

Equality Impact Assessment



UPDATED – June 2019

Executive Summary

The public sector equality duty requires the Scottish Government to assess the impact of applying a proposed new or revised policy or practice. Equality legislation covers the protected characteristics of: age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, sex, sexual orientation and religion and belief.

The Equality Act 2010 harmonised existing equality legislation and includes a public sector duty ('the Duty') which requires public authorities to pay due regard to the need to:

- Eliminate discrimination, harassment, victimisation or any other prohibited conduct;
- Advance equality of opportunity; and
- Foster good relations between different groups - by tackling prejudice and promoting understanding.

This Equality Impact Assessment (EQIA) has considered the potential impacts of the Planning (Scotland) Bill (the Bill) as amended at Stage 2 on each of the protected characteristics. It also includes further analysis of the data leading to specific amendments at Stage 3. The provisions and how they impact on people across the protected characteristics are set out under Key Findings.

In order to begin to determine the potential equality impact of the proposals undertook an initial review of equality issues in the Government's Equality Evidence Finder alongside evidence from the Planning Review plus previous consultations undertaken by the Government's Planning and Architecture Division. This information led to a partial EqIA published in January 2017 alongside the consultation paper Places, People and Planning which contained a specific equality question, namely:

35. Do you think any of the proposals set out in this consultation will have an impact, positive and negative, on equalities as set out above. If so, what impact do you think that will be?

A further Position Statement was published in June 2017 which attracted around 120 comments. This iteration of the EQIA has been developed based on the findings of the review.

Through enhanced participation, the Bill is intended to be of positive benefit to Scotland's communities, regardless of whether they fall into one or more protected groups. The EQIA has not identified any Bill provisions that would adversely impact on such groups. The evidence gathered and data analysed indicate that overall the Bill provisions will have a positive impact on equality matters. As a result, this assessment supports a number of amendments made to the Planning Bill at Stage 2 and considers new amendments introduced by the Scottish Government at Stage 3. A range of other matters would additionally be best considered in the implementation of the resultant Act.

Background

The Bill provisions will strengthen processes, engagement and participation right across the planning system and in delivery of the planning service. The aims of the Scottish Government in introducing the Bill were to:

- Focus planning, and planners, on delivering the development our communities need, rather than focus on continuous writing of plans.
- Empower people and communities to get more involved and to have a real influence over future development.
- Strengthen the strategic role of planning in coordinating and supporting the delivery of infrastructure needed to support development, including much-needed housing.
- Reduce complexity, improving accountability and trust in planning processes and decision-making.

The case for the Bill as introduced is set out fully in the Policy Memorandum¹ published alongside the Bill on its introduction to the Scottish Parliament. As amended at stage 2 the Bill introduces:

- Core purpose(s) for the planning system;
- Revised procedures for the preparation, and enhanced status of the National Planning Framework;
- Revised procedures for the preparation of local development plans;

¹

[https://www.parliament.scot/S5_Bills/Planning%20\(Scotland\)%20Bill/SPBill23PMS052017.pdf](https://www.parliament.scot/S5_Bills/Planning%20(Scotland)%20Bill/SPBill23PMS052017.pdf)

- Procedures for the preparation and adoption of local place plans;
- New procedures to introduce Masterplan Consent Areas;
- Procedures to introduce Culturally Significant Zones;
- Amended requirements on the scrutiny of planning applications; and
- Provisions to introduce an Infrastructure Levy.

The Bill will support a range of National Outcomes including:

- We live in communities that are inclusive, empowered, resilient and safe.
- We are healthy and active
- We value, enjoy, protect and enhance our environment
- We have a globally competitive, entrepreneurial, inclusive and sustainable economy

Key findings

Delivering the aims of the Bill

Plan-making focussing on the developments communities need

Development planning provides the strategic vision for the development of Scotland, at both the national and local level.

In its consideration of the Bill at Stage 2 the Parliament's Local Government and Communities Committee (LGCC) agreed to amendments providing for two conflicting core purposes for the planning system. In considering its approach to these amendments, the Scottish Government noted the aims of the National Performance Framework² to:

- create a more successful country
- give opportunities to all people living in Scotland
- increase the wellbeing of people living in Scotland
- create sustainable and inclusive growth

The National Performance Framework provides a framework for collaboration across the whole spectrum of Scotland's civic society, including public and private sectors, voluntary organisations, businesses and communities. It is based on delivering outcomes that improve the quality of life for the people of Scotland. The National Outcomes also reflect the values and aspirations of the public, expert stakeholders and

² <https://nationalperformance.gov.scot/>

Ministers, and improve alignment with the UN's Sustainable Development Goals and other frameworks.

The Framework also aims to reduce inequalities and gives equal importance to economic, environmental and social progress. The Government would therefore support links between the core purpose of planning and the National Performance Framework. Thus requiring Ministers and planning authorities to consider the outcomes as part of their strategic policies.

At a Scotland-wide level, the role of the National Planning Framework is to be enhanced. As well as being a national spatial plan, it will incorporate national land-use planning policies which were previously contained in Scottish Planning Policy. The National Planning Framework will also form part of the development plan.

It is therefore key that the in preparation of the National Planning Framework and local development plans, these documents reflect the broad needs and aspirations of communities. Further details can be found below.

Empowering people and communities

The issue of participation in the planning system is one that the Scottish Government is keen to address. Concerns about the participation of people across a range of protected characteristics were identified in *Hard to Reach, Easy to Ignore*³ (2017) which identified that issues such as language barriers, lack of confidence and dominant characters can discriminate against some people. It goes on to specify women, minority ethnic groups, young and old people and people with disabilities. This supports the outputs from the *Barriers to Community Engagement in Planning* research⁴ (2017) commissioned by the Scottish Government.

In response, the Government supports an over-arching requirement for engagement with the public at large to be included in the Bill at Local Development Plan stage. This is supplemented by a requirement for Ministers to prepare statutory guidance on effective community engagement. Additional requirements have been included to specifically

³ <http://whatworksscotland.ac.uk/wp-content/uploads/2017/12/WWSHardToReachOrEasyToIgnoreEvidenceReview.pdf>

⁴ <https://beta.gov.scot/publications/barriers-to-community-engagement-in-planning-research/>

consider the views of disabled people, children and young people plus Gypsies and Travellers as planning authorities develop their Local Development Plans.

The introduction of statutory guidance on engagement with communities will additionally advance equality of opportunity across all protected characteristics. Baseline material is already available including work by the Scottish Community Development Centre following on from the revision of the National Standards for Community Engagement. The provisions require Ministers to consult on the contents of the guidance, and this will be a key component of ensuring that the guidance is fit for purpose.

One of the main provisions to empower communities is the introduction of Local Place Plans (LPPs), where communities themselves are able to set out the vision for their place. There is general support for the introduction of LPPs – including in the survey of children and young people undertaken by YoungScot⁵ as part of the consultation on planning reforms (2017) - although concerns were raised around adequate resourcing and how more deprived communities will be able to benefit from their introduction. Much of the detail about how LPPs will work in practice will derive from secondary legislation. Such legislation will be subject to consultation and additional impact assessment before being scrutinised by Parliament.

