



## **Close the Gap response to the Scottish Government's consultation on the Equality Evidence Strategy 2023-25**

**October 2022**

### **1. INTRODUCTION**

Close the Gap is Scotland's policy advocacy organisation working on women's labour market participation. We have been working with policymakers, employers and employees for over 20 years to influence and enable action that will address the causes of women's labour market inequality.

Close the Gap welcomes the opportunity to respond to this consultation on the Equality Evidence Strategy. Improving the range of gender-sensitive, sex-disaggregated and intersectional data used in policymaking, service design and evaluation has been a long-standing ask of Close the Gap. We support the Scottish Government's focus on building a robust equalities evidence base as this work is critical to gender mainstreaming approaches<sup>1</sup>; ensuring that policymaking meets the needs of people across Scotland; enables effective targeting of resources; and to making progress on the Scottish Government's ambitions on equality, including tackling the gender pay gap.

### **2. Why is gender-sensitive sex-disaggregated data important?**

Gender-sensitive sex-disaggregated data is data that is broken down by sex, so that it is possible to compare and contrast differences between men and women. However, it is not merely about counting women and men, but also about utilising statistics and other information that adequately reflect gendered differences and inequalities in the situation of women and men.<sup>2</sup> In the context of women's employment, an example of gender-sensitive sex-disaggregated data would not only present women's employment rate, but also integrate data that reflects why women's experiences of employment are different from men's including, for example, women's greater responsibility for unpaid care and their experiences of men's violence. Gender-

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<sup>1</sup> Gender mainstreaming is a strategy to proactively embed gender analysis in all policy and legislative development. This gives gender concerns prominence throughout policymaking and facilitates policy coherence across the work of government departments.

<sup>2</sup> Engender (2020) *COVID-19: Gathering and using data to ensure that the response integrates women's equality and rights*

sensitive analysis and use of evidence must pay attention to gendered differences in lived experience. These gendered differences span labour market participation, occupational segregation in education and the labour market, working patterns, unpaid caring responsibilities, discrimination, and access to safety and resources.

### **3. Sex and gender**

In the public discourse around gender recognition reform, there has been significant focus on, and dispute around, the terminology used. As set out in our response to Scottish Government's consultation on the Gender Recognition Reform (Scotland) Bill<sup>3</sup>, Close the Gap uses the following definitions:

- *Sex*: Whether a person is a man or a woman<sup>4</sup>
- *Gender*: A social constructed set of norms, roles and relationships that is constituted in our social mores, laws, processes and policies. It is time and culture-specific and functions as a hierarchy.
- *Gender identity*: Whether an individual's internal sense of themselves aligns with their sex as assigned or observed at birth.
- *Gender-sensitive data*: Statistics and other information that adequately reflect gendered differences and inequalities in the situation of women and men in all areas of life.
- *Sex-disaggregated data*: Data that is broken down by sex so that it is possible to compare and contrast differences between men and women.
- *Gender-disaggregated data*: Widely used, if literally inaccurate, synonym for data that is both gender-sensitive and sex-disaggregated.

In this submission, we discuss the importance of gathering and using gender-sensitive sex-disaggregated data.

### **4. The public sector equality duty**

Close the Gap welcomes the commitment to reconvene the expert working group of the Gender Equality Index, and to publish an updated version. This work could include a focus on improving the use of this Index by public bodies, as the factors included are important to their consideration of gender inequality in performance of the public sector equality duty.

As identified in the consultation on the Equality Evidence Strategy, the reform of the public sector equality duty has significant implications for equality data issues. It is

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<sup>3</sup> Close the Gap (2020) *Response to the Scottish Government consultation on the Gender Recognition Reform (Scotland) Bill*, available at: <https://www.closethegap.org.uk/content/resources/Close-the-Gap-response-to-the-GRA-reform-bill.pdf>

<sup>4</sup> For equalities monitoring, this would include an "other" option in which individuals may describe themselves, for example, as non-binary.

difficult to comment on what actions may be necessary in the Equality Evidence Strategy without clarity on the content of an improved duty, and indeed that of the new Mainstreaming Equality and Human Rights Strategy. We welcome the commitment to understand the barriers to equality data collection, analysis. The persistent problems around data identified by Close the Gap and other organisations on the duty are of clear relevance to this.

