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AND SOCIAL RIGHTS**



ALLIANCE
HEALTH AND SOCIAL CARE
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Scottish
Human Rights
Commission

Human Rights Budgeting Masterclass

Wednesday 7th February

10am-4pm

Norton Park Conference Centre



#YourBudgetYourRights

**THE DANISH
INSTITUTE FOR
HUMAN RIGHTS**

Quiz time

- Go to www.menti.com on your phone/laptop
- Enter code 78 71 13



Christina McKelvie SNP MSP,
Convenor of the Scottish Parliament Equalities
and Human Rights Committee

Reflection on the current Scottish context for
human rights budget work



INTRODUCTION TO HUMAN RIGHTS BUDGET WORK



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INTRODUCTION

OVERVIEW OF NORMS

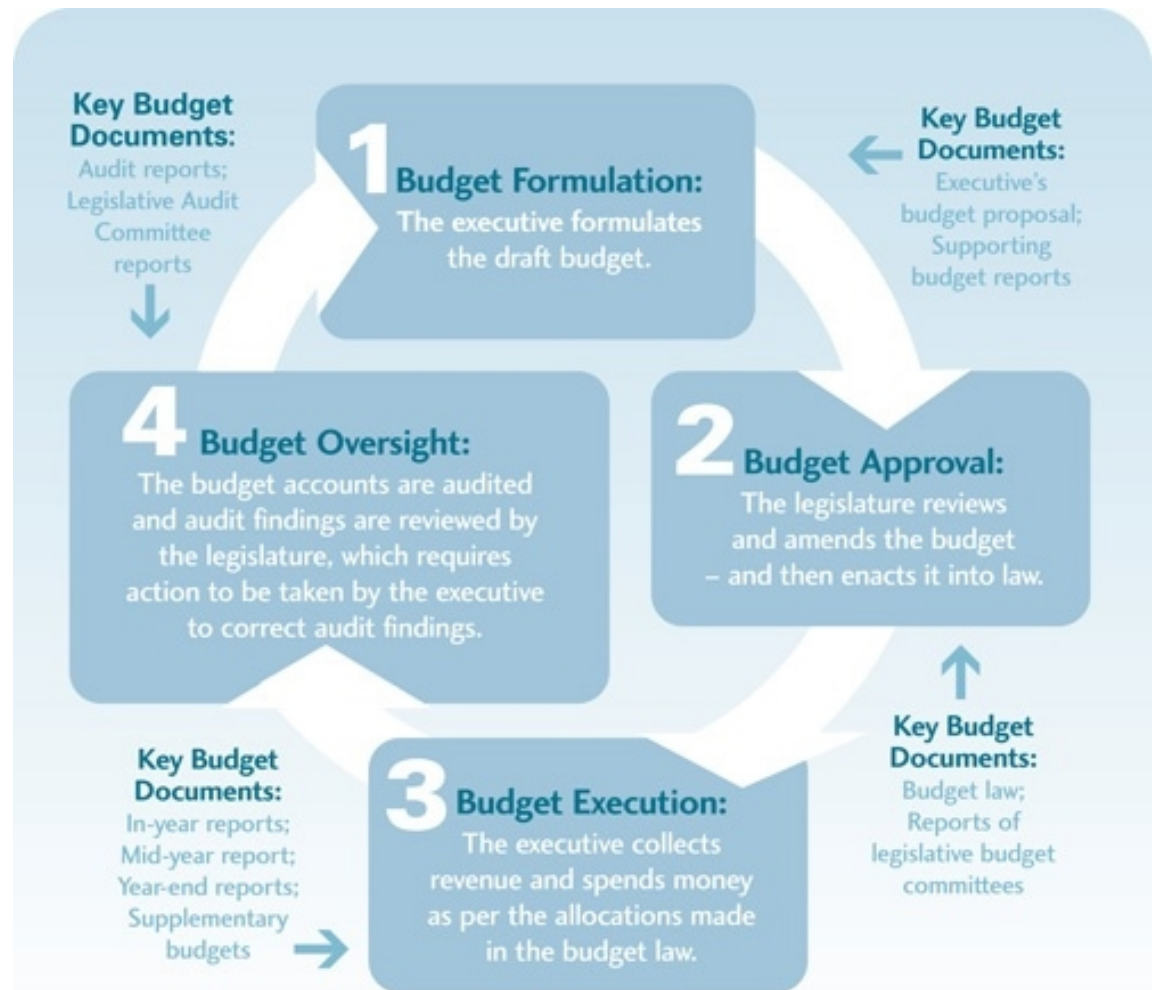
APPLYING NORMS TO BUDGETS

WHAT IS A BUDGET?

The budget is one of the government's key policies. It reveals:

- how much money it intends to raise (revenue),
- from whom (sources), and
- how it will be spent (expenditure)

Most modern budgets are a year-long process with different phases. Budgeting is an economic, administrative, political and human rights process.



