



OFFICIAL REPORT
AITHISG OIFIGEIL

Equalities and Human Rights Committee

Thursday 25 October 2018

Session 5



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EQUALITIES AND HUMAN RIGHTS COMMITTEE

26th Meeting 2018, Session 5

CONVENER

*Ruth Maguire (Cunninghame South) (SNP)

DEPUTY CONVENER

*Alex Cole-Hamilton (Edinburgh Western) (LD)

COMMITTEE MEMBERS

*Mary Fee (West Scotland) (Lab)

*Fulton MacGregor (Coatbridge and Chryston) (SNP)

Oliver Mundell (Dumfriesshire) (Con)

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Alison Harris (Central Scotland) (Con) (Committee Substitute)

Dr Alison Hosie (Scottish Human Rights Commission)

Dr Angela O'Hagan (Equality Budget Advisory Group)

Chris Oswald (Equality and Human Rights Commission)

CLERK TO THE COMMITTEE

Claire Menzies

LOCATION

The Sir Alexander Fleming Room (CR3)

Scottish Parliament

Equalities and Human Rights Committee

Thursday 25 October 2018

[The Convener opened the meeting at 09:00]

Decision on Taking Business in Private

The Convener (Ruth Maguire): I welcome everyone to the 26th meeting in 2018 of the Equalities and Human Rights Committee. Please make sure that all electronic devices are in silent mode. We have apologies from Oliver Mundell; I welcome Alison Harris, who is attending as a substitute for Mr Mundell.

Before moving on to our decision on taking business in private, I would like to say a few words about the visits that committee members took part in at the weekend and at the beginning of the week. Annie Wells and I visited St Mary's Kenmure secure unit, where we had the opportunity to speak with staff and young people. It was certainly a very rewarding visit and we want to place on record our thanks to them for it. We had some very interesting feedback on the age of criminal responsibility and in particular on young people's experience of being held in police cells and on their interaction with the justice system.

Annie, do you want to add anything about the visit?

Annie Wells (Glasgow) (Con): Thank you, convener. What I have to say is along the same lines—I want to thank everyone who helped us to have some informed discussions at St Mary's. It was interesting for me to have that contact with the young people to understand exactly what it feels like to go through the justice system at such an early age.

The Convener: Thank you. Mary Fee and Fulton MacGregor visited Kibble safe centre. Mary, do you want to tell us about that?

Mary Fee (West Scotland) (Lab): Yes, thank you, convener. I would like to thank all the staff at Kibble for what was an extremely informative visit on Monday. The staff gave us an overview of the facilities that are available at Kibble and we had an extensive tour of the buildings. The staff also spoke about the support and the help that is available to the young people who are at Kibble, the age range of the young people who come to Kibble and the reasons for their being there.

We had a discussion about the age of criminal responsibility and the way that young people interact with the justice system. The staff were very open and honest in their views on the work that we are doing on the Age of Criminal Responsibility (Scotland) Bill.

We also had the opportunity to spend time with a young person who is at Kibble. I would like to thank that person for the very open and honest way in which they spoke to us about the issues that they had had in their past, and the very frank way in which they explained the reason why they are now at Kibble. They also went into some detail about the help and support that is available for them and the benefits that they have had from being at Kibble. All in all, it was an extremely useful and informative visit.

Kibble is in the region that I represent and it is a place that I have visited before. It has worked very hard to build a good relationship with the community and has done that very successfully. I want to put on record my thanks to everyone at Kibble.

The Convener: Thank you, Mary. Alex Cole-Hamilton was at Howdenhall centre.

Alex Cole-Hamilton (Edinburgh Western) (LD): Yes, that is right. A member of the Scottish Parliament information centre and I visited Howdenhall on Monday. Howdenhall is the local authority-run secure unit. I was blown away by it. The staff had a wonderful compassion about them and a levity that I find very common in youth workers. They seek to engage young people.

We learned about the PACE—playfulness, acceptance, curiosity and empathy—approach that they take to behaviour management, which is about the playful and accepting manner in which they approach young people and uphold the position and the situation that they find themselves in.

I am very grateful first and foremost to the staff. Like Mary Fee did at Kibble, we also got to meet a couple of young residents of the unit, who were very frank and who were quite open about why they were there. They were very interested in the work of this committee. One in particular is starting to understand the direction their life has taken and wants to make a change. They are starting to have aspirations towards becoming a vet and they are very keen to know that the offences they were guilty of before they were 12 would not impact on those aspirations. There is a real lived experience around that.

I was pleasantly surprised by the nature of the surrounds and the comfort that staff seek to provide to young people. It was a much warmer experience than I was expecting, so I would like to

thank everyone who helped to make the visit happen.

The Convener: Thank you. Fulton MacGregor was at the Scottish Youth Parliament sitting in Kilmarnock. Do you want to feed back on that?

Fulton MacGregor (Coatbridge and Chryston) (SNP): Yes, thank you, convener. First, I want to associate myself with Mary Fee's comments about Kibble. It was a very good visit. I do not have much to add apart from saying that it was useful to hear about the welfare approach that they take at Kibble. They said that they already take a non-criminalising approach to the young folk that they have.

