

Pre-budget scrutiny 2022-23
Evidence to the Equalities, Human Rights and Civil Justice Committee

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Resource allocation

The Government has three obligations:

'Minimum Core' - to allocate resources in a way that reduces inequalities whilst ensuring, at a minimum, a basic level of rights enjoyment for all.

'Progressive Realisation' - to generally increase allocated resources, in line with increased revenue, to achieve the further realisation of rights.

'Non-regression' - to ensure there is no unjustified reduction in allocation leading to regression in the realisation of rights.

1. In terms of resource allocation what areas do you think are: sufficiently resourced, and/or under resourced and where resources need to be redirected to?

2. How might resource allocation address inequalities and the gaps in the realisation of human rights for all?

2.1. The realisation of human rights and the budgetary process interact in complex and different ways. Firstly, there is a direct linkage between budgetary decisions and the realisation (or frustration) of human rights. It is well established that budgetary decisions have significant impacts on the ability to fulfil human rights. Furthermore, states have positive obligations to take rights into account when making decisions relevant to public expenditure, including the right to equality and non-discrimination, the right to life, the right to health, the right to education, and the right to food.

2.2. In the Scottish context, as the Committee rightly identifies, the Scottish Human Rights Commission has advocated the incorporation of a human rights approach to budgeting. The Commission published a series of briefing papers on this subject matter in 2019 (1), which provide guidance for budgeting in a way that complies with international human rights obligations. The papers contain significant principles, measures and criteria that we fully endorse.

2.3. We respectfully call the Committee's attention to the report published in January 2021 by the Social Renewal Advisory Board, which highlighted the need to incorporate a human rights-based approach to budgeting and recommended the government make a "commitment to integrate equality and human rights budgeting in the Scottish Budget process to ensure that needs are reflected in policy and resource allocation processes through the Scottish Budget to public authorities charged with delivering on the National Outcomes" (2). We also call the Committee's attention to the close links between human rights and the "National Outcomes"

referred to by the Social Renewal Advisory Board. These outcomes are contained in the Scottish' "National Performance Framework" (3), and closely aligned with the United Nations Sustainable Development Goals. They include the respect, protection and fulfilment of human rights, that people in Scotland live free from discrimination, and that poverty is tackled by sharing opportunities, wealth and power more equally.

2.4. As Scotland makes its way to COVID-19 recovery, the significance of a human rights-based approach to the budget is more important than ever. During the fifth session of the Scottish Parliament, this Committee undertook an inquiry into the "impact of COVID-19 pandemic on Equalities and Human Rights". The inquiry shed light on those groups and individuals who had been disproportionately impacted by the pandemic, and made twelve concrete recommendations from issues that have been widely discussed, such as social care, mental health and economic relief packages, to issues that are less prominent in the political debates on COVID-19. Among the latter, are recommendations concerning asylum seekers and refugees, Gypsy, Traveller and Roma communities, incarcerated persons, people with "no recourse to public funds", people experiencing digital inclusion problems, show people, and LGBT+ communities. We submit that the Committee predecessor's report provides a valuable source of recommendations to identify priorities for a human rights approach to budgeting (4).

References

(1) The Scottish Human Rights Commission's briefing papers are available at:

<https://www.scottishhumanrights.com/projects-and-programmes/human-rights-budget-work/>

(2) Social Renewal Advisory Board, *If not now, when?*, January 2021, p. 41, available at:

<https://www.gov.scot/publications/not-now-social-renewal-advisory-board-report-january-2021/documents/>

(3) <https://nationalperformance.gov.scot/what-it>

(4) Equalities and Human Rights Committee, Report on the impact of the COVID-19 pandemic on equalities and human rights, SP Paper 966, 1st Report 2021 (Session 5).

3. Overall, how effectively is public finance in Scotland being used to achieve economic, social and cultural rights (as outlined above)? What improvements are required?

3.1. We commend the recently published report of the Equality Budget Advisory group, on "recommendations for equality and human rights budgeting" for the "2021-2026 parliamentary session" (1) to the Committee. While the report recognises that the Scottish government has a long-standing practice of submitting its budget to equality analysis, it also identifies shortcomings in current practice. We particularly note the Advisory Group's recommendation that that "equality and human rights budgeting" should be understood as "a year-round process" involving a pre-budget statement, in-year reports and mid-year reviews, and the full embedding of human rights and equality at "all stages of policy-making and throughout scrutiny of policy and spending decisions and outcomes".

