

National Assembly for Wales
Children, Young People and Education Committee
Equality, Local Government and Communities Committee
Finance Committee

Assessing the impact of budget decisions

March 2019



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National Assembly for Wales

Children, Young People and Education Committee

Equality, Local Government and Communities Committee

Finance Committee

Assessing the impact of budget decisions

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About the Committees

The Committees were established in 2016. Their remits can be found at:

- **Children, Young People and Education Committee**
www.assembly.wales/SeneddCYPE
- **Equality, Local Government and Communities Committee**
www.assembly.wales/SeneddCommunities
- **Finance Committee**
www.assembly.wales/SeneddFinance

Contents

Chairs' foreword	5
Recommendations	7
1. Background	8
2. What is the purpose of an impact assessment?	10
3. Integration of legislation	23
Annex A: List of oral evidence sessions	27
Annex B: List of written evidence and Committee reports.....	28

Chairs' foreword

As a matter of course, Assembly committees scrutinise how the Welsh Government's plans for future spending affect their respective areas of interest. As Chairs, we recognise that each of our committees has a particular remit on which our work must focus.

This year, we have taken a new approach to a recurring challenge.

In addition to our portfolio-specific work, we wanted to acknowledge and address areas of common interest. Specifically, we wanted to work together to consider how the Welsh Government assesses the impact of its budgetary decisions on the people of Wales, and what could be done to improve this process.

In recent years each of our committees has had something to say about budget impact assessments. We felt the time had come to work together to shine a joint spotlight on this, with a particular focus – given our respective remits – on the impact of budget decisions on equalities, children and young people.

From this short and focused exercise, we have reached one overarching conclusion: we need to go back to fundamental principles. We recognise the Welsh Government's efforts to draw a multitude of information into one strategic integrated impact assessment (SIIA), and acknowledge that this is no mean feat. Progress in relation to such complex and potentially far-reaching processes is rarely immediate or easy, and is further complicated by a range of legislative requirements. Nevertheless, there remains a fundamental need to establish a shared expectation and understanding of SIIAs, and the way that they interact with the existing legislative landscape, not least among our expert statutory commissioners and elected representatives.

We believe SIIAs should be used to inform, steer and influence change. We are concerned that they appear to be used currently to reflect or justify decisions which have already been made. Furthermore, we are concerned by what appears to be a growing tendency to pass responsibility for impact assessments to local bodies such as health boards or local authorities, for which there is no legislative basis. For impact assessments to have any value, they must meaningfully inform

financial allocations – as things stand, it is not clear to us that the way in which they are undertaken delivers that aim.

To provide a credible foundation for scrutiny, impact assessments need to demonstrate clearly the evidence base on which they draw, and provide a transparent account of the negative as well as positive impacts of budget allocations. We recognise that difficult decisions have to be made, and believe that the current financial climate makes the assessment of the impact of spending more important than ever. Being honest about the difficult trade-offs that have to be made is essential if we are to build the public's confidence in our decision-making processes.

Our aim in undertaking this work is to help build a constructive, positive and progressive dialogue about how we assess the impact of budget decisions in future. How we link individual, detailed assessments to the overarching strategic assessment is key, and we look forward to working with the relevant commissioners and Welsh Ministers to achieve our shared aim of improving our ability to assess the impact of the Government's financial decisions

John Griffiths AM

Chair of the Equality, Local Government and Communities Committee

Llyr Gruffydd AM

Chair of the Finance Committee

Lynne Neagle AM

Chair of the Children, Young People and Education Committee

Recommendations

Recommendation 1. That the Welsh Government clearly sets out the SIIA process (in greater detail than provided previously), its purpose and expected outcomes, following engagement with and agreement from the relevant statutory commissioners.....Page 21

Recommendation 2. That the Welsh Government publish all of its individual impact assessments to a central location, which can then be referenced by the SIIA.....Page 21

Recommendation 3. That the Welsh Government commission, at the end of this Assembly, a focused piece of work to consider the progress made in relation to SIIAs. This should consider matters such as (but not restricted to) the tool’s relative complexity, how the tool has approached the weighting of multiple rights and impacts, and the uses made of the tool’s outputs.Page 22

Recommendation 4. That the Welsh Government commit to using the Well-being of Future Generations Act as a framework for the SIIA. Given our committees’ areas of focus, we believe that priority should be given to working with the Children’s Commissioner and EHRC to ensure that the legislative requirements in relation to equality and children’s rights are fully and effectively reflected in the assessment process. Page 26

Recommendation 5. That the Welsh Government provide an update to the Committees on the outcomes of the November 2018 meeting of the commissioners, and when it is anticipated the research commissioned on the integration of duties will be published. Page 26

1. Background

Each year Assembly committees consider the Welsh Government's Draft Budget. For 2019-20, the overall draft budget amounted to £18.3 billion.

