SHRC
Scottish Human Rights Commission

Human Rights Budget Scrutiny Toolkit



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Human rights budget scrutiny toolkit

Introduction

This toolkit empowers the entire accountability ecosystem in Scotland. It translates complex fiscal decisions into actionable human rights scrutiny. This support supports evaluating whether public spending aligns with legal human rights duties. The companion Human Rights Budgeting Toolkit explains how public bodies plan budgets proactively.

Who this toolkit is for

This toolkit is designed for a wide range of scrutiny actors across the public sector. It supports individuals and organisations holding formal oversight roles. These actors include parliamentarians, independent auditors, fiscal commissioners, inspectorates, and ombudspersons. The guide also assists those driving informal scrutiny. These groups include rights holders, charities, civil society organisations, academic institutions, and national human rights institutions.

Finally, it serves officers evaluating spending within public bodies. These bodies include national and local governments, Health and Social Care Partnerships, and Integration Joint Boards. The resource supports ensuring that resource generation, allocation, and spending align with human rights obligations. Ultimately, this alignment supports improving the lived experiences of everyone in Scotland.

How to use this toolkit

This toolkit is designed as a practical, flexible resource. It is not intended to be read from cover to cover. Instead, all budget actors can select the specific tools most relevant to their objectives. These actors include parliamentarians, government officers, public bodies, oversight institutions, and civil society groups.

Depending on the scrutiny or budget context, users can:

- **Start with the overview:** Understand how human rights standards strengthen public finance.
- **Apply tools selectively:** Deploy tools across the budget cycle based on available evidence and specific policy issues.
- **Draw on diagnostic questions:** Use practical questions to inform budget planning, legislative scrutiny, and public reports.
- **Deploy frameworks:** Identify data deserts and evaluate the impact of funding choices on communities.

This toolkit is intended to complement, rather than replace, existing budget and scrutiny procedures. It provides additional practical tools to support users in evaluating whether public finance decisions are transparent, equitable, and accountable. This evaluation supports ensuring that spending supports the progressive realisation of human rights.

Where this toolkit fits in the publication suite

This toolkit is part of a suite of resources developed by the Scottish Human Rights Commission to embed human rights standards into public finance and budget oversight across Scotland. The publication suite comprises two core foundational publications alongside targeted toolkits for specific oversight institutions:

Core foundational suite

- **Human Rights Budgeting:** General Toolkit: The primary framework for duty bearers and finance officers, supporting the integration of human rights standards throughout budget preparation and resource allocation.
- **Human Rights Budget Scrutiny:** General Toolkit: The primary framework for oversight bodies, civil society, and scrutiny institutions, offering diagnostic tools to evaluate spending decisions against human rights obligations.

Tailored scrutiny toolkits

Audience-Specific Toolkits (MSPs, Auditors, NHRIs): Adapt the core scrutiny framework specifically for targeted oversight roles, providing custom question-sets, scrutiny intelligence, and practical tools tailored to each institution.

Navigating the complexity: the reality of scrutiny

- Budget scrutiny is not a simple tick-box exercise. Decision-makers operate under intense financial pressure. Budget scrutiny requires a deep understanding of real-world financial complexities.
- Budget trade-offs: Budgets involve competing priorities and limited money. Scrutiny does not make hard choices disappear. Instead, the toolkit provides a framework to support ensuring public bodies make trade-offs transparently. Public bodies must justify these decisions with evidence and protect equality.
- Missing data: Effective scrutiny requires high-quality data showing how fiscal decisions affect different groups. Often, this data is missing. Scrutiny teams must treat these data deserts as a significant diagnostic finding. These gaps highlight exactly where public bodies must urgently improve data collection.
- Global economic impacts: Global trends like inflation actively shape Scottish budgets. Scrutiny must acknowledge these real economic constraints. However, public bodies must still use every available lever to protect human rights.

Part 1: the 'what' – defining human rights budget scrutiny



Definition and scope

Human rights budget scrutiny supports holding financial decision-makers to account. A budget is more than a spreadsheet. It is a political document that shows a government's true values. Scrutiny evaluates whether the government meets its legal duties to respect, protect, and fulfil rights.

This is not a simple tick-box exercise. Budgets involve competing priorities and difficult trade-offs. Scrutiny provides an evidence-based framework. It supports ensuring these choices are transparent, legally justified, and equitable.

The subject of scrutiny

Scrutiny focuses on three main areas of public finance:

- **Revenue:** This area covers how money is raised through taxes or borrowing. Scrutiny evaluates whether the financial burden is shared fairly. It evaluates if the government uses all available powers to raise revenue.
- **Allocation:** This area covers how funds are distributed to specific sectors like healthcare or education. Scrutiny evaluates whether these funding choices prioritise human rights rather than repeating previous budgets.
- **Spending:** This area tracks how money actually flows during the financial year. Monitoring supports ensuring funds reach frontline services without administrative leakage.

The budget cycle framework

Budgeting is a continuous cycle. Scrutiny is required at every stage:

- **Planning:** The government sets priorities and spending limits. Human rights goals must be included from the start.
- **Approval:** Parliament debates and votes on proposed plans. This stage provides the primary opportunity for democratic intervention.
- **Execution:** Government departments spend the allocated money. Monitoring confirms whether funds actually reach intended services.
- **Review:** Auditors and parliaments evaluate performance to improve future plans. Reviewers must actively identify data deserts. Missing data that prevents measuring human impact represents a significant accountability failure.

Scrutiny must cover every stage of the cycle. Early decisions set financial limits. In contrast, execution reveals the true gap between commitments and reality.

Part 2: the 'why' – the mandate for scrutiny



The legal rules

The government has three strict legal duties. Scrutiny tests every budget decision against these obligations:

- **Respect (do no harm):** The government must not reduce existing rights. For example, public bodies cannot cut essential services or let inflation erode benefits.
- **Protect (regulate):** The government must prevent third parties from violating rights. This obligation requires funding regulators like the Care Inspectorate to monitor private providers.
- **Fulfil (invest):** The government must actively improve rights. For example, the state must fund the Scottish Child Payment to reduce child poverty.

Economic, social, and cultural (ESC) rights

Scrutinising everyday rights requires the application of three key legal rules. These rules apply even during periods of financial constraint. These rights include housing, healthcare, and education.

- **Minimum core:** This represents the absolute baseline of provision. The government must fund these essential services to protect human dignity. Failure to provide this baseline breaches international law.
- **Progressive realisation:** Public bodies must constantly improve lives using the maximum available resources. This progress does not always require increased spending. Instead, it requires making better use of existing funds to improve outcomes.
- **Non-retrogression:** The government cannot take backward steps. Public bodies cannot cut services or create new financial barriers without strict justification. Any proposed cuts must be temporary, necessary, equitable, and the least harmful option available.

