



Joint response to the Finance and Public Administration Committee Inquiry into Effective Scottish Government decision- making

February 2023

Introduction

Engender, Scottish Women's Aid and Close the Gap welcome the chance to respond to the Committee's inquiry into effective Scottish Government decision-making. All three of our organisations have extensive experience working alongside Ministers and civil servants in Scottish Government to create better policy for women's equality across a broad range of issues. From our experience, we know that entrenched structural inequalities in our public institutions and biases in our decision-making architecture act as a major remaining barrier to equality. All policy and decision making by the Scottish Government and Parliament provide opportunities for us to either adequately address inequality, act in a neutral way, or further compound and entrench inequality. If we do not identify and root out these structural barriers and biases, then at best, the strength of our decision making is compromised, and at worst, we risk doing more harm than good.

There are broadly good intentions within Scottish Government towards tackling the issues that cause and maintain gender inequality in Scotland. However, less well developed is the understanding that to effectively address gender inequality, responses need to be identified across, and integrated into all of the work of Scottish Government – through gender-sensitive, coherent policy and decision-making. Stand-alone, targeted initiatives on equality are welcome and necessary. However, their impact is often limited and undercut by deep-rooted gendered biases and norms that are embedded within operational structures and culture that stubbornly resist change. To secure gender equality, a more gendered, coherent and integrated approach is required across government, and operational structural and cultural barriers need to be identified and tackled head-on.

Multiple long-standing commitments by the Scottish Government on gender mainstreaming offer vital opportunities to ensure that Government policy, decision-making and programmes deliver better outcomes for women and girls, and reduce gender inequality. However, further work is needed to ensure these commitments are thoughtfully developed, adequately resourced, and delivered in a measurable and accountable way.

These existing commitments from Scottish Government include:

- Mainstreaming gender analysis and data collection in decision-making, as part of upholding legal duties of Scottish Government under the Public Sector Equality Duty and Scottish Specific Duties.¹
- Conducting and publishing Equality Impact Assessments (EQIAs) when developing policy as part of carrying out PSED duties.
- Annual equality outcomes and mainstreaming reports.
- An annual equality assessment of the budget, presented in an Equality Statement, published each year alongside the Scottish Draft Budget.
- Implementing the recommendations of the Equality and Human Rights Budget Advisory Group (EHRBAG) to improve budgetary processes.²
- Implementing the full list of recommendations from the National Advisory Council for Women and Girls;³ this includes specific action to improve existing PSED duties.
- Developing a national Equality and Human Rights Mainstreaming Strategy.

1. What are key methodologies, processes and principles that should underpin an effective decision-making process in Government?

Effective decision-making in Government must prioritise under-served populations and explicitly seek to improve the lives of groups who are most likely to be disadvantaged by inequality and have their human rights violated. This is particularly important at times where resources are scarce, and in crisis-management scenarios, including the moment we now find ourselves in.

For example, in response to the Covid-19 pandemic, we saw the need for Government to make urgent decisions and reallocate large amounts of financial and human resources to deal with the public health emergency. From our organisations' extensive work⁴ on the impact of the pandemic and gendered analysis of public policy responses, aspects of that decision-making have contributed to a rollback on women's rights and equality in areas including health, care, financial security, employment, violence against women and housing. Within this, specific issues and deeper impacts have manifested for Black and minoritised women, young women, disabled women, unpaid carers, mothers, women who are single parents, pregnant women, LGBTI women, and women with insecure

¹ Gender mainstreaming is a legal requirement for Scottish Government, as part of their Public Sector Equalities Duties, enshrined in the Equality Act 2010 and The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

² EHRBAG (2021) Equality Budget Advisory Group: Recommendations for equality and human rights budgeting – 2021 – 2026 parliamentary session. Scottish Government. Available at: <https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/pages/processes/>.

³ NACWG (2023) Our Recommendations. First Minister's National Advisory Council on Women and Girls. Available at: <https://www.generationequal.scot/our-recommendations/>.