- 1.** We look at the draft budget from the perspective of our own portfolios. We scrutinise how Welsh Ministers prioritise resources, assess the affordability of services, achieve value for money, and deliver a clear and transparent budget for Wales within their respective remits.
- 2.** This year, three committees decided to undertake an additional piece of cross-cutting budget scrutiny. Recognising the importance of assessing the impact of the Welsh Government's draft budget on the people of Wales, the Finance Committee, the Children, Young People and Education Committee, and the Equality, Local Government and Communities Committee decided to meet together to look in more detail at the Welsh Government's approach to draft budget impact assessments.
- 3.** Each Committee has made a number of separate recommendations in recent years about the Welsh Government's approach to draft budget impact assessments. This year, we chose to work together with a view to improving the approach in a coordinated, cross-portfolio way.
- 4.** This is the first time we have worked together on the draft budget. As a starting point, we focused our work on how the Welsh Government's impact assessments take account of matters relating to equalities and children. In future years, we hope our work will provide a useful model for other committees to work together on areas of mutual interest, including issues such as the environment, health, the economy and the Welsh language.
- 5.** Given our focus on equalities and children, we limited our joint evidence gathering to the Equality and Human Rights Commission, the Children's Commissioner for Wales and the then Cabinet Secretary for Finance, Mark Drakeford AM and then Leader of the House with responsibility for equality, Julie James AM. We would like to thank them for the constructive way in which they engaged with us in our experimental approach, and look forward to building on this innovation in future years.
- 6.** We have reported in March 2019 with the aim of enabling sufficient time for our conclusions to inform the preparation of the Welsh Government Draft Budget

2020-21 and its associated impact assessment. We look forward to receiving a response to this report in due course and hope to work with the Welsh Government and relevant statutory Commissioners to continue our cross-cutting work in this area in future financial year.

2. What is the purpose of an impact assessment?

The Welsh Government publishes an impact assessment alongside its draft budget each year.

7. The impact assessment has changed significantly in recent years. In 2011-12 the Welsh Government was the first government in the UK to publish an equality impact assessment of its budget, and in 2010 it published an analysis of its spending on each age group for the first (and only) time. In 2015-16 many different impact assessments were amalgamated into one (the “strategic integrated impact assessment” (SIIA)).

8. The current SIIA endeavours to assess the entire budget for its impact on:

- equalities and human rights;
- children’s rights;
- the Welsh language;
- climate change;
- rural proofing;
- health;
- biodiversity; and
- economic development, with socio-economic disadvantage as an underpinning consideration.

9. The Welsh Government has various legal obligations to assess the impact of its policies and budgets, including:

- The **Welsh specific public sector equality duties**, which stipulate that devolved public bodies must assess the equality impact of proposed policies and practices, publish reports of assessments where they show a substantial impact, and monitor the ongoing impact. The duties require that impact assessments must set out: the purpose of the policy or practice, the assessment methodology (including engagement), the

evidence that has been used to make the assessment, results, and the decisions taken.

- **The Rights of Children and Young Persons (Wales) Measure 2011**, which requires Welsh Ministers to have due regard to the rights and obligations in the UN Convention on the Rights of the Child (UNCRC). Compliance with the UNCRC requires states to analyse public expenditure on children and determine that in line with Article 4 of the Convention they are spending the “maximum available resources” to fulfil children’s rights. Children’s Rights Impact Assessments seek to translate the UNCRC into practice and the Welsh Government has stated they inform the “due regard” duty.
- **The Well-being of Future Generations Act**, which requires public bodies in Wales to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change. There are seven wellbeing goals relevant to equality and children’s rights, including “a more equal Wales”, and “a prosperous Wales”.