Delivering development and infrastructure, including housing

The Scottish Government's ambition is that everyone in Scotland should have a home that is warm, affordable and accessible. Programme for Government 2018-19⁶, committed the Scottish Government to begin work on a vision for how our homes and communities should look and feel by 2040 and the options and choices to get there.

Work is already progressing on the development of a long-term strategy for Scotland's housing. In May 2019, the Scottish Government published a report on stakeholder feedback received following an initial phase of stakeholder engagement in autumn 2018, and an outline of next steps for housing to 2040. Issues around place and the role of planning were raised by stakeholders.

⁵ <https://beta.gov.scot/publications/planning-review-young-scot-survey-results-june-2017/>

⁶ <https://www.gov.scot/programme-for-government/>

A number of amendments at Stage 2 were accepted by the LGCC which introduced requirements on Ministers and planning authorities to consider the housing needs of both older and disabled people and to report on the action taken. In coming to a view on these amendments, Ministers have sought to strengthen existing practice, reduce complexity, repetition and also remove matters which are not appropriately part of the planning system. This has been done while retaining the overall spirit of the amendments to ensure that these matters are considered at development plan stage. Ministers have also lodged an amendment for stage 3 which additionally reflects the particular accommodation needs of Gypsies and Travellers. Further details can be found below.

Reducing complexity, improving trust and accountability

Reducing complexity was a key aim of the planning review. This included the reduction in the number of layers of plans. With the number of amendments accepted at Stage 2, the Minister for Local Government, Housing and Planning noted that the complexity of the Bill as it currently stands was a concern. With that in mind, a number of amendments proposed by the Government have sought to reduce that complexity and focus the planning system on the key areas that it can appropriately control and influence. These changes have been suggested with the potential impact of the amendments in mind.

Barriers to community engagement in planning (2017) suggested that ‘there needs to be a climate of mutual trust, respect and confidence between the key players in the planning system: communities, planning authorities, landowners and developers.’

In coming to a view on proposals for Stage 3, the Scottish Government has considered the issues of trust and accountability. It remains committed to supporting the front-loading of participation but also considers that as well as ensuring that participation is meaningful and proportionate, those who have taken time to engage should be assured that their comments are taken into account. There are already requirements on Ministers and planning authorities to prepare participation statements to shape the preparation of their plans. The Scottish Government has lodged an amendment which will require that the evidence report is also to include a statement on the steps taken by the planning authority in preparing the report to seek the views of the public at large and the extent to which the views expressed have been taken into account.

These provisions have the potential to reduce indirect discrimination plus eliminate advance equality of opportunity across protected characteristics.

Age:

Relationship between Planning and Age

Planning is concerned with creation of better places. This requires development that can accommodate future changes of use, taking into account how people use places differently, for example depending on age and degree of personal mobility.

On 30 June 2018⁷, Scotland's population was the highest ever at 5,438,100. Scotland's population is projected to grow to 5.58 million in 2026, and to continue rising to reach 5.69 million in 2041. In the year to mid-2018, just under one in five people (19%) were aged 65 and over. However by 2041, one in four people (25%) are projected to be in this age group.

The 2017 Scottish Household Survey⁸ found that almost nine in ten adults (87 per cent) aged 75 and above said they felt a very or fairly strong sense of belonging to their community, compared to just over seven in ten (73 per cent) of those aged between 16 and 24.

Housing for older people is currently covered in the specialist housing section of Scottish Planning Policy⁹ (2014). As part of the Housing Need and Demand Assessment (HNDA), local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for older people and disabled people.

The Scottish Government's Programme for Government (2018) stated that 'we will ensure that we listen to the voices of children and young people in the decisions that affect them now and will incorporate the principles of the UN Convention on the Rights of the Child into domestic

⁷ <https://www.nrscotland.gov.uk/files//statistics/population-estimates/mid-18/mid-year-pop-est-18-pub.pdf>

⁸ <https://www.gov.scot/publications/scotlands-people-annual-report-results-2017-scottish-household-survey/>

⁹ <https://www.gov.scot/publications/scottish-planning-policy/>

law.' The partial Children's Rights and Wellbeing Impact Assessment accompanying the Bill recognised that there were two key relevant Articles: Article 12; the right to give an opinion, and for adults to listen and take it seriously; and Article 31: the right to play and rest.

Specific issues arising from evidence

Housing for Older People

It was suggested by stakeholders during the consultation in advance of the Bill that the planning system should consider issues relating to housing for an ageing population. Comments particularly included housing, with support for the delivery of well-located and managed specialist housing for older people. Housing was also an issue raised by young people, with issues of safety raised.

Further information on the views of stakeholders on housing issues can be found in Housing to 2040 - Report on stakeholder engagement in 2018¹⁰ (2019) which provides stakeholder feedback following an initial phase of stakeholder engagement to develop a vision for housing in Scotland in 2040.

Participation

Hard to Reach, Easy to Ignore (2017) identified that issues such as language barriers, lack of confidence and dominant characters can discriminate against both young and old people.

The UN Committee on the Rights of the Child¹¹ noted in its 2016 Concluding Observations on the implementation of the UNCRC in the UK that children's views are not systematically heard on issues that affect them.

Respondents suggested that the planning review was a chance to improve children and young people's contribution to place-making. The survey by YoungScot (2017) showed that children and young people were keen to engage in how their communities developed. This included through what was seen as the new model of Local Place Plans

¹⁰ <https://www.gov.scot/publications/housing-2040-report-stakeholder-engagement-2018/>

¹¹ <https://www.niccy.org/media/2536/un-concluding-observations-june-2016.pdf>

but also on the development plan. This was supported by a range of bodies which represented children and young people.

In support of its engagement on the Planning Bill, the LGCC commissioned an online survey¹² in 2018. The Stage 1 report noted that of the young people who responded, 58% said they will be very likely or likely to become involved in local place plans with 78% considering that there should be a duty on communities who draft local place plans to consult with young people.

Resettlement

Research¹³ in 2018 for Highlands and Islands Enterprise found that there is a deficit of young people in the Highlands and Islands – those aged 15-30 comprise 17% of the total population compared to 21% across Scotland – and this is projected to continue. Much of this deficit is a result of out-migration within the 15-19-year-old age group as significant numbers leave to pursue education and employment opportunities. Highlands and Islands Enterprise has said its survey of young people's aspirations and attitudes suggest a greater desire to stay in the area.

Open Space, Recreation and Play

In its report What kind of Scotland¹⁴ (2017), the Children's Parliament noted that children want to see streets and parks that are clean with lots of trees and flowers and that their local environment is well looked after and beautiful.

The UN Committee on the Rights of the Child noted in its 2016 Concluding Observations on the implementation of the UNCRC in the UK noted that with regard to Article 31 (the right to play), the Committee recommended that the devolved administrations should strengthen its efforts to guarantee the right of the child to engage in play and recreational activities. Together's State of Children's Rights in Scotland¹⁵

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https://www.parliament.scot/S5_Local_Gov/Inquiries/20180320_PB_Dialogue_SurveyAnalysis.pdf

¹³ <http://www.hie.co.uk/regional-information/economic-reports-and-research/archive/young-people-and-the-highlands-and-islands--maximising-opportunities.html>

¹⁴ http://www.parliament.scot/S5_Local_Gov/Inquiries/Page_19_-_Childrens_Parliament_report.pdf

¹⁵ <https://www.togetherscotland.org.uk/pdfs/TogetherReport2016.pdf>

(2016) encourages the introduction of Play Sufficiency Assessments akin to the model undertaken in Wales.

