

# 2018 Report Recommendations



Scottish Government  
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With thanks to Linda Hunter, the NACWG's illustrator in residence, for the generous use of her graphics.



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## FOREWORD – FIRST MINISTER



**Nicola Sturgeon**  
First Minister  
of Scotland

I appointed the National Advisory Council on Women and Girls (NACWG) in 2017 to be a champion for gender equality, to amplify where positive progress and policies are making a difference to the lives of women and girls and to be a challenging voice where greater progress is needed.

I asked the NACWG to be bold and to think differently about how we can make Scotland a more equal country for future generations of women and girls.

Undoubtedly, this is reflected in the ambition of its recommendations, which have required considerable dialogue across government, in areas from women's political representation to access to justice, education and childcare. I committed to give the NACWG's recommendations, the Scottish Government's full and careful consideration.

I started with the presumption that the Scottish Government would take forward the recommendations. And if for any reason we couldn't, we should propose an alternative course of action which would achieve the NACWG's ambitions. Similarly, as some of these recommendations are long term ambitions, I have been clear that we should set out the positive intermediate steps that can be taken in the short to medium term.

I am proud of the priority that the Scottish Government continues to give to realising gender equality and of the work that we are progressing across all portfolios, from tackling all forms of violence against women and girls, to challenging gender stereotypes in education and the workplace, to taking steps to ensure that women are properly represented in decision making spaces. There is a lot for us to be proud of and a very strong base on which we can build. I am sure that the actions I have set out in this response to the Council's recommendations will move us closer to achieving the systemic change we all want to see.

A handwritten signature of Nicola Sturgeon in black ink. The signature is fluid and cursive, with the first name 'Nicola' and the surname 'Sturgeon' clearly legible.

# LEADERSHIP

The first key theme of the NACWG was leadership.

Gender inequality is an enduring issue because structures perpetuate it. The Scottish Government; public and third sectors and business need to lead by example and take steps to restructure Scotland to be gender competent to see the desired changes we seek. This is complex and goes beyond training to ensure a gender competent workforce. As well as changing systems and ensuring gender equality is woven into the fabric of current and new workforces, we need to concentrate on parents and carers, including parents-to-be and the most significant service in a child's life: the education and learning system. As well as making this long-established system universally gender competent, we need to ensure there are no conflicting messages and the standards are clear. This led to three recommendations.

The Scottish Government shares the Council's vision for Scotland to be recognised as a leading nation in the pursuit of gender equality. We recognise that this ambition requires those from across the public, private and third sectors to lead by example in supporting equality and challenging organisations and practice to change. The Scottish Government is pleased, in delivering our response to this report to take a role in leading this change. We would

encourage other organisations and individuals from across Scotland to consider how they, through their choices, actions and words, can lead the change to the attitudes and culture within their organisations and communities. To this end, we invite the Scottish Leaders Forum to focus on gender equality, and agree the collective work that will deliver the most significant progress.

## Recommendation – Create a 'What Works?' Institute

To develop and test robust, evidence-led inclusive and representative approaches to changing public attitudes in Scotland to girls and women's equality and rights, including dismantling stereotypes about what girls and women should study, work at, and be. The Institute will be the place where "good learning" happens and where specialist gender support can be accessed that will give public bodies; the third sector and business the tools to act to change the culture on women's equality.

### Scottish Government response – Accept

This recommendation aligns with the Government's long-term ambitions for Scotland. Our commitment to addressing gender inequality in society has been a priority since coming into power in 2007, and it's one which we're working closely with the women's sector in Scotland to achieve. Our understanding of how best to tackle it, is based on the pioneering campaigns that feminist organisations have developed over the years. We know that there is still a lot that we need to learn in order to understand how we can change attitudes, affect culture change and achieve equality for women and girls. Historically, it has been feminist organisations working to end violence against women who have lead the way in testing how we can achieve this. The worst example of inequalities that women and girls experience are reflected through the violence they are subject to every day. These organisations understand, as we do, that violence against women is both the result of gender inequality and the means by which it is perpetuated.

We can build on this strong foundation and ensure that the What Works? Gender Institute delivers help and support to organisations so that they are equipped with the best help and guidance on how to start or continue to make the system change that will lead to gender equality. It will be key that they can access

information on what evidence tells us about the action to take to tackle basic gender inequality in their organisations and the guidance; toolkits and best practice that will help them to help them do this.

This recommendation follows the direction of our strategic policies such as the Improving Gender Balance project<sup>1</sup> which is working to recognise and address unconscious bias and gender stereotyping in schools.

Also A Fairer Scotland for Women: a gender action plan<sup>2</sup>, proposes actions to ensure gender equality is promoted within early learning, schools, colleges, universities, employability programmes, the labour market, businesses, and social security; and also drive both more immediate and long-term change including addressing gender stereotyping, sexual harassment, and other labour market and care inequalities.

Equally Safe, Scotland's strategy for preventing and eradicating violence against women and girls also makes our position very clear; that the roots of violence against women and girls lie in the attitudes and inequalities that continue to permeate society, and we will only make progress if we tackle outdated gender stereotypes and women's inequality. In order to do this effectively, we must develop our understanding of what works.

<sup>1</sup> [http://www.iop.org/publications/iop/2017/file\\_69171.pdf](http://www.iop.org/publications/iop/2017/file_69171.pdf)

<sup>2</sup> <https://www.gov.scot/publications/fairer-scotland-women-gender-pay-gap-action-plan/>

## How the Government and other partners will deliver it

Any attempt to change public attitudes and dismantle stereotypes that also address the intersectional discrimination that women face will not be easy. We agree with the recommendation that developing and testing approaches is critical. The Institute will need to be able to quickly adapt and learn so that practical approaches to change can be put forward and used, for example, by the Gender Beacon Collaborative and media body which is to provide advice on gender equality and holding the media to account.

It cannot be an academic enterprise that moves slowly but surely, but rather one that should keep pace with the world as it is evolving. It needs to work on the basis set out by Louise Macdonald OBE in the 2018 Report and Recommendations that “no-one has the ‘right answer’ – but we will find solutions faster together”.

The Scottish Government will therefore undertake a short development phase, working with prominent feminist expert organisations in Scotland, together with new voices and thinking from academia and the media, to explore what a practical, dynamic, evidence-led, gender-focussed institute would look like and operate.

This group will develop an agreed framework for how the What Works? Gender Institute would be structured, agreeing what it will test, who it will work with and how it will measure change. This framework will include the co-ordinated action and interventions required to influence the structures, practice, attitudes and power differentials that underpin women’s inequality.

As mentioned previously, the group will also be able to draw on the significant level of activity that is currently underway across Scotland to remove gendered attitudes and create culture change. Much of this work has been driven forward by Equally Safe

and the primary prevention work strand that helped shape the Equally Safe Delivery Plan<sup>3</sup> published in 2017. Ongoing work in this area includes the development of awareness raising campaigns, embedding issues of consent, healthy relationships and tackling gender stereotypes in schools and early years, the Equally Safe in Colleges and Universities work, and tackling sexual harassment.

## Gender Expertise to support the phase one work

Zero Tolerance will support the phase one work, in partnership with the Scottish Government’s Equality Unit and drawing in wider expertise from across Scotland.

Established in 1992, Zero Tolerance has been working to end violence against women through tackling the roots of this violence – gender inequality. They developed the ground-breaking and radical Edinburgh-based poster campaign<sup>4</sup>, which brought the issue of violence against women out from behind closed doors and into public consciousness, and asserted that violence against women was never acceptable.

