

**Equalities, Human Rights and Civil Justice Committee:  
The Impact of Human Rights Budgeting  
9 September 2022**

1. The NASUWT welcomes the Equalities, Human Rights and Civil Justice Committee's pre-budget scrutiny as a means of influencing the Scottish Government's thinking when preparing the 2023-24 budget, which is expected to be published in December 2022.
2. The NASUWT is the largest UK-wide teachers' union representing teachers and school leaders in all sectors of education.

**GENERAL COMMENTS**

3. The NASUWT supports a human rights-based approach to budgeting which would support progressive Government spending priorities and policies, ensuring resources are distributed in a way that understand and support the needs of people, communities and the workforce.
4. The processes and procedures under which budget decisions are reached, as well as their impact and subsequent auditing, must be centred in human rights principles and must seek to challenge and address systemic discrimination and inequality.

5. The effects on society of the COVID-19 pandemic have been deep and wide-reaching, causing long-lasting issues that will undoubtedly be felt for many years. It is undeniable that the impact of the global crisis in disrupting children's education has been significant. Educational progress and achievements have been inhibited, alongside damage to the social and cultural development of children and young people, and their emotional and mental wellbeing.
6. The residual negative impacts of the pandemic are being further compounded by the current cost of living crisis. Teachers are increasingly seeing the devastating effects of this on pupils. There can be little doubt that the cost of living crisis is further damaging pupils' education, learning and development.
7. The NASUWT has long campaigned for a long-term, sustainable and properly funded education recovery strategy. A comprehensive strategy that brings together the work of schools and other bodies is essential and must form the backbone of any Scottish budget.
8. An emergency response is now also needed to deliver extra help for children, schools and families to provide much more aid and assistance to mitigate the dire financial crisis that millions are facing this autumn and winter.

## **SPECIFIC COMMENTS**

### **BUDGET PROCESSES**

**What data and information is needed to assess whether budget decisions are helping to progressively realise human rights?**

9. The NASUWT advocated that the Scottish Government should adopt the following key principles to underpin its school funding system. The funding system for all state-funded schools should:

- i. provide equality of opportunity and equitable access for all learners, including through the provision of a broad and balanced curriculum, and contribute to raising educational standards for all pupils and narrow the achievement gap;
- ii. ensure that all schools are funded on the same basis, which should not result in anomalies between schools where their needs and circumstances and the expectations upon them are the same;
- iii. reflect the additional costs related to pupil deprivation, socio-economic circumstances, school location and setting;
- iv. ensure the provision of, and access to, high-quality education and related support services for children and young people, including vulnerable children;
- v. provide equality of entitlement for all learners to be taught by qualified teachers and for the recruitment, retention and development of a world-class workforce in every school or setting as critical components in delivering better outcomes for all children, and that these entitlements must not be based on parents' ability to pay;
- vi. be clear and transparent so that school budgets are based upon clearly identified and agreed sets of expectations about what work schools should do and the performance expectations that will apply to them;
- vii. be fit for purpose, taking account of local circumstances and needs and the expectations on schools and local authorities, while promoting public and professional confidence in the system;
- viii. be sufficient in ensuring that the global amount available for the funding of schools takes full account of education priorities and needs and promotes fairness, equity, inclusion and social cohesion;
- ix. ensure that changes to the funding for schools do not result in detriment to colleges or early years provisions, which are also essential in providing education for school-aged pupils;
- x. be responsive to changing needs and circumstances;
- xi. be predicated on consultation and democratic involvement at national, local and institutional levels, including full recognition of school workforce trade unions;

- xii. promote stability for schools and enable schools to plan and organise their priorities in the longer term, and help to minimise turbulence;
- xiii. support the best use of resources, through arrangements for strategic planning of local provision, institutional collaboration, economies of scale and the pooling of resources to meet locally identified educational needs; and
- xiv. ensure that schools in receipt of state funding should not be able to make a profit, and that they demonstrate the provision of good value for money.

10. The Union believes it is helpful to identify a set of key principles and intended outcomes against which budget decisions can be assessed to ensure they are helping to progressively realise human rights.

**What needs to change to increase meaningful participation in the budget process, particularly for marginalised groups?**

11. Public services provide a vital social infrastructure, which means that investment in them benefits the whole of society. In addition to the improvements in services which result from a high level of investment, there are benefits to the wider economy of higher employment and wage levels in schools and other key services; higher consumer spending would tend to be focused on Scotland's businesses.

