Refresh of the Scottish Government's strategic commissioning plans: statutory guidance and performance reporting: statutory guidance

Equality Impact Assessment Record

August 2023

Scottish Government
Riaghaltas na h-Alba

Title of policy/ practice/ strategy/ legislation etc.	Refresh of the Scottish Government's strategic commissioning plans: statutory guidance and performance reporting: statutory guidance	
Minister	Maree Todd MSP, Minister for Social Care, Mental Wellbeing and Sport	
Lead official	Michael Ross	
Officials involved in the EQIA	**Name**	**Team**
	Michael Ross	Integration Governance and Support
Directorate: Division: Team	Directorate for Social Care and National Care Service Development Regulation, Improvement and Integration Support Integration Governance and Support	
Is this new policy or revision to an existing policy?	After consultation through a Short Life Working Group and written public consultation, the Scottish Government will publish refreshed statutory guidance focused on integration authority strategic commissioning plans and performance reports.	

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1. Policy Aim

The proposed work concerns a review and update to statutory guidance which supports integration authorities (IAs) with the production of strategic commissioning plans (SCPs) and annual performance reports, as directed by the Public Bodies (Joint Working) (Scotland) Act 2014. There are no proposed legislative or policy changes as part of this work programme.

A 2018 report by Audit Scotland indicated that while integration has led to improvements in some areas, more needs to be done, including on strategic planning. A recent internal review of IAs' SCPs highlighted variation in content and approaches.

The strategic commissioning plan guidance, published early in the integration process in 2015, also appears outdated. It includes statements about future releases on best practice, does not reflect some duties that apply to IAs, and does not capture more recent developments. Linked to the commissioning guidance, the annual performance reporting statutory guidance will also be refreshed.

The desired outcomes of this work are to improve the guidance to support IAs to produce effective integrated strategic commissioning plans and, in turn, commission services effectively to meet the needs of their local communities. In addition, refreshing the performance reporting guidance is aimed at supporting IAs to improve local annual performance reporting.

These desired outcomes are intended to have a wide range of positive impacts on individuals and communities, aligned to national health and wellbeing outcomes set by the Public Bodies (Joint Working) (Scotland) Act 2014.

In addition to the national health and wellbeing outcomes, wider national outcomes – from the National Performance Framework – that this work relates to are:

- We are healthy and active;
- We live in communities that are inclusive, empowered, resilient and safe;
- We respect, protect and fulfil human rights and live free from discrimination.

Who will it affect?

The update to guidance will directly affect Integration Joint Board (IJB) members and officers working within integration authorities who produce strategic commissioning plans and annual performance reports. It is envisaged that officers will use the updated guidance to produce strategic commissioning plans and annual performance reports.

However, the potential impacts that updated guidance may have on IAs' commissioning arrangements and service delivery are far reaching and therefore may impact:

- people using services;
- people who will use services in the future;
- family and friends of people who use services;
- organisations and people providing services;
- wider local communities;
- other service delivery areas.

Underpinning the programme of work is a desire to listen to lived experience and the experience of those who are planning and delivering services. As a result, the planned programme of work includes significant engagement, through both a Short Life Working Group and written public consultation. It is therefore intended that each group that may be indirectly impacted by the programme of work will have an opportunity to input into the revision of the guidance.

What might prevent the desired outcomes being achieved?

Various factors may prevent the desired outcomes being achieved.

The production of ineffective revised guidance may lead to poor commissioning, planning, and reporting and subsequent negative consequences for service users, families, people/organisations providing services, wider local communities and beyond.

Poor engagement and/or lack of involvement of key partners and groups when revising the guidance may lead to missed opportunities for improvement or other unintended consequences and therefore prevent the desired outcomes from being achieved.

The intended audience may not use the revised guidance once produced, which may prevent the realisation of the desired outcomes.

