

# Finance and Public Administration Committee

12<sup>th</sup> Meeting, 2023 (Session 6), Tuesday 2 May 2023

## Inquiry into effective Scottish Government decision-making

### Purpose

1. The Committee is invited to take evidence as part of its inquiry into Public Administration – effective Scottish Government decision-making from:

- Lucy Hughes, Policy and Parliamentary Manager, Engender
- Rachel Le Noan, Policy and Public Affairs Officer, SCVO
- Craig McLaren, Director of Scotland, Ireland and English Regions, RTPi
- Dr Judith Turbyne, Chief Executive, Children in Scotland

2. Submissions from each of the participants are set out in Annexe A.

## Public Administration – effective Scottish Government decision-making

3. On 6 December 2022 the Finance and Public Administration Committee launched its [inquiry into effective Scottish Government decision-making](#), which seeks to explore the following issues:

- Transparency of the current approach
- Good practice in decision-making
- Roles and structure
- Process and scrutiny
- Information and analysis
- Recording and reviewing decision-making.

4. The Committee issued a call for views and [received 28 submissions](#) and SPICe has produced a [summary of that evidence](#). The Committee also appointed Professor Paul Cairney as an Adviser to provide support to its inquiry, which included producing a research paper on decision-making within the UK and internationally, including by Government.

### Adviser Research

5. Professor Cairney gave evidence to the Committee on his research paper, [What is effective Government?](#) at the Committee meeting on [14 March](#). This research paper highlights that key to understanding effective Scottish Government

decision-making is understanding what effective Government is. It also notes that, while Governments may set out broad principles to describe this, those principles may be contradictory in practice.

6. Professor Cairney describes the different approaches taken to effective Government, including the Scottish Government's approach (or 'narrative'). He highlights the broad lessons to be learned from other Government narratives in the UK, Wales and New Zealand – "In each case, learning *what governments would like to do* is only useful when we learn *what they actually do*." Throughout his paper, Professor Cairney highlights key messages and questions for the Committee to consider as part of its inquiry.

## Committee inquiry: oral evidence

7. At its meeting [on 28 March](#) the Committee took evidence from Audit Scotland, Carnegie UK and the Fraser of Allander Institute. A range of issues were discussed including:

- the importance of clarity of purpose at the start of policy development and clarity over what is to be achieved (without which value for money assessments can be hard to make);
- Governments can be good at being accountable for some particular targets and outcomes (which can in turn incentivise good or bad culture and behaviour) but less so when it comes to how the decision was arrived at;
- good decision-making processes exist in Government but capacity issues and speed of decision making makes prioritisation and following those processes challenging. It also favours decision-making focussed on firefighting rather than addressing longer term challenges and squeezes the time for data analysis and identification of data gaps at the start of policy development.
- cross-cutting issues need collective accountability, which is challenging to deliver especially when different departments are at different stages of the journey in policy development. Whilst different processes between policy areas may be reasonable, there is a need for an overall framework in which challenge happens (on a proportionate basis).
- in relation to transparency, there is a difference between 'discourse' and recording the outcome and why. Greater transparency is needed over the risks faced at the start of policy development. Record-keeping works well when it is integrated into the process.

8. At its meeting on [18 April](#) the Committee explored the New Zealand approach to policy making with Diane Owenga from the Policy Project. The Policy Project seeks to build "a high performing policy system that supports and enables good government decision making". Its focus is on policy development and advice rather than implementation and delivery. The Committee discussed the three frameworks - The [Policy Quality Framework](#), the [Policy Skills Framework](#) and the [Policy Capability Framework](#) used to foster improvement across all relevant organisations.

9. The Committee heard that the New Zealand's Public Service Act 2020 was necessary in order to provide more mechanisms to facilitate effective working across

departments and to tackle silo working. It also gave power to individual agencies to, at least once every three years, provide longer term Insights briefing on trends, risks and opportunities that may affect New Zealand, independently of Ministers. Although there has been an increase in external engagement during early policy development and through the process for developing longer term Insight briefings, it remains a challenge to enable greater engagement with those in more marginalised communities.

10. The quality of policy advice by civil servants is measured across the New Zealand public service using the same approach including 1) assessment by a panel of a sample of policy advice papers and 2) Ministerial policy satisfaction surveys which enable feedback to be provided. Of greater importance and value are the overall trends and supporting continuous improvement arising from these measurements rather than necessarily individual scores. This approach has raised the profile and value of improving policy advice as well as encouraging greater learning from best practice between policy areas. As part of a longer term move towards greater transparency, Cabinet Papers are proactively published within 30 business days of the final decision being taken by Cabinet, unless there is good reason not to publish all or some of the material.

11. At its meeting on 25 April the Committee heard from two panels of witnesses. In its first panel the Committee discussed with Dr Helen Foster, Ulster University and Alex Thomas, the Institute for Government, a wide range of issues including:

- the impact of ‘churn’ on both civil servants and Ministers, including on civil servants’ ability to provide expert policy advice to Ministers and on the continuity of policies and on evaluation of policy outcomes.
- whether the balance between the number of ‘generalists’ and ‘specialists’ remains right for the civil service and the need for some generalists to be “consciously anchored to a policy” to enable expertise to be developed and continuity from policy development to implementation.
- how increasing the accountability over how civil servants take decisions could support improvements in the decision-making process including areas such as record keeping and transparency.
- the need for clarity of roles and responsibilities of Ministers, civil servants and special advisers, and fostering good relationships between them all.

12. In discussion with the Scottish Financial Enterprise and Scottish Engineering, the Committee explored each sector’s approach to decision-making, as well as within the Scottish Government, such as:

- the importance to companies’ success of a focussed long-term strategy, clearly and succinctly articulated, which then empowers others to deliver it.
- decision-making under time constraints and the ability to assess that being 80% sure of a decision is “close enough to be good enough” to take a rapid or considered decision, rather than trying to achieve 100% assurance that a decision is the right one.
- the importance to good leadership of transferrable skills such as building a good culture, lifelong learning and clarity over who takes what decision at what level.

- examples of what worked well in relation to the Scottish Government's engagement with business on decision making, including involving a mix of business and public bodies, moving at pace and involving genuine consultation.

## Engagement

13. The Committee has also undertaken engagement with former Ministers, former special advisers, former civil servants and current civil servants. Summary notes from the discussions on [28 February](#), [14 March](#), [16 March](#) and [21 March](#) have been published.

## Next steps

14. The Committee will continue to hear evidence from witnesses at its meetings on 9 and 16 May.

Committee Clerking Team  
April 2023

# Written Submission from RTPI Scotland

## Information about your organisation

The Royal Town Planning Institute (RTPI) is the champion of planning and the planning profession. We work to promote the art and science of planning for the public benefit. We have around 2100 members in Scotland and a worldwide membership of over 25,000.

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

RTPI Scotland believes that key principles for decision making should include:

- Subsidiarity – decisions should consider where powers are vested in, and exercised, at a level that will be most effective in supporting all parties to deliver better places in Scotland.
- Coordination – decision making should ensure that decision making supports and complements the ability to coordinate approaches
- Appropriateness – decision making allows Scottish Government and its partners to develop specific approaches to tackle Scotland’s specific needs where this appropriate
- Resourced – that decision making quantifies, considers and ensures that any new work is properly resourced to ensure effective implementation
- Aligned - decisions made across government must be joined up to ensure that they complement and don’t contradict or ‘get in the way’ of one another
- Engagement – that any new approaches or proposals are consulted upon and that Scottish Government works with its delivery partners in assessing how best to make them work
- Spatial – decisions making is contextualised in terms of how they will impact on the different geographies of Scotland so as to promote better integrated approaches. Too often subsequent policy approaches are programme or silo-based
- Monitored – that approaches taken are monitored to check on their effectiveness
- Sustainable – decision making supports the overarching principles of sustainable development
- Long term – decision made ensure that they support Scotland’s longer term plans, ambitions and aspirations. They cannot be focussed on merely providing short term fixes.