Their work to address gender inequality covers a broad range of activity including working with the Care Inspectorate to publish a resource that aims to promote gender equal play in early learning. They also recently supported the Advertising Standards Authority (ASA) to develop their thinking around their new gender stereotyping rule<sup>5</sup> which came into force on 14 June 2019.

## Timing and Resources

Phase one of the work will be completed by Summer 2020. Phase two will use the newly developed framework as a blueprint for creating the What Works? Gender Institute, building on the resources already available as much as possible.

<sup>3</sup> <https://www.gov.scot/publications/equally-safe-delivery-plan-scotlands-strategy-prevent-violence-against-women/>

<sup>4</sup> <https://www.zerotolerance.org.uk/about-our-prevention-campaign/>

<sup>5</sup> <https://www.asa.org.uk/uploads/assets/uploaded/f39a881f-d8c9-4534-95f180d1bfe7b953.pdf>

# Recommendation – Legislate for local and national candidate quotas for all parties by the 2021 election

## Response – Accept the ambition behind the recommendation

## How the Government and other partners will deliver it

The Scottish Government agrees with this recommendation, but Equal Opportunities is a reserved matter under section L2 of Schedule 5 of the Scotland Act 1998.

It is therefore outwith the current devolved competence of the Scottish Parliament to legislate for local and national candidate quotas for political parties.

## The Equality Act 2010

We will continue to challenge the lack of action from the UK Government in relation to the Equality Act 2010<sup>6</sup>, by asking them again to either legislate for local and national candidate quotas across the UK, or transfer the power to the Scottish Parliament to legislate for them.

In order to dig deeper into the diversity of candidates and the barriers they face, we will also request that the UK Government either transfers powers to allow the Scottish Parliament to commence section 106 for elections to the Scottish Parliament and potentially elections to Scottish councils, or commence it themselves.

We have seen the success of consistent positive action on the numbers of women on regulated public boards in Scotland, reaching 50% for the first time. We now expect our political representatives to do the same.

We will continue to support initiatives and promote voluntary measures that political parties can take. We will continue insisting on the necessity for this systemic change, in this vitally important area of women's representation.

## Voluntary measures

Section 104 of the Equality Act 2010 makes special provision for political parties to be able to use the party's candidate selection arrangements to reduce inequality in the party's representation in a particular body, as long as the steps taken are a proportionate means of achieving a legitimate aim.

Section 105 of the Equality Act 2010 includes a time-limited provision that allows political parties to use all women shortlists until 2030. Short-listing for other groups who share a protected characteristic as defined under the Equality Act 2010 is not permitted.

Most of the political parties in Scotland have taken some steps regarding their selection arrangements, to improve the representation of women in the Scottish Parliament ahead of the 2016 Scottish Parliament elections. Mechanisms that have been used to try to improve the number of female candidates elected include:

- Twinning, whereby neighbouring seats put forward one female and one male candidate at election time;
- Zipping, which involves alternating men and women on electoral candidate lists.

<sup>6</sup> <https://www.gov.uk/guidance/equality-act-2010-guidance>



## Women 50:50

Building on this, we will seek the support of all parties signed up to the Women 50:50 campaign<sup>7</sup> to develop voluntary procedures to increase the number of women candidates, in all their diversity, to 50%.

## COSLA's Cross Party Barriers to Elected Office Special Interest Group

The Scottish Government is pleased to support the work of COSLA's cross party Barriers to Elected Office Special Interest Group by funding a part time post to help deliver its work. This Group is addressing barriers to women and other underrepresented groups to taking up and sustaining elected office.

## Young Women Lead

The Scottish Government funds the Young Women's Movement's<sup>8</sup> leadership programme for young women aged 30 and under living in Scotland: Young Women Lead. The programme provides a safe space for up to 100 young women to explore gender equality and develop new and innovative ways to lead change. It gives access to four Young Women Lead model Committee sessions in the Scottish Parliament each year, combining diverse young women's voices, MSPs, Parliamentary staff and cutting edge social media to increase the visibility of young women's contribution to Scottish society, politics and policy. Young Women Lead empowers young women to give oral and written evidence in Parliament on issues directly affecting their lives.

## Scotland's Women Stand

The YWCA Scotland – the Young Women's Movement and The Parliament Project<sup>9</sup>, are funded by the Scottish Government to run a national campaign and event in Parliament to celebrate women in politics and look forward to gender balance in political representation. There are 2 elements to the project:

- Nine month digital campaign encouraging women to increase their political engagement and consider standing for elected office (from November 2018 to September 2019);
- Women's takeover of the Scottish Parliament – creating a force for women's political participation in Scotland with 300 women coming together to celebrate, discuss and learn about standing for political office (7 September 2019).

ATTITUDES & CULTURE CHANGE

<sup>7</sup> <http://www.women5050.org/>

<sup>8</sup> <http://www.ywcascotland.org/>

<sup>9</sup> <http://www.parliamentproject.co.uk/>

## Recommendation – Carry out a thematic gender review of the new National Performance Framework as a catalyst for system analysis and change

### Response – Accept

The aims of the National Performance Framework (NPF) are to:

- create a more successful country
- give opportunities to all people living in Scotland
- increase the wellbeing of people living in Scotland
- create sustainable and inclusive growth
- reduce inequalities and give equal importance to economic, environmental and social progress.

Its values guide our approach to:

- treat all our people with kindness, dignity and compassion
- respect the rule of law
- act in an open and transparent way.

And to help achieve its purpose, the framework sets out 'national outcomes'. These outcomes describe the kind of Scotland it aims to create. The outcomes:

- reflect the values and aspirations of the people of Scotland
- are aligned with the United Nations Sustainable Development Goals; and
- help to track progress in reducing inequality.

These national outcomes are that individuals are given the opportunity to:

- grow up loved, safe and respected so that they realise their full potential
- live in communities that are inclusive, empowered, resilient and safe
- be creative and that their vibrant and diverse cultures are expressed and enjoyed widely
- have a globally competitive, entrepreneurial, inclusive and sustainable economy
- be well educated, skilled and able to contribute to society
- value, enjoy, protect and enhance their environment
- have thriving and innovative businesses, with quality jobs and fair work for everyone
- be healthy and active
- respect, protect and fulfil human rights and live free from discrimination
- be open, connected and make a positive contribution internationally
- tackle poverty by sharing opportunities, wealth and power more equally.

## How the Government and other partners will deliver it

This will be taken forward as part of the next NPF review. Periodic reviews of the framework are mandated by the Community Empowerment (Scotland) Act 2015, and are undertaken to ensure that the framework continues to drive increased wellbeing.

There is also a range of supporting work to develop further the data and analysis available to help ensure we are making strong policy and tracking progress.