Overall, in order to reduce the risk of negative consequences and the risk of the desired outcomes not being achieved, the following should take place:

- Clear and open engagement, including the appropriate amount of time to fully engage partners in the process;
- An iterative, flexible approach in planning and consulting a short life working group;
- Promotion of the revised guidance, so that those planning/commissioning will know to make use of it;
- Continued engagement following publication to ensure that the guidance is useful and having the desired impact.

2. Stage 1: Framing

Results of framing exercise

Output from the framing exercise is detailed in the previous section of this report. Reflecting on the output of the framing exercise, some further general conclusions on resourcing and planning can be made.

Other than the internal human resource costs involved in progressing the work, the programme of work will only have a budget for publishing and communications.

As the programme of work relates to IA planning and reporting, it will cut across various other policy and service areas, such as financial planning, workforce planning and service delivery. Therefore, there is potential for the policy to impact on individuals' access to services and it could indirectly inadvertently disadvantage people.

However, the proposed programme of work also offers an opportunity to encourage greater consideration of the equality duty and mitigation of inequalities in IAs' approach to the strategic commissioning of health and social care services and is therefore an opportunity to embed good practice and inspire improvement.

Extent/Level of EQIA required

Given the potential indirect impact of revised guidance on a wide range of individuals and groups, as outlined throughout this report, it is highly likely that the programme of work will have an impact on people with each of the protected characteristics. A full Equalities Impact Assessment is therefore considered necessary.

As part of the proposed work programme, a Short Life Working Group composed of key partners (including people who use services) will be convened to input into revising the guidance and revised guidance will go through the public consultation process. All evidence noted in stage 2 is therefore subject to further engagement with key partners, which will be a useful process for further substantiating research with qualitative information.

In conducting the Equalities Impact Assessment, officials are conscious of the multi-faceted nature of peoples' identities and the compounding disadvantage that multiple, intersecting characteristics may produce. An approach centred on intersectionality has therefore been adopted.

3. Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	Use of health and social care services is patterned by age with higher use in older people, with the proportion of people describing health as 'good' or 'very good' declining with age. Prevalence of adults that report living with long-term conditions increases with age. Alcohol consumption, which negatively impacts health outcomes, increases with age. Due to Scotland's ageing population, demand for – and use of – health and social care services are projected to increase. On the whole, there appears to be a clear link between worsening health outcomes and age. Evidence suggests that the Social Care Workforce has a relatively high median age, when compared to the age profile of Scotland's working age profile, which may represent a risk to the future delivery of services. Recruitment challenges also exist within the sector. Likewise, for unpaid carers – who represent 20% of the Scottish population – caring prevalence varies by age, ranging from 12% of those aged 16-44, 28% of those aged 45-64, and 18% of those aged 65 and over.	Scottish Government (2021), Scottish Health Survey – Telephone Survey August/September 2020: main report Public Health Scotland (2022), Insights in social care: statistics for Scotland Scottish Social Services Council (2020), Scottish Social Service Sector: Report on 2020 Workforce Data Scottish Government (2022), National Care Service – adult social care: equality evidence review	A specific breakdown of the age of people using the breadth of services commissioned by IAs is not available. Given the likely difficulties in collecting such information, this is a data gap that is unlikely to be filled. However, from the data available, it can be inferred that older people are more likely to require and use IA services.

