



The Scottish
Government
Riaghaltas na h-Alba

Public Sector Equality Duty
Implementation of
Scottish Specific Duties:
Views from public authorities

Equalities



**PUBLIC SECTOR EQUALITY DUTY
IMPLEMENTATION OF SCOTTISH SPECIFIC
DUTIES: VIEWS FROM PUBLIC AUTHORITIES**

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EXECUTIVE SUMMARY

About this research

This research explored Scottish public authorities' experiences in approaching their Public Sector Equality Duties. This report presents views about what authorities have learnt from their implementation of the Scottish specific duties.

The Scottish Government commissioned the research in September 2013, to help inform Scottish Ministers as they prepare to meet their duty to publish proposals for activity to enable the better performance of the Public Sector Equality Duty.

Method

The research involved one to one telephone interviews with a stratified sample of 69 listed authorities in Scotland. The interviews explored detailed experiences in relation to the production of equality outcomes, and the production of employee, equal pay and gender pay gap information.

The sample was developed from the 251 listed authorities in Scotland, produced by the Equality and Human Rights Commission in May 2013. It was agreed that education authorities should be excluded from this sample. It was also agreed that the list should be updated to reflect the mergers of further education colleges which had taken place since May 2013. This reduced the number of listed authorities to 202. The research involved interviews with one third of these authorities.

Key findings – equality outcomes

The process

The production of equality outcomes was almost always a joint effort, involving equality leads, senior management across services, and boards or governing committees. Many smaller organisations, however, had no dedicated equality lead in place and a small number of these organisations felt that they lacked skills, expertise and capacity around equality.

Authorities followed a broadly similar process to developing equality outcomes. Most began with evidence gathering – normally using both quantitative and qualitative information, from national and local sources. Authorities generally then identified broad priorities for action and consulted with internal and external stakeholders.

Almost all authorities undertook some form of consultation on their equality outcomes. Most authorities undertook a mix of engagement targeted specifically at groups of people who share a protected characteristic, and engagement with the general public more widely. In many cases it was an “iterative” process, involving many different stages and multiple levels of consultation.

Many authorities were not able to quantify the broad resources dedicated to producing equality outcomes. Most local authorities and NHS Boards who were able to estimate the resources involved said that it took the equivalent of three to eight months on a full time basis.

Success factors

Authorities consistently identified key success factors, which helped them to develop effective outcomes:

- **senior level buy-in and support** – helping to raise the profile of equalities and making it easier to encourage people across the organisation to take ownership of delivery of key actions;
- **working with others** – allowing development of common priorities at a local level, or sharing practice at a national level; and
- **effective engagement and consultation processes** – helping to inform equality outcomes and build support for the agreed outcomes across organisations and communities.

Barriers

Authorities also identified clear barriers to developing equality outcomes:

- **a robust evidence base** - most felt that there were gaps in both local and national evidence, in relation to the timing of publication of statistics and the protected characteristics covered;
- **guidance** - many felt that the guidance produced on equality outcomes was not clear enough, and that more practical guidance which encouraged consistency of approach would be useful;
- **measuring progress and benchmarking** – some highlighted challenges in measuring progress against outcomes, particularly without robust baseline data, and others were concerned that it would be difficult to compare performance across authorities;
- **engagement and consultation** – some found it challenging to gather representative and diverse views from communities; and
- **mergers** - a small number of authorities experienced particular challenges as they were going through a merger process at the time their work to meet the duties was being developed.

Impact

Many felt that it was too early to identify changes as a result of producing equality outcomes. Some felt that early changes included:

- increased awareness of equalities;
- enhanced confidence around equality issues;
- more commitment to action to address inequalities; and
- better alignment of equalities within the wider strategic objectives of the organisation.

Key findings – employee information, pay gap and equal pay

The process

In most cases, the production of employee information was led by an individual in human resources, with support from a policy colleague. In some small organisations, policy officers led on the production of employee information. Local authorities generally led for Licensing Boards and education authorities.

NHS Boards took a co-ordinated approach to producing employee information, with a national group which provided templates and support. Some local authorities, colleges and universities shared practice through networks and joint working.

Almost all authorities found that they needed to add to the employee information they already held, in order to meet the duties. Authorities found it most challenging to produce employee information for sexual orientation, gender reassignment and pregnancy and maternity.

Where equal pay, pay gap and occupational segregation information had not been previously produced in the format required, this resulted in considerable work. Authorities had to devise new processes to produce this information in a meaningful way. This often involved staff at senior levels.

Authorities found it difficult to estimate the resources involved in producing employee information – but most felt that it involved less resource than developing equality outcomes. However, the level of resources involved was very dependent on the systems organisations had in place already.

Success factors

Key success factors included:

- established practices of gathering and analysing employee information;
- software systems which enabled analysis to be undertaken electronically;
- support from senior management; and
- sharing practice and experience between authorities.

Barriers

The most commonly mentioned barrier was the challenge of interpreting the written guidance on producing employee information. However, authorities also experienced specific problems with gathering and analysing data, including:

- low staff response rates to requests for information;
- lack of technology to analyse data; and
- challenges agreeing meaningful categories for analysis of data – particularly around occupational segregation information.

Impact

Only a minority of authorities had seen immediate changes as a result of publishing employee information. Early changes included:

- greater awareness of equality;
- greater understanding of workforce diversity;
- enhanced commitment to improve the quality of data;
- some practical actions to address inequalities; and
- more confidence in talking about employee needs and experiences.

Reflections

Authorities identified clear, common priorities for support in the future. All types of authority would like to see three main kinds of support – guidance, feedback and leadership. The Scottish Government may wish to consider future support arrangements to address the following themes.

- **Responsibility to meet the specific duties** – The listed authorities are all very different in scale and scope. Some faced specific challenges due to their size, or to their very close relationship to other listed authorities. It may be worth considering whether Licensing Boards, education authorities, Joint Boards and local authorities could be required to publish employee information and equality outcomes jointly, rather than separately. A proportionate approach to requirements to publish employee information could also be considered.
- **Feedback to listed authorities** – There is strong demand for authorities to receive individual feedback on their performance in relation to equality outcomes and employee information. This needs to be done in a supportive manner, to build confidence and maintain motivation to strengthen the response to the specific duties. It may be appropriate to consider a proportionate response to feedback, with larger authorities being encouraged to stretch slightly more than the smaller or less experienced authorities.
- **Guidance on the duties** – There is clear demand for additional practical and detailed guidance on meeting the specific duties. This should be written in plain English; include examples that are considered to be good practice; and potentially include (optional) templates for producing employee information and equality outcomes. It could cover how to move from publication to taking action to address inequalities; and how to work jointly at a local level.
- **Scottish Government role** - There is potentially a role for the Scottish Government in supporting and motivating authorities to meet the specific duties effectively. This could include practical steps such as:
 - a clear, high profile statement from the Scottish Government about the importance of meeting the specific duties;
 - inclusion of equality outcomes in other outcomes, targets and plans at national level;
 - production of practical guidance; and
 - providing funding to support listed authorities.
- **Sharing practice** – Authorities found that sharing experiences and practice was very helpful. This could be further promoted through raising awareness of the range of networks available; providing funding to some networks to perform a supportive role; and exploring the creation of a national multi-sector group to share experience and good practice around meeting the specific duties.

CHAPTER 1 | INTRODUCTION

About this report

- 1.1 This report explores the experiences of public authorities in Scotland in approaching their Public Sector Equality Duties. It presents views gathered from a range of public authorities about what they have learnt from their implementation of the Scottish specific duties, focusing on:
- the processes that they have put in place;
 - the barriers they faced (and how they overcame these);
 - areas in which additional support could assist in overcoming any remaining barriers; and
 - a broad understanding of the perceived costs and benefits of implementing the equality duties.
- 1.2 The Scottish Government appointed us in September 2013 to undertake this work to help inform Scottish Ministers, as they prepare to meet the Scottish Ministers' Duty to publish proposals for activity to enable better performance of the Public Sector Equality Duty.

Method

- 1.3 This research was undertaken by means of in depth telephone interviews. We undertook one to one telephone interviews with a stratified sample of 69 listed authorities¹ agreed with the Scottish Government. This represents one third (34%) of the listed authorities in Scotland (that were included in this study).
- 1.4 We initially aimed to involve 65 listed authorities in the research. We developed a sample of listed authorities to invite to participate in the research. In developing the sample, we ensured that it was proportionate to the type, staff size, and geography of the authorities.
- 1.5 The sample was developed from the 251 listed authorities in Scotland, produced by the Equality and Human Rights Commission². It was agreed that education authorities should be excluded from this sample. This reduced the number of listed authorities to 219. It was also agreed that the list should be updated to reflect the mergers of further education colleges which had taken place since May 2013, when the list was produced. This further reduced the number of listed authorities to 202.
- 1.6 We sampled a higher number of authorities than required, to allow for non participation. We issued two rounds of invitations to participate, with a total of

¹ The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 list all public authorities who are subject to the specific duties (referred to as 'listed authorities').

² Public Authorities in Scotland - Who is covered by the Specific Duties under the Public Sector Equality Duty?, EHRC Scotland, May 2013

92 authorities invited to take part in the research. Our second round of invitations was targeted at the larger public authorities (local authorities and NHS Boards). We also targeted categories of authority which had been least likely to respond to the initial invitations to participate.

- 1.7 Of the 92 authorities invited to participate, 69 took part in the research. Overall, only three listed authorities specifically declined to participate in the research.
- 1.8 A breakdown of the different types of authorities interviewed and the number of authorities in each group is provided in the table below.

Table 1.1: Listed authorities included in the sample

Sector	Total listed authorities	Number interviewed	Percentage interviewed
NHS			
Health Boards	21	11	52%
Local Government			
Local Authorities	32	16	50%
Joint Boards	11	2	18%
Licensing Authorities	34	9	26%
Total Local Government	77	27	35%
Educational Bodies			
Grant Aided Schools	8	2	25%
Further and Higher Education	45	12	27%
Total Educational Bodies	53	14	26%
Other Bodies			
Non Departmental Public Bodies (NDPBs)	23	8	35%
Community Justice Authorities	8	1	13%
Transport Partnerships	8	2	25%
National Parks	2	2	100%
Enterprise Agencies	2	1	50%
Scottish Administration ³	4	1	25%
Police and Fire	4	2	50%
Total Other Bodies	51	17	33%
Total	202	69	34%

- 1.9 The interviews explored detailed experiences in relation to:
- the production of equality outcomes; and
 - the production of employee information by protected characteristic.
- 1.10 The interviews focused on experiences, attitudes and views about the process of meeting the specific duties. The interviews followed a semi-structured discussion guide. A copy of the discussion guide is included as Appendix One.

³ The brief for this work specifically excluded Scottish Ministers from this research.

1.11 We asked the key contact in each authority whether we should speak to the same individual about the production of equality outcomes and employee information, or whether we should speak to separate lead individuals. In most instances, we were advised to speak with a single member of staff – normally the equality or policy officer – about the production of both the equality outcomes and the employee information. In other instances we interviewed separate members of staff who led on each aspect. In one large national organisation we interviewed three individuals. In a small number of cases we spoke only to the individual responsible for producing equality outcomes, due to the individual responsible for employee information not being available within the study timescales.

Table 1.2: Interviews undertaken

Sector	Listed authorities interviewed	Equality outcomes interviews	Employee information interviews
NHS			
Health Boards	11	11	11
Local Government			
Local Authorities	16	16	13
Joint Boards	2	2	2
Licensing Authorities	9	9	9
Educational Bodies			
Grant Aided Schools	2	2	2
Further and Higher Education	12	12	12
Other Bodies			
Non Departmental Public Bodies (NDPBs)	8	8	7
Community Justice Authorities	1	1	1
Transport Partnerships	2	2	2
National Parks	2	2	1
Enterprise Agencies	1	1	1
Scottish Administration	1	1	1
Police and Fire	2	2	2
Totals	69	69	64

1.12 Detailed notes were written up using a standard template following each interview. We undertook a detailed analysis of the information gathered from the telephone interviews, drawing out particular themes for equality outcomes and employee information. We did this using a system of manual thematic coding, focusing on:

- the extent of evidence and engagement with service users, equality groups and staff in the development of outcomes;
- the barriers and enablers to performing the equality duties;
- what would have helped to overcome the identified barriers; and

- perceived resources deployed in meeting the equality duties and the benefits that have accrued as a result (or are expected to accrue in the longer term).

Notes on methodology

- 1.13 This research provides an overview of the experience of listed authorities in meeting the specific equality duties. It is rich, qualitative research which provides an in depth understanding of experiences, attitudes and views – particularly barriers, challenges and success factors.
- 1.14 The research was undertaken on a completely anonymous basis. We therefore do not identify the organisations (or individuals) involved in this research. We have consolidated reporting categories into relatively large groupings to avoid identification of individual organisations. It is important to note, however, that within these large groupings there were different experiences and views. Where possible, we have highlighted these without identifying individual organisations or threatening anonymity.
- 1.15 In determining the reporting groups, the listed authorities within the Police and Fire and Scottish Administration categories were included within a larger category of Other Bodies. This was to protect anonymity of the small number of authorities involved, rather than due to any suggestion that these are not distinctive organisations.
- 1.16 Throughout the report, we use verbatim quotes to demonstrate participant views in their own words. To preserve anonymity, these quotes are simply attributed to the type of authority by reporting group.
- 1.17 We also highlight a number of boxed examples of different approaches. These have been approved by the organisations concerned, and consent has been provided to identify the organisation in this instance. These boxed examples are the only place where individual organisations are identified.
- 1.18 It is important to note that the examples are intended to provide a flavour of different approaches, and are not suggestions of best practice. There are many different examples that could have been selected. There will be many other authorities that have taken similar approaches, but are not profiled in the report.

Note on the equality duties

- 1.19 The UK Government's Equality Act 2010 introduced a Public Sector Equality Duty which came into force in April 2011. This is often referred to as 'the general duty'. Under the Public Sector Equality Duty, public authorities must have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010;

- advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic⁴ and those who do not.

1.20 The Act enables Scottish Ministers to impose duties on listed public authorities, for the purpose of improving performance of the general duty. Scottish Specific Duties came into force on 27 May 2012, and provide a new framework to:

- publish a set of Equality Outcomes by the end of April 2013 and report on progress;
- report by the end of April 2013 on how they are integrating the equality duty into core business activities;
- undertake equality impact assessment of new policies and practices;
- gather and use employee information on equality and diversity and publish the results of this by end April 2013;
- consider equality within public procurement, where relevant and proportionate; and
- publish their gender pay gap and an equal pay statement (if they have over 150 employees).