(International Budget Partnership, 2010)

FUNDAMENTALS OF RIGHTS-BASED BUDGETING

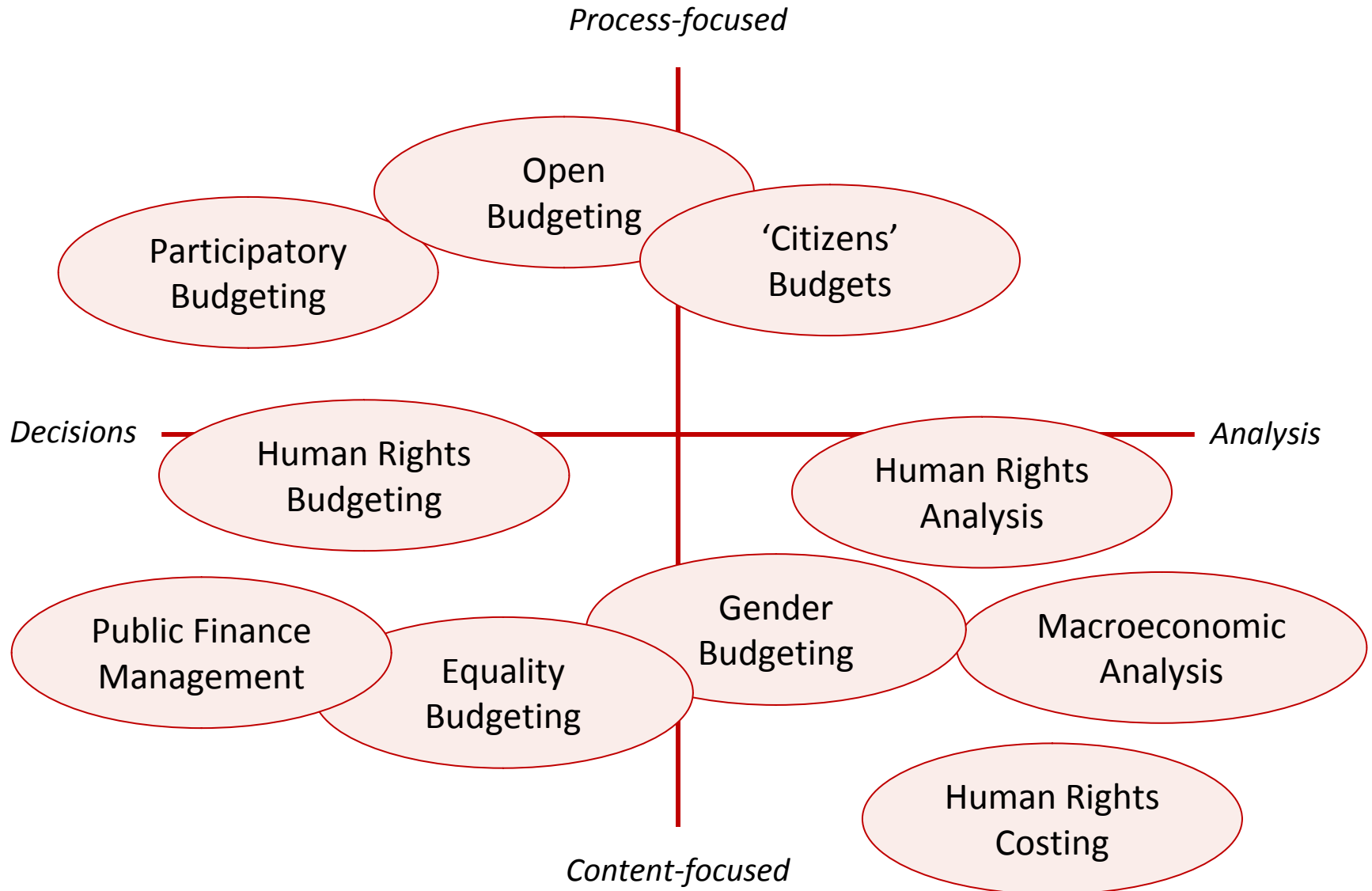
Human rights standards shape the **goals** of the budget.

Human rights principles shape the **process** of budgeting, in all phases.