Problems with the current impact assessment

10. While acknowledging there were some improvements to the SIIA on previous years, the Children’s Commissioner told us that “the use of SIIA appears to have weakened the position on children’s rights being actively considered as part of decision making processes”.¹

11. The Equality and Human Rights Commission (EHRC) told us that “there’s a lack of clarity about what actually has been assessed”,² and the Future Generations Commissioner told the Finance Committee that:

“I think impact assessment is getting it entirely the wrong way around and isn’t really actually applying the principles of the future generations Act, because it suggests that we’ve taken a decision, we’ve decided to do something and then we’re assessing the impact of that, whereas the

¹ Concurrent Committee, [CONCURRENT-15-11-18-PI: Children’s Commissioner](#), written evidence, 31 October 2018

² Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 10

future generations Act is about taking the decisions that are going to maximise your contribution to the goals.³

12. Witnesses criticised the SIIA for using equality, children rights and other factors as tools for justifying spending, rather than demonstrating how those factors influenced decision making.

13. The Children’s Commissioner told us that “[mentions of the UNCRC] appear to have been used to back up the particular decisions and allocations that have been made rather than analysing the impact of different options”.⁴ The EHRC said that “it appears to be more of a narrative about, ‘This is what we’ve done’”.⁵

14. Following the former First Minister’s commitment in 2018 to make Wales a world leader in gender equality,⁶ the Welsh Government commissioned a “rapid review” of its policies to increase gender equality. The first phase of the review was published in June 2018. In relation to the SIIA it concluded that “while the aim of better integration is to be welcomed, in practice the SIIA has resulted in a more limited discussion of equality impact, with little critical analysis through a gender lens”. It cited the “ongoing” issues with the SIIA as a “significant issue to address”.⁷

15. Phase 2 of the gender review will assess the integrated impact assessment tool for its compliance with the public sector equality duties in more detail.⁸

Purposes and aims

16. It was also clear from the evidence that there are different interpretations of what the purpose and aim of an impact assessment should be. The EHRC explained:

“Budget-allocation is a fundamental practice for which the Welsh Government is required to demonstrate it has assessed the equality impacts and, having considered this, have ‘due regard’ (i.e. give appropriate weight) to the results of the assessments. This requires the Welsh Government to consider taking action to address any issues

³ Finance Committee, Record of Proceedings, 15 November 2018, paragraph 222

⁴ Concurrent Committee, [CONCURRENT-15-11-18-PI: Children’s Commissioner](#), written evidence, 31 October 2018

⁵ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 10

⁶ Welsh Government, [First Minister’s speech to Oxford University](#), 8 March 2018

⁷ Chwarae Teg, [Rapid Review of Gender Equality 2018: Phase One](#), June 2018, page 46

⁸ Chwarae Teg, [Rapid Review of Gender Equality 2018: Phase One](#), June 2018, page 47

identified, such as addressing negative impacts within the budget setting process.”⁹

17. The Children’s Commissioner stated:

“A [child’s rights impact assessment (CRIA)] would [...] consider the potential impact that any proposed policy, legislation, budget or change in administrative services could have on children and their rights, prior to enactment or implementation. This process is said to help ensure effective protection and realisation of rights, and to avoid any adverse impact.”¹⁰

18. The 2016 Welsh Government commissioned report¹¹ by the Wales Centre for Public Policy (WCPP) into improving impact assessments described impact assessments as:

“a structured understanding of the consequences (intended and unintended) of governmental actions and interventions which can be applied to legislation (primary and secondary), to significant policy developments, and also (potentially) to significant investments and budgetary decisions.[...] They are conducted ex ante [i.e. before the event, based on forecasts] (and ideally early in the policy development/legislative/investment cycle) but potentially linked to ex post evaluation [i.e. after the fact].”

19. The former Leader of the House outlined the Welsh Government’s view of the purpose of impact assessments:

“the ultimate aim [is] better decisions, better outcomes, better impact for your policy, not just [...] minimising the impact of your policy, but actually maximising the impact of your policy. So, an impact assessment isn’t just, ‘It isn’t discriminating against a particular group’; it’s also, ‘Is it assisting particular groups, is it actually advancing the cause of equality [...]’.”¹²

⁹ Concurrent Committee, [CONCURRENT-15-11-18-P2: Equality and Human Rights Commission](#), written evidence, 5 November 2018

¹⁰ Concurrent Committee, [CONCURRENT-15-11-18-P1: Children’s Commissioner](#), written evidence, 31 October 2018

¹¹ Wales Centre for Public Policy (then known as the Public Policy Institute for Wales) [Reducing Complexity and Adding Value: A Strategic Approach to Impact Assessment in the Welsh Government](#), February 2016

¹² Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 94

Case study 1 – Mental Health

Using the mental health section of the 2019-20 SIIA as an example, it is difficult to see how this (in the words of the WCPP) serves as a “structured understanding of the consequences (intended and unintended) of governmental actions [and] budgetary decisions”:

“Mental well-being improves from younger ages until very old ages but life satisfaction dips during middle age. Girls score significantly poorer than boys on the moods and feelings scale and are more likely to self harm.