Caroline Criado Perez's book 'Invisible Women' highlighted issues surrounding the frequency in which data is neither collected nor aggregated in a way that takes account of the differences, including biological and physical differences, between men and women and the impact of these differences on the access to and use of public services including health, transport and social security. This is detailed in the annex to this response but key work the Scottish Government will take forward includes:

- The establishment of a working group on sex, gender and data. Its membership will comprise of professionals from across statistical services and will be led by and report to the Chief Statistician. The group will consider the guidance that should be offered to public bodies on the collection of data on sex and gender, including what form of data collection and disaggregation is most appropriate in different circumstances.
- Funding for the 2019 Scottish Social Attitudes Survey to include a full unit (40 questions) on attitudes towards gender based violence, including questions on sexual violence, domestic abuse (physical, verbal, mental and emotional), sexual harassment, and commercial sexual exploitation. The Scottish Government will also fund a half unit (20 questions) on the distribution of resources within the household, collecting data on women's access to, and power over, resources in the household. This data will be available in early 2020.
- Funding a boost to the Scottish sample size of a UK wide ONS survey on time use later this year. The survey will provide data on proportion of time spent on different activities including caring, raising children and other unpaid work. The survey will provide data on the differences in time use between men and women.
- The publication of a Scottish Gender Index in 2020 and updated annually. Developed in conjunction with stakeholders the Gender Index will cover 7 domains; work, money, time, knowledge, power, health, justice. Each domain will have 5-7 indicators that will enable tracking across over time and will identify trends in the issues facing women and girls in Scotland.

## ACCOUNTABILITY

The second key theme was on accountability:

Following on from providing leadership, new measures need to be in place to ensure that we develop a gender-competent Scotland, where key services are fit for purpose and delivering equal high-quality provision that realises the potential, regardless of gender, of every citizen. Scotland needs to start with the changes to the infrastructure that are required to raise standards, expectations and behaviour, championing this change and putting in place checks to ensure that these high standards are maintained. This led to three recommendations.

The Scottish Government recognises the importance of ensuring accountability for the changes required in order to achieve a more equal society. Where good work is ongoing, high standards need to be maintained, and where change is required in standards, expectations or behaviour, new approaches must be

implemented without unnecessary delay. This is why the Scottish Government welcomes the Council's focus on building mechanisms to track progress, including the accountability day in November 2019 where we will, alongside the Council, review progress on implementing these recommendations and achieving change.





## Recommendation – Create a ‘Gender Beacon Collaborative’

Create a ‘Gender Beacon Collaborative’ – made up of Scottish Government, a Local Authority, a public body, a third sector agency and a business to take a holistic and systemic approach to gender equality and work to have it embedded in all of its activities from employment to strategy to delivery. Supported by gender experts (and the What Works? Institute above) the outcome would be the creation of a model which has been proven to be successful; that creates a pathway for others to follow and will then be replicated across all public bodies.

### Response – Accept

### How the Government and other partners will deliver it

When the Permanent Secretary met with Louise Macdonald OBE to discuss the recommendations, she suggested that the Scottish Government be a member of the Collaborative. The creation of such a Collaborative matches her ambitions to progress towards gender equality in the government, and that we should lead by example.

We recognise that embedding equality across all of the Scottish Government will require consistent effort and resource. To support the existing work we have in place through our Equality Unit and Human Resources Diversity and Inclusion team, each area of Government will be participating in the collaborative and taking forward the learning from it to support the organisation to make the necessary systemic change and facilitate the development of the Collaborative.

### Membership

More and more businesses and organisations are embracing measures to make their workplaces and services more inclusive to women in all of their diversity. Whether it be in addressing their gender pay

gap, developing a policy on sexual harassment and bullying or introducing guidance on health issues such as the menopause.

We will offer the opportunity to public, private and third sector organisations to join us in the Collaborative as partners to work together to shape its objectives and the way in which they will be delivered.

### Development of the Collaborative – role and remit

In considering the areas that the Collaborative will explore, we are clear that there are existing tools and support that we can use to develop our work plan. We will discuss these with our Collaborative partners so that we all understand what we are “signing up to”. We also believe it is essential that the Collaborative is supported with gender equality expertise.

Close the Gap are Scotland’s experts on increasing women’s participation in the labour market; they work with policymakers, employers and employees to influence and enable action to address the causes of women’s inequality at work and have been instrumental in the development of “A Fairer Scotland for Women: a gender pay gap action plan” as well as delivering the Equally Safe at Work employer accreditation pilot programme with local authorities and developing the Think Business, Think Equality<sup>10</sup> online self-assessment tool for small and medium sized employers.

<sup>10</sup> [https://www.thinkbusinessthinkequality.org.uk/#page\\_2](https://www.thinkbusinessthinkequality.org.uk/#page_2)

Close the Gap is therefore fully equipped to work with the collaborative to develop an agreed role and remit with clear outcomes that can be delivered in the short, medium and long term. We think it is crucial that as well as being a learning platform, the Collaborative aims to deliver specific outcomes that can be measured.

It is likely that the different members will have different goals in mind, based on the areas that they wish to prioritise within their organisations. The Collaborative will develop their work plan from the suite of existing resources that Close the Gap have developed as well as drawing on elements from the PSED Scottish Specific duties<sup>11</sup> and the Scottish Business Pledge<sup>12</sup>. Below is further detail on the Close the Gap resources, as well as the Scottish Government's Fair Work First, which will also be relevant to the Collaborative's outcomes:

- **Fair Work First** criteria includes: investment in skills and training; no exploitative zero hours contracts; action on gender pay; genuine workforce engagement and payment of the Real Living Wage;
- **Think Business, Think Equality** Close the Gap's online self-assessment tool for SMEs who want to find out how their business can benefit from improved gender diversity. The tool enables them to assess their current employment practice looking at **flexible working; workplace culture; pay and reward; progression and promotion;** job segregation and pregnancy and maternity;

- **Equally Safe at Work** Close the Gap's employer accreditation programme to support the implementation of Equally Safe is currently being piloted by 7 Councils – Shetland Islands, Highland, Aberdeen City, Midlothian, Perth and Kinross, North Lanarkshire and South Lanarkshire. They are working towards meeting criteria in six key areas: leadership; data; flexible working; occupational segregation; workplace culture; and violence against women. The pilot also has a shadow group of 18 councils meeting throughout to share learning.

The Scottish Government is pleased to be taking part in what has the potential to be ground-breaking work, learn from the other Collaborative members, tackle inequalities in our organisations and deliver stronger, more inclusive and effective outcomes and services.

## Next Steps

The full membership and ambitions for the collaborative will be announced in the autumn so that it can begin work this year.

<sup>11</sup> <https://www.equalityhumanrights.com/en/publication-download/effectiveness-psed-specific-duties-scotland>

<sup>12</sup> <https://scottishbusinesspledge.scot/>

# Recommendation – Improve access to justice for women and girls experiencing men’s violence

Improve access to justice for women and girls experiencing men’s violence and the culture of violence against women and girls embedded in the fabric of Scottish society by:

- **Creating a world-leading process for complainers of sexual violence**, including trauma-informed forensic medical examination, independent sexual violence advocacy, review of the law on corroboration, and privacy for complainers with regards to the disclosure of their medical records; and
- **Criminalise serious misogynistic harassment**, filling gaps in existing laws.
- Work with Scottish Women’s Aid, Scottish Women’s Rights Centre, Shakti Women’s Aid and the Law Society to **create a consistent and inclusive model to ensure that women experiencing domestic abuse have sufficient access to expert legal advice and legal aid.**

**Response – Accept the ambition behind the recommendation as set out in the delivery actions below**

**How the Government and other partners will deliver it**

We are proud that so much work that contributes to achieving the ambition of this recommendation is already underway. All the elements chime with the aims of Equally Safe, our violence against women and girls strategy and its delivery plan. We are taking forward activity in a number of areas which are directly progressing the different strands of the recommendation:

## Chief Medical Officer for Scotland’s Rape and Sexual Assault Taskforce

The recommendation to create a world-leading process for complainers of sexual violence, including Forensic Medical Examination (FME), aligns to the work being undertaken by the Chief Medical Officer (CMO) Rape and Sexual Assault Taskforce. The Taskforce vision is for consistent, person centred, trauma informed healthcare and forensic medical services and access to recovery, for anyone who has experienced rape or sexual assault in Scotland.