⁴ Reports, consultation responses and parliamentary briefings can be found at: <https://www.engender.org.uk/content/publications/>; and <https://www.closesthegap.org.uk/content/covid-19/>.

immigration status, amongst other groups who experience intersecting forms of oppression and discrimination.

Gender and Equalities Mainstreaming

The disproportionate and damaging impact on women could have been mitigated to a greater extent if gender, and intersecting inequalities, had been mainstreamed as a key concern throughout Scottish Government's crisis management, ongoing strategic and policy responses, crisis funding, and recovery plans. However, an essential equalities focus has not historically been adequately integrated or mainstreamed into Scottish Government and other bodies' approaches.

The Covid-19 pandemic has shown clearly the severity of the impact these weaknesses in approach can have for women across Scotland. This is also true of ongoing Covid-19 recovery initiatives. For example, although the Advisory Group on Economic Recovery's report covers unquestionably gendered areas, such as employment, skills, enterprise and entrepreneurship, education, care, and macroeconomics, the systemic links with gender inequality are not made clear, and recommendations have not been tested in terms of gendered impacts.

The disproportionate impact of the pandemic on women has demonstrated that there is an urgent need for policymakers to better integrate women's needs and the diverse realities of women's lives into decision-making to protect women's jobs, incomes, safety, health, and wellbeing.⁵ The collection and analysis of intersectional gender-sensitive sex-disaggregated data on women's experiences is central to this and should be a core part of how policy decisions are made in Scottish Government.

Equality Impact Assessments

For many years, our organisations have called for improved use of Equality Impact Assessments (EQIAs) as a routine part of policymaking. EQIA is a legal requirement of the public sector equality duty which has been in place for over a decade. These should be undertaken from the very outset of policy development in order to safeguard against ingrained bias and decision-making that further entrenches existing inequalities, and instead improve outcomes for women and marginalised groups. However, EQIAs are commonly produced retroactively after policy decisions have been made by Government, at a stage in development when only tweaks are possible, or not at all. In our experience, it is rare to see an EQIA which results in changes to a policy. EQIAs must be intersectional

⁵ Engender and Close the Gap (2021) Joint briefing on the impact of COVID-19 on women's wellbeing, mental health, and financial security. Available at: <https://www.engender.org.uk/content/publications/Close-the-Gap-and-Engender-Joint-briefing-on-the-impact-of-COVID-19-on-womens-wellbeing-mental-health-and-financial-security.pdf>.

in approach, recognising that many people experience multiple intersecting and often compounding forms of discrimination when accessing public services. However, a lack of intersectional data and capability in public bodies to do intersectional analysis often prevents this.

Gender Budget Analysis

Additionally, we continue to have concerns regarding the lack of attention the Scottish Budget process pays to structural gender inequality, and women's and men's differing lived experience. Existing commitments to gender budgeting have not led to its consistent application in Scotland. Policy analysis that informs revenue-raising and spending decisions must be underpinned by equality objectives that reflect women's lives, such as addressing the disproportionate delivery of care and reproductive labour that is often excluded from economic discussions.⁶ Gender Budget Analysis can expose unwitting bias within budgetary processes that are otherwise assumed to be gender-neutral. Used well, it will strengthen gender equality of outcomes across all public expenditure and government departments, with broad benefits for communities overall.

The Equality and Fairer Budget Statement 2022-23 (EFSBS) did not include robust analysis of the negative impacts of decisions on equalities groups, such as cuts to the social care portfolio and the impact of inflation on the Scottish Child Payment. The current EFSBS instead includes a list of disparate issues that give only a cursory reflection of spend on equalities issues across government. This scattergun approach does not allow for analysis of the cumulative impact of spending on women, men and gender equality, offers no explanation as to why specific inequalities were included at the expense of others, and limits the ability to make clear connections between the rights and inequalities identified, as well as across protected characteristics.

