Summary of submissions – budget scrutiny 2019

Introduction

The Committee received twenty-nine submissions from organisations and thirteen from individuals (both named and anonymous). No local authority, NHS boards or national agency submitted evidence. Most submissions limited themselves to answering the questions posed in the call for views; however, some provide additional information relevant to the inquiry remit which is also summarised in the paper.

Members are reminded that the inquiry remit is:

“To explore public sector funding to third sector organisations that deliver national equalities and human rights priorities, and to assess the accountability of public bodies partnering with the third sector in achieving better outcomes for those groups who have equality needs or require support to access their rights.”

The Committee asked seven questions:

- What are the key public policy areas where individuals and protected groups are struggling to access their rights?
- Which groups of people are most likely to be affected and why?
- What type of public sector funding (European, national or local) is provided to your organisation to support vulnerable groups and those with protected characteristics to access public services?
- Is the level of public sector funding provided enough to deliver national priorities and better outcomes for people and communities, please provide evidence?
- Are there public funding challenges for the third sector; if so what would be the implications for delivering equalities and human rights outcomes?
- What type of administrative systems are in place to monitor the impact on equalities and human rights outcomes from public sector funding to the third sector?
- What changes could be made to improve accountability for national priorities being delivered by the public sector in partnership with the third sector?

Although this paper aims to give Members a good understanding of the key issues raised across the range of submissions, it is still a summary and Members are encouraged to read submissions in their entirety, especially those from organisations invited to give oral evidence.
Broadly speaking, each submission helps us with three areas of budget scrutiny: the levels of funding received by bodies and the impact on services; the relationship between national priorities and frontline/local delivery, and; the budget process and how funds are allocated by public bodies.

Which groups struggle to access their rights, and which policy areas are impacted?

Unsurprisingly, organisations discuss the groups and policy areas relevant to the people they work with most, be that women, older people, children and young people, people with disabilities, LGBT or BME groups. However, other organisations support people across a range of communities and protected characteristic groups. Both types of organisation have provided valuable insights and some helpful recommendations.

Women’s groups

White Ribbon, Feisty Women and Girlguiding Scotland highlight policy areas around gender equality and ending men’s violence against women and girls. Scottish Women’s Aid discusses the plights of domestic abuse victims who are prevented from enjoying their rights by abusive partners and family members, with their human rights being “further denied if public services do not respond to such abuse”. Furthermore, Engender contends that there is no area of public policy where women’s experience is not distinct and different from men’s.

A large number of submissions state that despite the fact that sex is a protected characteristic under the Equality Act 2010, the Scottish Government and wider public sector develop policy around gender self-identification (also referred to as gender or gender identity). Submissions argue that this ignores women’s sex-based rights and affects availability and access to single-sex services and spaces. It is also argued that this view influences third-sector funding because organisations are required to support gender self-identification in order to receive it.

People with disabilities

Disabled people’s organisation, Inclusion, discusses the stark difference in outcomes for disabled and non-disabled people. Likewise, the Scottish Commission for Learning Disability believes that most people with learning disabilities in Scotland do not live their lives “at the heart of their communities as equal and active citizens”, with a range of barriers exist preventing them from inclusion in their communities.

Specific negative outcomes for disabled people relate to poverty, employment, educational attainment, accessibility in housing, access to civil justice, and generally poor access to goods, services, transport and the built environment. Glasgow Council for the Voluntary Sector highlights housing as a significant issue for people with disabilities and those with long-term illnesses. They argue that many people are isolated in their homes or live in homes which fail to meet their needs, which all
clearly impacts on their right, under the UN Convention on the Rights of Persons with Disabilities, to live independently.

**Older people**

Age Scotland describes the various struggles faced by older people, including discrimination at work, and their difficulties accessing rights through advice services and digital platforms. Their research found that 100,000 older people in Scotland feel lonely all or most of the time, and it is Age Scotland’s view that isolated older people may not know about all the services that are available to them. Older carers in particular may not be accessing the support they are entitled to for these reasons, or because they may not self-identify as carers.