The Taskforce are making good progress towards delivery of the five year work plan published in October 2017. The plan sets out action across a range of issues including workforce, facilities, data, IT, national guidance and legislation. The Taskforce’s priority is to ensure that all examinations take place in person-centred, trauma informed, healthcare surroundings and to improve victim choice about the sex of the healthcare professional involved in their FME. Officials are working with health board nominated leads to embed the Healthcare Improvement Scotland (HIS) Standards published in December 2017 and to develop a robust process for assessing Board performance against the Quality Indicators underpinning the Standards which were published in December 2018.

The Taskforce are also working closely with the Crown Office and Procurator Fiscal Service and other key stakeholders to develop a proposal for a Test of Change which would see appropriately qualified nurses undertake a FME and give evidence as a skilled witness in court (as Doctors currently do). Developing a multi-disciplinary workforce is critical to developing a sustainable, agile workforce for the future as well as delivering against the PfG 2018/19 commitment, to ensure that where a victim of sexual crime requests a choice over the sex of their examiner involved in their care, this can be met.

To support the delivery of the Taskforce programme, a funding package of £8.5 million has been committed for the period 2018/19 to 2020/21 to support Health Boards to embed the HIS standards and to ensure that all examinations take place in appropriate healthcare settings. Amongst other things, this funding will be used to improve the physical environment in existing FME services, or to create new services in each Health Board area where these do not currently exist, to purchase essential equipment, to recruit additional posts in some areas and to provide national workforce training.

The PfG 2018/19 committed the government to consult on proposals to clarify in legislation the responsibility for forensic medical services to ensure that access to healthcare, as well as a forensic medical examination for victims of rape and sexual assault, is an NHS priority and consistently provided for throughout Scotland. A consultation on how legislation could improve forensic medical services for victims of rape and sexual assault closed on 8 May 2019. Non-confidential consultation responses have now been published and consultation analysis is expected to be published in July 2019. Subject to the outcome of this consultation exercise and finalisation of our legislative programme, we intend to legislate in this area in the current parliamentary session.

### **Independent Sexual Violence Advocacy**

On independent sexual violence advocacy, the Scottish Government's Violence Against Women and Girls Justice Unit's funding has supported Rape Crisis Scotland to develop a national advocacy project, delivered throughout Scotland with advocacy workers based in each rape crisis centre.

### **Corroboration**

The corroboration rule is a unique feature of Scots criminal law.

The Scottish Government proposed abolishing this requirement in the Criminal Justice (Scotland) Bill<sup>13</sup> 2013. Part of the intention behind this was to improve access to justice for victims of crimes committed in private. However, there was no legal or parliamentary consensus at that time for the reform and concerns were raised that additional safeguards and changes to law and practice may be needed to the criminal justice system following the planned abolition of the corroboration rule.

The Scottish Government asked Lord Bonomy to conduct a review into what additional safeguards may be required. Lord Bonomy's Post-corroboration Safeguards Review<sup>14</sup> recommended a wide range of substantive and constructive criminal justice reforms. Some of the reforms have already been taken forward, including requiring that the prosecutorial test be published and abolition of legal aid contributions at police stations. The review also recommended research into jury reasoning and decision making be taken forward so that any changes to the jury system are made on a fully informed basis. This research is underway and expected to complete in autumn 2019. Any future consideration of corroboration reform needs to await the findings of this research.

<sup>13</sup> <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/65347.aspx>

<sup>14</sup> <https://www2.gov.scot/Resource/0047/00475400.pdf>



## Disclosure of Medical Records

Medical/clinical records are confidential and are therefore legally protected. However, there are circumstances in which they may be sought for use in criminal court proceedings. The Government recognises that the prospect of sensitive, personal information being obtained, disclosed and aired in the course of a trial is distressing for victims. A number of steps have thus been taken to deal with this issue.

Scotland's legal system ensures that any complainer in a criminal case whose sensitive records are being sought has a legal right to be heard as the court considers whether to permit access. In addition, the Scottish Government took steps in 2017 to introduce new rights that ensure complainers whose sensitive records are being sought have access to legal aid to oppose such a request where access is required for the complainer to effectively participate in the hearing. There is no means testing of the request for legal aid in this situation.

A judicially led review was also established earlier this year to further improve how sexual offences cases are conducted through the courts, under the leadership of Lady Dorrian and involving relevant justice and third sector representatives, including the Scottish Government. This will build on the actions already being taken to improve the support available for victims of sexual violence. We will consider any recommendations by the judicially led Review of the Management of Sexual Offences to the Scottish Government alongside the work of the Victims Taskforce.

## Misogynistic Harassment

Discussion on whether misogynistic harassment should be criminalised has been ongoing as part of the Scottish Government's work on hate crime. Within his review of hate crime legislation in Scotland, Lord Bracadale recommended that a new statutory aggravation of gender hostility should be created. He did not think that a new, separate, offence of misogynistic harassment was necessary. His decision was based on the evidence and arguments which he heard. He didn't feel there was "...any real gap in relation to patterns of conduct against women which ought to be criminal but are not. Any new standalone offence would therefore have a considerable cross-over with other existing offences, which risks causing confusion and undermining the aim of collecting reliable data".

In response to Lord Bracadale's recommendations, we launched a public consultation seeking views on what should be included in a new hate crime bill including how best to tackle gender based prejudice and misogyny. The consultation presented a number of options including: the development of a standalone offence to tackle misogynistic harassment; developing a statutory aggravation for gender within hate crime legislation; building on Equally Safe (a non-legislative approach); or a combination of these options. The response was mixed however a majority of organisations (60%) favoured the development of a statutory aggravation. The consultation closed on 24 February 2019, and received 1,172 responses.

The Cabinet Secretary for Justice will be holding a meeting with women's organisations in summer 2019 in order to discuss the options outlined above. We are committed to working closely with women's organisation in order to determine the best way forward, which will include giving consideration to establishing a working group to look at how the justice system currently deals with misogynistic harassment and if there are any gaps.

## Legal Aid

Legal Aid Reform in Scotland will deliver a legal aid system that will put the user at the centre. The forthcoming consultation will allow us to direct and target legal services in particular areas of law and geographical areas. The consultation document will specifically ask questions around details of groups (including women and girls suffering domestic violence) where there is an identified issue with access to justice and seek views on how this can be addressed.

## Access to Justice

Running alongside the legal aid consultation a full review, engaging key stakeholder groups – including those representing women mentioned in the NACWG recommendation – will be undertaken to define what is meant by 'access to justice'. Only by identifying the actual issues will we be able to tie reform to solutions that work for the user.

The Scottish Government will not only work on identifying 'access to justice issues' for women and girls but also for other groups with protected characteristics. This work on identifying actual issues will be completed during summer 2019 and will tie in to the responses to the legal aid reform consultation.

The Scottish Womens Rights Centre, which is funded by the Scottish Government Justice Fund and the Scottish Legal Aid Board, provides free legal information and advice to women in Scotland who have or are experiencing gender based violence. It also offers advocacy support to address women survivors needs and facilitate access to justice.