There were very good discussions at the Scottish Youth Parliament. I know that Pauline McIntyre was there as well. They were very similar to some of the discussions that we have had at this committee. The young people were reflecting on those discussions. I think that there was a general consensus on setting the proposed new age of criminal responsibility at 12; at this time, that seems to be the age that people want it to be set at. There were various discussions around that and discussions about the police and police contact with young people. A few people raised concerns about how the police approach people. That was a wee bit outside the bill but again, we have had discussions on that as well. They were both very interesting visits.

Alex Cole-Hamilton: One thing that I forgot to mention is that I asked extensively about whether 12 was the desirable age to raise the proposed new age of criminal responsibility to. To a person, the staff and young people all felt that it was too low and that they would like to see it increase beyond 12. That was the opinion of the staff and young people alike.

The Convener: I suppose that it depends on what question you ask, but Annie Wells and I heard different opinions from young people at St Mary's. The young people to whom we spoke directly probably feel that it would be a slight on them to suggest that they are not mature and adult. There is certainly a culture of wanting to be older and responsible, although we heard some interesting comments from practitioners about unintended consequences that warrant more exploration from the committee. I think that they were successful visits all round.

I will now turn to our first agenda item, which is a decision on whether to consider item 4 in private. Does the committee agree to do that?

Members *indicated agreement.*

Pre-budget Scrutiny 2019-20

09:08

The Convener: Agenda item 2 is scrutiny of the 2019-20 draft budget. We have a panel of equality and human rights experts. I welcome Dr Alison Hosie, research officer with the Scottish Human Rights Commission, Dr Angela O'Hagan, chair of the Scottish Government's equality budget advisory group, and Chris Oswald, head of policy with the Equality and Human Rights Commission. I invite the panel members to make some brief opening remarks.

Dr Alison Hosie (Scottish Human Rights Commission): Thank you very much for the opportunity to speak today. I have been doing a lot of work over the past year on human rights budgeting. It is a new area of work for the commission and I have been thrown into learning a lot about budgets. What I have found, in looking back through the evidence from your sessions last year, is that there has not yet been a lot of progress in relation to human rights budgeting—perhaps we should not expect there to be. There is a lot of learning to be done across the board by Parliament, Government and local authorities.

There has been some encouraging progress in terms of process—things that the committee asked for last year in relation to the desire to see better connections between the national performance framework outcomes and fiscal decisions. That is not happening yet but I know that the Scottish Government is working on that, which is encouraging.

We have also seen a potential move towards a better understanding of rights-based budgeting. There are two aspects to it: budgeting and budget analysis. This committee and other committees in Parliament, the SHRC and scrutiny bodies such as Audit Scotland need to be moving towards using human rights as a method of assessing whether the Government's budget is realising people's rights. The rights-budgeting work needs to use human rights standards as the principles on which the budgets are based. However, at the moment, we are still not seeing that.

The Convener: Thank you, Alison. Chris, do you wish to make some opening remarks?

Chris Oswald (Equality and Human Rights Commission): Thank you very much for inviting us here again. Today is significant for the Equality and Human Rights Commission. We published "Is Britain Fairer? The state of equality and human rights 2018" and "Is Scotland Fairer? The state of equality and human rights 2018" this morning. There is a statutory duty on the commission to produce a state of the nation report. Every three to

five years, the statute changes a little bit. There is a wealth of information inside “Is Scotland Fairer?” and we are encouraging public bodies and employers in particular to use this as a benchmark.

Although we found lots of encouraging signs in Scotland, particularly in terms of the human rights commitments around social security, the plans around race, gender and disability, and the legislation for 50:50 balance, as well as lots of other ambitious things, we still found that too many communities are falling behind. There is potential to look at that in the budget.

I am sure that the findings will not be unfamiliar to the committee. We focus on equal pay and on workplace segregation of men and women. We know that disabled people in Scotland today are twice as likely to be living in poverty and without work. We have concerns about ethnic minority graduates having lower attainment at university and also not going on to postgraduate study to the same degree.

We have particular concerns about housing for disabled people. We released a report earlier this year that identified that 17,000 wheelchair users were inappropriately housed and 60,000 ambulant disabled people were still waiting for aids and adaptations. However, as in everything to do with equality in Scotland—and of particular interest in relation to the budget—we found massive holes in data, particularly when we move away from sex, race and disability to sexual orientation and faith. The available data simply does not give analysts the ability to look at particular areas.

Later on in the evidence session, I hope to talk a bit about our work on cumulative impact assessment. We published work earlier this year that looked at taxation and social security and what were described as being the winners and losers across Great Britain and in Scotland particularly. We will publish a further report in two or three weeks that adds information on taxation, social security and public spending decisions.

I can talk a bit about that but I think that it is particularly illuminating when you look at the marriage of central Government policy with the situation at local government level and the cuts that many communities have experienced. We are able to estimate, for example, that the Bangladeshi community across Great Britain has lost on average £3,400 as a result of tax and spend decisions over the past eight years. I am happy to go into that a little bit later.

The Convener: Thank you. Angela O’Hagan, do you want to make some opening remarks?