From a placemaking perspective it is critical that any methodologies, processes and principles underpinning decisions in Government take cognisance of their spatial implications and are anchored to place-based approaches. To support this RTPI Scotland wishes to highlight the critical consideration Government should take to the recently approved and soon to be adopted National Planning Framework 4 (NPF4). The NPF4 is a 10-year plan that sets out the vision for Scotland to 2050. This includes setting out Scottish Government's spatial principles, regional priorities, national developments and national planning policy. To achieve its ambitions, the NPF4 should be seen as the spatial articulation of Scottish Government policy and be a fundamental consideration in decision-making going forward. This would support the alignment of funding and investment decisions, enhance links between spatial and community planning and avoid silo working, whilst also strengthening the durability of the NPF4 itself. Of particular importance will be the alignment of the next iteration of the Infrastructure Investment Plan (IIP) and the Strategic Transport Projects Review 2 (STPR2) and the National Strategy for Economic Transformation (NSET) as they are updated through their respective action programmes.

As mentioned above, the NPF4 is a long-term spatial framework and it important that decision making is considered in terms of its short, medium and long-term impact from the outset. Town planning decisions often are considered in very lengthy timeframes, from 1-25 year time periods and beyond. This is markedly longer than political cycles and many significant infrastructure projects require the certainty from long-term thinking to be planned and delivered. We need to move beyond simply considering short-term gains, embedding long term future impacts and aspirations into the decision making process. Of particular note, in order to achieve deliverable proposals, decision-making needs to consider resourcing requirements and funding sources in an open and transparent manner from the very outset; for both short, medium and long-term. If this approach is truly applied RTPI Scotland believes that Scottish Government can better plan and deliver preventative spend, in line with the recommendations set out in the Christie commission (2011)\*. This could support long term financial sustainability whilst better addressing some of key challenges of our time, namely reducing health inequalities and tackling climate change.

\*<https://www.gov.scot/publications/commission-future-delivery-public-services/pages/10/>

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

Joined up working and collaboration within Scottish Government is a critical means of supporting effective decision making. When developing new strategies, it should be an imperative that dissemination across Government departments is undertaken, so considerations which are relevant to other departments are considered at the earliest possible stage. RTPI Scotland understands that such procedures are already in place but it does not always result in consistent outcomes and should be further developed and formalised. For example, whilst the NPF4 identifies the key

relationship between itself and NSET, NSET itself makes very weak reference to the NPF4; indicating an inconsistent and disjointed approach to policy alignment within Government.

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

Whilst developed for local government, RTPI Scotland wish to highlight the valuable organisational behaviour and cultures promoted by the Place Principle. To ensure maximum societal value is derived from investment and services, RTPI Scotland believes that long-term financial planning needs to be considered from the lens of a place-based approach. Place-based approaches are about considering all aspects of a place when considering an intervention. To achieve a place-based approach at a local level Scottish Government and COSLA have agreed to adopt the Place Principle to help overcome organisational and sectoral boundaries. This includes improving coordination between stakeholders, enhancing collaboration and communication across local authorities departments, key agencies, NGOs and private sector. The principle requests that all those responsible for providing services and looking after assets in a place need to work and plan together, and with local communities, to improve the lives of people, support inclusive growth and create more successful places. RTPI Scotland believes the core aspirations of the Place Principle should be enshrined in the ways of working at both local and national scales.

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

No comment.

## 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.

See principle outlined above in response to Q1.

RTPI Scotland wishes to commend the Scottish Government's Planning, Architecture and Regeneration Division's approach to consultation through the development of the National Planning Framework 4. An open and collaborative approach was taken from the very beginning of the process. However, given the importance of the delivery programmes in supporting the delivery of the national strategies, in future scenarios RTPI Scotland would advocate for consultations to include draft delivery programmes as matter of course.

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

RTPI Scotland would imagine that providing some high-level principles of decision-making within Scottish Government would be beneficial. These principles should be tied to the National Performance Framework.

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

Critical challenge, whereby issues of the utmost importance are addressed to ensure the smooth running of any implemented program, should be undertaken at the earliest possible stage when developing strategies and funding programmes. RTPI Scotland believes a collaborative approach should be taken across governmental departments and key stakeholders in order to map out critical issues at an early stage.

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

Risk analysis should be embedded in Government decision-making and incorporated from the outset of policy formation and continually monitored throughout the process, perhaps aided through the process of developing corresponding impact assessments.

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

As set out in response to Q6 if high-level principles were set out, any decision making would then have to set out how the principles were considered in the process. RTPI Scotland wishes to also reiterate the point made in response to Q1 around the need for more transparency around the potential resourcing impacts of decisions.



## How can decisions by the Scottish Government be more effectively communicated with stakeholders?

RTPI Scotland would again like to welcome the approach taken by Scottish Government PARD in the production of the revised draft NPF4 through the publication of an explanatory report. This report was published alongside the revised draft NPF4 and set out how feedback from the previous consultation was considered in the drafting process.

# Written Submission from Scottish Council for Voluntary Organisations (SCVO)

## Information about your organisation

The Scottish Council for Voluntary Organisations (SCVO) is the national body representing the voluntary sector (sometimes referred to as the third sector). We champion our sector's social and economic contribution, provide essential services, and debate big issues. SCVO and our community of 3,000+ members understand that charities, social enterprises, and voluntary groups work with people and communities across the country to make Scotland a better place.

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

Over the past 18 months SCVO has worked with its members, as well as partners across local and national governments, to gather information and data on collaboration and partnership working across sectors. Evidence from these reports can be found throughout our submission which largely focuses on the importance of engaging the voluntary sector in the Scottish Government decision-making process. All reports can be found on SCVO's website for more information.

- Scottish Government funding of voluntary organisations(<https://scvo.scot/p/54548/2022/10/13/scottish-government-funding-of-voluntary-organisations-a-case-study-of-voluntary-sector-intermediaries>): a case study of voluntary sector intermediaries: In October 2022, SCVO published a report on the experiences of voluntary sector intermediaries to shine a light on how the Scottish Government directly funds voluntary organisations, including the processes it adopts and how it interacts with those that receive funding.

- Organisational profiles: funding and public sector relationships (<https://scvo.scot/p/54575/2022/10/13/organisational-profiles-funding-and-public-sector-relationships>): in 2021 SCVO commissioned an independent consultant, Arrivo Consulting, to conduct depth interviews with several of our members. The aim of the project was to deepen our understanding of the key challenges faced by third sector organisations, specifically in relation to funding and relationships with the public sector.

- Supporting collaboration between the third and public sectors: evidence review (<https://www.gov.scot/publications/supporting-collaboration-between-third-public-sectors-review-current-evidence/>): The research review conducted in 2022 as part of the Strengthening Collaboration work between Scottish Government, SCVO, COSLA and the TSI Network has found that issues of trust, power and structure are as prevalent as ever.

The reports above all clearly identify four main themes that underpin the relationships between the public and voluntary sectors. These are time, power, trust and value. We therefore must focus on these elements and consider their impact. To support an effective decision-making process within the Scottish Government, SCVO advises the committee to consider how the government should:

- Recognise the value of voluntary organisations by respecting the sector as a peer, by acknowledging its size and diversity, and by learning from the ways of working fostered by the Covid-19 pandemic.
- Encourage civil servants to develop a better understanding of the sector's role and remit by working more closely with the sector (across directorates and at all levels) and identify the best ways to do this collaboratively.
- Develop new guidance setting out expectations of the government and of those who wish to engage with it, including the voluntary sector (considering terms of references for working groups, length of time to respond to consultations etc). This would lead to greater and more meaningful engagement with voluntary organisations.
- Ensure transparency of decisions and information across all its directorates by recording and publishing data as appropriate.
- Communicate more clearly with stakeholders by regularly sharing key contacts available to voluntary organisations and providing information in writing in a timely manner.
- Acknowledge that it takes time to build good relationships and trust, but that it is essential to be able to have open and honest conversations between colleagues and partners.

