

Annex A:

Equality, Human Rights and Fairer Scotland Budgeting

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1. Introduction

The Scottish Government has produced an equality statement alongside the budget for over 10 years. This represents our consistent commitment to examine the impact of the Scottish Budget on Scotland's population. There are close connections between the disadvantage felt by groups of people who share certain protected characteristics and socio-economic disadvantage and because of this close connection we consider both equality and Fairer Scotland impacts together.

This has been an exceptional year for the public finances. Much has moved on since the publication of [last year's Equality and Fairer Scotland Budget Statement](#) in December 2021, when the Covid pandemic was foremost in our minds.

On the same day as the 2022-23 draft budget was published, the Scottish Government launched a consultation on the [Resource Spending Review Framework](#). This consultation specifically included the consideration of equality and human rights impacts (analysis of this consultation is available [here](#)).

We published the Resource Spending Review in May 2022, with an associated Equality and Fairer Scotland Statement. In this, we stated we would provide an update on how the equality impacts of the commitments in the spending review are being, or will be, assessed. We have provided this update in Annex C.

Furthermore, since last year's statement, we have faced the aftermath of Brexit, COVID-19, and then the invasion of Ukraine and the resulting pressure of inflation.

Following the fallout from the UK's 'mini budget' in September, the Scottish Government carried out an Emergency Budget Review. The Emergency Budget Review was accompanied by a high-level summary of [evidence on equality and fairness](#) alongside the [Cost of Living Crisis in Scotland: analytical report](#).

We have learnt from the Emergency Budget Review and Resource Spending Review analysis, and that has informed the preparation of this year's Equality and Fairer Scotland Budget Statement. We decided that the development of the Equality and Fairer Scotland Budget Statement should use the overall process and structure used in the last two years. However, we will continue to improve the process as we identify and roll out new tools and approaches.

Equality budgeting is a year-round, cross-government process. The broad process is illustrated in the diagram below:

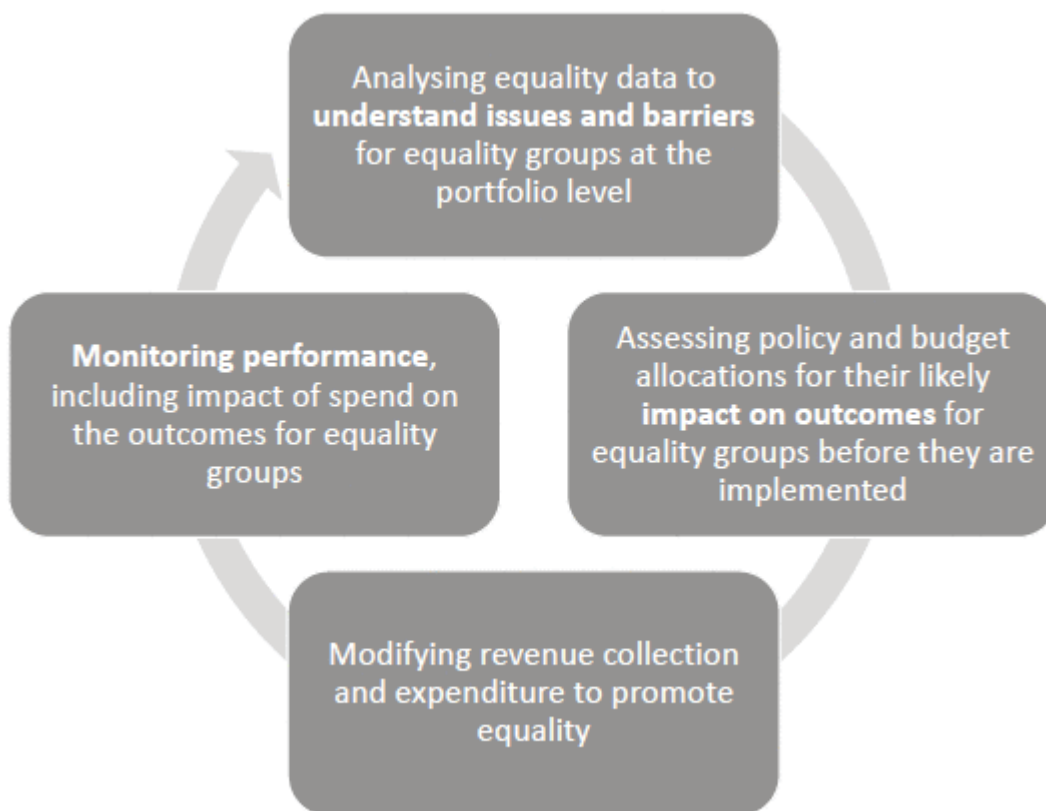


Figure 1 - Assessing the impact of budgets throughout the policy cycle

2. Framework for Equality, Human Rights and Fairer Scotland Budgeting

[The Organisation for Economic Co-operation and Development](#) indicated that there should be three core elements underpinning an effective gender budgeting approach, including: a strategic framework, an enabling environment and budgeting tools. While originally identified for gender budgeting specifically, we have used these three elements to describe the Scottish Government's approach to equality, human rights and Fairer Scotland budgeting below.