RETHINKING ASSUMPTIONS ABOUT BUDGETS

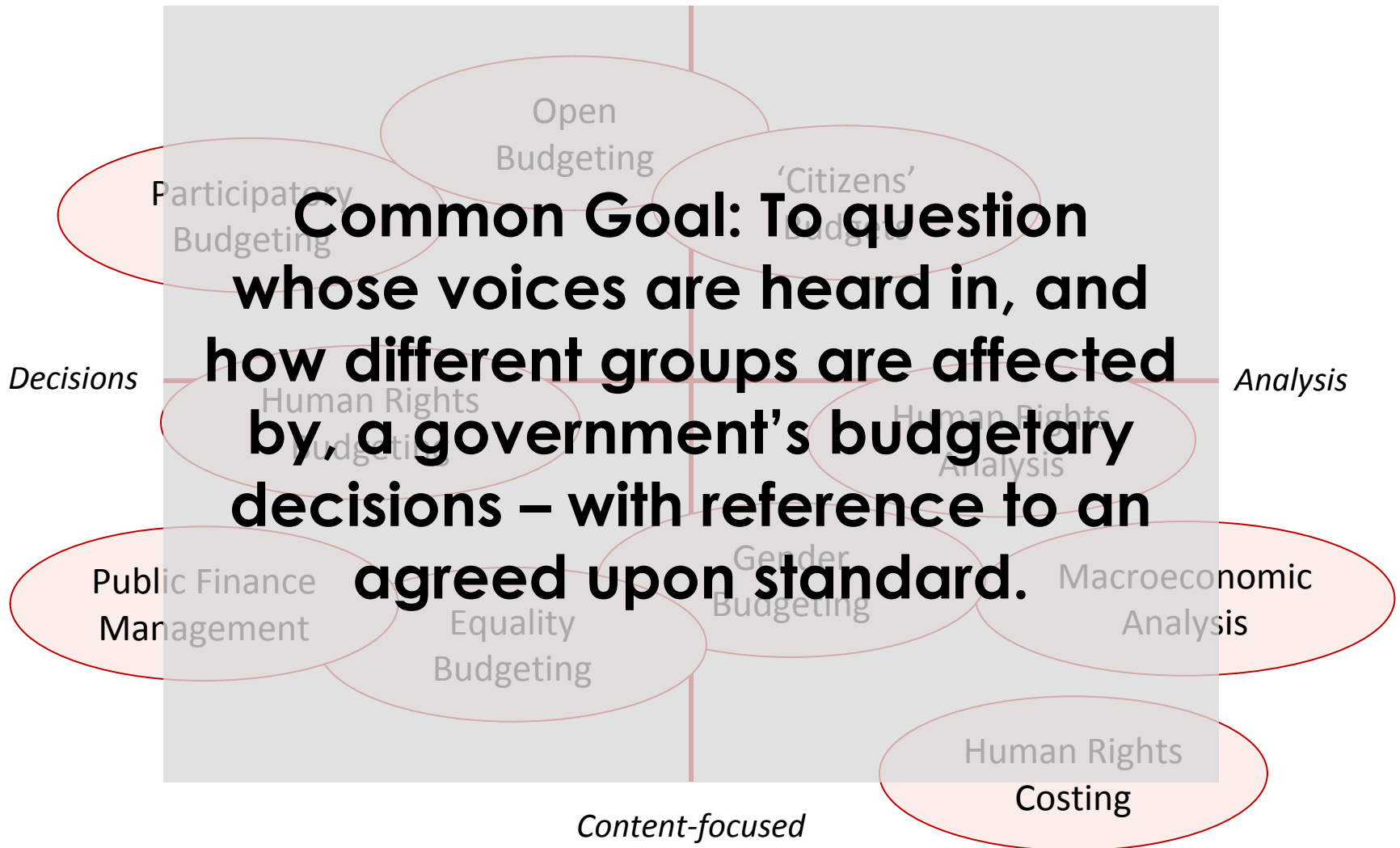
Neoclassical Approach	Human Rights Approach
1 <input type="checkbox"/> Goal of the budget is to stimulate economic growth, measured as GDP	Goal of the budget is rights realization – i.e. ensuring that every person can lead a life free of deprivation
2 <input type="checkbox"/> The private sector can lead growth, encourage privatization	Ample evidence of lost access to services, environmental damage – interrogate this closely and invest in robust regulation.
3 <input type="checkbox"/> The state is inefficient, limit its size	The state plays an essential role in the economy – e.g. providing public goods for all – invest in ensuring its institutions are inclusive.
4 <input type="checkbox"/> Lower taxes increase economic investment	Economic benefit of low taxes questionable. Progressive taxation is essential for investment in public goods.
5 <input type="checkbox"/> Deficits are problematic, avoid them	Deficit spending can be a tool to maximize resources for human rights, and is sustainable when investment results in a higher rate of return.
6 <input type="checkbox"/> Social services are unaffordable and burdensome	Design economic stimulus policies and investment in social protection to increase economic demand and fuel economic revitalization.
7 <input type="checkbox"/> The care economy is predominantly the domain of households	Unpaid care work is crucial for the economy, but disproportionately burdens women. The budget is an important tool for reducing and redistributing women's heavy unpaid workload.
8 <input type="checkbox"/> Economic policy making is best left to neutral experts	Experts aren't neutral. Economic policy-making must be based on sound empirical data and subject to public scrutiny.

TYPES OF BUDGET WORK



TYPES OF BUDGET WORK

Process-focused





2

INTRODUCTION OVERVIEW OF NORMS

APPLYING NORMS
TO BUDGETS

WHY RESOURCES?

“Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, **to the maximum of its available resources**, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures”

International Covenant on Economic, Social and Cultural Rights, Article 2(1)

OBLIGATIONS OF CONDUCT AND RESULT

Conduct

- **Action reasonably calculated to realise** the enjoyment of a right.
- E.g. Adopting and implementing a plan of action to reduce unemployment.

Result

- Requires States to **achieve specific targets** to satisfy a detailed substantive standard.
- E.g. Reducing unemployment to agreed levels

In relation to the obligation to fulfil, *results* can generally be achieved progressively, but *conduct* is an immediate duty.

OBLIGATION TO TAKE STEPS

Steps can be:

- legislative,
- judicial,
- administrative,
- **financial,**
- educational, and
- social

STEPS TAKEN SHOULD INCREASE...



MAXIMUM AVAILABLE RESOURCES

- States frequently attribute rights deprivations to lack of resources.
- In interrogating this claim, attention should be paid to whether:
 - **existing resources** are use effectively and without discrimination.
 - efforts to generate **additional resources** (from domestic or international sources) are adequate and equitable.
 - **decision-making processes** are transparent and participatory
- Resources are **not only financial**, but also human, natural, technological, etc.
- Even in times of severe resource constraints, the most disadvantaged and marginalized groups must be protected.

PROCESS PRINCIPLES

- Steps should be taken in such a way that facilitates the **active participation** of rights holders.
- ‘Steps taken’ should respect the principles of **transparency** and accountability.
- The state also has an obligation to provide **effective remedies**, including administrative and judicial ones.
- In Scotland, these principles are captured using the acronym PANEL (Participation, Accountability, Non-discrimination and Equality, Legality)

MINIMUM CORE OBLIGATIONS

- A duty on states to ensure the satisfaction of “**minimum essential levels**” of each right, regardless of their level of economic development.
- Failure to do so amounts to a *prima facie* **presumption** that a state is in **violation of** the Covenant.
- **Unless** it can demonstrate that “**every effort has been made** to use all resources that are at its disposition” to prioritize reaching those minimum levels.
- Concept used in context of austerity-driven roll backs to rights protections.