The EFSBS must be re-developed as a tool to inform budget decision-making, rather than retrofitted after key decisions have been made. At an early stage in the budget process, there must be resource to provide quality, transparent analysis of the equality impacts through the budget in an accessible format to shape decision-making. Scottish Government has convened an Equality and Human Rights Budget Advisory Group. They published detailed recommendations⁷ for equality and human rights budgeting for the 2021-2026 Parliamentary Session in July 2021. These have yet to be actioned fully, and

⁶ Engender and Close the Gap (2020) Making inclusive growth work for women in Scotland. Available at: https://www.engender.org.uk/content/publications/1591173199_Gender--Inclusive-Growth---Makinginclusivegrowth-work-for-women-in-Scotland.pdf.

⁷ EHRBAG (2021) Equality Budget Advisory Group: Recommendations for equality and human rights budgeting – 2021 – 2026 parliamentary session. Scottish Government. Available at: <https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/pages/processes/>.

we would urge Scottish Government to develop these recommendations into a prioritised and well-resourced action plan.

2. What are the capabilities and skills necessary for civil servants to support effective decision making, and in what ways could these be developed further?

Our organisations continue to be highly concerned by the lack of capacity and competence within government to carry out meaningful intersectional gender analysis. We need to see a gender and equalities competent workforce, as standard, across Government in order to ensure decision-making is not biased or undermining of equalities aims, is coherent and effective and secures the necessary outcomes for women, marginalised groups and communities across Scotland.

For example, competency in undertaking EQIAs is a specific skill set. The current situation that many organisations in civil society are faced with is a situation where expertise and gendered policymaking knowledge is lost as civil servants move roles with a high degree of frequency. In particular, this leads to equalities organisations having to frequently go back to basics regarding equality analysis, key policy positions and sharing of evidence and analysis – with varying success at seeing gendered approaches embedded in long-term policy planning. This also creates a significant burden on the staff and resources of civil society, which are often small organisations with limited funding, and lower pay scales for staff, to inform and upskill civil servants on equalities learning that should be a primary competency for any policy-making role within government.

A strategic mechanism to build intersectional gender competence in all policy and analytical staff, as well as senior staff, is a vital part of this picture. Detailed recommendations from the National Advisory Council for Women and Girls⁸ set out how creating a gender-competent workforce in Government goes beyond just training staff. NACWG is currently scrutinising the extent to which Scottish Government is implementing the recommendations, and attention from the Committee would help in ensuring these initiatives are as effective as possible. The following NACWG recommendations,⁹ all accepted by Scottish Government, are vital for the Committee to consider in this inquiry:

- ‘The creation of a standalone Equalities Directorate, along with the establishment of “Centres of Expertise” created in all Scottish Government Directorates, on intersectional gender competence.
- The creation of a senior officials and leaders group.

⁸ NACWG (2023) First Minister’s National Advisory Council on Women and Girls. Available at: <https://www.generationequal.scot/>.

⁹ NACWG (2023) Leadership: Our recommendations. First Minister’s National Advisory Council on Women and Girls. Available at: <https://www.generationequal.scot/our-recommendations/leadership/>.

- The creation of “Policy-makers National Standards” to support quality standards and accountability on intersectional gender competence in policymaking, with a requirement that all policy and analytical staff will adhere to it.
- The need for the Scottish Government to integrate intersectional gender budget analysis into the Scottish Budget process, and to give this a statutory footing.
- For the Scottish Government, as part of the current review of the Public Sector Equality Duty (PSED) regulations in Scotland to place additional specific duties on listed Public Bodies to:
 - o Gather and use intersectional data, including employment and service-user data, to advance equality between protected groups, including men and women;
 - o Integrate intersectional gender budget analysis into their budget-setting procedures.’