2.1 Our Strategic Framework

The Organisation for Economic Co-operation and Development highlights the importance of a legal framework as part of an effective approach to equality budgeting. Furthermore, the Organisation for Economic Co-operation and Development says that the framework should include political leadership, and in some cases, a national indicator framework to track progress. In Scotland we have clear political leadership with a public commitment 'to further embed equality and human rights within all stages of the Scottish Government's Budget process'.

Our Legal Framework

The Scottish Government must have due regard to the three needs of the Public Sector Equality Duty:¹

1. eliminate unlawful discrimination, harassment and victimisation,
2. advance equality of opportunity between people who share a protected characteristic and those who do not, and
3. foster good relations between people who share a protected characteristic and those who do not.

Budget decisions also need to comply with the requirement under the Fairer Scotland Duty:²

- to 'pay due regard' to how they can reduce inequalities of outcome caused by socio-economic disadvantage, when making strategic decisions

The Equality and Fairer Scotland Budget Statement is an important milestone in the production of the budget. However, it is only one way in which we demonstrate how these obligations have been met. Indeed, policies are impact assessed throughout their development, implementation and execution and this does not usually align directly with the budget process. Although the budget provides detail on resources allocated, the vast majority of the programmes, policies and services that it funds are not proposed at the point at which the budget is introduced. Rather, these programmes, policies and services are developed through a robust policy making process, which involves equality impact assessments and Fairer Scotland Duty assessments, among other impact assessments.

¹ See Section 149 of the Equality Act 2010 "Public sector equality duty"

² See Section 1 of the Equality Act 2010: "Public sector duty regarding socio-economic inequalities"

A project to drive an overall improvement in policy impact assessments is currently in progress. This project is focussing on identifying best practice in impact assessments to date; opportunities for improvement, and practical means to implement these improvements in support of policy making; guidance and training; and measures to strengthen accountability and oversight and ensure quality.

The Scottish Government is also reviewing the operation of the Public Sector Equality Duty in Scotland. A public consultation ran until April this year and the analysis of this consultation has been published [here](#). In the consultation we proposed strengthening the duty to assess and review policies and practices, seeking to emphasise that assessments must be undertaken as early as possible in the policy development process. We also proposed strengthening the duty to require the involvement of people with lived experience, or organisations who represent them, in certain circumstances, like where the policy being assessed is a strategic level decision. This consultation also sought views on integrating intersectional gender budget analysis into the Scottish Budget process, and to place this on a statutory footing. Finally, the Scottish Government has obligations to respect, protect and fulfil human rights including the Human Rights Act 1998, the UNCRC and International Human Rights legal obligations.

The National Performance Framework

Tackling inequality in outcomes is central to the purpose, National Outcomes and values in Scotland's National Performance Framework and is a starting point for equality budgeting considerations. In order to understand equality budgeting, individual policy teams need to be able to identify which National Outcomes they are contributing to. However, teams also need to be much more detailed and specific in identifying what they are trying to achieve with their spend. Understanding inequality in these outcomes by protected characteristic, by socio-economic disadvantage and by place can then be used to help shape the policy and the spend.

2.2 An Enabling Environment

The Scottish Government is also supported in its work by the Equality and Human Rights Budget Advisory Group, chaired by Professor Angela O'Hagan. This year we have formally expanded the remit of this group previously named the Equality Budget Advisory Group to include Human Rights. The work of the Equality and Human Rights Budget Advisory Group remains extremely helpful to the Scottish Government and we remain grateful to its members for the time they make available to provide both constructive challenge and insight.