Opportunities to tackle discrimination and advance equality on Age

Housing for Older People

As noted above, housing for older people is currently covered in the specialist housing section of Scottish Planning Policy. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites. Ministers initially considered that these issues could be addressed at a local level through the current HNDA links with the development plan.

Through the passage of Stage 2, amendments were accepted by the LGCC which introduced multiple requirements on Ministers and planning authorities to consider the housing needs of both older and disabled people.

These included:

- The National Planning Framework must contain:
 - priorities for housing and for meeting the housing needs of older people and disabled people (section 1(2C)); and
 - national targets for the provision of housing suitable for older and disabled people and a statement setting out the consultation undertaken, and a summary of how the views of those consulted were taken into account by the Scottish Ministers in finalising the targets.
- The Scottish Ministers may direct planning authorities to provide them with information on the housing needs of older people and disabled people within their area.
- The Local Development Plan must include:
 - targets for the provision of housing for older people and disabled people for the part of the district to which it relates, taking into account the national targets set in the NPF;
 - information about the consideration of accessible design;
 - consideration of how current and future housing needs for older people and people with disabilities are to be met, and how the authority will insure that sufficient and appropriate sites are allocated for such housing;
 - the steps the planning authority intend to take to contribute towards the meeting of the targets set out in the NPF; and

- a detailed statement identifying land which has been designated for the development of housing suitable for older people and disabled people.
- In preparing the LDP the planning authority must also have regard to the housing needs of older people and disabled people in the district.

Although there is significant duplication, Ministers consider that provisions along these lines will offer the opportunity for the planning system to advance equality of opportunity for both older people and disabled people directly. With Census data also showing that more women are to be found in the older age range, it will also potentially indirectly advance equality of opportunity for women. The Government is seeking to replace these amendments by an overarching requirement for the NPF to state how development will achieve the outcome of ‘meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people’.

In relation to local development plans, the Scottish Government has lodged an amendment to consolidate the various requirements, providing that planning authorities must take into account “the housing needs of the population of the area, including, in particular, the needs of persons undertaking further and higher education, older people and disabled people”. The plan must also include targets for meeting those housing needs.

Amendments were accepted at Stage 2 introducing section 1B requiring Ministers to provide a report to Parliament on the housing needs of older people and disabled people and to undertake extensive consultation in preparing the report. Ministers do not consider that these amendments add significant value in addition to the proposals set out above or existing requirement relating to housing authorities through their Local Housing Strategies, and are concerned that this requirement would require substantial additional resource, which could otherwise be directed to delivering the development of suitable housing. Indeed, it could be suggested that the Government would find it difficult to complete the task within two years due to the need to consult the extensive list of parties set out in the amendment.

However, the Government accepts the value of evidence to support policy making within development plans, and recognises that this is consistent with the wider requirements for development planning to be supported by an evidence report which is independently scrutinised as well as a regularly updated delivery programmes.

Participation

The Bill following Stage 2 includes provisions to require planning authorities in preparing their Evidence Report to seek the views of and have regard to any views expressed by various groups, including children and young people and the public at large. Authorities must also provide a statement on the steps taken in preparing the report to seek those views, and the extent to which the views expressed have been taken into account in the report.

There is also a separate requirement, at section 16ZA, that a planning authority must make such arrangements as they consider appropriate to promote and facilitate participation by children and young people in the preparation of the local development plan. The planning authority must first consider discharging their duty by means of contact with schools, youth councils and youth parliament representatives within their district.

In considering these amendments, Ministers note that involvement of children and young people was already established as an aim of planning reform by the independent planning review panel. However, they do not consider that the duplication is necessary, and have lodged an amendment to delete section 16ZA.

Ministers consider that the provisions introduced at section 16A will offer the opportunity for the planning system to eliminate indirect discrimination and advance equality of opportunity for children and young people directly. Wider reforms on engaging on development plans will ensure that a wider range of people will have the opportunity to engage in developing their areas.

Resettlement

A number of amendments at stage 2 require Ministers and planning authorities to consider increasing the population of rural areas of Scotland and the desirability of the resettlement of rural areas that have become depopulated. This gives scope for the planning system to support development which reflects the educational and economic aspirations of young people across rural Scotland and offer the opportunity for the planning system to advance equality of opportunity for young people directly.

Open Space, Recreation and Play

Scottish Planning Policy already sets out that local development plans should identify sites for new indoor or outdoor sports, recreation or play facilities where a need has been identified in a local facility strategy, playing field strategy or similar document. Scottish Ministers would expect the Evidence Report to consider infrastructure matters for the plan area. Infrastructure is broad in meaning and includes green infrastructure, the definition of which in SPP includes play spaces.

An amendment was accepted by the LGCC which would introduce new section 1A into the Bill, inserting section 3G Open Space Strategy into the 1997 Act. This requires planning authorities to prepare and publish an open space strategy, including an audit of existing open space provision, and an assessment of current and future requirements.

We would expect the audit to use the typology of different types of open spaces set out in Planning Advice Note 65: Planning and Open Space¹⁶. This sets out a series of different types of greenspaces including those that can be used by all ages and abilities and those which may appeal more to particular demographics such as ‘playspace for children and teenagers’, sports areas (split into playing fields, golf courses, tennis courts, bowling greens and ‘other sports’) and allotments and community growing spaces. The Scottish Government has therefore lodged amendments to adjust the wording of this provision so that definitions and requirements for the audit can be set out in regulations.

This will provide local authorities data on the provision of different types of open space, to help them plan for future requirements including of children, teenagers, parents and older people.

Another amendment was accepted which would introduce new section 16AB into the 1997 Act, requiring the planning authority to assess the sufficiency of play opportunities in preparing the evidence report. It also requires Scottish Ministers to make provision, by regulation, about the (a) form and content of the assessment, (b) such persons who must be consulted in relation to the assessment, and (c) publications of the assessment.

¹⁶ <https://www.gov.scot/publications/planning-advice-note-pan-65-planning-open-space/>

Scottish Ministers agree that by requiring planning authorities to assess the opportunity for play the planning system may advance equality of opportunity for children and young people directly. We believe there would be benefits in integrating this with new wider requirements for open space strategies to ensure the full range of opportunities for play, formal and informal, are understood in the round.

Disability:

Relationship between Planning and Disability

Planning is concerned with creation of better places. This requires development that can accommodate future changes of use, taking into account how people use places differently, for example depending on degree of personal mobility.

Advice on improving the design of places so that they can be used by everyone, regardless of age, gender or disability is contained in Planning Advice Note 78: Inclusive Design¹⁷. The Government has also introduced requirements for certain planning applications to be accompanied by design and access statements at the development management stage.

Census data from 2011 reports that the proportion of people in Scotland with a long-term activity-limiting health problem or disability was 20%.

A higher proportion of women than men were limited in their day-to-day activities by a long-term health problem or disability, according to the 2011 Census. 10.2% of women and girls were limited a lot in their day-to-day activities, and a further 10.7% were limited a little. In comparison, 8.8% of men were limited a lot, and 9.4% limited a little. The proportions of women and girls who were limited in their activities increased with age. A higher proportion of women than men aged over 16 were limited in their day-to-day activities, but amongst those under 16 more boys experienced limitations.