1.21 The specific duties also require Scottish Ministers to set out proposals to assist Scottish public authorities to better perform the general duty. This is referred to as the Scottish Ministers' Duty. The deadline for publication of these proposals is December 2013.

1.22 To assist Ministers in developing these proposals, Scottish Government has commissioned this research to explore the experiences of authorities in Scotland in implementing the new duties.

Note on terminology

1.23 Throughout this report we have used the term 'authorities' to refer to the public bodies which were involved in this research.

⁴ The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

CHAPTER 2 | DEVELOPING EQUALITY OUTCOMES

Introduction

- 2.1 This chapter summarises the views of authorities in relation to the process of developing equality outcomes. Under the specific duties, authorities must have published equality outcomes by 30 April 2013. Authorities must also publish a report on progress made to achieve equality outcomes by 30 April 2015. Equality outcomes must be updated at least every four years.
- 2.2 In preparing equality outcomes, authorities are required to:
- take reasonable steps to involve people with a relevant protected characteristic and anyone who appears to them to represent the interests of people with a relevant protected characteristic; and
 - consider relevant evidence relating to people who share a relevant protected characteristic.
- 2.3 If the equality outcomes do not cover people with all relevant protected characteristics, authorities are required to explain why.
- 2.4 This chapter explores:
- the process for producing equality outcomes – including who led the process and the support provided by others;
 - the use of evidence – including how useful, reliable and robust this was in informing the development of equality outcomes;
 - experiences of the engagement process – including the process and the challenges experienced;
 - experiences of working with other public authorities in developing equality outcomes;
 - key success factors, barriers and challenges;
 - the (broad) resources involved in producing equality outcomes; and
 - the immediate and potential longer term impact of developing equality outcomes.

Process for producing equality outcomes

- 2.5 Respondents were asked to describe the approach that they adopted to meeting the duties.

Lead responsibility

- 2.6 In most cases, larger authorities (including local authorities, NHS Boards, Non Departmental Public Bodies (NDPBs) and national organisations) tended to have a dedicated officer who led on equalities work – or a dedicated equalities team. These posts were often located within corporate teams, for example, the Chief Executive's office, Corporate, Strategy and Performance or Human Resources (HR) divisions or directorates, whilst in some cases they were part

of the Community Planning teams. However, in some of the smaller NHS territorial Boards, the equalities work tended to be part of the officer's wider role, or provided by another NHS Board.

- 2.7 These dedicated officers generally had wide ranging remits that included, for example, providing advice and support on legislation to the development of policy and plans to meet the duties. As part of this, officers might be involved in providing advice and support to staff, elected members, board members, senior management teams and service delivery teams on all aspects of equality.
- 2.8 Within the majority of educational bodies, equalities work was either led by senior officers (at Vice Principal or Director level) or by officers based within HR teams or directorates. Some of the officers said that they felt they were the only individuals within their organisations with a responsibility for equalities.
- 2.9 Some smaller organisations commented that they did not have a dedicated equalities officer and the equalities work tended to be added to someone's work portfolio. Some of these organisations felt that there was often no real "expertise" in equalities, which meant that people often had to learn on the job. Some said that as a result, they felt a bit exposed. Others were grateful for the support that they had received from the Equality and Human Rights Commission (EHRC). A few respondents had commissioned support from consultants due to limited capacity within their staff teams.

Example: Working with consultants to deliver equality outcomes

When the Scottish specific duties came into force in 2012, Strathclyde Partnership for Transport (SPT) identified a need to recruit expert consultancy support to assist in developing equality outcomes, undertaking staff and customer engagement and promoting mainstreaming. With the strong support of the equalities champion, senior management team and Trade Unions, SPT was able to ensure that employees and customers were actively and meaningfully engaged in the process.

Consultancy support meant that policy and HR staff had the time and space to lead the work while also playing a full part in discussions around the issues and challenges emerging. Recruiting a consultant to provide guidance, support and to facilitate engagement was critical to developing outcomes in an effective and focused way. In addition, the opportunity to take an objective approach to SPT's equalities work and to critically appraise projects, policies and initiatives proved valuable in giving greater confidence in taking forward the challenge of continuing to meet equalities responsibilities for both customers and staff.

External support *"was very effective, and [it] would have been a much more difficult process otherwise"*.

Support from others

- 2.10 The majority of authorities had worked closely with their boards or governance committees, senior management teams and senior managers from across services to develop their proposals to meet the duties and produce equalities outcomes. Many said that this was critical to securing buy-in and getting support to drive the process forward. However, a few respondents had struggled to get buy-in from senior managers.

“We had to get buy-in from the top.”

(Local Government)

Example: Involving all strands of the business

Skills Development Scotland was keen to ensure that equality was built in “from the top down” so the board identified an ‘equalities champion’. This person chairs the external Equalities Advisory Group which includes representatives from each of the protected characteristic groups, including Stonewall, Close the Gap, and Capability Scotland, for example. This group meets quarterly and acts as a sounding board for any new policy, services or changes.

Internally there is also an Equality Management Group and an Equality Champions Group made up of front line staff.

A working group, made up of representatives from each part of the business was established to develop equality outcomes and a senior manager was appointed for each of the outcomes to ensure there was buy-in throughout the organisation, and not just the responsibility of the Equality and Diversity team.

- 2.11 In addition, others had worked with internal corporate equalities groups that included representation from senior managers or service leads from across their organisations. Many said that these groups helped to provide leadership in taking forward the work to meet the duties. A few respondents also mentioned that they worked with Equalities Champions within their organisations.

“The Equality and Diversity Group Steering Group does a really good job.”

(NHS Board)

Example: Departmental approach to developing equality outcomes

The lead for equality at Inverclyde Council helped managers from each of the organisation’s three directorates to produce their own set of equality outcomes. These were then reviewed at corporate level and aligned with the council’s overarching strategic themes. Each directorate has representation from Equalities Champions on the Corporate Equalities Group. This

departmental approach combined with early buy-in from senior management, resulted in a successful process towards meeting the equality duties.

Developing equality outcomes

- 2.12 Authorities were asked to describe how their organisations had developed equality outcomes. Many said that the biggest challenge to developing equality outcomes was knowing where to start. Many felt that there was a lack of clarity in terms of what was expected in relation to equality outcomes. Others commented that the guidance provided by EHRC was not clear, and was open to interpretation.

“We all struggled with this [where to start] across the country.”
(NHS Board)

- 2.13 A few authorities said that a lot of “hand-holding” was required within their organisations in the early stages and that people within their organisation had to be supported to take responsibility for the work that was required to meet the equality duties. Another respondent reported that prior to the consultation on the outcomes, they ran a number of capacity building sessions for staff and the community to help people understand the aims and purpose of the work that was being done to meet the duties.

“People are scared of equalities.”
(NHS Board)

- 2.14 Generally, authorities adopted fairly similar approaches to developing the equality outcomes. Normally authorities initially undertook some form of mapping exercise, where available information and evidence was gathered and analysed. This was then used to identify gaps and to define priorities for action. In some cases this was used as a basis for further consultation with key external stakeholders. Often the prioritisation exercise involved some form of scoring or ranking system.

Example: Developing equality outcomes

The corporate equality officer for West Dunbartonshire Council described their process for developing equality outcomes. He identified some areas that could be considered as the focus for outcomes and carried out secondary research into each of these areas. A mapping exercise of protected characteristics against particular local issues was then undertaken. This involved the creation of a spreadsheet, which logged the specific issues of protected characteristic groups against employment, service delivery and housing, among others. This mapping exercise was used to build up evidence around protected group issues and provided the catalyst for discussion with relevant service departments and community equality groups. Combined with other evidence, this piece of work helped to focus and inform the development of equality outcomes.

Example: Scoping outcomes

NHS Lanarkshire adopted a very pragmatic approach to developing its outcomes. Its overall aim was to produce outcomes that were practical and deliverable.

At the outset NHS Lanarkshire's Equality and Diversity Steering Group identified potential outcome areas, where both local and national evidence supported the need for additional work to ensure better inclusion.

The equalities and diversity manager then met with lead clinical and general managers from across NHS Lanarkshire to discuss these priority areas and asked them to develop potential outcomes, using a standard pro forma. As part of this they had to:

- provide any supporting evidence and data;
- consider the impact that the proposed outcome was going to have on one or more of the protected characteristics;
- assess how work in this area would improve the experience of service users;
- identify potential measurements and actions to show direct long and short term impact; and
- provide evidence of recent involvement and consultation with the target groups.

The information gathered from the pro formas helped inform the prioritisation process and the development of NHS Lanarkshire's five equality outcomes.

The equality and diversity manager said that using a standardised pro forma to collect information was very useful, not only in terms of informing the prioritisation exercise, but also in helping to scope out individual outcomes.

The approach that was adopted by NHS Lanarkshire has ensured that the outcomes that have been developed are clear and simple, and are also owned and being delivered by relevant operational leads.

- 2.15 Some authorities said that their starting point was to look at existing plans and strategies or previous Single Equality Schemes, and to see what was already being done to support equalities and to identify any gaps from this.

“We used what we already had.”

(NHS Board)

- 2.16 A number of authorities highlighted the importance of ensuring that the equality outcomes were aligned to existing strategic or corporate plans and also embedded within individual service delivery plans.

- 2.17 For most respondents, consultation was a critical part of this process, whether with external groups to gather views on key priorities, or with internal groups to get buy-in and support to the delivery of the outcomes.

“It was a bit of a selling job sometimes.”

(Local Government)

- 2.18 One local authority respondent had worked with their community planning partners to develop shared outcomes in relation to tackling violence against women and dealing with hate incidents.

- 2.19 A number of education bodies raised issues that were specific to their particular sector. For example, a number of further education colleges highlighted the fact that they were trying to develop equality outcomes at a time when proposals for college mergers were being taken forward and that there were sensitivities around this. Some colleges had tried to work with their future merger partners to develop joint outcomes, whilst others focused on developing their own equality outcomes. Many of the colleges said that their outcomes would have to be reviewed once the mergers had taken place.

“It would be better if we had the time to do it together, now we have to do it again.”

(Education Body)

- 2.20 In addition, some of the education bodies expressed frustration that they were being asked to develop equality outcomes to meet the duties, at the same time as the Scottish Further and Higher Education Funding Council was introducing a new outcome based approach to funding. This meant that organisations were being expected to produce two sets of outcomes for different purposes. Many felt that these processes could have been better coordinated and aligned to save duplication of time and effort.

- 2.21 A few of the smaller authorities commented that they were not aware until quite late on in the process that they were required to develop equality outcomes. Some said that they struggled with this due to the lack of expertise and staff resources.

Example: Integrated approach to equality

The equality and diversity advisor for Heriot-Watt outlined a holistic approach to meeting the equality duties, to ensure consistency and cohesion across the range of equality related projects underway at the time and to avoid duplication.

Heriot-Watt has been involved in a tailored programme for four Higher Education Institutions with the Equality Challenge Unit, designed to help them mainstream equality into existing processes. This project supported Heriot-Watt as they developed work to mainstream equality into existing governance and management structures. The university was also undertaking work in relation to the Athena Swan Charter at the same time, which is an award scheme recognising commitment to advancing women's careers in Science, Technology, Engineering, Medicine and Maths.

The equality and diversity manager stated that evidence gathered for these equality projects influenced the development of the equality outcomes.

“Lots of equalities work is happening in tandem.”

Use of evidence

- 2.22 We asked authorities about the evidence that they had used to inform the development of their outcomes. Most authorities had used a variety of both quantitative and qualitative information sources.

External sources

- 2.23 Many pointed to national information and research available through the Scottish Government, for example, Census information, Scottish Neighbourhood Statistics and the Scottish Government's Equalities Evidence Finder. Others referred to information that was shared across community planning partners locally. A number of respondents said that information provided by some equality organisations – such as Stonewall Scotland and LGBT Youth Scotland – was very useful.
- 2.24 Some education bodies had used statistical information that was available through the Scottish Further and Higher Education Funding Council and the Equality Challenge Unit. A few also mentioned that they had sourced information from the Higher Education Statistics Agency, but said that there was a charge for tailored information requests. One authority referred to the Research Excellence Framework⁵ as being a useful source of robust evidence, as it quality assessed research for UK Higher Education Institutions. However, a number of education bodies felt that there was a lack of robust baseline information and also benchmarking information.

⁵ <http://www.ref.ac.uk/>

- 2.25 A number of NDPBs and organisations delivering services nationally commented that there was a lack of information and evidence available that was relevant to their particular service (or geographical area of operation) and that sometimes they had had to rely on anecdotal or national information.
- 2.26 There was fairly strong agreement among respondents that the evidence base was “patchy” and “a bit of a mixed bag”. Most felt that there were gaps in evidence, particularly at the local level and also among some of the protected characteristic groups - particularly religion and belief, sexual orientation and gender reassignment.
- 2.27 Many respondents had experienced problems accessing reliable and up to date information, as much of the Census 2011 information had not been available at the time that the equality outcomes were being developed. Others commented that it was not always possible to apply national trend information to the local level, particularly in rural and remote rural areas.

Internal sources

- 2.28 Respondents also gathered information from their own internal sources, for example, staff surveys, service monitoring information and customer complaint information. However, some respondents said that there were limitations with some of this information in terms of its reliability and coverage.
- 2.29 Where there were identified gaps in evidence and information, some respondents gathered this information using a variety of different methods, for example, online surveys, community surveys, commissioning primary research or undertaking in-house desk-based research.
- 2.30 Some NHS respondents commented that within the health service there was a strong bias towards the use of quantitative information and that there were questions about the use of qualitative information, as this was viewed as “weak evidence”. Some were frustrated that they couldn’t use anecdotal evidence to justify outcomes in certain areas. There was a concern about focusing on the areas only where the evidence was strongest – as this may mean some major inequalities were not tackled.

“Public Health is very evidence based. What counts as evidence in some sectors is not sufficiently robust to justify action in public health terms.”

(NHS Board)

- 2.31 However, some authorities gave examples of how they had used evidence positively, to inform the development of their outcomes.

Example: Evidence to underpin the outcomes

Glasgow City Council spent a great deal of time developing as robust an evidence base as possible, so that properly informed decisions about outcomes could be taken. This involved a full review of a range of documents including:

- UK Government research publications;
- the Scottish Government work on equality statistics (to set the scene);
- information on protected characteristics prepared by the council's Development and Regeneration Services based on a range of databases, including the Census, Scottish Neighbourhood Statistics and SIMD;
- reviewing recent research on protected characteristics carried out for the Glasgow Community Planning Partnership; and
- research by equality and research organisations (such as EHRC, Stonewall and the Joseph Rowntree Foundation).