Effective improvement requires a critical analysis of existing behaviours, a clear description of desired behaviours, and a competent and transparent assessment of what resources are needed for staff to move from existing to gender-competent behaviours. This should include training, coaching, clear accountability processes and an implementation infrastructure undertaken with gender experts' advice and assistance.

Another important issue to highlight is the current move in Government to combine commitments on embedding equalities approaches with those on embedding human rights analysis across decision-making. We recognise that both equalities and human rights lenses must be embedded in the work of Government. However, we continue to be concerned that a gender equality focus is being lost as more resource is channelled into human rights-based approaches to decision-making. Human rights frameworks are vital, but do not by default provide the level of detail on intersectional gender analysis which equalities approaches bring to the work of Government. Existing commitments to gender mainstreaming have not yet led to its consistent application,¹⁰ and greater attention to human rights approaches, including in budgeting decision-making, must be managed in a way that does not exclude a structural analysis of identity-based discrimination and inequality.

3. What are the behaviours and culture that promote effective decision-making?

We believe effective decision-making comes from creating a culture in Government where long-term policy approaches are prioritised over short-term political strategies. There is an increasing need to look at root causes, prevention and early intervention with an intersectional gendered lens across all policy areas, to move away from Government

¹⁰ Scottish Government (2020) Equality and Fairer Scotland Budget Statement 2020-21, Annex B. Available at: <https://www.gov.scot/publications/equality-fairer-scotland-budget-statement-scottish-budget-2020-21/documents/>.

having to focus resources on reactive or crisis decision-making, often in response to the inevitable impacts of systemic inequality.

We need to see a culture shift and changes in practice in Government, whereby equalities is broadly understood as a core part of daily operations – rather than an add-on or retroactive analysis. There is buy-in from some senior leaders with regards to this, as reflected in work to implement NACWG's recommendations on creating intersectional gender architecture. However, little is understood about blockages or resistance, or the scale and impact of this problem, at different levels of government and outwith the Directorate for Equality Inclusion and Human Rights.

Within scholarship on gender mainstreaming, the concept of 'deep structure or culture'¹¹ has been advanced to describe the collection of values, history, culture and practices that form the basis of organisational choices and behaviours and are gendered, often unquestioned and kept in place by power structures. This explains how high-level commitments and good intentions on gender equality are often undermined by lower-level, everyday obstruction. This can look like people defaulting to assumptions that this isn't their responsibility, that it sits only with equalities experts, that it's too hard or represents too much change, that it's okay to cut corners on gender or equalities when under pressure, or that referencing women is enough. It is these norms and practices that need to change if higher-level ambitions are to be realised, and this takes consistent, systemic work that is resourced on a permanent basis so that it will become part of the DNA of how Scottish Government operates.

4. What is best practice in relation to what information is recorded, by whom and how should it be used to support effective decision-making?

Gender-sensitive, intersectional data collection and use

In order to make public policy and legislation that works for all women, and that can advance equality and realise women's rights, it is imperative that public bodies, including Scottish Government, gather, use and publish data that captures the range of women's intersecting experiences. As expert national women's organisations, we have worked consistently to advocate for better quality gender-sensitive, sex-disaggregated, and intersectional data. Most recently, Engender and Close the Gap laid out in detail the need for better capturing, analysis, publication and use of gendered, intersectional data in responses to the Scottish Government's Equality Evidence Strategy 2023 to 2025.¹²

¹¹ Rao A, Kelleher D, Miller C (2015) No Shortcuts to Shifting Deep Structures in Organisations. *IDS Bulletin* 46:82–91.

¹² See: Engender (2022) Engender response to the Scottish Government's Equality Evidence Strategy 2023 to 2025 consultation. Available at: <https://www.engender.org.uk/content/publications/Engender-response-to-the-Scottish-Government--Equality-Data-Strategy.pdf>; and Close the Gap (2022) Close the Gap response to the Scottish Government's consultation on the Equality Evidence Strategy 2023 to 2025. Available at:

Historically, we know that equalities data has tended to be seen as something that is 'optional', 'optimal but not necessarily essential', that is relevant only in equalities policy-making and impacts only certain protected groups.