NON-DISCRIMINATION

- Differential treatment based on a 'prohibited ground' is discrimination unless the justification for it is **reasonable** and **objective**.
- Treaties lists prohibited grounds, but these are **not exhaustive**.
- The state has an obligation to eliminate **de jure** discrimination by abolishing '**without delay**' any discriminatory laws, regulations and practices.
- **De facto** discrimination, occurring as a result of the unequal enjoyment of rights, should be ended '**as speedily as possible**'.
- Affirmative action or positive measures may be needed to end de facto discrimination (obligation of conduct).

PROGRESSIVE REALIZATION AND NON-RETROGRESSION

- States shall move as **efficiently and expeditiously as possible** towards the full realization of economic, social and cultural rights.
- Conversely, states must not take **deliberately retrogressive** measures (obligation of conduct).
- States must “fully” justify the adoption of policies that decrease people’s enjoyment of a right. Must be:
 - ❑ Temporary
 - ❑ Necessary and proportionate (other options more detrimental)
 - ❑ Not discriminatory and mitigate inequalities
 - ❑ Ensure the protection of minimum core content of rights
 - ❑ Considers all other options, including financial alternatives

SUMMARY OF NORMS

Obligations of Conduct

- To **take steps** (legislative, judicial, budgetary, administrative and other) to fulfill ESCR
- To use **maximum available resources** to ensure progressive realization, including resources provided through international cooperation
- To ensure **participation, accountability and transparency** in the policy-making process

- To ensure relevant infrastructure, goods and services are increasingly **available, accessible** to all, **acceptable** and of **adequate quality**
- **Non-discrimination:** duty to ensure substantive equality

Obligations of Result

- **Minimum core obligations:** immediate duty to prioritize achieving minimum essential levels of rights enjoyment universally
- **Progressive realization:** move swiftly towards increased levels of rights enjoyment, with **no deliberate retrogression**



INTRODUCTION OVERVIEW OF NORMS

APPLYING NORMS TO BUDGETS

ASSESSING BUDGETS AGAINST NORMS

	Generation	Allocation	Spending
Minimum Core	Is sufficient revenue generated to invest in realizing basic levels of rights for all?	Do allocations prioritize the achievement of basic levels of rights for all?	Do financial management systems ensure efficient management of funds allocated?
Non-Discrimination	Who are resources generated from? Are particular groups unjustly impacted?	Do allocations prioritize closing the gaps in human rights enjoyment between different groups?	Have funds been redirected in a way that disproportionately impacts particular groups?
Progressive realization and non-retrogression	Is (or could) government revenue increase?	Are allocations growing or shrinking? Are reductions justified (in human rights terms)?	Have financial management systems improved or weakened over time?
Process Principles	Does the process of deciding on resource generation, allocation, and expenditure reflect the PANEL principles?		

The Scottish Budget Context for Human Rights Budgeting in Scotland

Angela O'Hagan
7 February 2018
SHRC and The ALLIANCE
'Masterclass'

Scottish Budget Process

- UK Gvt 'Autumn Statement' Oct/November
- Scottish Draft Budget by mid December
- Stage 1 Budget Bill end January (31st this year)
- Stage 3 complete by end February/early March (21st commencement)
- 3 phases to budget process
 1. Budget Strategy
 2. Draft Budget Scrutiny
 3. Budget Bill

Scottish Budget Documents

- Scottish Draft Budget
 - Draft Budget and Spending Plans
 - Equality Budget Statement
 - Spending Review (inconsistent)
 - Scottish Government Public Sector Pay Policy Scotland Performs Update
 - Carbon Assessment
- Scottish Government finance information
- Scottish Fiscal Commission
- Scottish Parliament Financial Scrutiny Unit

Scottish Government Budget

£ Million

- **2018-19 Draft Budget:** **40,639.8**
- 2018-19 Draft Budget: 39,939.1 (in 2017-18 prices)
- 2017-18 Draft Budget: 39,378.5



Show us the money!

Table 1.02: Scottish Government Budget Control Limits for 2010-11 and 2015-16 to 2019-20

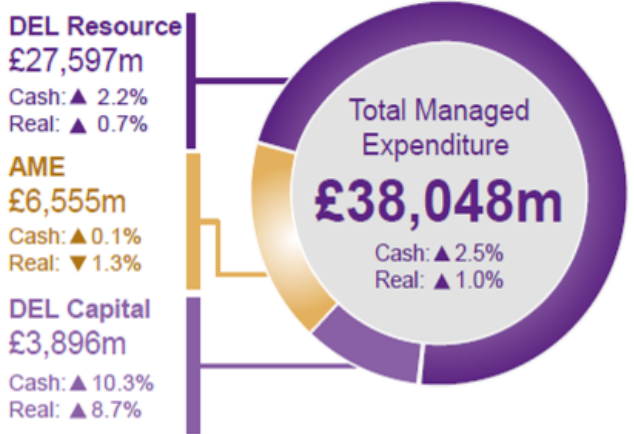
SG Spending Limits – Cash Terms	2010-11 £m	2015-16 £m	2016-17 £m	2017-18 £m	2018-19 £m	2019-20 £m
UK Government Spending Review settlement – November 2015			30,286	30,520	30,620	30,870
Subsequent Barnett consequential and other additions			(12)	828	1,247	1,423
Total Budget Limit from HM Treasury (A)	29,600	30,141	30,274	31,348	31,867	32,293
<i>of which:</i>						
Fiscal Resource Budget Limit	25,624	25,991	26,088	26,679	26,860	26,903
Non-cash Budget Limit	642	1,030	967	1,057	1,105	1,145
Capital Budget Limit	3,335	2,734	2,891	3,166	3,413	3,726
Financial Transactions	-	386	329	446	489	519
Block Grant Adjustment			(5,500)	(12,450)	(12,472)	(12,793)
Scottish Income Tax			4,900	11,829	12,115	12,582
Land and Buildings Transaction Tax			538	507	588	628
Scottish Landfill Tax			133	149	106	88
Non-Tax Income				36	25	25
Net Resource Budget Adjustment (B)			71	71	362	530
Capital Borrowing (C)	-	306	316	450	450	450
Total Scottish Government Funding (A+B+C)	29,600	30,447	30,661	31,869	32,679	33,273

Scottish Government Draft Budget 2017-18

SB 16-103i1

This infographic provides headline figures from the draft budget and outlines changes from 2016-17 in cash and real terms.