## PARAMETERS FOR PARTNERSHIP WORKING

To ensure that the voluntary sector, and the communities it works with, are best supported, policy and legislation must be developed collaboratively. Involvement of the voluntary sector, transparency, and parity of esteem are principles that should underpin any effective decision-making process. The evidence review conducted last year as part of the Strengthening Collaboration work found that partnership working between statutory and voluntary sector partners requires attention:

'Third sector organisations felt that public sector organisations were not trusting them, local government stakeholders felt not trusted by the Scottish Government and this lack of trust led to various restrictions in funding agreements, such as funding having to be spent on pre-specified projects, and extensive monitoring of how the money was spent. One third sector interviewee said:

“[Everyone says] if we had the funding issue resolved, everything would be better, but I don’t think it is that. I think that’s slightly an avoidance strategy so we don’t have to talk about the real stuff, about trust and about power and about who has it.” (page 22)

Focusing on the Scottish Government, the Compact between the Scottish Government and the third sector in 2004 is the last time we are aware of specific guidelines and expectations that were written down about Scottish Government engagement with the voluntary sector. Since 2004, however, a considerable body of work has been developed around engagement, in particular moving to a focus on co-production that moves thinking around engagement further up the ‘ladder of participation’. A particularly impactful piece of work on this subject is the National Standards for Community Engagement. It is important that any work in this area draws on that thinking and moves further than the 2004 Compact’s focus on consultation.

SCVO believes that it would be helpful to have some guidance setting out expectations of the government and of those who wish to engage with it, including our sector. Whether such a document would have to be specific to the voluntary sector may be worth further discussion, but there could also be general engagement standards that would apply to the sector, as well as other stakeholders; the key issue here would be for all sectors to be genuinely involved in drafting such guidance, and for mechanisms to exist to hold the Scottish Government (and engaging partners) to account where these standards are not adhered to.

While we would not wish to prejudge those conversations, issues that we know to be talked about in parts of the sector (which we anticipate might come into discussions about reshaping traditional engagement methods) include the points listed below:

Ensuring that longer term engagement processes like working groups allow sufficient time to build relationships, trust and understanding between the voluntary sector and the Scottish Government. Sectors must fully understand processes they are contributing to and must each understand the barriers/drivers of other partners. The Scottish Government must also be clear about the scope for influence that voluntary organisations have on a process – and must seek to involve them as early as they can so that this influence is as great as possible.

Not setting unrealistic expectations on one individual or organisation to represent the views of the diverse voluntary sector. Ideally a range of voluntary organisations should be directly involved to bring their different perspectives. If there is a representative expectation, properly resourced structures and processes must be put in place to facilitate the involvement of the wider sector (including sufficient time for the representative to share papers and seek feedback).

Exploring options for resourcing engagement, particularly where this is a long term and time intensive commitment. Many voluntary organisations struggle to attract funding for core costs, and freeing up staff time to take part may be prohibitive without resources.

Setting, and following, clear expectations about the length of time for voluntary organisations, and others, to respond to consultations. Current timescales for consultation responses are much shorter than the 90 days agreed in the 2004 Compact. A sample of 100 consultation found that fewer than 1 in 5 adhered to this standard:

- less than 30 days – 6 consultations;
- 30 – 59 days – 17 consultations;
- 60 – 79 days – 17 consultations;
- 80 – 89 – 41 consultations;
- 90 or more – 19 consultations

We would also anticipate a desire from the sector to think innovatively about different forms of engagement, bringing in their experiences of working creatively with the people and communities they support.

#### TRUST AND PARITY OF ESTEEM

Genuine parity of esteem amongst stakeholders would lead to more effective decision-making processes. Currently the lack of recognition of the voluntary sector's fundamental role in how our society and the economy function remains. This works against achieving that parity of esteem. It must therefore be addressed to ensure that all actors feel valued as part of the decision-making process and not just an afterthought. To achieve this, not only do we need to recognise the current imbalance of power existing between sectors, but we must also acknowledge that it takes time to build relationships and trust amongst partners.

On these points it was rather striking to hear the evidence from several witnesses in front of the Local Government, Housing and Planning Committee in December last year. That session looked at the Local Governance Review and below are some extracts that are worth noting in terms of how councillors describe their own relationships with the Scottish Government. Comments made during that session are interesting to point out as they echo our own evidence throughout this submission:

Councillor Alex Nicoll (Aberdeen City Council): 'When we are involved from the beginning of the process, we can contribute to there being better outcomes, better policy and a better steer on where we want to go. However, if we are involved only once plans have, essentially, been formulated, I think that it is very difficult to change those plans and we do not necessarily get the best outcomes'.

Councillor Euan Jardine (Scottish Borders Council): 'Someone said that it is about communities trusting government. Trust needs to bounce back down—we need to trust communities more than they need to trust us. That is important—it is about trust

filtering down. Yes, more can be done. [...] It is a journey that is still in progress. To hit the right spot, there must be more conversations between communities, national government and local government.'

Councillor James Stockan (Orkney Islands Council): 'I absolutely concur that we need to find a new *modus operandi*. I cast my mind back to the concordat, which was decided very quickly, and that released us into a place where we focused on outcomes. We need to reinvent that or look at it as quickly as we can.'

Cleland Sneddon (Society of Local Authority Chief Executives and Senior Managers): 'the partnership agreement must not be just "warm words". We want to see that reflected in behaviours and actions. A partnership agreement in writing—a document—is not the end goal. We want a different relationship that is reflected in subsequent actions.'

The last quote raises the issue of implementation. As more and more concerns are raised about the policy implementation gap in Scotland, we need to bear in mind that guidance or agreement of any kind must be translated into actions. It will not be enough for reviewed or new decision-making processes to be outlined on paper; we need to see change in practice too. On one hand this leads to important questions regarding the commitment from the Scottish Government itself to 1) accept that change is needed, and 2) spend time, effort, and resources on improving processes. On the other it also implies greater acknowledgement and respect for the role of the voluntary sector in Scotland.

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

When it comes to the capabilities and skills of civil servants, data indicate that good relationships rely on individuals remaining in post for longer periods of time, thus allowing them to get to know the organisation they support properly. Some organisations also value relations at strategic level with civil servants who can effectively influence the system. Mutual trust also allows for more open and honest conversations and greater understanding between partners.

### TIME AS A COMMODITY

It is always positive to hear of good relationships between civil servants and people working in voluntary organisations. As the evidence below indicates, good partnerships rely on good relationships.

'Our key contact has stayed the same for the last seven years, which helps' (Case study of voluntary sector intermediaries, page 21)

‘Third sector organisations recognised that ‘better relationships’ had time/resource implications for themselves, but also highlighted the need to build capacity within public sector (staff with time, understanding, values who engage with third sector) and how to embed relationships that go beyond the interpersonal” (Organisational Profiles, page 9)

‘We have really good relations with the civil servants we work with. They recognise we do great work, and we feel valued. They trust us and they are grateful.” (Case study of voluntary sector intermediaries, page 22)

Time is a very important factor in enabling such supportive relationships. Civil servants, like anyone else, need time to build trust and improve the quality of their relationships with voluntary organisations. As a society we need to value time to improve decision-making.

‘If everybody is acknowledging that the only way we can get things done is to do that through good positive relationships, that trusting environment that happens on a one-to-one basis predominantly, [...] but we don’t put any effort in actually fostering that, we don’t value it enough to put in time, it feels to me like we’re tripping over our own feet’ (Supporting Collaboration, page 27)

Effective decision-making also relies on the recognition that voluntary organisations are not just about delivery and that they must be involved as early as possible in processes to ensure that policies best serve people across Scotland. To do this, time and resources are essential. In the Supporting Collaboration evidence review, ‘time’ and ‘listening’ are noted as key elements to build trusted relationships. But as one stakeholder explains:

‘Despite the importance of collaborative working, the funding received by the third sector organisations does not recognise that building trusted relationships takes time and typically funding does not allow time for it. This again creates lack of trust between the third sector and their funders, and reduces the scope for effective collaboration’ (Supporting Collaboration, page 17)

## INFLUENCING SYSTEM-CHANGE

Another important point that is raised in the evidence is about power and how much influence civil servants themselves hold within the Scottish Government structure. Some intermediaries argue that there needs to be ‘visible relationships and partnership from senior civil servants who have power’ (Case study of voluntary sector intermediaries, page 5). The Organisational Profiles report also advises that the sector needs:

‘Relationships with officers who are knowledgeable and who are interested in getting the best outcomes for people in Scotland, but relationships which are:

Strategic — single point of contact at strategic level and a person who can influence/make decisions/make things happen within public sector organisations.

Embedded rather than ‘personal’ relationships — there needs to be succession planning for strategic relationships with the third sector’. (page 9)

## GREATER UNDERSTANDING OF THE SECTOR

Moreover people value civil servants who understand their work, their organisation, and the significant contribution the sector makes to the Scottish society and economy.