Dr Angela O’Hagan (Equality Budget Advisory Group): Good morning, convener, and thank you very much for the invitation. I have

appeared before this committee many times but it is the first time that I am here in my capacity as chair of EBAG, which is very exciting. It reflects a commitment to reconfigure the work, to maintain the commitment that there is and to drive forward quite an ambitious work plan that is linked to the budget review group recommendations as well as the issues that Ali Hosie and Chris Oswald have highlighted on behalf of their respective commissions.

To focus on the recommendation from the budget review group on committee scrutiny, that is a year-long process. We are where we are in terms of some of the structural constraints that we have in the budget process. We are trying to alleviate the bottleneck of scrutiny at this time of year. To that effect, a letter under my name came from EBAG, reminding all committees of that budget scrutiny across outcomes, impact and process and about how we engage in a collective endeavour to improve the budget process in Scotland.

09:15

We already have a unique process in Scotland, which was highlighted by the budget review group, but with everything, there is the opportunity to build and improve. Through engagement in scrutiny and analysis, drawing on a wider range of sources of information and using an equalities and human rights approach—using the tools that we have and the principles and the legal and practice norms—we can advance a budget process that is even more cognisant of the issues that Chris Oswald has raised.

The Convener: That leads nicely to my first question. What is the importance of embedding equality scrutiny in the budget process? How can committees successfully embed that scrutiny? You mentioned the timeframe and how there is a bit of a bottleneck. Further comments on that would be helpful. Also, how might the new budget process lead to an improvement in that scrutiny?

Dr O’Hagan: The budget review group’s recommendation straightforwardly states—although this may not be straightforward to implement—that the committee should take a broad approach to budget scrutiny, shifting the focus from annual changes to inputs and looking at the difference that spending is making, at the direction of travel, at what is being spent overall and at what specific outputs it is achieving as well as what outcome measures there are.

Overall, the key scrutiny question is about what progress has been made in advancing equality and tackling underlying inequalities. That is a deceptively simple question, because it is a massive question. It can direct—whether through

the health committee, education, local government or Infrastructure Europe—within each committee's area of scrutiny or across the Government's priorities and across the measures in the national performance framework how those measures are interpreted and how they are analysed from an equalities impact perspective and from the perspective of advancing and realising rights.

Engaging in that way opens up the conversation, and it opens up the scrutiny process to look at the direction of travel and the outcomes. Is spending making a difference, or is spending the problem? Is the issue the direction of that spending rather than the amount? In equalities analysis, there is always a tendency to look not at the amount but at the impact, the effect, who is benefiting, how resources are being directed and whether they being directed in such a way that they address the issues that Chris Oswald has raised and that we see again and again in "Is Scotland Fairer? The state of equality and human rights 2018", which are the Government's stated ambitions.

Are resources being directed to address the underlying inequalities? Are the committees engaged in scrutiny of spending and policy outcomes in such a way that equalities and human rights are at the centre of their analysis rather than an add-on, instead of that scrutiny being restricted to the timeframe of the draft budget process?

Chris Oswald: I will give you an illustration of how that could work in practice. We conducted a formal investigation into the supply of disabled people's housing across Great Britain, and a number of the issues could be said to be purely about the supply of housing, which is traditionally a local government matter. However, we found significant impacts in terms of NHS costs, bed blocking and people being inappropriately housed in care homes for a number of years. We found that, if a disabled person was inappropriately housed, they were four times less likely to be in work. Issues come up across the budget, and it is for each committee to look at distinct areas of policy, very much as Angela O'Hagan has suggested.

The headline from the inquiry is that, although 50,000 affordable homes are being built in Scotland, with a huge number of homes coming through the city deals programme, very few developers are taking the opportunity to build housing for wheelchair users or people who are ambulant disabled—or, indeed, housing to enable people to stay in the same place as they age. There are live issues, which I have described in equality terms. There are huge issues about the right to appropriate housing, and the committees must be on the front foot, asking about the different aspects. We describe it as a housing

problem, but it has impacts on the NHS, on work and on the economy overall.

Dr Hosie: When we talk about equalities—the human rights aspects of housing have been mentioned—at the moment, the right to housing would not necessarily feature in the thinking when assessments are made. Local authorities might think about the right to housing but not about the specifics in relation to the different attributes that are set out in the international covenant. There is lots of information about what makes quality, accessible and adequate housing, but that does not yet feature. That is clear in the evidence that local authorities have given you already this year. They mention human rights, but there is no real understanding of how those are put into practice.

Through your inquiry, you contacted all local authorities, asking them what they do in terms of equality impact assessing and at what point in the budget they do that. We looked at that evidence from a rights perspective to see whether they were talking about income generation, allocation and spend, because those are the aspects that we would look for, but not a lot of information was provided. Some information about income generation and maximisation was provided but not to the degree that we can really see whether money is being allocated in certain areas, whether it is being spent in the right areas or, if it is not, what it is being spent on.

Angela O'Hagan talked about the data and about having the right kinds of information at the right points in the year. The commission has been involved in a project on budgeting whereby we have been trying to replicate the open budget index for Scotland. It is a global index that looks at transparency, accountability and participation in budgets, and it aims to put us on an equal footing with the rest of the world to see how well we do.

