SHRC Scottish Human Rights Commission

Human rights budget scrutiny:

a toolkit for MSPs



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The toolkit suite was developed with the input and support from Dr. Aidan Flegg.

Introduction

A public budget is more than a technical economic ledger; it is the most explicit statement of a government's values and priorities. Every funding decision determines how resources are distributed and which human rights obligations are prioritised.

Human rights budgeting translates abstract legal commitments into tangible financial choices. For Member of the Scottish Parliament (MSPs), it provides vital "scrutiny intelligence". It helps you to ask three critical questions:

- Who pays?
- Who benefits?
- Who is left behind?

By integrating these questions into routine budget work, MSPs can effectively fulfil their roles as democratic guarantors of human rights, evaluating whether the Scottish Government is delivering on its statutory commitments to dignity, fairness, and equality.

How to use this toolkit

This toolkit is a practical resource to support parliamentary scrutiny. It is not intended to be read cover to cover. Instead, it can be used by Members of the Scottish Parliament (MSPs), committee clerks, and parliamentary researchers whenever they scrutinise budgets, public spending, wider policy proposals, or draft legislation.

Depending on the specific scrutiny context, parliamentarians may wish to:

- Start with the overview to understand how a human rights-based approach can strengthen budget scrutiny.
- Apply the toolkit alongside the Scottish budget cycle, selecting the sections and tools that are most relevant to the stage of scrutiny being undertaken.

- Draw on the practical scrutiny questions throughout the toolkit to inform written parliamentary questions, committee evidence sessions, and committee reports.
- Deploy the tools selectively. There is no requirement to apply every tool. Different tools will be useful depending on the policy issue under consideration and the available evidence.
- Consult accompanying resources across our publication suite, detailed below, for broader conceptual frameworks and technical methodologies.

This toolkit complements, rather than replaces, existing parliamentary scrutiny procedures. It provides practical tools to help MSPs evaluate whether decisions about public finance are transparent, evidence-based, accountable, and supportive of 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

- Human Rights Budget Scrutiny: A Toolkit for MSPs (This toolkit) Adapts the core scrutiny framework specifically for the Scottish Parliament. It provides targeted question-sets, scrutiny intelligence, and practical tools to assist MSPs, committee clerks, and parliamentary researchers across every stage of the Scottish budget cycle.

Navigating the complexity: The reality of parliamentary scrutiny

Budget scrutiny is not a simple tick-box exercise. Public budgets involve complex fiscal, economic, and political decisions. Effective parliamentary scrutiny examines how Ministers navigate those decisions and whether human rights principles and standards inform their choices:

- Budgetary trade-offs: Budgets involve competing priorities and finite resources. While scrutiny does not make hard fiscal choices disappear, a human rights framework provides a structured, evidence-based mechanism to evaluate whether the executive has transparently and legally justified its decisions, particularly regarding the protection of marginalised communities.

- Addressing "data deserts": Robust scrutiny requires high-quality, disaggregated data. Where the government states that such data is unavailable, committees and MSPs should evaluate these "data deserts" as a significant diagnostic finding. Rather than dismissing these gaps as mere administrative hurdles, parliamentarians can highlight them as limitations on transparency and accountability, using parliamentary questions and committee inquiries to encourage the collection of better information to measure human outcomes.
- Navigating macroeconomic impacts: Global trends, the Scottish block grant, and the Barnett formula actively shape the devolved fiscal envelope. While acknowledging these real economic pressures, parliamentarians can systematically evaluate whether Ministers use all available devolved levers (including Scottish tax powers) to promote, protect, and realise human rights, rather than accepting resource constraints as an automatic justification for service delivery challenges.

Part 1: The "what" of human rights budgeting

The legal context: Domestic and international human rights obligations

Human rights budgeting applies to the entire spectrum of human rights, including civil and political rights such as access to justice. However, it primarily focuses on economic, social, and cultural (ESC) rights, including health, adequate housing, food, and social security. The International Covenant on Economic, Social and Cultural Rights (ICESCR) provides the legal foundation.