The £675m we will spend on mental health services in 2019-20 supports all ages, but we are focusing £15m from the additional funding allocated to A Healthier Wales to support some of the most vulnerable – young people, those with learning difficulties, the homeless and perinatal mental health services. This will have a positive impact on people with certain protected characteristics, including younger people, disability and pregnancy.

The additional investment in the health service and A Healthier Wales supports children under the UNCRC through Article 6 (All children have the right to life. Governments should ensure that children survive and develop healthily), Article 23 (Children who have any kind of disability should have special care and support so that they can lead full and independent lives) and Article 24 (Children have the right to good quality healthcare).”¹³

This section of the SIIA does not acknowledge that men in Wales were over four times more likely than women to die by suicide.¹⁴ It does not specify which budget lines are targeted at addressing inequality, and how decisions were made about the level of funding allocated and how it was prioritised against other policies.

Another omission from the SIIA is any reference to the mental health ringfence, which has been in place since 2008 (and remains following a 2015 review) with the aim of protecting investment in mental health services. Neither does it mention any consideration of further ring-fencing spending on children within this, despite numerous recommendations in this regard.

¹³ Welsh Government, [Draft Budget 2019-20 detailed proposals](#), page 71

¹⁴ Equality and Human Rights Commission, [Is Wales Fairer? \(2018\)](#), October 2018, page 66

Case study 2 – The Valleys Taskforce

The Ministerial Taskforce for the South Wales Valleys was set up by the Welsh Government in July 2016 and published its action plan, [Our Valleys, Our Future](#) in July 2017. The plan presented the high level priorities of the taskforce including: good-quality jobs and the right skills to do them; better public services; and local communities.

Giving evidence to the Finance Committee, the Bevan Foundation questioned the clarity surrounding the aims and intended scale of this work. The representative explained that the figures presented in budget documentation were not always contextualised sufficiently to enable conclusions to be drawn about whether the allocated funding is likely to deliver the intended outcomes.¹⁵

The 2019-20 [outline budget](#) states:

“Funding of £25m capital has been allocated to develop seven strategic hubs across the South Wales Valleys to create employment and investment opportunities. These underpin the benefits that employment brings, from positive mental and physical health impacts to economic and social sustainability for an area.”

Whilst the [equality impact assessment](#) published in November 2017 is cited, it is not clear from the narrative what the specific results of the additional funding will be to the area, or why this funding stream was prioritised over alternative uses of that money.

Transparency

20. The evidence we received was unified on the fact that impact assessments are critical tools for government transparency. The Children’s Commissioner told us that she wanted the SIIA to act as a signpost to further analysis about why a particular decision was made and what factors were considered:

“...each line relating to different groups needs to link back to really effective impact assessments that have been done at the policy-development level, and then that can be linked back to or summarised to explain why this spending decision has been made, whether it’s an increase in funding or a cut in funding, what impact it has on children and on different groups of children. Really, it’s often too late to do it at

¹⁵ Finance Committee, Record of Proceedings, 25 October 2018, paragraph 58

the budget level. We would want that decision to be made much earlier.”¹⁶

Case study 3 – Financial support for school uniform

The Welsh Government announced the creation of the Pupil Development Grant (PDG) Access Fund in June 2018. The Access Fund provides up to £125 to families of pupils eligible for free school meals to help with costs for school uniform and other equipment. This development emerged following the ending of the £700,000 School Uniform Grant in the 2018-19 budget.

When it emerged that the School Uniform Grant would end, the CYPE Committee wrote to the Minister for Education¹⁷ to express concern that this decision was not explained in any of the Welsh Government’s 2018-19 budget documentation, including the SIIA. The Committee also raised concerns about a lack of transparency, querying whether this experience illustrated an inherent weakness in an SIIA’s ability to examine specific funding decisions.