We are only part way through that project, but we have identified a problem with access to information. Scotland's score is coming out in the middle of the range because three key documents that would be considered to be good practice are not being produced by the Scottish Government. We do not have a pre-budget statement or an in-year or mid-year report that would analyse what is being spent and the impact that it is having throughout the year. Improvement could be made in those three areas by the provision of that information.

The Convener: Mary Fee has a supplementary question.

Mary Fee: It is more that it is a convenient time for me to come in, convener.

When we have these sessions, I always ask how easy it is to follow the money. I am interested in the panel's views on whether it is getting any

easier to follow the money. Given the comments that have been made in response to the question that the convener put about the direction of travel and policy outcomes, is there still too much focus on the now—particularly in committees, when they are scrutinising budgets? In looking at the direction of travel, should we be looking at what we want to achieve and working backwards rather than forwards?

Dr Hosie: That is a really good question. At the moment, the national performance framework sets some high-level goals and outcomes for Scotland, and we have a range of indicators. Unfortunately, the process of developing those indicators has been a bit rushed and has come before there has been any real logic modelling as to what those goals mean in practice and what success looks like. We need to go through that framing. To be able to work backwards, we need to identify what we are asking and what we are trying to achieve.

We suggested to the Government that it consider human rights budget indicators, and we will continue to encourage it to do so. At the moment, the NPF produces result outcome indicators. Human rights indicators could support the process by looking at the structures and the processes on the way to those outcomes—what commitments the Government has made, what policies and laws it is putting in place and whether they are the right ones—and by bringing in that programme action, what actually happens and the budget.

That layer of information is potentially missing, and those indicators could tell a better story about where we are on the journey of achieving outcomes, about where money is not being put in the right place and where that needs to change, and about different programmes that need to be activated. At the moment, there is a big gap between the aspirations that we want to achieve and what we have on the ground, and the budget is not being directed at what we want to achieve.

Chris Oswald: I completely agree, and I agree with the sentiment of the question—that it is far more important to focus on achieving things rather than on saying things. One of the challenges in “Is Britain Fairer? The state of equality and human rights 2018” is for all Governments across Great Britain to get 1 million more disabled people into work. That seems a straightforward challenge, but we have to work backwards from how we are going to achieve that, starting in the primary schools. Equally, we now have a large cohort of unemployed disabled people who are work ready but who are not getting into work. We need to think about that.

I will give you a practical example of that. The commission has been doing a lot of work on city deals. In Glasgow, 29,000 or 39,000 jobs are

going to be created, depending on what documents you look at, and the challenge that we have put to Glasgow City Council and its partners is to say how many women, disabled people and ethnic minority people are going to benefit from those jobs and that huge public investment and then to work backwards from that figure. If it says that it wants 10 per cent of the new employees to be disabled people, it must tell us how it is going to ensure that, because it is not going to happen by magic.

When we have been doing work around procurement with public bodies, particularly local authorities, we have said that, although equality is implicit in everything that they do, they must make it explicit. They must put a number on it in the same way as they would put a number on the amount of people from deprived communities that they want to get into work. We need to see a lot more ambition. As you say, the outcomes-based approach of setting the challenge and then working backwards to identify how to achieve it is entirely the right one.

Dr O’Hagan: On the focus on outcomes, I return to the budget review process. The current process must be turned around to encourage stronger performance planning—thinking ahead about what the outcomes are—and reporting that provides a greater focus on the delivery of outcomes. That means, as Alison Harris has highlighted, improving the information about what activity public spending will support and whether it is supporting it.

The national performance framework is outcomes based, as colleagues have said, and the scrutiny of it is about whether the actions that are being executed by the range of public bodies to which the budget is disbursed are the right ones. Are those actions the right ones to address the inequalities and the equalities challenges? Are those actions being resourced in such a way? Is the evidence of the need, the issues and action being recorded?

Another area that is very significant in the new financial management arrangements that we find ourselves in under the fiscal framework and the budget review is the medium-term financial framework, which was published in May, in “Scotland’s Fiscal Outlook”. That is horizon scanning and looking ahead, and we absolutely have to see the equalities ambitions within that forward look. Yes, it deals with big issues at a macro level, but they are jam-packed full of equalities dimensions. For example, the forward fiscal outlook might look at public sector pay, and there are enormous equalities issues in public sector employment and public sector pay. We need to get better at reading across and setting high-level objectives in whatever policy area.

When we read the detail of policy or the warm words around policy areas, we are not seeing a follow through in resource tracking or links being made with the excellent work that is going on to promote active, healthy ageing and the resource allocations for that work. How is the action plan for that work being scrutinised by committees and being joined up across other policy domains?

That is the big set of challenges.

09:30

Alison Harris (Central Scotland) (Con): Has the panel seen any evidence to suggest that the Scottish Government is giving equality dimensions of the budget greater priority?

