-Human-Rights-Committee.aspx>



equalities.humanrights@parliament.scot



0131 348 6040

Committee Membership



Convener
Christina McKelvie
Scottish National Party



Deputy Convener
Alex Cole-Hamilton
Scottish Liberal
Democrats



Mary Fee
Scottish Labour



Jamie Greene
Scottish Conservative
and Unionist Party



Gail Ross
Scottish National Party



David Torrance
Scottish National Party



Annie Wells
Scottish Conservative
and Unionist Party

Introduction

Approach to budget scrutiny

1. The UK's main budget event will now take place in Autumn rather than the Spring. This means the Scottish Draft Budget would not be published before December, leaving limited time available for our scrutiny of spending proposals following its publication. We agreed on 14 September 2017 to take a different approach to our Budget scrutiny this year in readiness for the changes coming through the recommendations of the Budget Process Review Group (BPRG) and to address the timing of the UK Budget.
2. As such, we have sought to adapt our scrutiny of the Scottish Government's draft budget and our budget scrutiny with a view to using evidence gathered throughout the year to influence the content of future draft budgets and the relative priorities given to equalities and human rights.
3. Our report gathers together budgetary information collected from last year's inquiry work, for example, our recent follow up work on disabilities and universities and our other inquiries into destitution and asylum seekers and prejudice-based bullying in schools.

Evidence gathering

4. In addition to this approach we have also conducted some specific pre-budget scrutiny work. We issued a [call for views](#) on 18 September, which closed on Friday 20 October 2017. Seven responses were received in total. We would like to thank all those who responded.
5. Two oral evidence sessions were held. On 9 November we heard from the Coalition for Racial Equality and Rights (CRER), Scottish Women's Convention, Engender, and BEMIS. At the following meeting, on 16 November 2017, we took evidence from the Council of Ethnic Minority Voluntary Sector Organisations (CEMVO), Scottish Human Rights Commission (SHRC), Equalities and Human Rights Commission (EHRC), and Angela O'Hagan, a member of the Equality and Budget Advisory Group and Lecturer Glasgow Caledonian University, WiSE Research Centre (WiSE).
6. This report sets out some recurring themes and issues we have identified in relation to the Scottish Government's budget. The timing of this report, in advance of the publication of the Scottish Government's Draft Budget, invites the Scottish Government to endorse our recommendations and implement them in forthcoming draft budgets. We hope to investigate themes raised further with the Cabinet Secretary for Communities, Social Security and Equalities when she appears before us following the publication of the Draft Budget.
7. The evidence taken does not cover all of the protected characteristics comprehensively, but many of the general points raised in evidence have relevance or read across to the other protected groups. We ask the Scottish Government to take cognisance of this when responding to our Report.

PACE OF PROGRESS

8. The Equality Act 2010 brought together over 100 separate pieces of legislation into a single Act to create a legal framework which protects the rights of individuals and advances equality of opportunity for all. The majority of the Act came into force in October 2010 and covers Great Britain.
9. In relation to advancing equalities through the budget process, we heard Scotland had been a “pioneer over the years”, but were disappointed to hear it had become “a bit of a ‘laggard’”.ⁱ Dr Angela O’Hagan, WiSE, went on to advise that fundamental to how public resources are allocated, was the extent to which equalities and human rights were central to that process. She emphasised “those frameworks were not yet dominant”.ⁱⁱ
10. We also heard Scotland was envied internationally because of its political structures, which encouraged parliamentarians and Government policy departments to think about equality and human rights, but Dr Angela O’Hagan warned we had to move from discussion “to application and the implementation of analysis”.ⁱⁱⁱ She highlighted that some of our European neighbours underpinned “equality and gender or human rights budgeting legally”.^{iv}

Budget Process Review Group

11. In considering progress, we note the work which has been undertaken by the Scottish Parliament’s Finance and Constitution Committee and the Cabinet Secretary for Finance and Constitution which established a [Budget Process Review Group](#) (BPRG) to examine the budget process following the devolution of further powers in the Scotland Act 2012 and Scotland Act 2016. The BPRG published its [final report](#) on 30 June 2017. It makes recommendations for changes to the budget process for future years, including giving a greater focus on equality outcomes. Implementation of the Group’s recommendations is expected to take place in time for the 2019-20 budget cycle.

We welcome the recent work undertaken by the Scottish Government and the Scottish Parliament to address equalities through the Budget Process Review Group and hope this greater focus and direction will put equalities at the forefront of the budget setting process and throughout the budgetary cycle.

We are interested to see how the recommendations of the Budget Process Review Group will translate into action. We ask the Scottish Government, once agreement

ⁱ Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 2.

ⁱⁱ Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 2.

ⁱⁱⁱ Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 2.

^{iv} Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 2.

has been reached, to provide us with an outline of what new guidance or procedures in relation to equalities will be put in place to underpin this work. Similarly, once there is a formal agreement, we intend to write to the Convener's Group to ask whether new guidance will be provided to committees of the Scottish Parliament.

Human rights and the budget process

12. The United Kingdom is signatory to a number of United Nations human rights treaties, including: International Covenant on Civil and Political Rights; International Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of Racial Discrimination; Convention on the Elimination of Discrimination against Women; Convention against Torture; Convention on the Rights of the Child; and Convention on the Rights of Persons with Disabilities.
13. Judith Robertson, Chair of the SHRC, said under international human rights law public authorities, including the government, have an obligation to deliver against the laws they have signed up to. She advised, the budget would not be deemed to be delivering in relation to international human rights law. She went on to explain there were aspects of the process and the delivery which relate to the “progressive realisation of human rights” but that the budget does not sit firmly within the human rights context.^v
14. Chris Oswald, EHRC, agreed that human rights analysis was “largely absent” from the budget. He said—
 - ” We would expect the Convention on the Rights of Persons with Disabilities, for instance, and its commitment on independent living, to which the United Kingdom has signed up, to have full expression in terms of self-directed support and to be reflected in housing, transport and digital infrastructure policy, which are areas where we know there are significant barriers to disabled people’s full participation in society.^{vi}
15. He added further with regard to scrutiny—
 - ” There is a Government framework around disabled people’s rights and independent living, but it is entirely predicated on the delivery by local authority, health and other agencies, which are rightly independent of Government. However, there is no checking.^{vii}
16. In their joint submission to us, Glasgow Council for the Voluntary Sector, Scottish Council on Deafness, Scottish Voluntary Action and Volunteer Glasgow (GVCS, SCoD, VAS & VG) said an “explicit statement and a distinct methodology on human rights must underpin the process and evidence gathered to monitor impact in the short, medium and longer term.”^{viii}

^v Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 1.

^{vi} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 3.

^{vii} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 10.