**Children and young people**

Children’s Health Scotland believes children and young people require special attention in respect of their health rights because of their particular vulnerabilities and their reliance on adults; i.e. “although they have rights, they are dependent on others to give effect to their rights”. The Scottish Independent Advocacy Alliance believe children and young people with mental disorders consistently face a gap in provision: “their right to independent advocacy remains abstract, as it does not translate into meaningful practice”.

**LGBT people**

Stonewall reports disproportionately high incidences of poor mental health within the LGBT community. Furthermore, their Scottish research reveals that one in eight LGBT people (12 per cent), including two in five trans people (37 per cent), have avoided accessing health care for fear of discrimination because they are LGBT. LGBT Health and Wellbeing acknowledges significant advances in legislation and social attitudes over recent decades; however, they also describe experiences of discrimination and harassment as “a day-to-day reality” for many LGBT people in Scotland.

**General, cross-cutting observations**

Submissions from organisations like the Health and Social Care Alliance Scotland, Scottish Independent Advocacy Alliance, Shelter and Glasgow Council for the Voluntary Sector provide some useful cross-policy observations. For example, the Human Rights Consortium Scotland believes that groups who most struggle to access their rights are “those whose voice is least heard in decision-making”:

- People not born in Scotland, including refugees and those with insecure immigration status.
- Children and young people.
• Disabled people, particularly people with learning disabilities, people who have particular access or communication requirements, people with mental health difficulties, people whose independent living requires support.
• Carers.
• People living in poverty and homelessness.
• People targeted by discrimination and racism, such as Scottish Gypsy Travellers, and black/minority ethnic communities.

Likewise, the Scottish Independent Advocacy Alliance, summarising the views of advocacy organisations across the country, identifies the following groups as being most affected:

• People with mental health conditions, both in hospitals and in the community.
• People with assessed social care needs accessing Self Directed Support.
• Adults with learning disabilities facing legal interventions.
• People who are marginalised in multiple ways including intersections of class, race, gender, LGBTIQ+ people, migration/citizenship status and disability.

Third sector organisations often see themselves as “defenders” of the rights of the most marginalised and vulnerable in society, and this comes across strongly in most submissions. Crossreach, Women’s Aid Scotland and the Scottish Commission for Learning Disability argue that such organisations should be valued more and understood as core to “an integrated rights respecting strategy”.

The Fife Centre for Equalities argues that where individuals and protected groups most struggle to access their rights is at the point of contact with public bodies, as “the act of exercising rights tends to be dealt with as problematic or leading to/arising from conflict”. This underlines the importance of advocacy services, a view supported by many submissions.

Scotland’s National Action Plan for Human Rights (SNAP)

Various submissions refer to Scotland’s National Action Plan for Human Rights (SNAP), first published in 2013 and led, developed and co-ordinated by the Scottish Human Rights Commission (SHRC). It aims to set out a “roadmap towards a Scotland where everyone can live with human dignity, where international human rights are realised in people’s lives”. The Plan appears to be well-regarded by the third sector. For example, LGBT Health and Wellbeing applauds its potential to identify individuals and protected groups who are struggling to access their rights.

A second phase of SNAP is currently being developed by a working group consisting of representatives from civil society and the public sector. The Human Rights Commission’s submission refers to the 2018 SNAP All Our Rights consultation report which is part of this review process. This identifies the five most common human rights issues prioritised by communities across Scotland:

1. Addressing discrimination
2. Challenging poverty and related inequality
3. The right to health
4. The right to participate
5. The right to a home

The report goes on to summarise how different groups – including young people, primary carers, transgender people - are affected by these issues. Policy areas considered to be requiring reform include the legal system, transport, social security, social care, advocacy services and the education system.

An evaluation of SNAP published in July 2019 concluded that the 2013-17 Plan had improved outcomes for people and communities in specific instances, and garnered cross-sectoral support. However, it also found that the Plan did not have adequate resources to implement all of its commitments. This is a concern echoed in a number of submissions, for example those from the Human Rights Consortium Scotland and Health and Social Care Alliance Scotland.