Regulations six, seven and eight of the Scottish-specific duties are very closely linked. These require public bodies to gather a range of data that should be used to understand the gendered inequalities that are present in their workforce and develop action to address them. However, many public bodies have failed to act on this. This represents an enormous missed opportunity.

Close the Gap's successive assessments of performance of Scottish-specific duties have found that the existing duty to gather and use employee data is not delivering the intended outcome. We have consistently identified a lack of gathering and use of data and a marked decline in compliance with duties on data gathering<sup>5</sup>. Many public bodies acknowledge problems gathering data on both service delivery and employment, citing system limitations and committing to make improvements. Despite this, in our 2017 review 87% bodies were assessed as having made poor or no use of employee data and we were unable to identify any evidence of work to improve data collection and use. In our 2021 review, even fewer public bodies made any meaningful use of their employee data.<sup>6</sup>

It is also clear that the current duty to report gender pay gap information is not driving public bodies to take action on their gender pay gaps. The majority of public bodies are not using the data they publish to develop action. Close the Gap found in 2017 80% of public bodies had published their pay gap, however this delivered few tangible results with 69% of public bodies providing poor or no analysis of their pay data, and 58% taking no action despite reporting a gender pay gap.<sup>7</sup> We have observed a steady deterioration of even basic compliance with this duty: In 2021, a third of public bodies failed to publish their gender pay gap.<sup>8</sup>

Our response to the review of the operation of the Public Sector Equality Duty in Scotland sets out a range of data that public bodies should be required to gather on

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<sup>5</sup> Close the Gap (unpublished) *Internal PSED assessment 2021*; Close the Gap (unpublished) *Internal PSED assessment 2017*; Close the Gap (2015)

*Making Progress? An assessment of public sector employer performance of the public sector equality duty*; Close the Gap (2014) *Monitoring Scottish public bodies' compliance with the public sector equality duty*

<sup>6</sup> Close the Gap (unpublished) *Internal PSED assessment 2021*

<sup>7</sup> Close the Gap (unpublished) *Internal PSED assessment 2017*

<sup>8</sup> Close the Gap (unpublished) *Internal PSED assessment 2021*

gender and employment.<sup>9</sup> These data go beyond what is available at a national level, however they represent an example of the necessary level of detail across a range of this consultation's themes. It is critical that these longstanding issues shape the development of the Equality Evidence Strategy, if it is to deliver on its vision.

## **5. Answers to Consultation Questions**

### **Section 1: Vision**

#### **1.1 Do you think the Scottish Government should revise the vision developed in 2017?**

Yes

#### **1.2 Please say how the Scottish Government should revise the vision:**

It is difficult to separate what is needed to improve data from the wider issues around equality mainstreaming and performance of the public sector equality duty. The Equality Evidence Strategy has an important and intersecting role across these areas. Increasing the availability of robust equalities data and improving the quality of the data are welcome inclusions in the vision, but the provision of data cannot on its own deliver on the Strategy's vision to enable the development of better, more inclusive policy. This will require significant action to build intersectional gender competence in Scottish Government. Gender competence refers to the skills, knowledge and analytical capability to develop statistics, data, policy, or programmes that are well-gendered and take account of the socially constructed difference between men's and women's lives and experiences. While action on this may be proposed as part of the improved Equality and Human Rights Mainstreaming Strategy, Close the Gap calls for the Equality Evidence Strategy's vision to be amended to reflect a commitment to improve the ability of policymakers to use gender sensitive sex-disaggregated data to develop policy. This will help contribute to a coherent approach across Scottish Government's equality and human rights policy, and the reform of the duties.