Chris Oswald: How long have I been on the equality budget advisory group? Six years, possibly. It is enormously useful. When it started, it was an experiment and not everybody was clear about what we might be able to achieve. Some of the early work was about establishing the models, establishing the credibility and testing ideas. Particularly since the First Minister came into post, there has been a re-energisation of the equality agenda and indeed the human rights agenda, which has provided a number of opportunities that were not there before. There is a leadership role here that is enormously important. It sets the tone.

It is sometimes difficult to think back, but the debate and discussion that we are having about equality and human rights in the economy in Scotland today is much advanced from where we were five or six years ago. Things such as the national performance framework, the fairer Scotland duty and the Equality Act 2010 are coming much more into play in terms of debate and discussion.

In general, we have made a lot of progress in Scotland, certainly in my time in EBAG. One of the benefits of being in a Great Britain organisation is the ability to look at what is happening in Wales and in England. Although Wales is developing similar models, Scotland is way ahead in terms of consideration. Again, however, we always need to come back to the issue of outcome.

Dr Hosie: To supplement that and relate it to the issue of data, I note that the Government's commitment to improve the equalities data for the new indicators in the NPF will be a test of how far that goes. That information is difficult and we know that it is not readily available for a lot of areas, yet we need it in order to find the nuances of who is worst affected by certain policies or budget decisions.

Dr O'Hagan: In your question, you asked whether there is greater priority on equalities

dimensions in the budget. Do you mean in terms of spending or in terms of the process?

Alison Harris: It is quite a wide question that is open to your interpretation. If you think there are two aspects to the process, I would be interested to hear about both.

Dr O'Hagan: Analysing the spending comes afterwards, in a sense, so we need to ask what the process is. What was EBAG set up to do? We do not have an influence on Government policy; we are very much focused on process and we act almost as a challenge function, asking where equality analysis is happening and, if it is not happening, why. An example is the work that the EHRC has led on and the work that has subsequently been done in Government on the city region deals. In such work, robust equality impact analysis at policy formulation stage is essential.

As Chris Oswald says, this is on-going development work. We are the envy of colleagues. As a member, now—and not convener—of the Scottish women's budget group, I work with colleagues in Northern Ireland, the United Kingdom and Wales, and Scotland is absolutely the envy of sister organisations in the UK because of the process that we have and because we have the dialogue with Government and Parliament.

That is not to say that we do not need to improve the equality budget statement. We have talked about indicators, processes and measures. All of that needs to be improved, but we are in a very fortunate position in that there is a disposition from Parliament and Government and we can do a lot of learning from international progress as well.

Alison Harris: Thank you—that is very helpful. Do you think that the Scottish Government will provide clarity on how a policy or activity will contribute to improving the specific national outcomes in the national performance framework?

Dr Hosie: I know that it is doing so. It is involved with the Organisation for Economic Co-operation and Development, which is running a programme looking at improving change systems, and the big question that is being asked of the Government is, "What is it that you are trying to achieve?" Until it formulates and frames that, it will not know how it is going to get there. A great deal of thought is going into the processes of how it decides what level of transformational change it is able to undertake.

It is a big change. The nice laminated version of the NPF from last time might be sitting in your offices. How much it impacted on activity is the question that is being asked around the implementation of the new NPF. There is no doubt that there is an ability for the NPF to be transformational, but there has to be much better

co-operation and co-ordination between Government departments and an understanding that these are national goals that everyone needs to be working towards.

I know from the evidence, such as the evidence that you collected from local authorities last year, that there is difficulty in the tension between national and local priorities. In moving towards the launch of the NPF, there was a big push to get the Convention of Scottish Local Authorities on board, and its delivery and support for the NPF could make a big change this time in terms of delivery on the ground.

Alison Harris: Thank you for that very full answer. Does anyone else want to comment?

Dr O'Hagan: I will make a quick comment on equality and human rights impact assessments. We have talked about this for a long time, but there is still significant room for improvement in their quality, in the consistency of how they are conducted across policy domains and departments and in how they are used to inform committee scrutiny.

Alex Cole-Hamilton: Good morning to the panel. It is lovely to see you all again. Since we last met in the context of budget scrutiny, the committee has been engaged in the conclusion of its inquiry into the incorporation of human rights into the work of the Parliament and the wider Government. One thing that we all agreed on from that evidence and that work is that, when the observance of human rights is everybody's responsibility, it sometimes becomes nobody's responsibility. That is why having human rights defenders in parliamentary committees and Government directorates is very important.

My first question is about your interface with Government officials. Are you satisfied that the incorporation of human rights within departments' budgeting processes is taken seriously? Do you get the access that you need? Do you believe that it continues after the meeting and that it is not just a box that they tick, saying, "We've met these human rights organisations and we can forget about it"?

Dr Hosie: The simple answer is that they do not do human rights budgeting yet. There are only very early discussions about understanding what human rights budgeting is. However, I would like to think that we are moving in that direction and that it will not just be a conversation.

Human rights budgeting is transformational. It is quite a change. It is not that difficult to do, although it can be made to sound complicated. Actually, it is about looking at what income is generated, how it is allocated and whether it is spent on what it has been allocated to. From there, it is about drawing on the key standards,

which you will be familiar with, in maximising available resources. That is in-year generation. I know that not all the levers are there for Scottish income, but there are aspects that we can look at.