Work which had been commissioned by the community planning partnership in recent years had been very appropriate – and meant that there was not a need to commission additional research specifically to support the development of equality outcomes. There was considerable evidence (although it was, of course, not fully complete) and it was felt that *“our evidence was an absolutely vital part of the development of the outcomes and supported the whole process”*.

All the information was analysed (using an Excel spreadsheet) based on all the protected characteristics and a range of themes (for example, health, housing, education and so on). Although much information was collated, this was then summarised on a series of one-page fact sheets for each. These fact sheets were used as a basis for discussion at a development workshop (for council staff), which focused on five key emerging themes.

The development workshop identified a range of additional evidence that it would be valuable to research in the future (and it is hoped that at least some of this additional research will be in place to inform future decisions on outcomes). The issues arising were then matched to the views of service departments through a discussion around “what can we do about these issues”. As a result 15 areas of concern were identified for wider consultation – which eventually led to the agreement of the equality outcomes.

“The evidence review was undoubtedly the most successful and important part of the development of our outcomes – it underpinned our whole approach.”

Engagement

- 2.32 We asked authorities who they consulted and engaged with beyond their organisations, and what their experience of this process was.
- 2.33 Many respondents, particularly local authorities and NHS Boards, had consulted with a wide range of stakeholders, for example, staff, service users, local communities, local and national equalities groups and voluntary sector organisations.
- 2.34 Respondents highlighted a number of different consultation methods that they had used, including online surveys and Have Your Say forums; focus groups and group discussions; service user panels; Citizens' Panels; community conferences and drop-in sessions. A few respondents had started to look at more innovative approaches to consultation and engagement using social media.

Example: Engagement in developing outcomes

NHS Forth Valley undertook fairly extensive consultation and engagement with service users and local groups to inform the development of their equality outcomes. In particular, it was particularly successful in its approach to engaging with young people and people from ethnic minority groups, using a variety of different and innovative methods.

From the outset, NHS Forth Valley recognised the importance of getting the views of young people, as they were the “adults of the future”. As a result, it organised a one-day event specifically targeted at young people under 18.

“It was an exceptionally good day, one of the best days of my working life, as I felt that I had done a good days work.”

Discussions at the young people’s event highlighted that young carers had quite different experiences. As a follow up to this, NHS Forth Valley organised another smaller scale event looking at the specific needs and challenges faced by young carers, referred to as the “Fish and Chip” night.

Since then, NHS Forth Valley has been working with young carers to develop YouTube clips focusing on the needs of young carers and their experiences of the NHS. The young people involved did not focus on the negative aspects of care but worked towards developing a resource that could give positive ideas to NHS personnel about how they can enhance their practice.

The YouTube clip has now been completed. It has been highlighted by the Scottish Health Council as an area of best practice.

Similarly, NHS Forth Valley has had discussions with people attending English as a Second and Other Language classes (ESOL), which they said was extremely informative in developing outcomes and getting views on the NHS Forth Valley’s services more generally.

From the discussions with the local community, NHS Forth Valley is developing an easy to read resource about how to access NHS services i.e. emergency departments, pharmacies etc. This one page resource will support people to have a greater awareness of what is provided by respective NHS services to ensure that the best use is made of these services. This will save people waiting for general practitioner (GP) appointments, when support could be given by a pharmacist.

- 2.35 Some local authority respondents had used equality organisations or networks to try to involve some of the “harder to reach” groups. Some NHS Boards said that in addition to running targeted focus groups with particular interest groups, they also organised a range of community events through their Public Partnership Forums. Others had worked with NHS special boards (which focus on particular aspects of service delivery and support, rather than geographical areas of operation) to consult with “harder to reach” groups. However, many respondents felt that despite their efforts, it was not always possible to reach everyone.

“We did engage as far as we could through various groups. However, often people did not want to be involved unless it was really affecting them. Therefore it was difficult to reach everyone.”

(NHS Board)

Example: Consulting with different groups

West Lothian Council already had a number of formal involvement mechanisms in place for consulting with different equalities groups. There are eight groups they are in regular communication with, including:

- Disability Community Forum
- Race Community Forum
- LGBT Youth Forum
- Gender Equality Forum
- Staff Equality Network
- Mental Health Forum
- Older People’s Forum
- Youth Congress.

The council also held two capacity building sessions for staff and interested members of the local community. The aim of these sessions was to ensure that the aim and purpose of the equality outcomes were understood and could be scrutinised.

Once the outcomes were drafted, each group had the chance to comment, as did elected members through the council’s Scrutiny Committee.

2.36 Many of the education bodies said that they tended to focus consultation and engagement efforts on staff and students, as this was “their community”. Some commented that it was hard to engage meaningfully with other organisations that were not involved in the education/ college sector about outcomes, as they had very different perspectives. A number highlighted the large numbers of overseas students attending their university, which presented challenges in engaging with potential students.

“It is tough for universities as their communities are often international as well as local.”

(Education Body)

2.37 A number of authorities were wary of “consultation fatigue”, and as a result had (where possible) sought to organise joint consultation events with their community planning partners. Others said that rather than undertaking more consultation, they made use of information that had been gathered at previous involvement events.

2.38 A small number of authorities highlighted the challenges of consulting in rural and remote rural areas, particularly in relation to protected characteristics, as often there were not many representative groups in these areas. Others felt that engaging with the general public had not been successful.

“There are not really any effective representation forums in Caithness for protected groups, e.g. disability forums.”

(Education Body)

“People didn’t want to be involved.”

(NHS Board)

“Not everyone identified with the issues.”

(Local Government)

2.39 Many said that their engagement and involvement approaches had been useful in informing the development of their equality outcomes.

“We did a really good job and it helped to crystallise what we needed to do, and it also got people to take ownership of the agenda and to take it forward.”

(Education Body)

2.40 However, some felt that there was still scope for improvement. A minority underlined the importance of ensuring that information gathered through consultation and engagement events was backed up with evidence. Many respondents, particularly some of the smaller public authorities, commented that engagement was very “time consuming” and “resource intensive”.

Example: Consulting with different groups

NHS Grampian has four standing equality committees; Disability, Race, Religion and Faith and 'Equality and Diversity' which deals with all the other protected characteristics. These four standing committees were heavily involved in working with groups representing the protected characteristics.

Since 2008, NHS Grampian has held 'involvement events'. For example, one is held with minority ethnic communities, where over 150 people from different minority group organisations (including NHS Grampian frontline staff) come together to discuss priorities. These events also allow discussion on what has worked and what has not with NHS Grampian during the previous year.

The feedback from these events directly contributes to equality outcomes. Similar involvement groups take place with organisations representing the other protected characteristics.

"This is the only way to do it - there is no point sitting behind a desk, thinking you know what your local equality and diversity communities want."

Working with others

2.41 We asked authorities if they worked with or shared experiences with other public authorities, either locally or nationally.

Local networks

2.42 A number of local authority and NHS respondents had worked closely with their community planning partners. However, some commented that at the time the work was being taken forward to meet the duties, their Police and Fire partners were pre-occupied with their own internal re-organisations and it was therefore difficult to engage with them. In one area, community planning partners had produced joint outcomes.

Example: Community planning partnership approach

In Shetland, authorities took a partnership approach to developing their mainstreaming report and equality outcomes. NHS Shetland and Shetland Council led the work with input from the other community planning partners, principally ZETRANS and Shetland College. This approach was discussed and agreed with the EHRC.

Shetland's unique location and the fact that the majority of the listed authorities were "under the same roof" and were led by officers employed by the Council meant that a partnership approach made sense. Similarly, unlike many other parts of Scotland, the Council and NHS Board covered the same geographic area.

“Location had certainly helped this approach.”

The officers involved felt that the approach had been successful and delivered a number of benefits including:

- helping organisations to think “more broadly” about people in Shetland;
- improving multi-agency working; and
- minimising the amount of consultation by the various public authorities.

The lead officers also commented that it had helped to “share the load” a bit, as otherwise meeting the duties would have been a considerable challenge for the individual organisations given the limited staff resources available.

“It was good to be able to share knowledge, experience and expertise.”

- 2.43 Some education bodies had worked with their local community planning partners, and said that this had been beneficial. It was seen as a good way to combine and share resources, particularly in relation to consultation and engagement.
- 2.44 Respondents provided a number of examples of informal collaborative working. A few local authorities had worked closely with their neighbouring authorities. Some NHS territorial boards had worked closely with other NHS Boards to develop their outcomes and gather baseline information. A small number of the education bodies had used their own informal networks with other colleges and universities to share experiences. The two national park authorities had also worked closely together when developing their equality outcomes.
- 2.45 Some local authority respondents had worked closely with local equality networks. Others, including a few NHS territorial boards, felt that they had developed good relations with local equality groups and third sector organisations in their areas.

National networks

- 2.46 A significant number of local authorities said that they were part of the Scottish Councils’ Equality Network and that this was a very useful forum for sharing information and best practice.

“This is an invaluable network. It enables me to keep in regular contact with other councils. We meet quarterly and share our experiences.”

(Local Government)

- 2.47 Others made reference to the useful workshops and events that had been organised by Scottish Government, the EHRC and the Confederation of Scottish Local Authorities (COSLA). However, a few – largely NHS Boards - felt the EHRC events had not been helpful, as they tended to focus on local authorities and that there was not enough good practice information available that was relevant for other sectors.
- 2.48 A number of the NHS Boards highlighted the valuable work undertaken through the NHS's national Equality and Diversity Group to develop the evidence base, and also the workshops that had been organised through this group on outcome setting. Respondents felt that this was an effective way to combine and use resources across Scotland.
- 2.49 Most education bodies were linked into national networks, for example, Scottish Higher Education Liaison Group and Scotland's Colleges Group. Respondents believed these forums were very useful for sharing best practice, finding out about training and comparing approaches. Many education bodies highlighted the important role of the Equality Challenge Unit in providing support and guidance, particularly in relation to developing outcomes.
- 2.50 Some of the other bodies had attended events organised through the Public Sector Employers Diversity Network and the NDPB Equality Forum. Again, there was strong agreement that these forums were good for networking with other public authorities, sharing information and getting moral support. Others, for example the regional transport partnerships, said that they were part of a wider network of similar bodies across Scotland.

Example: Networking and collaboration

The Scottish Environment Protection Agency (SEPA) said that a lot of the work that was required to meet the duties was new to the staff team within SEPA that had been tasked to drive this forward.

"We were not equality experts."

They were therefore grateful for the support that they received from the equality manager at Scottish Enterprise to help develop SEPA's proposals to meet the duties. They had met him at a networking event organised by the NDPB Equality Forum. An informal secondment arrangement was set up with Scottish Enterprise, where the equality manager provided support one day per week to SEPA to assist with the production of the mainstreaming report and equality outcomes.

Both organisations felt that they had benefited from the secondment arrangement. SEPA was able to tap into Scottish Enterprise's equality manager's knowledge and experience in relation to equalities, and the equality manager was able to learn more about what SEPA does and benefit from new and innovative approaches to the duties which were taken back to Scottish Enterprise.

"The Scottish Enterprise secondment was invaluable."

Success factors

- 2.51 Authorities were asked about the success factors that had enabled them to develop the equality outcomes effectively. A number of organisations highlighted the importance of getting senior level buy-in and support and that this had helped to raise the profile of equalities within their organisations and made it easier to get others to take ownership of the delivery of key actions. As part of this, a few had produced guidance or ran training courses for board members and senior managers to ensure that they were aware of their requirements under the duties.

“They took the agenda seriously.”

(Education Body)

- 2.52 Others felt that one of the key success factors was the commitment and positive attitude of staff in helping to contribute to meeting the duties.

“It went well because people gave their utmost.”

(Other Body)

- 2.53 Working with others was also a key success factor. Many underlined the importance of working with their local partners, whether in the public or voluntary sectors, stating that these relationships were “beneficial” and “mutually supportive”. One NHS Board said that working closely with their local authority partners had helped to identify a set of common priorities and that in the future it might be possible to move towards developing shared or common outcomes.

- 2.54 Another common theme related to engagement and consultation. A number of organisations said that their engagement and consultation approaches had been very effective and had helped to ensure buy-in across their organisations or within their communities. In particular, a few of these organisations had worked with established equalities groups to engage with key stakeholders.

“We didn’t have to build new relationships.”

(Local Government)

- 2.55 Organisations also commented that sharing practice with other organisations was extremely helpful. A number of NHS Boards highlighted the value of a shared approach across the NHS, as this had helped to pool resources. Others highlighted the benefits of working within informal peer groups. Whilst some underlined the usefulness of the workshops and the guidance produced by the EHRC, some respondents felt that this was sometimes a bit too general. Others commented that they were grateful for the encouragement and support that they had received from EHRC, as this had helped them to meet their duties.

“They [EHRC] were very helpful and practical and importantly non-judgmental. It was clear that they wanted to help to make sure that you got it right.”

(Education Body)

- 2.56 Finally, a few organisations noted that a particular success factor had been managing to align equality outcomes with existing plans, strategies and performance structures to ensure that equality was being mainstreamed and not seen as an “add on”.

Key barriers and challenges

- 2.57 We asked authorities to identify the key barriers or challenges that they faced when developing their equality outcomes. The main issues highlighted related to evidence; engagement; measurement, guidance; terminology; alignment with existing priorities; and timing of the requirement to produce equality outcomes.

Lack of robust evidence base

- 2.58 As highlighted earlier, there were concerns across stakeholders about the quality of evidence base available. Some said that this made it difficult to develop baseline information to inform the development of the outcomes. A few had tried to address this by working closely with their partners to share information and also to commission joint research. Others highlighted the importance of collaborating with others to exchange and share information.

“There is an opportunity to be more co-ordinated in how we do research and how this contributes to the development of the evolution of outcomes.”

(Local Government)

“The guidance suggested that we needed targets and goals, but we didn’t have the evidence or baseline information. It was difficult to be SMART.”

(Other Body)

Engaging with the right people

- 2.59 A number of respondents had found it difficult getting to “the right people”. Others said that there were a lot of sensitivities to manage around engagement with some equality groups. This was particularly an issue for some of the smaller bodies with limited resources. One respondent suggested that it would be good to have “accredited” umbrella groups, for example, like the Council for Ethnic Minority Voluntary Organisations that could be used to enable more effective engagement with truly representative groups.

“The voice of the ethnic community was very poor, with low engagement from the Multicultural Association.”

(Local Government)

Measuring progress and benchmarking

2.60 There was agreement across many stakeholders that the lack of a consistent approach to the development of outcomes and outcome measures meant that it would be difficult to get an overall picture of how authorities were progressing in relation to the duties. This issue was particularly highlighted by local authorities. Some felt that it would be difficult to undertake any benchmark comparisons within groups of public authorities.