Scottish Health Survey 2017¹⁸ also found that the prevalence of long-term conditions for adults in 2017 varied significantly by age. Older adults were more likely than younger adults to report non-limiting long-

¹⁷ <https://www.gov.scot/publications/pan-78-planning-building-standards-advice-note-inclusive-design/pages/4/>

¹⁸ <https://www.gov.scot/publications/scottish-health-survey-2017-volume-1-main-report/pages/19/>

term conditions (between 7% and 10% among those aged under 45 compared with between 16% and 20% among those aged 45 and over). Similarly, the prevalence of limiting conditions was 17-28% for those aged 16-54 and 40-56% for those aged 55 and over.

Much of the discussion around Housing for Disabled People is set out in the section above on Housing for Older People. As with older people's housing, current planning policy recognises that as part of the Housing Needs and Demand Assessment, local authorities are required to consider the need for specialist provision that covers accessible and adapted housing, wheelchair housing and supported accommodation, including care homes and sheltered housing. This supports independent living for elderly people and those with a disability. Where a need is identified, planning authorities should prepare policies to support the delivery of appropriate housing and consider allocating specific sites.

Planning Advice Note 3/2010: Community Engagement¹⁹ recognises that an understanding is needed about the support particular individuals or groups require to help them engage. It notes that the needs of minority groups and people with disabilities should be accommodated where possible, including the opportunity to access information in alternative formats such as Braille, large text and audio and the provision of information in alternative languages. Some people may need practical support with, for example, transport or child care, and whilst this is sometimes impractical, the benefits of providing some assistance can be considerable.

Specific issues arising from evidence

Housing for Disabled People

A number of bodies representing disabled people expressed concern about the quantity of accessible housing, with a figure of 10% of properties in new developments being built to wheelchair accessible standard being referred to.

The Disability Rights in the UK²⁰ (2017) report stated that there is a lack of accessible housing across the UK and no mechanism that guarantees accessible housing.

¹⁹ <https://www.gov.scot/publications/pan-3-2010-community-engagement/>

²⁰ <http://www.equalityhumanrights.com/sites/default/files/crpd-shadow-report-august-2017.pdf>

Figures from 2015 contained in Housing for Older People, those with Disabilities and those with Supported Tenancies²¹ suggest that the amount of wheelchair adapted local authority housing for people with physical disabilities has decreased from around 2,525 units in 2006 to 2,062 in 2015. The number of houses had been increasing and peaked in 2013 at 3,239 before declining over the following two years.

Figures in the media²² also suggest that there are in the region of 10,000 disabled people on council waiting lists having requested a move to a more suitable property.

Participation

There was support for enhanced engagement in the planning system for disabled people, including a suggestion that access panels be made statutory consultees in relation to planning applications, in order to improve community engagement. A concern was expressed that planners and other professions did not fully understand issues around accessibility.

Hard to Reach, Easy to Ignore (2017) identified that a range of issues such as language barriers, lack of confidence and dominant characters can discriminate against some people, including disabled people, during community engagement.

The Royal Town Planning Institute's most recent guidance²³ from 2007 suggests that there is evidence of an under-representation of disabled women in consultation processes.

Opportunities to tackle discrimination and advance equality on Disability

Scottish Ministers agree that by Ministers and planning authorities considering housing for disabled people when preparing both the National Planning Framework and the local development plan, the planning system will advance equality of opportunity for disabled people

²¹ <http://www.gov.scot/Topics/Statistics/Browse/Housing-Regeneration/HSfS/SpecialNeedsHousing>

²² <https://inews.co.uk/news/thousands-disabled-people-languishing-unsuitable-housing/>

²³ <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/112350/gender-spatial-planning-RTPI-201107-en.pdf;jsessionid=5D106E31939647FD4FB0ABB9CE456929?sequence=1>

directly. Ministers have therefore lodged amendments which will require the National Planning Framework to contribute to outcomes including ‘meeting the housing needs of people living in Scotland including, in particular, the housing needs for older people and disabled people.’ Local development plans (LDPs) would also be required to take account of such needs.

In addition, the Fairer Scotland for Disabled People action plan²⁴ (2016) included a commitment to require local authorities to set realistic targets within their Local Housing Strategies for the delivery of wheelchair accessible housing across all tenures. Programme for Government (September 2018) reaffirmed this and committed to bring forward guidance for local authorities. This was published in March 2019²⁵ and recognises that increased supply will provide more choice and flexibility for disabled people and their families and contribute to the creation of a fairer and more equal society. The houses that we build now will support this and future generations and help to improve the experience of disabled people in accessing suitable homes in the areas they want to live.

Participation

At Stage 2, a provision to amend section 18 of the 1997 Act was accepted which would require planning authorities to consult, with regard to the proposed plan, access panels representing the part of the district to which the plan relates.

Access Panels are groups of volunteers who work together to improve physical access and wider social inclusion in their local communities. Ministers have not previously, due to the voluntary status and lack of statutory footing, considered including access panels on lists of organisations required to be consulted at either development management or development planning stages.

Scottish Ministers agree that it is important that disabled people can play an active part in shaping the places where they live as this will advance equality of opportunity for disabled people directly. However, they recognise that access panels are not statutory bodies, that there is not full geographical coverage of access panels across Scotland and that

²⁴ <https://www.gov.scot/publications/fairer-scotland-disabled-people-delivery-plan-2021-united-nations-convention/>

²⁵ <https://www.gov.scot/publications/wheelchair-accessible-housing-target-guidance-note-mhdgn-201902/>

their roles and capacities can differ. Scottish Ministers have therefore proposed an amendment which will introduce a requirement for the views of disabled people to be included in a statement to accompany the LDP Evidence report, thus ensuring that the views of the wider community of disabled people are considered, and earlier in the preparation of the LDP. However, we propose to make clear in guidance that authorities should always engage with access panels as a key part of engagement with disabled people.

Section 16B was inserted at Stage 2 providing Ministers with powers to issue guidance on effective community engagement in the preparation of the local development plan. It may include in particular guidance on (a) how, in preparing a local development plan, planning authorities are to undertake effective community engagement, and (b) ways in which planning authorities should consult communities and encourage them to contribute to the preparation of a local development plan. A key element in the weight of such guidance is that a planning authority must have regard to any guidance issued to them under this section.

Through the promotion of a spirit of collaboration over conflict which is a key element of planning reform, there is scope for this guidance to not only eliminate indirect discrimination, advance equality of opportunity but promote good relations between those with particular protected characteristics. In developing this guidance, Ministers will ensure that it is developed taking into account the perspectives of people across all protected characteristics.

Provision of Changing Places Toilets

Figures contained within *Changing Places – A practical guide*²⁶ suggests that 230,000 people in the UK need personal assistance to use the toilet or change continence pads, including people with profound and multiple learning disabilities. PAMIS suggested that there are currently around 185 such toilets in Scotland and re-iterated calls for an expansion of such toilet provision.

Amendments to the Bill were accepted at stage 2 inserting section 41B into the 1997 Act, which introduces the requirement for a Changing Places Toilet as a condition of the planning permission for certain

²⁶ <http://www.changing-places.org/LinkClick.aspx?fileticket=YEDKVYyX8TE%3d&tabid=38>

developments. Such toilets are designed to support the needs of people with complex care needs.