On allocation and spend, we want to make sure that the allocations are based on our international human rights obligations. What we do not have yet and what we need to move to—the NPF can possibly help with this—is a focus on policy. We cannot start by doing human rights budgeting. We have to start with policy. It has to be in the law and policy development. We have to have the human rights standards in mind when we are developing policies, in order for them to be reflected in the budget. We need to have the discussions at that point, and that will lead to effective human rights budgeting.

Chris Oswald: Human rights budgeting is very much the SHRC's issue, so I will not comment on that.

Alex Cole-Hamilton: Alison Hosie, you said that we need the centre of gravity to be in policy, which should be the driver for budgeting processes and local delivery. We keep coming back to the fact that there is sometimes a disconnect between political aspiration and what happens on the ground. I always come back to the example of the Children and Young People (Scotland) Act 2014, which for the first time put children's rights at the top and gave ministers duties to raise awareness. In the same year, half of all local authorities lost their children's rights officers. There was a demonstrable disconnect between the high-level policy intent and delivery on the ground. Has that improved, not just for children but across the board?

Dr Hosie: It is still a work in progress. There are still too many examples where there is good intention at the legal and legislative level but delivery on the ground does not happen. The budget is a big part of making that happen. Self-directed support is a good example of good rights-based legislation that is massively underfunded. There is no doubt that the aspiration is there, but we cannot achieve those outcomes without the appropriate budget. There is still a long way to go in connecting the two aspects.

Dr O'Hagan: I would not disagree with anything that Ali Hosie has said. I keep coming back to the word "process" and EBAG's role in trying to build analytical competence and the understanding of what an equality and human rights budget process would look like. As part of the challenge to EBAG to reconfigure our membership and our approach, we have in the work plan a meeting to be scheduled with the minister to talk about human rights budgeting and to take it forward, depending on the timeframe for when the commission is able to share its findings.

We are also doing some deep dives into particular policy and spend areas including taxation and revenue, and we are reconfiguring our ways of working, which I see as a way of catalysing and supporting the building of understanding and competence. Rather than there being a command perspective from EBAG, we want to have a much more discursive approach with policy departments on how the analytical process and the operational process of formulating policy objectives and resource allocations join up. That is a tall order, but that is the plan.

Chris Oswald: If I may extend the discussion to cover cumulative impact assessment, which is much closer to—

The Convener: We are going to come to that a bit later. We will let you share your thoughts then.

Chris Oswald: Okay.

Dr Hosie: Following up on Angela O'Hagan's comments about process, the work that the commission is doing at present is very much focused on that. As part of our project, we tried to develop indicators. We wanted to look at indicators on process and indicators on allocation, generation and spend, but we found that we could not do that bit because the processes were not in place to provide us with the information that we needed, so we are working on developing a range of process indicators that will help to show progress within the budget's changing processes and to look at issues of transparency and accountability and participation within the budget. We will have that available in due course.

We are always aware that, in order to explain what human rights budget work and budget analysis are, we need to have good, accessible information on that. We are working on that as an output from our project as well, and that will be more widely available.

The Convener: Are those the two main challenges that you see—getting the indicators right and explaining what human rights budgeting is? Are there any other issues that you would like to share with us?

Dr Hosie: As I said, it is about also having the mindset in the development of policy, because the two things need to be connected for rights budgeting to be understood within that context and to be effective.

The Convener: The committee is interested in the specific practical challenges in doing it. Is there anything more that you can share at this time?

09:45

Dr Hosie: It is about understanding what the human rights standards and norms are and how they apply to budgets. People will understand generation, allocation and spend, but we need to consider which human rights standards relate to that so that we maximise available resources and have a minimum core that we progress and realise. Those are all related to generation, allocation and spend. It is about making those things connect and using appropriate language so that everyday people understand what we mean by human rights budgeting.

Gail Ross (Caithness, Sutherland and Ross) (SNP): Good morning, panel. As has been mentioned, the budget process review group has said that all committees should have a focus on equalities scrutiny. The Finance and Constitution Committee has come to an agreement with the Scottish Government on that for the upcoming budget and has published some guidance for committees on how to scrutinise equalities budgeting in particular. It says that separate equalities analysis should be published

"before summer recess in order to reflect the changing nature of the budget process",

and that committees

"should undertake public engagement on policy priorities, within their remit, prior to the publication of, and in order to inform, the Scottish Government's process."

Do you think that that guidance is strong enough? Are committees following it?

Dr O'Hagan: It was certainly one of the recommendations of the budget review group that the committees should have a focus on equalities scrutiny. Are the committees following the guidance? I am not about to let anybody off the hook, but we must realise that we are in the first iteration of the cycle, so we will not know whether that has happened until this time next year. From now on, we must look to see what engagement the subject committees do with the wider range of stakeholders on equalities analysis and to what extent they do the kind of analysis that the budget review group recommended. We will look to see whether the committees do that ahead of the summer recess, before the budget formulation process that is outlined in the budget process takes place. It is very welcome that the Finance and Constitution Committee has issued equalities guidance. That in itself is quite significant.

Gail Ross: Absolutely. You wrote to the committees on 8 October.

