

## Briefing for Parliamentary Committees: Pre-Budget Scrutiny

August 2024

### 1. Purpose of Briefing

The Commission welcomes the opportunity to support members of all parliamentary committees to take a human rights based approach to their pre-budget scrutiny process for financial year 2025-26. This briefing fulfils a commitment in the Commission's Strategic Plan 2024-28 to promote a human rights-based budgeting approach as a means to realising human rights in Scotland, and draws on findings from the Open Budget Survey 2023 (OBS), published by the Commission in June 2024<sup>1</sup>. It also promotes a framework for assessing the Scottish budget through the lens of the UN Convention on Economic, Social and Cultural Rights, which the Scottish Government have committed to incorporating into Scots Law via its forthcoming Human Rights Bill.

### 2. What is Human Rights Budgeting

Human rights budgeting (HRBW) is a framework that integrates human rights principles into the budgeting process to ensure that public resources are used to respect, protect, and fulfil human rights.

Taking a human rights-based approach to budgeting means distributing resources in a way that puts people first. It involves scrutinising how people's rights are impacted by the way that money is raised, allocated, and spent. Specifically, budget decisions should reflect human rights standards and the process of formulating, approving, executing, and auditing the budget should reflect human rights principles. HRBW is built on the following 3 key principles<sup>2</sup>:

**Transparency:** Budgets must be open and accessible, involving publishing comprehensive budget information and making it easily accessible to all citizens.

**Participation:** Society, especially marginalised groups, should participate in the budget process through public consultations and participatory budgeting initiatives. Engaging communities in budget decisions ensures that diverse voices are heard and considered.

**Accountability:** Governments must be accountable for budget decisions and their impact on human rights, requiring robust monitoring and evaluation.

When making decisions in respect of its budget, the Scottish Government must work to deliver its human rights obligations, which provide an internationally accepted criteria<sup>3</sup> through which Parliament, and other scrutiny bodies, can assess a budget:

**Minimum Core Obligations:** According to the UN Committee on Economic, Social and Cultural Rights, minimum core obligations ensure the satisfaction of essential needs such as food, water, shelter, health care, and education. These are the essential levels of rights that must be met immediately and under all circumstances. Even in times of resource constraints, governments must prioritise these core obligations to guarantee a basic standard of living for all individuals. Failure to meet these minimum standards constitutes a violation of human rights.

**Progressive Realisation:** Budgeting should aim to progressively realise economic, social, and cultural rights. This means setting clear targets for improving access to essential services and resources over time and ensuring continuous improvement in living standards. The principle of progressive realisation acknowledges that while some rights may take time to fully achieve, there should be no backsliding or regression in the fulfilment of these rights.

**Non retrogression:** while some rights may take time to fully achieve, there should be no backsliding or regression in the fulfilment of these rights. Governments should not take active steps to deprive people of the rights they used to enjoy.

**Maximum Available Resources:** Governments are obligated to use the maximum available resources to fulfil their human rights commitments. This means mobilising and allocating all possible resources, including financial, human, and technical, to ensure the progressive realisation of human rights. It involves not only efficient and effective use of existing resources but also exploring all potential revenue sources, such as taxation, to support human rights goals. Ensuring the maximum use of available resources helps prevent underfunding and ensures that essential services and programmes reach those most in need.

**Non-Discrimination:** Budgets should eliminate inequalities and ensure equitable resource distribution through impact assessments before and after decisions. A non-discriminatory budget addresses systemic inequalities and promotes social justice.

MSPs and Committee clerks will be aware that in 2023, SPICe supported a research fellowship exploring the potential of a Human Rights Based approach to budget scrutiny in the Committee system. It found that:

*“Human rights are often spoken about as a ‘golden thread’ which should be woven through policymaking. If human rights are the golden thread, these three principles would be the golden rules. Because of this, it could be argued that although the three principles approach originates in human rights budgeting, the outcome of using it would go further, and have wider benefits from both a governance and a scrutiny perspective. For instance, it could provide a consistent framework for understanding the process behind the Budget decisions and comparing changes year-on-year beyond headline figures.”<sup>4</sup>*

### **3. Suggested Questions for 2025/26 budget scrutiny sessions:**

A core question that all Committees may wish to consider therefore builds on the EHRCJ Committee approach taken during the 23/24 budget scrutiny process:

- To ask that the Scottish Government consider demonstrating adherence to the three principles of human rights budgeting within its Budget documentation, across all portfolio areas.