‘While third sector organisations reported generally positive relationships with the Scottish Government, they highlighted several key issues relating to quality/purpose of relationships. The quality of the relationship with the Scottish Government was often dependent on having a ‘good person’ in Scottish Government. Where the quality of relationships was less good or challenging, third sector organisations highlighted that Scottish Government staff often had gaps in skill/experience/knowledge about the third sector and therefore a lack of understanding about how their actions/decisions impacted on third sector organisations’ (page 7).

A lack of understanding of the role and remit of voluntary organisations in Scotland can lead to some in the sector feeling neglected, and not valued as worthy contributors. It is also important to note that it would be helpful for the voluntary sector itself to get a better understanding of how the Scottish Government works and how decisions are indeed taken. Ultimately this also influences the way relationships are developing and how trust is strengthened. As pointed out in the Supporting Collaboration evidence review:

‘The research suggests that inadequate understanding between third sector organisations and public sector organisations about the statutory duties and operational challenges that each sector faces can impede meaningful collaboration’ (page 6).

SCVO would be happy to discuss how best to achieve a greater understanding of the voluntary sector amongst civil servants with colleagues in the Scottish Government. Last year SCVO and the TSI Scotland Network published a guide introducing the voluntary sector to MSPs; developing similar resources jointly might be a good starting point to support staff learning and development.

## MORE OPEN AND HONEST CONVERSATIONS

Greater understanding between sectors will also come with, and lead to, more open and honest conversations between partners.

“I think that's where partnership working is developed, where you don't have to be on your best behaviour all the time, [you can] talk honestly with people, agree to disagree on certain things, but work together on the things that you can work



together on. [...] It's not always sweetness and light, there will be disagreements' (Supporting Collaboration, page 25).

We need to encourage people to invest and spend time on developing partnership-working and learning from it. In 2021, Evaluation Support Scotland (ESS) ran the Working Together Better project. It was a peer learning programme to help third sector organisations and their statutory sector partners evaluate and learn about the impact of their partnerships during the Covid-19 crisis. ESS then published two case studies that outline the experiences and reflections from participants on their collaboration. In one of the projects, when reflecting on why they were able to share knowledge and resolve issues better during the pandemic, one participant explains:

"We think this is because our communications were focused on closing the gap between operational issues and strategic issues. Before the pandemic, it wasn't always clear how Scottish Prison Service used third sector feedback. It felt like it went into the ether. We have a clearer understanding now of how information from partners is fed in."

We need more of this because as one interviewee in the evidence review noted:

"Fundamentally, what we're trying to do is to make sure that everybody has an opportunity to flourish, whatever that means. [...] I'm not a big fan of describing the world in three sectors, I think that starts out by dividing us. I'd much rather see us as citizens who want to collaborate and the legal status of our employer should be pretty irrelevant". (Supporting Collaboration, page 26)

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

The voluntary sector must be acknowledged as a respected peer, and not simply tolerated. To achieve this SCVO believes that we need a much greater understanding across sectors, (and therefore including within the Scottish Government) of charities, community groups and social enterprises, why they exist and the difference they make in society. Importantly the focus of this inquiry also brings to the fore questions that might feel uncomfortable to ask, such as: are we more likely to get effective decision-making in times of acute crisis?

### GENUINE PARTNERSHIP

The value of the sector as a partner across all areas within the Scottish Government must be recognised, and not simply be seen as (and limited to) the remit of the Third Sector Unit. This is apparent in the Supporting Collaboration evidence review too which notes that meaningful collaboration relies on a better understanding between sectors, equal partnership, open communication, empowerment of community and trusted relationships.

‘Recognising that the third sector has different and complementary strengths could lead to a more productive and collaborative working relationship. As one local government interviewee said: “It should be spheres in partnership, not tiers. When you have tiers, you then have the whole issue around power and who has power and influence.” (Supporting Collaboration, page 23)

It will come as no surprise that there is also evidence suggesting that the Scottish Government works in silos, with not enough cross-cutting collaboration and relationships (at all levels) that would help towards greater consistency, alignment and accountability. This must change. Indeed it is important to emphasise that work must be done across all portfolios and directorates within the Scottish Government to improve decision-making across the board. Where there is good practice this must be shared more widely too.

The Scottish Government also needs to acknowledge the size and variety of the voluntary sector in Scotland, as well as limited capacity and resources in some voluntary organisations. As an example, when inviting people and/or organisations to take part in working groups, there should be more than one seat available for the sector at those tables. One individual cannot be seen as representing the views, interests and concerns of more than 45,000 organisations across Scotland. This is neither fair on the person invited to take part in discussions, nor on the rest of the sector when businesses, local government and Scottish Government usually have several attendees.

As an example, last year SCVO secured a place for the voluntary sector on the NSET Delivery Board, and Ewan Aitken (Chief Executive Officer of Cyrenians) now sits on the delivery board as a voice for the sector. This was a welcomed move. Since then, SCVO has been working with Ewan to get a sense of how best to support him and draw in broader voices from the sector across the different NSET workstreams and working groups. Nonetheless we remain concerned that the voluntary sector has not been integrated into the work of the NSET from the outset compared to other sectors. We are hopeful that we can secure a breadth of third sector representation across the NSET workstreams, to ensure that voluntary sector engagement is not bolted but is embedded in formal structures and processes.

## ATTITUDE TO RISK

Finally, the Scottish Government’s attitude to risk may also need to be considered. We often hear how the pandemic impacted on the relationships between public and voluntary sectors. As one stakeholder notices:

“[During COVID-19] we didn’t do anything that was illegal, that was fraudulent, that was non-compliant, and we still managed to do it quickly and efficiently. So I think it comes back to the very first point that I spoke about, trust. People were trusted and when we don’t have trust, we put in all these rules and regulations and check points that are often unnecessary, just because we don’t trust people. And if Scottish Government put that and UK government put that on to local government, we then

put that on the third sector [...] and it just becomes that chain.” (Supporting Collaboration, page 21)

In the sector we heard evidence that, for some organisations, Covid-19 led to better relationships with partners, with more trust and better funding arrangements. And yet, we also start hearing testimonials about how those relationships are now going back to the way they were pre-covid.

‘There were concerns that these positive changes from the pandemic will not be retained going forward. Interviewees questioned how the more collaborative working approach, increased trust and the feeling of everyone being in it together could be maintained between sectors with some third sector interviewees feeling it was not likely to continue: “The barrier is a lack of a pandemic or the lack of a crisis, which is kind of cynical, but I think there’s an element of truth in that” (Supporting Collaboration, page 30).

‘COVID-19 brought changes to a lot of the issues [...], as many of the usual barriers to working together were put aside to focus on helping as many people as possible. In a recent article reviewing progress in the ten years since the Christie Report was published, Audit Scotland said: “But it’s also important to ask why that happened. The answer? Because it was life and death. There was a clear imperative that trumped everything else. It would be another tragedy if the same urgency wasn’t now applied to poverty, education, health and strengthening our communities’ (Supporting Collaboration, page 29).

One may wonder if the perceived lack of urgency now acts as a barrier to partnership working, and effective decision-making. To try and answer this, it is important to learn about what worked well and what did not over the past three years across Scotland. As such we believe that the Scotland Covid-19 inquiry is important and will perhaps also outline ways of working across sectors that are worth developing further going forward.

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

It should go without saying that effective decision-making should be based on reliable data and sources of information. Voluntary organisations spend a significant amount of time sharing information with the Scottish Government, yet too often it remains unclear to us how that information is used. We need more transparency and accountability.

### ACCOUNTABILITY

In 2019, in its report 'Looking ahead to the Scottish Government’s Draft Budget 2020-21: Valuing the Third Sector', the Equalities and Human Rights Committee highlighted that:

‘Several organisations [...] questioned whether any of the monitoring undertaken by the third sector was being checked or made use of by statutory funders to inform policy and/or services. It seemed significant amounts of data were collected locally but were not used to inform local or central equalities or human rights policies’.

It goes on to note that:

‘It was emphasised that as third sector organisations worked with communities, they produced rich data, but were scared to share it with other organisations because of competition for funding. They also suggested the Scottish Government could take a broader view of data. Concern was expressed over how the Scottish Government viewed data submitted by third sector organisations’.