12. But changes to funding alone will be insufficient. The Scottish Government needs to work to ensure that public services reflect the communities they support. As Professor Rowena Arshad OBE set out in the 2018 report *Teaching in a diverse Scotland: increasing and retaining minority ethnic teachers*:

*'The lack of diversity in the teaching workforce has been a persistent and long-term issue not just in Scotland but in many other countries across the world. This lack of diversity is becoming increasingly pressing and visible, as the pupil population in Scottish schools is getting more diverse. The Public Services, including teaching, need to reflect this change'*

13. Meaningful participation from marginalised groups can only be achieved where institutional and cultural barriers to diversity have been confronted and where racism, racial discrimination or harassment is being actively combatted.
14. The Scottish Government must show its commitment to equality and diversity through the education budget and by giving teachers and prospective teachers with protected characteristics the priority they deserve. It is vital that the teaching profession is inclusive and representative at all levels. The profile of the workforce in our schools sends an important message to children and young people about the kind of society we live in and who we value most. A key challenge for public education is to address the serious under-representation of Black teachers at all levels.
15. Our public education system should demonstrate that it values the contribution of all teachers, not simply regardless of age, gender, ethnic background, disability, religion and sexual orientation, but also by valuing the contribution that such professional diversity can make to children's learning and lives.

**What can be done to make budget information more transparent and accessible?**

16. The education system, together with other key public services, has been affected, through the Barnett formula, by the Westminster-driven austerity policy since 2010. The success of Scottish Government initiatives will be directly related to the replacement of austerity and cuts by a national programme of investment in the education system. The Union remains in favour of ring-fencing to protect education funding, the absence of which undermines many of the commitments given centrally.
17. The political narrative across parties can often undermine transparency and accessibility of budget information. The Scottish Government is able

to raise money in Scotland through devolved taxes, and, indeed, changes to the Scottish Income Tax have resulted in significant sums of money for public services. There is a lack of clarity around the budgetary powers held by the Scottish Government, and its use as a political football is a barrier to engagement for many communities. An open and transparent national conversation around both the ability and potential impact of reform of local council taxes or the use of new wealth taxes is urgently required. Devolved taxes have the potential to fund the social infrastructure needed, tackling child poverty and creating a fairer and more equal society.

## **BUDGET CONTENT**

**Do the Resource Spending Review or previous Scottish fiscal documents demonstrate a commitment by the Scottish Government to realising rights over time? For example, is it possible to look at Budget documents and decipher if expenditure on realising rights is increasing or decreasing?**

18. The budget documents listed, while useful in setting out priority areas for the Scottish Government, articulating future policy intent and tracking spending in a broad sense, sadly fall short of linking intended policy outcomes to the realisation of rights.

19. It must be remembered that the Equality Act 2010 and the Public Sector Equality Duty (PSED) place significant legal responsibilities on all public bodies, including the Government, when carrying out their functions. Legislation requires such bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Independent NASUWT research shows that the majority of schools, for example, remain unaware of their duties and obligations under the PSED. Where the guidance ignores the Government's legislative responsibilities or undermines the PSED, the Scottish Government's commitment to

equalities appears tokenistic. The NASUWT is concerned that the budgetary documentation will not support the Government to meet the aims of the PSED: listing spending priorities under equalities headings falls significantly short of articulating impact.

20. The Scottish Government should be meeting its responsibilities under the PSED by collecting and using evidence when developing policies. When undertaking national consultation processes, the papers should explain the evidence, issues and potential adverse impact, as well as how they plan to mitigate any adverse impact. Respondents to the consultation should be invited to comment on this information, as well as any gaps in the evidence base. Unfortunately, in almost all cases, public authorities ask equality impact questions while passively expecting others to identify the issues and the evidence.

21. The Union is calling on the Scottish Government to do more than just espouse equality, instead seeking out the voices of those with protected characteristics as a priority: this will require more targeted action than can be achieved through a standard national consultation process.