**Self-directed support and social care**

A number of submissions highlight self-directed support (SDS), and social care generally, as policy areas where individuals and protected groups can struggle to access their rights. The Scottish Independent Advocacy Alliance reminds us that self-directed support was developed by the Scottish Government “with an explicit human rights-based focus”. Although it came into law six years ago, delivery of SDS still poses challenges, according to the Coalition of Care and Support Providers.

The Scottish Human Rights Commission recognises that SDS is “a good model of person-centred empowerment”, however the Coalition of Care and Support Providers argue that insufficient resources, recruitment problems, restrictive procurement practices and too frequent re-tendering have meant that implementation of the Act has been “highly variable”. Advocacy organisations report that vulnerable people are “not able to have their basic rights to health and an adequate standard of living realised”.

**Public sector funding levels – impact and delivery of national priorities**

Many organisations submitting evidence receive funding from the Scottish Government’s ‘Promoting Equality and Human Rights’ budget. According to the Government, this funding of £24.6m supports:

“the equality infrastructure and invests in the capacity of equality organisations; Strategic Interventions to support key equality interventions and measures that will help to drive forward equality and respond to Ministerial priorities; and Specific Funds to support frontline activity to address violence against women and to support activities to promote equality, foster community cohesion, address discrimination, hate crime and inequality.”

Some organisations receiving funding from this budget include LGBT Youth Scotland, Age Scotland, Scottish Women’s Aid, Engender and Inclusion Scotland.
Equate Scotland feels that demand for equalities and human rights related work delivered by the third sector will only increase. As such, it is their belief that “the current level of public funding to third sector organisations delivering equalities related work is unlikely to be enough to meet demand and certainly not enough to embed sustainable, long term measures or attitudinal/culture change”.

Local authorities and NHS boards are also important sources of funding for third sector organisations. Organisations may win contracts to deliver public services, such as social care, or they may receive grants to help authorities address particular challenges. Figures from SCVO show that local authorities are the largest public sector funders of third sector organisations; yet it has also been acknowledged that the local government budget have seen a real terms reduction over the past decade (see SPICe blog). As such, Health and Social Care Alliance Scotland (HSCAS) argue that tighter and stretched local authority budgets “result in poorer experiences for those accessing services in the form of restrictive eligibility criteria, increasing charges, and growing infringements of their human rights”. SWA also reports that Women’s Aid groups have become increasingly unable to rely on the Scottish Government and local authorities to provide adequate funding to meet demand.

*Increased demand, reduced funding*

Almost all written submissions highlight some funding challenges or express the view that public sector funding for the third sector should be increased. Age Scotland believes that the voluntary sector is often left to “plug the gap” for services that were previously publicly funded, whilst other groups face increasing demand at the same time as their budgets are reduced. HSCAS reports a growing trend for local authorities to demand that “third sector organisations deliver services ever more cheaply whilst at the same time retracting their support to those services provided in-house”.

Equate Scotland highlights the impact reduced funding has had on the services and activities they provide: “we can no longer provide one to one career clinics which support women seeking work or experiencing difficulties at work…as costs of delivery, staffing and operations have increased, and funding has remained static”. They mention other third sector organisations that have experienced even more difficult budget situations, with services and activities either being limited or stopped.

Reduced funding for organisations means there is an apparent gap between national policy aims and experiences on the ground where, according to Human Rights Consortium Scotland (HRCS), “many people are living in Scotland without access to their basic human rights”. These include the right to independent advocacy, the right to highest attainable standards of health and the right to independent living and community inclusion. Inclusion are also very concerned that cuts to local government funding and “austerity-driven cuts” to services are impacting on disabled people’s realisation of their right to independent living.