SCVO is of the view that recording and publishing data is important and work towards greater transparency and accountability. This is an issue that is relevant regarding funding for the sector for example and is essential to understand decisions made regarding the Scottish budget process. Transparent, accessible data would highlight the Scottish Government’s significant investment in voluntary organisations. Ministers and civil servants regularly use SCVO figures to underline the scale of the Scottish Government’s direct funding to the voluntary sector – approximately £500m a year. The use of these figures suggests official figures from the Scottish Government are not available. SCVO is of the view that addressing this significant gap in the Scottish Government’s understanding of funding flows to the voluntary sector is crucial for the spending in the budget to be appropriately identified, tracked, and understood.

We understand that improvements to fiscal data and information accessibility are already underway involving key Scottish Government experts in the Scottish Exchequer. This work covers public spending, procurement, fiscal transparency, and the budget. Enhancing the accessibility of information relating to the Scottish Government’s voluntary sector funding fits with the Scottish Government’s existing commitment to budget improvement – its Fiscal Transparency Programme – including a Fiscal Portal and its development of the Procurement Management Information Platform. We believe the Third Sector Unit and Scottish Exchequer must work together to deliver joined-up practical solutions.

## FEEDBACK

However, we believe that this focus is not a priority area for the Fiscal Transparency Programme at this time and we have not received a response to the recommendations we made in our submission to inform the 2022 Programme for Government; this highlights another issue with a lack of two-way communication and feedback relating to the information provided by voluntary organisations. On many occasions, it is unclear whether a contribution to policy development in the form of a policy submission has been considered and whether it will be used as input for future policy discussions. There needs to be adequate guidelines and practices in place

when handling key evidence provided by voluntary organisations in order to maintain value in this type of engagement.

**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.**

We must build a new type of relationship between all sectors, where the voluntary sector is valued as both a service provider, an economic actor and a key contributor to thinking on the future of our society. Decisions made about Scotland’s future must be designed with us and our beneficiaries in local and national partnerships.

#### PROGRAMME FOR GOVERNMENT

The call for better partnership working (that would lead to more effective decision making) is an issue that SCVO has raised many times over the years in our interactions with both local and national governments. Most recently we saw progress regarding engagement with the sector on the Programme for Government (PfG). As Sheghey Ogilvie from SCVO explained in a blog post last year:

‘I’ve often heard the Programme for Government described as, ‘smoke and mirrors’, an elusive process that’s difficult to engage with and influence. Disappointment often follows publication paired with frustration among voluntary sector colleagues that the sector is neither recognised nor resourced.’

We therefore welcomed the Scottish Government engagement with SCVO on this last year. A new team in charge of PfG welcomed the opportunity to discuss Scottish Government’s internal processes with us. Following these discussions, SCVO arranged a packed out Policy Network session where our members could meet the Programme for Government Unit Team Lead, ask questions, and begin to consider their proposals. Teams from both SCVO and Scottish Government took part in a webinar (and will be again this year). It is important that more events and activities of this nature are organised to explain how to engage with crucial Scottish Government activities. We could even have more standardised information that is easy to access by all – such as videos, guides etc on how to get involved with the PfG for example.

#### POSITIVE PARTNERSHIPS

SCVO has also gathered more examples of positive partnerships over the past couple of years (<https://scvo.scot/policy/positive-partnerships>). Although these focused on partnerships between the voluntary sector and local government, strong relationships, time and trust are again key features throughout these testimonials.

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

While the tools for involving the voluntary sector might differ across directorates/units/ teams, ultimately there should be a principle at the core of the Scottish Government's decision-making process that stresses the need (and urgency) to genuinely engage with a wide range of stakeholders, with parity across sectors. They should also be a consistent approach regarding decisions across Scottish Government to avoid a two-tier system and sometimes significant consequences for the sector as outlined below:

'The Scottish Government should also investigate why the funding experiences felt by voluntary organisations is far superior in some areas compared with others and take steps to remedy this' (Case study of voluntary sector intermediaries, page 26).

'The lack of straightforward and timely processes in decision-making by the Scottish Government presents a significant barrier to the planning and delivery of projects and services and supporting the workforce. When decisions relating to funding are made, this can often slip into the new financial year. Organisations must chase the Scottish Government for decisions, and they feel as though it is a constant battle to secure a timely decision. Even when a decision is made, organisations are often left waiting months for the payment of funds to reach their accounts, meaning that those unable to dip into their reserves or other income sources are left in extreme difficulty' (Case study of voluntary sector intermediaries, page 10-11).

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

Reviewing current decision-making processes might give more people opportunities to act as 'critical friends' to the Scottish Government. Voluntary organisations have a key role to play in this space as the voice of communities across Scotland. However, it is also a role that some in the sector can find challenging.

### CRITICAL ROLE OF CHARITIES

Recently Anna Fowlie, SCVO Chief Executive, reflected on the importance of that role for charities in Third Force News (<https://tfn.scot/news/third-sector-hits-back-at-claims-civic-society-has-been-captured-by-scottish-government>):

'Charities are an important voice for the people and communities they support. It is integral to their purpose to speak up and act to draw attention to the challenges those people face, regardless of how they are funded. Whatever one's views are on a particular policy, it should come as no surprise when charities support or criticise

the decisions of any government, be that in Scotland, Westminster, or across the world, if those decisions have an impact on the people they represent.

Charities in Scotland have a long history of influencing the UK and Scottish Governments, and don't shy away from criticising the decisions taken in Holyrood. We celebrate the sector working with – while also being prepared to challenge, debate, persuade and influence – the Scottish Parliament. Charities have a unique depth of knowledge and evidence to contribute to the public discourse, and their right to use that must be protected.'

## FUNDING

The issue of funding and being critical of the Scottish Government decisions is also a topic worth noting on this subject. While it is not everyone's experience (and voluntary organisations are still free to campaign), throughout the reports it is interesting to note that several participants expressed concerns about their ability to challenge government while receiving funding from them. For some there is a feeling that this is a fine line to tread:

'They need to be able to provide evidence of need/and also demonstrate where policy and practice are not working without that being seen as challenging Scottish Government, but there is potential to be seen as 'biting the hand that feeds you'. (Organisational Profiles, page 16)

'Interviewees noted that the fact that the public sector awards funding to the third sector can create a power imbalance, with the public sector being perceived to have more power in the relationship. Some interviewees felt that this sometimes created an expectation that the public sector funder might seek to direct the work of the third sector organisations involved, or to make all the decisions around a policy or a project' (Supporting Collaboration, page 6)

'We're meant to be a critical friend of Scottish Government but do they need a critical friend? Do they see the need of a critical friend? It's a fine line when it comes to funding relationships' (Case study of voluntary sector intermediaries, page 13)

In that sense some argue that:

'There is a need to clarify /codify the purpose and expectations of relationships between Scottish Government and the third sector and embed these relationships rather than relying on 'good individuals.' (Organisational Profiles p.10)

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

The benefits of delivering any public policy result in financial and other costs elsewhere. The obvious cost is a financial one, but there are usually other costs which can take all manner of forms (e.g., choice, competition, provision). It is important that robust options appraisals that explore the costs/benefits of potential public policy solutions and budgetary spend are utilised and consulted on to arrive at a combination of well-balanced, effective, and practical solutions. Policymakers and voluntary organisations must understand any trade-offs before a course of action is taken.

While we would like to hope that such appraisals are adopted by civil servants before taking decisions to end programmes and change spending allocations, very rarely are voluntary organisations given sight of these exercises. For example, the 2022/2023 Scottish Budget reduced the Third Sector Budget Line by £800,000, to £25.8 million, yet the impact of the budget reduction was unclear. If cuts are coming, we need to know where they will fall as soon as possible so we can assess whether it will be possible to deliver the commitments in the Programme for Government and those made elsewhere.

Positives in the Scottish Government's approach to considering risk as part of effective government decision-making can be found in its latest consultation response on Access to Information Rights. SCVO is still developing its response to two consultations on the topic of extension of Freedom of Information to voluntary organisations. However, the government's latest consultation does reflect on the concerns that SCVO and other voluntary organisations raised in a consultation in 2019. It is a good example of the Scottish Government reflecting on a range of perspectives and consulting on alternative approaches as part of policy development around a particular policy area.