21. The Children’s Commissioner told the three committees:

“I think there probably are some good reasons to put [the school uniform grant] in the PDG access fund but I’d like to know more about why. Who will gain from it? Who might miss out from it? Who won’t be eligible for it?”¹⁸

22. The Children’s Commissioner went on to say that she is supportive of the overall impact assessment being published with the budget, but stated that without seeing the work behind the SIIA, it is not clear what factors have steered decision making.¹⁹ In her written evidence, she stated:

“Without any wider strategic statement that explains the government’s aims in relation to children’s policy, or more comprehensive analysis made available to the public on potential impact of each area of

¹⁶ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 14

¹⁷ Children, Young People and Education Committee, [Letter to the Cabinet Secretary for Education](#), 13 April 2018

¹⁸ Concurrent Committee, [CONCURRENT-15-11-18-P2: Equality and Human Rights Commission](#), written evidence, 5 November 2018

¹⁹ Concurrent Committee, [CONCURRENT-15-11-18-P2: Equality and Human Rights Commission](#), written evidence, 5 November 2018

funding on different groups of children, there is a risk that this becomes an overly simple equation.”²⁰

23. Similarly, the EHRC told us that publicly available assessments are key to demonstrating fulfilment of the equality duties:

“Documenting the budget assessment is important to ensure that the general and specific duties are being met. It is important that the Welsh Government makes its assessment public, in the interests of transparency and accountability.”²¹

24. There were also differences in opinion between the Commissioners and the Welsh Government about the depth of assessment needed to be demonstrated by the SIIA. A Welsh Government official told the Committee’s that:

“What we try and do in a budget impact assessment piece of work is to look at those marginal changes, not necessarily going all the way back to first principles. Most of those programmes have been through a very long development process to get to where they are, and what you’re doing in a budget is increasing or reducing the funding for those programmes.”²²

25. However, the Children’s Commissioner commented that:

“Decisions to allocate funding, whether for an entirely new pot of funding, cutting previous funding levels or amalgamating a number of grants, are all examples of Ministers exercising their functions. As such I would expect a CRIA to be completed in relation to those decisions and published alongside the budget (or record of the decision if this is taken outside of the budget round).”²³

26. One of the primary questions is whether, alongside the move towards integrated impact assessments, individual equality and child rights impact assessments are still being conducted on policy and budgetary decisions, or if the SIIA replaces them all. There was also confusion about whether the SIIA

²⁰ Concurrent Committee, [CONCURRENT-15-11-18-P1: Children’s Commissioner](#), written evidence, 31 October 2018

²¹ Concurrent Committee, [CONCURRENT-15-11-18-P2: Equality and Human Rights Commission](#), written evidence, 5 November 2018

²² Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 138

²³ Concurrent Committee, [CONCURRENT-15-11-18-P1: Children’s Commissioner](#), written evidence, 31 October 2018

document published alongside the draft budget is a summary of the assessment process, or the full assessment.

27. The then Cabinet Secretary for Finance, Mark Drakeford AM, suggested that there was more documentation available than the 23 page SIIA, saying “if the committee would rather 123 pages, we could supply you with those without any difficulty”.²⁴

Case study 4 – Early Intervention, Prevention and Support Grant

In 2017, the Welsh Government proposed to merge a range of housing and non-housing related grants currently provided to local authorities into a larger, single grant. The proposed “Early Intervention, Prevention and Support (EIPS) Grant” would include funding for flagship programmes such as Supporting People, Flying Start, Families First and Communities for Work Plus, amounting to £250 million a year.

The aim was to reduce administration costs to help deliver “efficiency savings” of £13 million a year and allow local authorities to work differently.

Cymorth Cymru and other housing organisations criticised the move, **stating** that “funding currently ring-fenced for homelessness and housing-related support services for marginalised groups could be lost to more politically popular services within the proposed EIPS grant such as early years, health visitors and childcare”.

The proposal was announced in the **detailed draft budget 2018-19**, but was not addressed at all in **the SIIA** (which was only undertaken on the outline budget proposals for 2018-19). The ELGC Committee **raised concerns about the proposal**, and recommended that the Welsh Government outline its rationale and evidence base for the decision, and monitor the pilot projects to ensure that de-hypothecation does not lead to vulnerable people falling between the gaps in services.

In May 2018, the Assembly’s Public Accounts Committee **highlighted** that while “there may be scope to better integrate grant programmes to achieve better outcomes, we have serious reservations about the way the proposals for the new integrated grant were developed and announced in the fine detail of the Welsh Government’s budget proposals”.

In October 2018, following an evaluation of the pilot schemes and campaigning by various organisations, the Welsh Government **announced** it would split the single grant into two “housing” and “non-housing” grants, which was **welcomed** by the sector.

²⁴ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 135

Engagement and expertise

28. The Commissioners told the committees that they had minimal input into the new SIIA tool. The Children’s Commissioner was particularly confused about the process:

“I thought I had had some involvement in the development of the integrated assessment tool, but it turns out it was a different one. There are two at the moment, as far as I’m aware, in Welsh Government. [..]