### **Section 2: Proposed actions**

#### **2.1 To what extent do you think that the proposed actions would adequately deliver on our ambition for a robust and wide-ranging equality evidence base?**

Partially

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<sup>9</sup> Close the Gap (2022) *Response to the Scottish Government consultation on the Review of the operation of the Public Sector Equality Duty in Scotland*

## **2.2 Please set out your reasons for your answer:**

Some of the proposed actions are extremely limited in scope and will therefore only partially progress the Scottish Government's ambition. This, in part, stems from the strong focus on restricted financial resources and a lack of representation from external equality organisations on the project board. Equality organisations have extensive experience of the persistent challenges around data gathering, analysis and use, and their representation on the project board would have enabled the development of more ambitious and targeted actions. In this submission we highlight a number of areas, including the labour market and economy theme, where the proposed actions will not have a notable impact on the availability of good quality gender-sensitive sex-disaggregated data. There are also a number of gaps within the strategy which further limit its scope to promote a wide-ranging evidence base. For example, insufficient attention is afforded to skills data. There are no actions relating to improving disaggregated data relating to skills programmes, despite much of this data being gathered and held by Scottish Government and its delivery agencies.

In some areas, the proposed actions also fall short of pre-existing commitments. For example, within the Equality Impact Assessment for the Tackling Child Poverty Delivery Plan 2018-22, the Scottish Government committed to improving gender-disaggregated poverty data by reducing the reliance on household level statistics.<sup>10</sup> As highlighted in more detail in our response to question 5.2, there has been no notable improvements in the availability of gendered poverty data and we are therefore concerned that a commitment to this work does not feature within the draft strategy.

While some of the proposed commitments will begin to address longstanding issues in the data used to inform policymaking, merely counting women is insufficient. If the strategy is to both improve the evidence base and drive better policymaking, there is a need to develop gender competence among policymakers. The strategy should therefore set out the action that will be taken to build intersectional competence among policy and analyst officials.

### **4.1 Are there any proposed actions that you think should be revised?**

Yes

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<sup>10</sup> <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2018/03/tackling-child-poverty-delivery-plan-2018-22-annex-3-equality/documents/00533633-pdf/00533633-pdf/govscot%3Adocument/00533633.pdf>

## **4.2 Please tell us which actions you think should be revised and how:**

Close the Gap is of the view that a number of actions should be revised so that they better support the Government's ambition to improve access to intersectional gender-sensitive sex-disaggregated data. A general comment on the proposed actions is that insufficient emphasis has been placed on increasing sample sizes for marginalised groups including Black and racialised people and disabled people within sample surveys that the Scottish Government utilise or collect. The Scottish Government could improve sample design to increase the number of responses across a range of protected groups. We have structured our response to this question under the themes detailed in the strategy.

### **Education**

While there is sex-disaggregated data available on subject choice, there is only limited data gathered on other aspects of gendered inequalities in schools. Close the Gap welcomes action 3, however there is scope for improvement in the range and use of data gathered as part of Growing Up Scotland. It is imperative that this includes intersectional data on the prevalence of sexual harassment in schools, which has a significant impact on girls' and young women's experiences of education and contributes to gender segregation in subject and career choice. The Life at 14 survey included no data on sexual harassment, which represents a significant gap. Action 3 should be amended to include the addition of questions on sexual harassment in schools and other education settings.

The Life at 14 Survey also included a question on being "treated unfairly because of [your] gender", however this is too broad to generate useful information on girls' and young women's experiences. Girls and young women experience unfair treatment in many different ways and contexts. This question is open to interpretation by both the survey respondents and analysts. More detailed questions in this survey would enable additional examination of the differential experience of girls and young women, and boys and young men, in education.

### **Labour market and economy**

There is a lack of good quality intersectional labour market data in Scotland. Close the Gap therefore welcomes action 28 which will improve the intersectional evidence base and provide insight into Black and racialised women's experience of the labour market and economy. However, we believe that this action is too narrow in scope and should be expanded to cover additional intersectional analysis, including improving the evidence base around disabled women and providing additional analysis relating to sex and age. The Scottish Government should use its role as a key user of data to work with the ONS and DWP to improve sample design to enable greater access to intersectional data. In addition, the Scottish Government

should allocate resources for sample boosting in recognition of the fact high-quality equalities data is critical for good quality policymaking and the development of targeted interventions.