Just over 9% of people identified themselves as carers in the 2011 census. Evidence²⁷ from 2015 would suggest that women are more often unpaid carers (male 42%, 58% women). The provision therefore has the potential to eliminate the indirect discrimination of disabled people and proportionately more women, to access basic goods and services.

Work will be required on regulations under the new provisions before any new planning requirements can come into force. These regulations will be subject to further impacts assessments. The Scottish Government has already started work on CPT provision in relation to Building Standards, with a consultation paper published on 18 February 2019 and we will consider planning and building standards legislation to ensure we identify the most effective way of introducing these requirements.

Sex:

Relationship between Planning and Sex

Mid-2018 Population Estimates Scotland²⁸ (2019) found that Scotland had a relatively even split between genders in 2018, with 51% females and 49% males, although this varied amongst age groups. The youngest age groups had a higher male to female ratio as more male babies are born than female, whilst the oldest age groups had a lower male to female ratio as females have longer life expectancy in Scotland.

Planning is concerned with creation of better places. This requires development that can accommodate future changes of use, taking into account how people use places differently, for example depending on their gender.

Scottish Planning Policy (2014) notes that planning should support development that is designed to a high-quality, which demonstrates the six qualities of successful place. The Adaptable quality takes into account how people use places differently, for example depending on age, gender and degree of personal mobility. Design is also a material

²⁷ <https://www.carersuk.org/for-professionals/policy/policy-library/facts-about-carers-2015>

²⁸ <https://www.nrscotland.gov.uk/files//statistics/population-estimates/mid-18/mid-year-pop-est-18-pub.pdf>

consideration. Advice on improving the design of places so that they can be used by everyone, regardless of gender is contained in Planning Advice Note 78: Inclusive Design.

In addition, SPP includes reference to Safe and Pleasant development that is attractive to use because it provides a sense of security through encouraging activity. It does this by giving consideration to crime rates and providing a clear distinction between private and public space. More practical advice is contained within Planning Advice Note 77: Designing Safer Places²⁹ (2006).

More specific details can be found below.

With reference to community participation in the planning system, Planning Advice Note 3/2010 recognises that community can be based on a common interest, value or background – for example societal groups (based on race, faith, ethnicity, disability, age, gender or sexual orientation). It goes on to recognise that certain techniques can be used in a practical sense to support the engagement of women, such as the provision of child-care or engagement with mother-toddler groups.

A number of research studies have looked at the involvement of people in planning and related matters. The gender differences are reflected in the discussion below.

The Royal Town Planning Institute, Good Practice Note 7: Gender and Spatial Planning (2007) sets out four key facts, which link specifically with arrangements around the participation of women in engagement on the built environment:

- Women can find it more difficult to engage in planning processes since they are more likely to provide unpaid care and the timing and places of consultation may not recognise caring responsibilities.
- Women from some minority ethnic groups may not wish to attend mixed gender consultation meetings.
- Studies by the Women's Design Service show an under-representation of disabled women in consultation processes.
- Women are less likely than men to access ICT and an over-emphasis on the internet could exclude women. [Note: while this may have been true in 2007, more recent information (2016) from the Scottish

²⁹ <https://www.gov.scot/publications/planning-advice-note-pan77-designing-safer-places/>

Household Survey would suggest that there was no significant difference in internet use between genders.]

Specific issues arising from evidence

Participation: Public Life and Employment

Participation in this case can include being: involved in decision-making on issues that affect an individual, community, volunteering; or being employed (paid or unpaid).

Engagement

With regard to participation in planning processes, a number of studies suggest there may be some gendered difference. Research contained in Planning and Community Involvement in Scotland³⁰ (2004) found that women are slightly more likely than men to become involved in the planning process at development management stage. The National Trust for Scotland Heritage Observatory briefing note³¹ (2017) asked: Do you feel able to influence planning decisions which affect your local area and how it is being developed? Findings on no influence / some influence were similar for male (61%, 35%) and female (59%, 36%).

Decision-making

The operation of the town and country planning system in Scotland is based primarily at a local authority level. Councillors have an important role in the planning system. The role of councillors includes:

- a key role in establishing planning policies for their area;
- becoming involved in local cases as a ward representative;
- decision making as a member of the planning committee or at meetings of the full Council; and
- acting as a member of the Local Review Body.

In 2017 CoSLA³² noted that 29% of Scotland's 1227 councillors are women. It also notes that other key parts of our communities are under-represented.

³⁰ <http://www.gov.scot/Publications/2004/07/19657/40295>

³¹ Not available online

³² http://www.cosla.gov.uk/sites/default/files/documents/18-03-23_item_04x_cosla_progress_update_2017_18.pdf

Campaigns such as Women5050 seek to ensure that elected representatives reflect our society as it is, through legal quotas.

Community councils play an important role as statutory consultees in development management. Provisions in the amended Bill will provide them with additional roles in development planning, and potentially in the development of Local Place Plans. Research from 2009³³ suggested that 40% of community councillors in Scotland were women.

Currently, the Royal Town Planning Institute publish the overall statistics of membership in the 'About the RTPi' section of its website. Overall, just over one-third of its members are female – 37.9%. We understand that it is a similar figure in Scotland – 37.07%. This figure has been steadily increasing and the gender balance will most likely continue to change as 52% of the student members are women and 53% of all new joiners in 2017 are women. The profession is currently experiencing a growth in 'Women in Planning' groups around the UK. One of the groups can be found in Glasgow.

Volunteering

The work of a wide range of organisations is based on the role of volunteers. In planning, this includes community councils, which comment on planning applications, and community bodies who will be charged with bringing forward Local Place Plans. In addition, provisions at Stage 2 were accepted to require planning authorities to engage access panels and community councils in the preparation of local development plans.

With regard to the involvement of men and women, in the region of 28% of adults in Scotland, over 1.26 million people, volunteered formally through an organisation or group in the last year. Scottish Household Survey (2017) However, women were most likely to volunteer for children's activities associated with schools (26%) and youth / children (22%). In comparison men were most likely to volunteer with sport / exercise (coaching or organising) (23%), local community or neighbourhood groups (20%) and hobbies / recreation / arts / social clubs (20%).

³³ <https://journals.sagepub.com/doi/10.1177/0952076708100878>

Employment

The employment rate in Scotland decreased slightly by 0.2 percentage points over the year from 74.2% in 2017 to 74.1% in 2018.³⁴

The female employment rate of 70.3% in Scotland during 2018, was 1.9 percentage points higher than the 68.4% rate in 2008 and compares with 78.0% for men of the same age, representing a gender employment gap of 7.6 percentage points.

The 2015 Scottish Government Economic Strategy³⁵ recognises that a strong, vibrant and diverse economy is essential to our national prosperity and in creating the wealth to support high quality public services.

Participation: use of place and space

Women are slightly more likely to rate their neighbourhood as a 'very good' place to live than men (58% vs 55%). Women are also more likely to feel 'very strongly' that they belong to their neighbourhood (38%, compared to 31% of men).