In Scotland, this legal architecture is supported by the Human Rights Act 1998, the UN Convention on the Rights of the Child (UNCRC) (Incorporation) (Scotland) Act 2024, and the proposed Human Rights Bill. These frameworks represent binding statutory and international legal benchmarks for financial choices, not optional policy goals. Within this legal landscape, parliamentary oversight focuses on three core obligations:

- Minimum core obligations: This represents the absolute baseline or "floor" of provision below which no individual should fall, covering the essential levels of rights needed for survival and basic dignity (such as primary healthcare and basic shelter). These obligations represent immediate duties that should be prioritised within the budget. MSPs can evaluate whether the government has defined these baselines and whether draft budgets allocate sufficient, secure resources to protect them.
- Progressive realisation (and non-retrogression): Public bodies have a continuous duty to improve service outcomes over time within their available resources. Conversely, they must avoid taking deliberate backward steps, known as

"retrogression", such as cutting essential services or creating new financial access barriers. When resources are tight, the executive must demonstrate through a robust options appraisal that any proposed expenditure reduction is temporary, necessary, proportionate, non-discriminatory, and represents the least disruptive option available.

- Maximum available resources (MAR): This principle requires the state to utilise its full fiscal, administrative, and economic capacity to realise human rights. When public bodies cite resource constraints, parliamentarians can evaluate whether the executive has optimised its revenue-raising efforts (using devolved tax powers) and managed funds efficiently, helping to distinguish between genuine economic limitations and choices about prioritisation.

Part 2: The "why": The positive case for human rights budgeting in tight financial times

It is a common misconception that human rights are a luxury reserved for periods of economic growth. In reality, human rights budgeting is most vital during periods of fiscal consolidation. While Ministers may highlight that financial pressures make budget reductions unavoidable, a rights lens does not remove economic constraints or prevent all reductions. It does, however, provide parliamentarians with a robust, analytical framework to evaluate the justification for difficult spending choices and test whether public resources are being managed equitably.

- Protecting communities from disproportionate impact: Applying a rights lens supports public spending decisions that avoid disproportionately burdening the most vulnerable. By systematically reviewing budget proposals, MSPs can identify where seemingly "neutral" efficiency savings or service reconfigurations risk creating de facto discrimination or hidden inequalities among marginalised groups.
- Enhancing efficiency and preventative spend: Aligning budgets with human rights standards supports the strategic prioritisation of preventative expenditure. This approach helps direct public funds towards addressing the underlying root causes of social challenges, rather than merely treating emergency symptoms. For example, underfunding community-based social care creates severe, compounding downstream costs for acute NHS services. Demonstrating that a failure to invest in rights today creates larger financial liabilities for the state tomorrow, establishes a

powerful "business case" for rights-compliant budgeting as the most economically sound long-term strategy.

Part 3: The "how": Practical scrutiny tools for MSPs

A wide range of diagnostic frameworks support budget scrutiny. The following practical tools are designed to help Members of the Scottish Parliament, committee clerks, and parliamentary researchers evaluate budget proposals, request empirical evidence, and systematically scrutinise spending plans during committee sessions and chamber debates.

Tool 1: The RPF (respect, protect, fulfil) checklist

What it is for

A diagnostic screening tool to check if proposed budget changes, service designs, or cuts align with the state's three core human rights obligations:

- Respect (do no harm): The obligation that public bodies must avoid taking any action that directly restricts or blocks access to existing rights and services. For example, budget cuts must not create economic or physical barriers to essential social security benefits.
- Protect (regulate): The obligation to ensure that third parties, such as private contractors, businesses, or charities delivering public services, do not compromise human rights standards. For example, public budgets must allocate enough money to statutory watchdogs to properly monitor outsourced care providers.
- Fulfil (invest): The positive obligation to actively fund and design services, programmes, and infrastructure that help realise human rights and systematically close inequality gaps.