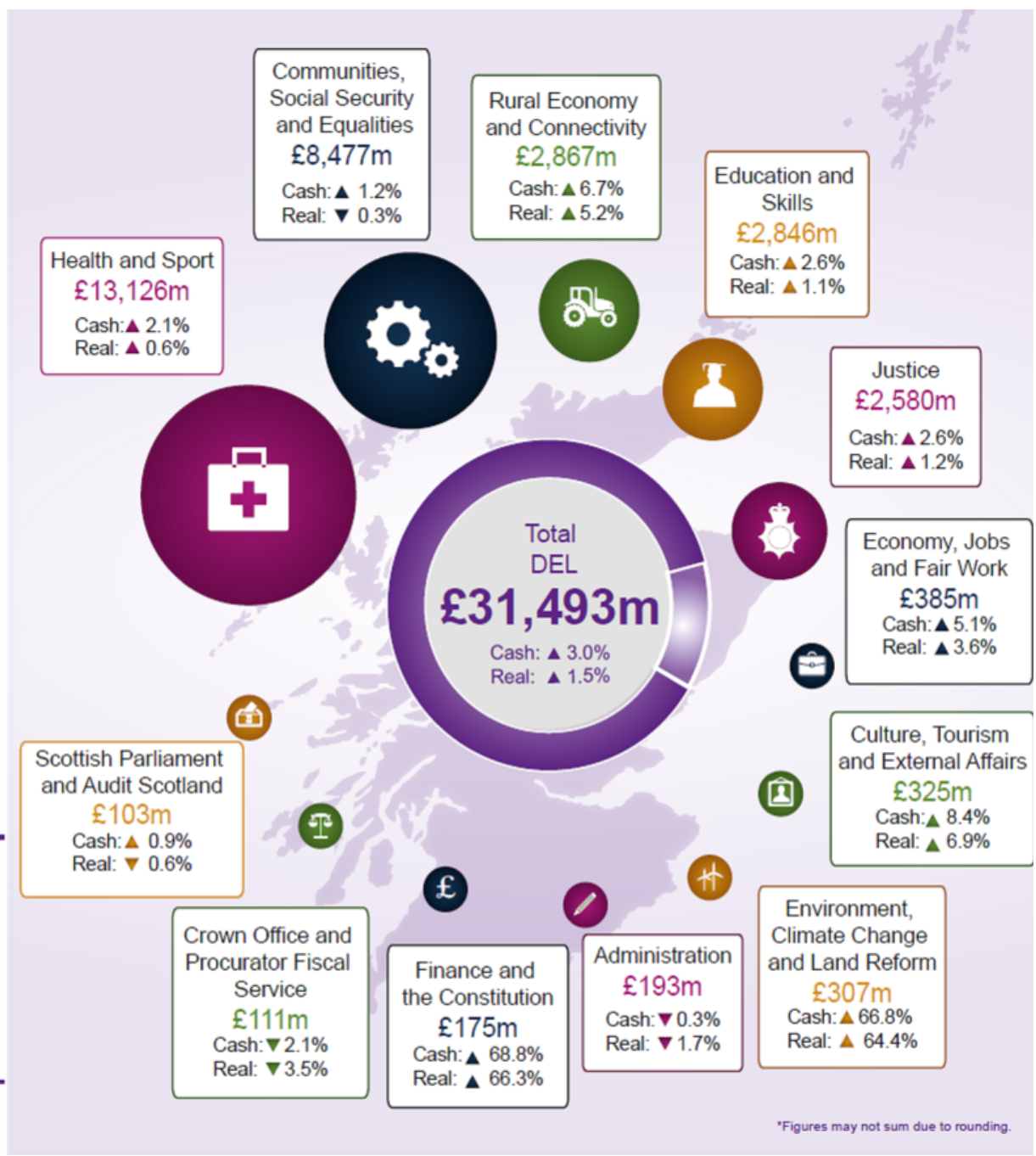
This is the first year the Scottish Government can set the bands and rates for income tax.



This year's budget includes three tax raising powers forecast to be worth:



Total Managed Expenditure = DEL + AME.
DEL is the discretionary element of the budget,
AME is non-discretionary.



*Figures may not sum due to rounding.

And relax



“Our Social Contract”

- The provision of high quality universal services, combined with progressive taxation represents a strong social contract between the government and the people of Scotland.
- This contract supports the economy of Scotland, reduces inequality and boosts intergenerational fairness. It gives everyone a stake in our public services and the economy.
- **invest in the NHS**, keeping it free at the point of need;
- **maintain free personal care and prepare for expansion to include those under 65s**
- **establish a social security system based on dignity and respect** and invest over
- £100 million in **mitigating UK welfare cuts** including the ‘bedroom tax’;
- **higher education remains free of tuition fees for all eligible Scottish or EU domiciled undergraduate students**
- maintain the current provision of 600 hours per year of early learning and **childcare and invest in the expansion towards 1,140 hours by 2020**
- provide access to **free sanitary products** to students in schools, colleges and universities;
- ensure roads and bridges remain **toll free and support concessionary travel**; and
- **support sports, arts and culture** across the country including free access to the permanent collections of the National Museums, Galleries and Library.