In relation to the use of place and space, RTPI Guidance Note 7 (2007) notes that the following issues feature highly for women:

- Safety (personal safety, fear of crime)
- Access and mobility / Local facilities
- Affordable housing
- Public toilets

The first three of these are not directly addressed by the Bill, although they are key issues for the planning system more widely and are currently addressed in national planning policies.

Safety (personal safety, fear of crime)

Evidence from the Scottish Household Survey would suggest that women are much less likely to feel 'very safe' walking alone in their neighbourhood after dark (37% vs 64%).

³⁴ <https://www2.gov.scot/Resource/0054/00546833.pdf>

³⁵ <https://www.gov.scot/publications/scotlands-economic-strategy/>

Originally published in 2014 before being updated in 2016, Equally Safe³⁶ is a joint Scottish Government and COSLA strategy to prevent and eradicate violence against women and girls. The strategy has a strong focus on prevention, advancing gender equality and tackling the underlying attitudes that create the societal conditions for gender based violence to flourish.

Scottish Planning Policy (2014) already recognises that planning should support development that is designed to a high-quality, which demonstrates the six qualities of successful place. This includes Safe and Pleasant development that is attractive to use because it provides a sense of security through encouraging activity. It does this by giving consideration to crime rates and providing a clear distinction between private and public space. More practical advice is contained within Planning Advice Note 77: Designing Safer Places (2006).

Access and mobility / Local facilities:

Local facilities includes shops, community facilities for children and elder care, schools, meeting places, parks, leisure facilities and play spaces, accessible recycling facilities, seating and shelter.

2017 figures³⁷ show that three quarters (73%) of adults travelled the previous day. Men were slightly more likely to have travelled than women; 75 per cent of men had travelled the previous day compared to 72 per cent of women. Older people were less likely to have travelled the previous day. Women were more likely than men to walk or catch the bus to work. Men were more likely to cycle to work or travel by rail.

Men were more likely to hold a driving license than women, with three quarters (75%) of men aged 17+ having a driving license, compared to 64 per cent of women. There has been a narrowing of this gap over the years since the survey (2007).

Affordable housing:

With regard to the Bill, there was little discussion about this matter through the passage of the Bill up to Stage 2. The Scottish Government is however working to increase the number of homes across Scotland so that everyone has a good quality home that they can afford and that meets their needs. It will spend over £3 billion to deliver at least 50,000 affordable homes, of which 35,000 will be for social rent, by March 2021.

³⁶ <https://www.gov.scot/publications/equally-safe/>

³⁷ <https://www.transport.gov.scot/publication/transport-and-travel-in-scotland-2017/>

Public toilets:

The importance of toilet provision was set out in the Committee's deliberations at Stage 2. It has also been set out in a number of research papers, for example by Prof. Clara Greed of UWE Bristol. Her paper 'The need for a strategic spatial planning approach to public toilets in Britain'³⁸ (2015) provides a spatial dimension to the provision of public toilets, arguing for a toilet distribution hierarchy. The impact particularly on women and older people who 'have to plan their journeys carefully, or give up going out altogether, as a result of toilet closure' is cited.

The impact of the introduction of Changing Places Toilets is considered in the Disability section of this EqIA.

Opportunities to tackle discrimination and advance equality on Sex

Core Purpose of Planning:

Two versions of a core purpose for planning are contained within the Bill as amended at Stage 2. Neither of the amendments make specific reference to advancing equality directly as this is already provided for under existing public sector duties. An amendment which included reference to the promotion of equality and human rights was not accepted by the LGCC at Stage 2. The purpose included at section A1 states that the purpose of the planning system is to manage the development and use of land in the long-term public interest, which could be taken to include advancing equality. The purpose in section A2 specifies that the long term public interest includes achieving the national outcomes under the Community Empowerment (Scotland) Act 2015, which reflect the UN Sustainable Development Goals and include the fulfilment of human rights. In preparing the national outcomes, the Scottish Ministers must have regard to the reduction of inequalities of outcome which result from socio-economic disadvantage.

The approach to defining the purpose of planning may be debated further. Whilst views vary on whether or not specific references need to be included in the overarching purpose, Ministers agree that the UN Sustainable Development Goals and the Quito Declaration are key elements in the consideration of sustainable development as a whole.

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https://www.researchgate.net/publication/281031483_strategic_issues_in_toilet_provision

Engagement:

Provisions in the Bill actively encourage the participation of bodies which are volunteer-led. Through the promotion of a spirit of collaboration over conflict which is a key elements of planning reform, there is scope for these provisions, and linked to the statutory community engagement guidance, to not only advance equality of opportunity between women and men but promote good relations between those with particular protected characteristics. In developing these proposals, Ministers will ensure that it is developed taking into account the perspectives of people across all protected characteristics.

Use of place and space:

Tools such as the Place Standard provide communities with the opportunity to assess the quality of their places. It recognises that where we spend our time has an important effect on our lives and our wellbeing. Improving the quality of places and the opportunities we have access to can help to tackle inequalities.

As noted above, Scottish Planning Policy (2014) notes that planning should support development that is designed to a high-quality, which demonstrates the six qualities of successful place. Work will begin on the review of the National Planning Framework following scrutiny of the Bill. The next NPF will contain national land-use planning policies and form part of the development plan. There will therefore be an opportunity for these issues to be considered in the round. The policy will be subject to appropriate impact assessments meeting the requirements of the Equality Act and be subject to scrutiny from the Parliament. We consider that there will be scope for this amended policy framework to advance equality of opportunity between women and men and also promote good relations between all those with particular protected characteristics. In developing these proposals, Ministers will ensure that it is developed taking into account the perspectives of people across all protected characteristics.

Employment:

The Bill is part of a review of planning which is driving a wide programme of improvements to strengthen and simplify the planning system, and to ensure planning better serves Scotland's communities and economy. Scottish Government planning policy contained in Scottish Planning Policy and Scotland's third National Planning

Framework promote an “open for business” planning system which facilitates sustainable economic growth, including the creation of new jobs and the strengthening of economic capacity and resilience within communities. Scotland’s third NPF (NPF3) was the spatial expression of the Government’s Economic Strategy but more recent policy focuses more on the concept of inclusive growth. It is therefore expected that NPF4 will explore the spatial aspects of inclusive growth, providing a significant opportunity to consider the role of women and other groups in the economy. Work has been undertaken by the Office of the Chief Economic Adviser to develop a tool to assess dimensions of inclusive growth in different areas.³⁹

Public Toilets:

Section 3(2)(ba) of the Bill requires a local development plan to include a statement of the planning authority’s policies and proposals as to the provision of public conveniences. There is scope for this provision to eliminate indirect discrimination and also advance equality of opportunity.

In supporting the implementation of this provision, we will consider how we can provide guidance to planning authorities on how to discharge this function.

Gender Reassignment:

Relationship between Planning and Gender Reassignment

There is limited evidence of the potential impact on the Gender Reassignment protected characteristic and planning. It is also noted that the Scottish Government does not have sufficiently robust evidence to draw conclusions on gender reassignment in relation to income and poverty. Although they had fallen a little, discriminatory attitudes towards gender reassignment and cross-dressing remained high in the 2015 Social Attitudes Survey⁴⁰.