Why use it

This tool helps parliamentarians spot delivery and compliance risks early in the budget cycle. It guards against broad claims of financial pressure from acting as an automatic justification for cutting services, and supports committees in checking if less harmful options were explored. It also helps safeguard service users when services are outsourced so risks are not transferred to vulnerable service users.

How to use it

Committees and MSPs can check proposed changes or cuts by requesting evidence across three specific areas:

- To test 'respect' (do no harm): Ask for the impact assessment. Committees can check if the government explored other financial options before proposing a cut, and verify if the changes impact marginalised groups.
- To test 'protect' (regulate): Examine the budget for watchdog bodies (such as the Care Inspectorate). If a service is privatised or outsourced, check if these bodies have enough funding to properly monitor private providers and protect service quality.
- To test 'fulfil' (invest): Check if spending is designed to actively address persistent inequalities, rather than just repeating historical budget lines.

Hypothetical example

A parliamentary committee reviews a proposed cut to civil legal aid using the checklist:

- Respect: Does the cut create financial or physical barriers that prevent low-income households from accessing legal advice? Committees can check if the government has provided a risk assessment showing that less harmful financial options were explored first?
- Protect: Does the remaining budget allow watchdog bodies to properly monitor the quality and standards of private legal aid providers?
- Fulfil: Does the reduction represent a backward step that undermines previously funded programmes designed to help marginalised groups access justice?

Tool 2: The Four Rs of taxation (revenue, redistribution, repricing, representation)

What it is for

This tool supports parliamentarians in evaluating how the government raises revenue, examining tax policy through four key dimensions:

- Revenue: Does the government collect enough money to fund public services?
- Redistribution: Does the tax system narrow economic inequality?
- Repricing: 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

It broadens budget scrutiny to examine how public money is raised, rather than just how it is spent. Grounded in the principle of maximum available resources, this framework helps parliamentarians evaluate whether tax structures are equitable, and checks that they do not place a disproportionate financial burden on low-income households.

How to use it

Committees and MSPs can apply this framework when reviewing draft tax strategies or local government finance bills, requesting specific evidence across the four areas:

- To test 'revenue': Examine if the government is using its devolved tax powers fully. Committees can request a tax gap analysis to identify uncollected revenue.
- To test 'redistribution': Check who bears the actual economic burden of a tax. Committees can evaluate if policies create hidden inequalities for women (especially lone parents), disabled people, or other low-income groups. If this data is missing, committees can highlight this as a transparency risk.
- To test 'repricing': Check if taxes discourage harmful activities (such as keeping homes vacant) without placing a disproportionate burden on low-income communities.
- To test 'representation': Verify whether the government consulted the groups most affected by the tax. Committees can check if consultations included low-income communities, rather than just industry experts.

Hypothetical example

A parliamentary committee evaluates proposed Council Tax reforms using the Four Rs:

- Revenue: The committee checks if freezing property valuations at 1991 levels limits total revenue, and evaluates if reform of higher-value property bands could generate additional funding for local services.
- Redistribution: The committee evaluates the tax burden. A Band A household pays about 4% of their income in Council Tax, while a wealthy Band H household pays only 1.5% to 2%. The committee checks how this regressive structure impacts lone parents and disabled people.
- Repricing: The committee notes that Scotland has over 43,000 empty homes despite a housing crisis. They examine if surcharges on empty properties can bring homes back into use to support the right to adequate housing.
- Representation: The committee reviews who had a say in tax reform. They check if the consultation included direct, meaningful participation by low-income communities who bear the heaviest financial burden.

Tool 3: Tracking maximum available resources (the warning signs)

What it is for

This diagnostic checklist helps parliamentarians identify when a government is not using its full fiscal capacity to realise human rights obligations. It focuses on five distinct warning signs:

- Stagnant spending: Real-terms spending on essential services stays flat while inflation or community needs rise.
- Urgent gaps: Funding fails to address urgent social crises, such as mental health waiting lists or food insecurity.
- Growth versus spend: Devolved revenues or the economy grow, but spending on health and housing does not scale proportionately.
- Insufficient tax policy: The executive fails to use its devolved tax powers or tackle tax gaps.
- High inequality: Budgets and tax policies do not target persistent income and wealth inequality.