The triple question test

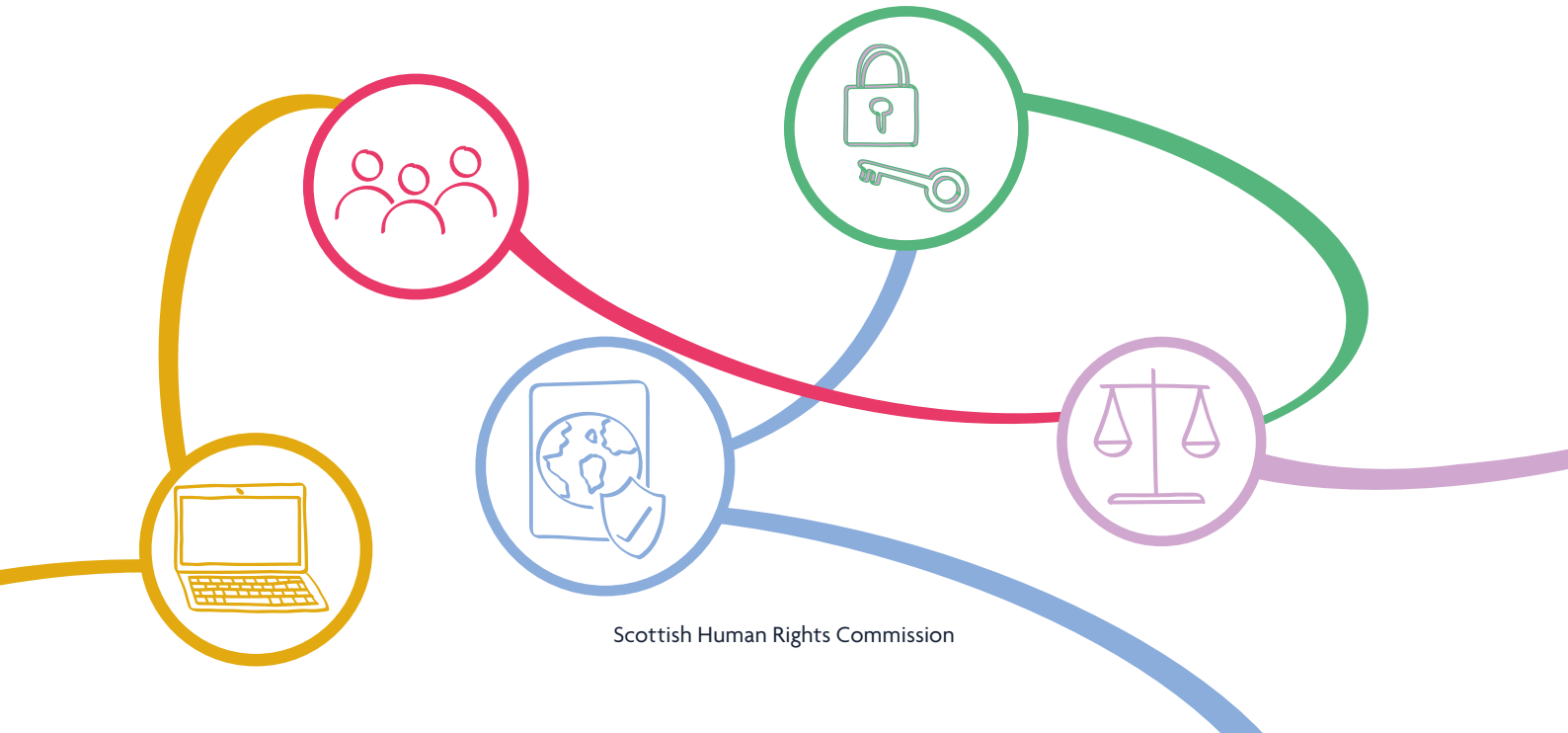
Scrutiny applies three fundamental questions to every budget decision:

- **Who pays:** This question evaluates whether revenue generation is fair and progressive.
- **Who benefits:** This question evaluates whether spending prioritises those with the greatest needs.
- **Who is left behind:** This question evaluates whether the budget excludes marginalised groups. These groups include disabled people and ethnic minorities.

Value add: why scrutiny matters now

The 2023 Open Budget Survey highlighted areas for improvement in Scottish budget scrutiny. Scotland scored 60 out of 100 for transparency. Participation scored 43 out of 100. Effective scrutiny addresses these challenges in several ways:

- **Improving transparency:** Scrutiny supports making hidden budget trade-offs visible to the public.
- **Building trust:** Independent oversight supports closing the gap between policy commitments and actual public experiences.
- **Managing risk:** Scrutiny supports identifying potentially harmful budget cuts before they impact services or breach legal obligations.
- **Tackling discrimination:** Analysis exposes how neutral policies, such as freezing tax limits, can disproportionately impact specific groups.



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Part 3: the 'how' – the scrutiny toolset



Tool 1

The AAAQ framework

What it is for:

This framework supports the evaluation of public goods and services. It tests provisions against five core human rights criteria: availability, accessibility, acceptability, quality, and adaptability.

- **Availability: Are there enough goods or services?**
- **Accessibility: Can everyone physically reach and afford the service?**
- **Acceptability: Is the service culturally appropriate?**
- **Quality: Is the service safe and up to standard?**

Why use it:

A fully spent budget can still fail citizens. This tool goes beyond financial inputs to evaluate lived experiences. It reveals whether a funded service is inaccessible, unaffordable, or inappropriate. It also exposes data deserts where missing information prevents impact measurement.

How to use it:

Scrutiny teams apply these tests when reviewing public services. Analysts must look beyond financial inputs and request evidence about actual delivery. They check whether enough facilities exist and whether they are safe. If decision-makers cannot demonstrate who uses the service, scrutiny teams should challenge them. Missing data represents a serious administrative failure. Teams should also verify whether user fees remain affordable during periods of high inflation.

Hypothetical example: An advocacy group scrutinises local social housing. The group looks past the headline budget figure. They check whether enough new units are available to reduce waiting lists. They assess whether these units are physically accessible. The council cannot provide data showing that housing works for marginalised groups. These groups include Gypsy/Traveller communities. The advocacy group highlights this data desert as a procedural failure. They demand better data to demonstrate that the budget is equitable.

Tool 2

The RPF screening checklist

What it is for:

This diagnostic tool evaluates proposed spending changes. It tests whether cuts align with three fundamental human rights duties: respect, protect, and fulfil.

- **Respect (do no harm): The government must not reduce existing rights. For example, public bodies cannot make cuts that remove access to essential benefits.**
- **Protect (regulate): The government must prevent third parties from violating rights. For example, the state must fund regulators to oversee private care providers.**
- **Fulfil (invest): The government must actively invest resources to improve human rights.**

Why use it:

This tool supports identifying human rights risks early in the budget cycle. It supports preventing decision-makers from using financial constraints as a blanket excuse for harmful cuts. It requires them to demonstrate that their decision represents the least damaging option available. Furthermore, outsourcing a service must not shift risks onto marginalised groups.

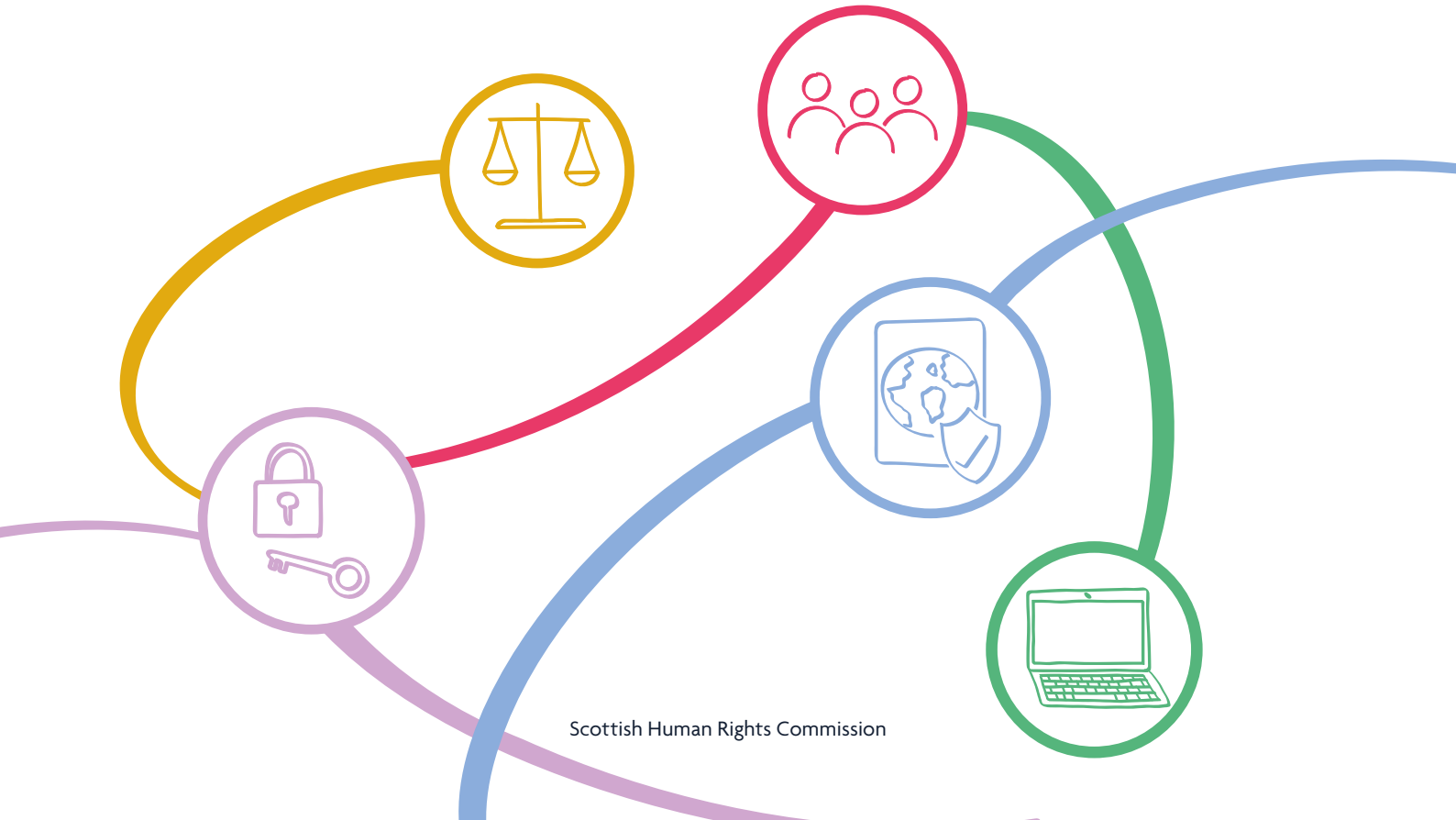
How to use it:

This checklist can be used when reviewing budget proposals or cuts. Analysts request specific evidence for each duty:

- **Testing respect:** Reviewers ask for the official impact assessment. Decision-makers must demonstrate that they explored less harmful revenue-raising options before cutting services. Reviewers check whether proposed cuts discriminate against protected groups.
- **Testing protect:** Scrutiny teams examine funding for regulatory bodies. If a service is privatised, regulators require sufficient ring-fenced money to monitor private providers.
- **Testing fulfil:** Analysts challenge decision-makers to demonstrate that new spending is effective. They ask whether funding actively closes inequality gaps rather than repeating historical allocations.

Hypothetical example – legal aid cuts: an MSP reviews a proposed cut to legal aid using this checklist

- **Respect:** Does this cut prevent low-income residents from accessing vital legal advice? Does it stop them from representing themselves in housing or family disputes? Has the government demonstrated that it explored less harmful options first?
- **Protect:** Does the cut prevent the proper regulation of private legal providers delivering legal aid services? Will this reduction create larger costs in the future?
- **Fulfil:** Does this cut reverse previous progress made to help low-income households access justice?



Tool 3

The four Rs of taxation

What it is for:

This tool supports evaluating how the government raises money. It evaluates tax policy through four lenses:

- **Revenue: Does the government collect enough money to fund public services?**
- **Redistribution: Does the tax system narrow economic inequality?**
- **Re-pricing: Do taxes discourage harmful behaviours, like pollution, and make public goods cheaper?**
- **Representation: Do people have a direct say in how their taxes are spent?**

Why use it:

This tool supports evaluating how money is raised, not just how it is spent. It supports challenging the assertion that "there is no money left". Failing to collect taxes fairly is a human rights failure. Scrutiny teams use this to support ensuring taxes do not unfairly burden marginalised people.

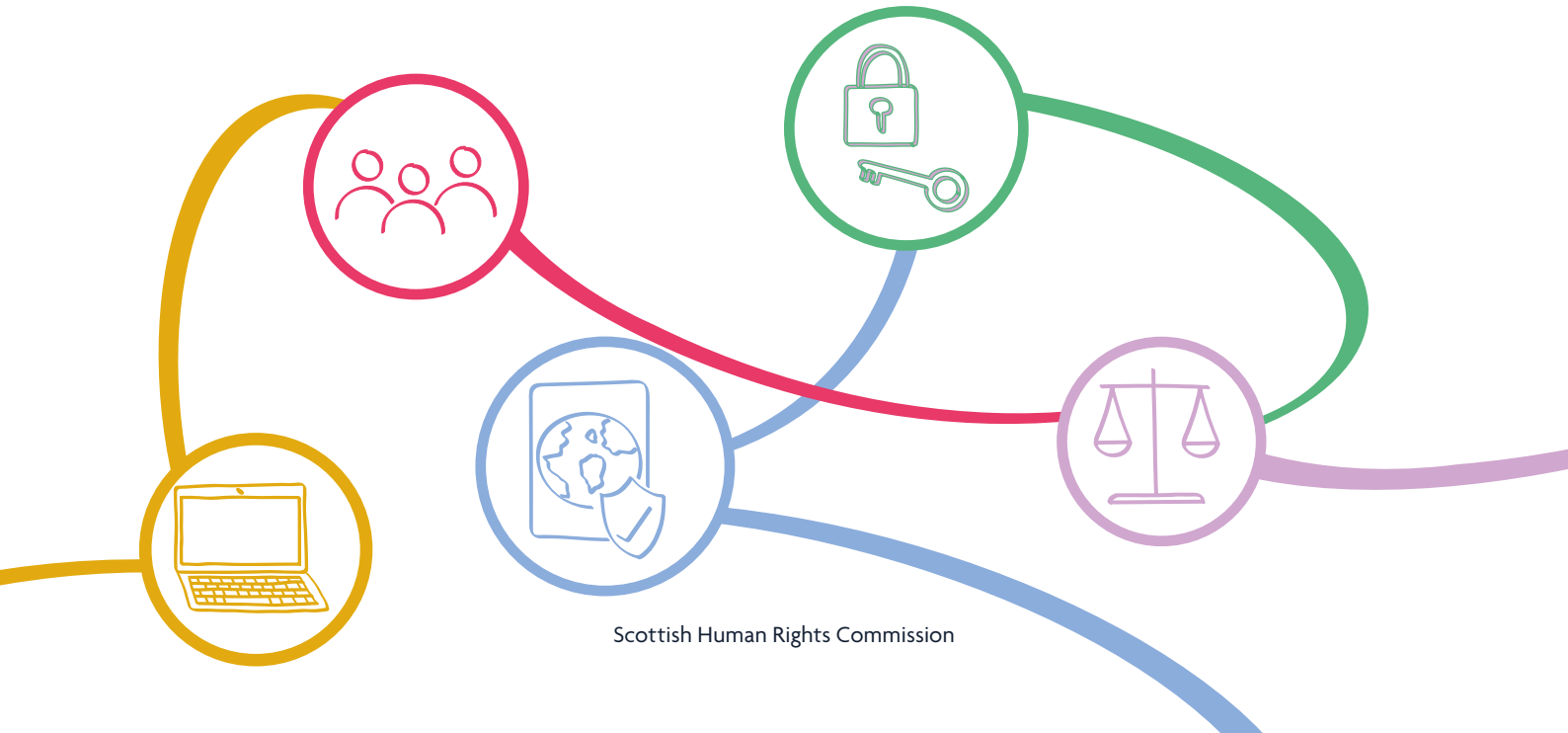
How to use it:

Use this framework when reviewing draft budgets or tax strategies. Ask for specific evidence for each 'R':

- **Testing revenue:** Do not accept that budgets are too tight. Ask for a tax gap analysis to find lost revenue. Check whether the government is genuinely using all its tax powers.
- **Testing redistribution:** Ask who actually bears the economic burden of the tax. Check whether "neutral" policies accidentally harm the poorest households. If the government lacks this data, treat it as a serious diagnostic finding.
- **Testing re-pricing:** Ask whether taxes effectively discourage harmful activities, like keeping properties empty. Ensure this does not unfairly burden poor communities.
- **Testing representation:** Check whether the government consulted the people most affected by the tax. Require decision-makers to demonstrate that they spoke to low-income groups, not just industry experts.

Hypothetical example – Scottish tax powers

A charity reviews Scottish tax powers. They check whether proposed income tax changes successfully achieve redistribution by helping low-income earners. They ask the government for a tax incidence analysis to demonstrate this. They also check whether the Scottish Landfill Tax uses re-pricing to protect the environment. They highlight a representation failure because the government did not consult the poor communities living near the landfills.



