

REPORT

# Future Fair Financial Decision-Making

# Introduction

1. This report sets out the activities undertaken and the improvements made since the publication of the Equality and Human Rights Commission's (the Commission's) report of its Section 31 (S31) Assessment of HM Treasury's (HMT) 2010 Spending Review (Making Fair Financial Decisions).<sup>1</sup> Based on this work, we also set out our expectations of any future large-scale review of Public Spending (which we term as a Spending Review<sup>2</sup> throughout this report). The report also brings to a close this stage of the Commission's work in the area of Fair Financial Decision-Making.
2. The principal aims of the original assessment were to discover to what extent and in what manner the decisions taken were in accordance with the public sector equality duties (PSEDs) in place at the time;<sup>3</sup> to consider, with HMT, any possible improvements in the process of decision-making; and to propose ways in which future such exercises could be more effective, more transparent and offer greater value for money by ensuring that public spending was better targeted with fairness at the heart of difficult decisions.
3. The Commission hopes that this report will be seen as a 'route-map' to follow when making and evaluating financial decisions. It is therefore structured to reflect the three separate stages of a Spending Review process, reflecting the recommendations in our original assessment that identified the need for:
  - more ongoing and collaborative preparation in advance of a Spending Review

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<sup>1</sup> Equality and Human Rights Commission (2012) *Making fair financial decisions: An assessment of HM Treasury's 2010 Spending Review conducted under Section 31 of the 2006 Equality Act*. Available at: <http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/inquiries-and-assessments/section-31-assessment-of-hm-treasury>

<sup>2</sup> HM Treasury (2007) *Managing Public Money* describes HM Treasury's functions and their operation within a Spending Review as designing and running the resource planning system and setting budgets for individual departments to meet ministers' fiscal planning objectives. Through the Spending Review, HM Treasury provides departments with settlements to allow for sensible planning across the whole Spending Review period. The approach to financial decision-making set out in this report applies to the application of the PSED to Spending Reviews or major fiscal events where departmental budgets are set in this way.

<sup>3</sup> The public sector duties at the time of the 2010 Spending Review covered Race, Gender and Disability.

- a clearer decision-making process, with respective responsibilities of HMT, departments and Ministers understood throughout the Spending Review process
- ongoing monitoring and evaluation of the impact of spending measures on people sharing different protected characteristics both during and after implementation.

# Preparing for a Spending Review

4. Final decisions in a Spending Review are the product of a complex process which involves a number of different institutions and a number of stages. In our earlier reports<sup>4,5</sup> we recommended that, during these stages, HMT in their planning assumptions and departments in their initial submissions should have due regard to the three aims of the PSED.
5. In our Progress Report<sup>6</sup> we welcomed improvements made by HMT in the collection and use of equality data. In particular, we identified the extent of the positive changes made in preparation for Spending Reviews. For example, a key improvement has been the development of a standardised data template designed by HMT and shared with departments firstly in 2012 and again in advance of the 2013 Spending Round which aimed to support early baseline evidence-gathering in preparation for Spending Review decision-making. The template required departments to focus on their six largest areas of spending and to classify them for each of the nine protected characteristics by a standard list provided. Departments have found the template useful and said that it helped to raise across government the prominence of equality issues when considering the impact of spending.
6. HMT has also designed an internal policy toolkit to help its spending teams consider the potential impact on people sharing different protected characteristics during policy development. This internal resource includes a list of useful sources of both quantitative and qualitative data on equalities.
7. Further to this, HMT and the Government Equalities Office (GEO) held a workshop in October 2012, where an expert external group discussed lessons learnt from the 2010 Spending Review experience and another in March 2013 when the Chief Secretary to the Treasury led an equalities round table as part

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<sup>4</sup> Equality and Human Rights Commission (2012) *Making fair financial decisions*. Available at: <http://www.equalityhumanrights.com/legal-and-policy/our-legal-work/inquiries-and-assessments/section-31-assessment-of-hm-treasury>

<sup>5</sup> Equality and Human Rights Commission (2014) *Fair Financial Decision-Making: 2014 Progress Report*. Available at: <http://www.equalityhumanrights.com/publication/fair-financial-decision-making-2014-progress-report>

<sup>6</sup> Ibid.

of HMT's consultation for informing the government's thinking on the Spending Round 2013.