**Is government funding directed to the right areas to enable the public sector to meet its human rights obligations?**

22. The NASUWT is concerned by a lack of research evidence in order to determine the answer to this question. To further explain, although the educational implications of the pandemic have been significant, it is clear that other important dimensions of children's lives have been affected. Recovery must be understood as a long-term process given the pandemic's far-reaching impacts. It should also be viewed as an opportunity to tackle deep-rooted structural issues affecting children and young people, in all aspects of their lives, that have been exposed and exacerbated by the pandemic. Other education systems, including those in the Netherlands and the United States, have developed bold and ambitious plans that reflect this reality. To be sustainable, recovery will also need to be manageable for those in the workforce with day-to-day responsibilities for children and young people. It will need to take into

account the pressures they faced before the pandemic, the increased pressures they encountered during it, and the challenges they will need to take on as it recedes.

23. For these reasons, the NASUWT has consistently advocated for a holistic view of recovery, based on supporting children in all aspects of their lives, including, but not limited to, those relating to formal schooling. Schools will have a critical role in securing recovery, but they cannot be expected to contribute in isolation or without working in effective partnerships with other services for children and young people, which are resourced adequately and supported appropriately.

24. It is also clear that the impact of the pandemic has not been experienced uniformly. While it is likely to be the case that every child has been adversely affected by the crisis, some will have felt the impacts more profoundly than others, particularly those who were more vulnerable or more disadvantaged before the pandemic.

25. The budget must recognise and seek to address the demonstrable disparities in experience and outcomes that particular groups of pupils have faced during the pandemic, including those that relate to race, socio-economic status and geographical location. It must give practical effect to provisions set out in equalities legislation, particularly the PSED, and the specific duties and responsibilities this establishes in respect of those with protected characteristics.

26. Recovery and the accompanying budget will also need to reflect the aims and objectives of the United Nations Convention on the Rights of the Child (UNCRC), including those set out in Article 12 of the Convention on ensuring that appropriate weight is given to children's views in matters that affect them, especially since the introduction of the Convention into domestic law. Articles 28 and 29 of the UNCRC provide the right to education, and more generally to the rights of children to have their wellbeing promoted in all respects, as the preamble to the Charter confirms. In a context where the UNCRC is incorporated into domestic



legislation, these become legal requirements on the Scottish Government. If the Scottish Government is genuinely committed to the rights framework established by the UNCRC, its budgeting must address the full range of issues outlined herein.

27. The right to food is also set out in international human rights law and it is closely linked to children's rights to health and education. Children who experience food insecurity are more likely to experience poor health, obesity and malnutrition, as well as other challenges to their physical and mental development. Food insecurity also affects educational performance. Universal free school meals are one of the ways in which the Scottish Government can fulfil children's right to food by providing a nutritious meal to all children. Free school meals for everyone reduces stigma and helps reinforce the understanding of food as a human right. The universality of provision of the rights to education and healthcare has been long accepted and children's right to food should be considered similarly as a necessary universal good. The ability of all children to access universal free school meals would have a positive impact on addressing the food insecurity that many households with children continue to face. The NASUWT is calling on the Scottish Government to prioritise rolling out universal free schools meals to all as soon as possible.

28. Given the significant scale of the recovery challenge and the need for it to be impactful, it will be essential that it is subjected to an ongoing system-level evaluation, such that it makes a difference for children and supports the workforce.

### **Does the Scottish Government raise sufficient revenue to realise human rights?**

29. Education is a human right and a public good. Quality public education for all must be an unequivocal goal of government. That goal, in our view, can only be assured where governments takes an active role in ensuring equality and equity, setting clear expectations of what the system should provide by way of entitlements for all learners.

30. Public education as an entitlement for all is grounded in the universal obligations set out in international treaties, conventions and regulations. These conventions and regulations should be a touchstone for policy makers and for those evaluating the contribution of public education.
31. High-quality public education respects and values teachers and the organisations that represent them, and creates the conditions in which teachers and other education professionals are able to work together on matters affecting them and their students. Public education is not only about education for democracy, but also operates democratically.
32. Quality public education for all relies upon the Government ensuring that access to education is not determined on the basis of ability to pay.
33. Public education does not exist and cannot be provided in isolation from other parts of the public sector. Quality public services, entitlements and social protections for children, young people and families are, in our view, central to meeting the challenge of quality public education. The Government must attend to this challenge in the round by investing in quality public services. Savage attacks on the public sector, cuts to the welfare state, the removal of social protections and the privatisation of public services are likely to impact on public education because of its reliance on the wider public sector.
34. The contention of the NASUWT is that the Government must address the quality of public services through additional investment if it is to secure quality public education for the benefit of all children and young people.