2.61 Other stakeholders, across all groupings, commented that measuring progress towards achieving equality outcomes was a challenge. Many highlighted the lack of baseline data available, making it difficult to set targets and indicators. Some had deliberately developed outcomes without targets, as they were not able to establish a baseline. Others had introduced new indicators which they had never used before, and were unsure of how effective these would be.

“If we have more baseline information and evidence it will be easier to review and report, and make our outcomes more meaningful.”

(Other Body)

“It is hard to put a number on things and to measure the intangible benefits.”

(Other Body)

Lack of clear guidance

2.62 Similarly, a number of authorities commented that the guidance that had been provided by the EHRC in relation to outcomes was not clear enough. Some stated that it should have been more comprehensive and have included examples of good practice. Many said that templates would have been useful to ensure greater consistency in the approach being taken across all public authorities. Others commented that guidance should have been issued much earlier to give public authorities a bit of a “head start”.

“The guidance from the EHRC was pretty poor, particularly for non service delivery organisations.”

(NHS Board)

“The EHRC gives some information, but leaves it up to you to develop your templates – it is difficult to know where to start and how much detail is required.”

(Other Body)

Terminology

2.63 Some authorities commented that many people still struggled to understand the language and terms used in relation to equalities and that it had taken a lot of time to build knowledge and awareness of the “equalities terminology”.

Alignment with existing priorities

2.64 A few respondents had experienced resistance within their organisations trying to align the equality outcomes within existing performance management systems and would therefore have appreciated guidance on how to do this effectively. Many commented that this was the way to ensure that the equality outcomes were mainstreamed, particularly in a climate of financial constraint, where activities would have to be delivered within existing (or reducing) budgets.

“People do not have time to take on additional tasks when their workloads are continuing to increase due to staff cuts.”

(Other Body)

Timing

2.65 Some authorities going through a merger process during 2012/13 said that timing was a significant issue as their organisations were going through a period of organisational change at the time the work to meet the duties was being developed. They felt that this posed a number of challenges, both in terms of the coordination of information and evidence, and also in securing the necessary approvals during a period of significant upheaval and transition.

Resources

2.66 We asked authorities to give a broad indication of the resources that their organisations had dedicated towards producing equality outcomes.

2.67 For many it was difficult to quantify the actual resources involved in producing the equality outcomes. For those who were able to provide a view on this, some said that it was very resource intensive particularly during the consultation and publication phases. Some said that they had not formally logged the resource time involved, but would do this the next time. A minority commented specifically that it was now more time intensive to meet equalities duties than before the Equality Act 2010 was introduced.

“Meeting the new duties was more resource intensive than meeting the previous duties.”

(Other Body)

2.68 As an illustration, one local authority representative said it took one individual about eight months of staff time to develop the outcomes over an 18 month period, in addition to contributions made from other staff members (the equivalent of approximately 6 weeks of staff time) and service leads (12 weeks of staff time). Another respondent commented that it was a full time job from August 2012 until April 2013.

2.69 Looking ahead, a few local authorities commented that more resources would be required to deliver the outcomes. One local authority said that it had

already designated additional temporary posts to support the mainstreaming of equalities within the council.

“More work is now required to break down into more manageable chunks, how the individual outcomes will be delivered and what the council needs to do to deliver this.”

(Local Government)

- 2.70 NHS Boards provided a range of views on this issue. Many of the territorial boards and a few of the special boards said that the exercise was time consuming, particularly in the lead up to the reporting deadline. Some of these boards provided time estimates ranging from three to eight months of staff time, over a 12 month period, to produce the mainstreaming report and equality outcomes. Many added that this work had to be undertaken within existing budgets – and some were concerned that other areas of work suffered due to the need to prioritise work on developing equality outcomes.
- 2.71 A small number of organisations had employed external consultants to help take forward some of the work required to meet the duties, for example organising focus groups and involvement events or managing consultation exercises.
- 2.72 Many of the education bodies commented that the work was being undertaken at the same time as college mergers were happening and that as a result staff resources were already under considerable pressure. Education bodies with small staff teams found it particularly difficult to balance the resources required to produce equality outcomes with their ongoing workloads.

“It took up a lot of resources, especially for smaller organisations.”

(Education Body)

- 2.73 A few other service delivery bodies made similar comments, stating that the equalities work came at a time of significant organisational change and this may have affected people’s views on it.
- 2.74 Others commented that it was “very time consuming”, “resource intensive” and took people away from their “day jobs”. Some commented that engagement was particularly time consuming. This pressure on resources applied to both small organisations and very large national organisations.

“I was asked to do this in time I didn’t have – so it meant a lot of evening and weekend work.”

(Other Body)

“This work has come at a time when staff resources have been cut and resources to cover existing priorities are already limited, without taking on the additional tasks associated with the equalities duties.”

(Other Body)

Impact of equality outcomes

2.75 Authorities were asked if they were aware of any early changes that had resulted from the development of their outcomes. They were also asked to consider what the long-term benefits might be from the steps they had taken to meet the duties.

Early changes

2.76 In terms of early changes, many felt that it was too soon to say. However, some authorities did feel that some change had already begun to take place.

2.77 There was strong agreement that the development of equality outcomes had helped to increase awareness of equalities within organisations. Some stated that it had successfully raised the profile of equalities and staff were more confident dealing with equalities issues.

“Within the council the profile is higher, especially in business departments.”

(Local Government)

“It has created lots of healthy dialogue and discussion around data and how it can be used.”

(Local Government)

“People are more informed and prepared to talk about protected characteristics.”

(Education Body)

“The recent work to publish the mainstreaming report and equality outcomes has helped to push equalities higher up the agenda.”

(Education Body)

Example: Early change as a result of equality outcomes

The equality advisor for East Dunbartonshire Council felt that consultation carried out with community and equality groups as part of the process of developing equality outcomes had allowed the organisation to better meet the equality duties.

Where the council did not have relationships with existing local groups representing a particular equalities strand (sexual orientation and gender reassignment), these were forged through national interest organisations. Through the process of consultation a need for further work to enhance the Council’s support to lesbian, gay, bisexual and transgender (LGBT) groups was identified. This was selected as a priority issue on which to focus.

The equality advisor suggested that work in relation to the LGBT agenda was now more of a priority because of the work around setting and delivering on equality outcomes. As a result of this work, an LGBT focused community

project has been planned for 2014. Work to build relationships with local LGBT groups is underway and the equality advisor felt that this has improved because of the legal requirements now in place.

“We would not have done this in such a targeted way before the outcomes.”

- 2.78 Some authorities highlighted particular actions that were being taken to tackle identified inequalities. For example, some education bodies referred to the development of outcomes and supporting actions to advance women’s careers in Science, Technology, Engineering, Medicine and Maths linked to the Athena Swan Charter being promoted by the Equality Challenge Unit.

Example: Early change as a result of equality outcomes

The HR manager for North Highland College described an early success resulting from work carried out to meet the equality duties. The college has a Modern Apprenticeship scheme in engineering and a related equality outcome was developed.

“Outcome 8: Employment – To increase the ratio of female Modern Engineering Apprentices by an additional one student each year.”

To achieve this, the college introduced a new approach to ensure that female applicants are guaranteed an interview, providing they meet the minimum selection. This “Guaranteed Interview Scheme” has directly led to the recruitment of two female engineering apprentices from a total intake of eight. Longer term, the college may use the impact assessment evidence of this outcome to smooth the way for the introduction of similar, appropriate approaches to other areas in the college.

- 2.79 A number of respondents said that as a result of developing equality outcomes, their approach to equality was more aligned to their strategic objectives. Some had managed to align their equality outcomes with their strategic plans and service delivery plans. Others felt that the focus was now on how to mainstream equalities.

“There will be a shift from outcomes to mainstreaming.”

(NHS Board)

- 2.80 However, one NHS respondent cautioned that until equalities was embedded in the planning process, there was still a danger that it was “still about box ticking”.

Example: Early change as a result of equality outcomes

The head of staff governance for Greater Glasgow and Clyde NHS stated that work around the equality duties had placed equality issues higher on the organisational agenda. While significant amounts of work was involved in

taking steps to meet the duties, greater awareness of the equality agenda had been created.

Linked to this work, two anti-discrimination campaigns have been launched. *Taking a Stand* focuses on sexual orientation in the workplace, taking a zero tolerance approach to homophobia. *Releasing Potential* focuses on disability rights and is designed to tackle employee reluctance towards declaring disabilities in the workplace.

“We have been doing work around equalities anyway, but there is no doubt that [due to the duties] these campaigns have moved forward more quickly and been given added impetus.”

Long term benefits

- 2.81 Most authorities felt that the development of equality outcomes would result in long term benefits. Some made high-level statements where they hoped that it would result in “better outcomes for people” or “an improvement in people’s quality of life”. Others stated that they felt that it would lead to a “better informed” and “more tolerant” society.

“It will help to focus activities around equalities initiatives that are targeted at making a difference to the life chances of our service users.”

(Other Body)

“People’s quality of life should be improved through their involvement and engagement.”

(Local Government)

- 2.82 Many of the authorities believed that the production of equality outcomes would lead to equalities becoming embedded or mainstreamed within their organisations. Some said that the development of equality outcomes had already helped to improve awareness and should continue to raise the profile of equalities both internally and externally. However for some, the challenge still remained as to how to mainstream equalities. A few felt that this would require a significant culture shift.

“I hope that one of the long-term benefits will be improved understanding, thinking and application, as a result of the way that we have done things.”

(Education Body)

“We have got used to embedding equality in management and operational plans, so equality should become part of our everyday systems.”

(Other Body)

“People will have a better understanding of what will make a difference – rather than ad hoc action plans.”

(Local Government)

- 2.83 However a few cautioned that there would need to be funding to support the delivery of actions associated with their equality outcomes, otherwise there would be no significant change. Others questioned whether there was likely to be any change as a result.

“It was a mad dash to get the report and outcomes published by the deadline. There was a feeling within the organisation that that was the job done for the next four years.”

(Education Body)

- 2.84 A few respondents suggested that the development of equality outcomes should help to make the approach to equalities more tangible and practical through making it possible to measure and track the difference that is being made to people’s lives.

“We need to be able to demonstrate and evidence that the outcomes have done what they said they would.”

(Local Government)

Future

- 2.85 A number of authorities said that they would probably adopt a similar approach to developing equality outcomes the next time round. Although a few commented that they would build in a longer lead-time to ensure that they had enough time to get everything done.
- 2.86 Others would try to get more support from across their organisations, for example, by securing buy-in from senior managers; enlisting “equality champions” from different parts of their organisations, or simply by getting a dedicated resource to take forward the work.
- 2.87 Some commented that they would like to allow more time for detailed consultation whether with their own staff or with external stakeholders. Others said that they would seek to improve their evidence base and to gather more qualitative information.
- 2.88 A small number of authorities noted that they would want to ensure that there was a clearer link between equality outcomes and existing plans and strategies. In one case, a local authority hoped that the exercise would become part of existing plans, rather than involving the production of a separate mainstreaming report. Whilst others talked about working more collaboratively with key partners locally and potentially developing shared outcomes.

“I’d like to think that we will be more mainstreamed and more ready to go.”
(Education Body)

“There will be a much more structured approach going forward.”
(Local Government)

2.89 A few authorities commented that they would want to take time to review how things had gone and then decide whether they needed to adapt or change their approach in future. One local authority said that they would like to get a sense of “good practice” from across other public authorities and use this to inform whether there were better ways of doing things the next time.

2.90 Finally, one local authority suggested that they would probably publish less outcomes in future, rather than “trying to be everything to everyone”. It was felt that having three or four focused outcomes, would allow more progress and real impact to be made.

Summary of chapter two

2.91 The vast majority of the larger authorities had a dedicated equalities lead that produced the equality outcomes. The smaller authorities generally did not have a dedicated equality lead and their outcomes were produced by someone who undertook the work alongside their existing workload.

2.92 Most authorities adopted a similar strategy when developing outcomes. Generally an analysis of existing information and evidence was carried out, which highlighted equality-related gaps. Based on these gaps, priorities for action were identified and used as a base for producing the outcomes.

2.93 In terms of the sources of information consulted, most used a mix of external and internal sources. External sources included Scottish Government data, community planning data and information provided by some equalities organisations. Internal sources included staff monitoring surveys.

2.94 Most of the authorities consulted a wide range of stakeholders in the production of their equality outcomes. These stakeholders varied between organisations but in the main, authorities tried to involve as many relevant people as possible. Some authorities, particularly local authorities and NHS Boards, also worked with local networks, such as community planning partners and with national networks at workshops arranged by the Scottish Government, the EHRC and COSLA. Education bodies often consulted only with their current staff and student body, seeing this as their community.

2.95 Almost all organisations cited knowing where to start as the main challenge in developing their outcomes. In addition, the following limitations were mentioned:

- lack of a robust evidence base;
- engaging with the right people;
- measuring progress and benchmarking – local authorities and NHS Boards were particularly interested in this area;

- lack of clear guidance;
- language and jargon around equalities issues; and
- timing – particularly for organisations going through a merger process at the time.

2.96 In terms of resources, most authorities said it was difficult to quantify exact resources. Most that did provide an estimate agreed that the process was resource intensive, particularly during the consultation and publication process. Both large and small organisations across all sectors indicated that the production of equality outcomes involved significant resources, often putting pressures on staff workloads.

2.97 Most authorities, across all sectors, were in agreement that the development of equality outcomes would result in three key long term benefits:

- increased awareness of equality;
- practical action to promote equality; and
- better integration, with equality and diversity now viewed as normal practice.

CHAPTER 3 | EMPLOYEE INFORMATION, EQUAL PAY AND GENDER PAY GAP

Introduction

3.1 This chapter sets out the experiences of authorities in meeting the specific duties in relation to:

- gathering information on the composition of their employees in relation to their relevant protected characteristics;
- gathering information on the recruitment, development and retention of employees in relation to their protected characteristics;
- publishing their gender pay gap and an equal pay statement (if they have over 150 employees; and
- using this information to better perform the general duty.

3.2 The chapter explores:

- who led the process of producing employee information, and whether they worked with others;
- the processes that authorities used to gather the information;
- the (broad) level of resources dedicated to producing employee information, equal pay and pay gap information;
- key success factors, barriers and challenges;
- views on the early impact of publishing employee information – and the potential longer term impact; and
- views on approaches to meeting these duties in the future.