³⁹ <http://www.inclusivegrowth.scot/resources/data-and-analysis/2018/06/inclusive-growth-diagnostics/>

⁴⁰ <https://www.gov.scot/binaries/content/documents/govscot/publications/research-and-analysis/2016/09/scottish-social-attitudes-2015-attitudes-discrimination-positive-action/documents/00506463-pdf/00506463-pdf/govscot%3Adocument/00506463.pdf>

Specific issues arising from evidence

No specific issues were identified.

Opportunities to tackle discrimination and advance equality on Gender Reassignment

No specific issues were identified.

Race:

Relationship between Planning and Race

Census data and community profile:

Data from the 2011 Census would suggest that around four per cent of people in Scotland were from minority ethnic groups - an increase of two percentage points since 2001. Council areas with large cities had the highest proportion of their population from a minority ethnic group: 12 per cent in Glasgow City, 8 per cent in City of Edinburgh and Aberdeen City and 6 per cent in Dundee City. In addition, 0.8% of the population in rural areas were from an ethnic minority background.

Census data also shows that, with regard to the Gypsy / Traveller community there are spatial variations across Scotland. Just over 4,000 people in Scotland identified in the 2011 census that their ethnic group was 'White: Gypsy/Traveller' and this represented 0.1 per cent of the population. However, it has been suggested that this is likely to underestimate the Gypsy/Traveller population due to a range of issues such as reluctance of individuals to identify as Gypsy/Traveller and challenges accessing the population living on sites and by the roadside.

The council areas with the most Gypsy/Travellers resident on census day were Perth & Kinross, Glasgow City and the City of Edinburgh. The lowest numbers were resident in the island councils and in Inverclyde.

Research undertaken in 2018⁴¹ provides a spatial dimension to Gypsy / Traveller accommodation. It also draws upon public information as to the range of reasons which are cited as material considerations in refusing applications for planning permission for sites.

⁴¹ <https://www.gov.scot/publications/gypsy-traveller-sites-scotland/>

More fine-grained data on housing, transport etc is available through the Analysis of Equality Results from the 2011 Census – Part 2⁴² (2015).

Many Gypsy/Travellers prefer to live on private sites, which can help support their independence, self-sufficiency and security. But they have often found it difficult to access the planning system and get the appropriate permission to develop their own sites. Making provision for the development of private sites can help Gypsy/Travellers to maintain their traditional lifestyle. And approval of more Gypsy/Traveller sites, which are sound in planning terms, could also ease accommodation pressures for the community as a whole, and potentially reduce the number of unauthorised encampments. Scottish Ministers want Scotland's plan-led system to be more effective and that plans need to be up-to-date, place-based and enabling.

Currently Scottish Planning Policy requires councils to plan for the current and future needs of the Gypsy / Traveller community, and involve the community in planning and decision-making which affects them. It states that development plans and local housing strategies should address any need identified through the Housing Needs and Demand Assessment, including those of Gypsies and Travellers. If there is a need, local development plans should identify suitable sites for these communities. They should also consider whether policies are required for small privately-owned sites for Gypsy and Travellers.

In 2015⁴³, the Scottish Government funded the preparation of guides to the planning system. The key project purpose was to increase Gypsy/Travellers' awareness and knowledge of the Scottish planning system, and improve engagement between Gypsy/Travellers, planning professionals, elected members and community councillors.

Specific issues arising from evidence

As part of the Scottish Government consultation Democracy Matters - Your Community. Your Ideas. Your Future, people were asked about their experiences of getting involved in decision-making processes that affected their local community or community of interest.

Local Governance Review: analysis of responses to Democracy Matters (2019) showed that some people from specific communities of interest

⁴² <http://www.gov.scot/Publications/2015/03/8716/0>

⁴³ <http://pas.org.uk/news/recognition-of-unique-gypsytraveller-culture/>

and identity described finding it difficult to get involved in decisions, or having no experience of involvement at all. For example, some asylum seekers, EU citizens, foreign language groups, and some people from different ethnic minority groups described experiences of being detached from the wider community and formal decision-making organisations and forums. They did not know about local groups or understand whether and how they could get involved.

Concerns were expressed that the planning system did not adequately consider the accommodation needs of the Gypsy / Traveller community, and specifically that there should be a presumption in favour of small private sites.

Article 12's Planning processes in Scotland: a Gypsy/Traveller perspective⁴⁴ (2016) makes a number of recommendations including on improvements to consultation arrangements and a call for decisions not to be made on negative perceptions of the community.

In the response of the Equality and Human Rights Commission (the EHRC) to the UK Government's eighth periodic report to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women⁴⁵, the EHRC noted the lack of residential and transit accommodation across Great Britain routinely affects Gypsy / Traveller women's right to an adequate standard of living. With regard to the Gypsy / Traveller definition the EHRC was supportive of the definition in the Housing Act 2004.

The Equality and Human Rights Commission also called for changes to the planning system to give a presumption to the development of small family Gypsy/Travellers sites of around 4 pitches. An amendment was also lodged at Stage 2 which would have required Scottish Ministers to provide either by regulations or development order for the granting of planning permission for a development which consists of the use of land as a Gypsy and Travellers site, where it is in accordance with the development plan for the area. The amendment was withdrawn and was not voted on at stage 2.

⁴⁴ <http://www.article12.org/wp-content/uploads/2016/03/Planning-Processes-in-Scotland-a-Gypsy-Traveller-Perspective.pdf>

⁴⁵ <https://www.basw.co.uk/system/files/resources/pressing-for-progress-womens-rights-and-gender-equality-in-2018-pdf.pdf>

Opportunities to tackle discrimination and advance equality on Race

The introduction of statutory guidance on engagement with communities will advance equality of opportunity across all protected characteristics, including race. Baseline material is already available including work by the Scottish Community Development Centre following on from the revision of the National Standards for Community Engagement. The provisions require Ministers to consult on the contents of the guidance, and this will be a key component of ensuring that the guidance is fit for purpose.

The Scottish Government is committed to ensuring equality of opportunity for all of Scotland's Gypsy/Travellers, which it considers a particularly marginalised group.

In light of the concerns expressed above, the Government has been working towards a 10-point action plan to involve Gypsy/Travellers in planning⁴⁶.

The action plan focusses on three main areas:

- raising awareness of the needs of the community with decision-makers such as Planning Convenors and Heads of Planning;
- putting in place legislative requirements to ensure that the views of the community are heard in development planning; and
- through NPF4, and wider planning reform, setting a policy framework ensures that Gypsy/Travellers have safe and secure places to stop or settle.

With regard to legislative changes, at Stage 2, the LGCC agreed to an amendment which introduced a requirement that a planning authority's evidence report is to include a statement on the steps taken by the planning authority in preparing the report to seek the views of the public at large, including in particular the views of Gypsies and Travellers, and the extent to which the views expressed have been taken into account in the report.

A further amendment has been lodged at Stage 3 which places a duty on the planning authority to provide a summary of the action to meet the accommodation needs of Gypsies and Travellers in the authority's area,

⁴⁶ <https://www.gov.scot/publications/gypsy-travellers-and-the-planning-system-action-plan/>

and an analysis of the extent to which the action has helped to meet those needs. As there is not currently a definition of “Gypsies and Travellers” in Scottish legislation, a definition is to be specified in regulations, and the Scottish Ministers must consult before making such regulations.