17. We also note the BPRG did not specifically consider human rights within its Report, except in relation to participation.
18. On the strengths of adopting budgeting from a human rights perspective, Judith Robertson, SHRC, explained the human rights framework provided “standards, norms, language and a framework for processes that incorporate non-discrimination and equalities analysis”.^{ix} She said that “if we get the approach right in relation to the people who are most vulnerable, everyone will benefit” and advocated the use of the “PANEL principles” to build human rights into our processes in a systematic way—
 - **Participation**
 - **Accountability**
 - **Non-discrimination**
 - **Empowerment, and**
 - **Legality**^x
19. GVCS, SCoD, VAS & VG saw ensuring the budget is human rights compliant as a “deliberate, concrete and targeted step” which would go some way towards the obligations set out in the International Covenant on Economic, Social and Cultural Rights.^{xi}
20. Measuring progress in relation to the progressive realisation of rights was essential, we heard. Judith Robertson, SHRC, stressed however it was also about ensuring there was no rollback as there was a “state obligation for no regression, so if we are going back in key areas, immediate remedial action is needed to change that”.^{xii}
21. In addition, GVCS, SCoD, VAS & VG, suggested a coordinated approach with the Joint Committee on Human Rights at the UK Parliament because “there was an opportunity to raise human rights compliance in budget setting with the UK Parliament as the exercise of reserved powers can make Scotland fairer. For example, the majority of social security powers and budget remain with the UK Government and Westminster Parliament.”^{xiii}
22. On the question of whether incorporation of obligations could help to enforce compliance, Judith Robertson, SHRC said it was not just about “the backstop of protection in the courts.” Moreover it was “what it would do in the policy-generating process.”^{xiv}

viii Glasgow Council for the Voluntary Sector, Scottish Council on Deafness, Scottish Voluntary Action and Volunteer Glasgow, Written submission.

ix Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 4.

x Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 9.

xi Glasgow Council for the Voluntary Sector, Scottish Council on Deafness, Scottish Voluntary Action and Volunteer Glasgow, Written submission.

xii Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 14.

xiii Glasgow Council for the Voluntary Sector, Scottish Council on Deafness, Scottish Voluntary Action and Volunteer Glasgow, Written submission.

xiv Equalities and Human Rights Committee, Official Report, *16 November 2017*, Col 15.

As we said in our budget report last year, we welcome discussions with the Scottish Government on integrating human rights into the budget process. Given the evidence we have taken on the need to ensure Scotland is meeting its international obligations and if regression occurred it would require immediate remedial action, we believe there is a need to expedite discussions around human rights and the Scottish Government's Budget.

We note the Scottish Government's commitment in A Nation with Ambition: The Government's Programme for Scotland 2017-18 to establish an expert advisory group to lead a participatory process to make recommendations on how Scotland can continue to lead by example in human rights, including economic, social, cultural and environmental rights.

The Scottish Government's leadership in this key area of activity would prove to be an exemplar for other public authorities facing difficult budget decisions. We believe adopting a national direction on human rights-based budgeting would demonstrate meeting people's needs makes good business sense. In an environment where there are financial constraints, a human rights framework can provide objective guidance which will assist balanced decision making on the use of resources and importantly limit the extent and duration of any retrogression.

We ask the Scottish Government for a tripartite meeting, to include the Scottish Human Rights Commission, as a first step.

IMPROVING EQUALITIES DATA

23. Lack of comprehensive data across the protected characteristics has been a longstanding issue for the previous Equal Opportunities Committee.
24. Both the Scottish Government and the EHRC have, we note, been working to improve the available data on equalities.

Scotland's Equality Evidence Strategy 2017-2021

25. The Scottish Government published [Scotland's Equality Evidence Strategy 2017-2021](#) (the Strategy) in July 2017. This sets out a four year plan to improve Scotland's equality evidence base. The Strategy considers evidence gaps for the nine protected characteristics, intersectionality, and socio-economic disadvantage. According to the Strategy—

” It details a range of evidence gaps, drawing on what was communicated during our conversations, but does not attempt at this stage to prioritise these, assess feasibility or set specific projects aimed at filling these gaps.

The prioritisation of evidence gaps will be developed at a further stage and the Scottish Government aims where possible to work collaboratively with its partners.

26. Rebecca Marek, CRER, suggested progress was now needed to fill the gaps identified. She called for evidence gaps to be prioritised and initiatives funded to fill them, for example in relation to employment and poverty.^{xv}

Measurement Framework for Equality and Human Rights

27. The EHRC has also recently published its [Measurement Framework for Equality and Human Rights](#) on 27 October 2017. The Framework sets out six areas of life or “domains”, with three indicators each, that the Commission will use to monitor equality and human rights in Britain. The six domains are—

- education
- work
- living standards
- health
- justice and personal security, and
- participation

^{xv} Equalities and Human Rights Committee, Official Report, 9 November 2017, Cols 7-8.

28. Dr Angela O'Hagan, WiSE, reiterated the need to utilise equality evidence to shape budgeting, saying—

” The starting point is challenging the assumption of neutrality and the idea that spending allocations are not about real people and will not have an effect that reinforces existing inequalities, be those structural inequalities or the outcomes of other people's actions. We need to build knowledge and confidence in using the analytical data that already exists and applying that to policy development.^{xvi}

29. We also note in this context the BPRG recommended (Recommendation 21) that the “equality dimensions of the budget should become a greater priority and that there should be a plan in place over time to further develop the performance evidence base by protected characteristic”.

With regard to Scotland's Equality Evidence Strategy 2017-2021, we ask the Scottish Government to provide us with an explanation of its approach to prioritising the evidence gaps identified. This should also include, where possible, an indication of the action to be taken to fill these gaps and the level of funding required to support this activity.

We welcome the focused effort towards building a robust evidence base which can be analysed in relation to the protected characteristics. It is our hope public authorities and committees of the Scottish Parliament alike will tap into these resources and we will watch to see how these develop over time as more information becomes available and whether organisations are making use of the tools. With this in mind, we ask the Scottish Government and the Equality and Human Rights Commission what processes they have in place to monitor and evaluate the use of their equality evidence tools, by public authorities, and what efforts have been made to publicise them to this audience.

We also note these equality evidence tools will be essential when the Scottish Parliament committees seek to implement, when agreed, the equalities recommendations of the Budget Process Review Group. As well as the practical uses of the data in assisting them with their scrutiny role, we also see a use when formulating new areas of inquiry work. We have agreed to write to all committee conveners making them aware of the equality evidence tools available.

MAINSTREAMING OF EQUALITIES IN THE BUDGET

30. Concern was expressed by a range of witnesses that mainstreaming of equalities was not routinely happening across government portfolios. Dr Angela O'Hagan, WiSE, believed equalities and human rights budgeting should “activate mainstreaming” so that spending allocations and revenue decisions are integrated. She emphasised that committees when scrutinising, and policymakers when formulating proposals, needed to ask “whether a policy or legal intervention will advance equality and realisation of rights”.^{xvii}

Race equality

31. Both CRER and BEMIS welcomed the new [Race Equality Framework](#) which runs from 2016-2030. It is understood the Framework will be reviewed by the independent adviser, Kaliani Lyle, and thereafter an action plan will be put in place by the Scottish Government. The organisations believed, however, further progress could be achieved through better mainstreaming of race equality initiatives across government departments, as currently this activity was concentrated in the communities, social security and equalities budget lines.
32. Danny Boyle, BEMIS, emphasised the need for all Government departments to act to tackle *known* long-term systemic issues and hoped budget scrutiny was not just a “philosophical conversation” about what to do next—
- ” If we get those aspects right, we will begin to tackle some of the inequalities that exist in employment, low pay, overcrowding in housing and so on, which are easily identifiable within multiple ethnic and cultural communities.”^{xviii}
33. Rebecca Marek, CRER, identified one of the reasons why mainstreaming across all portfolios was being hampered was “a dearth of robust evidence around equalities, especially race equality as detailed in the Scottish Government’s equality evidence strategy”.^{xix}
34. CEMVO Scotland criticised the lack of detail in the allocation of funding in the Budget to address race and equality issues. The organisation believed if it was possible to identify equality spend in last year’s budget of £20.3 million for equalities then it should be possible to have identifiable allocation of equalities funding in other areas of the Scottish Government’s budget. Safia Ali from CEMVO said “such spending should, with good equalities practice, be pre-planned as opposed to being reactive during the course of the financial year”.^{xx}

^{xvii} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 5.