But this turns out to be a different one that’s being used in a different way, and I haven’t actually seen the details of this tool. I hadn’t realised it was a different tool and it explains, really, why I had slightly confusing discussions with some officials over the summer when I was told this was now being implemented from July.”²⁵

29. Rachel Thomas from the Children’s Commissioner office went into further detail:

“because of our concerns about the budget process last year, we’d expressly asked to be involved and to make sure that children and children’s rights were more prominent within the process. And we did meet with the Cabinet Secretary for Finance on this. But then, we were led down another avenue where we had involvement in the children’s rights aspects of the same name—the SIIA—that’s been used by policy officials in Welsh Government since July of this year. So, we haven’t had any input at all into the budget version.”²⁶

30. The EHRC said that they “had some work with it early on in development, so we had sight of it fairly early on” but “haven’t had ongoing involvement in its development”.²⁷

31. The then Leader of the House said that the new SIIA tool has been developed with a range of stakeholders:

“The future generations commissioner’s officials met with our senior officials to go through the overall approach, to comment on various drafts of the tool and guidance. We had a representative from Children in Wales, and the NHS equalities network, facilitated by Public Health

²⁵ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 21

²⁶ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 22

²⁷ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 20

Wales, involved from an early stage to develop the tool and guidance, and each network had a set of discussions themselves around where we were and provided feedback into the working group of officials who were developing the tool. So, it was an iterative process between the feedback from them to the officials, the officials doing a draft, it going back through the networks, and then coming back again. So, it went back and forth.”²⁸

Our view

- 32.** It is clear that the current SIIA does not provide an effective analysis of spending decisions, and could arguably be failing to fulfil its legislative requirements as a result. What is less clear is how the SIIA could be improved and whether individual impact assessments aid transparency.
- 33.** The evidence we received suggested that even expert stakeholders are unclear about the basic principles and processes behind the Welsh Government’s approach to the budget impact assessment.
- 34.** We believe that there needs to be an agreement between the Welsh Government, the National Assembly, the Future Generations Commissioner, the EHRC and the Children’s Commissioner (as well as other key offices such as the Older People’s Commissioner) on the purpose and expectations of the SIIA. Is it a summary of an assessment process, or a single assessment of the predicted impact of all budget allocations? Should it describe what factors were involved in decision making or should it signpost to individual, more detailed impact assessments?
- 35.** In response to the criticism of the SIIA by the Welsh Government-commissioned gender review, the then Leader of the House noted that the gender review was a “snapshot in time”, and illustrated how the Government looked on this issue from an external perspective. She noted that many of the recommendations of the review were things that the Welsh Government does do, but that are not visible externally. We consider that this is potentially the issue with the impact assessment process of the budget – more detailed individual assessments of decisions may be undertaken, but not published.
- 36.** We acknowledge that the Government’s impact assessments are constantly evolving, and we appreciate the then Cabinet Secretary’s comment that “we learn a lot from the things the committees tell us about the way the budget has

²⁸ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 90

worked in a particular year” which will hopefully lead to “an even more effective tool for next year”.²⁹

37. The Welsh Government needs to be specific about what it anticipates the outcome of spending decisions to be. More detail is required as to how decisions have been reached and the SIIA should detail where spending decisions may have negative as well as positive impacts. We therefore welcome the Welsh Government’s acceptance of the Finance Committee’s recommendation that future impact assessments should clearly identify any negative impacts of decisions and different options that might have been considered in reaching spending decisions, rather than focusing on the positive aspects alone.

38. It is hard to see how the current SIIA can be used effectively to understand or scrutinise very important decisions. This conclusion has been reinforced by many Assembly committees over the years, and the Welsh Government-commissioned PPIW and Gender reviews.

39. The Welsh Government should think more creatively and ambitiously about how it can satisfy its various legal obligations, improve the transparency of its decision making, and be at the forefront of developing innovative decision making analyses. For example, consideration could be given to whether there is a case for the SIIA to be an online portal rather than a static document, where an overall narrative links directly to detailed individual assessments and evidence.

40. To inform future improvements in assessing the impact of budget decisions, we would welcome the commissioning by the Welsh Government of a focused piece of work to consider the progress made in relation to SIIAs. We think this should be done at the end of this Assembly and should consider matters such as (but not restricted to) the tool’s relative complexity, how the tool has approached the weighting of multiple rights and impacts, and the uses made of the tool’s outputs.