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Tool 4

Tax and benefit incidence analysis

What it is for:

This analytical framework evaluates the revenue-raising side of the budget. It examines tax policies through four distinct lenses:

- **Revenue: Does the government collect sufficient funds to support public services?**
- **Redistribution: Does the tax system actively reduce economic inequality?**
- **Repricing: Do taxes discourage harmful behaviours such as pollution? Do they make public goods more affordable?**
- **Representation: Do citizens have a direct say in how the state collects and spends taxes?**

Why use it:

How a state raises revenue is a key human rights issue. This tool shifts the focus of scrutiny from spending to resource mobilisation. It supports challenging assertions of absolute resource scarcity. Failing to raise taxes fairly represents a human rights risk. Scrutiny supports ensuring that tax policies do not place disproportionate burdens on low-income households.



How to use it:

Scrutiny teams apply this framework when reviewing draft budgets and tax strategies. Analysts request specific evidence for each element:

- **Testing revenue:** Do not accept assertions of unavoidable resource scarcity. Request a formal tax gap analysis to identify unrealised revenue streams. Verify whether the government fully utilises devolved tax powers.
- **Testing redistribution:** Request a tax incidence analysis showing who bears the actual economic burden of a tax. Evaluate whether neutral tax policies create regressive impacts that disproportionately affect low-income households. If this data is missing, report the gap as a data desert.
- **Testing repricing:** Examine whether tax incentives or penalties successfully discourage harmful activities. An example is implementing surcharges on empty homes. Ensure these taxes do not place unfair financial burdens on low-income communities.
- **Testing representation:** Review public consultation records. Decision-makers must demonstrate that they consulted the groups most affected by proposed tax changes. These groups include low-income residents rather than only industry experts.

Hypothetical example: a civil society organisation reviews proposed devolved tax reforms

The organisation evaluates whether proposed income tax changes achieve redistribution by supporting low-income households. Analysts request a tax incidence analysis from the government to demonstrate the social impact. Simultaneously, the group evaluates whether the Scottish Landfill Tax uses repricing to discourage waste and protect local environments. The review identifies a representation failure because the government did not consult communities living near landfills. The group reports this finding as a key transparency risk.

Tool 5

MAR (maximum available resources) red flags

What it is for:

This diagnostic checklist supports identifying whether a government fails to use its maximum available resources to advance human rights. Oversight teams monitor five key warning signs:

- **Stagnant spending: Spending on everyday rights remains flat while inflation or public needs increase. Consequently, public services cannot purchase essential resources.**
- **Urgent gaps: The state fails to fund urgent social challenges. Examples include mental health services and food insecurity.**
- **Growth versus spend: The national economy grows, but spending on human rights fails to scale proportionately.**
- **Insufficient tax policy: The government fails to utilise its devolved tax powers or address tax evasion effectively.**
- **High inequality: Public spending decisions fail to target or reduce persistent economic inequality.**

Why use it:

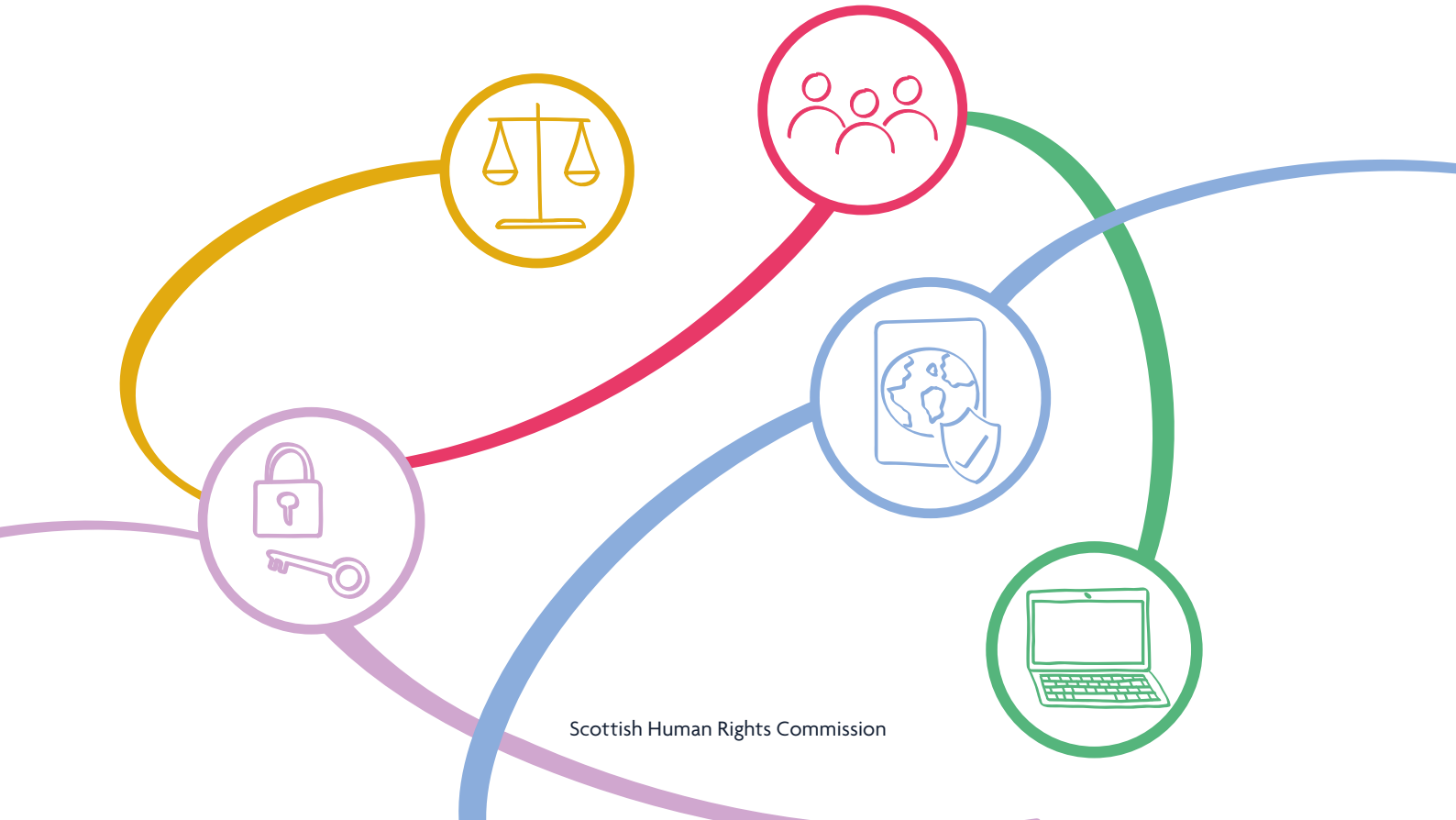
This tool supports evaluating claims of absolute resource scarcity. It supports distinguishing between a genuine lack of funds and choices about political prioritisation.

How to use it:

Scrutiny teams apply this checklist when reviewing budget trends and economic data. Analysts scan public spending reports for the five warning signs. If spending remains flat while public needs increase, analysts should request clear evidence from decision-makers. Decision-makers must demonstrate that they increased operational efficiency before proposing service cuts. If the government fails to utilise tax powers, reviewers should demand active measures to address tax evasion. If a public body lacks data to demonstrate that it is reducing inequality, reviewers should report this data desert.

Hypothetical example: a national human rights institution reports state compliance to the United Nations

The institution demonstrates that the national economy grew while the social care budget remained flat. This budget misalignment triggers two distinct warning signs. The institution uses this evidence to demonstrate that the state failed to utilise its maximum available resources. Reviewers demand that the government justify this policy decision rather than blaming macroeconomic factors.



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Tool 6

Public expenditure tracking surveys (PETS)

What it is for:

This forensic tool tracks the exact flow of public money. It traces funds from central government through intermediate bodies to frontline services and citizens.

Why use it:

Traditional scrutiny often stops at headline budget announcements. This tool examines what actually happens during budget execution. It supports identifying where resources are lost in administrative bottlenecks or absorbed by bureaucracy. This tracking determines whether service failures stem from resource scarcity or operational inefficiency.