DISABILITY	Just under half of adults (47%) report living with a long-term health condition, with 31% reporting a limiting long-term condition. The prevalence of disability increases with age. There is little variation in prevalence of long term health conditions by sex. *(Note: low response rates from deprived areas in the Scottish Health Survey data, cited above, may have impacted the accuracy of the prevalence in the above statistics)* In 2019, there were 23,584 adults known to local authorities across Scotland, which equates to 5.2 people with learning disabilities per 1000 people in the general population. 18.2% of these adults known to local authorities attended a day centre. The data indicates that significant proportion of the public in Scotland report having a long-term health condition. Therefore, it is highly likely that individuals with long-term conditions will utilise IA services, which in turn means they may be indirectly impacted by the proposed programme of work. Data also indicates that unpaid carers are more likely to have long-term conditions that non-carers. Although, this data is from 2011.	Scottish Government (2019), Scotland's Wellbeing: national outcomes for disabled people Scottish Government (2021), Scottish Health Survey – Telephone Survey August/September 2020: main report Scottish Government (2022), National Care Service – adult social care: equality evidence review Scottish Commission for People with Learning Disabilities (SCLD) (2019), Learning Disability Statistics Scotland 2019	
SEX	Higher proportions of males report having health issues, such as high blood pressure, any cardiovascular disease, diabetes, ischaemic heart disease and strokes. Females are more likely to provide regular, unpaid care, which is a role that can have a negative impact on physical and mental health and wellbeing.	Scottish Government (2021), Scottish Health Survey – Telephone Survey August/September 2020: main report	

	The latest data shows that there is no significant variation by sex in the proportion of people that assess their health as 'good' or 'very good'. Alcohol consumption and smoking is higher among males than females. Data covering 2020/21 highlights that there are more female users of social care than male, although though this varies by age group with younger age groups consisting of more males. Overall, the data on health inequalities based on sex offers a mixed picture. Yet, qualitative research shows the impact of male bias within healthcare settings, which those designing and implementing service should be mindful of in order to address and mitigate the negative impacts on women's health. Again, this is an area where strategic commissioning guidance could perhaps add value in promoting equality to mitigate structural bias.	Scottish Government (2015), Scotland's Carers Public Health Scotland (2022), Insights in social care: statistics for Scotland Scottish Government (2022), Health and Care Experience Survey 2021/22: National Results Scottish Government (2022), National Care Service – adult social care: equality evidence review Young, K., Fisher, J. & Kirkman, M. (2020), Partners instead of patients: Women negotiating power and knowledge within medical encounters for endometriosis	

		Scottish Government (2021), Women's Health Plan	
PREGNANCY AND MATERNITY	IAs will provide services to people who are pregnant or mothers, therefore changes to commissioning guidance may impact this group. It is known that there are health risks to mothers and babies during and after pregnancy. Research also indicates that this risk varies based on race, with significant disparities in the maternal mortality rate between white women and black, Asian and mixed ethnic women. Qualitative research also highlights negative experiences of women in healthcare settings, which can include male bias, male-centric power dynamics and a lack of knowledge of women's health that can negatively impact women's experiences. Through education, it is possible that revised commissioning guidance can play a small role in reducing the broader structural inequalities that play out within healthcare settings.	Oxford University et al. (2021), Saving Lives, Improving Mothers' Care Young, K., Fisher, J. & Kirkman, M. (2020), Partners instead of patients: Women negotiating power and knowledge within medical encounters for endometriosis	
GENDER REASSIGNMENT	IAs will likely provide services to people who have or are undergoing gender reassignment, therefore changes to commissioning guidance may impact this group. People reported feeling uncomfortable being open about their non-binary identity when using various public services. This was particularly true of general NHS services, where 60% of respondents 'never' felt comfortable (n 824), as well as with GPs where 50% of respondents said they 'never' felt comfortable (n 846). Survey respondents reported that they will often avoid using a variety of public services, due to embarrassing or	Scottish Trans Alliance and Equality Network (2016), Survey of Non-binary People's Experiences in the UK NHS Education Scotland (2021), NHS Workforce	Very limited Scotland-specific data.