The group works with the Scottish Government to:

- support a process of **equality and human rights analysis** to ensure the equality and human rights implications of the Scottish Government's policy processes inform budgetary decisions, and that corresponding information presented in the Scottish budget documents is clear
- contribute to mapping the pathway between evidence, policy, **and outcomes with the allocation and spend of public finance**

- identify linkages between the Draft Budget, the National Performance Framework, Economic Strategy **and policy making in general** and supporting scrutiny of outcomes in relation to budget commitments
- contribute to improved awareness of and commitment to mainstreaming **equality and human rights analysis** into policy and budget processes

The Scottish Government will respond to recommendations from the Equality and Human Rights Budget Advisory Group in quarter one of 2023. The recommendations considered:

- improving processes
- communications
- organisation and culture
- knowledge and understanding

Some of the measures that the Scottish Government has taken to enable, support and encourage effective equality and Fairer Scotland budgeting include:

- a [programme of equality data improvement](#), which was recently subject to a consultation, with a launch expected February 2023
- training, including sessions delivered by the Scottish Women's Budget Group and development sessions sponsored by the Equality and Human Rights Budget Advisory Group including consideration of international comparators

2.3 Budgeting Tools

Tools used by the Scottish Government include this budget statement itself, as well as the statements which have accompanied the Resource Spending Review and the Emergency Budget Review this year.

As can be seen from previous Equality and Fairer Scotland Budget Statement publications, the Scottish Government has attempted different approaches in the past. For example, in 2021 the Scottish Government undertook work on the [feasibility of distributional analysis](#), looking back at the 2019-20 budget.

2.4 Our Human Rights Based Approach

The Scottish Government made a commitment to further embed human rights budgeting in the [Bute House Agreement](#). The Scottish Government will introduce a new Human Rights Bill this parliamentary session. This will be a significant and historic milestone in Scotland's collective human rights journey. The Bill will strengthen the domestic legal protection and application in practice of international human rights standards. In particular the Bill will bring an enhanced focus to the implementation of social and economic rights, which are central to addressing inequalities. Development of this landmark Bill is being supported by detailed input from a range of civil society organisations, lived experience individuals, public bodies and academic partners. We will consult on our proposals in the first half of 2023. The Scottish Government is in the process of exploring how we further embed human rights approaches into the policy

making and budgeting system. We will build on our approach over the coming years in line with our developments laid out in this report.

Taking a human rights-based approach to budgeting requires a government to take into account consideration of the impact of its approach to revenue raising, resource allocation and expenditure on human rights.

The Equality and Fairer Scotland Budget Statement illustrates alignment of the Scottish Government's spending plans in relation to the advancement of human rights as part of Annex D. We have also used the three key principles of human rights budgeting (transparency, participation and accountability) to inform the process of setting the budget. We set out detail on how we demonstrate each of these principles below.

Transparency

The government should provide Parliament, civil society and the public with accessible information about budget decisions.

We have demonstrated this principle by:

- developing and publishing documents which provide an assessment of the impact of budgetary decisions alongside the key public finance publications this year, including the Resource Spending Review, Emergency Budget Review and the 2023-24 Budget.
- our involvement in the Open Government Partnership and commitment to Fiscal Transparency and Openness, which can be found in the [2021-2025 Open Government Action Plan](#). It commits to improving the accessibility and usability of our data and information about public finances, to enable better understanding and scrutiny for a wide range of users, including citizens. This means continuously working to improve how open and transparent we are in Scotland, benchmarked alongside other countries and approaches, about the status, processes, and direction of our public finances.
- our work to improve the accessibility and timeliness of [Your Scotland, Your Finances](#). This provides an accessible overview of the Scottish Budget, the wider system of public finances in Scotland and how this system is changing.

Participation

There should be opportunities for meaningful engagement with civil society and the public in the budget process.

We have demonstrated this principle by:

- The Scottish Government supports participatory budgeting as a tool for community empowerment and as a means to build on the wider development of participatory democracy in Scotland. Participatory budgeting is supported through our Investing in Communities Fund, and we continue to work with COSLA to help local authorities reach the target of having at least 1% of their budget subject to participatory budgeting.

- The [National Participatory Budgeting Strategic Group](#) have co-designed and published a [framework](#) for the future of participatory budgeting in Scotland. The Scottish Government will work with the group to deliver on the new strategic framework, with a particular focus on health and wellbeing, education, housing and climate justice.
- A key area of Open Government work is developing a response to the [IPDD working group report](#). This makes recommendations on how we can embed a range of participatory and democratic innovations, which can be used as a basis to establish routine use of Citizens' Assemblies in Scotland. These recommendations include a focus on equalities and inclusion, and the establishment of sustainable and accessible infrastructure to involve the people of Scotland in important decisions. Our response will set in motion work to deliver this over the short and longer term.
- Running a public consultation to inform the Resource Spending Review which set out the Scottish Government's spending plans for the remainder of the parliamentary term. As part of this exercise, Scottish Ministers held roundtables with various organisations (including civil society groups) to discuss key themes. The consultation included a specific question on equality and human rights impacts.
- Ministers held a set of roundtables with a range of stakeholders in the lead up to the 2023-24 Budget around the Scottish Government's approach to tax and revenue raising. Attendees included representatives from civil society and third sector organisations, and groups with a specific interest in advancing equality issues.
- Engaging on an ongoing basis with civil society stakeholders, in particular through the Open Government Partnership and the Equality and Human Rights Budget Advisory Group.