Dr O'Hagan: I did.

Gail Ross: Have any of them responded?

Dr O'Hagan: I understand that one committee has responded.

Gail Ross: Did you give them a deadline or is it up to them to respond when they feel able to?

Dr O'Hagan: I am just having a quick look. We did not include a deadline in the letter, but we pointed out that the committees might like to focus their attention on the issue ahead of the draft budget coming out in December. Rather than set a deadline, we just set out the timeframe again.

Gail Ross: Will the committees get feedback on what they have done correctly or what they can improve on at this time next year?

Dr O'Hagan: Do you mean from EBAG?

Gail Ross: How will the process work? We have spoken about performance indicators and outcomes. How will the committees know whether what they have done is what they should do? How will they know what we are looking to them for? Is there any way in which we can feed back to them?

Dr Hosie: One of the indicators that we developed as part of the project was quality of participation in the budget process. We developed a traffic-light system that looks at the seven different areas that the consultation charter says are required for good consultation: integrity, visibility, accessibility, transparency, disclosure, fair interpretation and publication. We developed a range of questions to put to participants in the committee processes to find out about their experiences. We did it not to be representative, but to get a baseline for people's experience.

I would like us to develop that work and to incorporate it. One of the notes mentioned that the system will have to change when the committee processes change. We need to find out whether the committees are engaging beyond the usual suspects or whether the same names are coming up. We need to see who responds and on what aspects. I looked at the guidance for subject committees. All the way through, I noted, "This is good—if it happens; this is good; this is missing; this is good but missing." The guidance is good, but we need to see through the process. It is important that there is scrutiny of that. Without committing the commission to doing that, it is something that the indicator that we are developing should try to capture.

The Convener: That is certainly something that the committee would be interested in seeing as it develops if you would be willing to share that with us.

Dr O'Hagan: Given that the Finance and Constitution Committee has issued the guidance, it would be very helpful if it were to follow that up by engaging with other committees on how the guidance is being used and how it can be improved on. You asked whether the committees are following the guidance and taking the right

approach. There is plenty of guidance on how to take the right approach, but there is also a willingness on the part of the parties here and the commission and others in EBAG to help with that process.

To follow up on something that Alison Hosie said, stakeholder engagement and who the committees are talking to about equalities will be key. Responsibility for equalities concerns and analysis does not reside just with the committee. When the public authorities that are charged with delivering our services and delivering equality outcomes appear in front of other committees, are they asked about their equalities activities? That is why the publications that are produced as part of the process of complying with the public sector equality duty are included as examples of the kind of information that committees could and should be drawing on in their pre-budget scrutiny and their equalities analysis. Public authorities list all the great things that they intend to do in the equality outcomes statements that they publish as part of the public sector equality duty cycle. It would be interesting to see to what extent those outcomes are active and real. That could form part of the pre-budget scrutiny process.

Annie Wells: Good morning. All of you have mentioned the importance of the data that is available. From what I have heard, the right data is not available at the right time. I have two questions. What are the challenges that are involved in collecting such data? Are you working with the Scottish Government to improve the quality of equalities data?

Chris Oswald: One of the challenges that we have seen resulted from the UK Government's decision to reduce the amount of administrative data that was collected. Obviously, there were reasons behind that. Regrettably for the commission, the census remains the gold standard of equalities data, which means that, every 10 years, we wait to see what has been turned up. We would like far greater use to be made of administrative data. Rather than a contraction of data collection, we would like it to expand into areas where it is justified.

At times, there is a disinclination to gather data. The situation in Scotland, in particular, is unhelpful, because the ethnicity categories are collapsed into five, when the data is gathered across 14 categories. That means that it is not possible to discern the distinctions between the outcomes for Pakistani, Bangladeshi or Indian people, which are quite stark if we are looking for nuanced policy.

I am sorry—what was the second bit of your question about?

Annie Wells: Are you working with the Scottish Government to improve the quality of equalities data?

Chris Oswald: Yes. One of the things that we are encouraged by is the fact that the Scottish Government, along with us and others, has identified some of the key challenges. I am happy to report that, on the city deals work, we have been able to give the Government a whole series of indicators that it can use. Initially, many of the city and region deals were focused very much on gender and sex, which is absolutely fine, but they were missing data on disability and ethnicity that is available, but which they might not have been aware of, that could be fed in.

The other issue is how local the data is. It is fine publishing stuff Scotland-wide, but by doing that, in some areas we often replicate a greater Glasgow issue. Better data about rural and semi-rural communities would be very welcome.

Dr Hosie: When it comes to doing analysis with the available data from a rights perspective, in general, we do not find that very easy to do at the moment. I know that an issue that has come up in previous sessions is that it is difficult to follow the money through the budget because the levels that have been produced within Scottish data sets do not make it easy to do that. One of the activities that we tried to do was to look at four rights areas that were part of a project that was running at the same time. We looked at the rights to health, housing, food and social security. We wanted to look at key aspects of those rights, but it was extremely difficult to find financial information in the budget that related to those particular spends.