	uncomfortable situations arising, many of which were attributed to people being uneducated about non-binary people. At end March 2021, 0.1% of the staff employed by NHSScotland declared that they were transgender.	Statistics Equality and Diversity table	
SEXUAL ORIENTATION	Data suggests that lesbian, gay and bisexual people in Scotland face a range of health issues arising from prejudice and discrimination. Levels of smoking, substance use and mental health are likely to be poorer. IAs will provide services to people of all sexual orientations, therefore changes to commissioning guidance may impact these groups.	The Scottish Public Health Observatory (2010), Dimensions of Diversity: Population differences and health improvement opportunities Scottish Government (2012), Scottish Health Survey – topic report: equality groups	The data identified is over 10 years old and therefore may be outdated. It is difficult to find Scotland-specific data on this topic.
RACE	The last census indicated that 16% of the Scottish population were minority ethnic and 4% of the population were black and minority ethnic. Data covering 2020/21 highlights that the vast majority of social care clients identify as white. Given the vast majority of social care users identify as white, there is a risk that other racial and ethnic minority groups may not be fully considered in the commissioning and design of services.	Public Health Scotland (2022), Insights in social care: statistics for Scotland Public Health Scotland (2022), Ethnic groups and migrants	

	However, data suggests that minority ethnic groups, excluding Gypsy/Travellers, have better general health than the majority white population. In Scotland, the mortality rate is also higher in the majority ethnic (white) population than in the black and minority ethnic population. Nonetheless, revised commissioning guidance could contribute to this area by promoting consideration of diversity and equality duties when commissioning services.		
RELIGION OR BELIEF	There is variation in how different religious groups self-report their health and mental wellbeing. It is likely that IAs will commission services for people who hold a range of beliefs and religions. The proposed work programme may therefore indirectly impact people with a wide range of religions and beliefs. Refreshed guidance could promote greater equality, in the design of services, for those from minority religious groups.	Scottish Government (2012), Scottish Health Survey – topic report: equality groups	There is limited data on this topic. The data identified is 10 years old and therefore may be outdated.
MARRIAGE AND CIVIL PARTNERSHIP	N/A	N/A	N/A

4. Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X			The desired outcome is for the revised guidance to have a positive impact on reducing and/or eliminating discrimination on people of all ages by supporting IAs to commission services effectively and promoting equality.
Advancing equality of opportunity	X			There are opportunities to enhance the references and links to equality duties within revised guidance.
Promoting good relations among and between different age groups	X			There is opportunity for revised guidance to promote positive relations between those who plan and deliver services and those who use services. These interactions cover a wide range of ages, given the breadth of services that IAs provide. The presence and visibility of effective services within local communities can also help foster positive relationships between different groups by increasing understanding, awareness and providing a basis for education. The commissioning guidance should underpin the design and delivery of services and therefore can assist in promoting positive relations.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation	X			The desired outcome is for the revised guidance to have a positive impact on reducing and/or eliminating discrimination for people with disabilities by supporting IAs to commission services effectively and aligned to local people's needs.
Advancing equality of opportunity	X			The guidance is intended to support IAs commission services in a manner that meets the needs of their diverse communities. Services tailored to people's needs will advance equality of opportunity by supporting people to live healthy, autonomous and fulfilling lives.
Promoting good relations among and between disabled and non-disabled people	X			There is opportunity for revised guidance to promote positive relations between those who plan and deliver services and those who use services. These interactions will likely include people with disabilities, given the breadth of services that IAs provide. The presence and visibility of effective services, embedded within communities, can also play a critical role in mitigating wider prejudices amongst populations by increasing awareness and education on diversity. The commissioning guidance should underpin the design and delivery of services and therefore can assist in promoting positive relations.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			The programme of work will not impact on men and woman differently, but there is the opportunity to promote greater consideration of equalities and, in turn, women's health.
Advancing equality of opportunity	X			Services tailored to individuals' needs, including to women's health, will contribute to the creation of conditions for women to participate fully in society and consequently advance equality of opportunity. Refreshed guidance could play a small role in delivering this.
Promoting good relations between men and women	X			The presence and visibility of effective services, embedded within communities, can also play a critical role in mitigating wider prejudices amongst populations by increasing awareness and education of diversity.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			There is the opportunity to promote greater consideration of equalities in refreshed guidance and, in turn, pregnancy and maternal health.
Advancing equality of opportunity	X			Services tailored to individuals' needs, including to women's health, will contribute to the creation of conditions for individuals to participate fully in society and consequently advance equality of opportunity. Refreshed guidance could