Services are available through a national helpline and at local legal surgeries in Lanarkshire, Glasgow, Stirling, Edinburgh and Dundee offering appointments with a solicitor. Expansion is planned later this year for Inverness, via skype surgeries.

## Recommendation – Create a resourced media body in Scotland

Create a resourced media body in Scotland, which will publicly review media which is sexist, misogynistic or bigoted; will provide guidance on what gender equal media can look like and will strengthen the intersectional voices of women in media.

### Response – Accept

The Scottish Government recognises the importance of having a diverse and independent media with a free press that is independently regulated. However, we also acknowledge it is critical that women are fairly portrayed across the media, who play a crucial role in shaping attitudes. This is an important step as it will allow future generations to grow up within an inclusive and safe environment that values and promotes diversity and respect.

The “media” is made up of a number of different sectors with different regulatory frameworks. We recognise the positive steps that the media have taken in certain areas. This includes the Advertising Standard Agency’s (ASA) ban on harmful gender stereotyping in advertisements and the Scottish Government will look for opportunities and fora to work collaboratively with the media further to take similar action.

While the Scottish Government has welcomed ASA’s initiative – which came into force on 14 June 2019 – we also believe it is essential to take further and bolder action to ensure we do everything in our power to eradicate gender inequality.

We understand that the intention behind the recommendation is not to create a media body that would look to regulate or censor the media but rather provide guidance, evaluate and promote best practice as well as sharing learning.

This recommendation is in line with the recent recommendation made by the UN Committee on the Elimination of Discrimination Against Women (CEDAW)<sup>15</sup> that the UK and devolved governments should “engage with the media to eliminate stereotypical imaging and the objectification of women in the media, eliminate negative gender stereotypes and to promote positive and diverse portrayals of gender”.

### How the Government and other partners will deliver it

Gender Equal Media Scotland (GEMS), brings together academics, journalists, campaign groups and organisations working for women’s equality in Scottish media. GEMS is an independent group and has an existing framework and expertise suitable for the type of media body envisaged. GEMS’ work is currently unfunded and the group therefore has limited capacity.

Working with their partner organisations, GEMS seeks to undertake activities such as an audit of existing research on gender inequality in the media and identification of where further research is required, development of dissemination and engagement strategies, and development of tools for journalists and editors.

The Scottish Government will fund a post to support GEMS to increase their impact, engagement and visibility amongst industry and other stakeholders.

<sup>15</sup> <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>

This is an exciting opportunity to work across a number of sectors to challenge gender stereotypes building on the momentum that is already there and which the other Advisory Council's recommendations complement.

## Next Steps

After the first year of funding, progress will be assessed to establish whether further development would be beneficial to increase the groups' activities and reach.





## CREATING CONDITIONS

The third key theme was focussed on creating the right conditions for change.

We need to ensure that girls and women are supported to participate fully in all decisions affecting their lives, in all personal, educational and professional opportunities that come their way and in the realisation of their rights – especially those who are the most vulnerable. We also need to ensure that they are safeguarded and supported, at all stages and in all communities of place and practice. This led to five recommendations.

The focus for the Council's first year of work – attitudes and culture change – is essential for creating the conditions for gender equality. The Council have rightly recognised that, at present, systems and structures are not always designed to facilitate gender equality. People can be limited in the choices of what

they can do and be through, not only the messages that they receive, but also from the policies and practice at all levels that shape our lives. To create the conditions for real gender equality every individual and organisation needs to feel part of the solution.



## **Recommendation – Incorporate the UN Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) into Scots Law**

### **Response – Accept**

Often referred to as the 'women's bill of rights', the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) draws particular attention to the importance of gender equality and the need to ensure that human rights can be enjoyed, in full and without discrimination, by all women and girls. CEDAW spells out in detail women's human right to equality and non-discrimination, and maps out the range of actions that must be taken to achieve gender equality. As a core international human rights treaty of the UN, it requires States parties to undertake legal obligations to respect, protect and fulfil women's human rights.

The UK ratified the treaty in 1986, and its implementation is monitored by a UN committee called the CEDAW Committee. The Committee is made up of a body of 23 independent experts, periodically examine the UK on its progress towards protecting and realising women's human right.

### **How the Government and other partners will deliver it**

This recommendation mirrors that made by the First Minister's Advisory Group on Human Rights Leadership in December last year – i.e. that there should be an Act of the Scottish Parliament that provides human rights leadership and which incorporates international human rights treaties not already part of domestic law.

The First Minister has endorsed the Group's vision and a National Taskforce on Human Rights Leadership to take the work forward will be co-chaired by Cabinet Secretary for Social Security and Older People, Shirley-Anne Somerville and Professor Alan Miller. The Taskforce will be asked to consider the incorporation of CEDAW as part of this broader incorporation of rights agenda.

## Recommendation – Establish a Commission on Gender Equality in Education and Learning, covering Early Years, Primary and Secondary Education

Establish a Commission on Gender Equality in Education and Learning, covering Early Years, Primary and Secondary Education and learning, tasked with providing bold and far-reaching recommendations on how gender equality can be embedded in all aspects of learning (from teacher training, to school behaviours/cultures, to the curriculum and CLD practice). The Commission should be independent of key bodies such as Education Scotland. The intended outcome is for a radical, evidenced based and gender-competent national strategy, providing much needed coherence and a pathway to safe and nurturing gender neutral education and learning in all settings.

### Response – Accept

The Scottish Government agrees that there is an underlying need for more action in this area. We are committed to embedding gender equality across in early years and primary and secondary school education. A number of initiatives and other measures are being taken in order to help achieve this (some of these are listed below) but we recognise that there is a case for further, bolder and better co-ordinated action. Evidence about how girls and young women can feel about their school experiences and how children and young people can behave towards each other, alongside evidence of gender stereotyping and unconscious bias within learning settings that can lead to inherent barriers for young people, supports this.

The range of activity already being progressed and planned includes:

- relationships, sexual health and parenthood (RSHP) education
- the Equally Safe strategy and delivery plan
- the Pregnancy and Parenthood in Young People Strategy
- the work of the expert group on preventing sexual offending involving children and young people
- strengthened guidance (Respect for All) on prejudice-based bullying, recording and monitoring, online/offline bullying, impact and outcomes of bullying
- focusing on how gender and other equality issues can be made more prominent within Initial Teacher Education programmes.

- Support for early learning providers, teachers and schools to take whole school and cross-curricular approaches to tackling gender stereotyping and promote better gender balance in participation in STEM subjects (under the STEM Education and Training Strategy)
- Improving diversity in the ELC workforce to both improve workforce sustainability and increase the range of role models available to children in early years settings
- The Care Inspectorate's work with Zero Tolerance to publish a new resource to promote gender equal play in early learning
- Preparation of national induction materials for new early learning and childcare professionals, which will prompt them to consider the importance of gender neutral practice
- The inclusion of gender equality as a theme in the new STEM career long professional learning for early learning and childcare practitioners, as part of our wider programme to support the expansion of quality childcare.

### How the Government and other partners will deliver it

We will establish a short-life taskforce chaired by the Deputy First Minister and Cabinet Secretary for Education and Skills. The taskforce will bring together representatives from key parts of the education system and leaders in gender equality to explore how we can take additional, better connected and bolder action in order to embed gender equality within early years and school education. The establishment of a short-life task force rather than a Commission provides a less bureaucratic vehicle for achieving the aim of identifying bold actions and will help ensure progress at a faster pace and with less administrative cost.