Many organisations write about what they could do with more funding. For example, Children’s Health Scotland describe how they could help more children and young people access their right to the best quality healthcare, by, for example, placing more
Short-term funding

Short-term public funding, sometimes for a year or less, means that organisations can struggle with project delivery and workforce planning. According to the Scottish Independent Advocacy Alliance (SIAA), this can lead to job insecurity, high staff turnover and a resulting loss of knowledge and expertise. For these organisations, the additional time and resource devoted to recruitment and training adds a further burden and diverts people and funds away from frontline delivery. The Scottish Commission for Learning Disability (SCLD) states that short-term funding means that some of their projects are “often very precarious”, thus making “long term planning to progressively realise greater equality and human rights impossible”.

Equate Scotland takes up this point, describing their experiences:

“For a number of years Equate Scotland (and other third sector organisations) have continued to be offered one year funding contracts only, furthermore the confirmation of funding is usually provided only 4-6 weeks before the end of the current funded year.”

The negative consequences of this set-up can include:

- A struggle to maintain momentum and engagement with clients/communities.
- One year/short term contracts drive away individuals to other sectors.
- The sector struggles to provide an inclusive, fair working environment.

Scottish Women’s Aid believes that local authority decision-making – specifically the use of short-term contracts for services and the tendering of domestic abuse services - often compounds the insecurity of Women’s Aid service funding. Furthermore, according to SWA, in 2017-18 over a fifth of Women’s Aid groups were providing services without having a contract or service level agreement with their local authority.

(It is also worth noting that the SWA’s submission welcomes the recent move by the Scottish Government to three-year funding cycles for projects directly funded by its Equality Budget.)

Scottish Human Rights Commission

The Scottish Human Rights Commission is an independent public body with a statutory mandate to promote and protect all human rights for everyone in Scotland. It is accountable to the Scottish Parliament and receives a budget of just under £1 million. The Commission is an “A status” National Human Rights Institution, as accredited by the United Nations; however, it was noted by the accreditation committee in 2010 and 2015 that the SHRC “faces limitation in terms of its staffing
and allocation of resources”.

According to the SHRC’s submission, the First Minster’s Advisory Group also acknowledged that the Commission requires more resources “to advance their mandate in the current context.” The Commission therefore requests that government and Parliament “give careful consideration to the need to further resources for SHRC”.

Perception of priority given to certain groups over others

Some organisations and individuals are concerned that the way public funding is allocated may act as a barrier to promoting the rights of the people they are trying to help. This is an issue for groups arguing that the Scottish Government and other public bodies prioritise gender self-identification over biological sex in policy-making, “reinforced by Scottish Government funding arrangements for third sector equalities organisations” (according to consultants Murray, Blackburn, Mackenzie (MBM)). MBM are unaware of public funding in Scotland going to any organisation “that explicitly advocates for the interests and rights of women and girls on the basis of the protected characteristic of sex”.

The Women’s Rights Action Group Edinburgh submission also expresses “serious misgivings” about how funding to third sector organisations is being used “to undertake social engineering without any democratic debate, oversight or indeed right to do so”, and For Women Scotland’s submission argues that prioritisation of groups promoting gender self-identification has taken place without any consultation “with a wider range of those who they claim to represent”. Gina Nelson’s submission, similar to a number of others, argues that:

“women (protected characteristic of sex), women of faith (Muslim women and orthodox Jewish women – protected characteristic of religion/belief) are adversely affected by the policy of making every publicly funded group and third sector organisation dependent upon being inclusive to men who identify as women.”

A couple of submissions – Feisty Women’s and the Fife Centre for Equalities (FCE) - argue that the system of public funding favours larger, more established organisations, because they already possess “some degree of corporate governance and capability”. Feisty Women report that “investment in third sector organisations can be driven by trends and the expert lobbying power of larger organisations”, and the FCE contends that the Scottish Government appears to rely predominantly on national bodies for the delivery of equalities and human rights outcomes, leading to “the absorption of a large proportion public funding budgets by central belt organisations and restricting delivery at the local and grassroots level”.