				play a small role in delivering this.
Promoting good relations	X			The presence and visibility of effective services, embedded within communities, can also play a critical role in mitigating wider prejudices amongst populations by increasing awareness and education of diversity.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			There is the opportunity to promote greater consideration of equalities in refreshed guidance and, in turn, improve services for those proposing to undergo, undergoing or who have undergone reassignment of their sex.
Advancing equality of opportunity	X			Services tailored to individuals' needs will contribute to the creation of conditions for individuals to participate fully in society and consequently advance equality of opportunity. Refreshed guidance could play a small role in delivering this.
Promoting good relations	X			The presence and visibility of effective services, embedded within communities, can also play a critical role in mitigating wider prejudices amongst populations by increasing awareness and education of diversity.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			There is the opportunity to promote greater consideration of equalities in refreshed guidance and, in turn, reduce discrimination based on sexual orientation.
Advancing equality of opportunity	X			Services tailored to individuals' needs will contribute to the creation of conditions for individuals to participate fully in society and consequently advance equality of opportunity. Refreshed guidance could play a small role in delivering this.
Promoting good relations	X			The presence and visibility of effective services, embedded within communities, can also play a critical role in mitigating wider prejudices amongst populations by increasing awareness and education of diversity.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			There is the opportunity to promote greater consideration of equalities in refreshed guidance and, in turn, reduce discrimination based on race.
Advancing equality of opportunity	X			Services tailored to individuals' needs will contribute to the creation of conditions for individuals to participate fully in society and consequently advance equality of opportunity. Refreshed guidance could play a small role in delivering this.

Promoting good race relations	X			The presence and visibility of effective services, embedded within communities, can also play a critical role in mitigating wider prejudices amongst populations by increasing awareness and education of diversity.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination	X			There is the opportunity to promote greater consideration of equalities in refreshed guidance and, in turn, reduce discrimination based on religion/belief.
Advancing equality of opportunity	X			Services tailored to individuals' needs will contribute to the creation of conditions for individuals to participate fully in society and consequently advance equality of opportunity. Refreshed guidance could play a small role in delivering this.
Promoting good relations			X	It is unlikely that health services will be promoted to specific religious groups therefore there will be limited opportunity to promote positive relations.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	

5. Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	No negative impacts identified, however various potential risks have been identified. There are circumstances, if a refresh of the statutory guidance is completed in an unsatisfactorily or incomplete manner, in which negative impacts may arise.
Is the policy directly or indirectly discriminatory under the Equality Act 2010?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

The Equality Impact analysis has shaped the work programme by:

- ensuring consideration of the intersecting inequalities that people face are reflected in the planning stage;
- providing a space for reflection on possible risks and negative impacts that may arise from the risks;
- enhancing knowledge of the inequalities that people may face and the intersection the proposed work may have;
- providing more evidence for the important of appropriately joining the proposed work programme with ongoing related work on equalities;
- providing further incentive to put equalities at the centre of the desired outcomes of the work programme.

Monitoring and Review

The programme of work has been subject to feedback from the short life working group throughout the duration of the project. Further feedback and scrutiny will be gathered through the wider, public consultation.

6. Stage 5 - Authorisation of EQIA

Please confirm that:

- ♦ This Equality Impact Assessment has informed the development of this policy:

  Yes ☒ No ☐

- ♦ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

  - ○ Eliminating unlawful discrimination, harassment, victimisation;
  - ○ Removing or minimising any barriers and/or disadvantages;
  - ○ Taking steps which assist with promoting equality and meeting people's different needs;
  - ○ Encouraging participation (e.g. in public life)
  - ○ Fostering good relations, tackling prejudice and promoting understanding.

  Yes ☒ No ☐

- ♦ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

  Yes ☐ No ☐ Not applicable ☒

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the refresh of strategic commissioning plan statutory guidance and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

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Position: Deputy Director, Regulation, Improvement and Integration Support
Authorisation date: 23 June 2023

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