The use of equality evidence needs to be understood as foundational and critical to ensuring equitable and evidence-based decision-making across all major policy portfolios. It is relevant across all policymaking and has the potential to minimise bias in policymaking and subsequent harms caused to equality groups such as women and to help create transformational improvements in equality outcomes, as well as systemic change in how our society operates with benefits across communities. If this data analysis is not used to inform and frame policy decision-making, then policymakers run the very real risk of upholding systemic biases in how our public services are designed and delivered and the outcomes they achieve, further entrenching existing inequalities experienced by women.

From a legal perspective, gathering equalities data, including gender-sensitive sex-disaggregated data, is a requirement placed on Scottish public bodies by both domestic law,¹³ in the form of the public sector equality duty in the Equality Act 2010, and international obligations, in the form of the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).¹⁴

It is rare for any research report, parliamentary briefing, or consultation response that we publish to not include a call for gender-sensitive and sex-disaggregated data to be produced. As an indicator, recommendations for substantive programmes of gender-sensitive data development can be found in reports on such diverse topics as hate

<https://www.closesthegap.org.uk/content/resources/Close-the-Gap-reponse-to-the-SG-Equality-Evidence-Strategy-Consultation-2023-25.pdf>.

¹³ EHRC Scotland (2016) Technical Guidance on the Public Sector Equality Duty: Scotland. Available at: https://www.equalityhumanrights.com/sites/default/files/redraft_of_psd_tech_guidance_-_v6sc.pdf.

¹⁴ UN Committee on the Elimination of Discrimination against Women (2019) Concluding Observations on the Eighth Periodic Report of the United Kingdom of Great Britain and Northern Ireland. United Nations.

crime,¹⁵ disabled women's health,¹⁶ employability,¹⁷ skills,¹⁸ education and training,¹⁹ social security,²⁰ and enterprise and business support,²¹ and in all of the advocacy with policymakers and parliamentarians that has followed. These are not wish lists peripheral to the central issue: failure to gather, analyse, and use gender-sensitive data has been a serious impediment to gender mainstreaming, and as such, the quality of policy-making and programme development.

Furthermore, producing gender statistics requires statisticians and analysts to move beyond simply counting women, and to fundamentally interrogate their assumptions and potential bias. In doing so, those responsible for the production of these data must acquire sufficient gender competence to work effectively.

5. What does effective decision-making by the Scottish Government 'look like' and how should it learn from what has worked well and not so well? Please share any best practice examples.

The points we have made so far with regards to what should be integrated into the foundation of Scottish Government decision-making are crucial, namely:

- Gender equality focus and mainstreaming
- EQIAS
- Gender Budget Analysis
- Gender and equalities competency across Scottish Government teams
- Gender-sensitive, intersectional data collection and use

¹⁵ Engender (2019) Making women safer in Scotland: The case for a standalone misogyny offence. Available at: <https://www.engender.org.uk/content/publications/Making-Women-Safer-in-Scotland---the-case-for-a-standalone-misogynyoffence.pdf>.

¹⁶ Engender (2018) Our Bodies, Our Rights: Identifying and removing barriers to disabled women's reproductive rights in Scotland. Available at: <https://engender.org.uk/content/publications/Our-bodies-our-rights---Identifying-and-removing-barriers-to-disabledwomens-reproductive-rights-in-Scotland.pdf>.

¹⁷ Engender (2016) Unblocking the Pipeline: Gender and Employability in Scotland. Available at <https://engender.org.uk/content/publications/Unblocking-the-Pipeline---Gender-and-Employability-in-Scotland.pdf>.

¹⁸ Close the Gap (2021) One Year On: How Covid-19 is impacting women's labour market equality. Available at: <https://www.closesthegap.org.uk/content/resources/One-Year-On---How-COVID-19-is-impacting-womens-employment-in-Scotland.pdf>.