Further suggested lines of questioning are provided below. To inform Committee members’ assessment of human rights progression, alongside the suggested questions, we have provided illustrative examples of what Minimum Core provision would look like, alongside examples of what Progressive Realisation might look like.

#### **Transparency and Accountability:**

- How does the current budget process ensure transparency and accountability?
  - Minimum Core: Ensuring all budget documents are publicly available.
  - Progressive Realisation: Increasing detail and accessibility of budget documents over time.
- What measures are in place to provide the public with accessible and timely budget information before decisions are made/ to inform those decisions?
  - Minimum Core: Publishing pre-budget statements.
  - Progressive Realisation: Expanding the scope and reach of participatory budgeting initiatives.
- When will the Scottish Government implement international best practice in fiscal transparency as set out in the Open Budget Survey?
  - Minimum Core: Meeting the OBS benchmarks for transparency.
  - Progressive Realisation: Incrementally adopting all OBS recommendations.

- Explain how budget allocations from 2024-25 impacted on intended outcomes during that budget cycle? Include intended and unintended impacts.
  - Minimum Core: Ensuring essential services like health, education, and social security.
  - Progressive Realisation: Evaluating and improving budget impact over time.
- What impact/s did decisions to not spend/ reduce spend in the previous budget? How has this influenced decisions for the 2025-26 budget?
  - Minimum Core: Maintaining essential funding levels.
  - Progressive Realisation: Learning from past budget cycles to improve future allocations.

### **Participation:**

- How does the government ensure that different societal groups, especially marginalised ones, are included in the budget decision-making process?
  - Minimum Core: Inclusive consultation processes.
  - Progressive Realisation: Expanding and deepening participation over time.
- What government mechanisms exist to ensure their voices are heard and considered?
  - Minimum Core: Mechanisms for effective public consultations.
  - Progressive Realisation: Enhancing feedback mechanisms.

### **Human Rights Compliance:**

- How does the budget align with Scotland's human rights obligations?
  - Minimum Core: Ensuring essential services.
  - Progressive Realisation: Gradually improving human rights outcomes.
- What specific measures ensure that the budget does not lead to retrogression in human rights?
  - Minimum Core: Protecting basic levels of services.
  - Progressive Realisation: Preventing reductions in human rights protections.
- Evidence how the government has maximised all of its available resources before making any decisions that implement cuts in spending?
  - Minimum Core: Efficient and equitable resource allocation.
  - Progressive Realisation: Justifying and minimising budget cuts.

## 4. Conclusion

By applying these principles and obligations as a framework for their pre-budget scrutiny, Committees can be increasingly satisfied that public spending decisions are informed by the progressive realisation of the human rights of the people of Scotland.

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### For more information:

The Commission is available to assist Committees in framing more specific questions in respect of their subject matter area, and to provide further detail on any element of this briefing. Please contact Dr Ali Hosie, Research Officer:

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### Endnotes

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<sup>1</sup> To access the Open Budget Survey 2023 and associated publications please follow these links: [Main report \(available as a PDF and in Word\)](#) | Summary report available in [PDF](#), [Word](#) and [Easy Read](#) format. | [Annex: Questionnaire Responses budget year 2021/22 for Scotland's Open Budget Survey 2023](#) | [Blog: The power of open budgets: a tool to make human rights real in Scotland](#) | [Letter to MSPs on Human Rights Based Budgeting and Scotland's results on the Open Budget Survey 2023](#)

<sup>2</sup> SPICe briefing here: [The three golden rules? Mainstreaming transparency, participation and accountability in the Scottish Budget – SPICe Spotlight](#) | [Solas air SPICe \(spice-spotlight.scot\)](#)

<sup>3</sup> [International Covenant on Economic, Social and Cultural Rights](#) | OHCHR

<sup>4</sup> [The three golden rules? Mainstreaming transparency, participation and accountability in the Scottish Budget – SPICe Spotlight](#) | [Solas air SPICe \(spice-spotlight.scot\)](#)