A strengthened national and local planning policy framework, based on participation of the community will assist in the elimination of unlawful discrimination and advance equality of opportunity.

With regard to the rights of the community to continue its nomadic lifestyle, concerns were expressed that the planning system does not support the rights of Gypsy/Travellers to such a lifestyle, therefore reinforcing discrimination. In 2017 the Scottish Government published guidance⁴⁷ on managing unauthorised camping. We expect local authorities to consider this guidance and their own local arrangements to ensure their management of such sites reflects best practice. We will be considering the scope of permitted development rights in due course as part of the current planning reform and there would be opportunity to consider such rights in regard to temporary stopping sites. Such rights would need to be carefully considered and evaluated however as they would apply across Scotland and not necessarily be restricted to Gypsy/Traveller caravans.

Sexual Orientation:

Relationship between Planning and Sexual Orientation

There is limited evidence of the potential impact on the sexual orientation protected characteristic and the planning system..

Data in Sexual Orientation in Scotland 2017: summary of evidence base⁴⁸ would suggest that there are in the region of 2% of people in Scotland who identify as LGBO (Lesbian, Gay, Bisexual, Other).

Spatially, the above summary of evidence considered that access to the community may be one reason why a higher proportion of LGBO people live in urban areas, with the latest figures showing that half of all LGBO people lived in large urban areas (in comparison to 35% of heterosexual

⁴⁷ <https://www.gov.scot/publications/guidance-local-authorities-managing-unauthorised-camping-gypsy-travellers-scotland/pages/2/>

⁴⁸ <https://www.gov.scot/publications/sexual-orientation-scotland-2017-summary-evidence-base/pages/2/>

adults). It noted that a greater proportion of the LGBO group lived in the most deprived quintile (27 per cent compared with 19 per cent of heterosexual adults) in the Scottish Index of Multiple Deprivation.

The EHRC *Triennial Review* (2010, Chapter 12) offers the view that, while large-scale data are not available, many surveys suggest that the LGBT community has a generally favourable socio-economic position.

In its summary *Hard to Reach, Easy to Ignore* (2017) noted that communities are now recognised to exist beyond geographical areas therefore more needs to be done to tackle the inequalities faced by communities of identity (such as LGBT+ group). It also highlighted successful community engagement projects can be witnessed when a particular section of society is chosen to take part, rather than the wider population. For instance, using a stratified selection process to include young, senior or LGBT+ groups.

Specific issues arising from evidence

The evidence suggests that there is a spatial dimension to where the LGBT community lives in Scotland. This has potential implications for effective engagement with the community.

Opportunities to tackle discrimination and advance equality on Sexual Orientation

Whilst no specific issues have been identified directly, enhanced opportunities for effective community engagement have the potential to tackle indirect discrimination and advance equality of opportunity for this community.

Religion and Belief:

Relationship between Planning and Religion and Belief

Census data from 2011 would suggest that nearly 54% of the population identified as following a Christian religion. The next largest religion was 'Muslim' which represented over 1 per cent, and the other religions combined (including 'Hindu', 'Buddhist', 'Sikh' and 'Jewish') represented a further 1 per cent. 37 per cent of the population stated they had no religion in 2011, an increase of over half a million people from 2001. 7 per cent of people did not state their religion.

Census data also showed that 'Muslim' people tended to live in large families - 22 per cent had three or more children compared to only 5 per cent of all families.

Poverty and income inequality in Scotland: 2015-2018⁴⁹ (2019) noted that Muslim adults were more likely to be in relative poverty (41%, 20,000 adults) than adults overall (18%) after housing costs were taken into account. Adults belonging to the Church of Scotland had a slightly lower poverty rate (14%, 180,000 adults) than Roman Catholic adults (20%, 120,000 adults) or adults of other Christian denominations (18%, 60,000 adults).

It should be noted that this analysis does not take into account differences in the age profiles of the religions. For adults belonging to the Church of Scotland, the median average age was 60. In contrast, the median age was 33 for Muslim adults, and 40 for adults belonging to no religion.

The Joseph Rowntree Fund report We can solve poverty in the UK⁵⁰ (2014) found major differences in the prevalence of poverty between people of different religious affiliations.

The Faith Groups and the Planning System⁵¹ (2016) report by the Faith and Place Network set out recommendations for English and Welsh planning authorities. This did not focus on legislative change but the application of policy and guidance by local authorities.

Specific issues arising from evidence

Planning Advice Note 3/2010: Community Engagement recognises that an understanding is needed about the support particular individuals or groups require to help them engage. It notes that the needs of minority groups should be accommodated where possible, including the opportunity to access information in alternative formats such as the provision of information in alternative languages.

⁴⁹ <https://www.gov.scot/publications/poverty-income-inequality-scotland-2015-18/>

⁵⁰ <https://www.jrf.org.uk/report/we-can-solve-poverty-uk>

⁵¹ <http://faithsforum.com/wp-content/uploads/2016/03/HUM021015AR-Policy-Briefing-final.pdf>

Opportunities to tackle discrimination and advance equality on Religion and Belief

The Faith and Place Network report from 2016 sets out recommendations for English and Welsh planning authorities. This did not focus on primary legislative change but the application of policy and guidance by local authorities.

The report notes that planning authorities should actively encourage faith groups to become involved in the public consultation process at an early stage of local development plans. Through the powers contained at section 16B, there is scope for the guidance on community engagement on the local development plan to not only advance equality of opportunity but promote good relations between those with particular protected characteristics. In developing this guidance, Ministers will ensure that it is developed taking into account the perspectives of people across all protected characteristics.

The race equality action plan⁵² (2017) sets out the key actions for the Scottish Government to drive positive change for minority ethnic communities. It commits the Scottish Government to reaffirm in the Housing Need and Demand Assessment and LHS guidance the expectation that local authorities fully consider the requirement for larger accommodation, including for minority ethnic families and seek to address any identified need. Changes to the HNDA guidance⁵³ (2018) included that as part of the ‘robust and credible’ appraisal authorities will be required to consult with external stakeholders and report on their findings.

Recommendation and Conclusion

The EQIA has shown that the four broad principles of the Planning (Scotland) Bill will be positive across protected characteristics. However, the EqIA has identified and summarised particular equality issues affecting communities and individuals which will need further consideration as both secondary legislation and policy/guidance are developed.

⁵² <https://www.gov.scot/publications/fairer-scotland-race-equality-action-plan-2017-2021-highlight-report/>

⁵³ <https://www.gov.scot/binaries/content/documents/govscot/publications/advice-and-guidance/2018/11/hnda-managers-guide-2018/documents/hnda-managers-guide-2018/hnda-managers-guide-2018/govscot%3Adocument/HNDA%2BManager%2BGuide%2B2018.pdf>

With regard to eliminating unlawful discrimination, harassment and victimisation, concern was expressed that in relation to their accommodation needs, Gypsy / Travellers are currently treated less favourably due to their protected characteristic. Provisions within the Bill will form an important part of ensuring the voices of the community are heard within the planning system.

It will be necessary to revisit this EQIA to take account of any changes to Bill provisions resulting from the parliamentary scrutiny process at Stage 3. As a consequence the EQIA will become a living document requiring regular review and updating as further legislation and policy/guidance are developed. We will ensure that the development of further legislation and policy, is accompanied by appropriate assessment of the potential impacts.