We will ensure that the taskforce focuses on key questions and brings forward specific actions to increase the pace with which gender equality is embedded in early years, primary and secondary education.





# Recommendation – Provide 50 hours per week of funded, good quality and flexible education and childcare for all children between six months and five years old

## Response – Accept ambition behind the recommendation

We welcome the Council's challenge to us to remain ambitious in transforming early learning and childcare in Scotland – both to ensure that all of our children have the best start in life, regardless of their situation, and to help empower parents, and particularly women, to enter or return to work, training or study, if they wish to do so.

We are working closely with local government to almost double the current funded early learning and childcare entitlement to 1140 hours per year from August 2020 for all three and four year olds and around one-quarter of two year olds. The current expansion is an ambitious and transformative commitment that requires a significant expansion of the qualified day care of children workforce and investment in new and refurbished facilities. We are investing around £476 million in capital funding over the life of this parliament, and our annual revenue investment in early learning and childcare will increase by £567 million by 2021/22.

## How the Government and other partners will deliver it

While our immediate focus is on successfully delivering the 1140 hours expansion, we recognise a need to continue to explore how the Scottish Government can support families with their childcare needs. We committed in the Gender Pay Gap Action Plan to undertake an evaluation by 2024 to determine the impact of the 1140 hours expansion on improving outcomes for children and on labour market outcomes for parents, particularly women. This evaluation, together with the Council's recommendation, will inform our consideration of what further action the Scottish Government can take to best support our children and further strengthen women's equal access to the labour market.

We have also committed to developing a strategic framework on out of school care by the end of this Parliament, addressing both after school and holiday challenges faced by families. We look forward to engaging with the Council on the development of this framework.

# Recommendation – Create two ‘Daddy months’ of use-it-or-lose-it paid paternity leave in Scotland, using existing and additional powers transferred by UK Government

## Response – Accept ambition behind the recommendation

Legislation and changes relating to paternity leave and paternity pay are currently reserved to the UK Government.

We agree that action to tackle gendered assumptions about who works and who cares is required and this is set out in A Fairer Scotland for Women: a gender pay gap action plan. Broadening parental choice is a necessity if we wish to address the gender pay gap.

The Modern Families Index, published by Working Families and Bright Horizons, shows that young fathers are becoming increasingly involved in caring for their children and want to become more so but blame their employers for their lack of work-life balance. Existing research shows a link between increased paternity leave and a range of positive outcomes, including an increase in the mother's earnings and greater maternal wellbeing.

## How the Government and other partners will deliver it

We have written to the UK Government in line with the commitment in the gender pay gap action plan<sup>16</sup> to make it clear that we strongly believe that ensuring parents are well supported during the early stages of family life is key to improving outcomes for all our children and that everyone should have access to reasonable support from employers when they become parents.

This was reflected in the increase to four weeks paternity leave for Scottish Government employees and is intended to allow both parents to be off for a longer time together. We have asked the UK Government to:

- Review this, so that other employers follow our lead
- Consider making it a requirement for employers to publish their parental leave rights, therefore making these clear to job candidates
- Introduce the right for all employees to request flexible working from day one of employment. This would help encourage and embed a more widespread culture change of gender-neutral flexible working
- Introduce an obligation for employers to consider whether a job can be done flexibly, and furthermore to make that clear at the point of advertising.

<sup>16</sup> <https://www.gov.scot/publications/fairer-scotland-women-gender-pay-gap-action-plan/>

Although some employers in Scotland offer enhanced leave or pay, we would like to see an increase in the numbers that do so and would strongly encourage employers to work in partnership with their workforce to consider voluntarily offering enhanced paternity leave.

We are currently funding Family Friendly Working Scotland to encourage employers to adopt more flexible and family friendly workplace practices and funding Timewise to undertake a feasibility study on flexible working.

We will also commission a review of the international evidence on paternity leave and more equal sharing of parental leave, its impact on children and gender, and present this to the UKG in support of change either at UK level, or the devolution of power to enable change within Scotland. This would include exploring the “use-it-or-lose-it” model of paternity leave used in countries such as Iceland.

## **Recommendation – Embed gender sensitive approaches in all work relating to programmes developed through the new Scottish Government “Scottish Approach to Service Design” model**

### **Response – Accept**

Getting service design right for everyone, including women and girls, is a powerful lever for change. By involving women and girls in designing the public services they need and use we have an opportunity to transfer powerful ‘designerly’ ways of thinking and working (the ability to embrace complex problems, collaborative and disruptive sense-making, and rapid prototyping of potential design solutions).

In the realm of public services, the opportunities unlocked by gender sensitive design are significant; from ensuring women can safely report violence and harassment through to ensuring women can access the benefits they need. Getting gender sensitive design wrong has a significant human cost and a significant financial cost to the State.

The issues regarding non-gender sensitive design are well understood – if not yet sufficiently well addressed in the design industry. Whether it is the use of non-gender sensitive data informing design decisions, the lack of women in the design professions, or the failure to sufficiently well engage, empower and enable women and girls to be the ‘service user participant’ in the room when design decisions are made, women and girls issues, lives and needs are often poorly represented in the design process.

### **How the Government and other partners will deliver it**

This recommendation will be progressed through the work of the Scottish Approach to Service Design (SatSD)<sup>17</sup>. SatSD is an initiative led by Scottish Government to build a pan Scotland approach to designing public services founded on a set of shared principles and values and built on a set of shared core tools and methods that promote truly user-centred service co-design. Although a collaborative initiative and not a standard or policy it has gathered significant momentum across the public services landscape with bodies across local and central government, the NHS, public, private and third sectors.

<sup>17</sup> <https://www.gov.scot/publications/the-scottish-approach-to-service-design/>

## WHAT NEXT?

This response contains our plans for taking forward the NACWG's recommendations in the spirit that they were made – to proactively address, on a systemic level, the change that is required to begin to undo a patriarchal system and move to a gender-equal Scotland.

We will move forward with all of the actions set out here and give updates as the work progresses. Bearing in mind, that this is systemic change we are making, and it will therefore take time to deliver.

Additionally, where we are not able to implement recommendations because the Scottish Parliament currently doesn't have the power, we commit to do everything we can to make progress with the existing powers we do have.

We look forward to updating the Council on further progress at their Accountability Day on 6 November 2019, and to consider their next report focusing on the topic of 'Policy Coherence and Gender Equality', which we expect at the end of this year.

Finally, we very much look forward to working with the Advisory Council and all our other partners to deliver these recommendations that will bring us closer to our ambition of a gender equal Scotland.



## ANNEX

# Interim recommendation and additional areas of interest

## Interim recommendation: Gender Sensitive Programme for Government

### Accepted

The Programme for Government (PfG) lays out the First Minister's legislative and policy priorities for the year ahead. All new policies progressed by the Scottish Government ought to include rigorous impact assessment. As such, the recommendation to develop a process that allows for consideration of the potential impact of new PfG proposals across different equality groups is welcome. PfG proposals should be robustly costed, impact assessed, and outcomes focussed. Having a revised process that builds these considerations into policy formation is therefore a positive step.

### How the Government and other partners will deliver it

Officials from the Government's Equality Unit, PfG and Equality and Social Justice Analysis teams have been working together to develop a process that allows for consideration of the potential impact of new PfG proposals across different equality groups. This has the additional benefit of considering impacts across all relevant protected characteristics, as well as gender.