^{xviii} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 4.

^{xix} Equalities and Human Rights Committee, Official Report, 9 November 2017, Cols 1-2.

^{xx} CEMVO, Written submission.

We have some sympathy with the lack of transparency on funding allocations concerning equalities, as this also makes it difficult for us in conducting our scrutiny function. We expect the Budget Process Review Group recommendations on equalities to address some of our concerns in this respect.

Progress on the development of the Race Equality Framework is welcome. We ask the Scottish Government for an update on the timescales for the independent review, when we can expect to see the action plan implemented, and how the Scottish Government intends to reflect the Framework through the draft budget.

Mainstreaming of equalities through the budget is an imperative if we are to tackle inequality in all spheres of life. It is of great concern to us that the Scottish Government has not made progress on this aspect, given there is a shared belief this is a key driver of change. We ask the Scottish Government to provide an explanation of the barriers to achieving mainstreaming through Government departments and the corresponding action it will take.

We wholeheartedly believe mainstreaming of equalities requires a multi-targeted approach. Concerns were expressed by witnesses that the focus is moving from tackling known equality issues, such as employment and housing, to collection of evidence. We ask the Scottish Government to maintain a focus on addressing known systemic equality issues across government portfolios while also collecting robust evidence which will enhance this process.

Gender equality

35. A number of witnesses asked for better gender budget analysis to be integrated into the Scottish Budget process and women's lived experiences to be better integrated into spending proposals.
36. Having undertaken roadshow events, thematic conferences and regional contact groups, the Scottish Women's Convention (SWC) advised mental health was of prime concern to women. Shairi Bowes, SWC, welcomed the £150 million over five years investment in last year's budget for mental health; however, she wanted "to see more explicitly gendered investment relating to mental health concerns, especially younger women".^{xxi}
37. Engender wanted gender budget analysis to be integrated into the Scottish budget process. Emma Ritch from Engender said the BPRG made some useful suggestions about the way in which equality evidence might be incorporated into the budget process and considered by all the committees when undertaking scrutiny.^{xxii} She emphasised "gender budget analysis across the whole budget

^{xxi} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 2.

would connect the allocation of resources to strategy priorities".^{xxiii} Furthermore, she advised gender analysis had internationally demonstrated its ability to mainstream gender equality.^{xxiv}

38. Currently 300,000 women in Scotland do not pay tax. In relation to the taxation system for Scotland, Dr Angela O'Hagan, WiSE, highlighted the type of taxation system set up could affect women differently. This was because women had different sources of income, for example, precarious or unsecure work and their life experiences, such as caring responsibilities, than men. She considered a taxation system could impact on women's ability to pay tax and the extent to which tax is a proportion of their income. In underscoring the general principle she said "basically it's removing the assumption of neutrality in tax systems".^{xxv}

Participation

39. GVCS, SCoD, VAS & VG highlighted in their joint submission that the Scottish Household Survey data on volunteering rates in Scotland suggested the inequality of participation is widening—

Those sections of the population living in the poorest 20% of SIMD [Scottish Index of Multiple Deprivation] data zones in Glasgow are volunteering significantly less in 2015 than they did in 2012.^{xxvi}

40. The organisations considered there were many reasons why this was the case. Primarily though they believed people needed to meet their basic needs of housing, food and utilities before they could consider volunteering. They asked that the budget setting process should not further exacerbate inequalities in participation by reducing direct or indirect support.

Distributional analysis

41. Distributional analysis typically considers the impact of specific policy changes on households according to their income level. It would, for example, show whether a policy change would have a different impact on poorer households than on richer households. The BPRG report also refers to equality incidence analysis that would quantify "the impact of budget measures, both in terms of taxation, social security and expenditure, on equality groups - in particular gender, race and disability - alongside other distributive impacts based on household income."^{xxvii}

^{xxii} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 2.

^{xxiii} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 3.

^{xxiv} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 12.

^{xxv} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 16.

^{xxvi} Glasgow Council for the Voluntary Sector, Scottish Council on Deafness, Scottish Voluntary Action and Volunteer Glasgow, Written submission.

^{xxvii} [Budget Process Review Group, Final Report, para 147](#)

42. The BPRG recommended, at recommendation 43, that the Scottish Government explore the feasibility of providing additional equalities information, including a distributional analysis, by equality group—
- ” following the UK Spring Statement in order to evaluate the impact of the taxation and social security measures passed by the Budget Bill at the beginning of the year. Such an approach would result in the additional equalities information being published prior to the summer recess and thereby facilitate a constructive dialogue to take place on equalities issues in order to influence the budget later in the year.^{xxviii}

We believe additional equality incidence analysis and distributional analysis will benefit the Scottish Government in targeting its funding decisions to address inequalities, while also ensuring initiatives do not inadvertently negatively impact on particular protected groups. Clearly, such distributional analysis by equality group will depend on whether the Scottish Government accepts this Budget Process Review Group (BPRG) recommendation. We ask the Scottish Government to agree to this BPRG recommendation as it will address many of the concerns raised with us around race, gender, disability and participation.

Mainstreaming through initiatives and capital investment programmes

43. Witnesses told us opportunities to tackle inequality were being missed, for example, around capital programmes and through procurement. They advised the reason for this not routinely happening was because of a lack of strategic focus on the protected characteristics. City deals were cited as an example of where a strategic approach to mainstreaming of equalities had been lacking.
44. WiSE highlighted recent research commissioned by the EHRC, which showed that the City deals, with a total future investment potential of over £3 billion, had not been subject to equality or human rights impact assessment. In addition, WiSE stated these had “transformative potential in relation to local labour markets, employment and skills development, occupational segregation, public procurement and contracting, and business start-up” and that “these are highly gendered areas of spend that necessitate careful and thorough intersectional analysis to ensure that women and men of all racial and ethnic backgrounds, disability, age, and caring responsibility are considered and included in these economic growth opportunities”.^{xxix}
45. Danny Boyle, BEMIS, also called for a strategic focus to mainstream through procurement processes, for example, in relation to the Scottish Government’s commitment to build 50,000 new homes and questioned what its strategy would be to embed equal pay or to ensure modern apprenticeships are accessible to equality groups through the tendering process.^{xxx}

^{xxviii} Budget Process Review Group, Final Report, para 14, 9

^{xxix} WiSE, Written submission.