Lead responsibility

3.3 We explored the process that authorities went through to produce the employee information required. Generally, across all types of authority, the employee information was produced jointly by HR or organisational development staff, working with policy staff or staff with a specific equalities focus. In most cases, the HR team had responsibility for extracting and producing the information, and a staff member with responsibility for equality policy advised on how this information should be produced, and assisted with analysing it.

3.4 In some instances, different individuals within the HR team took responsibility for drawing together the information required across different themes – such as gender pay gap information; equal pay information; and employee characteristics. Some, particularly NHS Boards, set up steering groups involving key staff members from across departments.

3.5 In small organisations, some policy officers led on collating and gathering employee information. Some small organisations indicated that they did not produce employee information, as the number of staff they had was too small (generally less than ten).

- 3.6 Generally, local authorities took the lead for producing employee information for Licensing Boards – as they had a small staff team, and were local authority employees. While education authorities were not included in this review, some local authority consultees highlighted that they produced information for the education authority.

Working with other bodies

- 3.7 We asked authorities whether they worked jointly with any other public authorities to produce the employee information. The clearest instance of a co-ordinated joint approach came from NHS Boards. NHS Boards worked closely together to develop a shared approach to producing employee information. A national group was established with a remit of producing a template for the employee information, and this template was distributed to all NHS Boards. Many felt that this made the process clearer and easier, as the Boards simply had to populate the templates rather than develop these in each area. However, some NHS Boards did say that they developed their own approaches to producing the employee information.

Example: Creating templates for consistency

The divisional HR director at NHS Lanarkshire was invited to participate in a national group representing the whole of the NHS. This group was established one year before the data on employee information had to be published. This group met and spent time looking over what was being asked of them, and what their current systems were capable of producing. This group created a template for collecting employee information which was sent to all NHS Boards for their use – ensuring consistency from every NHS Board. This meant that all the NHS Boards had to do was populate the fields – making it a much easier process.

- 3.8 Some local authorities indicated that they worked jointly with neighbouring authorities or with local authorities across Scotland through the Scottish Councils Equality Network. Those who had worked together jointly had found this very valuable. Some colleges and universities had shared practice. Many indicated that they had received support through the Equality Challenge Unit, which works to advance equality and diversity in colleges and universities. Some highlighted that the Equality Challenge Unit had suggested looking to Wales for good practice examples. However, others felt that practice was very diverse across colleges and universities in terms of producing employee information.

“Universities are doing different things.”

(Education Body)

Gathering information

- 3.9 Experience of gathering employee information varied significantly between authorities. Generally, organisations already held some information on the

protected characteristics of their employees – particularly in relation to age and sex. Most began the process of gathering information by reviewing what they had already, and identifying gaps. Almost all found that they needed to either adapt the categories that they used to produce information on employees, or collect new information. However, some – particularly NHS Boards - indicated that they already collected and reported on most of the information required, so this did not result in significant additional work.

- 3.10 A minority of authorities said that they simply published what they had available, and acknowledged the need to develop information around key areas in the future. One very small organisation simply decided not to produce any employee information, as it did not hold the information required. However, most identified gaps and then introduced new systems to enable them to gather information in advance of publishing it.
- 3.11 Most identified gaps in relation to data around the composition of staff, by protected characteristic. Many undertook initial research to ensure that they were clear about the definition of the protected characteristics, and many spent considerable time reading and understanding the guidance produced by the EHRC about how to meet the duties around employee information.
- 3.12 In most cases, authorities modified the electronic systems they had in place for storing and analysing data about employees. Often this simply involved adding new fields to the system – and most said that this was not complex and did not take up much time. However, authorities then had to gather the information about employees, which was more time consuming.
- 3.13 In some small organisations a new survey was issued to all staff. In small organisations this tended to result in a high response rate – with some achieving 100% response rates. However, some small organisations – and particularly organisations where the level of staff diversity was perceived to be low – indicated that with the small numbers involved staff could be concerned about being identified. Large organisations, however, also had challenges gathering staff information. Often information was held for newer staff across a wider range of characteristics, as monitoring systems had been updated. But for longer standing staff, often limited information was held.
- 3.14 Generally, organisations which undertook exercises to gather further information about employees reported a response rate of around 70 to 80 per cent. Some organisations, particularly those which had not previously gathered employee information, reported lower response rates of around 50 per cent. Some authorities said that response rates to requests for information about protected characteristics had increased in recent years. Some felt that this was due to increased awareness of equalities issues in recent years, while others suggested that a shift from paper to electronic systems meant that staff felt more confident that their data would be treated confidentially.
- 3.15 Across all types of authority, organisations suggested that the most difficult areas to produce employee information related to sexual orientation, gender

reassignment and pregnancy and maternity. Disability was also felt by many to present some challenges. There were different reasons for this.

3.16 In relation to sexual orientation, many organisations had not gathered this information until recently (or until the introduction of the specific equalities duties). Many organisations felt that there was some nervousness among staff in disclosing sexual orientation, and that this was an issue which required to be approached in a sensitive manner.

3.17 Organisations had different concerns about gathering and publishing data around gender reassignment. Many expressed concerns about the number of staff involved being so small that there was a danger of breaching data protection, through potentially identifying individuals. However, some felt that it was not clear what organisations were expected to do where numbers were very small.

“On gender reassignment, we needed to have the confidence not to publish this information.”

(NHS Board)

3.18 In relation to pregnancy and maternity, many organisations indicated that this information was not routinely collected. Some felt that it was unfair that this information needed to be produced so quickly, with little warning, given that it had not previously been collected. Generally, there were some concerns about the short timescales as this meant that it was difficult to build staff confidence and give reassurance about why this information was required – which many highlighted was a long term process.

“The challenge is to reassure staff why we need this information and what we will do with it.”

(Local Government)

3.19 In relation to disability, a number of concerns were raised. Some authorities felt that staff often indicated that they were not disabled when they could have been considered disabled under the law. Others indicated that there were some reservations about staff identifying as disabled, as this was not something they wished to discuss.

“Massive issues around collecting disability information in a healthcare setting... it is not spoken about widely among staff.”

(NHS Board)

3.20 Authorities also identified some gaps in relation to recruitment, development and retention. However, while some organisations worked to address gaps, most found that they had to publish the data they had available – as it was more difficult to gather this type of information retrospectively.

3.21 Some particular issues were identified in producing recruitment information. Many local authorities indicated that their recruitment information was gathered on MyJobsScotland.com – an online recruitment site for local

government in Scotland. This site gathers and retains information about the characteristics of applicants. However, many local authorities were concerned with the format in which information was provided. It was provided in raw form to all local authorities using the site, which meant that all local authorities required to analyse this – and could use different categories and interpretations. Some local authorities reported experiencing issues with receiving corrupt data from the site. Some felt that there should have been more national co-ordination – perhaps by COSLA – to ensure that local authorities had access to data analysed in a similar format across all areas.

- 3.22 One authority indicated that it was part of a larger organisation, which collected recruitment data and did not share it at a local level. This meant that data on recruitment was not available, and data on staff characteristics had to be gathered again.
- 3.23 Authorities which had been created through merging other public authorities reported significant issues gathering and collating information on employee characteristics across different organisations, as information was gathered in different ways.
- 3.24 In relation to staff development, some authorities indicated that this information was held by different teams. This meant that information could be collected in different ways, and some work was required to align the data and ensure that it could be produced by the relevant protected characteristics. Some found it difficult to decide what information should be reported under staff development, and others indicated that it could be challenging to keep track of external development opportunities.
- 3.25 Both large and small organisations experienced some challenges around gathering and publishing staff retention information. Some large organisations reported that it could be difficult to keep track of employees, as many were moving on. However, small organisations said that it was difficult to publish the characteristics of those who leave the organisation, given that very few leave in any one year – and there were concerns over data protection. This was also an issue for larger but stable organisations, with few staff leaving. Some had taken the decision not to publish information on retention, but were not sure whether this would be accepted by the EHRC.
- 3.26 Some – particularly NHS Boards – highlighted that information on equal pay, pay gap and occupational segregation had not previously been produced in the format required to meet the duties, so this required considerable work. This was also an issue for some local authorities. Many larger authorities required to produce this information had lengthy discussions about the way in which it should be produced – for example, which categories should be used to report on occupational segregation. Organisations highlighted that they wanted to be consistent and transparent, and ensure that appropriate categories or bandings were used to report on occupational segregation, and many were very keen for more guidance and support on this issue. Some also highlighted that often the production of gender pay gap, equal pay and occupational segregation information required more manual manipulation of

the figures, compared to the production of employee characteristics which was often produced using electronic systems.

Resources

- 3.27 We asked authorities to provide a broad estimate of the resources invested in producing the employee information. Most authorities found this very difficult to estimate, and provided very broad answers. Generally, most authorities said that the process of producing the employee information was less resource intensive (often considerably less) than developing the equality outcomes. However, the level of resources invested largely depended on the existing systems in place, and the requirement to gather new information.
- 3.28 Organisations which already had comprehensive systems in place to gather and analyse information about employees often indicated that the resources required were minimal – ranging from a day to five days. These organisations – many of them NHS Boards and NDPBs - indicated that they were often asked to produce this type of information and it was readily accessible. Generally organisations felt that this level of resources was “about right” for the size of the task.

Example: Role of software in producing employee information

The organisational planning and improvement manager for Dumfries and Galloway Council explained its approach to gathering and publishing employee information to meet the equality duties. Equal pay review software was installed in advance of the introduction of the duties, and training was implemented on this software. This allowed data from the council’s Human Resources Management Information System (HRMIS) to be analysed and used to generate gender pay gap, equal pay and occupational segregation reports easily.

Dumfries and Galloway Council felt that investment in the new software made analysis of the existing employee information more efficient and allowed the organisation to produce the required reports quickly and reliably. It was believed that the new system enabled the organisation to work smarter, saving time and resources as without it this information would have had to be extracted and analysed manually. HR confidence in its dataset is high and information is seen as more reliable.

“The software has been a big success and a worthwhile investment. We wouldn’t have met the deadlines without it.”

- 3.29 However, other organisations indicated that they spent significantly more time producing the employee information. The process was particularly time consuming if:
- the organisation required to gather additional information from staff, and analyse this;

- the organisation did not have an electronic system in place for analysing employee information;
 - some information required to be analysed manually or manipulated into different categories than normally used by the organisation; and/ or
 - the organisation required to produce gender pay gap, equal pay and employee composition information – which they had not produced before, or not produced in the format required.
- 3.30 Some organisations had worked on producing the employee information for up to six months, full time. However, most indicated that it took between two and six weeks of a staff member’s time. Many indicated that senior staff were involved in discussing and agreeing how to produce information – particularly on pay gap and occupational segregation. Others indicated that relatively senior staff had to undertake manual tasks, such as data collection and analysis, because there was no-one else in the organisation who had this within their remit.

“It was pretty time intensive, especially for the new information.”
(Local Government)

“It is everybody’s interest, but no-one’s responsibility.”
(Local Government)

- 3.31 A minority of organisations indicated that they had dedicated resources to installing new software (such as Equal Pay Review software) directly as a result of the requirement to meet the specific duties. Others had previously invested in software which made the process easier, in advance of the introduction of the duties.

- 3.32 Some authorities which had dedicated significant resources to producing the employee information questioned whether this was a good use of resources – particularly in a financial climate where public authorities are expected to “do more for less”. Some - particularly local authorities - felt that relatively senior staff had to invest time in producing employee information, as it did not naturally fall into the remit of any other staff member.

Success factors

- 3.33 Authorities were asked what success factors enabled them to produce the employee information effectively. The most commonly mentioned success factor was previous investment in systems and software to gather and analyse employee data. Organisations which had invested in gathering employee information in previous years, and in software which enabled them to analyse this quickly and effectively found it much easier to meet their duties. Some felt that their software, and the fact that systems had been in place for a while, gave them real confidence in the data that they produced.

“We couldn’t have met the deadlines without it.”
(Local Government)

“This is something we have been producing for a while.”

(NHS Board)

- 3.34 For example, one organisation had introduced new systems to gather employee information on protected characteristics at the same time as further employee information was required to the HMRC Real Time Information (RTI) payroll information requirements. When approaching staff to update their personal information for the RTI system, they also asked for information on protected characteristics. This organisation found that response rates were good for many characteristics, but many employees still chose not to respond on sexual orientation, gender reassignment and religion and belief.
- 3.35 Authorities which already collected some employee information also found it easier to meet their duties. Many commented that because information on some protected characteristics had been gathered previously, there was very little resistance to gathering additional employee information. They felt that staff were familiar with the process, and confident that information provided would be treated appropriately. Some indicated that including an option of “prefer not to say” also helped to increase employee response rates for some questions – meaning that employees could choose to answer certain questions without answering others.
- 3.36 Senior level commitment was also highlighted as a key success factor. Many authorities indicated that high level support from senior management made the process easier. Some felt it meant that different departments and individuals took the tasks they had been allocated seriously, due to the process being clearly visible and accountable.

“They took the agenda seriously.”

(Education Body)

- 3.37 Finally, organisations which had shared practice with other organisations found this extremely helpful. Many NHS Boards highlighted the value of a shared approach across the NHS, with templates provided and support from a national working group. Others were pleased with the opportunity to share experience at workshops run by the EHRC. Those who had had regular dialogue with the EHRC (a minority) generally indicated that this helped them to meet their duties more effectively.

“Joining up [with other organisations] was a good thing to do.”

(NHS Board)

Barriers and challenges

- 3.38 We also explored the barriers that authorities experienced in meeting their duties to publish employee information.

Lack of detailed guidance

3.39 The most commonly mentioned barrier was the challenge in interpreting the written guidance produced by the EHRC. Many found that it was vague – with some saying it was “broadly worded” and “a bit woolly”. Some, particularly authorities which were not direct service providers, or which were small and specialist organisations, indicated that it was difficult to interpret how the guidance should be applied to their organisation.

3.40 Authorities mentioned a number of specific issues, on which they would have liked more guidance. Firstly, and most commonly, authorities suggested that it would have been very useful to provide a template for employee information – which could be adapted by each organisation. This was suggested across all types of authority.

“We had difficulty in defining the requirements... We need clarity around what employee information should look like.”

(Education Body)

3.41 Others felt that there should be more specific guidance about which organisations were not required to produce employee information, due to their small size. Similarly, larger organisations sought clearer guidance about the level of detail to be reported for very small categories – for example where the number of staff going through gender reassignment is extremely small, or where the number of staff leaving means that reporting across all characteristics will involve very small numbers. Some organisations indicated that they had to take in-house legal advice to agree the level at which numbers should be reported. Others said that they simply had to have the confidence not to produce information, and would have to see what the response from the EHRC was in this regard.