Why use it

This tool helps parliamentarians to scrutinise claims that “there is no money left”. It helps committees examine whether resource constraints reflect a genuine lack of resources or choices about prioritisation.

How to use it

Committees and MSPs can scan draft budgets and economic data for these warning signs. If a warning sign is identified, parliamentarians can seek evidence-based justifications. For example, if spending flatlines while demand rises, committees can ask Ministers to show what efficiency steps were taken. Where tax powers are underutilised, MSPs can ask what actions are planned to raise revenue. Where inequality data is missing, committees can highlight this "data desert" as a limit on parliamentary assurance.

Hypothetical example

Scrutinising homelessness prevention budgets (examining the warning signs of "Stagnant Social Spending" and "Misalignment of Need"):

If an MSP observes that spending on homelessness prevention flatlines and fails to keep pace with inflation, while homelessness rates are sharply rising, this triggers a warning sign. This triggers a "warning sign". MSPs can use this mismatch in committee sessions to seek a clear, evidence-based justification for why budgets have stalled while the crisis has worsened.

If the government cannot show evidence of "efficiency gains", this raises further questions about reprioritising funds. Public bodies should address this rights deficit, demonstrating that human rights are an essential consideration rather than optional extra.

Tool 4: Public Expenditure Tracking Surveys (PETS)

What it is for

This tool helps parliamentarians follow the exact flow of public money. It traces funds from the central government, through local bodies, down to the frontline, and finally to service users.

Why use it

Standard scrutiny often stops at the headline budget announcement. This tool looks at what actually happened. It identifies where money gets absorbed in the system by intermediate bureaucracy. It helps committees assess if a service challenge is due to a genuine lack of money or operational efficiency.

How to use it

Committees can use this approach when reviewing how budgets are spent. Rather than accepting headline announcements, parliamentarians can request a clear audit trail showing all five stages of delivery. These stages are the allocation, release, distribution, receipt, and actual use of funds. By comparing central funding with frontline spend, committees can identify administrative delays, underspends, or redirected money. If public bodies cannot provide this tracking data, committees can report this "data desert" as a transparency risk. These findings can then support parliamentary recommendations for immediate corrective action.

Hypothetical example

Child and adolescent mental health services (CAMHS): The Scottish Government might announce £50m to improve child and adolescent mental health services (CAMHS). A parliamentary committee can use a tracking approach to ask how much of this money actually reached frontline clinics. Tracking might reveal that administrative processes delayed £10m at the central government level. Furthermore, regional health boards might absorb £15m to cover unrelated baseline deficits. This means only £25m, or half the original allocation, actually reaches frontline clinics. If the government cannot provide data to prove how funds were spent, the committee can highlight this "data desert." Committees can report these gaps as indicators of operational inefficiency. This helps prevent large headline funding announcements from obscuring challenges in service delivery.

Tool 5: The AAAQ framework (availability, accessibility, acceptability, quality)

What it is for

This framework supports parliamentarians in evaluating whether public goods and services are adequate. It tests services against five core human rights criteria:

- 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?
- adaptability: can the service change to meet community needs?

Why use it

A fully spent budget can still fail to deliver positive outcomes. This tool helps committees look past the money to evaluate the lived experience of service users. It checks if a funded

service is inaccessible, unaffordable, or inappropriate. It also exposes "data deserts" where missing information makes it difficult to measure actual impact.

How to use it

Committees can apply these five tests when reviewing a public service. Effective scrutiny goes beyond financial inputs to consider evidence about actual delivery. For instance, committees can check if there are enough facilities, and if they are safe and of sufficient quality. They can ask if service fees remain affordable during periods of high inflation. If the government cannot provide evidence on who uses the service, committees can highlight this gap. Missing data may itself indicate a serious risk in transparency and accountability.

Hypothetical example

Scrutinising school funding using the AAAQ framework: If the government announces new school funding, a committee can use this framework to test the right to education.