46. We were advised procurement was not a straightforward route to mainstreaming even though procurement was subject to the Scottish specific public sector equality duty. Emma Ritch, Engender explained “there was a tension between its use and the European Procurement Directive, which was having an impact on the extent of progress being made in meeting equalities ambitions”.^{xxx} However, she pointed to work undertaken by the WiSE Research Centre which looked at public procurement and the Public Sector Equality Duty.^{xxxii}
47. Chris Oswald, EHRC, also used the example of 50,000 houses being built under the affordable housing programme as a way to address equality issues. He said—
- ” We have 15,000 wheelchair users in Scotland who are inappropriately housed, and we know that ethnic minorities are four times more likely to be in overcrowded housing. We could resolve those issues through that programme if we chose to do so, but we do not see that type of driver coming through from the department to feed into the budget.”^{xxxiii}
48. Dr Angela O’Hagan, WiSE, highlighted the Scottish Investment Bank as a recent case in point as to consideration of equalities—
- ” The Scottish national investment bank is a great and interesting idea, but the consultation on it makes no reference to equalities and human rights, whereas we should be talking about our investment in the wellbeing of our country and taking a much more expansive view of investment than just bridges, roads and things that we can point at and count.”^{xxxiv}

From the evidence we received it is clear there is no systematic approach to address equalities through capital investment programmes, initiatives or procurement. We believe the Scottish Government needs to tackle this matter urgently to ensure spending associated with these programmes is proactively harnessed to meet Scotland’s equality ambitions. We ask the Scottish Government to advise us what action it will take across all Government departments. We also ask what changes have been made, in response to the city deals situation, to ensure equalities are built into the process from the start when working with UK Government partners.

In addition, we ask the Scottish Government to provide clarification on the use of procurement as a way to address equality. Specifically we wish to understand the difficulties around the European Procurement Directive and the Public Sector Equality Duty, but also what guidance has been issued to public authorities to support using procurement to advance equalities.

^{xxx} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 5.

^{xxxi} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 6.

^{xxxii} [WiSE Working Paper, Series No.5, December 2016: Public Procurement and the Public Sector Equality Duty: Equality Sensitive Tendering in Scotland.](#)

^{xxxiii} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 3.

^{xxxiv} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 11.

Monitoring and evaluation

49. There was a concern that monitoring and evaluation of equalities' activities was not being "owned" across the Scottish Government departments.
50. Danny Boyle, BEMIS, said that monitoring and evaluation should not "simply be put on the door of the equality unit", it should be the responsibility of the directors of government departments and be viewed as an empowering experience".^{xxxv}
51. We heard "advancing equality" was missing from a number of programmes. Chris Oswald, EHRC stressed significant scrutiny was needed, as it was important to analyse what goes wrong to learn lessons and move forward, for example, in respect of the apprenticeship scheme which failed to tackle issues such as race and disability in 2014.^{xxxvi}
52. The BPRG considered all committees should have a focus on equalities scrutiny and be supported to develop the competence and capacity to engage effectively (para 119). It recommended that the—
 - ” Finance and Constitution Committee continues to identify a small number of interdependent policy challenges and objectives in its annual Budget guidance to subject committees (Rec 31).

Mainstreaming requires constant challenge and is an iterative process. Monitoring, evaluation and scrutiny are key elements to ensure that equalities progress is maintained and that opportunities to advance equality are not missed. We ask the Scottish Government what measures it has taken to ensure policy leads and heads of Government departments monitor and evaluate existing, new and revised policies impact on equalities?

^{xxxv} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 10.

^{xxxvi} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 7.

ROLE OF EQUALITY BUDGET ADVISORY GROUP

53. The [Equality and Budget Advisory Group](#) (EBAG) assists the Scottish Government by providing advice on improving equality analysis of the budget.
54. The Scottish Government works in partnership with the EBAG to:
- provide advice and support for the mainstreaming of equality in policy with the appropriate allocation of resources
 - contribute to mapping the pathway between evidence, policy and spend
 - improve the presentation of equality information in the Scottish budget documents
 - contribute to improved commitment to and awareness of mainstreaming equality into policy

Membership of EBAG

55. CRER called for an individual with race equality expertise to be given membership of EBAG as opposed to general equalities expertise which is currently provided by the EHRC. Rebecca Marek, CRER, believed disadvantages could be overlooked because of lack of detailed knowledge of the differential impacts. She agreed if it was not possible to have a representative from each protected characteristic, then there needed to be more consultation with groups which have expertise.^{xxxvii}
56. From the inquiries we have undertaken so far this session and the evidence gathered through this inquiry, we are clear representative organisations have a detailed knowledge of the particular issues facing their protected groups and are best placed to advocate for change. However, we also note that there are many organisations representing each protected characteristic, which may not share the same experiences or hold the same views.

We therefore ask the Scottish Government to consider establishing a consultation panel representing all the protected characteristics from which the Equality Budget Advisory Group could seek advice on specific issues. If this recommendation is accepted, it would be helpful to have clarity around the method of consultation, time available for consultees to respond and the likely timing of consultation within the budgetary cycle.

IMPROVEMENTS TO THE EQUALITY BUDGET STATEMENT

57. The former Equal Opportunities Committee considered, in its review of budget scrutiny, that improvements could be made to the Equality Budget Statement (EBS). The Committee suggested it would be more credible and widely used if it took a more balanced approach in assessing the positive effects and identifying potential negative effects of changes to the draft budget.
58. At paragraph 29 of last year's [Report on the draft budget 2017-18](#), we agreed to make consideration of the continued efficacy of the EBS a priority.
59. Although witnesses welcomed the EBS and the work that goes into it, most questioned its effectiveness to the budget setting process. Many believed its role should be augmented and should be used to inform the budget allocation process.
60. Dr Angela O'Hagan, WiSE, saw the EBS as "encouraging statements that have recognised the limitations of the modelling that is used in our management of finite public resources". She called for there to be a greater link between this positive discourse and being "persistently let down" by spending departments not fully implementing effectively equality and human rights impact assessments.^{xxxviii}
61. The EHRC would also like to see greater consideration in the EBS, and in the Budget itself, of how evidence has been used to set the Scottish Government's priorities. It also encouraged more confidence from the Government to state when budgetary decisions do not promote or restrict equality.^{xxxix}
62. Emma Ritch, Engender, described the EBS as "a post-hoc list of areas of equality spend, rather than a systematic consideration of the equality impact of portfolio spending". She questioned how the EBS could be improved if the ambition is the impact of spending on different protected groups should drive the allocation of resources and its visibility within the budget.^{xl}
63. CRER criticised the most recent EBS for giving insufficient consideration to race matters and said that while the Race Equality Framework is mentioned in the EBS, it did not consider race across the range of portfolios.^{xli}
64. The BPRG looked at the role and purpose of the EBS. The Group said while the purpose of the EBS was being met, the focus and coverage of it should be reviewed by the EBAG. Also, there would be benefit in publishing additional equalities information before the summer recess, to allow meaningful input into budgetary decisions.^{xlii}

xxxviii Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 2.

xxxix EHRC, Written submission.

xl Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 2-3.

xli CRER, Written submission.

xlii [BPRG final report, paragraph 145](#)

65. We welcome the Budget Process Review Group's recommendation to review the Equality Budget Statement (EBS) and for the Equality and Human Rights Commission to lead on this review. The EBS is central to our scrutiny of the Scottish Budget and as such we would welcome being included in the review and would be delighted to share our experiences.