**If not, how could the government raise more revenue to ensure rights realisation?**

35. The NASUWT believes that one of the key strengths in Scottish education is the local authority managed system. There is a real risk in these times of austerity and tight budget restraints of promoting further autonomy to local authorities and schools, as aspirations cannot be met.

36. As outlined above, the Scottish Government is able to raise money in Scotland through devolved taxes.

**Is revenue raised in an equitable way? What is the distributional impact of budget decisions? Do budget decisions have a discriminatory impact on different groups of the population? Do budget decisions help reduce structural inequalities?**

37. For a significant number of years, the NASUWT has raised concerns regarding the funding of education. For example, in 2014, the NASUWT wrote to the Government to state:

*'Through a number of significant omissions and policy decisions by the Scottish Government, education in Scotland has been placed in an increasingly fragile position over a number of years because: (a) the education budget has not been ring-fenced, leaving individual authorities able to divert key resources from schools and providing limited accountability in relation to the overall education budget; (b) there is no real enforcement mechanism between central and local government in circumstances where an individual council signs up to an agreement and then reneges on these commitments after the funds have been handed over; and (c) an enforced council tax freeze for the eight consecutive years limits local authority options in raising additional revenue.'*

The NASUWT believes that these issues remain to be resolved.

38. NASUWT members have reported a funding crisis in schools with the following extremely detrimental consequences:

- pupils are being asked to buy materials and books for their courses, or to print resources for the courses they are taking at home;
- limitations on training courses for which there is a charge;
- multi-level teaching and class sizes continue to increase;

- limitations on off-campus places for children and young people with the most challenging behaviours;
- special school provision in many local authorities has been stripped out;
- children and young people in mainstream settings are failing to receive the support they need and discipline standards are plummeting in classes affected, which impacts on all pupils in these classes;
- large capital purchases in schools, together with the replacement of obsolete or broken equipment in departments such as science, are not being funded;
- Some local authorities employ third-party service providers (e.g. for IT), presumably on the cheapest tender, whose level of performance is unacceptable;
- timetabled senior classes are being cancelled due to 'uneconomic numbers'.

39. Teachers also report that many local authorities are prevented from delivering their statutory duty to ensure equity, irrespective of socio-economic disadvantage due to funding. Despite the policy intention underpinning the Scottish Attainment Challenge, there remains no question that many pupils can only pursue senior courses of study because their families can afford to pay for textbooks and resources.

40. The NASUWT understands the extent to which investment in the economy is not entirely within the remit of the Government. However, investment in key public services which have been devolved to the Government is a policy option which the Government can and should adopt, and devolved taxation powers give the Government the opportunity for a programme of investment in public services, including the school system and the schools workforce.

## **THE EQUALITY AND FAIRER SCOTLAND STATEMENT**

**The Committee would welcome views on whether these opportunities and challenges are correctly focused, whether they are tangible and whether they are measurable?**

**Specifically:**

**Does the current approach to Equality Impact Assessments and Fairer Scotland Duty Assessments produce a fair budget/meaningfully impact budget decisions? If not, how can this be improved?**

**How can human rights be fully incorporated into the impact assessment process?**

**Do the 9 key opportunities and challenges identified in the Equalities and Fairer Scotland Statement correctly identify the key opportunities and challenges around building a fairer Scotland?**

**Can progress against these priority areas be tangibly measured?**

41. The budget and the impact assessments need to link directly to the evidence and concerns raised by key stakeholders and those with lived experience to assess their impact. For example, schools and the staff that work in them will be at the heart of any effective strategy to achieve a fairer and more equal education system. Also, the views of teachers and their representatives will be recognised and addressed within an impact assessment.

42. Any evaluation strategy will also require an effective focus on the workforce to ensure that it is as well placed as possible to support children's learning and development. The aspirations of the Government to achieve excellence and equity across school systems cannot be achieved without adequate funding. There are significant challenges to the recruitment and retention of teachers, including the pay levels of experienced teachers and excessive workload suffered by the profession.

43. The latest position of the Scottish Negotiating Committee for Teachers (SNCT) Employers' Side is a 5% pay offer to teachers for 2022/23; this

follows a 2% offer in May and a short-lived 3.5% offer on 17 August, which was revised upwards to 5% within 48 hours.

44. The NASUWT is clear that the current offer falls significantly short of teachers' expectations and is wholly inadequate in the context of rampant cost of living pressures (with the lowest inflation rate already more than double that 5% offer) and against a backdrop of a real-terms deterioration in the value of teachers' pay since 2010 of almost 10%.