¹⁹ Close the Gap (2020) A Gender Review of Developing the Young Workforce. Available at: <https://www.closesthegap.org.uk/content/resources/A-gender-review-of-Developing-the-Young-Workforce--Scotlands-youth-unemployment-strategy.pdf>.

²⁰ Engender (2016) Securing women's futures: Using Scotland's new social security powers to close the gender equality gap. Available at: <https://engender.org.uk/content/publications/Securing-Womens-Futures---using-Scotlands-new-social-security-powers-to-close-the-gender-equality-gap.pdf>.

²¹ Close the Gap (2018) The Gender Penalty: Exploring the causes and solutions to Scotland's gender pay gap. Available at: <https://www.closesthegap.org.uk/content/resources/The-Gender-Penalty-Feb-2018.pdf>.

Policy Coherence

Gender policy coherence is also vital, meaning that decisions taken in other parts of government must not undermine progress on reducing gender inequality overall. In the current context of restrained budgets and cuts, our earlier comments on the potential for significant harm if gender is not integrated into crisis decision making, is worth restating.

The gender pay gap action plan²² was the first cohesive strategic approach to tackling the pay gap in Scotland and included a number of bold and wide-ranging actions. In 2022 Scottish Government subsumed the pay gap action plan into a refreshed fair work action plan²³ along with the action plan for the disability employment gap and the anti-racist employment strategy, with the aim of mainstreaming equality in fair work policy. The gender pay gap is the headline indicator of the divergent experiences women have, not only in employment but also in education and training, care and other domestic labour, and men's violence. The breadth of the gender pay gap action plan recognised this, and set out action around critical systemic influencers such as employability programme design, social security, and violence against women. The fair work action plan, by its nature, is more narrowly focused on the workplace. The merging has resulted in diminished attention on the complex, interrelated causes of the pay gap, a much more limited range of actions to address these causes, and will ultimately mean less progress on women's labour market equality.

Implementation

Another important point to draw out in the inquiry is the policy implementation gap in Scotland regarding women's equality and gender mainstreaming. We have welcomed positive developments over recent years, notably regarding Scottish Government's acceptance of the recommendations set out by the First Minister's National Advisory Council on Women and Girls, Equally Safe, and the gender pay gap action plan. However, our organisations continue to be concerned with the slow pace at which many of the commitments are being taken forward, apparent shortfalls in resourcing and the lack of joined-up decision-making across government. Critically, many of these commitments, for instance, the development of a national equality and human rights mainstreaming strategy, have not been adequately resourced. It is vital that budgetary decision-making account for existing commitments.

There are existing commitments made by Scottish Government on a number of areas which have seen significant delay in implementation and further development after

²² Scottish Government (2019) A Fairer Scotland for Women: Gender pay gap action plan. Available at: <https://www.gov.scot/publications/fairer-scotland-women-gender-pay-gap-action-plan/>.

²³ Scottish Government (2022) Fair Work action plan: becoming a leading Fair Work nation by 2025. Available at: <https://www.gov.scot/publications/fair-work-action-plan-becoming-leading-fair-work-nation-2025/>.

being accepted by decision-makers. For example, a leaving fund for women experiencing domestic abuse was committed to as part of the accepted recommendations of the Improving Housing Outcomes for Women and Children working group in 2020.²⁴ We had hoped to see this commitment feature in the recent Budget announcements, but there is yet to be any commitment of financial or other resources allocated to provide this much-needed financial support, which has become even more urgent in the current cost of living crisis.