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

Voluntary organisations also play a crucial role in monitoring the decision-making of the Scottish Government and the progress that is made towards achieving public policy aims. While bodies such as SCVO do this in part by listening to the experiences of voluntary organisations across Scotland, the Scottish Government can play a more active role in supporting the transparency of information.

### KEY CONTACTS

As we argued in our answer to question 5, the engagement process leading to the Programme for Government (PfG) is improving and this can be used as one example of how to increase transparency in the decision-making process. But, as we noted



then, there are still improvements that could be made. To help increase the transparency of decision making within the Scottish Government, key contacts could be shared with organisations. We understand, for example, that the PfG team receives policy proposals from other Scottish Government policy teams. Because of this you need to have a contact within a Scottish Government policy team to be able to engage with the PfG. There is a big assumption that everyone has this or knows who to contact but many do not.

## FUNDING TRANSPARENCY

To enable colleagues across the voluntary sector to understand spending decisions and assess their impact, the Scottish Government should work towards developing a transparent approach to monitoring and reporting, including collecting information across all Scottish Government departments to form an accurate picture of how much funding flows into the voluntary sector and from which budget lines. SCVO is of the view that greater transparency is needed to improve our understanding of the Scottish Government funding process. As evidence suggests:

‘Large organisations such as the Scottish Government may provide several simultaneous grants to the same organisation from different departments, with no single organisational contact maintaining a full overview of the funding being provided to a given organisation. Moreover, there is also no single body maintaining a full overview of the funding provided to the third sector organisations by other funders, such as charitable foundations or the UK government. This can lead to overlaps in funded work, as well as under/over funding in certain areas’ (Supporting Collaboration, page 19).

‘There should be transparency around which intermediaries are being funded, by which departments, non-departmental public bodies, and third-party organisations, and by how much’ (Case study of voluntary sector intermediaries, page 25).

Funding transparency would support SCVO and other voluntary organisations to:

- understand Scottish Government decisions
- assess the impact of budget changes
- understand any Scottish Government action to mitigate risk and the extent to which these actions are successful.

To enable colleagues across the voluntary sector to understand spending decisions and assess their impact, the Scottish Government should:

- collect information across all government departments to get an accurate picture of how much funding flows to the voluntary sector and from which budget lines
- calculate and publish its total direct funding of voluntary organisations for grants and procured contracts

- produce a breakdown of which Scottish Government budget lines provide funding to the voluntary sector.

Small-scale change could be made relatively quickly by holders of budget lines. The Third Sector Unit should have a role in gathering this information and should publish an accurate picture of how their budget line – the Third Sector Fiscal Resource Budget Line – flows to different projects and organisations.

The Social Renewal Advisory Board’s Third Sector Circle recommendation that Scottish Government funding of the voluntary sector across all Scottish Government departments and local government should be published on the 360 Giving platform - a platform where organisations openly publish grants data- should also be implemented. The Scottish Government published its emergency funding awards on 360 Giving during the pandemic, and the Scottish Government and other public bodies should roll this out across budget-lines. The Scottish Government could link these actions to its existing commitment to Fiscal Openness and Transparency in the Open Government Action Plan.

Furthermore, SCVO is engaging with the Scottish Government’s fiscal transparency programme, part of its Open Government Action Plan. SCVO welcome involvement in this and the Scottish Government’s commitment to improving transparency and participation in the Budget and Budget process. Most recently, we attended a deep dive session on the Scottish Government prototype for a fiscal transparency portal and left the meeting with a sense that civil servants are as committed to improving transparency as those who are calling for more. It is essential that improvement programmes such as this are fully resourced and are not apportioned a shoestring budget that can only go so far, whether that’s investment to build a fiscal transparency portal to cover all Scottish Government spend, or in the systems that are needed to ensure there is a sustainable data supply for this to work.

## How can decisions by the Scottish Government be more effectively communicated with stakeholders?

The voluntary sector needs more streamlined and consistent approaches to ensure a level playing field for all organisations, and this also applies to communications from the Scottish Government. Without good communication, none of the issues outlined in the previous questions will ever be addressed as it should.

### COMMUNICATION BRINGS RECOGNITION

Good communication brings recognition and better relations, thus leading to more trusting relationships between partners. It is also important to remember that communication is a two-way process.

‘Transparency and communication can support a process that allows for a shared understanding to emerge over time, allowing collaborative partners to focus on

common goals instead of competing for resources and/or power and influence’ (Supporting Collaboration, page 25).

Moreover, as noted before, the balance of power between the Scottish Government and the voluntary sector is undermined by various factors, including funding. For some organisations in our sector, Scottish Government’s decisions are synonymous with survival or extinction and the way those decisions are communicated matters enormously.

‘Administratively, all the looking for funding and chasing Scottish Government decisions takes up time. The additional work following up civil servants is also a burden – we don’t want to come across as a pest, but we must keep at them’ (Case study of voluntary sector intermediaries, page 19)

Evidence from intermediaries explains that providing written documentation for effective and consistent communication, as well as good quality communications with civil servants at all levels and in all relevant teams are factors that would contribute to good funding relationships (Case study of voluntary sector intermediaries, page 4-5).

SCVO therefore calls on the Scottish Government to provide organisations with timely communication (and prompt payment of funds) that would help to prevent funding gaps and uncertainty.



7 February 2023

Inquiry into Public Administration - Effective Scottish Government decision-making

Finance and Public Administration Committee

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### About Children in Scotland

Giving all children in Scotland an equal chance to flourish is at the heart of everything we do.

By bringing together a network of people working with and for children, alongside children and young people themselves, we offer a broad, balanced, and independent voice. We create solutions, provide support, and develop positive change across all areas affecting children in Scotland.

We do this by listening, gathering evidence, and applying and sharing our learning, while always working to uphold children's rights. Our range of knowledge and expertise means we can provide trusted support on issues as diverse as the people we work with and the varied lives of children and families in Scotland.

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Children in Scotland is pleased to be able to share its views as part of the Finance and Public Administration Committee's inquiry into effective Scottish Government decision-making.

This response brings together experience from Children in Scotland's role as a national membership organisation leading the children's sector and learning from our extensive participation and engagement work with children and young people. The submission builds upon Children in Scotland's Manifesto for 2021-2026<sup>1</sup> which was supported by a wide range of organisations from across the third sector.

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<sup>1</sup> [Children in Scotland \(2020\). Manifesto for 2021-2026.](#)

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

One of Children in Scotland's key priorities is championing the participation and inclusion of children and young people to ensure their views are being listened to and acted on. Children's right to be listened to is enshrined in Article 12 of the UN Convention on the Rights of the Child (UNCRC). This places a responsibility on all decision makers, including the Scottish Government, to listen to children and young people and consider their views needs and priorities in their decisions.

There is no doubt that co-design and engagement opportunities have increased in recent years. Developments such as extending votes to 16- and 17-year-olds, annual cabinet meetings with children and young people and our own First Minister's Question Time: Next Generation<sup>2</sup> events in 2018 and 2019 have all extended opportunities for children and young people to share their views. The passing of the UNCRC Incorporation (Scotland) Bill in 2021 gave us great hope that as a country we were moving in a direction where children's views would form a core principle and process of policy making, implementation and review.

However, the stalling of UNCRC incorporation and ongoing challenges with ensuring that existing participation and engagement activity is meaningful means that our collective ambitions in this area are too often unrealised. In Children in Scotland's experience, too many children and young people remain excluded from decision-making processes and are unable to share their unique experiences and ideas. Furthermore, existing opportunities to share are frequently under-resourced which puts this activity at risk of becoming tokenistic<sup>3</sup>.

At present a co-ordinated approach to supporting children and young people to share their views across different Scottish Government portfolios does not exist. In addition to this, a large proportion of children and young people are unable to share their opinions and influence their own lives and the world around them because of the structural and societal barriers they face.

We would like to see improved engagement with children and young people to ensure they are able to realise their right to be heard as enshrined in Article 12 of the UNCRC. This aligns with the committee's interest in ensuring good practice across Scottish Government decision-making.

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<sup>2</sup> [First Minister's Question Time \(FMQT\) Next Generation.](#)

<sup>3</sup> [Together \(2022\). State of Children's Rights in Scotland.](#)

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?