Recommendation 1. That the Welsh Government clearly sets out the SIIA process (in greater detail than provided previously), its purpose and expected outcomes, following engagement with and agreement from the relevant statutory commissioners.

Recommendation 2. That the Welsh Government publish all of its individual impact assessments to a central location, which can then be referenced by the SIIA.

²⁹ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 65

Recommendation 3. That the Welsh Government commission, at the end of this Assembly, a focused piece of work to consider the progress made in relation to SIAs. This should consider matters such as (but not restricted to) the tool's relative complexity, how the tool has approached the weighting of multiple rights and impacts, and the uses made of the tool's outputs.

3. Integration of legislation

The Welsh Government is required to assess the impact of its actions by various pieces of legislation. Witnesses told us that while the overall intentions of these requirements are similar, they are not entirely integrated.

41. For instance, the EHRC told us that “fewer public bodies are subject to the well-being of future generations Act than are subject to the PSED (public sector equality duties)”,³⁰ such as schools, and further and higher education bodies. The EHRC also highlighted that the public sector equality duties require that “due regard” is paid, whereas the duties under the Well-being of Future Generations Act require that “reasonable steps” are taken – an approach considered to be “more progressive” by the EHRC.

42. The Children’s Commissioner noted that “the principles of [the future generations Act] are compatible with children’s human rights and with the public sector equality duty, but they don’t and cannot replace them. It’s not a human rights Act in any sense”.³¹

43. Last year’s Welsh Government-commissioned gender equality review suggested that the Well-being of Future Generations Act was supplanting existing duties. The Review concluded:

“This lack of integration is not a new problem. There has been a tendency, when new duties are introduced, that existing duties are supplanted rather than integrated. For example, there has been little focus on the mainstreaming duty outlined in the Government of Wales Act 2006, since the introduction of the Equality Act and Welsh Specific Equalities Duties.

There is a risk that the same is happening with the WFG Act supplanting the equalities duties. Increasingly discussions of equality are framed within the WFG Act, with much broader and vague issues considered rather than detailed, explicit analysis of gender inequality.

³⁰ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 65

³¹ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 61

Take for example recent National Assembly for Wales Finance Committee reports on the draft budget, in which scrutiny of impact assessment now focuses predominantly on WFG Act alignment and not equalities impact.”³²

44. The Future Generations Commissioner told the Finance Committee that “the number of impact assessments that Welsh Government have to go through to test policy areas is completely unmanageable”, but that “we probably haven’t provided the training, expertise and capacity for those people who are completing the impact assessments, and I’m not sure that the process itself is actually getting us to the right endgame; it just gives us comfort to say that we’ve gone through it”.³³

45. The EHRC noted that, by layering requirements on top of requirements, there is a risk that people can slip through the gaps.³⁴

46. The Leader of the House acknowledged this, stating that:

“There’s a problem with layering because of the way that you interpret the laws in England and Wales, in that the most recent has the most weight. So, you might inadvertently undermine an earlier Act by putting a new duty in that perhaps isn’t as strongly worded as the one in an earlier Act.”³⁵

47. She told the Committee that she has commissioned a piece of research exploring the best way of incorporating various international treaties and the Equality Act’s socio-economic duty into Welsh law alongside existing duties.

48. The Future Generations Commissioner acknowledged that the integrated approach to the impact assessment leads to fears that individual elements are minimised, or that one element will displace others in decision making. She noted:

“there are perhaps some sensitivities with other organisations, commissioners, groups who want their specific area to be covered in detail. I think that there’s a way of finding a way where there’s a lighter touch, high-level impact assessment across, using the future generations Act as a framework, and then a deeper dive where specific

³² Chwarae Teg, [Rapid Review of Gender Equality 2018: Phase One](#), June 2018, page 35

³³ Finance Committee, Record of Proceedings, 15 November 2018, paragraph 223

³⁴ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 17

³⁵ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 112

impacts have been identified to still cover those areas that are important.”³⁶

49. The Leader of the House explained that a meeting of the Future Generations Commissioner’s Advisory Committee, which includes various commissioners and organisations, in November 2018 would “provide an opportunity for all the commissioners to discuss all the opportunities and challenges of the integrated impact assessments collectively, on the tool”.³⁷

50. The Future Generations Commissioner advocated for using the Act as an overarching framework for the SIIA:

“What I recognise is that I think—not just because I’m the future generations commissioner—genuinely the future generations Act can provide this overarching framework for strategic impact assessment [..]