## Additional areas of interest

In the 2018 Report and Recommendations, alongside the 11 recommendations they made, and the interim recommendation we had already accepted calling for gender sensitive Programme for Governments, the National Advisory Council included some additional areas which they wanted to highlight that had come up in their discussions with the Circle and others. These were:

- Procurement – the potential of using procurement systems to embed gender equality across supply chains.
- The Scottish Business Pledge – the potential to enhance the pledge to encourage businesses across Scotland to take bolder action.
- Better data and analysis – the potential of more effective collation and intersectional analysis to help us understand the picture in Scotland more clearly and inform policy and decision making.
- Gender budgeting and economics – the potential of the strategic recognition that gender equality can lead to far greater inclusive growth.

## In this next section we provide an overview of our action in these areas.

**Procurement** – the potential of using procurement systems to embed gender equality across supply chains.

### What we're doing

Scottish procurement legislation requires public bodies to consider how their procurements could be used to improve social, economic and environmental well-being, with a particular focus on reducing inequality, and act in a way to secure this. Scottish procurement legislation also includes a number of measures to ensure those bidding for public contracts in Scotland comply with environmental, social and employment law.

Public bodies can exclude a bidder from tendering for public contracts where it can be demonstrated that they have breached any obligations in the fields of environmental, social or employment law, including The Equality Act 2010.

Public bodies are required to include conditions relating to the performance of public contracts as reasonably necessary to ensure that the contractor complies with environmental, social and employment laws. We have updated Scottish Government standard contract terms and conditions to allow for contract termination in the event of failure by a contractor to do so, and we issued guidance in June 2016 to encourage all public bodies to consider a similar approach.

Our Sustainable procurement duty tools<sup>18</sup> have been developed to help buyers address a range of social, economic and environmental risks and opportunities through their procurements, including equality. A suite of guidance<sup>19</sup> supports the tools to help embed sustainability into the procurement process. In the course of delivering the Fairer Scotland action plan for women: gender pay gap, we will develop our Sustainable procurement tools and guidance to help buyers across the public sector in Scotland identify and pursue equality outcomes in procurement. We will also identify a suitable public contract requirement from which we can develop an exemplary case study of how public sector equality duties can be met with respect to gender and procurement.

Statutory guidance<sup>20</sup> was issued under the Procurement Reform Scotland Act 2014<sup>21</sup> on the selection of tenderers and award of contracts – addressing Fair Work Practices, including the Living Wage in procurement. Contractors who deliver public contracts are therefore expected to adopt policies which demonstrate their compliance with relevant employment and equality law. Best practice guidance<sup>22</sup> and a toolkit<sup>23</sup> on how to address fair work through procurement were published in July 2018. These align with the Fair Work Framework<sup>24</sup> and the Scottish Business Pledge, and include a focus on equality and diversity, for example gender balance on boards, a diverse workforce and closing the gender pay gap.

We have been working with the Equality and Human Rights Commission (EHRC) in Scotland over a number of years to mainstream equality through public procurement. In addition to having due regard to the need to eliminate discrimination, harassment and victimisation, advancing equality of opportunity and fostering good relations are a priority focus for the delivery of positive outcomes through public procurement.

<sup>18</sup> <https://www.gov.scot/publications/sustainable-procurement-duty-tools/>

<sup>19</sup> <https://www.gov.scot/publications/sustainable-procurement-guidance/>

<sup>20</sup> <https://www.gov.scot/publications/statutory-guidance-selection-tenderers-award-contracts-addressing-fair-work-practices/>

<sup>21</sup> <http://www.legislation.gov.uk/asp/2014/12/contents/enacted>

<sup>22</sup> <https://www.gov.scot/publications/addressing-fair-work-practices-including-real-living-wage-procurement-best/>

<sup>23</sup> <https://www.gov.scot/publications/fair-work-practices-in-procurement-toolkit/>

<sup>24</sup> <https://www.gov.scot/publications/fair-work-practices-in-procurement-toolkit/>

The EHRC is supporting Local Authorities and their partners across the country on City Region Deals. These significant investment deals worth £2 billion, represent a key opportunity to ensure that their benefits are shared equally by everyone in Scotland's communities, particularly women, disabled people and ethnic minorities. The EHRC used our sustainable procurement training framework to develop and deliver equality and procurement training with City and Region Deal participants in 2018. The training which has a particular focus on equality in relation to women, disabled people and ethnic minorities was adapted and delivered to Scottish Government buyers in February/March 2019.

**Data and analysis** – the potential of more effective collation and intersectional analysis to help us understand the picture in Scotland more clearly and inform policy and decision making.

## What we're doing

The Equality Evidence Finder is the first point of call for policymakers in Scotland looking for statistics and social research on the protected equality characteristics, across a wide range of policy areas. The site was recently rebuilt in tune with user needs and was relaunched in December 2018. The new site has a more modern look and feel, better navigation and users can now engage with the new interactive graphics to create their own bespoke charts for reporting.

The site is also closely aligned with the National Performance Framework<sup>25</sup> and hosts data and charts for the 81 National Indicators. These indicators give a measure of national wellbeing and include a range of economic, social and environmental indicators. It is important that wherever relevant we don't just consider the 'average' for Scotland but recognise the diversity of the Scottish population and use data to understand differences across the protected characteristics.

<sup>25</sup> <https://nationalperformance.gov.scot/>

<sup>26</sup> <https://scotland.shinyapps.io/sg-equality-evidence-finder/>

Scottish Government equality analysts are working with social researchers to improve the qualitative evidence available on the Equality Evidence Finder<sup>26</sup>. This will supplement the statistics and should provide further insight, particularly for small and intersectional groups.

### **Scotland's Equality Evidence Strategy 2017/21**

describes the equality evidence gaps we have identified in concert with our partner organisations and academic colleagues, and details a strategic approach to strengthening Scotland's equality evidence base.

Responsibility for addressing these gaps in data and evidence will be shared across a range of organisations and interests. There is opportunity for data and information to be collected by the public sector, academic institutions, the third sector and from within communities themselves. The public sector has responsibilities under the equality duties and it is incumbent on all organisations to think about their role in funding, designing or undertaking data collection, research and analysis to fill evidence gaps. The Scottish Government will work collaboratively with partners to improve the equality evidence base for Scotland.

The Scottish Government works to ensure that the analysis adopts an intersectional perspective. Our recently published Gender Pay Gap Action Plan highlights, and draws on analysis demonstrating, that the barriers that exist for women also intersect with barriers such as race, religion, sexuality, class and disability. Every Child Every Chance, our Delivery Plan for tackling child poverty in Scotland, similarly builds on evidence that shows the extent to which child poverty and equality overlap, with strong age, gender, ethnicity and disability dimensions. Equally Safe, Scotland's strategy to eradicate violence against women and girls, recognises that women and girls' other protected characteristics can increase their level of risk of experiencing violence and abuse. The strategy links with other policies aimed at tackling

inequalities such as our Race Equality Framework, Disability Delivery Plan<sup>27</sup>, and our programme of work aimed at reducing discrimination against and improving attitudes to Gypsy/Travellers. These are just a few examples which help demonstrate that an intersectional approach is at the core of the Scottish Government's analytical work that directly informs our policy and decision making.

**Gender budgeting and economics** – the potential of the strategic recognition that gender equality can lead to far greater inclusive growth.