Budget Review Process 2017

“The Group recommends that the **equality dimensions of the budget should become a greater priority** and that there should be a plan in place over time to further develop the performance evidence base by protected characteristic.”

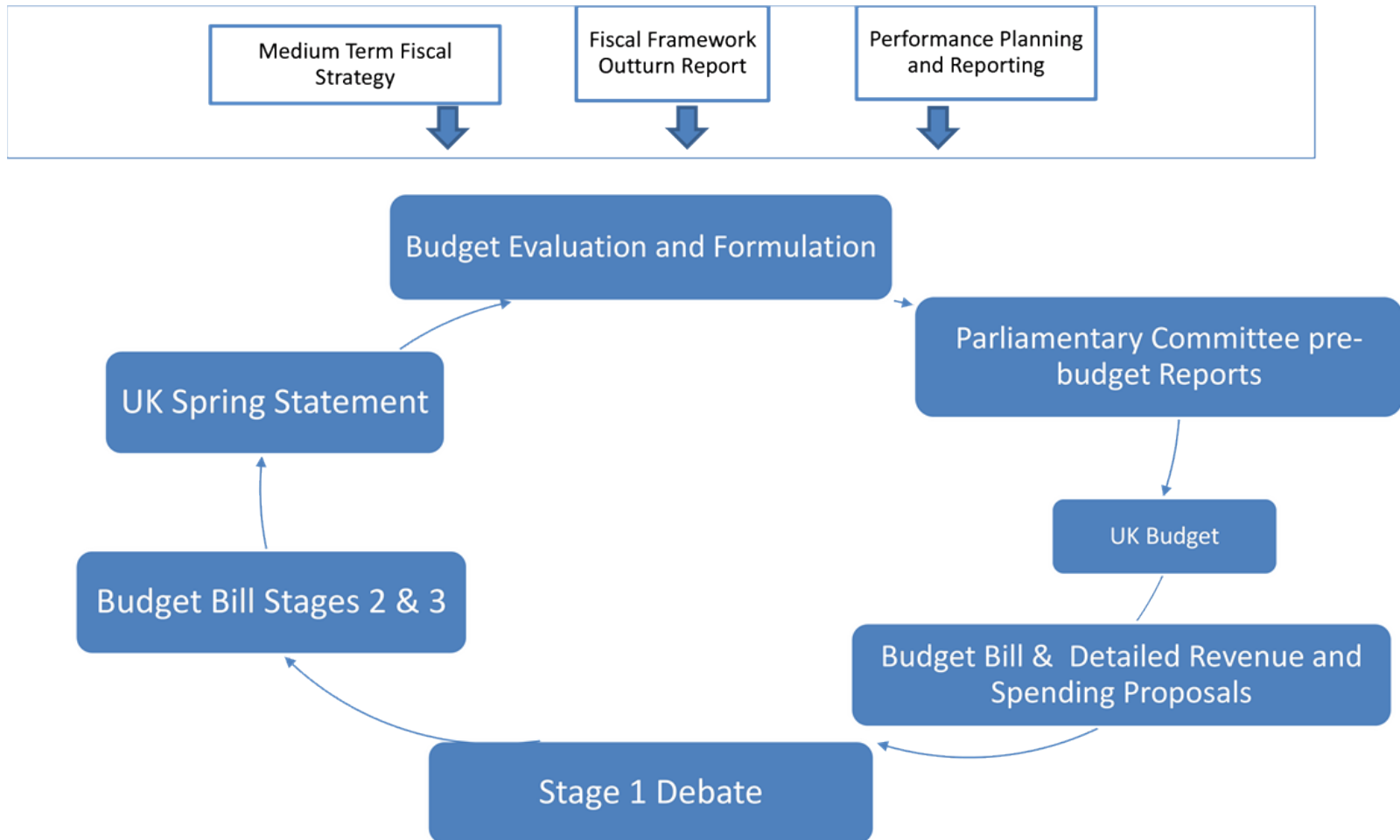


Budget Process Review Group

Final Report

30 June 2017

Review of the Budget Process



Budget Review recommendations

- Committees should take a broader approach to budget scrutiny, shifting the focus from annual changes to inputs to the difference spending makes. Scrutiny of the selected areas should consider what is being spent overall, what this is achieving in terms of specific output and outcome measures, and if it is offering value for money. Key scrutiny questions could include:
- **What progress has been made in advancing equality and in tackling underlying inequalities?**
- The Group recommends that the Scottish Government and public bodies strengthen their performance planning and reporting to provide a greater focus on the delivery of outcomes. This means providing better information about what activity public spending will support, what this aims to achieve, the contribution this is expected to make to outcomes, how plans are being delivered and the impact this is having. This should include the impact of new policies and significant changes to spending priorities and link with setting and reporting on equality outcomes.

Parliamentary Scrutiny

“Scrutinising the budgetary aspects of human rights raises similar issues as with equalities because of its cross-cutting nature. We see this as an area where we could work jointly with the Scottish Government with a view to providing greater transparency.”

Equality and Human Rights Committee Report on Draft Budget Scrutiny January 2018

Using budgetary process for social justice

- Gender budgeting
- Equalities Budgeting
- Equality Proofing
- Human Rights budgeting
- Participatory Budgeting
- Different approaches to same end...
 - Principles
 - Mainstreaming analysis in budgetary processes
 - Proofing for impact and distribution

Why are we doing it...?

The budget “reflects the values of a country - who it values, whose work it values and who it rewards ... and who and what and whose work it doesn't”

(Pregs Govender, in Budlender 1996, p.7).