- Availability: Does the budget fund enough teachers, learning support assistants, and classrooms for growing communities? Or does it merely maintain the status quo?
- Accessibility: Does the budget fund physical access for disabled pupils? Is it economically accessible? Does it help with uniform costs so lower-income families are not excluded or stigmatised?
- Acceptability: Does the budget ring-fence funding to support children with additional support needs? Does it fund culturally appropriate services for Gypsy/Traveller children?
- Quality: Does the funding cover safe, warm / cool (depending on weather) buildings? Does it invest in staff training so that every child is treated with dignity?

Tool 6: Causality Analysis

What it is for

This tool helps supports parliamentarians in looking past the surface of a problem. It maps out the underlying causes of a human rights challenge.

Why use it

Complex challenges rarely have a single cause. This tool helps committees move beyond simply treating surface-level symptoms. It identifies exactly where funding can address the root of the problem. It can also test whether proposed spending is targeted at the factors actually driving poor outcomes.

How to use it

Committees can examine challenges at four different levels before evaluating the budget:

- Manifestation: what are people actually experiencing?
- Immediate causes: what direct financial or access barriers create this problem?
- Underlying causes: what systemic or service failures cause these barriers?
- Root causes: what deep, historical, or legal issues created this systemic failure?

Hypothetical example

Scrutinising food insecurity using causality analysis: If a committee notices rising food bank use, they can apply this tool to evaluate the draft budget:

- Manifestation: a persistent rise in food bank usage shows an ongoing resource gap, rather than a simple emergency.

- Immediate causes: high daily food costs make essential nutrition unaffordable for low-income households.
- Underlying causes: systemic barriers exist, such as geographic penalties in the social security system or supply chain failures.
- Root causes: historical underinvestment in local communities drives long-term inequality. Budget decisions should address these systemic roots rather than funding superficial short-term fixes.

Tool 7: Cumulative Impact Assessments (CIA)

What it is for

This tool supports parliamentarians in assessing the combined effect of multiple budget decisions on specific households, low-income families, or protected groups.

Why use it

People experience public policy as a whole package. Standard assessments often look at policies in isolation. This misses the compounded harm when multiple budget changes hit the same group at once. This tool requires public bodies to look at the final net effect of all their choices. It evaluates if the budget genuinely redistributes wealth or accidentally worsens inequality.

How to use it

Committees should avoid reviewing budget lines in isolation. They can evaluate proposals collectively to understand how different government departments interact. Parliamentarians can ask the government to show how overlapping identities, such as disabled women in rural areas, experience the combined budget. If the government lacks sufficient data to calculate this total impact, committees can highlight this "data desert" as a risk. This highlights a failure to prove non-discrimination.

Hypothetical example

Scrutinising a draft national budget using a cumulative impact assessment:

A committee reviews proposals collectively. They discover that the government introduced a new benefit for low-income families. However, increased local charges and cuts to after-school care completely wipe out that financial gain. Using this evidence that cuts cancel out help in another area, MSPs can propose budget amendments. This seeks to ensure the final net impact does not harm vulnerable people.

Tool 8: Community Score Cards (CSCs)

What it is for

This tool supports citizens in providing direct feedback on public services. It shows the real-world impact of budget decisions.

Why use it

This tool connects decision-makers with local communities. It is a highly effective way to fix "data deserts". Official statistics often miss the reality of marginalised groups. Score cards create immediate evidence of how budget choices feel on the ground. They help committees to measure success by asking the people directly affected.

How to use it

Oversight bodies can support community groups in creating a short list of their most pressing needs. Communities can then score the public service against this list. Facilitators can bring the community and service providers together to compare scores. Both sides can discuss challenges to agree on a joint action plan. Committees can use this plan to ensure future budgets address the identified shortfalls.