### Poverty

In the context of poverty being designated the national mission of the Scottish Government and the ongoing cost of living crisis, improving the evidence base around poverty is both vital and time sensitive. We are concerned that the scoping exercise mentioned in action 13 did not take place ahead of the drafting of the Equality Evidence Strategy. As currently drafted, the action merely commits to undertaking a scoping exercise, rather than implementing the findings of that scoping project. This does not match the urgency of the current context. We also note that many of the data gaps within the poverty evidence base are already well-evidenced. Action 13 should therefore be revised to be more squarely focused on implementing change.

As highlighted above, as the lack of gendered poverty data was established within *Every Child Every Chance*, we expect that some early scoping around improving disaggregated poverty data has already taken place. As a result, action 13 should be revised to have a specific focus on improving access to gendered poverty data, alongside a wider focus on improving the robustness of data relating to the priority groups. In its role as a key user of data gathered by both the DWP and ONS, the Scottish Government should push for better equalities data within the Family Resources Survey, the Labour Force Survey and the Household Finances Survey. There are a number of equalities groups where evidence on poverty is limited and this often stems from inadequate sample sizes for these groups in Scotland.

#### **5.1 Are there any additional improvement actions that you think should be considered that are achievable within the 2023-25 time period?**

Yes

#### **5.2 Please tell us what additional improvement actions we should consider, and the reasons why these actions are important. For example, the groups who would benefit, or what information needs these actions would address.**

### Education

The actions proposed are unlikely to increase the availability of useful data on gender inequality in education. Sex-disaggregated data on subject choice is available, however there is a lack of evidence to show that this data is being used to make changes to education policy and practice. Gender segregation in subject choice is a long-standing inequality, and tackling this has been included in the aims of a wide

range of strategies and action plans, such as the Improving Gender Balance and Equalities project (IGBE). Despite this, there has been very minimal change in gender segregation in subject choice.

This raises significant questions about the theory of change underpinning these actions. Actions typically seen in education settings are largely limited in focus, rarely going beyond work to tackle gender stereotypes such as events aimed at encouraging girls and young women into STEM subjects. Such supply-side initiatives are important, but they do not take a mainstreaming approach. They do not focus on the barriers faced by girls and young women to studying and working in male-dominated areas, for example male-centric cultures in classrooms and workplaces that feel intimidating and non-inclusive.

Data gathering must go beyond subject choice and include data on the type and quality of other activities accessed through schools. Young women have less access to high quality training opportunities than young men, for example in the Modern Apprenticeship programme. Male-dominated frameworks are associated with higher rates of pay than female-dominated frameworks, and have a greater positive impact on career outcomes after completion. At present there is a risk of such a quality gap being replicated by the Young Person's Guarantee (YPG). Sex-disaggregated data that allows a gender analysis of the quality of opportunities afforded by the programme, which range from jobs to volunteering, is not gathered. Without this data it is not clear whether the YPG is benefitting young women by addressing the gendered barriers they face. DYW School Co-ordinators, whose role it is to facilitate relationships between schools and employers to support the YPG, have been present in schools since early 2021. However, it is not clear how the gendered impact of this work is being measured. An action should be added to ensure that data gathering in education has a strong focus on intersectional gender-sensitive sex-disaggregated data, including on subject choice, career guidance and work experience, and wider YPG action.

Close the Gap welcomes the creation of a Data Guide for secondary schools by the IGBE project. This guide contains guidance on gathering and analysing data to tackle gendered inequalities in schools. However, given the data gaps and lack of evidence of meaningful action on gender inequality in schools, this does not appear to have driven impactful improvements in practice. It is therefore clear that there is a need for work to build gender competence in senior leaders and other key people in education authorities and schools, and an action to deliver this should be added to the action plan.