## What we're doing

The **National Performance Framework**, which guides our approach to government and public services in Scotland, has sustainable and inclusive economic growth at its core. **Scotland's Economic Strategy**<sup>28</sup> acknowledges the importance of gender equality to inclusive growth and commits to advancing gender equality through measures such as:

- Increasing the level of funded early learning and childcare from 475 hours to 600 hours per year for 3 and 4 year olds, and the most vulnerable 2 year olds, as part of a major investment in our social infrastructure;
- Implementation of the equality recommendations of the Developing Scotland's Young Workforce Commission<sup>29</sup> which include key performance indicators on addressing gender imbalance in vocational learning, including modern apprenticeships;
- The development and implementation of the Scottish Government's Women in Enterprise Action Framework<sup>30</sup>;

- Continued funding for a range of organisations to tackle the pay gap, address occupational segregation in science, technology, engineering and mathematics (STEM) areas and to work with employers to promote and support flexible working;
- Setting a voluntary target for all organisations to achieve gender parity on their boards by 2020, with a commitment to legislate on this issue as soon as we have the powers to do so.

Our recently published **Gender Pay Gap Action Plan** also highlights the economic benefits of closing the gender pay gap, as well as the benefits to individuals and employers.

**The Equality Budget Advisory Group**<sup>31</sup> is a non-statutory advisory group, convened by the Scottish Government, the remit of which is to help shape the Scottish Government's equality and human rights approach to the budget. EBAG does this by:

- Supporting a process of equality analysis to ensure the equality and human rights implications of the Scottish Government's policy process are informing budgetary decisions, and that equality information presented in the Scottish budget documents is clear;
- Contributing to mapping the pathway between evidence, policy and spend;
- Identifying linkages between the Draft Budget, the National Performance Framework and the Economic Strategy and supporting scrutiny of these outcomes;
- Contributing to improved awareness of and commitment to mainstreaming equality into policy and budget processes;
- Responding to requests by Parliamentary Committees for advice and information.

<sup>27</sup> <https://www.gov.scot/publications/child-chance-tackling-child-poverty-delivery-plan-2018-22/>

<sup>28</sup> <https://www.gov.scot/publications/scotlands-economic-strategy/>

<sup>29</sup> <https://www.gov.scot/publications/developing-young-workforce-scotlands-youth-employment-strategy/>

<sup>30</sup> <https://www.gov.scot/publications/scottish-framework-action-plan-women-enterprise/>

<sup>31</sup> <https://www.gov.scot/groups/equality-budget-advisory-group/>

Scottish Government also publishes the **Equality Budget Statement**<sup>32</sup> alongside the draft budget each year. This is an equality assessment of proposed spending plans by ministerial portfolios which considers the impacts of the budget on different populations and different protected characteristics to ensure that the budget works to effectively advance equality.

In 2019, we will for the first time also be adopting a process of examining the gender sensitivity of new policies within the Programme for Government.

**The Scottish Business Pledge** – the potential to enhance the pledge to encourage businesses across Scotland to take bolder action.

## What we're doing

We announced in A Fairer Scotland for Women: a gender pay gap that we would undertake a refresh of the gender and diversity element of the Scottish Business Pledge to encourage actions and measures to address all aspects of diversity and inclusion, including the gender pay gap.

### Fair Work First

The First Minister announced Fair Work First in October 2018 as the government's default position on Fair Work. Specifically, this gives a commitment that, by the end of this Parliament, the Scottish Government will, whenever it is appropriate to do so:

- Extend fair work criteria to: every type of grant; funding stream; and business support budget open to us; and
- Extend the range of Scottish Government and public sector contracts that fair work criteria will apply to.

Through Fair Work First employers will be asked to commit to:

- Investment in skills and training
- No inappropriate use of zero hours contracts
- Action to tackle the gender pay gap
- Genuine workforce engagement
- Payment of the real Living Wage.

In relation to the gender pay gap, we are developing criteria setting out our expectation for what we expect employers to do by way of developing and publishing their gender pay gap, depending on the size and nature of the organisation concerned.

Fair Work First is a key aspect of the Fair Work Action Plan<sup>33</sup>, published in February 2019. A Fairer Scotland for Women: gender pay gap action plan<sup>34</sup> was subsequently published in March 2019 to drive focused action to address the gender inequality that women face which combines to create the gender pay gap in the workplace.

### Progress on Fair Work First includes:

#### Fair Work criteria in Scottish Enterprise grants

- The 2019 Programme for Government<sup>35</sup> includes a commitment to introduce fair work criteria to Regional Selective Assistance and other large Scottish Enterprise (SE) job-related grants – starting with grants offered in 2019/20.
- The SE grants to which fair work criteria is being applied this year includes: large Research & Development grants; Environmental Aid; Training Aid; Aid for Start-Ups and Aid for Disadvantaged and Disabled Workers. SE have defined 'large' grants as those over £100,000.

<sup>32</sup> <https://www.gov.scot/publications/equality-fairer-scotland-budget-statement-scottish-budget-2019-20/>

<sup>33</sup> <https://economicactionplan.mygov.scot/fair-work/>

<sup>34</sup> <https://www.gov.scot/publications/fairer-scotland-women-gender-pay-gap-action-plan/>

<sup>35</sup> <https://www.gov.scot/programme-for-government/>



- Grant recipients can use the funding awarded only to support those jobs which are paid at least at the living wage rate and do not have zero hours contracts. Grant recipients will also be required to meet the legislative requirements to publish information on the gender pay gap, and are being asked to publish an action plan setting out the steps they will take to narrow their pay gap.
- SE will support grant recipients to extend this fair work criteria across their wider workforce. They will also support smaller applicants to publish their gender pay gap and encourage all applicants to take steps to narrow the gap.
- Fair work officials are working with Scottish Enterprise to evaluate the impact of this fair work conditionality to inform wider roll-out of Fair Work First.

### **Fair Work First in procurement**

- Fair Work officials are working with the Scottish Government's procurement teams to explore opportunities for attaching Fair Work First criteria to public sector contracts (building on the inclusion of a request for tenderers to demonstrate their commitment to fair work and payment of the real Living Wage in tender document over the past two years).
- Fair work criterion and the new Fair Work First default position, are included in the procurement process for a £400 million public contract for facilities management services. This procurement process will ask bidders to adopt Fair Work practices for all workers engaged on the contract, over its seven-year duration.

### **Fair Work First in SG grants**

- We are exploring options for including Fair Work First criteria in grant offer letters issuing from SG and in doing so, are mindful of an approach that is appropriate and proportionate.
- As a starting point, grants issuing from the Fair & Inclusive Workplaces Unit for 2019/20 will include Fair Work First criteria. We will use this to test and refine our approach going forward.

### **Fair Work First in public bodies**

- Ministers have made clear public bodies must lead the way in adopting fair working practices. We are, therefore, working with Public Bodies Unit, the government's HR department, to agree an approach for engaging with the 120+ public bodies.
- The enterprise and skills agencies (Scottish Enterprise, Highlands and Islands Enterprise, Skills Development Scotland and the Scottish Funding Council) are early adopters of Fair Work First criteria within their organisation. We will use the lessons learnt to guide our approach for reaching out to the remaining public bodies, with a view to them all being on board from 2020/21.

### **Next Steps**

- We will publish a One-Year-On Report next spring for both the Fair Work and Gender Pay Gap Action Plans.
- We are continuing to support a Ministerial Working Group, established to give leadership to Fair Work and support mainstreaming across all portfolios.



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