Hypothetical example

Scrutinising rural transport services using a community score card:

A group of rural residents assesses local transport. They use a score card to rate the availability, frequency, and cost of buses. This provides committees with direct, lived experience evidence. It shows exactly how budget cuts stop residents from accessing work, education, and healthcare. MSPs can table this evidence to encourage transport planners to reprioritise spending for the next year. This prevents Ministers from hiding behind abstract spreadsheets.

Conclusion: The business case for human rights budgeting

Human rights budgeting provides a "golden thread" connecting Scotland's international legal commitments directly to people's daily lives. Strong human rights laws and rights-based policies are essential, but they fail without proper resourcing or execution. Effective parliamentary scrutiny bridges this gap. It transforms the budget from an accounting exercise into a powerful accountability tool. It requires public bodies to navigate complex choices fairly.

The added value of human rights budgeting is its capacity to cut through political rhetoric. It offers robust risk management. It helps safeguard public bodies against compromising rights through poor fiscal choices. It links budget allocations to human rights outcomes. It requires Ministers to prove that spending improves lives.

Crucially, it empowers parliamentarians to challenge "data deserts". Committees can request public bodies to collect necessary evidence. They must prove exactly who pays, who benefits, and who is left behind.

Human rights budget scrutiny does not magically remove fiscal constraints or make choices disappear. However, it supports making the hardest financial choices transparently, legally, and fairly. It provides MSPs with evidence to challenge claims that "there is no money left". Parliamentarians can distinguish between a genuine lack of resources and poor political choices. It assesses if Ministers utilising all available tax powers.

Most importantly, it builds public trust. It protects low-income households from bearing the brunt of funding cuts. Ultimately, this underpins the Scottish budget in fulfilling its core legal purpose: protecting everyone's dignity.

Appendix: Human Rights Budgeting – Frequently Asked Questions

Q1: What is the "minimum core" and how can MSPs help define it in Scotland?

The "minimum core" is the absolute baseline or "floor" of protection. Noone 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.

Currently, these minimum core obligations are not explicitly defined in Scotland. Consequently, it is not always clear what falls into this protected category in practice. However, MSPs do not have to guess what these standards should look like. In February 2023, the SHRC published a guide specifically to help duty-bearers understand these baselines. The guide collates 30 years of practice from the UN Committee on Economic, Social and Cultural Rights into a practical document.

MSPs can use this 2023 guide to see exactly what the international red lines are. For example, it outlines the minimum obligations to prevent deprivation of essential foodstuffs, basic shelter, and essential primary healthcare. It also includes duties such as providing free primary education for all.

International human rights law dictates that "each State party must decide for itself which means are the most appropriate" to meet these standards. Therefore, MSPs can play a vital role in defining Scotland's specific minimum core by championing three key actions:

- Using human rights standards alongside existing Scottish duties: MSPs can combine the international minimums in the 2023 SHRC guide with Scotland's existing statutory duties. This links international treaties directly to existing domestic duties, to establish a clear, legally protected baseline. This baseline protects the absolute floor of provision using laws that already exist in Scotland. These laws

cover existing statutory duties on housing, child poverty, and healthcare. This approach creates robust, Scotland-specific definitions of the "floor" of services.

- Championing a national discussion: good practice requires encouraging a national discussion. This provides genuine opportunities for rights-holders, particularly the most marginalised, to reach a consensus on exactly where scotland's red lines should lie.
- Asking diagnostic budget questions: during budget planning and scrutiny, MSPs can use un baselines to encourage the government to articulate its core spending. They can request answers to three specific questions:

    - First, has the government identified minimum core programmes for the local context?
    - Second, has it calculated the exact cost to provide these basics to everyone?
    - Third, is the proposed funding envelope sufficient to cover this minimum cost?

Crucially, MSPs must ensure that whatever is agreed upon through this process is never treated as a "ceiling of achievement". Instead, it must serve as a "basic floor of provision" upon which the government must build.

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 prove 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 it can fully justify them. To pass this test, Ministers must prove to Parliament that the cut is strictly temporary, necessary, and proportionate. Crucially, Ministers must prove 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 ensure 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?