### Skills data



Improving the range of gender disaggregated data used in skills policy has been a long-term ask of Close the Gap. Within Scotland's *Gender Pay Gap Action Plan*, the Scottish Government committed to 'build[ing] on and improv[ing] the range of gender-disaggregated data used to develop skills planning policy'. We are therefore disappointed that a similar commitment is not made within the strategy, especially as it is unclear how the previous commitment has been progressed. The existence of these data gaps is well-established and acknowledged, yet there has been very little meaningful action taken to address the problem. For example, Skills Development Scotland's refreshed Data Matrix, used to shape Regional Skills Assessments (RSAs), contains only one reference to gender-disaggregated data and there is no intersectional gender-disaggregated data within the matrix. This is concerning as RSAs are used to provide a "coherent evidence base to inform future investment in skills".<sup>11</sup> Moreover, the evaluation of the National Transition Training Fund, published earlier in 2022, is characterised by a lack of gender analysis and gendered data. Gender-sensitive sex-disaggregated data is not yet a consistent aspect of the development, monitoring or evaluation of skills programmes in Scotland and the need for action in this area remains critical. An action should be added to ensure that data gathering mechanisms for skills interventions and programmes has a strong focus on intersectional gender-sensitive sex-disaggregated data, including on caring roles and occupational segregation.

The lack of gender-sensitive sex-disaggregated data used in shaping skills interventions contributes to the creation of generic programmes which replicate gendered patterns of skills acquisition and employment, ultimately entrenching occupational segregation and widening the gender pay gap. Within the detail of action 28, there is a commitment to further analysis and publication of equality data already collected. As a starting point, we believe that a similar action should be included for skills policy. For example, Skills Development Scotland gathers a large amount of data relating to equalities and the delivery of key skills interventions, including Modern Apprenticeships, but not all of this data is published.

### Labour market and the economy

Despite long-standing issues relating to the lack of gender-sensitive, sex-disaggregated labour market data, the draft strategy contains no actions to improve the range of data that is gathered and analysed relating to women and employment. A possible additional action would relate to ensuring that gender equality is a more prominent consideration within Scottish Government analysis of labour market and economic data.

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<sup>11</sup> Skills Development Scotland website 'Regional Skills Assessments' available at <https://www.skillsdevelopmentscotland.co.uk/what-we-do/skills-planning/regional-skills-assessments/>

Women's work is increasingly precarious, and women and men have different experiences of working within the gig economy. However, there is a lack of regional data to provide an understanding of the rates and types of insecure work for women. In addition, data relating to insecure work for specific groups of women in Scotland is almost entirely lacking. Data relating to insecure work, for example working contracts and use of zero-hour contracts, is currently available at the UK-level and is not disaggregated by region. There is also a lack of intersectional data relating to insecure work. We believe the Scottish Government should commit to further action to address this critical data gap.

### Poverty

As mentioned above, an additional action should be added on improving access to gender-disaggregated poverty data by designing mechanisms to reduce reliance on household-level statistics. A gender-blind focus on household income masks women's specific experiences of poverty, insecurity and financial abuse. Within the previous Child Poverty Delivery Plan, the Scottish Government acknowledged that "wider social structures and power relations mean that we cannot simply assume that women share the same access to resources, whether from paid work or from social security as men when they are in the same household. This can lead to hidden poverty within households, which may also affect children." The EqIA for the Delivery Plan also notes that "analysis on income and household income from normal sources does not allow effective disaggregation of gender, apart from in households where there is only one adult. This is an area where we will look to improve income data to be able to further evidence trends." As yet, there does not appear to have been significant progress in addressing this data gap, and we would strongly urge the Scottish Government to include an action in the strategy around improving access to gender-sensitive sex-disaggregated data on poverty. This should involve analysing financial dependence within the household; contribution to household resources; the risk of poverty for an individual becoming reality if the couple household they live in were to dissolve for some reason; and earnings data at the individual level.<sup>12</sup>

### Local Government

The actions proposed are unlikely to tackle the long-standing problems around data gathering, analysis and use in relation to local government. Close the Gap's assessments of public bodies' performance of the Scottish-specific duties identified a downward trend in performance levels since the first reports were published in

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<sup>12</sup> <https://wbg.org.uk/wp-content/uploads/2015/02/Gender-and-Poverty-Briefing-June-2015.pdf>

2013.<sup>13</sup> Local government was identified as the sector with the greatest deterioration in performance. This is a significant concern given the expectation that public bodies' understanding and performance of the duty should improve over time.