THE NATIONAL PERFORMANCE FRAMEWORK AND EQUALITY OUTCOMES

66. A key feature of the BPRG's recommendations was the importance of embedding equality scrutiny in the budget process, as can be seen at paragraph 9 of its report—
- ” The proposed revisions open new opportunities for integrating improved scrutiny of actions to advance equality and for the formulation of equality outcomes linked to the economic strategy and the National Performance Framework.
67. Our call for evidence sought views on whether the Scottish Government's budget for 2017-18 reflected its stated priorities, as set out in the [National Performance Framework](#) (NPF).
68. The EHRC commented that it was difficult to link spending intent with equalities impact. The ability to analyse and to attribute positive or negative outcomes was hampered by the lack of data and the “looseness” of the NPF—
- ” For example as it stands the Government outcome on education – ‘*our young people are successful learners, confident individuals, effective contributors and responsible citizens*’ is measured by the indicator ‘*improve levels of educational attainment*’. However as we know disabled children have far lower levels of educational attainment but any increase or decreases in their attainment could be masked by a general improvement or regression in national attainment.^{xliii}
69. Inclusive growth was the central focus of the Scottish Government's 2017-18 budget. The Scottish Government defines inclusive growth as “growth that combines increased prosperity with greater equality, creates opportunities for all, and distributes the benefits of increased prosperity fairly.”^{xliv}
70. A few witnesses took the opportunity to use last year's budget, and its focus on inclusive growth, to underline the challenges faced in addressing equalities through the budget while linking this to the NPF outcomes.
71. WiSE stated the Scottish Government's 2017-18 budget re-committed to inclusive growth; however, it was noted there was little in the way of gendered analysis of what the constraints were and how they might be remedied, for example, the availability of childcare and social care, access to education, social security and taxation systems. These issues were explained in more detail—
- The gendered dimensions of employment and work, such as the growth of atypical work, e.g. part-time and temporary work, and zero hours contracts, increased levels of self-employment, increased levels of under-employment,

xliii EHRC, Written submission.

xliv [Growing the Economy](#)

need further attention. These issues were explored by the former Equal Opportunities Committee in its inquiry on [Women and Work](#).

- Childcare expansion which had been described as part of the economic infrastructure, but where the focus has shifted towards early years and attainment. WiSE called for the dual focus to be retained.
- The impact of changes in social security on women have been well documented, including by the former Welfare Reform Committee, and the concerns remain.

72. The SWC took a different approach to our question. SWC consulted with a wide range of women to provide a list of areas, flowing from the 16 national outcomes under the NPF that could be subject to budget scrutiny, for example, “We live longer, healthier lives”—

” increased focus on the geographical make up of Scotland and consultation with local women around budgetary scope for local NHS funding. Further scrutiny of the support available for women suffering from mental health issues to ensure a consistent approach in the best interests of patients.^{xlv}

73. BPRG recommended, at recommendation 24, that “the Scottish Government ensures that any new policies, strategies or plans clearly set out the outcomes they are aiming to achieve and the intermediate outputs, measures and milestones that will be used to monitor progress towards this. It should be clear how spending on the particular policy or activity will contribute towards improving specific national outcomes in the NPF, including cross-cutting issues such as equalities outcomes”.

We consider outcome focused scrutiny should put emphasis on what budgets have achieved and aim to achieve over the longer term, but we also acknowledge the difficulty in linking a strategic framework with specific equality outcomes. We want to see a closer link to equalities in each indicator and so the Budget Process Review Group’s recommendation will go a significant way to addressing this concern, if accepted by the Scottish Government. We ask the Scottish Government to accept this recommendation.

^{xlv} SWC, Written submission.

PUBLIC AUTHORITIES IMPLEMENTATION OF NATIONAL EQUALITY PRIORITIES

74. We were concerned that national policy does not always translate into local action, given local authorities are autonomous bodies. For example, Part 1 of the Children and Young People (Scotland) Act 2014, concerning children's rights, imposed duties on local authorities to implement that policy directive. However, as there was no budget line attached, the number of children's rights officers were halved despite the intent of the Act.
75. A number of other similar examples were offered. Judith Robertson, SHRC highlighted the Community Empowerment (Scotland) Act as very good rights based legislation, however, pointed out that allocation of a budget necessary to ensure effective delivery was outwith the gift of the Scottish Government, and so effective delivery was at the very least threatened by lack of resources.^{xlvi}
76. Chris Oswald, EHRC, told us in the past money had been set aside for Gypsy Traveller site development, however, because of the "concordat with local authorities and the loosening of ring fencing, such aims are not achievable without the full consent and buy-in of local authorities."^{xlvi}

Ring fencing to deliver equality priorities

77. There was a discussion about the merits, or otherwise, of ring fencing as a way to ensure funding meant for equality priorities delivered desired outcomes.
78. Emma Ritch said Engender didn't have a clear position on this, but there needed "to be a closer connection between the strategic priorities of Government and the legislation Parliament passes, and the budget. At the moment those are disconnected. Ring-fencing is one way in which that can be achieved". She added a form of ring fencing was used by creating the violence against women fund and the rape crisis fund in 2010.^{xlvi}
79. Safia Ali, CEMVO, considered ring fencing had a positive impact and recalled the positive action taken by ring fencing certain posts, but that this had stopped now and she was concerned how to ensure diversity of workforce representation.^{xli}

We are aware of mixed views on the merits of ring fencing and acknowledge the benefits of allowing local determination of spending priorities. Nonetheless, we ask that ring fencing is considered on a case by case basis by the Scottish Government and considered where appropriate to individual funding streams.

^{xlvi} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 4.

^{xlvi} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 4-5.

^{xlvi} Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 10.

^{xli} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 5.

LINKING BUDGET SCRUTINY TO THE PUBLIC SECTOR EQUALITY DUTY

80. Section 149 of the 2010 Act creates a single equality duty for the public sector which incorporates all the protected characteristics, although marriage and civil partnership is only partially covered. The “general equality duty” came into force on 5 April 2011 and requires public authorities, and any organisation carrying out functions of a public nature, to consider the needs of protected groups, for example, when delivering services and in employment practices. The general duty requires public authorities to—

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity between different groups
- Foster good relations between different groups.ⁱ

81. The Committee’s call for evidence sought views on the impact the 2017-18 Budget had on supporting the Public Sector Equality Duty (PSED).