We have also seen the development of the National Strategy for Economic Transformation as a key example of the implementation gap which exists in gender mainstreaming across Government. NSET fails to consider equalities analysis meaningfully throughout, and as a result, is a gender-blind strategy. This is a foundational area where gender and intersectional equalities *must* be considered, based on the extensive evidence of economic inequality across numerous policy areas – whether that be access to the labour market, the impact of unpaid work or the gendered nature of caring roles. Without this underpinning analysis, NSET runs the real risk of doing little to address gender inequalities, and potentially deepening existing inequity. Scottish Government has committed to the creation of an internal Centre for Expertise to influence economic policy-making. Whilst highly welcome, the impact of this initiative will ultimately be undermined for the foreseeable future whilst the current national strategy remains completely gender-blind.

6. To what extent should there be similarities or differences in the process for decision-making across the Scottish Government?

There must be consistent and vastly improved use of EQIAs in a standardised, competent way across Scottish Government. In Engender's response to Scottish Government's consultation on the Scottish Specific Duties of the public sector equality duty, we propose that listed authorities are required to follow a prescribed set of criteria that must be met in undertaking an EQIA. As the consultation document describes, many listed authorities have indicated that such an approach would be welcome. We have developed the set of steps below following years of being approached for views on or support with developing EQIAs, as well as regular analysis of those relating to key policy areas for women's equality:

²⁴ CIHS and Scottish Women's Aid (2020) Improving housing outcomes for women and children experiencing domestic abuse: Scottish Government working group report. Available at: <https://womensaid.scot/wp-content/uploads/2020/12/Improving-Housing-Outcomes-for-Women-and-Children-Experiencing-Domestic-Abuse-Report.pdf>.

1. Relevant qualitative and quantitative evidence relating to women (and all other protected characteristics) is described;
2. Gaps in evidence are identified, and needed additional research is outlined;
3. Existing evidence is analysed from a gender equality perspective (and from the perspective of all other protected characteristics);
4. This analysis is applied to identify where gender inequality and discrimination against women can be reduced and where women's equality can be advanced;
5. Policy is developed or adapted to address the inequalities and opportunities to advance equality that have been identified, including steps to fill gaps in the evidence base.

The components of these standards should be summarised in regulation and set out in detail in statutory guidance.

More broadly, a renewed and resourced approach to ensure that EQIAs function as intended is vital. This would see EQIA actually embedded in the policy design process at the effective point, and supported by a comprehensive programme of capacity building on all equality strands and on the process of intersectional gender mainstreaming. Engender is calling for a well-resourced EQIA improvement programme that addresses the fundamental weaknesses that have been identified throughout the review of PSED in Scotland.

Within the improvement programme, responsibility for implementing and approving EQIAs must be clearly established. Gender and equalities competencies and EQIA should be made an 'essential' component of job descriptions for policy analysts, researchers and others routinely conducting this work. In other contexts, where staff undertake EQIAs on an ad-hoc basis, we recommend a 'buddy system' of peer support and development. As an interim measure, a 'double stamp' system of approval should include sign-off by a manager within the team developing the activity and the designated gender equality expert for that team. Over time, as capacity is built, the need for quality assurance by a gender specialist would recede. The quality of EQIAs should be incorporated into performance management frameworks. Engender also advocates for the creation of a Scottish Government EQIA review panel, with the authority to compel EQIAs to be revisited within the policymaking process. This would allow wider expertise to be brought to bear more effectively within the process and allow concerns to be identified and resolved within a timescale that is compatible with policymaking. Once established, coverage for listed authorities could be explored.

7. What role should 'critical challenge' have in Government decision-making, when should it be used in the process and who should provide it?

Meaningful 'critical challenge' requires that processes for decision-making are strategic, in a way which builds in enough time for challenge to be heard and incorporated into how decisions are made. To aid this, the Scottish Government has established a set of national strategic intermediaries, including organisations such as Engender, Scottish Women's Aid, Rape Crisis, Close the Gap and Victim Support Scotland. These organisations are all advocates operating at the national level whose job it is to be critical friends to Government. This is an example of good practice when it comes to embracing critical challenge, but we find repeatedly that Government does not utilise the guidance of these organisations to the extent it should, and that consultation is at times tokenistic, time-consuming and resource intensive for our organisations, without sufficient return or impact.