How to use it:

Reviewers apply this approach when evaluating budget execution. Analysts should not accept headline announcements without verification. Scrutiny teams request a clear audit trail covering five key delivery stages: allocation, release, distribution, receipt, and actual use. Analysts compare central allocations with funds that actually reach frontline services. The review scans for administrative delays, significant underspends, or diverted resources. If public bodies cannot provide tracking data, reviewers report this data desert. They use these findings to recommend immediate corrective action.

Hypothetical example: education funding

A community group tracks education funding intended to close the attainment gap. They compare the central allocation with resources local schools actually received. Tracking reveals that local authorities absorbed funds to cover unrelated deficits. Consequently, the targeted resources never reached classroom services. The council cannot provide data explaining how it spent the remaining funds. The community group reports this data desert as a transparency risk. They demand clear tracking to support ensuring that funding improves educational outcomes.

Tool 7

Human rights based performance audits

What it is for:

This framework evaluates three performance criteria: economy, efficiency, and effectiveness. It assesses how well public bodies manage money and its actual impact on lived experiences.

Why use it:

This tool supports ensuring that financial scrutiny looks beyond simple accounting regularity. It evaluates whether public spending successfully improves lives. The framework supports preventing public bodies from claiming success solely because they spent entire allocations. It also supports distinguishing between genuine resource scarcity and operational waste.

How to use it:

Reviewers apply this framework during performance and value for money audits. Analysts look beyond legal compliance to evaluate actual service outcomes. Scrutiny teams request detailed evidence testing service availability, accessibility, acceptability, and quality. They compare budget outturns with human rights indicators to demonstrate benefits for marginalised groups.

Hypothetical example: mental health programme review

An audit body reviews a twenty million pound mental health programme. Auditors evaluate whether the spending reduced clinical waiting times and improved care standards. Rather than merely verifying accounts, they examine administrative bottlenecks. This review provides an objective basis for assessing whether the programme delivered value for rights.

Tool 8

Community score cards (CSCs)

What it is for:

This participatory tool supports enabling citizens to provide direct feedback on public services. It measures the real-world impact of budget decisions.

Why use it:

This tool supports connecting decision-makers directly with local communities. It offers an effective method to address data deserts. Official statistics often fail to capture the lived experiences of marginalised groups. Score cards generate immediate qualitative evidence of how budget choices affect people. This evidence supports ensuring that evaluations measure success by consulting the people directly affected.

How to use it:

Community facilitators support local groups to define a list of priority needs. The community scores the public service against these criteria. Next, facilitators bring service providers and residents together to compare scores. Participants discuss performance gaps and agree on a joint action plan. This plan guides future budget allocations to address the identified shortfalls.

Hypothetical example: rural transport services

Rural residents assess local bus services using a score card. They rate the availability, frequency, and cost of transport. This process provides direct evidence to the local authority. The scores demonstrate how budget cuts prevent residents from accessing employment, education, and healthcare. Residents use this evidence to initiate discussions with transport planners. They advocate for the reprioritisation of local transport funding in the next budget cycle.

Tool 9

Causality analysis

What it is for:

This diagnostic framework supports mapping the structural, systemic, and immediate causes of service delivery failures.

Why use it:

Social challenges rarely stem from a single cause. This tool supports preventing analysts from merely treating temporary symptoms. It supports identifying exactly where budget allocations can address the root of a problem. It requires decision-makers to demonstrate that they are addressing systemic issues rather than implementing short-term remedies.

How to use it:

Scrutiny teams examine issues across four distinct levels before evaluating the budget:

- **Manifestation:** Identify what service users are experiencing on the ground.
- **Immediate causes:** Map direct financial or physical access barriers.
- **Underlying causes:** Evaluate institutional, systemic, or administrative bottlenecks.
- **Root causes:** Analyse deep-seated historical, structural, or legal factors.

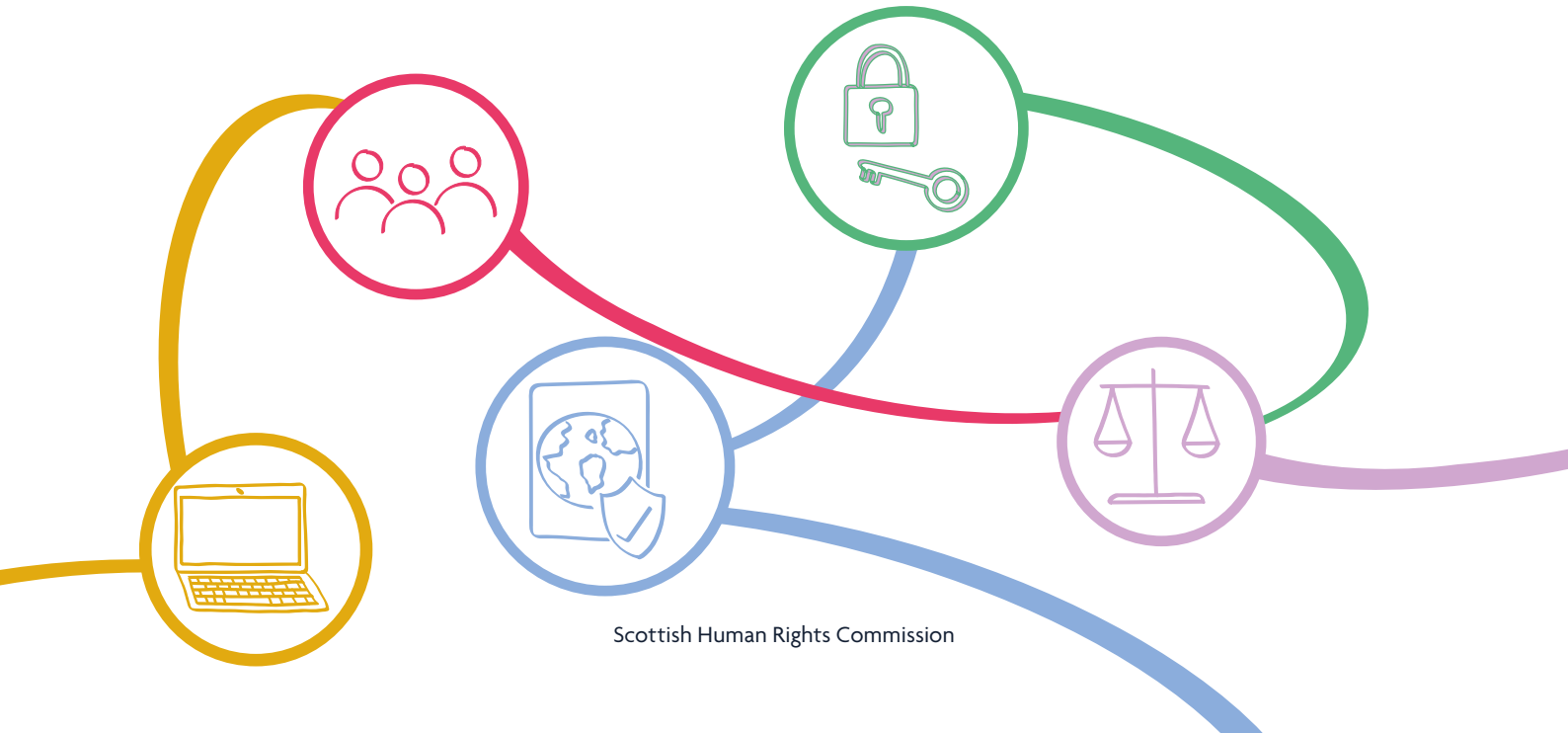


Hypothetical example: food bank dependency

A parliamentary committee scrutinises a persistent rise in food bank dependency. Rather than merely verifying emergency funding, the committee maps the issue across four levels:

- **Manifestation:** Investigators document a sharp increase in emergency food parcel distribution.
- **Immediate causes:** The inquiry identifies that food costs outpaced local wages and administrative processing delays stalled emergency grants.
- **Underlying causes:** The committee exposes high public transport costs and low awareness of benefit entitlements.
- **Root causes:** Analysis reveals long-term freezes in social security allowances and historical underinvestment in community development.

The committee uses these findings to recommend targeted budget allocations for transport subsidies and administrative reform.



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Tool 10

Cumulative impact assessments (CIA)

What it is for:

This tool supports assessing the combined effect of multiple budget decisions on specific individuals and protected groups.