82. Both the EHRC and CEMVO said that this was a difficult question to answer. The EHRC said—

Our own impression of the use of the duty across the public sector is that budgetary issues are rarely examined in detail through the lens of the duties – rather it is the policies that the budget enables that deliver the equality gains rather than the budget itself.ⁱⁱ

83. CEMVO said—

” It is virtually impossible to measure the impact of the Scottish Government’s 2017-18 budget on the PSED since any progress in this area is subject to the performance of individual public bodies as opposed to the amount of spend allocated to the public sector as a whole. It is thus, we feel, not a question of how much has been allocated to Public Bodies within the Budget, but more about the levers that the Scottish Government have to hand, such as in funding arrangements with Local Authorities, Health Boards, and other Public Sector agencies, where the Scottish Government could potentially impose “measurable” equality targets as part of any funding arrangement – such as increased EM [ethnic minority] workforce, increasing EM access to money advice services, increasing EM access to health and social care, etc.ⁱⁱⁱ

84. WiSE said that it was not the volume of money that would make a difference through PSED. They referred to their own research on the higher education sector which showed minimal organisational change had been achieved through minimal compliance with the PSED. They said—

ⁱ [SPICe Equalities Subject Profile](#), 31 March 2017.

ⁱⁱ EHRC, Written submission.

ⁱⁱⁱ CEMVO, Written submission.

- ” There is scope for the Scottish Government Ministers to exercise greater authority and direction of public bodies in the implementation of the Duty, and specifically to utilise the ministerial duty to focus on particular areas in need of action and change such as women’s precarious employment, the impact of public sector reform on women’s employment and the reconfiguring of public services.^{liii}

Local authority mainstreaming of equalities

85. In response to whether there was good practice in mainstreaming at local authority level, Emma Ritch, Engender, advised “no”.^{liv} She explained Engender and the Scottish Women’s Budget Group had focused its attention on the national budget—
- ” Our theory of change is that if such change can be realised and evident in the national budget, that would set an example of practice for local authorities working in their own budget processes.^{lv}
86. In terms of utilising equality evidence to set their spending priorities, Rebecca Marek, CRER, believed the issue is more severe at local authority budget level and advocated local authorities look into the evidence available, and in the first instance, evaluate existing programmes.^{lvi}
87. Danny Boyle, BEMIS, considered there was sometimes a tendency by local authorities to approach race equality with “trepidation and fear”. He advised the process should be a positive one and, if they get it right, there is a “beneficial domino effect across a number of areas”.^{lvii}
88. The EHRC has commissioned research which examines the impact of the PSED four years after its implementation. It is anticipated this will be published in the spring of 2018.

It is our view that the Public Sector Equality Duty should be seen as an enabling mechanism and not a compliance mechanism. As a starting point, we have agreed to write to local authorities to ask them what consideration they have given to incorporating equalities into their budget setting process and whether they have any plans to review their approach in light of the work undertaken by the Budget Process Review Group.

liii WiSE, Written submission.

liv Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 5.

lv Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 6.

lvi Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 6.

lvii Equalities and Human Rights Committee, Official Report, 9 November 2017, Col 5.

Equality impact assessments

89. The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (as amended) came into force on 27 May 2012. The EHRC in Scotland published guidance to support Scottish public authorities subject to the specific equality duties. The specific duties require each listed authority to—
 - where and to the extent required to fulfil the general equality duty, assess the impact of applying a proposed new or revised policy or practice against the needs of the general equality duty;
 - in making the assessment, consider relevant evidence relating to persons who share a protected characteristic (including any evidence received from those persons);
 - in developing a policy or practice, take account of the results of any assessment in respect of that policy or practice;
 - publish, within a reasonable period, the results of any assessment where it decides to apply the policy or practice in question;
 - make arrangements to review and where necessary revise any policy or practice that it applies in the exercise of its functions.
90. Any consideration made by an authority about whether it is necessary to assess the impact of applying a policy or practice, or a “screening assessment”, cannot be treated as an impact assessment itself.^{lviii}
91. There was general agreement that better equality impact assessments at national and local levels would bring the aspiration to be an equal Scotland closer. Dr Angela O’Hagan, WISE, suggested we needed to get better using equality and human rights assessments more “rigorously and robustly” across all public authorities.^{lix}

We agree that inconsistent use of impact assessments and non-prioritisation of equalities within core work does not create change. We keenly await the Equalities and Human Rights Commission’s review of the Public Sector Equality Duty expected in Spring 2018. We believe equality impact assessments should drive excellence in the public sector. We suggest that public authorities should be collecting data on the services they deliver and the communities they serve and this should be interrogated meaningfully. Tighter budgets mean equality impact assessments are even more crucial to the process of directing resources.

^{lviii} Equalities and Human Rights Commission guidance on Equality Impact Assessments.

^{lix} Equalities and Human Rights Committee, Official Report, 16 November 2017, Col 6.

ADDITIONAL RESOURCES

92. The call for evidence sought views on how any additional resources might be used if they were to become available for the 2018/19 budget. There was not much focus on this area.
93. In their submissions, WiSE, the Scottish Women's Convention and CRER referred to a range of areas that should be subject to further analysis and scrutiny, and therefore might arguably benefit from additional resources.
94. CEMVO suggested that if additional resources were available, this could be used to alleviate the impact of the transitional social security powers to Scotland for ethnic minority communities. CEMVO advised it delivers a financial inclusion programme in Glasgow aimed at increasing money advice services to ethnic minority communities. Evidence suggested ethnic minority people have low take up of social security benefits and low access to money advice services. Additional resources could be allocated to a programme of work to help increase take up of benefits among ethnic minority communities.^{ix}

We draw these suggestions to the attention of the Scottish Government and ask for its views on whether these will be addressed in the draft Budget 2018-19.

^{ix} CEMVO, Written submission.

OUR INQUIRY WORK 2017-18

Background

95. Over the course of 2016-17 the Committee has undertaken a number of major pieces of inquiry work examining equalities and human rights implications for various protected characteristics. The findings and recommendations of these reports have implications for the formulation of the draft budget for the specific policy areas in question.

National Performance Framework and outcomes

96. On several occasions our inquiry work has identified areas where a clear link needs to be established between policy decisions and budgetary allocations across the Scottish Government's budget in relation to equality and human rights. This development is necessary in terms of ensuring that efforts to deliver on the objectives of the National Performance Framework (NPF) are being met.
97. Many of the recommendations made by us from our work have a direct bearing on the need to promote the preventative spend agenda. Work to integrate equalities and human rights assessments of policy and practice and the budgetary decisions which underpin them would, in the long run, have a positive effect on delivering better outcomes.

Disabilities and universities

98. The first major piece of work undertaken by us was an inquiry looking at how the Scottish Government's widening access agenda to higher education was supporting disabled students and British Sign Language (BSL) users seeking to apply to, and study at, universities in Scotland.
99. We published our findings and recommendations on 23 January 2017^{lxi} and the Scottish Government provided a formal written response^{lxii} on 11 May 2017. The Committee undertook a follow up session with written and oral evidence from witnesses on 2 November 2017 as part of its scrutiny of the 2018-19 Draft Budget.^{lxiii}

Widening access

100. We made several key recommendations in relation to the formulation of budgetary policy at Scottish universities. Amongst these we recommended the Government

^{lxi} [Equalities and Human Rights Committee 1st Report, 2017 \(Session 5\): Disabilities and Universities: 23 January 2017](#)

^{lxii} [Written response from the Scottish Government to the Equalities and Human Rights Committee, 11 May 2017](#)


^{lxiii} Equalities and Human Rights Committee, Official Report, 2 November 2017, Cols 3-30.

and wider Scottish education sector, should take active steps to develop a more integrated approach to progress the widening access agenda in terms of eliminating inequalities and tackling prejudice, including addressing attainment gaps at second level education as well as developing and promoting pathways to third level education.