We recognise that many civil servants bring considerable knowledge, experience and commitment to their roles. We work very effectively across Scottish Government directorates and by and large are able to have open, constructive conversations with the individuals who work within them. We recognise that Scottish Government officials face considerable pressures and restrictions which sometimes prevent them from working as collaboratively with third sector partners as they would like.

In our view, the important capabilities and skills required by civil servants include:

- A commitment to human rights and an ability to see how they apply to their role, particularly in terms of how lived experience can inform decision making
- The ability to work collaboratively with external stakeholders and to be open and honest in their interactions with them
- The ability to take on board constructive criticism and be solution focused to achieve change
- The ability to understand evidence (both qualitative and quantitative) and how it informed policy making and implementation

These capabilities should be sought in individuals when they apply to join the civil service and be nurtured throughout their careers through training and development opportunities.

One of the most significant frustrations we experience with the civil service approach, is the frequent movement of officials between roles and directorates. It is incredibly time consuming for organisations like ourselves to build relationships with officials and support their development of topic knowledge and expertise, only for them to move on to a new role and have to start all over again. We would strongly recommend that the Scottish Government establishes greater role stability within its directorates if we are to see the best possible policy making take place.

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

Children in Scotland believes the following factors promote effective decision-making:

- Ensuring inclusion

- Adopting rights-based approaches
- Ensuring decisions are outcomes-focused
- Prioritising wellbeing
- Making evidence-based decisions
- Thinking long-term
- Being honest, open and transparent.

### Ensuring inclusion

We believe the inclusion of all voices, including those of children and young people, is essential for making the best decisions to support people to fulfil their potential. Ensuring a diverse range of voices and, in particular, those with lived experience of the issues being debated, will lead to better decision-making as well as more effective implementation of new policies and legislation. One example of this is our work supporting the Inclusion Ambassadors<sup>4</sup>, a group of secondary school pupils with additional support needs, who attend schools across Scotland, and who have been working to make improvements to the way additional support for learning is delivered in education settings. The Inclusion Ambassadors have helped to improve national practice and inform policy decisions by sharing their views and experiences and making recommendations to decision-makers.

Ringfencing time and resource to support engagement work with children and young people from a diverse range of backgrounds and communities is essential to realising a truly inclusive approach. It is also essential that information and materials are developed that are accessible and understandable for a range of different groups, and that trust is built with different communities, so that people can see how their views have helped to shape the decisions that are made.

### Adopting rights-based approaches

The Scottish Government must do what it can to protect children's rights and ensure they are considered as a key cornerstone in policymaking and legislative decisions. Publishing a timeline for amendments to the UNCRC (Incorporation) Bill to bring it into competence is therefore a key priority.

Alongside this, the implementation of approaches such as Child Rights and Wellbeing Impact Assessments (CRWIAs) on all new legislation and policy will help to promote positive culture change and encourage rights-based decision-making.

Scottish Government officials working across portfolios should have various

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<sup>4</sup> [Children in Scotland. Inclusion Ambassadors project information](#)

training opportunities to ensure they have a strong understanding of children's rights, and they know how their work impacts children, young people and families.

Ensuring decisions are outcomes-focused

Children in Scotland believes that decision-making processes should be outcomes-focused and more closely aligned with the National Performance Framework (NPF)<sup>5</sup> and the UN Sustainable Development Goals in order to tackle the complex and interconnected issues affecting Scotland.

We are pleased to see this reflected in the Scottish Government's 'Outcomes-focused Policy Making in Scotland' guidance<sup>6</sup>, although it is unclear how this approach is currently used across different Scottish Government departments. We hope the planned review of the National Performance Framework later this year will help to reemphasise the importance of outcomes-focused policymaking and set clear goals against which Scottish Government policy decisions and implementation can be measured.

Prioritising wellbeing

Increasingly it is clear that our current economic model, which emphasises growth over wellbeing, is not fit for purpose. This is evident from the high levels of poverty and health and income inequality statistics in Scotland<sup>7</sup>. Decisions need to be made which prioritise people's health and wellbeing, recognising the economic benefits this brings.

Dr Katherine Trebeck's 'Being Bold: Building Budgets for Children's Wellbeing' report<sup>9</sup>, commissioned by Children in Scotland, Cattanach and the Carnegie UK Trust, highlights some of the key approaches required to prioritise wellbeing in financial decision-making and underlines the importance of prioritising wellbeing over growth.

In an April 2020 blog<sup>10</sup> for Carnegie UK Trust entitled 'Wellbeing at the centre of Scotland's progress', Cabinet Secretary for Finance Kate Forbes MSP stated: "The goal and objective of all economic policy should be collective wellbeing... Delivering the outcomes set out in the NPF should be at the centre of how we allocate and spend resources." Unfortunately, progress to prioritise collective wellbeing in Scottish Government decision-making

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<sup>5</sup> [Scottish Government. National Performance Framework](#)

<sup>6</sup> [Scottish Government \(2021\). Outcomes-focused Policy Making in Scotland.](#)

<sup>7</sup> [Scottish Government \(2021\). Poverty and Income Inequality in Scotland 2017-20.](#)

<sup>8</sup> [Scottish Government \(2022\). Long-term monitoring of health inequalities: March 2022 report.](#)

<sup>9</sup> [Trebeck, K \(2021\). Being Bold: Building Budgets for Children's Wellbeing.](#)

<sup>10</sup> [Carnegie UK Trust. Wellbeing at the centre of Scotland's progress.](#)



processes has not been fast or substantial enough.

#### Making evidence-based decisions

In our Manifesto for 2021-26<sup>11</sup>, Children in Scotland highlighted the importance of evidence-based decision-making. Across Scottish Government, we still see examples of policy proposals that are introduced or decisions that are made without sufficient evidence to justify them. One recent example of this was the Scottish Government's 2021 proposal to implement a National Care Service incorporating both adult and child social work and social care services.

As highlighted in our response to the initial public consultation<sup>12</sup>, the proposal to include children's services in reforms to the adult social care system had very limited evidence base to support it. This approach led to confusion and frustration for children's sector organisations across the country as staff delivering services tried to understand the rationale for the proposal. To improve confidence, trust and efficiency in Scottish Government decision-making, policy decisions must be formed based on clear evidence.

#### Thinking long term

The 'Being Bold'<sup>13</sup> report calls on decision-makers to "take decisions 'as if they mean to stay', rather than confining themselves to projects within one parliamentary term". We believe that long-term thinking and decision-making is important for ensuring that the best decisions are taken and that the use of Scottish Government resources is efficient.

Since the publication of the Christie Commission<sup>14</sup> almost 12 years ago, Scottish Government has been shifting public sector responses towards prevention and early support. It is a shift that has widespread support within the children's sector and one which we articulate regularly in our meetings with Scottish Government officials. Prevention will be a concept and intention present in nearly all policy documents relating to the lives of children, young people and families. However, for all this positive intent, few would argue that, given the wide inequalities that persist in Scotland, we have achieved the vision set out in the Christie Commission.

It is vital that we secure long-term investment in statutory public services as well as essential support services delivered to children, young people and families by the third sector. Children in Scotland's members have identified the challenges their organisations have faced in recent years in relation to

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<sup>11</sup> [Children in Scotland \(2020\). Manifesto for 2021-2026.](#)

<sup>12</sup> [Children in Scotland \(2021\). Response to the National Care Service consultation.](#)

<sup>13</sup> [Trebeck, K \(2021\). Being Bold: Building Budgets for Children's Wellbeing.](#)

<sup>14</sup> [Scottish Government \(2011\). Christie Commission on the future delivery of public services.](#)

Scottish Government funding, with many receiving short-term funding or experiencing lengthy delays in their funded being confirmed. Organisations have highlighted the negative impacts this has for them in terms of staff morale and staff turnover. Importantly, short-term financial decision making **also significantly impacts organisations' ability** to develop long-term plans and use resources efficiently, ultimately affecting the services they deliver to the people they support. A better approach to funding these services is essential and long overdue.

Honesty, openness and transparency

Honesty, openness and transparency must be essential parts of decision-making processes. A key component is communicating effectively with stakeholders and the public, including children, young people and families.

Children and young people have told us about the importance of decision-makers closing the feedback loop when they have been involved in discussions about policy issues. This means listening to children and young **people's views and experiences, taking them into account, and clearly explaining how and why the resulting decisions are made.**

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?

n/a

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.