Why use it:

Citizens experience public policy as a collective package. Standard impact assessments often evaluate policies in isolation. Siloed reviews overlook compounding disadvantages. These disadvantages occur when multiple fiscal measures impact the same demographic simultaneously. The tool requires decision-makers to evaluate the net effect of all financial choices. It determines whether the budget genuinely redistributes wealth or increases inequality.

How to use it:

Reviewers must not evaluate budget lines in isolation. Analysts examine proposals collectively to understand how different public portfolios interact. Scrutiny teams request evidence showing how overlapping identities experience the combined budget. An example includes disabled women living in rural areas. If the government lacks data to calculate this cumulative impact, reviewers report this data desert. They treat the data gap as a potential failure to demonstrate compliance with non-discrimination duties.

Hypothetical example: draft national budget review

A civil society organisation evaluates a draft national budget. Analysts review the proposals collectively. They discover the government introduced a new benefit for low-income families. However, simultaneous cuts to after-school care and increased local charges completely offset that financial gain. The organisation demonstrates that cuts in one area cancelled out support in another. Based on this evidence, the group requests budget amendments. They support ensuring that the final net impact does not disadvantage the poorest households.

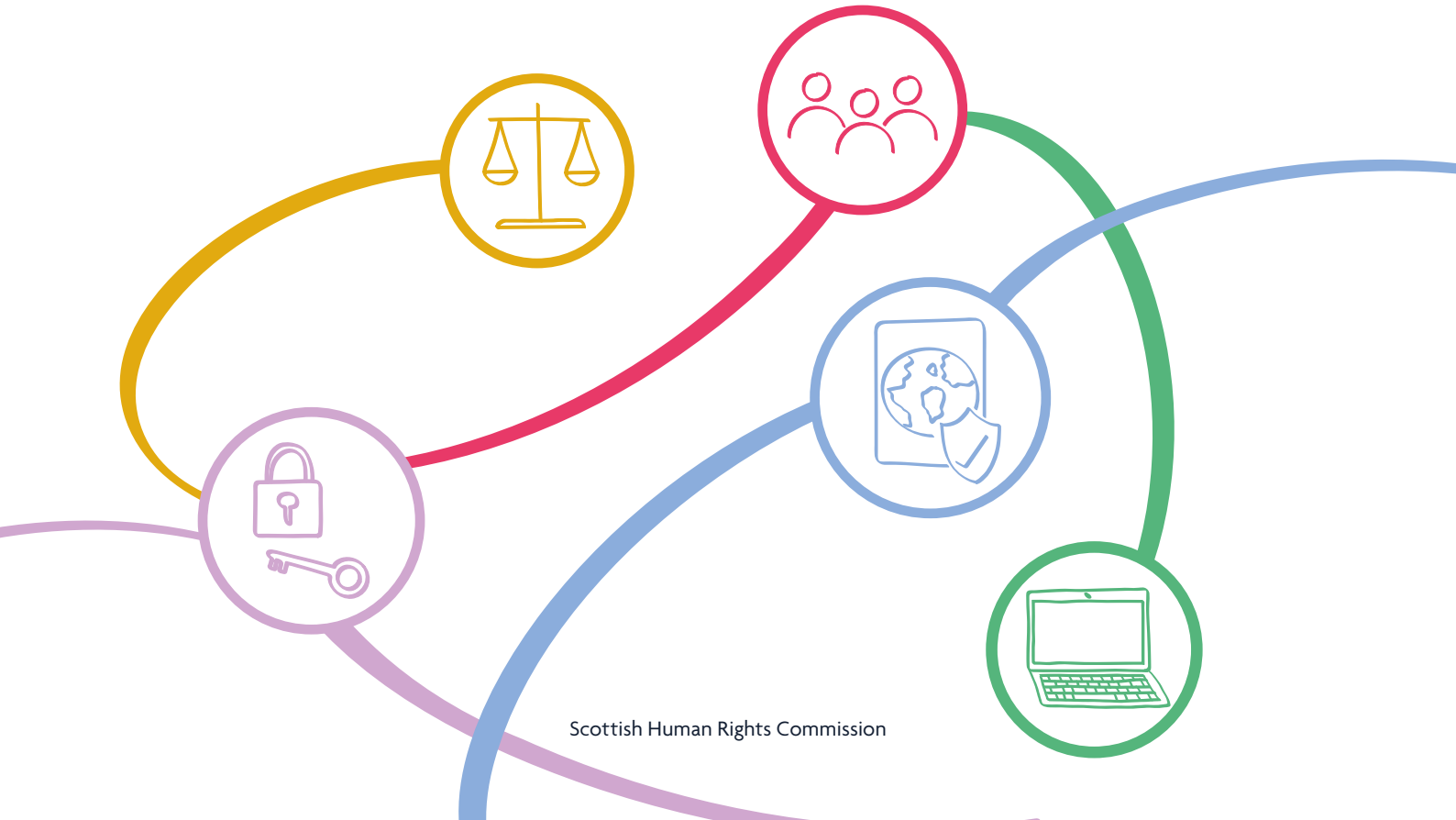
Part 4: the accountability ecosystem



Institutional roles

Budgets involve difficult trade-offs and competing demands. Various institutions play distinct roles to support ensuring decision-makers navigate choices transparently and legally:

- **Parliamentary committees:** Committees scrutinise the overall financial strategy of the government. They monitor compliance with human rights standards. Committees demand robust evidence to justify difficult spending choices.
- **Audit Scotland:** Audit Scotland conducts performance audits through a human rights lens. Auditors evaluate whether the government managed public funds effectively. They evaluate whether public spending improved lived experiences.
- **National Human Rights Institutions:** National Human Rights Institutions bridge the gap between international standards and domestic budgets. They report systemic warning signs directly to the United Nations.
- **Civil society and the public:** Civil society and the public provide oversight based on lived experience. These groups use community score cards to address data deserts. This action supports addressing gaps when official statistics fail to represent marginalised populations.
- **The judiciary:** The judiciary provides legal remedies when unlawful budget decisions or regressive taxes violate human rights.



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The "follow the money" scrutiny cycle

Scrutiny teams apply the Resources, Spending, and Outcomes framework to conduct complete evaluations. This method follows five key steps:

- **Identify a rights concern:** Identify a rights concern by using data to find failing outcomes. Analysts support mapping out systemic root causes rather than treating immediate symptoms. Identify indicators:
  - **Structural indicators:** Structural indicators evaluate formal legal commitments. This test evaluates whether the state incorporated international human rights treaties into domestic law.
  - **Process indicators:** Process indicators measure administrative effort and financial inputs. An example is assessing the percentage of the budget allocated to social housing.
  - **Outcome indicators:** Outcome indicators measure real-world results. An example is evaluating whether local homelessness rates decreased.
- **Gather evidence:** Gather evidence by collecting budget documents, audit reports, and qualitative data. Reviewers actively look for data deserts. They treat missing data as a significant transparency risk.
- **Make comparisons:** Make comparisons over time to identify potential backward steps. Analysts compare outcomes between different demographic groups and regions. This comparison supports exposing hidden inequalities.
- **Connect spend to outcomes:** Connect spending directly to service outcomes to determine overall effectiveness. Reviewers evaluate rights outcomes relative to national wealth. This analysis supports distinguishing between genuine resource constraints and political choices. Public bodies fail to use maximum available resources where they waste funds or implement inequitable taxes.