Public funding of advocacy organisations and possible conflicts

Submissions from the SIAA, Glasgow Council for the Voluntary Sector (GCVS) and Women’s Aid Scotland (WAS) underline the importance of advocacy organisations’ independence from the organisations they are there to challenge. Women’s Aid Scotland, for example, describes the situation whereby third sector organisations are
funded by the same public authorities that they – as “human rights defenders” - have to hold to account on behalf of the people they represent. According to WAS, this can create “particular challenges for smaller local services where there is a significant imbalance of power, funding is precarious and there is a lack of long-term contractual arrangements.”

The SHRC voices similar concerns, whilst the GCVS reports worries that some contracts between public services and the third sector may contain conditions requiring them not to challenge the services/authorities which fund them. They are therefore concerned “that the need to maintain positive relationships with funders may prevent charities from supporting legal action in cases where individual/family rights have clearly been breached”.

**Monitoring the impact of public sector funding to the third sector – current methods and ideas for improvement**

Various organisations describe the methods currently used to record and monitor their outcomes. For example, White Ribbon submits a monitoring return to the Scottish Government to demonstrate impact, and LGBT Health and Wellbeing describes its comprehensive approach to its evaluation, regularly collating and analysing both qualitative and quantitative data. This is used in their report on outputs, outcomes and progress to various public sector funders. Girlguiding Scotland also informs the Committee that the monitoring of funds for their youth work is already linked to United Nations Convention on the Rights of the Child, as this underpins the National Youth Work Strategy.

The Scottish Independent Advocacy Alliance (SIAA) believes it is “standard practice” for independent advocacy organisations to gather and monitor data for the purposes of evaluation. However, for this data to be meaningful and useful the SIAA believes it is critical for organisations to “ask the right questions in the right ways”. Children’s Health Scotland uses logic modelling to show the link between its activities and outcomes, and has developed these methods through training and consultation with Evaluation Support Scotland (a charity partially funded by the Scottish Government).

The SHRC provides the committee with a number of key recommendations and questions for the Committee which are worth quoting in their entirety:

- How is financial spend on national priorities scrutinised at the local level?
- What is the government doing to make more fiscal information (including enabling the connection of allocation to spend) a. available, b. accessible, c. meaningful and d. transparent?
- What is the government doing to connect the national outcomes to the budget, beyond a narrative?
- Can the government explain how its allocations meet the achievements of basic levels of rights for all?
- Do budget allocations prioritise closing the gaps in human rights enjoyment between different groups (indeed, have they any means of making this assessment?)
The Commission also recommends that the government follow through with the FM’s Advisory Group Recommendation on taking a human rights budget analysis to the National Performance Framework, including the introduction of human rights based indicators.

Challenges aligning national ambitions to local deliver

Equate Scotland believes the Committee should review the impact third sector organisations have in influencing and developing national and local policy. And GCVS and SHRC present two key questions for the Committee’s budget considerations: a) how do human rights policy developments at the national level filter through to local delivery, and b) how is financial spend on national priorities scrutinised at the local level.

Reiterating the point expressed earlier about the gap between national ambitions and local delivery, GCVS believes there is a clear need to better align the National Performance Framework with the evaluations of individual organisations:

“There needs to be a clearer line of sight from the National Performance framework outcome relating to human rights, through the Scottish budget and budget allocations to local authorities, NHS boards and public bodies.”

Whilst GCVS argues that “equality and rights are part of the third sector’s DNA”, monitoring at local level does not always link to national outcomes or the national policy direction of travel. They call for ministers to explore how they can use their letters of allocation to public bodies to reference key messages on human rights and request public bodies to set-out “how they engage with the third sector as a defender of rights and as advocates.”

SHRC believes that what is allocated at the national level and how money is then reallocated and spent at the local level is critical in determining whether national priorities are realised. However, it is their belief that “there is currently no way of systematically tracking allocations from the budget through the local authority and/or health board to make this determination”, never mind how money is then allocated to third sector organisations in order to fund local projects and services.

On this last point, Malissa Titus, For Women Scotland and the Women’s Rights Action Group all argue that there seems to be little accountability and transparency from third sector organisations as to how public funding is being spent. Malissa Titus argues that “outcomes of funding should be publicly reported and organisations in receipt of public money should be subject to Freedom of Information requests”.