“Surely little the State does is more important than constantly using so much of the nation's work and wealth. Few other governmental activities so consistently affect the everyday life of citizens.”

(Heclo and Wildavsky 1981, xi The Private Government of Public Money)

How are we going to do it?

- Engage in parliamentary processes
- Build alliances across civil society
- Build our knowledge and capacity to scrutinise
- Hold to account at all levels of government
- Scrutinise and challenge all areas of government spend
 - Levels of resource
 - Analysis of direction of resource
 - Outcomes and benefits

Thank you

Group Work Session One | Budget and Human Rights Norms

Participant Instructions

- **Introduction:** The goal of this exercise is to encourage participants to think through how different human rights norms may relate to different parts of the budgeting process in Scotland.
- **Exercise Instructions:** Please read through each of the prompt statements below. For each statement, select **which phase of the budget applies** (generation, allocation, or expenditure) AND **which norm is most directly relevant to it** (minimum core obligations, non-discrimination, progressive realisation and non-retrogression and process principles).

For example, the following statement,

“The government’s overall tax policy results a significantly higher percentage of the total tax burden falling on women as compared to men,”

is about both revenue generation (because it is about the tax burden) as well as non-discrimination (because of how that burden relates to different groups).

Please take **30 minutes** to complete this exercise in your groups.



The Northern Irish Experience

Human rights budgeting case studies

Professors Aoife Nolan, Colin Harvey & Rory O'Connell



MEASUREMENT TECHNIQUES



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STEP ONE: IDENTIFY INDICATORS

Examples for resource allocation:

- Expenditure ratios (percent out of a total) by sector
- Expenditure ratios by sub-sector
- Per unit or per capita expenditure by sector and sub-sector

Examples for resource generation:

- Government revenue as percent of GDP
- Tax revenue as percent of government revenue
- Different tax types (e.g. income, corporate, VAT) as percent of total tax revenue
- Tax (by type) as a share of a taxpayer's total income
- Average illicit financial flows

Examples for resource expenditure:

- Variance between budgeted amounts and actual budget outturns
- Budget turnaround time in relation to policy commitment
- Efficiency of spending, including analysis of transaction costs and leakages

STEP TWO: MAKE COMPARISONS

- To other **comparable countries**.
- To national or international **targets or commitments** agreed to by the government.
- To **guidelines** from international bodies.
- To other **parts of the budget**.
- To other **relevant economic indicators**.
- **Between groups**

FIGURE 15

Annual Expenditure on Social Protection, Health and Education per Capita in the EU-15 (latest figures available)

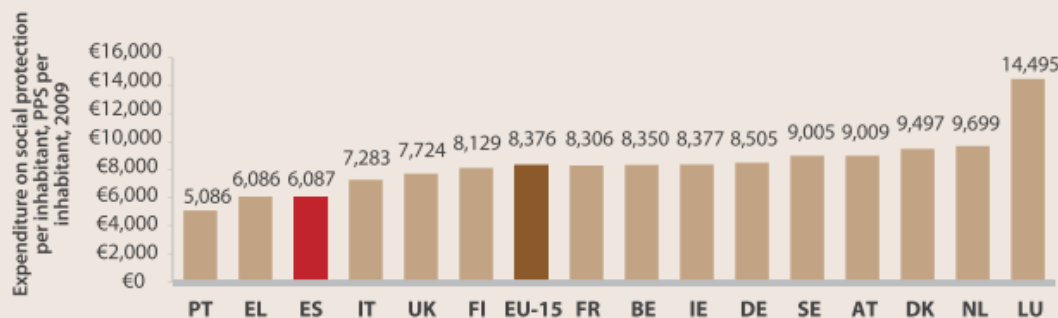
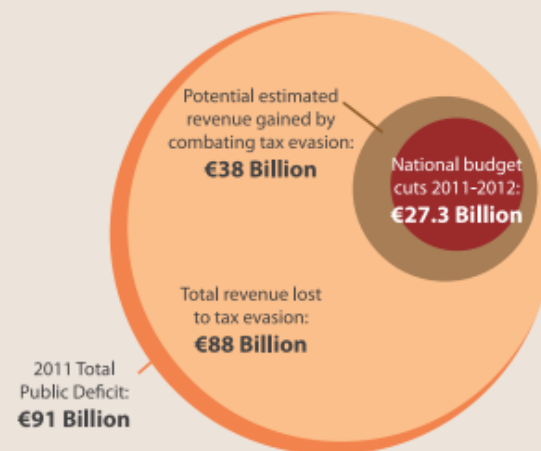


FIGURE 22

Tax Evasion vs. Budget Cuts in Spain (2012)



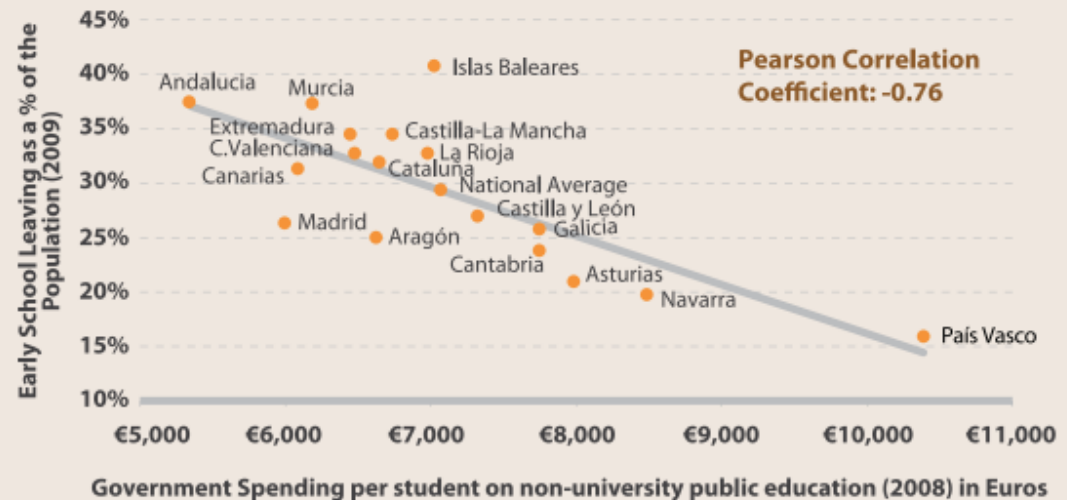
Source: Ministry of Finance and Public Administrations of Spain, 2012 and GESTHA, 2011