Effective Scottish Government decision-making incorporates all the elements highlighted in question 2.

We would like to highlight the Scottish Government's ongoing commitment to funding and supporting the Inclusion Ambassadors<sup>15</sup> as an effective mechanism for supporting decision making.

The Inclusion Ambassadors are a group of secondary school-aged pupils who have a range of additional support needs and attend a variety of school provision. Originally formed in 2016 by Education Scotland and now funded by the Scottish Government, the group was established to ensure the views of young people with additional support needs are heard in discussions about

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<sup>15</sup> [Children in Scotland. Inclusion Ambassadors project information.](#)

education policy. Children in Scotland have been involved in supporting the network since 2016 and formally running the group since November 2019.

Members of the group currently represents 16 local authority areas across Scotland. The group are encouraged to speak freely and openly, sharing their experiences of being a pupil with additional support needs in Scotland, including what works and what could make things better.

They are enabled to do so through meetings facilitated by professionals **working within the children's sector and engaging directly with** parliamentarians and other decision-makers. They have responded to a number of Scottish Government consultations, produced a range of helpful resources and in 2022 they introduced the Success Looks Different Awards to recognise excellent practice among schools in recognising achievement beyond exam results.

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

We must see good practice processes adopted across all Scottish Government departments and teams. Crucially, as highlighted above, the decisions made by Scottish Government decision-makers must be made with people rather than for them. This includes ensuring that children, young people and families are a key part of the decision-making process.

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

Critical challenge is essential in Scottish Government decision making to ensure we achieve the best and most effective policy making possible. It should be sought from all quarters – including those who will be the beneficiaries of the policy as well as those responsible for implementing it.

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

There is a range of ways in which Scottish Government should be taking account of risk in their decision-making.

These include:

- conducting relevant impact assessments (building on existing data and evidence)
- commissioning research before making decisions when the evidence base is insufficient or unclear

- engaging widely with stakeholders through a variety of methods (roundtable discussions, public consultations, advisory groups, etc.)
- exploring a range of methods for engaging with the public about policy issues (including Citizen Assemblies)
- engaging those with lived experience of the policy issues being debated
- learning from international policy and evidence.

9. How can transparency of the decision-making process be improved? In many of our participation and engagement projects with children and young people, participants have highlighted the importance of sharing information in a variety of ways to support people to access and understand the information available.

This includes breaking down complex evidence or data into more understandable information, and sharing it through a variety of formats and channels including video, infographics, easy-read documents, as well as providing translated information. This helps to ensure information is shared widely and that everyone understands the key issues and why certain decisions have been made.

We have heard from children and young people about the complexity of Scottish Government policy issues – in order to support greater transparency, Scottish Government policy decisions must be explained in a more accessible and understandable way. More recently, Children in Scotland has been sharing key findings from our research reports as short animations<sup>16</sup><sup>17</sup><sup>18</sup>. We have received feedback that these resources have proved helpful introductions to key issues. Understanding and acknowledging that different levels of topic knowledge and interest will exist is important in deciding how information is shared.

Another challenge that Children in Scotland has experienced in recent years is delays to receiving approval to publish Scottish Government commissioned research with children and young people. When children and young people volunteer their time to share their views, they expect this to have an impact and for the findings from these projects to be shared in a timely manner. In certain cases, Children in Scotland has experienced delays of up to six months before we receive approval to publish our research findings. This

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<sup>16</sup> [Children in Scotland \(2022\). Living Museums project - Perth animation.](#)

<sup>17</sup> [Children in Scotland \(2022\). Living Museums project – Dumfries animation.](#)

<sup>18</sup> [Children in Scotland \(2021\). We know what we need: childcare in Glasgow's East End.](#)

erodes both the trust and goodwill of the children and young people who contributed their time.

10. How can decisions by the Scottish Government be more effectively communicated with stakeholders?

As highlighted above, Scottish Government must ensure it is sharing decisions in a variety of ways and making the information clear and accessible. Organisations and the public must be able to see how their views have influenced the decision-making process.

Building meaningful relationships with organisations working with different communities of children, young people and families is a good way to build trust and to support a wide and diverse range of voices to be heard.

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# **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.<sup>1</sup>
- 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.<sup>2</sup>
- Implementing the full list of recommendations from the National Advisory Council for Women and Girls<sup>3</sup>, 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 work<sup>4</sup> 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 immigration status, amongst other groups who experience intersecting forms of oppression and discrimination.

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<sup>1</sup> 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.

<sup>2</sup> <https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/pages/processes/>

<sup>3</sup> <https://www.generationequal.scot/our-recommendations/>

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

## 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 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 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.<sup>5</sup> 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 improves 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 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

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<sup>5</sup> <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>



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.<sup>6</sup> 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 recommendations<sup>7</sup> for equality and human rights budgeting for the 2021-2026 Parliamentary Session in July 2021. These have yet to be actioned fully and 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

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<sup>6</sup> 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](https://www.engender.org.uk/content/publications/1591173199_Gender--Inclusive-Growth---Makinginclusivegrowth-work-for-women-in-Scotland.pdf).

<sup>7</sup> <https://www.gov.scot/publications/equality-budget-advisory-group-recommendations-for-equality-and-human-rights-budgeting---2021-2026-parliamentary-session/>

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 which 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 Girls<sup>8</sup> 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<sup>9</sup>, 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.
- 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.’

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<sup>8</sup> <https://www.generationequal.scot/>

<sup>9</sup> <https://www.generationequal.scot/our-recommendations/leadership/>

Effective improvement requires a critical analysis of existing behaviours, a clear description of desired behaviours, 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,<sup>10</sup> 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 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'<sup>11</sup> has been advanced to describe the collection of values, history, culture and practices

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<sup>10</sup> 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/>

<sup>11</sup> No Shortcuts to Shifting Deep Structures in Organisations Rao et al. Available at: [https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/7731/IDSB\\_46\\_4\\_10.1111-1759-5436.12161.pdf?sequence=1](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/7731/IDSB_46_4_10.1111-1759-5436.12161.pdf?sequence=1)

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 its too hard or represents too much change, that its ok 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, interactional 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.<sup>12</sup>

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.

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<sup>12</sup> <https://www.engender.org.uk/content/publications/Engender-response-to-the-Scottish-Government--Equality-Data-Strategy.pdf> and <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-reponse-to-the-SG-Equality-Evidence-Strategy-Consultation-2023-25.pdf>

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,<sup>13</sup> 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).<sup>14</sup>

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 crime<sup>15</sup>, disabled women's health<sup>16</sup>, employability<sup>17</sup>, skills<sup>18</sup>, education and training<sup>19</sup>, social security<sup>20</sup>, and enterprise and business support<sup>21</sup> 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.**

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<sup>13</sup> 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](https://www.equalityhumanrights.com/sites/default/files/redraft_of_psd_tech_guidance_-_v6sc.pdf).

<sup>14</sup> 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#

<sup>15</sup> 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>.

<sup>16</sup> 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>.

<sup>17</sup> 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>.

<sup>18</sup> 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>

<sup>19</sup> 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>

<sup>20</sup> 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>.

<sup>21</sup> 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>

The points we have made so far with regards to what should be integrated into 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

### 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 plan<sup>22</sup> 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 plan<sup>23</sup> 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 experience's 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, inter-related causes of the pay gap, a much more limited range of actions to address these causes, and will mean ultimately 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 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

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<sup>22</sup> <https://www.gov.scot/publications/fairer-scotland-women-gender-pay-gap-action-plan/>

<sup>23</sup> <https://www.gov.scot/publications/fair-work-action-plan-becoming-leading-fair-work-nation-2025/>

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 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.<sup>24</sup> 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 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.

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<sup>24</sup> <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 in performance management frameworks. Engender also advocates for 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 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 recommendation<sup>25</sup> on the scrutiny of gender competent policy making 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 evidence for how policymaking is impacting women and equalities groups across Scotland.

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<sup>25</sup> <https://www.generationequal.scot/our-recommendations/accountability/>

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 current downwards pressures on budgets, the scope for effective participation and engagement could be significantly disrupted in future.

If 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 NACWG<sup>26</sup> 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.’

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<sup>26</sup> <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.