A better connection with the NPF and the budget will help in areas in which there are directions of policy. If we go back to the work of the Christie commission, preventative spend is a big focus in health and other areas, but there is no budget line for preventative spend. It is very difficult to have to delve into many different budget lines to find out which bits of expenditure have been spent on that issue. When we have a lot of information, it is top level—it is on a national scale. Sometimes, there is no information even on a regional scale. That makes it very difficult to look at anything beyond top-level allocations in budget areas.

Fulton MacGregor: Chris Oswald has mentioned the cumulative impact assessment a couple of times. I know that you want to speak more about that, and now is your chance.

Chris Oswald: I will do this quickly. The commission has been working with Landman Economics to develop better scrutiny of budgetary decisions that were taken at UK level between 2010 and 2015. We are about to publish a report

on the projections from that, from 2010 to 2022. It is useful that the second report does not look only at taxation and social security; it adds in the impact relating to public services.

With that scrutiny, we have been able to identify that, going forward, the largest losses will be for those in income decile 2, for any family with more than three children and lone parents—those three groups will have the most significant losses. Black and Caribbean communities are the next most affected, and then it is people with severe disabilities. In terms of age, the most significant losses are among the 18 to 24-year-old age group.

In some of this, we are talking about significant figures. Families with one disabled adult have lost £6,500. To go back to what I said earlier, the figure for the Bangladeshi community is actually £4,400. We have broken down the figures for Scotland, which is performing better than other parts of Britain, but it is still not a good picture, given the rising inflation and contracting household income.

The good news is that we have now developed a forward-looking approach. Landman has been working with the Scottish Government on that in relation to child poverty, and there has been a significant amount of engagement with the new social security agency. We are trying to build in learning to show that, if you pull a lever in one place and another one in another place, there is an unintended consequence somewhere else that you did not think through. That is giving the Scottish Government the ability to project the likely impacts, which is very much what equality impact assessment does, but it is not just in a silo of housing. It is about understanding that, if you change something in housing and social care, you have an unintended consequence somewhere else. That is adding a new layer of sophistication to budgeting.

We are hoping to bring up people from Landman at some point in the next six months. We would want to get them to engage with you and other parliamentarians to talk through the model, as well as talking to policy people and civil society about how we can all best use that approach. For budgeting, it is a very exciting thing.

10:00

Fulton MacGregor: It is certainly exciting and interesting. We could have a whole session on that. There are also some very worrying but not surprising statistics and trends relating to child poverty and other issues. You have talked about partnership with the Scottish Government, but how can local authorities and other agencies on the ground that work with people who will be directly

affected take into account those cumulative impacts?

Chris Oswald: That is exactly where we are heading. We want to apply the work that we have done with the Government in the local authority context, where there are income-raising powers, to see how those affect things and interact. That is a slightly different exercise, but the principles that have been established through the work are applicable across a wide range of settings.

The Convener: At our previous meeting, we heard from local authorities about the challenges for them in attempting to look at the cumulative impact, but there is a desire to do that, and the committee is certainly interested in hearing more about it.

Mary Fee: One criticism that is often made of politicians, and indeed committees, is that we sit in our little silos and do not think about or talk to anyone else. Does that hinder the process? The issues of equalities and human rights cut across every single committee, but one committee might look at what affects its area without thinking about the impact of spend on another area. If there was better data collection and committees spoke to one another in a more constructive and helpful way, would that help to drive forward change? I see Angela O'Hagan is nodding, so clearly that is a yes.

Dr O'Hagan: Yes—absolutely. We have touched on participation and engagement in the budget process by the range of stakeholders and not just the public authorities that are charged with responsibility for service delivery. It is about who uses services, who does not use them and what has happened to those services over the last period. Hearing about the realities of people's lives is as important to the committees that deal with education, fisheries and local government as it is to this committee. I absolutely encourage the two things that you have suggested: engagement across a wider range of stakeholders and intercommittee working, dialogue and information sharing. As I have said, the issue of equalities does not just sit in this committee; it goes across all domains.

Dr Hosie: One of the slightly more disappointing aspects of the NPF is that we did not go far enough to get a better understanding of the international human rights framework, which sits over the entire NPF and is just waiting to be connected. As well as having the human rights outcome, which at this stage in our country's journey on human rights needs to be there as an individual outcome, the framework is there to be connected to every single one of the outcomes. That gives an overarching way of approaching the interconnections between the areas. It is not that outcome 1 is about the right to one thing and

outcome 3 is about the right to something else; there is a long list of all the international conventions that are relevant throughout all of the areas. That provides an obvious framework to look at to make those connections.

Mary Fee: How and when can that framework all be joined up? You say that it is all there and it just needs joining together. How can we join it together?

Dr Hosie: I have a lovely spreadsheet at home that I have spent far more time on than I care to think about. We have done some of that work, and the Danish Institute for Human Rights has done fantastic work to link that framework and others to all of the sustainable development goals. You can go on to its website and put in the area that you are interested in and it will tell you all the related areas. There are a lot of tools to help us do that, but there has to be a willingness to make those connections explicit.

The Convener: I thank our witnesses for their evidence, which has been very helpful. We will now move into private session.

10:04

Meeting continued in private until 11:30.

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