101. Such an integrated approach should aim to be delivered over the five-year life of the current Parliament, (Session 5 budget cycle Financial Year 2017/18 to Financial Year 2021/22).^{lxiv}
102. We recommended that Scottish Government, Scottish Funding Council and universities work to more clearly identify what levels of public spending are assigned to support equalities in future budget allocations.^{lxv}
103. We also commented on the need for the Scottish Government to keep the resource allocation to support the Commissioner for Fair Access under review and to reflect the key co-ordinating role which could be played across higher education in promoting an understanding of a statutory rights-based approach, helping to implement change and monitoring outcomes in relation to the delivery of the widening access agenda.^{lxvi}

Student support

104. The inquiry also noted the importance of the current Scottish Government Review of Student Support and how this might be utilised to support widening access amongst disabled and BSL students.
105. In response to a Parliamentary Question from Ivan McKee MSP on 22 November 2017 on the need to support Scottish students to take up BSL related courses in other part of the UK, the Minister for Childcare and Early Years, Maree Todd announced that—

 We are aware that BSL courses are offered at universities in the rest of the UK and there is no equivalent here in Scotland. We recognise the need to ensure that support is available to Scotland-domiciled students to enable them to take up their chosen course. I can therefore announce today that we will address the issue that Mr McKee has raised and that eligible students who wish to study a part-time postgraduate BSL course elsewhere in the UK will now be able to access a tuition fee loan of up to £5,500 from SAAS.^{lxvii}
106. This announcement is an example of the use of budgetary policy in an area such as student support funding which can deliver a positive outcome for both students and wider government policy, such as support for the Scotland BLS National Plan 2017 – 2023.^{lxviii}

^{lxiv} Report Recommendations 26 & 27.

^{lxv} Report Paragraph 29.

^{lxvi} Report Recommendation 44.

^{lxvii} [Meeting of Parliament, Official Report, 22 November, Col 5-6](#) .

^{lxviii} [Scotland's BSL National Plan 2017-2023](#)

Avoiding litigation

107. Our inquiry noted examples of the failures to fully assess the impact on equalities and human rights from past policy and budgetary decisions, such as the current cost of settling historic equal pay claims from local government or the number of modern apprenticeships which should have been available to disabled persons up to 2013/14, in comparison with those which were actually filled by disabled people.^{lxi}
108. The inquiry also noted cases where legal action against university was pending by disabled students on the grounds of the failure to meet their statutory rights under equalities legislation.

Hidden Lives, New Beginnings; Destitution, asylum seekers and insecure immigration status in Scotland

Background

109. On the 22 May 2017, we published our report^{lxx} on the impacts of destitution amongst asylum seekers and people with insecure immigration status in Scotland. We identified a number of areas where formulation of budgetary policy across different areas of national and local government played a key role. The Scottish Government responded to the report on 21 July 2017.^{lxxi}

Numbers of destitute asylum seekers and those with insecure immigration status

110. From the evidence we received it showed there was an increasing number of destitute asylum seekers; however, the exact numbers were not known in the UK or for Scotland. Although the numbers did not appear to be vast in terms of the size of population, this group of people are one of the most vulnerable groups in our society and therefore were more likely to use draw on public services.^{lxxii}
111. We focused on the need to identify the costs incurred to address destitution in the asylum seeker population and people with insecure immigration status across local authorities and the health service in Scotland.
112. This assessment would also assist local authorities' decision-making about whether to become involved in the UK Government's dispersal scheme, as well as help

^{lxi} [Skills Development Scotland: Modern Apprenticeships – Disability Disclosure 2016, page 5, table 2](#), and [Skills Development Scotland: Equalities action plan For Modern Apprenticeships in Scotland, Part 2 Framing the Challenge](#)

^{lxx} [Hidden Lives - New Beginnings: Destitution, asylum and insecure immigration status in Scotland](#)

^{lxxi} [Scottish Government response](#)

^{lxxii} Paragraph 51

inform the Scottish Government's negotiations on UK funding to tackle destitution. We considered this would have a preventative benefit by allowing an accurate assessment of whether the cost of prevention was more cost efficient than the cost of treating the problems caused by destitution.^{lxxiii}

Destitution crisis fund and assistance for people with No Recourse to Public Funds

113. Another key recommendation with direct budgetary implications was our request that the Scottish Government to investigate the potential to create a Crisis Fund, similar to one operated in Northern Ireland. Such a fund would provide a central point from which to gather data on the scale and nature of destitution in Scotland and thereafter inform the direction of policy and funding decisions. This was an example of where the budgetary system could help inform policy development by providing necessary data in areas where such information is currently not available.^{lxxiv}
114. We also asked the Scottish Government to work with the UK Government to enable all women to access safe refuge accommodation, regardless of their entitlement to housing benefit, immigration status, or access to public funds. Depending on the outcome of these discussions there may be a budgetary impact, but this potentially would be offset by savings from other public services.^{lxxv}

Provision of accommodation to assist in the treatment of communicable diseases

115. Destitute asylum seekers and people with insecure immigration had particular issues accessing and continuing treatment due to the lack of a place to stay. There were sensitivities regarding maintaining treatment plans for people diagnosed with communicable diseases.
116. We asked that where clinicians considered communicable disease treatment required accommodation this should be funded by the Scottish Government as a preventative measure. If this was acted upon there would be a cost to the budget. However provision of accommodation would ensure individuals were treated quicker avoiding sustained health interventions resulting in savings. Also, accommodating those requiring treatment would reduce the risk of infection of others, thus reducing treatment costs.^{lxxvi}

^{lxxiii} Paragraph 200

^{lxxiv} Paragraph 129

^{lxxv} Paragraph 66

^{lxxvi} Paragraph 90

Travel assistance

117. Depending on discussions with the UK Government, we recommended the National Entitlement Card/ Bus Concessionary Travel Scheme was made accessible to destitute asylum seekers and people with insecure immigration status, for a short term basis to allow them to travel to immigration and health appointments more easily. This would have some cost implications; however these may be offset by immigration status issues being resolved quicker and health issues being treated at an earlier stage.^{lxxvii}

Updating 'Establishing Migrants' Access to Benefits and Local Authority Services in Scotland' guidance

118. We recommended the Scottish Government and CoSLA should co-fund the process of updating the Establishing Migrants' Access to Benefits and Local Authority Services in Scotland guidance. This we imagine would have a relatively small budgetary impact.

We ask the Scottish Government to consider the budgetary implications of these findings and outline whether any additional funding will be included in the forthcoming draft budget.