3.42 Local authorities had specific issues with interpreting what was meant by education authority staff, and in extracting these figures to report on them separately. Similarly, while interviewees understood that legally Licensing Boards were discrete entities, most felt that for this purpose they should be included within the local authority employee information – as staff were employed by the local authority.

“Is it just teachers, or is it people working in schools? There is a difficulty in taking this out.”

(Local Government)

Employee response rates

3.43 Another common barrier was the extent to which employees respond to data gathering exercises around protected characteristics. Many authorities reported that a low response rate resulted in incomplete figures, which was a major barrier not just to publishing the information but to understanding the trends and issues which needed to be addressed. A range of reasons for low response rates were suggested:

- apathy due to financial cuts, restructuring and redundancies (particularly within local authorities);
- concern about providing personal information when redundancies are happening (again particularly within local authorities);
- lack of diversity within authority employees resulting in a concern about being identified as having a particular characteristic;
- concern about providing certain types of information – including sexual orientation and religion and belief – due to worries about why this was needed and how it would be used.

“If there are gaps in the data, it’s because people didn’t provide it.”
(Other Body)

Timescales

3.44 Some authorities felt that the duty to publish this information came about very quickly, and that time was required to build up confidence in gathering employee information – particularly around sexual orientation and religion and belief. There was some concern that the numbers published were low and unrepresentative, due to the need to build confidence in disclosing personal information. Some highlighted that this was a big cultural shift and would take time. Others suggested that the deadline of 30 April for producing this information did not fit well with other reporting deadlines within their organisation. Importantly, some authorities said that because the timescales were tight, they did not have time to think about what the figures meant – and what actions needed to be taken to address them – before publication.

“We know that not all staff who are gay disclosed this.”
(Other Body)

Systems for collecting and analysing data

3.45 Some reported that they had particular difficulties analysing and producing the employee information because their systems were “old and cumbersome”. This meant that it was challenging and time consuming to extract information, and it had to be done manually in many instances. Some noted that information had to be “cobbled together” from different sources. This was an issue across all sectors.

“It is a systems issue... It costs money and time to get a new system, but it is in our plan.”

(Education Body)

“We believe we are compliant, but we could do more with better systems.”

(NHS Board)

Agreeing categories for reporting

- 3.46 Authorities also suggested that it was difficult to decide what sub-categories to use for reporting, within protected characteristics. Most felt that the sex category was relatively straightforward, but categories like age required detailed consideration of the categories to use for reporting, in order to make information as meaningful as possible.

Other barriers

- 3.47 There were also tensions (in a small minority of large authorities) between policy and HR staff. Some policy staff felt that HR staff, who were responsible for producing the figures, did not understand the specific and general duties – resulting in the data not being as useful as it could be.

“There are weaknesses in some of the published information... There is not an adequate knowledge base in HR around the wider equalities agenda... It is not just about basic data.”

(NHS Board)

- 3.48 Finally, one authority working on an international basis highlighted that it could be difficult to take a corporate approach to equality due to different laws in different countries in relation to equality.

“There can be cultural issues and tensions... It can be hard to align.”

(Education Body)

Impact of publishing employee information

- 3.49 We asked authorities about the early changes they had seen in their organisation as a result of publishing the employee information, and about the long term changes they expect to see.

Short term benefits

- 3.50 Many authorities indicated that it was too early to see whether the publication of employee information had resulted in any changes. Some, across all sectors, felt that there was a greater awareness of equalities, and more awareness of the representation of people who share protected characteristics in their organisation. In many organisations, this had resulted in a commitment to improve the quality of data they gather – and a greater

understanding of the importance of gathering this data among staff, managers and governors.

“It will help to challenge reluctance.”

(Local Government)

- 3.51 In some organisations, the publication and analysis of employee information had resulted in practical actions based on the findings, such as designating Equalities Champions to address specific inequalities; or advertising senior posts as flexible (with a part time option) to address inequalities identified.

“We have already started to do things differently.”

(Local Government)

- 3.52 A minority of organisations felt that the publication of employee information had resulted in a greater focus on equality more generally, and a very small number felt that it had resulted in greater confidence in employees in talking about their needs and experiences. Some felt that it added an impetus to work on equalities which was already happening.

“People are more willing to say I have a disability and this is the adjustment or support that I need. People are more open in terms of discussing information about protected characteristics, and I am heartened by the high return to our staff survey.”

(Education Body)

“It keeps it [equalities] in your mind and gives it a sense check. Are you being a fair employer and are you behaving as a fair employee?”

(Education Body)

- 3.53 However, many authorities indicated that the publication of the data was only the beginning. The “hard part” was taking action to address inequalities. Some indicated that they would like to undertake more detailed studies to understand some of the trends they were seeing in the employee information. Others were unsure that the publication of information had resulted in any change in the short term.

“It is still largely viewed as an afterthought.”

(Local Government)

Long term benefits

- 3.54 Almost all authorities felt that the publication of employee information would result in longer term change. Many felt that the overall aim of producing and analysing employee information was very positive in terms of tackling inequality. Many hoped that in future years their processes would improve and they would become more sophisticated in how they used data, resulting in a greater understanding of the inequalities experienced.

“The more we do this, the more sophisticated it will become.”
(Education Body)

- 3.55 Many authorities hoped that a better understanding of employee characteristics would result in action which would enhance their reputation as an employer. However, many felt that changes in the profile of their workforce were a long term aim, and that the production of employee information was just one part of a much bigger task to enhance equality in the workplace.

“Without major societal changes, these won’t change the big figures [in relation to gender pay gap].”

(Local Government)

“I would like to say that the long term benefits will be that the data will be used to achieve equality outcomes for [our] workforce. However, the tangible benefits of this will be difficult to measure in the first few years.”

(Local Government)

Future

- 3.56 Authorities commented on how they would approach the task of producing employee information in the future. Many focused on their plans to collect more robust data from employees, and to introduce better systems and processes to do so. Many suggested that they would be focusing strongly on improving their data around pregnancy and maternity; gender reassignment; and sexual orientation. Some suggested that they would develop or improve guidance for staff on the purpose of gathering this information. And many highlighted that they would work on gathering better data from existing or longer serving employees – as often data gathering was better for newer employees and applicants.

Example: Plans to collect more robust data

The Highland Council held good information on sex and age, but had incomplete data from staff on disability and ethnicity. No other data on protected characteristics was collected at the time of the review. The issue was with “long-term” staff who were recruited years ago and who were not asked for this information at the time of their employment. The council have previously issued paper surveys to try to capture outstanding information – but invariably these are not always completed. New staff are recruited through a web-based portal which gathers information on all protected characteristics from people at an early stage.

The Highland Council have plans to implement an integrated payroll and HR system which will operate online and provide a service called MyView. There are 10,000 council staff; but only 4,500 have access to a computer as others are not desk-based jobs. MyView allows staff to log on to see their online profile, and on first use they will be prompted to complete their personal information including equalities data. There will be an option for staff who

“prefer not to say” but the Highland Council hopes this will fill in a lot of the gaps on protected characteristic information. The Highland Council have been working with Stonewall to prepare briefings for staff on why this information is required and what it will be used for.

Example: Identifying gaps in the data

Aberdeen City Council will be using the employee information in its Mainstreaming Report to identify and address any areas of under-representation within protected characteristic groups. There is always a portion of the workforce which does not wish to declare sensitive personal information. In 2012/13, the council undertook a data capture exercise where 80% of staff submitted an equalities form; but there remained 20% who chose not to submit any information.

“The challenge for the future will be to further explain and reassure staff why this information is needed, what specifically it will be used for, and the importance of declaring.”

Within HR, groups have been set up and assigned to each equalities strand, and are working towards action plans to meet the equality outcomes. In addition, a diversity and equality survey was recently undertaken asking employees whether they had experienced any unfair treatment in their employment on grounds of a protected characteristic. It also explored what the council was doing well and what could be improved on regarding equality and diversity.

“We will be using the information gathered to inform our action plans.”

- 3.57 In addition to talking of improvements to the data gathering process, many authorities said that “it shouldn’t just be about ticking boxes”. Many wanted to get under the skin of the numbers, and understand real experiences and how to improve these. Some wanted to encourage others – such as Trade Unions – to use the data to inform their work.

“It should be less about numbers, and more about integration, mainstreaming and changing cultures and attitudes.”

(Education Body)

“[We plan to] commission an academic study of the dataset, using international comparisons... to get a bit of external perspective.”

(NHS Board)

- 3.58 Many authorities suggested that they would plan in advance for the production of the next round of employee information, and embed this into their everyday work, to avoid a rush next time this information was required.

Summary of chapter three

- 3.59 In the vast majority of cases, HR colleagues were responsible for sourcing and producing the employee information published by the authorities. Most, particularly in large authorities, worked alongside a colleague with a specific equalities focus who advised on the type of information that should be gathered and how to analyse it for the purpose of meeting the duties.
- 3.60 Some, particularly NHS Boards, set up steering groups involving key staff members from across departments. In small organisations, policy officers sometimes led on collating and gathering employee information.
- 3.61 Almost all of the authorities reported having to adapt or update their existing monitoring systems in order to comply with the new legislation. Most authorities, across all sectors, reported difficulties in gathering robust data in relation to gender reassignment, sexual orientation and pregnancy and maternity.
- 3.62 In terms of the resources dedicated to the production of employee information, most authorities found that they had spent less time producing this information than they had spent on producing equality outcomes – particularly if they already had good data gathering systems and procedures in place.
- 3.63 However, some authorities found the production of employee information particularly time-intensive as they needed to redesign their existing monitoring systems in order to gather and analyse the relevant information. Small authorities that needed to do this often managed to do so quickly and easily, but it was more of a challenge for large authorities due to the volume of staff employed.
- 3.64 The vast majority of authorities felt that in the long-term, the process of gathering employee information would be a very positive first step in tackling inequality in the workplace.
- 3.65 With this in mind, authorities suggested that they would continue to work hard to improve their employee data, with a specific focus on gender reassignment, pregnancy and maternity and sexual orientation.

CHAPTER 4 | FUTURE SUPPORT NEEDS

Introduction

4.1 This chapter sets out the future support needs identified by authorities – both in relation to equality outcomes and employee information. Participants were asked to identify additional support that would help them to overcome some of the key barriers or challenges that they had faced when developing their equality outcomes, or producing their employee information. The support needs across both areas of work were very similar, in many instances.

Practical guidance

4.2 Across all types of authority, there was a strong call for practical and clear guidance on:

- which bodies are covered by each of the specific duties;
- what is expected in terms of equality outcomes; and
- what is expected in terms of employee information.

4.3 There was a particularly strong desire for clearer guidance on the expectations of smaller and specialist authorities – including Licensing Boards, education authorities, Community Justice Authorities and authorities not delivering services to the public. A minority of these types of organisation had not realised they were covered by certain aspects of the duties, and were keen that this was clarified in the future.

4.4 In relation to outcomes, authorities wanted to see practical guidance on topics such as:

- how to develop and frame outcomes;
- how to measure performance – particularly less tangible impacts;
- how to align equality outcomes with service plans and budgets;
- how to mainstream equalities outcomes within their organisation;
- precisely what information is required on employee characteristics;
- what terms such as “retention, staff development and occupational segregation” mean in detail; and
- how to produce equal pay, pay gap and occupational segregation information.

4.5 There was a strong and consistent call for more templates, which clearly set out what was required, and examples of outcomes and employee information in practice. Some also called for more detailed advice on wider equalities topics, such as use of Equality Impact Assessments, and mainstreaming equalities in procurement.

“More detailed guidance, with more examples and in a common format so that it is easy for the Government to compare across councils.”

(Local Government)

“More practical examples and more guidance on producing equality outcomes would be useful.”

(Other Body)

- 4.6 Many were concerned that with the current guidance there was “lots of room for interpretation”.

“Different organisations gathered and published different data.”

(Local Government)

- 4.7 Many felt that there was a real need for guidance which was practical and written in plain English. Authorities (particularly education bodies) stressed that this should include the basics – including explaining an outcomes focused approach – as many organisations in this sector are just beginning to use and understand outcomes.

“We are desperate to get it right... but we are bogged down with jargon.”

(Education Body)

Constructive feedback

- 4.8 A small minority of authorities had worked closely with the EHRC to develop their response to the specific duties. This was largely the case for smaller organisations which had not initially met their duties, and received support to ensure that they did so – or those which had approached the EHRC to indicate that they were struggling to meet or interpret their duties. Where this one to one support was provided, it was normally welcomed and viewed very positively.

“They [the EHRC] were very helpful and practical and, importantly, non-judgemental. It was clear that they wanted to help to make sure that you got it right.”

(Education Body)

- 4.9 However, some organisations – including NHS Boards and Other Bodies suggested that the EHRC became less supportive and more about ensuring compliance as time went on. Some wanted more clarity about the role of the EHRC in relation to the general and specific duties.

“They started off supportive and progressively offered less and less support.”

(Other Body)

- 4.10 The vast majority of other authorities indicated that they were disappointed and frustrated that they had not received any formal feedback from the EHRC on their equality outcomes and employee information. Most felt that constructive feedback would enable lessons to be learned and help inform future approaches.

“Some feedback would have been helpful in order to gauge how we’re doing against some other public sector organisations, so that you know you’re on the right track.”

(Other Body)

“The EHRC pointed out gaps in the work carried out by organisations in our sector, but they did not go into specifics. As such we are not sure if we did it right or did it wrong.”

(NHS Board)

- 4.11 A minority indicated that they would be de-motivated from doing any further work in relation to their equality outcomes or employee information if they did not receive any feedback. And some specialist organisations with “unique” functions indicated that this feedback and support was required in order to help them to move forward with confidence. However, there was recognition that the EHRC had a small and busy staff team, and may not have the resources to provide one to one feedback.

“We are still not sure if this is what the EHRC are looking for or if it is good enough... We don’t know if what we have done is hitting the mark...That is the least they can do, given the amount of work we put in.”

(NHS Board)

“We always comply, but we’d like to know how well we are doing.”

(Other Body)

- 4.12 Others, across all sectors, commented that they felt the focus to date had been on compliance, rather than the quality of equality outcomes and employee information produced, and the ethos of the approach. Some felt that the EHRC should adopt a more positive, enabling approach to support effective delivery of a mainstream equality approach.

“We think the EHRC need to look again at how they provide feedback to public bodies in a more positive manner, so that it does not act as a disincentive.”

(Other Body)

“It’s about winning hearts and minds and getting emotional buy-in. The EHRC needs to think about the narrative and be sensitive to individual circumstances.”