COMPARISONS BY GROUPS – ALLOCATIONS

- May be possible to infer who is benefiting, by looking at the classification of budget lines.
- Calculating **per capita** allocations can facilitate comparison by groups.
- Other techniques, such as 'benefit incidence analysis', can complement.

FIGURE 16

Early School Leaving and Government Spending on Education per Student by Autonomous Community



Source: Ministry of Education of Spain, 2010 and 2011

STEP THREE: ANALYZE TRENDS OVER TIME

When making comparisons between budgetary figures, understanding real vs. nominal expenditure is vital to credibly commenting on progressive realisation

Nominal budget figures need to be “adjusted for [inflation](#)” to enable valid, accurate comparisons over time.

Formula for Adjusting for Inflation

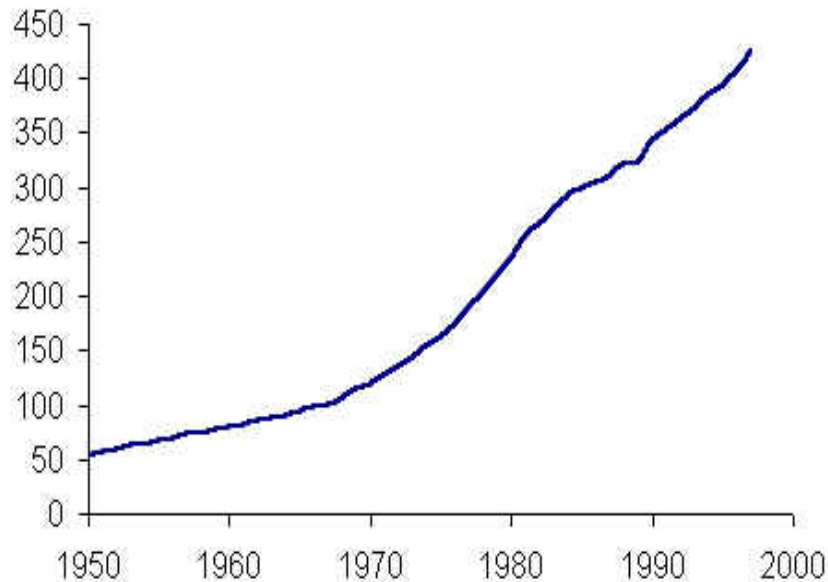
$$\text{Real Value} = \frac{\text{Target year's nominal value} \times \text{base year's consumer price index (CPI)}}{\text{Target year's CPI}}$$

Example: 2010 money in 2000 values

$$\text{Real Value} = \frac{\text{2010 value} \times \text{2000 CPI}}{\text{2010 CPI}}$$

EXAMPLE: NOMINAL VS REAL DIFFERENCES

Average Weekly Earnings



Real Average Weekly Earnings



US Nominal vs Real Earnings (1950-2000)

EVALUATING PUBLIC SPENDING

There is a **variety of tools and methods** that track expenditure and assess it against the criteria of participation, transparency and accountability. Some are more formal, structured and macro-level (or big picture). Others are more ad hoc, informal and micro-level (or small scale).

Government Oversight and Auditing	Non-government Oversight and Auditing	Public Procurement and Bidding
<ul style="list-style-type: none">• Financial audits• Compliance audits• Performance audits• Audit opinions	<ul style="list-style-type: none">• Performance/ Social Audits• Public expenditure tracking surveys (PETS)• Quantitative service delivery surveys (QSDS)• Citizen score cards (on inputs, outputs and outcomes of government expenditure)	<ul style="list-style-type: none">• Differential Expenditure Efficiency Measurement (DEEM), Philippines• Integrity Pact

Group Work Session Two | Budget Analysis

Introduction : The goal of this exercise is to start familiarising participants with the tools that can be used to analyse the Scottish national budget from a human rights perspective. For this exercise, participants should use Parliament's Budget Explorer Tool:

<http://www.parliament.scot/Budget/ExploretheBudget-2018-19/node-link.html#>

Exercise Instructions: Take approximately **30 minutes** to familiarize yourself with the Budget Explorer and look at information about different areas of the budget. Explore the budget across different thematic areas and levels and answer the following questions:

- What information that you found in the Budget Explorer stands out?
 - Are the line items that seem surprisingly large or small?
 - Are there line items that have changed noticeably from the previous year?
- What information, if any, raises any red flags from a human rights perspective?
- What additional information would you want in order to better understand the budget from a human rights perspective?
- How did you find navigating the budget using the tool? Is this something you could see yourself using in your work, at least to do an initial analysis?

Afterwards, take approximately **15 minutes** to discuss the following questions:

- What opportunities and challenges do you see for advancing with human rights budget analysis in Scotland?
- What actors could be engaged, and how?



Quiz time

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Panel Discussion

What would taking a human rights approach to budgeting mean in practice?

Reflections from key policy areas



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