Budgets are not only about how money is spent; they are also about how revenue is raised. If the government fails to collect its maximum revenue fairly, it compromises its human rights obligations. Furthermore, consider an illustrative model where a local property tax is structurally regressive. In this scenario, low-income households might pay around 4% of their

income. In contrast, the wealthiest households would pay only around 1.5% to 2%. This imbalance can reduce a household's ability to afford an adequate standard of living. Therefore, tax reform presents a direct human rights concern for MSPs parliamentary scrutiny.

Q6: What is the difference between "De Jure" and "De Facto" discrimination in a budget?

Under human rights law, the government must eliminate 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, and what is the role of MSPs?

Human rights are not only about the final outcome. They are also about the process. Under international law, the public has a fundamental right to participate in government and access information. In a human rights budgeting context, 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 allows 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 ensure decisions align with human rights obligations. It also requires remedies if fiscal choices negatively impact those rights.

MSPs as Guarantors of Human Rights

While the Scottish Government drafts and executes the budget, MSPs sit at the centre of the accountability ecosystem. As elected representatives, MSPs act as democratic guarantors of human rights They ensure these principles are upheld across all four stages of the budget cycle.

Through committee work and chamber debates, MSPs enforce transparency by requesting clear data and justifications from Ministers. They champion participation by gathering civil society evidence. This ensures the lived experiences of marginalised groups actively shape budget scrutiny. Ultimately, an MSP's power to scrutinise and approve the budget is vital for accountability. This ensures the executive uses public resources equitably and effectively.

Q8: What is an "effective remedy" and how can MSPs track its funding in the budget?

Under international human rights law, the state must ensure access to an "effective remedy" if 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.

MSPs can track the funding of effective remedies by applying targeted scrutiny questions across the budget cycle:

- Resource Generation: Has the government raised sufficient revenue to adequately fund justice systems, complaints mechanisms, and regulatory oversight bodies?

- Resource Allocation: Are there explicit budget allocations to support functioning courts, ombudspersons, human rights commissions, and legal aid?
- Resource Spending: Are the resources allocated to the justice system utilised effectively? Do they provide adequate, timely, and fair remedies for rights violations?
- Applying the Respect, Protect, Fulfil Checklist (see Tool 1) (Do No Harm): When assessing proposed budget cuts, MSPs can use the respect. They can ask if the proposal reduces funding for legal aid, ombudsmen, or complaint mechanisms.
- Testing for Accessibility: Funding a remedy on paper is not enough if people cannot access it in reality. MSPs should track if budget decisions, create financial obstacles to justice. Examples include introducing user fees or raising income thresholds for legal aid. These barriers make justice unaffordable for low-income households.

Appendix 2: Glossary of Key Terms

AAAQ: These are the standards of availability, accessibility, acceptability, and quality. They assess if public services meet economic, social, and cultural rights. They equip MSPs 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 empowers MSPs to act as democratic guarantors holding Ministers to legal duties.

Causality Analysis: this analytical tool systematically maps the immediate, underlying, and root causes of rights deprivations. It ensures budget interventions target systemic structural issues rather than simply treating surface-level symptoms.

Community Score Cards (CSCs): This participatory monitoring tool allows citizens to provide direct, structured feedback on service quality. It provides MSPs with immediate, qualitative evidence to bring directly into the parliamentary chamber.

Cumulative Impact Assessments (CIA): This advanced evaluation tool assesses 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. MSPs must treat these gaps 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 equips MSPs 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 prevents different treatment based on prohibited grounds unless there is a reasonable, objective justification. The state must eliminate both de jure and de facto discrimination from all fiscal policies.

Non-retrogression: This principle prevents public bodies from taking deliberate backward steps in rights enjoyment. Budget cuts to essential services must be fully justified to Parliament. 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 prevent violations. Fulfil requires taking active legislative, administrative, and budgetary steps to make rights a reality.

Tax gap analysis: A diagnostic tool used to measure the revenue a government is losing to tax avoidance, evasion, or outdated policies, helping MSPs prove whether the state is truly maximising its fiscal capacity.

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