(Other Body)

Scottish Government role

- 4.13 There was a strong feeling that there was a clear role for the Scottish Government in supporting listed authorities to meet the specific duties. This was raised across all sectors. Some (particularly NHS Boards and local authorities) talked of the need for more leadership and communication from the Government in promoting the agenda.

“[Better communications are required] to demonstrate the political drive behind and commitment to the agenda.”

(NHS Board)

“A clear directive from Ministers would help to drive the agenda forward.”

(Other Body)

- 4.14 Some suggested that the Scottish Government should make a clear statement about the importance of equality, and the role of equality outcomes and employee information in promoting equality in Scotland.

“It would have been easier if there had been a national awareness raising campaign to explain what was happening and why.”

(NHS Board)

- 4.15 It was felt that integration of equality outcomes into other outcomes, targets and plans at a national level would also help to demonstrate the priority attached to this area of work. For example, some NHS Boards suggested that the Scottish Government should make sure that the HEAT targets for NHS Boards included clear equality targets, to ensure that equality is embedded in the work of the NHS.

- 4.16 Many of the suggestions around the role of the Scottish Government related to the publication of guidance. It was felt that in addition to providing practical assistance such guidance would demonstrate a clear commitment to supporting authorities to meet their duties.

“There was minimal information provided by the Scottish Government on best practice.”

(Education Body)

- 4.17 Some (particularly local authorities) called for better co-ordination between the Scottish Government, the EHRC and other networks in relation to the provision of support, training and guidance to assist public authorities to meet the duties. A minority of authorities suggested that there should be named contacts within the Scottish Government for support with equality outcomes and employee information.

“More comprehensive information and guidance – and more co-ordination across the Scottish Government and EHRC about this.”

(Local Government)

- 4.18 A small number of authorities felt that the provision of funding to public authorities to assist them to comply with the equality duties would be a key way of demonstrating that this was important, and was a priority across Scotland. Some felt that funding would allow the organisation to move beyond merely being compliant with the legislation, to taking real action to deliver on

their equality outcomes. However, many felt that this was unlikely in the current financial climate.

Access to robust evidence

- 4.19 Many respondents across stakeholder groups called for enhanced provision of reliable and up to date information to inform the development of their equalities outcomes, or to enable comparison of the profile of their workforce with local and national statistics. Many authorities indicated that measuring progress over time, particularly in relation to equality outcomes, was challenging as they were often unable to develop a robust and reliable baseline.
- 4.20 Authorities also felt that quicker release of national data – such as the 2011 Census results – was required in order to enable them to produce baselines and assess evidence to inform their equality outcomes.
- 4.21 Many authorities, across all sectors, highlighted the role the Scottish Government could play in ensuring access to robust evidence, to inform the development of equality outcomes. Many commented that the Scottish Government Equality Evidence Finder was a good starting point, but this needed to be developed further. In particular, authorities called for more national data and support on pregnancy and maternity.

Support to networks

- 4.22 Those who participated in networks of public authorities felt that they could play a considerable role in supporting a consistent approach to meeting the equalities duties across sectors. Some called for more information about equalities networks and events, as this would help to encourage more collaborative working within and across sectors. Others said that existing networks of public authorities should be appropriately funded and resourced, as the work that they were doing was invaluable.
- 4.23 Some suggested that the EHRC had a role in facilitating better information sharing between public authorities. Some local authorities suggested that COSLA could play a bigger role, particularly in practical areas such as co-ordinating employee information templates for local government, and negotiating access to high quality data from shared systems (such as My Jobs Scotland).

Consistency

- 4.24 Finally, authorities suggested that it was important to allow the general and specific duties time to bed in over future years, without significant change to the responsibilities of public authorities in relation to equality. Many felt that their approach to producing and monitoring equality outcomes and producing employee information would become more effective and more sophisticated over time, if the existing duties guided the approach for years to come, and

they were not required to produce new and different information in the near future.

“We need a period of stability and consistency, otherwise public bodies will not take the equalities agenda seriously.”

(Education Body)

Summary of chapter four

- 4.25 Across all types of authority there was a strong call for practical and clear guidance on the detail of producing and monitoring equality outcomes, and producing employee information. There was a strong and consistent call for more templates and practice examples, to provide more practical guidance.
- 4.26 Smaller and specialist authorities demonstrated a particularly strong desire for clearer guidance – including Licensing Boards, education authorities, Community Justice Authorities and authorities not delivering services to the public. Authorities which were relatively new to using outcomes (particularly education bodies) felt that the guidance should start from the basics, including explaining the outcomes focused approach. All felt that it should be written in plain language.
- 4.27 The vast majority of authorities indicated that they were disappointed and frustrated that they had not received any formal feedback on their equality outcomes and employee information. Most felt that constructive feedback would enable lessons to be learned, and help inform future approaches. A minority felt de-motivated that they did not know how well they had performed, and (in some cases) whether they complied with the law.
- 4.28 There was a strong feeling that there was a clear role for the Scottish Government in supporting authorities to meet the specific duties. Respondents across all sectors talked of the need for leadership, communication and guidance from the Government. Some (particularly local authorities) called for better co-ordination between the Scottish Government, the EHRC and other networks.
- 4.29 There was a suggestion that the EHRC should play more of a supportive and enabling role, rather than focusing on compliance.
- 4.30 Those who participated in national networks often felt that these could be better supported, to enable more sharing of good practice around equality.
- 4.31 Authorities wanted to see a period of stability, with the current duties bedding in, to allow their approach to equality outcomes and employee information to develop and strengthen.

CHAPTER 5 | CONCLUSIONS

Introduction

- 5.1 This chapter sets out the key findings from this research, both in relation to the production of equality outcomes and the production of employee information, equal pay and pay gap information. It also outlines a series of reflections based on the experiences of public authorities working to meet the specific duties in relation to equality outcomes and employee information.

Key findings – equality outcomes

- 5.2 This section sets out our key findings in relation to authorities' experiences of developing equality outcomes.

Process of development

- 5.3 While most larger authorities employed an individual or individuals with clear responsibility for equality, many smaller organisations had no dedicated equality lead in place. A small number of these organisations felt that they lacked skills, expertise and capacity around equality, and a small minority were not aware until relatively late on that they were covered by the specific duties.
- 5.4 The production of equality outcomes was almost always a joint effort, involving equality leads, senior management across services, and boards or governing committees. Sometimes existing internal equality forums or steering groups led the process (or new ones were set up). These often provided strong leadership and senior commitment. Senior level buy-in was seen as a key factor in enabling the process of developing equality outcomes.
- 5.5 Normally, authorities followed a broadly similar process to developing equality outcomes. Most began with evidence gathering and mapping exercises; identified broad priorities for action; and consulted with internal and external stakeholders. Many said that this was an "iterative" process, involving many different stages and multiple levels of consultation.
- 5.6 Some – particularly the larger authorities - had undertaken significant work to align their equality outcomes with existing outcomes, strategies or plans and to embed the equality outcomes across the organisation.

Use of evidence

- 5.7 Most authorities used both quantitative and qualitative information – from national and local sources – to inform their equality outcomes. Most felt that there were gaps in both local and national evidence, in relation to the timing of publication of statistics and the protected characteristics covered. Overall, access to relevant and robust evidence was identified as a key barrier to developing effective equality outcomes, particularly in identifying inequalities and establishing baselines.

- 5.8 Some NDPBs and specialist organisations found it difficult to gather information and evidence that was relevant to their organisation, or for their specific geographic area of operation. As a result there was a reliance on anecdotal, national or broader sources of evidence, to try to fill gaps in evidence.
- 5.9 There were differing opinions around the use of anecdotal or qualitative evidence. While many strongly relied on anecdotal evidence, some NHS Boards felt that the steer from the EHRC that outcomes should be evidence based pointed them in the direction of harder and more quantitative evidence. There was some concern from NHS Boards that valuable qualitative or anecdotal evidence could not be used – which may encourage a focus on known inequalities rather than those which are harder to evidence and understand.

Engagement

- 5.10 Almost all authorities undertook some form of consultation on their equality outcomes. A minority were very aware of “consultation fatigue” and so either used evidence from existing consultation, or co-ordinated their engagement activity with community planning partners.
- 5.11 A number of authorities (particularly in rural areas) found it difficult to engage with people with certain protected characteristics, due to a lack of existing networks and forums. Many worked jointly with others to reach groups that their organisation found hard to engage with, building on trusted organisations at a local and national level.
- 5.12 Most authorities undertook a mix of engagement targeted specifically at groups of people who share a protected characteristic, and engagement with the general public more widely. Authorities used a wide range of methods, including drawing on existing community engagement structures such as Public Partnership Forums (NHS Boards) and Citizens Panels (local authorities and other community planning partners), as well as local equality networks and groups.
- 5.13 Education bodies tended to focus their consultation on their current students and staff.
- 5.14 A minority of authorities stressed the need to balance consultation with other evidence – highlighting issues such as how representative those involved were of wider communities, and the potential for lobbying on key issues.

Working with others

- 5.15 Some authorities (largely local authorities and NHS Boards) worked jointly at a local level within the community planning partnership – particularly around sharing evidence and co-ordinating consultation. This was seen as beneficial, and a good way to share resources. In one case, community planning partners produced joint outcomes.

- 5.16 Informal collaborative working also took place, for example between neighbouring local authorities; between similar NHS Boards; between the national park authorities; and between colleges and universities. Again, this was seen as very helpful, in sharing practice and ideas about developing equality outcomes.
- 5.17 National networks – such as the Scottish Council’s Equality Network, the NDPB Equality Forum and the Public Sector Employees Diversity Network – were seen as very useful for sharing information and best practice.

Success factors

- 5.18 Authorities consistently identified four main success factors, which helped them to develop effective outcomes:
- senior level buy-in and support;
 - commitment and positive attitudes of staff;
 - effective engagement and consultation processes; and
 - sharing practice with other organisations – both locally and nationally.

Key barriers

- 5.19 The key barriers to developing equality outcomes included:
- lack of a robust evidence base;
 - engaging with a representative group of people;
 - lack of clear guidance;
 - challenges measuring progress and benchmarking;
 - alignment with existing organisational priorities; and
 - timing – particularly for organisations going through mergers in 2013.

Resources

- 5.20 Many authorities were not able to quantify the broad resources dedicated to producing equality outcomes. Most, however, felt that the process was very resource intensive. Most local authorities and NHS Boards which commented said that it took the equivalent of three to eight months on a full time basis. A minority of small organisations said that it just took a small amount of time – such as half a day (particularly those who were linked to other authorities). Those in the ‘other bodies’ category varied significantly – but for some it was the equivalent of eight months full time, plus contribution of other staff time.

Impact

- 5.21 Many felt that it was too early to identify changes as a result of producing equality outcomes. Some felt that there was increased awareness of equalities; enhanced confidence around equality issues; more commitment to action to address inequalities; and better alignment of equalities within the wider strategic objectives of the organisation.

- 5.22 In the longer term, authorities hoped that the equality outcomes would promote equality; encourage practical steps to address inequalities; make equality work more tangible; and encourage integration of equality as normal practice.

Key findings - employee information, gender pay gap and equal pay

- 5.23 This section summarises the key findings in relation to experiences of producing information on employee characteristics, the gender pay gap and equal pay.

Process of development

- 5.24 In most cases, the production of employee information was led by an individual in human resources, with support from a policy colleague (usually the equalities lead). In some small organisations, policy officers led on the production of employee information. Local authorities generally led for Licensing Boards and education authorities.
- 5.25 NHS Boards took a co-ordinated approach to producing employee information, with a national group which provided templates and support. Some local authorities, colleges and universities shared practice through networks and informal joint working.
- 5.26 Generally, organisations already held information about the protected characteristics of their employees – particularly on age and sex. Most mapped what they had and identified gaps. Almost all found that they needed to adapt what they had, or collect new information. Across all types of authority, the most difficult areas to produce employee information for were sexual orientation, gender reassignment and pregnancy and maternity.
- 5.27 Most authorities worked to address gaps in staff composition information to enable publication of this information in full. However, it was more challenging to collect information on recruitment, development and retention retrospectively. Some simply had to note these gaps and commit to addressing these in the future.
- 5.28 Information on the development of employees was often held by different teams (in different formats) and some authorities (particularly larger authorities) had to do a lot of manipulation of the data to get it into a consistent and comparable format.
- 5.29 Gathering and producing information on retention was particularly difficult for the largest and smallest authorities. Large organisations with significant staff turnover found it difficult to keep track of staff who were leaving, while organisations with small turnovers could not report on the small numbers involved.
- 5.30 Where equal pay, pay gap and occupational segregation information had not been previously produced in the format required, this resulted in considerable

work. Authorities had to devise new processes to produce this information in a meaningful way. This often involved staff at senior levels.

Resources

5.31 Authorities found it difficult to estimate the resources involved in producing employee information – but most felt that it involved less resources than developing equality outcomes. However, the level of resources involved was very dependent on the systems organisations had in place already. If good systems were in place it could take just a few days – but some large authorities indicated that it took them weeks or months of staff time to gather, interpret, analyse and produce the information required. While most recognised the benefits of producing and using the employee information, a minority questioned the benefits of this when compared to the resources invested.

Success factors

5.32 Organisations which had invested in gathering employee information in previous years, and in software which enabled them to analyse this quickly and effectively found it much easier to meet their duties. Software made the analysis process much quicker, and some felt they could not have managed without this.

5.33 Authorities which already collected some employee information also found it easier to meet their duties. Many experienced little resistance to gathering additional employee information – suggesting that staff were familiar with the process, and confident that information provided would be treated appropriately.

5.34 Other key success factors included high level support from senior management, meaning the agenda was taken seriously, and sharing practice and experience between authorities.

Barriers

5.35 The most commonly mentioned barrier was the challenge of interpreting the written guidance produced by the EHRC. However, authorities also experienced specific problems with gathering and analysing data, including:

- low staff response rates to requests for information on some protected characteristics;
- lack of technology to analyse data – meaning that some or all data required to be analysed manually; and
- challenges agreeing meaningful categories for analysis of data – particularly around occupational segregation information.

5.36 A small minority of large authorities reported challenges in joint work and building understanding between HR and equality colleagues.

Impact

- 5.37 Only a minority of authorities had seen immediate changes as a result of publishing employee information. Early changes included greater awareness of equality; greater understanding of workforce diversity; enhanced commitment to improve the quality of data; some practical actions to address inequalities; and more confidence in talking about employee needs and experiences.
- 5.38 Many indicated that publication in itself was unlikely to lead to significant change – there was a need to take action to address the inequalities identified within their workforce. Longer term, authorities felt that they would become better at understanding the data; enhance their reputation as an employer; and contribute to tackling inequality in the workplace.