This downward trend is evident across the public sector, but the scope of service delivery by local authorities, and their role as employers, means that their poor performance is a particular concern. On service delivery, procurement is a clear example. The public sector equality duty requires public bodies to progress the use of procurement to advance equality and tackle discrimination. Close the Gap's assessment work found that local authorities had the poorest performance on the procurement duty; it was not possible to identify any evidence of equality being considered in procurement.<sup>14</sup> This is a significant missed opportunity as local authorities are the biggest users of procurement in the public sector, with this procurement having the potential to influence significant inequalities, for example the undervaluation of women's work in social care and childcare. Aside from the necessary strengthening of the public sector equality duty, local authorities' failure to gather and analysis data in relation to procurement is a barrier to its use to advance equality. An action should be added to ensure public authorities' are able to gather gender-sensitive sex-disaggregated data to inform procurement exercises and decisions.

Local authorities must make women's equality central to how they carry out their work in order to meet their obligations to their employees and service users. If gender equality is not mainstreamed into policymaking, local authorities are not developing good policy and, critically, not delivering value for public money. This is particularly important in the context of the consultation's comments on the availability of resources the improve the availability and use of data. Services that are designed without the use of equality data will be poorly tailored to the purpose and constituencies they serve, and therefore an inefficient use of public funds. There is a strong argument that action to increase and improve the use of equality data will deliver economic benefits in the form of improved policymaking, which would offset the upfront cost of said action. The action plan should therefore prioritise action to improve the availability, gathering, analysis and use of equality data in local government.

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<sup>13</sup> Close the Gap (unpublished) *Internal PSED assessment 2021*; Close the Gap (unpublished) *Internal PSED assessment 2017*; Close the Gap (2015) *Making Progress? An assessment of public sector employer performance of the public sector equality duty*; Close the Gap (2014) *Monitoring Scottish public bodies' compliance with the public sector equality duty*

<sup>14</sup> Close the Gap (unpublished) *Internal assessment of local authorities' performance of the public sector equality duty 2018*

### **6.1 Would you or your organisation like to collaborate with the Scottish Government on any of the proposed actions?**

Yes

### **6.2 Please tell us which actions you would like to collaborate with the Scottish Government on (including the action number) and how:**

As highlighted above, Close the Gap are disappointed that the project board did not contain any representatives from equality organisations. We believe that the draft strategy would have been stronger, and more ambitious, if there has been earlier collaboration on the development of the draft action. Close the Gap could collaborate with Scottish Government in the further development of the actions relating to our area of expertise and interest. In particular, we believe our expertise and knowledge would be useful in progressing actions 3, 13, 15 and 28. We would also welcome the opportunity to collaborate on the revised and additional actions we have detailed in this submission.

## **Section 3: Use of equality evidence**

### **8.1 How often do you or your organisation use equality evidence?**

Often

### **8.2 Which equality evidence sources do you or your organisation use?**

### **8.3 How do you or your organisation use equality evidence?**

### **8.4 How do you or your organisation usually access equality evidence?**

Using a range of equality evidence sources is a core aspect of Close the Gap's work. In particular, we analyse equality data on labour market participation; occupational segregation; education and skills policy; earnings; working hours; and poverty. Given the breadth of data we utilise within our work, we engage with data that is published by a range of stakeholders including the UK Government, Scottish Government, UK Statistics Authority and Scotland's enterprise and skills agencies.