8. More recently, in January 2015, the GEO held two capacity building workshops which were designed to help departments address the challenges of embedding good practice around the PSED into their work, this included looking at the latest case law and any challenges around collection and use of data. HMT is also planning to hold technical workshops with departments later in the year to support effective data collection and analysis across government for future Spending Reviews.
9. Future plans also include updating both the Green Book<sup>7</sup> in order to reflect current equality legislation and also the data template with its accompanying guidance.<sup>8</sup> The guidance produced by HMT for the latest version of the template has been improved in that it now requires departments to make an assessment of the quality and suitability of their data sources and to set out the plans they have in place to deal with the gaps in data or inadequate data that they have identified. Also if the templates are not returned by departments or returned only partially complete, HMT plans to go back to these departments to ask for the information to be supplied properly. This addresses our concerns that in the 2010 Spending Review non-returns or partial returns were not followed up by HMT spending teams.
10. However, there are still improvements to be made in preparing for a Spending Review, in particular in relation to data availability and analysis.
11. For decision-makers to fulfil their requirements under the PSED and show that there has been proper consideration of the three aims of the duty they have to consider the likely impact of the proposal on people sharing different protected characteristics.<sup>9</sup> This requires an evidence base. We therefore recommend that:
  - HMT should identify key areas of spending or tax where they consider an impact on people sharing different protected characteristics is likely, but where due to the inadequacy of current data they are unable to model or analyse the impact sufficiently. HMT should discuss and

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<sup>7</sup> HM Treasury (2014) *The Green Book: appraisal and evaluation in central government*. Available at: <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>.

<sup>8</sup> Annex B: HMT Guidance notes for the completion of Equalities Assessment Template.

<sup>9</sup> Equality and Human Rights Commission (2015) *A guide to regulation of the Public Sector Equality Duty in England, Scotland and Wales*. Available at: <http://www.equalityhumanrights.com/sites/default/files/uploads/documents/Policy%20on%20regulating%20the%20Public%20Sector%20Equality%20Duty.pdf>

agree with the relevant departments ways of addressing these evidence gaps in their submissions. Where quantitative data is not available, or small sample sizes are of concern, qualitative data should be used. The approach needs to be agreed well in advance of a Spending Review so that departments have the confidence to look for and use other data sources, and to put forward the best evidence despite limitations in data.

- Administrative data held by departments potentially offers a source to fill evidence gaps. Therefore consideration should be given to using and potentially extending administrative data sets where this would be relevant for specific policy areas and spending measures, provided this would not add disproportionate burdens.
- Where relevant data has been produced from evaluations of actual impacts of previous Spending Review measures, or from external research, this should be used.
- The policy toolkit now being embedded across HMT teams should be further developed and shared with other departments to support their data collection and analysis for the next Spending Round.

12. Our work also highlighted that expert organisations have a role to play in providing sources of advice and support for departments. Many have research arms and can bolster evidence where data is limited or unavailable to departments. The availability of this type of support should be included in the toolkit for departments, with signposting to expert organisations for each of the protected characteristics. Also, as highlighted earlier the workshops involving expert organisations that HMT and GEO have run in the past should become a regular feature in advance of Spending Reviews. Opening up high-level spending discussions to external organisations supports greater transparency and increases the potential evidence base for future decision-making.