3.2. Building on this, we call the recommendations of James Harrison and Mary-Ann Stephenson's to the Committee's attention (2). These include: (i) to improve guidance and examples of good practice for those carrying out equality and human rights assessments; (ii) to monitor practices and ensure that poor instances are corrected; (iii) to introduce consideration of economic, social and cultural rights, and not limit the analysis exclusively to those rights contained in the Human Rights Act 1998 and the Equalities Act 2010; and (iv) to foster different departments working together to produce impact assessments that explore the combined impact of different policies on particularly vulnerable groups. By following these recommendations, human rights budgeting could become a powerful tool for analysing and addressing the impact that policies contained in the budget have on the most vulnerable and disadvantaged members of our society, and for better fulfilling human rights' transformative potential, in line with the recommendations of the Social Renewal Advisory Board.

References

(1) Equality Budgeted Advisory Group, *recommendations for equality and human rights budgeting – 2021-2026 parliamentary session*, July 2021, available at:

<https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/>

(2) Harrison, James and Stephenson, Mary-Ann, Human Rights, Equality and Public Spending, in: Aiofe Nolan et al, Human Rights and Public Finance, Hart Publishing, 2013, pp. 219-241.

Budget process

The Government has an obligation to ensure the budget process is transparent, participative and accountable.

1. How easy is it for people to engage with the budget process?

1.1. Engagement with the budget process is part of people's right to participate in public life. This right is recognised in the Universal Declaration of Human Rights (Article 21), International Covenant on Civil and Political Rights (Article 25), the Convention on the Elimination of all forms of Discrimination Against Women (Article 7), the International Convention on the Elimination of all forms of Racial Discrimination (Article 5 c), and the Convention on the Rights of Persons with Disabilities (Article 29). The Equality Budget Advisory Group's report made a number of recommendations on how budget work can be communicated to those outside government (1), which we commend to the Committee.

1.2. Since human rights budgeting is an "evidence-based assessment", proper consultation is critical to gather evidence on the impact of policies on vulnerable and underrepresented groups. In addition, wider participation and consultation is likely to improve the quality of equality and human rights impact assessments on budgetary processes (2). However, as the Advisory Group rightly notes, "lengthy and complicated budget documents are not conducive to good public engagement or public and parliamentary scrutiny." The very fact that budgetary processes tend to be highly complex to understand puts significant barriers on people's ability to engage with the process.

1.3. For that reason, we echo the Advisory Group’s call for the Scottish Government to take two actions. First, to commit to producing a clear, concise and accessible “Citizens” budget, as well as an “easy read version of each of the key budget documents” in the Draft Budget 2022-23. We note that article 29 of the United Nations Convention on the Rights of Persons with Disabilities provides that State parties shall undertake to ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others. We therefore welcome the possibility of having an “easy read” version of key budget documents, as this fosters participation of people with disabilities and learning difficulties in the budgetary processes.

1.4. The second recommendation is to “create an online and deliberative space to engage public participation in understanding the budget process and composition”, which would provide further avenues for public engagement and consultation on the budget documents. Finally, to create a bespoke budget website dedicated to “publishing analysis, reporting, evaluation reports, and other tools related to equality and human rights budgeting.” This will improve vertical accountability for budgeted decision-making between citizens and the Scottish political institutions, but also parliamentary accountability, as it will furnish MSPs with accessible and transparent information about the human rights implications of budgetary proposals.

1.5. While these measures can improve human rights budgeting and participation at the central level, we also respectfully call the Committee’s attention to budgeting processes at the local level. The Social Renewal Advisory Board’s report contains a broad call to action concerning local budgets (3). We recognise that local governments provide a wide range of services that have a direct impact on the enjoyment of people’s rights, including social and economic rights. For this reason, as important as securing participation at the central level, is promoting participatory budgeting at the local level. We support the broad Advisory Board’s Call to Action 16, which concerns promoting “(...) that individuals and communities have more control over the decisions that affect their lives and the money spent locally”.

References

(1) Equality Budgeted Advisory Group, *recommendations for equality and human rights budgeting – 2021-2026 parliamentary session*, July 2021, at paras 18-22, available at:

<https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/>

(2) Harrison, James and Stephenson, Mary-Ann, *Human Rights, Equality and Public Spending*, in: Aiofe Nolan et al, *Human Rights and Public Finance*, Hart Publishing, 2013, pp. 220

(3) Social Renewal Advisory Board, *If not now, when?*, January 2021. See Call to Action 16, pp 51ff, available at:

<https://www.gov.scot/publications/not-now-social-renewal-advisory-board-report-january-2021/documents/>

2. Do you feel that you, your organisation, and the evidence you gather, can genuinely influence government decisions on the budget?

N/A

3. How can the links between policy commitments, allocations and achievements of rights be made more transparent?

3.1. For our views on this question, please refer to our answer to questions 2 and 3 in the resource allocation section above.