For example, in the development of the National Strategy for Economic Transformation (NSET), the Government did not build in opportunities for critical challenge from the national strategic intermediaries from across the women's sector. As a result, NSET was created without the input or consultation of gender experts.

8. What is considered to be the most appropriate way of taking account of risk as part of effective Government decision-making?

We would refer you to our earlier points on mainstreaming and, in particular, EQIAs. These serve a crucial purpose in determining which groups or individuals face which risks in relation to policy decisions. The earlier example we provided of decision-making during the Covid-19 crisis provided a clear example of how institutions can, sometimes unintentionally, shift disproportionate risk onto women, children and marginalised groups – particularly, but not exclusively, when making difficult, time-pressured decisions.

9. How can transparency of the decision-making process be improved?

In terms of transparency of how the Government can demonstrate the use of intersectional gender analysis across decision-making, the NACWG recommendation²⁵ on the scrutiny of gender-competent policymaking is vital: 'We recommend Scottish Ministers deliver an Annual Statement, followed by a debate, on Gender Policy Coherence to the Scottish Parliament.' An annual statement like this would ensure further transparency in decision-making by Government, to provide a clear rationale and

²⁵ NACWG (2023) Accountability: Our recommendations. First Minister's National Advisory Council on Women and Girls. Available at: <https://www.generationequal.scot/our-recommendations/accountability/>.

evidence for how policymaking is impacting women and equalities groups across Scotland.

We also advocate for much-improved participation practices in Government decision-making, which build in the involvement of lived experience panels and other best-practice mechanisms for participation. This allows groups with direct experience on a policy issue to shape the decision-making process. However, it is vital that any such approaches adhere to best practice standards regarding transparency, impact of input and feedback to any participants involved in decision-making. Intersectional gender considerations are a key part of this, specifically inclusion of women from marginalised groups who face intersectional discrimination.

Resourcing is also a key consideration. Effective participation and engagement can only happen if organisations are adequately funded to be able to respond to requests from government. At the moment, demand from Scottish Government for the third sector to backfill gaps in equalities knowledge and skills within government often far outweighs supply - based on resourcing in voluntary organisations. Given the scale of commitments that are waiting to be implemented, and the current downwards pressures on budgets, the scope for effective participation and engagement could be significantly disrupted in future.

In reporting on the process for policy development, relevant detail on how lived experience has been considered and shaped the overall outcome must be clear and meaningful, in particular to avoid tokenistic involvement of equalities groups by Government.

The NACWG²⁶ have also made recommendations which cover this area:

‘People powered policy-making:

- The Scottish Government, Local Government and Public Bodies should build on existing work already underway (Scottish Approach to Service Design) to create a genuine effort in co-production of policy-making with evidence of lived experience at its heart.
- Audit Scotland and the Accounts Commission consider producing a set of scrutiny principles to support this methodology/approach for public bodies, similar to their recent “Principles for Community Empowerment”, (linked to the Policy-makers National Standards).
- We recommend adequate resourcing to enable the collection and analysis of robust intersectional data.’

²⁶ NACWG (2023) Creating Conditions: Our recommendations. First Minister’s National Advisory Council on Women and Girls. Available at: <https://www.generationequal.scot/our-recommendations/creating-conditions/>.



Engender is Scotland's feminist policy and advocacy organisation. Our aspiration is for a Scotland where women and men have equal access to rights, resources, decision-making and safety.



Close the Gap

Close the Gap is Scotland's policy advocacy organisation working on women's labour market equality. We work with policymakers, employers and union to influence and enable action to tackle the causes of the gender pay gap.



Scottish Women's Aid is the lead organisation in Scotland working towards the prevention of domestic abuse. We play a vital role coordinating, influencing and campaigning for effective responses to domestic abuse.