13. Indeed our own external advisory group<sup>10</sup> for this project helped support our development of a model for cumulative impact assessments of fiscal events, which covers all stages of the Spending Review process. We believe that the

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<sup>10</sup> To enable this project to benefit from the experience of a wider group of experts we established a Fair Financial Decision-Making Advisory Group. See S31 Progress Report for further details.

modelling methodology developed by Landman Economics with NIESR<sup>11</sup> for extending distributional impact analysis to provide a cumulative (or aggregate) analysis of impacts on people sharing different protected characteristics is valuable and offers an important way forward. We hope that this work can be used to benefit and extend the distributional impact analysis now prepared by HMT at each Spending Review. This, in turn, will support Ministers both in their consideration of how to ensure fairness in decision-making on spending measures and in carrying out their own responsibilities under the PSED legislation.

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<sup>11</sup> Equality and Human Rights Commission (2014) *Research report 94: Cumulative Impact Assessment: A Research Report by Landman Economics and the National Institute of Economic and Social Research (NIESR) for the Equality and Human Rights Commission* by Howard Reed and Jonathan Portes. Available at: [http://www.equalityhumanrights.com/sites/default/files/publication\\_pdf/Cumulative%20Impact%20Assessment%20full%20report%2030-07-14.pdf](http://www.equalityhumanrights.com/sites/default/files/publication_pdf/Cumulative%20Impact%20Assessment%20full%20report%2030-07-14.pdf)

# Delivering a Spending Review

14. A Spending Review requires HMT to gather a range of information and analysis of spending proposals from departments to inform submissions to HMT Ministers and government on overall departmental budget allocations.
15. In response to our recommendations, such spending submissions now require a statement on the impact of the policy on people sharing different protected characteristics, both at the beginning of the process and at the point where the decision is made. When significant issues are identified for specific policy measures regarding their impact on people sharing different protected characteristics, more detailed follow-up advice on this issue is supplied wherever appropriate. Each individual tax measure is the subject of a published Tax Information Note, which now includes an assessment of its impact on equality.
16. In the Spending Round 2013 HMT published an Impact on Equalities Analysis report<sup>12</sup> which set out a descriptive analysis of the high level impacts of certain measures on people sharing different protected characteristics principally affected (i.e. age, disability, gender and race). The Commission welcomed the commitment of Ministers to publish this report alongside the Spending Round report, although noted that the report was quite light on detail, we hope that HMT considers the continued development of this report, and responds positively to our suggestions on improvements to the content and coverage, which alongside the inclusion of more evidence would help to command greater confidence externally.
17. We expect the Equalities Impact Statement for future Spending Reviews to include more information about the data used to assess impact of specific high-profile measures and how judgements about impacts on equality were reached. Ideally this would incorporate the cumulative impact analysis of tax and/or benefit changes by protected groups in the same way that it currently does by income group (HMT's 'distributional analysis'). It should also include an assessment, both quantitative and qualitative, of the most important

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<sup>12</sup> HM Treasury (2013) *Impact on equalities: analysis to accompany Spending Round 2013*. Available at: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/209039/spending-round-2013\\_impact\\_on\\_equalities.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209039/spending-round-2013_impact_on_equalities.pdf)

measures and policy changes. This more comprehensive report would increase transparency, better reflect the extent and quality of the data, evidence and analysis now required by HMT, and increase public confidence in the fairness of the decision-making process.

18. HMT currently has no plans to publish cumulative impact assessment of the impact of tax and spending measures on people who share particular characteristics. It is pursuing other ways of achieving similar objectives, focusing primarily on opening up better communications between departments to highlight and share 'aggregate' impact as they are working through policy and spending measures. HMT's intention is to engage with the Cabinet Office, GEO and others to use existing cross-departmental groups to support this process.
19. The Commission has recommended that scrutiny of decisions being made while delivering a Spending Review could be improved by: (a) extending the role of the Independent Challenge Groups (ICG) for Spending Reviews to include equality as one of the issues they look at, and (b) identifying an independent body to scrutinise the impact of Spending Reviews and fiscal events on people sharing different protected characteristics. We will look to Ministers to consider these options.
20. We also highlighted in our original Section 31 Assessment Report<sup>13</sup> the importance of identifying a single point within government with formal responsibility for monitoring and assessing the aggregate and cumulative impact of future Spending Reviews on people sharing different protected characteristics. We emphasised this point further in our Progress Report<sup>14</sup> and continue to believe that a single point in government responsible for monitoring and assessing the cumulative impact on people sharing different protected characteristics of future Spending Reviews and budgets is vital.