A number of UK-wide surveys run by the Office for National Statistics (ONS) are of interest to Close the Gap, including the Labour Force Survey and the Annual Survey of Hours and Earnings. For example, Close the Gap publish an annual paper on the gender pay gap that uses the Annual Survey of Hours and Earnings. We also use the Labour Force Survey to analyse occupational segregation throughout our research and insight work. More recently, we used data relating to the Coronavirus Job Retention Scheme to highlight the different experiences of men and women during the pandemic.

We use this data in our policy and advocacy work, including the development of policy briefings and research, as well as our tools and guidance for employers. We also use this evidence within our engagement with a range of stakeholders including policymakers, employers, elected members and trade unions.

### **9.1 Do you face any barriers to using equality evidence?**

Yes

### **9.2 Please tell us about the barriers you have faced (e.g. difficulties accessing the equality evidence you require, available equality evidence not being relevant to your needs, insufficient sample size for the statistics you require)**

We encounter difficulties in accessing the data we require. This is particularly true for intersectional data on the experiences of Black and racialised women; disabled women; older women; younger women and single parents. Failure to publish data remains a barrier, including public bodies not publishing all of the equality data they gather.

In addition, high-quality equality analysis does not consistently accompany data releases which creates challenges to interpreting data. A key barrier is the lack of leadership on gender equality, and a consequent lack of gender competence within bodies responsible for gathering and analysing data, and specifically the teams which develop, publish and manage labour market data. The lack of gender competence within data functions, coupled with a lack of leadership on gender equality, means that improving the range of gender-sensitive, sex-disaggregated data is not identified as a key priority. As a result, there has been inadequate action to address long-standing issues with gendered data gaps. Close the Gap recommend that gender competence is developed, or brought-in, to those functions responsible for designing surveys and other data collection tools, recognising that gender analysis requires specific knowledge and skills.

An emerging trend which creates further barriers is a misinterpretation of data protection regulation. We have become aware that some public bodies have incorrectly interpreted the introduction of the EU General Data Protection Regulation (GDPR) as prohibiting them from asking service users their sex or gathering wider equalities data relating to their employees. Similarly, within the context of skills and training programmes, GDPR has been used as a reason for why public bodies or providers are unable to gather data on participants. In implementing this strategy, the Scottish Government should provide clear guidance to Government departments and public bodies around what is relevant and possible when gathering equalities data.

In recent years, Close the Gap has also engaged with public bodies that have interpreted their new understanding of non-binary identities as precluding asking staff members or service users about their sex on the grounds that it would be “offensive”. This is not only incorrect, but also harmful to women’s equality and rights. Sex-disaggregated data provides the building blocks for gender-sensitive data and gender competency<sup>15</sup>. If public bodies stop gathering data on employees’ and service users’ sex because of misunderstanding the law, or a concern about a risk to their organisation, there will be fewer gender-sensitive statistics with which to support policy, legislative, and service delivery change that benefits women and women’s rights.<sup>16</sup> Public bodies need clear and specific guidance, that is also gender competent, to enable them to gather, analyse and use gender sensitive sex-disaggregated data. This is a necessary step in developing employment practice and service delivery that will advance women’s equality and rights.

We have also seen public bodies using GDPR as a rationale for not gathering employee data, despite the fact that gathering employee data falls under legitimate use as it is legally required by the Public Sector Equality Duty.

**10.1 Are there any decisions you are unable to make because of a lack of equality evidence? (For example, Equality Impact Assessments (EQIAs), policy development, service delivery)**

Yes

**10.2 [For respondents who answer ‘Yes’ to Question 10.1] Please tell us which questions you are unable to answer and why those questions are important to answer (e.g. what policies or practices could be informed by answering those questions’).**

Throughout this submission, we have highlighted a number of questions which we are unable to answer including poverty rates among women and how household resources are split between couples in mixed-sex relationships. The lack of intersectional data pertaining to the labour market, poverty and the economy makes it difficult to answer questions about the experiences of particular groups of women in the labour market. For example, during the pandemic the lack of intersectional data relating to Covid-19 job disruption, including beneficiaries of the Coronavirus

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<sup>15</sup> Gender competence refers to the skills, knowledge and analytical capability to develop policy that is well-gendered; that takes account of the socially constructed difference between men’s and women’s lives and experiences.