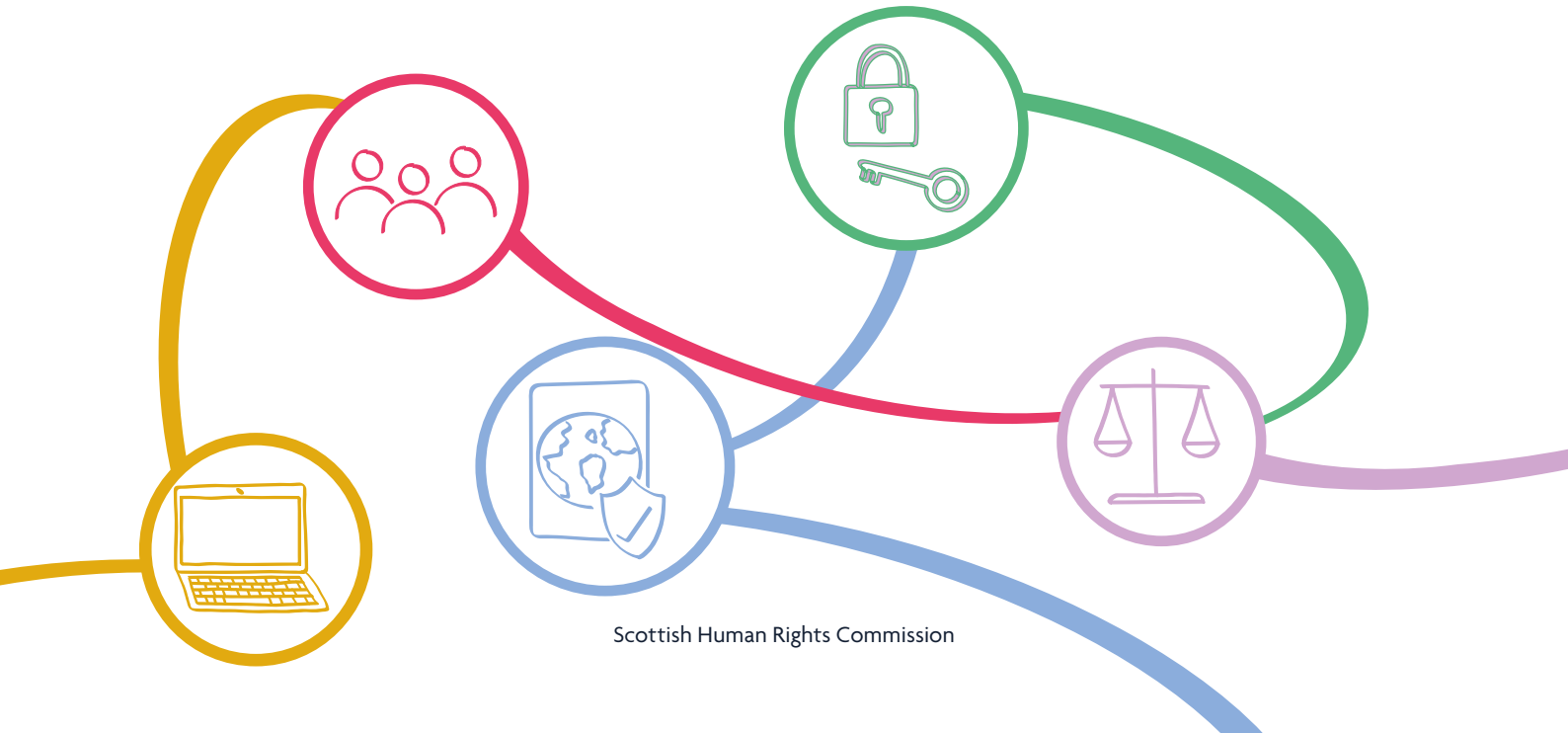
Conclusion: transforming budgets into rights realisation

Human rights budget scrutiny provides a golden thread. It connects Scotland's international legal commitments directly to daily lives. Strong laws are essential. However, legislation fails without proper funding or execution. Budget scrutiny supports bridging this critical gap. It supports transforming the budget from a simple accounting exercise. The budget becomes a powerful tool for justice and accountability.

Rigorous analysis supports turning government promises into funded choices. It provides the evidence needed to evaluate claims of absolute resource scarcity. Scrutiny evaluates whether service failures stem from genuine financial limits or political choices. It requires decision-makers to address data deserts and raise funds equitably. This approach supports ensuring public bodies use maximum available resources to close inequality gaps.

Budget scrutiny does not create more money. It does not make hard choices disappear. However, it supports ensuring that decision-makers make choices transparently, legally, and equitably. Linking spending to human rights outcomes supports protecting marginalised groups from harmful cuts.

This process supports building public trust. Ultimately, scrutiny supports ensuring the Scottish budget delivers on its most important purpose. That purpose is protecting the dignity of everyone in Scotland.



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Appendix 1: frequently asked questions

Q1: What is the "minimum core"?
The "minimum core" is the absolute baseline or "floor" of protection. No one in Scotland should fall below it. It covers the essential levels of rights needed for survival and human dignity. Governments have an "irreducible obligation" to meet them immediately as a top priority. This duty applies regardless of the economic climate or resource availability.

Q2: What is "progressive realisation"?
International law recognises that a government cannot achieve every human right overnight. However, "progressive realisation" is the legal duty to continually improve lives as quickly and effectively as possible. In budgeting terms, everyday rights must receive more funding as Scotland's economy and resources grow. These rights include health, housing, and social security. Most importantly, the government must demonstrate that its resources actively improve outcomes year on year.

Q3: Does human rights budgeting mean the government can never make budget cuts?
No, human rights budgeting does not remove financial constraints. Instead, it sets a very strict test for budget cuts. Under human rights law, deliberate backward steps are known as "retrogression". Examples include cutting social care, reducing services, or introducing user fees. Public bodies are generally prohibited from taking retrogressive steps unless they can fully justify them. To pass this test, Ministers must demonstrate to Parliament that the cut is strictly temporary, necessary, and proportionate. Crucially, Ministers must demonstrate that they explored all alternatives first, such as raising new revenue. The proposed reduction must not harm the "minimum core" or disproportionately impact low-income groups.

Q4: What do we mean by "maximum available resources" (MAR)?
Governments often claim "there is no money left" to improve public services. However, human rights law requires the state to use the maximum of its available resources to fulfil rights. This does not mean unlimited spending or overriding democratic choice. Instead, the government must meet four distinct standards:

- Maximising fiscal resources: This requires raising revenue fairly by addressing tax avoidance and reforming outdated taxes.
- Prioritising rights: Social spending must be prioritised over non-essential areas to support ensuring everyday rights are met.
- Spending efficiently: Allocated funds must be spent efficiently without administrative leakage or year-end underspends.
- Utilising non-financial resources: Crucially, MAR is not solely about financial capital. The government must also deploy human resources (workforce), social resources (such as community trust, NGOs, and networks), technological resources (for innovation and efficiency), and natural resources (the ecological foundation of our society).

Q5: Is taxation really a human rights issue?
Absolutely. A budget is not just about how money is spent. It is also about how it is raised. If the government fails to collect revenue fairly, it risks failing its human rights obligations. The tax system must also be non-discriminatory. It must avoid regressive structures. These place a disproportionate burden on the poorest households.

Q6: What is the difference between "de jure" and "de facto" discrimination in a budget?
Under human rights law, the government is obligated to address both de jure and de facto discrimination.

- De jure (in law) discrimination: This occurs when a policy or budget explicitly excludes a specific group on paper.
- De facto (in reality) discrimination: This type of discrimination is often more difficult to identify. It occurs when a budget looks neutral on paper yet has a disproportionately harmful impact on particular groups. For example, cuts to local bus subsidies disproportionately impact disabled people, older people, and women. These groups rely much more heavily on public transport networks.