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<sup>13</sup> Equality and Human Rights Commission (2012) *Making Fair Financial Decisions*. Available at: [http://www.equalityhumanrights.com/sites/default/files/documents/Inquiries/s31\\_final.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/Inquiries/s31_final.pdf)

<sup>14</sup> Equality and Human Rights Commission (2014) *Fair Financial Decision-Making 2014 Progress Report*. Available at: <http://www.equalityhumanrights.com/publication/fair-financial-decision-making-2014-progress-report>

# Monitoring and evaluating a Spending Review

21. We highlighted in our original S31 Assessment Report<sup>15</sup> the importance of monitoring and evaluation by departments of their Spending Review measures as they are rolled out and how they impact in practice on people sharing different protected characteristics. The Progress Report 2014 detailed work being done by five departments: the Department for Education (DfE); the Department for Work and Pensions (DWP); the Department for Communities and Local Government (DCLG); the Department for Transport (DfT) and the Ministry of Justice (MoJ) to monitor and evaluate some of the 2010 Spending Review measures. We concluded that monitoring was either planned or already in place and that assessing the impact on people sharing different protected characteristics was forming part of that work.
22. Since our Progress Report, we have received additional evidence from some departments on their continuing monitoring and evaluation work. While the focus is on impact on disadvantaged and/or vulnerable people, usually this is disaggregated by different protected characteristics. It is encouraging that data is being used to assess the way that spending measures are impacting in practice, and that improvements to policies and delivery are being introduced as a result.
23. However, while there is evidence of some good monitoring practice, the Commission believes more can still be done to improve monitoring and evaluation by departments.
24. PSED requirements for ongoing consideration of the impact of policy decisions are not widely recognised by departments and need to be formalised within the Spending Review process. As part of this, consideration needs to be given to where responsibility for monitoring the impact on people sharing different protected characteristics lies in situations where central government Spending Review decisions are devolved to local government for implementation, such as in the localisation and reduction of council tax

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<sup>15</sup> Equality and Human Rights Commission (2012) *Making Fair Financial Decisions*. Available at: [http://www.equalityhumanrights.com/sites/default/files/documents/Inquiries/s31\\_final.pdf](http://www.equalityhumanrights.com/sites/default/files/documents/Inquiries/s31_final.pdf)

benefit. More systematised collection and sharing of monitoring evidence between central government and local councils and other delivery arms would ensure that departments are able to feed back to HMT evidence of actual impact as part of their Spending Review submissions, and so inform assessments and decision-making in future Spending Reviews. It would also show the extent to which the policy aims underpinning spending measures were being met for people sharing different protected characteristics and where additional mitigations or changes to arrangements might be needed.

25. The value of this evidence for improving policy delivery and for subsequent Spending Review submissions is evident and points to the importance of a 'feedback loop'. We recommend that what we consider an integral part of the process should form part of the work to improve the evidence gathered for future Spending Reviews.

26. Earlier in this report we identified the need for HMT to continue to build on its work with departments to consider ways of filling data gaps; to improve the quality of data collection and use, and to improve the assessment of the ongoing impacts of spending decisions on people sharing different protected characteristics. While this is an important short-term aim to prepare for the next Spending Review or major fiscal event, our Advisory Group members highlighted the importance of longer term work, using the Spending Review experience as a platform for the next round of improvements. Advice from the Group included:

- 'This is a long term enterprise which, although it cannot be done by the election or next Spending Review, should not be allowed to get "lost".'
- 'Someone needs to take responsibility for ensuring a future improvement in data, find a home for it and take action to address the data. Otherwise there will always be a gap.'
- 'There should be future opportunities to link data sets between departments, rather than to collect new stuff.'
- 'It needs a timetable with a start date, otherwise it'll never get any better.'