Scottish Government budget information and access to equalities/human rights data

Some submissions are critical of the Scottish Government budget process and the way budget information is presented. The Human Rights Consortium argues that the Scottish budget system is “very opaque and difficult to scrutinise” with limited
information available about longer-term trends, details on smaller budgets and the changing use of terms in different years. The SHRC is similarly critical of Scottish Government budget data, much of which is presented on the Scottish Parliament’s website. They argue that it is only ever possible to compare two concurrent financial years, explanations of budget lines and any changes are variable, and budget lines under £2 million often carry no explanation or further breakdown. They therefore feel that they cannot fully interrogate the budget due to a lack of available, accessible transparent data.

Beyond this apparent lack of useful financial information, a number of submissions highlight problems with equalities and human rights data generally. For example, Fife Centre for Equalities believes evidence by protected characteristics is not adequately monitored, making it challenging for an equality and human rights third sector organisation “to quantify the extent to which mainstream public bodies deliver services to minority groups”. LGBT Health and Wellbeing also discusses a lack of disaggregated health data for specific protected groups, and Engender highlights the need for more gender-disaggregated data to be available and used throughout the revised Budget process. HSCAS speaks for many organisations when it concludes that “data collection about the rights of seldom heard groups could be improved”.

More participation required in the budget process

There is a real lack of opportunity for public participation in the Scottish budget process, according to SCVO and the SHRC. They highlight a common perception that fiscal policy is inaccessible to most people. However, SCVO calls for more participatory mechanisms and inclusive processes to allow civil society and the public “to have a meaningful say in all stages of the budget process, a prerequisite for human rights-based budgeting”. SHRC believes that greater public participation could contribute to a “more balanced distribution of public resources and greater accountability for national priorities being delivered by the public sector in partnership with the third sector”.

Human rights budgeting and equality budgeting

Many submissions call for changes to be made to the way budgets are devised and scrutinised across the Scottish policy landscape. The SHRC in particular argues that the budget is rarely viewed through a human rights lens, and it is their belief that the Scottish Government should adopt a human-rights based approach to budgeting “in order to ensure that rights on paper become rights in practice”.

The Health and Social Care Alliance Scotland defines human rights-based budgeting as:

“the questioning of assumptions about the budget setting processes – moving the overall goals away from simply being focused on GDP, for example, and towards the realisation of rights as well as active participation of rights holders in the process”.

In the area of social care, for example, this could extend to exploring the impact of budget decisions on the rights of workers and unpaid carers, as well as on service users.

The Scottish Commission for Learning Disability (SCLD) welcomes the SHRC’s Human Rights Budgeting (HRB) guidance, which has been developed to help organisations “calculate how much is spent and how much should be spent on respecting, protecting and promoting economic and social rights”. The Commission itself calls for the development of a publicly accessible human rights tracker tool “which incorporates the outstanding recommendations made by UN Treaty Bodies alongside our commitments in SNAP, the National Performance Framework and delivery of the Sustainable Development Goals”.

Engender calls for a full gender analysis of the Scottish Budget, where the cumulative impact of spending decisions on women’s equality is considered. This is echoed by Scottish Women’s Aid who would like to see gender budget analysis at every stage of the budgeting process. They believe Parliament should have a key role in scrutinising the process, ensuring competent gender equality analysis is carried out across policy portfolios and holding government to account.

**Equality Impact Assessments**

The Glasgow Council for Voluntary Services believes that decisions on social care can have enormous impacts on those with disabilities, as well as on unpaid carers; however, they claim that cuts at local authority level are sometimes being proposed and considered without full equality impact assessments. The Scottish Independent Advocacy Alliance also calls for “increased robustness in the requirements for the public sector to have effective, current and co-produced Equality Impact Assessments in place for all elements of the delivery of public services”.

Other organisations and individuals submitting written evidence argue that third sector organisations are providing front line services, funded by public money, so should be subject to the same public sector equality duties as public bodies. This should include requirements to undertake full equality impact assessments.

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