45. A snapshot survey of NASUWT members in Scotland last week produced a blunt response:

- 83% called on the NASUWT to reject the current pay offer of 5% for teachers in Scotland;
- 82% believe that the current pay offer is unfair in the current circumstances;
- 75% suggested the current offer will have a negative impact on their morale.

46. A total of 582 teachers in Scotland responded to the snapshot survey conducted in the final week of August. Respondents were asked for their views on the proposed pay award. A selection of comments is below.

*"I and some of my fellow colleagues are struggling financially for the first time and it is truly scary. All of my monthly pay is going on necessary living expenses. I can no longer save, I can no longer afford to go out to eat or grab coffee with a friend, I can no longer afford a holiday, and I'm honestly unsure if I will be able to heat my house this winter. As a result of this, my mental health is suffering and I'm frightened. I am considering my options of leaving teaching and even leaving UK and it is very much dependent on what is to come in the foreseeable future. I am a Design and Technology teacher and there is already a massive shortage in Scotland. If I decide to leave teaching and/or the UK, it will leave another vacancy which may never be filled."*

*"I don't feel valued as a teacher and haven't felt this way for many years. My workload has increased, with added pressures once again post pandemic, but my pay has not."*

*"The status of teachers is well below what it used to be and many feel we are now glorified childcare workers. Teachers' pay is pathetic in comparison to other professions and even becoming less favourable than other jobs with less hours, responsibility and where pay is comparable. Many young teachers are completing their probationary year then leaving. M&S and Aldi are becoming more appealing."*

*"I live month to month with barely enough money to get by. I am a single parent with three teenagers. We had to put the heating off from January because I couldn't afford to keep it on and I feel like this winter it won't go on at all. We eat the cheapest of cheapest food."*

*"I am angry that our profession continues to be undervalued and unappreciated. With the increases in fuel and the cost of living generally and inflation already heading higher, how much more of a pay cut should we be expected to take?"*

*"We're already hurting with inflation as it is. Personally I cannot accept a pay cut. I'm currently thinking of a second job."*

*"I just don't know how I'll be able to feed, heat and provide transportation for a family of 4 with inflation such as it is. I've worked my socks off to get 2 degrees and professional qualifications. I don't feel valued."*

47. The anger of teachers over the failure to deliver a fair pay award is clear and should not be underestimated. But they are also annoyed about yet another lag in time for actually getting a pay award, following an unforgiveable delay of more than a year in receiving their 2021/22 award.

48. The NASUWT remains committed to working with the Scottish Government on these matters in the interests of the teaching profession and the education of our children and young people.

49. Teachers have expressed their anger and opposition to the current pay offer, with a clear commitment to further action if the Scottish Government and local authorities do not come forward with an improved offer that addresses the year-on-year erosion of their salaries. For the NASUWT, that further action includes a commitment to a statutory ballot on industrial action.

### **BUILDING ON PREVIOUS COMMITTEE WORK**

**Has the Resource Spending Review given the voluntary sector the funding certainty it was hoping for? Are funding arrangements for the voluntary sector fit for purpose?**

50. Most training and career-long professional learning (CLPL) is delivered by a member of school staff. Local authorities are still a major provider of training but, increasingly, schools are obtaining these services from consultants, private providers and the third sector. Often the funding for programmes of training are time limited which impacts on long-term strategic planning and effective roll-out of training or support. For example, the funding to support supervision for teachers in schools lacks certainty at a time when schools and teachers have never been more engaged with the lives of young people in their care. From relationships frameworks, inter-service working to COVID recovery, staff are integral to the support of our young people's wellbeing. And yet, unlike other professionals delivering this agenda, teachers have no built-in mechanism for supervision, and the piecemeal approach across authorities and establishments is leading to an increase in the number of teacher staff experiencing vicarious trauma, blocked care and, ultimately, burnout.

51. The NASUWT believes that staff should have the right to access regular, structured, professional support as part of their working conditions in line



with colleagues in educational psychology, social work and health. This will ensure not only the safety of the teaching profession, but also the continuation of support so vital for pupils. A change in the approach to funding is necessary to ensure counselling-style supervision is available for all teachers who request it.

52. The NASUWT would be happy to meet with the Committee to discuss all of these issues in more detail.

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