It's not Cool to Be Cruel: Prejudiced-based bullying and harassment of children and young people in schools

Background

119. On 6 July 2017, we published the findings and recommendations of an inquiry to examine prejudiced-based bullying and harassment in schools.^{lxxviii} We made 29 recommendations in relation to Scotland's National Anti-bullying strategy, the rights of the child, teacher training, child protection, the delivery of anti-bullying policies, the curriculum, the recording and monitoring of bullying and harassment, and the school inspection system.
120. The Scottish Government responded to the Committee's recommendations on 1 September 2017^{lxxix}, and the Parliament debated the findings and recommendations on 15 November 2017.^{lxxx}

^{lxxvii} Paragraph 94

^{lxxviii} 5th Report, 2017, (Session 5): It is not Cool to be Cruel, prejudice-based bullying and harassment of children and young people in schools

^{lxxix} Letter from the Deputy First Minister John Swinney MSP, 1 September 2017

^{lxxx} Meeting of the Parliament, 15 November 2017, Official Report

Budgetary issues

121. The inquiry considered various issues with budgetary resource implications in terms of the assessment of the delivery of equalities and human rights. Amongst these, Scottish Government has supported our recommendation that the recording and monitoring of bullying and harassment needs to become mandatory across all of Scotland's schools.
122. On 15 November 2017, the Deputy First Minister announced^{lxxxix} to Parliament that he had convened a working group^{lxxxix} to progress the early delivery of mandatory reporting through the use of the SEEMIS^{lxxxix} system. The role of the Group is to develop additional supporting guidance on the process for recording and monitoring bullying. The Committee welcomes the announcement.
123. However, the inquiry report identified other issues which may have resource implications going forward—
 - the diversity of approach taken across education authorities to issues of bullying and harassment in schools;
 - the effectiveness of the wider monitoring and inspection process carried out by the inspection service of Education Scotland in identifying and addressing failures in bullying and harassment (including in independent schools which do not come under the ambit of an education authority);
 - the need for teacher training establishments, the General Teaching Council of Scotland and ADSE/education authorities to redesign teacher training and continuous professional development, and
 - the need to integrate the teaching of consent, health relationships and equalities and human rights issues into the curriculum for the earliest age.
124. Both the operation of the Curriculum for Excellence and the end of ring fencing in local government funding from the Scottish Government has meant that the responsibility for change rests with a number of players across the governing and administrative landscape of Scotland.
125. It is likely therefore, that such actions may have future resource and funding implications for agencies such as Education Scotland, local government funding for education, as well as broader support for teacher training and professional development.
126. We believe that greater clarity and focus is needed on how the formulation of future budget resource allocations in the education sector will assess the need to take account of the adjustments required to deliver this change.

^{lxxxix} [Meeting of the Parliament, 15 November 2017, Official Report, Cols 38-39.](#)

^{lxxxix} Working group includes Education Scotland, CoSLA, the Association of Directors of Education in Scotland (ADSE), local authority officers, the teaching unions, parents' groups and LGBTI groups.

^{lxxxix} [SEEMIS School Management Information System](#)

We ask the Scottish Government to set out how future policy development in equalities and human rights will be coordinated with education budgetary policy in this regard.

Annex A - Minutes of Meeting

25th Meeting, 2 November 2017

1. **Draft Budget Scrutiny 2018-19:** The Committee took evidence on the progress made on the recommendations contained in its 1st Report, 2017 (Session 5): Disabilities and Universities, from—

- Professor Sir Peter Scott, Commissioner for Fair Access to Higher Education in Scotland;
- Dr John Kemp, Interim Chief Executive, and Fiona Burns, Assistant Director Access and Outcome Agreement Manager, Scottish Funding Council;
- Carol Baverstock, Head of Admissions, University of Aberdeen;
- Ann Duncan, Disability Service Manager, University of Strathclyde;
- Kirsty Knox, Assistant Head, Recruitment, Admissions and Participation Service, University of the West of Scotland.

2. **Draft Budget Scrutiny 2018-19 (in private):** The Committee considered the evidence received and agreed to write to the Minister for Further Education, Higher Education and Science, Shirley-Anne Somerville MSP. The Committee also noted the pending publication by the Scottish Government of the Review of Student Support. It was agreed to consider appropriate issues regarding support for students with protected characteristics from this Review, such as disabled students and BSL users, as part of the Committee's ongoing monitoring of the implementation of its recommendations. The Committee also agreed to write to the Commissioner for Fair Access to Higher Education in Scotland, Professor Sir Peter Scott, the Scottish Funding Council and the newly appointed Chief Executive of UCAS, Clare Marchant, following up on various points raised from the evidence received. Finally, the Committee agreed to continue monitoring progress on its recommendations as part of its future work programme.

26th Meeting, 9 November 2017

1. **Draft Budget Scrutiny 2018-19:** The Committee took evidence on the Scottish Government's Draft Budget 2018-19 from—

- Danny Boyle, Parliamentary Policy Officer, BEMIS;
- Emma Ritch, Chief Executive, Engender;
- Rebecca Marek, Policy and Parliamentary Officer, Coalition for Racial Equality and Rights (CRER);
- Shairi Bowes, Research Advisor, Scottish Women's Convention.

2. **Draft Budget Scrutiny 2018-19 (in private):** The Committee considered the evidence received.

27th Meeting, 16 November 2017

2. Draft Budget Scrutiny 2018-19: The Committee took evidence on the Scottish Government's Draft Budget 2018-19 from—

- Judith Robertson, Chair, Scottish Human Rights Commission;
- Safia Ali, Race Equality Mainstreaming Officer, Council of Ethnic Minority Voluntary Sector Organisations Scotland;
- Chris Oswald, Member of the Equality and Budget Advisory Group, and Head of Policy, Equalities and Human Rights Commission;
- Dr Angela O'Hagan, Member of the Equality and Budget Advisory Group, and Lecturer, WiSE Research Centre.

3. Draft Budget Scrutiny 2018-19 (in private): The Committee considered the evidence received, and agreed to write to the Convention of Scottish Local Authorities (CoSLA) and the Society of Local Authority Chief Executives (SOLACE) seeking information on how local authorities collect and analyse equalities and human right data, and how this informs their policy and budgetary decision making processes.

The Committee also agreed to write to the Scottish Human Rights Commission seeking further information on how Scottish public authorities should ensure their budgetary processes comply with the UK's international human rights obligations.

Annex B - Evidence

Written evidence

Submissions Received

- [CEMVO](#)
- [Coalition for Racial Equality and Rights](#)
- [Engender](#)
- [Equality and Human Rights Commission](#)
- [Joint submission from Glasgow Council for the Voluntary Sector, Scottish Council on Deafness, Voluntary Action Scotland and Volunteer Glasgow](#)
- [Royal Conservatoire of Scotland](#)
- [Scottish Women's Convention](#)
- [WiSE](#)

Official Reports

- [Official Report of Meeting 2 November 2017](#)
- [Official Report of Meeting 9 November 2017](#)
- [Official Report of Meeting 16 November 2017](#)