27. In addition to workshops pre-Spending Review, subsequent post-Spending Review workshops would be a good way for departments and HMT to look at the approach, evidence and delivery of the equality component of the Spending Review process to assess what worked, what didn't, and how to

make improvements for the next major fiscal event. Good practice examples from departments' impact analysis submissions and subsequent spending decisions based on the data provided could be shared across government through workshops as part of the continuous improvement process.

28. We look to HMT to take the lead on this agenda beyond the Commission's Fair Financial Decision-Making project. HMT has already made significant progress in its approach to equality work in Spending Reviews and we welcome its commitment to continuous improvement of the quality of data and its use.

# Conclusion

29. By setting out the improvements in place, those already planned and those still required, we offer a 'route-map' for government to use for the next Spending Review and in the future to ensure effective assessment of the impact of spending decisions on people sharing different protected characteristics and to provide transparency and confidence for the public in the fairness of the process.
30. We report a wide range of improvements by HMT regarding its collection and use of equality evidence, with further work planned. We welcome this and the constructive and open dialogue we have enjoyed with HMT and departments throughout the project.
31. Through discussions with our Advisory Group and the development work by NIESR and Landman Economics we have identified additional areas for improvements that, if introduced, would help to address some of the data gap problems and improve the overall quality of analysis. These include:
- Improving the quality of data - discussions with departments to clarify expectations and reach a common and agreed approach on different types and sources of acceptable data and evidence.
  - Reviewing HMT's approach to impact assessment: recognising the value of a quantitative approach; extending HMT's distributional impact analysis to include aggregate/cumulative impact of decisions on people sharing different protected characteristics, drawing on the Landman/NIESR modelling methodology; use of existing cross-departmental groups, and opening up of better communications between departments to highlight and share 'aggregate' impact as they are working through policy and spending measures.
  - Improving the coverage of evidence and analysis in the Equalities Impact Statement, published alongside Spending Reviews.
  - Monitoring of the impact of Spending Review measures in order to better understand where mitigations are needed and to feed back data to inform the next round of spending decisions; more clarity on the PSED responsibilities of departments.

- Continuous improvement: recognising that data gaps may not be resolved in time for the next Spending Review and that the improvement agenda is ongoing and needs to be led by HMT.
- Scrutiny of Spending Review decisions and process through an Independent Challenge Group for Equality at the next and subsequent Spending Reviews; and through giving an independent body an overview scrutiny role.
- Identifying a single point in government with responsibility for the overall impact of Spending Review decisions on people sharing different protected characteristics. Allocating responsibility in this way would help to ensure that the improvements we have identified are co-ordinated and implemented effectively.

32. We hope that this approach to making fair financial decisions during a Spending Review will be considered by government and adopted for the next and subsequent Spending Reviews. We will carry out a high-level review of the extent to which the next major fiscal event has addressed the improvements recommended through the Commission's S31 Assessment work and, following that, will make further recommendations if we consider this necessary.

33. Finally, although the original S31 Assessment focused only on the processes of a Spending Review, the analysis undertaken also applies to tax and benefit decisions, which are generally also taken at Budgets and Autumn Statements. Whilst the recommendations on process above concentrate on Spending Reviews and don't necessarily apply to other, more frequent fiscal events, the principles may still be relevant. In particular, the recommendation to undertake a cumulative impact assessment applies to all fiscal events, reflecting the fact that HMT already publishes distributional analysis. We would hope therefore that in the future the principles and practices set out in this report to support fair financial decision-making would apply to all fiscal events.

# Contacts

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