We had already developed something called the future generations framework, which I wouldn’t describe as an impact assessment, but some of the things could be drawn from that to help with this, and some of the things that you see in the strategic impact assessment have been drawn from that framework.”³⁸

51. This was also a recommendation of the WCPP review, which said “the Well-being of Future Generations (Wales) Act 2015 [should] provide a key integrating framework for all assessments of impact”.³⁹

Our view

52. Wales has various innovative laws that require many factors to be taken into account during decision-making (whether in relation to policies, laws or budgets).

53. It is clear that while many of these overlap, there are some differences in the scope and detail of the requirements. It is also clear that adding more elements through further incorporation of international law, or by commencing the socio-economic duty, will exacerbate these problems.

³⁶ Finance Committee, Record of Proceedings, 15 November 2018, paragraph 225

³⁷ Concurrent Committee, Record of Proceedings, 15 November 2018, paragraph 199

³⁸ Finance Committee, Record of Proceedings, 15 November 2018, paragraph 220

³⁹ Wales Centre for Public Policy (then known as the Public Policy Institute for Wales) **Reducing Complexity and Adding Value: A Strategic Approach to Impact Assessment in the Welsh Government**, February 2016, page 22

54. We welcome the then Leader of the House’s announcement that she has commissioned research on how the various legislative duties can be better aligned.

55. We also note the sensitivities about the individual elements of an integrated assessment. The SIIA is an important instrument where a careful, proportionate and effective balance needs to be found that fulfils legislative requirements without being overly burdensome. We were concerned at the comments of the then Leader of the House that “the most recent [law] has the most weight”. We consider that the requirements of all pieces of legislation should be weighted equally.

56. The focus of all of this work should be “what approach will be most effective?”, rather than “which element of the assessment is the most important?”. This is why we consider it imperative that the Welsh Government goes back to fundamental principles, to understand why it conducts an assessment, who uses it, what they hope to understand from it, what’s the best method for presenting it, and what the process is. This needs to be done with the assistance of the various statutory commissioners, as we were concerned at the lack of involvement they reported having in the development of the SIIA tool.

57. We agree with the WCPP and Future Generations Commissioner that it appears sensible to use the Well-being of Future Generations Act as a framework for the SIIA. But as we outlined in the first section of this report, it is even more important to publish individual, detailed impact assessments that link to the SIIA.

Recommendation 4. That the Welsh Government commit to using the Well-being of Future Generations Act as a framework for the SIIA. Given our committees’ areas of focus, we believe that priority should be given to working with the Children’s Commissioner and EHRC to ensure that the legislative requirements in relation to equality and children’s rights are fully and effectively reflected in the assessment process.

Recommendation 5. That the Welsh Government provide an update to the Committees on the outcomes of the November 2018 meeting of the commissioners, and when it is anticipated the research commissioned on the integration of duties will be published.

Annex A: List of oral evidence sessions

The following witnesses provided oral evidence to the Committees on the dates noted below. [Transcripts of all oral evidence sessions](#) can be viewed on the Committee's website.

Date	Name and Organisation
15 November 2019	<p>Ruth Coombs, Head of Wales, Equality and Human Rights Commission</p> <p>Professor Sally Holland, Children's Commissioner for Wales</p> <p>Rachel Thomas, Head of Policy and Public Affairs, Children's Commissioner for Wales</p>
15 November 2019	<p>Mark Drakeford AM, Cabinet Secretary for Finance</p> <p>Julie James AM, Leader of the House and Chief Whip</p> <p>Andrew Jeffreys, Director, Treasury, Welsh Government</p> <p>Matt Wellington, Head of Programme for Government Reporting and Analysis, Welsh Government</p> <p>Paul Dear, Head of Equality, Welsh Government</p> <p>Anthony Jordan, Head of Programme and Legislative Implementation, Welsh Government</p>

Annex B: List of written evidence and Committee reports

The following people and organisations provided written evidence to the Committees.

Organisation	Reference
Children's Commissioner for Wales	<u>CONCURRENT-15-11-18-P1</u>
Equality and Human Rights Commission	<u>CONCURRENT-15-11-18-P2</u>
Welsh Government	<u>CONCURRENT-15-11-18-P3</u>

Committee reports	Reference
Finance Committee	<u>CR-LD11905</u>
Children, Young People and Education Committee	<u>CR-LD11901</u>
Equality, Local Government and Communities Committee	<u>CR-LD11900</u>