Accountability

A government's budget should be subject to oversight and scrutiny which ensures accountability for budget decisions and the impact these have on human rights.

The budget process involves a pre-budget scrutiny phase where the committees of the Scottish Parliament are invited to set out their views on the delivery and funding of policy priorities, any proposed changes and how these should be funded. The 2023-24 Scottish Budget includes a chapter with short responses to each committee's views summarising how the proposals have influenced the development of the Budget. Ministers then provide a more detailed response to the individual committees within five sitting days of the budget's publication.

Ministers are invited to provide oral evidence to committees as part of the scrutiny process after it has been published. The Equality and Fairer Scotland Budget Statement, along with a range of other reports and data sources (including individual policy impact assessments), can be used to help parliamentary committees consider whether the budget could be used differently to better address inequalities of outcome in Scotland, whilst allowing for a balanced budget.

3. Overview of Equality, Human Rights and Fairer Scotland process for the 2023-24 budget

The main report summarises the impacts of each portfolio budget on equality and human rights as well as inequalities experienced by socio-economically disadvantaged groups. This is accompanied by Annexes on:

- Annex A: Equality, Human Rights and Fairer Scotland Budgeting (this Annex)
- Annex B: Social and Economic Context
- Annex C: Equality and Fairer Scotland and the Resource Spending Review
- Annex D: Detailed analysis of equalities and Fairer Scotland issues by portfolio

The process of developing the Equality and Fairer Scotland Budget Statement is designed to help support the decision making process. This involves each portfolio area completing a template as part of this work. The template looks at the impact the budget could have on key inequalities most relevant to each area of government. This means that areas can consider the impacts of changes in the budget, and set out how that has affected their decisions. Our questions cover these areas:

- What is known about existing inequalities?
- What contribution does the portfolio's budget make to addressing equality and fairness issues? Within this section we asked portfolios to articulate how this analysis has been taken into account in budget decisions/ mitigation, and where possible, how those affected have been involved in decisions.
- How increases or decreases in spending, compared to last year could impact, what mitigations are being put in place, and how those most affected by changes will be involved in further decisions.
- Sources of evidence (including evidence from published impact assessments). Portfolios were asked to provide links for all published Fairer Scotland and Equality Impact Assessments increasing visibility of the links between policy level impact assessment process and the statement.

Additionally, portfolio teams identify which National Outcomes and Human Rights their portfolio contributes to. The output of these templates can be found in Annex D.

The summary document is then produced from the information in these returns by a group of officials including analytical, finance, Fairer Scotland and equality specialists.

How the Equality and Fairer Scotland Budget Statement analysis has an influence on budget decisions

The Scottish Budget is a key element in the delivery of the Scottish Government's priorities. The budget outlines the financial resource allocations for each ministerial portfolio and a breakdown of how these resources are split between sub-portfolio areas.

As highlighted above, the vast majority of the programmes, policies and services that the budget funds are not generated and announced at the point at which the budget is introduced. All policies, regardless of date of announcement, are subject to a full policy development process including a range of impact assessments. For the allocation of resources against 'existing' policies we provide evidence of considerations of the impact of changes to funding envelopes as part of the Equality and Fairer Scotland Budget Statement.

For decision making which happens during the budget process (and despite the limited timescale in developing the Equality and Fairer Scotland Budget Statement) Scottish Government works hard to build the analysis into decision making:

- by encouraging drafts of analysis to be used in decision making in policy areas, including in potential mitigations of any negative effects both at official and Ministerial levels
- by providing draft, high-level cumulative analysis for consideration at a cross-government level

How the impact of budget decisions will be evaluated

A key element of budget analysis is understanding 'what difference spend made'. This is challenging as we seek to understand the links between policies and outcomes in a complex system but understanding what works is key to knowing how best to get value from public money.

Generally speaking, it is easier to evaluate smaller more focused policies. However the evaluation of strategic programmes, covering many policy areas, is much harder. A number of large policy areas have evaluation programmes in place to help evaluate the outcome of spending programmes. Findings will, in turn, help us improve predictions of what can be expected from new and revised policies in these portfolio areas and lead to tailored and effective responses.