Q7: Why are transparency, participation, and accountability treated as key human rights principles?
Human rights are not just about the final outcome. They are also about the process. Under international law, citizens have a fundamental right to take part in their government. They also have a right to access information. This translates into three core principles:

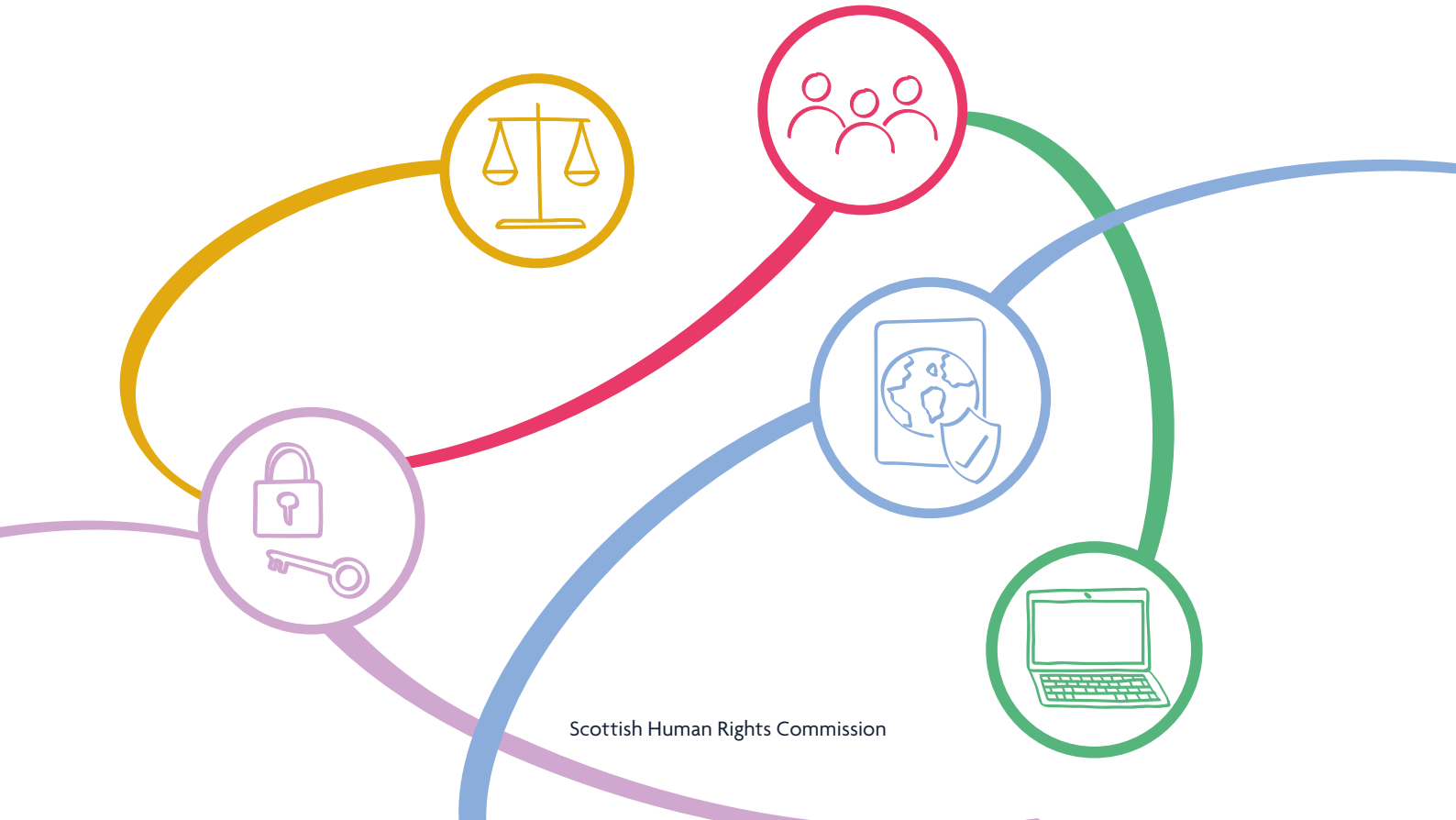
- Transparency: The government must proactively publish clear, jargon-free information showing how public money is raised and spent. This supports enabling the public to track funds from allocation to impact.
- Participation: The government must provide genuine, accessible opportunities for the public to shape financial choices. This involvement is particularly vital for marginalised groups before decisions are finalised.
- Accountability: Public bodies must be answerable for how they manage resources. This requires robust oversight to support ensuring decisions align with human rights obligations. It also requires remedies where fiscal choices negatively impact those rights.

Q8: What is an "effective remedy" and how can we track its funding in the budget?
Under international human rights law, the state is obligated to support ensuring access to an "effective remedy" where rights are violated. This duty carries significant budgetary implications. The government must adequately fund accessible justice mechanisms. These mechanisms include courts, tribunals, ombudspersons, human rights commissions, and legal aid.

This can be tracked by checking whether sufficient revenue is raised and allocated to these bodies, to support ensuring that budget decisions do not create financial obstacles. User fees or aggressive means-testing can make justice unaffordable for marginalised groups.

Q9: What should we do when the government claims the required data is unavailable?
Missing high-quality, disaggregated data creates a data desert. Reviewers should not accept this gap as an unavoidable administrative hurdle. Instead, scrutiny teams must treat missing data as a key diagnostic finding. This lack of information represents a significant risk to transparency and accountability.

Without disaggregated data, the government cannot accurately assess differential impacts. Public bodies cannot measure progressive realisation or identify who is being left behind. Therefore, oversight bodies must actively challenge these data deserts. Analysts should request improved demographic data collection to support ensuring that budgets are equitable.



Scottish Human Rights Commission

Appendix 2: glossary of key terms

AAAQ: These are the standards of availability, accessibility, acceptability, and quality. They assess whether public services meet economic, social, and cultural rights. They support equipping those undertaking scrutiny to look past headline figures on a spreadsheet to evaluate the lived experience of constituents.

Accountability: Governments and public bodies must answer for how they manage resources and make decisions. This principle requires effective mechanisms to challenge human rights failures. It supports empowering those undertaking scrutiny to hold public bodies to account for their legal duties.

Causality analysis: This analytical tool supports systematically mapping the immediate, underlying, and root causes of rights deprivations. It supports ensuring budget interventions target systemic structural issues rather than simply treating surface-level symptoms.

Community score cards (CSCs): This participatory monitoring tool supports enabling citizens to provide direct, structured feedback on service quality. It provides immediate, qualitative evidence to bring directly into scrutiny discussions.

Cumulative impact assessments (CIA): This advanced evaluation tool supports assessing the combined, aggregated effects of multiple fiscal choices. It recognises that constituents experience public policy as a whole package rather than as isolated measures.

Data deserts: These are areas where high-quality, disaggregated demographic data is missing, incomplete, or of poor quality. These gaps should be treated as a critical diagnostic finding highlighting a fundamental failure in procedural transparency.

Economic, social, and cultural (ESC) rights: These are rights to the essential resources needed to live in dignity. Examples include rights to health, housing, food, education, and social security.

Maximum available resources (MAR): This is the legal obligation to mobilise and use all possible resources to realise rights effectively. These include financial, human, natural, and technological resources. This principle supports equipping those undertaking scrutiny to challenge claims that no money remains.

Minimum core obligations: This represents the baseline standard of provision required to meet minimum essential levels of each right. Examples include basic shelter or protection from starvation. This baseline acts as a floor, not a ceiling. It must be strictly protected from budget cuts.

Non-discrimination: This rule prohibits different treatment based on prohibited grounds unless there is a reasonable, objective justification. The state is obligated to address both de jure and de facto discrimination in all fiscal policies.

Non-retrogression: This principle supports preventing public bodies from taking deliberate backward steps in rights enjoyment. Budget cuts to essential services must be fully justified. They must be temporary, necessary, proportionate, and the least harmful option available.

Polycentric choices: These are complex budgeting scenarios involving competing priorities and difficult trade-offs. In these situations, different economic, social, and cultural rights may pull in different directions due to limited resources.

Progressive realisation: This is the legal duty to move as effectively and quickly as possible toward full rights realisation. Public bodies must use the maximum available resources to achieve this progress over time.

Respect, protect, fulfil (RPF): These are the three fundamental human rights duties of governments. Respect means not interfering with existing rights. Protect requires regulating third parties, such as private contractors, to support preventing violations. Fulfil requires taking active legislative, administrative, and budgetary steps to make rights a reality.

RSO framework: This is a diagnostic methodology connecting resources, spending, and outcomes. Scrutiny teams use it to support identifying where the causal chain of rights realisation breaks down.

SERF index: This is the Social and Economic Rights Fulfilment Index. It is a quantitative tool measuring rights fulfilment relative to economic capacity. It supports distinguishing between a genuine lack of resources and a lack of political will.

Tax gap analysis: A diagnostic tool used to measure the revenue a government is losing to tax avoidance, evasion, or outdated policies, supporting those undertaking scrutiny to demonstrate whether the state is truly maximising its fiscal capacity.

Tax incidence analysis: This diagnostic tool supports identifying which demographic groups bear the true economic burden of a tax. It evaluates whether a fiscal system redistributes wealth or shifts the financial burden onto low-income households.



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