<sup>16</sup> Engender (2020) *Sex/gender: Gathering and using data to enhance women’s equality and rights in Scotland*

Job Retention Scheme and unemployment rates, made it extremely difficult to develop meaningful conclusions around the experiences of Black and racialised women and disabled women. Improving the range of intersectional gender-sensitive sex-disaggregated data is key to better policymaking and critical to embedding gender mainstreaming approaches. Gender mainstreaming is not yet visible in the work of the Scottish Government, and we continue to see gender-blind policymaking that fails to take account of men's and women's differing needs and experiences.

Last year, Close the Gap responded to the UK Statistics Authority's consultation into Inclusive Data where we highlighted some of the key data and evidence that Close the Gap has been unable to access as a result of pre-existing data gaps including:

- Gender pay gap information by ethnicity and disability at the Scottish-level;
- Gender pay gap information by age at the Scottish-level;
- Coronavirus Job Retention Scheme statistics relating to sector and gender at the Scottish-level;
- Workforce jobs by industry, sex and race and workforce jobs by industry, sex and disability;
- Employment by occupation, sex and race and employment by occupation, sex and disability;
- Data on flexible working by flexible working type, region and protected characteristic;
- Underemployment and skills utilisation by gender, race and disability and region; and
- Data relating to insecure work by gender, race and disability by region.

The poor quality of Equality Impact Assessments (EQIA) makes it difficult to answer questions as to how Scottish Government have considered gender inequality in policymaking. EQIAs are intended to be done early in the policymaking process to ensure that outcomes are gender-sensitive and do not exacerbate women's inequality. However, EQIAs are often completed to a very poor standard, completed too late in the policy process, or not at all, and contain insufficient detail as to how the Government will attempt to address data gaps.

Overall, the data gaps highlighted in this response function as a barrier to better quality evidence on the experiences of different groups of women, and therefore exacerbates their inequality. The lack of data and evidence also entrenches women's inequality in the labour market because there is a lack of information to appropriately and comprehensively demonstrate the differences between women's and men's experiences of the labour market.

**11.1 Do you or your organisation produce any equality evidence sources? For example, do your organisation involve stakeholders in finding out what issues they**

**think are important through surveys or focus groups, pull together or carry out your own analysis of existing information, or commission independent research and analysis.**

Yes

### **11.2 Which equality evidence sources do you or your organisation produce?**

Close the Gap produce an annual report on the gender pay gap in Scotland which utilises the Annual Survey of Hours and Earnings results and wider international data relating to the gender pay gap. As highlighted elsewhere within this submission, a key aspect of Close the Gap's work is to improve the evidence base relating to women's experiences of employment. For example, during Covid-19, we produced papers analysing labour market data to make conclusions about how the crisis was impacting women's employment. In 2019, Close the Gap published research on the labour market experience of Black and racialised women in Scotland. Providing an important insight into the lived experiences of Black and racialised women at work in Scotland, *Still Not Visible: Research on Black and ethnic minority women's experiences of employment in Scotland* captures data on key aspects of employment across recruitment, development and workplace culture.<sup>17</sup> Close the Gap are also in the process of developing forthcoming research into disabled women's experiences of the labour market in Scotland.

During the pandemic, Close the Gap joined with other women's organisations across UK including Engender, the UK Women's Budget Group, the Fawcett Society, Women's Equality Network Wales and the Northern Ireland Women's Budget Group in a polling project to collect quantitative survey data on the impact of Covid-19 on women. Within this project, there was an emphasis on intersectional data.<sup>18</sup>

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<sup>17</sup> Close the Gap (2019) *Still Not Visible: Research on Black and minority ethnic women's experiences of employment in Scotland*

<sup>18</sup> See Close the Gap (2022) *An Unequal Burden: How Covid-19 has affected women's employment, financial security and unpaid work*