Future support needs

- 5.39 Authorities identified clear, common priorities for support in the future. All types of authority would like to see three main types of support – guidance, feedback and leadership.
- 5.40 Firstly, almost all authorities stressed the need for practical guidance on meeting the specific duties. Authorities suggested that this should set out the expectations of smaller or specialist authorities and provide templates and practice examples. Many (particularly organisations less used to an outcomes focused approach) felt that it should start from the basics of what an outcome is, and that it should be written in plain English.
- 5.41 Secondly, almost all authorities reported a clear need for constructive feedback on their publications (both equality outcomes and employee information). It was felt that feedback on an individual basis would:
- help to retain motivation and provide recognition of the investment that authorities made in producing these documents; and
 - support organisations in considering how to move forward from publication to taking action.
- 5.42 There was a strong and consistent call for feedback to focus on enabling and supportive assistance, rather than a ‘tick box’ approach.
- 5.43 Thirdly, most authorities suggested that more visible and proactive leadership at a national level would help to encourage an ongoing focus on this agenda. A range of practical suggestions were made about how this leadership would be manifested – including provision of funding; key points of contact for support; and integration of equality across all areas of Scottish Government work. Some felt that there was a need for better national co-ordination in relation to roles and responsibilities around support.
- 5.44 In addition, a number of other themes emerged. Authorities of all types highlighted the need for enhanced access to timely, robust evidence. Many

felt that appropriate local information from the 2011 Census was not available to inform equality outcomes.

- 5.45 Organisations (particularly those in the 'other bodies' category) highlighted the value of support to public sector networks in sharing practice, and some felt that more support, including funding and a presence by EHRC or Scottish Government staff, could be provided to these networks.
- 5.46 Finally, a small number of authorities highlighted the need for stability and consistency, to allow the duties to bed in and build skills and confidence.

Reflections

Responsibility to meet the specific duties

- 5.47 The authorities are all very different in scale and scope. Both large and small organisations found that they invested significant resources in producing equality outcomes and employee, pay gap and equal pay information. However, some faced specific challenges due to their size or due to their very close relationship to other listed authorities. It may be worth considering:
- Whether Licensing Boards, education authorities, Joint Boards and local authorities could be required to publish employee information and equality outcomes jointly – rather than separately.
 - Whether small organisations with fewer than a specific number of staff (such as 20) should be exempt from the requirement to publish employee information – as there are concerns that this could ever be produced in a way which meets data protection.
 - Whether medium sized organisations with fewer than a specific number of staff (such as 50 or 100) should be exempt from the requirement to publish employee information for recruitment, development and retention – as the small numbers involved also mean there could be concerns about data protection.
- 5.48 It may be appropriate to encourage (or require) these organisations to assess the trends within their organisation internally, and take action to address inequalities, rather than to publish the information.

Feedback to listed authorities

- 5.49 There is strong demand for authorities to receive feedback on their performance in relation to equality outcomes and employee information. This applies across all types and sizes of authority. Organisations wish to hear whether they are compliant, but also – more importantly – how well they have done and how they could improve. There is a need to consider how best to provide individualised feedback to authorities, so that they can understand whether they have met the duties effectively.
- 5.50 This needs to be done in a supportive manner, to build confidence and maintain motivation to strengthen the response to the specific duties. In

particular, most small authorities do not have the same equalities expertise as larger authorities, and some felt slightly exposed. It may be appropriate to consider a proportionate response to feedback, with larger organisations being encouraged to stretch slightly more than the smaller or less experienced authorities.

Guidance on the Duties

5.51 There is a clear demand for additional practical and detailed guidance on meeting the specific duties. This should be written in plain English; include examples that are considered to be good practice; and potentially include (optional) templates for producing employee information and equality outcomes. It should cover not only how authorities meet the duties, but how they take action on their findings – particularly in relation to employee information. It could also provide guidance on how to work jointly at a local level, to integrate equality outcomes into community planning Single Outcome Agreements – over the longer term.

Scottish Government role

5.52 There is potentially a role for the Scottish Government in supporting and motivating authorities to meet the specific duties effectively. This could include practical steps such as:

- **A clear, high profile statement from the Scottish Government about the importance of meeting the specific duties** – This would recognise the significant work which authorities have done so far, and encourage ongoing action around equality outcomes and enhancing equality and diversity in the workplace. It would be motivational and supportive, encouraging authorities to build on the work already undertaken. This could take the form of a joint statement with other key partners nationally. It could also reassure authorities about the long term commitment to the current approach, thereby encouraging investment in strengthening equality outcomes and employee information over time.
- **Including equality outcomes in other outcomes, targets and plans at national level** – This would further embed the commitment to equality across all areas of work. For example, the inclusion of equality related targets in NHS HEAT targets was seen as a way of emphasising and placing a clear focus on the agenda. This approach may also work for other services working to national targets and outcomes.
- **Producing practical guidance** – As discussed earlier, this guidance would be practical and simple, and would demonstrate the importance and rationale for meeting the duties. This could include a clear statement on the roles of the Scottish Government and the EHRC (and potentially others) in relation to the provision of support, training and guidance to assist public authorities to meet the duties. It could also provide specific advice about access to robust evidence to inform work on equalities.

- **Providing funding to support listed authorities** – This could support organisations to build on the work already done, to ensure that they are able to take action on the inequalities they have identified. The provision of funding could also help to strengthen the focus on this agenda.

Sharing good practice

5.53 Authorities found that sharing experiences and practice was very helpful. There may be opportunities to enhance the sharing of good practice. Guidance could emphasise the range of networks available and how to access these. There may be opportunities to provide funding to some networks to perform a supportive role around key areas. It may also be useful to explore the creation of a national multi-sector group to share experience and good practice around meeting the specific duties.

**Public Sector Equality Duties - Supporting the Ministers' Duty
*DISCUSSION GUIDE***

Introduction

By 31 December 2013, Scottish Ministers will publish proposals for activities to help public authorities to better perform the Public Sector Equality Duties.

This timing will allow Scottish Ministers to take account of the information published by Scottish listed authorities in their mainstreaming reports, equality outcomes, gender pay gap information and statements on equal pay and occupational segregation.

We have been asked by the Scottish Government to undertake research to inform Scottish Ministers as they prepare their proposals. They will also be working with a range of stakeholders to develop these proposals.

Our research is intended to provide views from a range of public bodies about what they have learnt from their implementation of the Scottish Specific duties, as a result of:

- the processes that they have put in place;
- what barriers they faced (and how they overcame these); and
- areas in which additional support could assist in overcoming any remaining barriers.

We are doing this through one to one telephone interviews with a sample of 65 public bodies across Scotland. We are speaking both to those with a lead around developing equality outcomes; and to those leading on the publication of employee information.

Participation in the research is voluntary. However, your participation will help to shape the support provided by Scottish Ministers under the new duties.

We will not attribute anything to any individual or organisation in our report. However, if we identify examples of innovative or interesting practice, we will discuss with you whether these can be attributed to your organisation. But will only do so with your express permission.

The timescales for the study are relatively tight – as this research will inform the development of the Scottish Ministers' proposals which need to be complete by December 2013. Interviews will take place during September and October.

Do you have any questions about the research?

Your role

1. Can you describe your role within your organisation generally?
2. What is your role in relation to equality?
3. What was your role specifically in developing equality outcomes and the mainstreaming report?
4. What was your role in gathering and publishing the employee information?

Process for meeting the duties

5. Can you talk me through the general approach within your organisation to meeting the equalities duties – both general and specific?
 - Who led the work?
 - Who else was involved within your organisation?

Developing Equality Outcomes

6. Can you talk through how your organisation developed equality outcomes?
 - Who led the work?
 - Who else was involved within your organisation?
7. What evidence did you use? How useful and reliable did you find this?
8. Who did you consult or engage with beyond your organisation (including service users/ equalities groups)? How effective did you find this?
9. Did you work with or share experiences with other public bodies locally or nationally? How useful was this?
10. Can you give a broad indication of the resources that your organisation dedicated to producing equality outcomes? (For example, an estimate of the staff input and any external costs, such as consultants).

Process for publishing employee information

11. Can you give me an overview of how your organisation went about making sure that you could publish the required information on the protected characteristics of staff?
12. Who led this process?
13. Who else was involved?

14. Can you give a broad indication of the resources that your organisation dedicated to preparing the employment information?
15. Did you have to improve or develop the information you had on your workforce to meet the duties? How did you do this?
16. Is there more to be done to improving the information you have to ensure you meet your duties?

Barriers and success factors

17. Can you explain the main difficulties/ barriers that you have encountered in:
 - gathering the employee information on protected characteristics?
 - developing the equality outcomes?
18. How did you (or will you) overcome these barriers?
19. What worked particularly well, or helped you to be able to meet the duties more easily?

Future

20. Based on your experience so far, how will you do things in future?
21. What additional support (either internally or externally) would help you to overcome these barriers in future?
22. Are you aware of any early changes that have happened as a result of the development of the equality outcomes, for example:
 - Is there greater and wider awareness of inequalities?
 - Are there agreed actions to tackle the inequalities identified?
 - Have systems measuring and reporting progress been improved?
24. What do you think will be the long-term benefits of taking the steps you have to meet the duties?
25. Do you have any other comments?

Appendix Two

Public Sector Equality Duty – Scottish Specific Duties

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 153(3), 155(1)(c) and (2), and 207(4) of the Equality Act 2010(a) and all other powers enabling them to do so. In accordance with section 153(4) of that Act, they have consulted the Commission for Equality and Human Rights. In accordance with section 210 of that Act(b), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. These Regulations may be cited as the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 and come into force on 27th May 2012.

Interpretation

2. In these Regulations—

“the Act” means the Equality Act 2010;

“employee” is to be construed in accordance with section 83 of the Act except that it is also to include a constable (including a chief constable) and a police cadet of a police force maintained under section 1 of the Police (Scotland) Act 1967(c); “listed authority” means a public authority listed in the Schedule to these Regulations(d); “relevant protected characteristic” is to be construed in accordance with section 149(7) of the Act; and “the equality duty” means the duty of the listed authority to have, in the exercise of its functions, due regard to the needs mentioned in section 149(1) of the Act.

Duty to report progress on mainstreaming the equality duty

3. A listed authority must publish a report on the progress it has made to make the equality duty integral to the exercise of its functions so as to better perform that duty—

(a) not later than 30th April 2013; and

(b) subsequently, at intervals of not more than 2 years, beginning with the date on which it last published a report under this regulation.

Duty to publish equality outcomes and report progress

4.—(1) A listed authority must publish a set of equality outcomes which it considers will enable it to better perform the equality duty—

(a) not later than 30th April 2013; and

(b) subsequently, at intervals of not more than 4 years, beginning with the date on which it last published a set of equality outcomes under this paragraph.

(2) In preparing a set of equality outcomes under paragraph (1), a listed authority must—

- (a) take reasonable steps to involve persons who share a relevant protected characteristic and any person who appears to the authority to represent the interests of those persons; and
 - (b) consider relevant evidence relating to persons who share a relevant protected characteristic.
- (3) If a set of equality outcomes published by a listed authority does not seek to further the needs mentioned in section 149(1) of the Act in relation to every relevant protected characteristic, the authority must publish its reasons for proceeding in this way.
- (4) A listed authority must publish a report on the progress made to achieve the equality outcomes published by it under paragraph (1)—
- (a) not later than 30th April 2015; and
 - (b) subsequently, at intervals of not more than 2 years, beginning with the date on which it last published a report under this paragraph.
- (5) In this regulation, “equality outcome” means a result that the listed authority aims to achieve in order to further one or more of the needs mentioned in section 149(1) of the Act.

Duty to assess and review policies and practices

- 5.**—(1) A listed authority must, where and to the extent necessary to fulfil the equality duty, assess the impact of applying a proposed new or revised policy or practice against the needs mentioned in section 149(1) of the Act.
- (2) In making the assessment, a listed authority must consider relevant evidence relating to persons who share a relevant protected characteristic (including any received from those persons).
- (3) A listed authority must, in developing a policy or practice, take account of the results of any assessment made by it under paragraph (1) in respect of that policy or practice.
- (4) A listed authority must publish, within a reasonable period, the results of any assessment made by it under paragraph (1) in respect of a policy or practice that it decides to apply.
- (5) A listed authority must make such arrangements as it considers appropriate to review and, where necessary, revise any policy or practice that it applies in the exercise of its functions to ensure that, in exercising those functions, it complies with the equality duty.
- (6) For the purposes of this regulation, any consideration by a listed authority as to whether or not it is necessary to assess the impact of applying a proposed new or revised policy or practice under paragraph (1) is not to be treated as an assessment of its impact.

Duty to gather and use employee information

- 6.**—(1) A listed authority must take steps to gather information on—
- (a) the composition of the authority’s employees (if any); and
 - (b) the recruitment, development and retention of persons as employees of the authority, with respect to, in each year, the number and relevant protected characteristics of such persons.
- (2) The authority must use this information to better perform the equality duty.

(3) A report published by the listed authority in accordance with regulation 3 must include—

- (a) an annual breakdown of information gathered by it in accordance with paragraph (1) which has not been published previously in such a report; and
- (b) details of the progress that the authority has made in gathering and using that information to enable it to better perform the equality duty.

Duty to publish gender pay gap information

7.—(1) A listed authority must publish information on the percentage difference among its employees between men’s average hourly pay (excluding overtime) and women’s average hourly pay (excluding overtime).

(2) The information is to be published no later than 30th April in—

(a) 2013; and

(b) each second year after that.

(3) The information published must be based on the most recent data available for a date when the authority had at least 150 employees.

(4) No publication is necessary if, throughout the period since these Regulations came into force or since publication was last due, the authority did not have 150 or more employees at any point.

(5) The Scottish Ministers must review from time to time whether the figure of “150” in paragraphs (3) and (4) should be amended.

Duty to publish statements on equal pay, etc.

8.—(1) A listed authority must publish a statement containing the information specified in paragraph (2) no later than 30th April in—

(a) 2013; and

(b) each fourth year after that.

(2) The statement must specify—

(a) the authority’s policy on equal pay among its employees between—

(i) men and women;

(ii) persons who are disabled and persons who are not; and

(iii) persons who fall into a minority racial group and persons who do not; and

(b) occupational segregation among its employees, being the concentration of—

(i) men and women;

(ii) persons who are disabled and persons who are not; and

(iii) persons who fall into a minority racial group and persons who do not,

in particular grades and in particular occupations.

(3) The information published must be based on the most recent data available for a date when the authority had at least 150 employees.

(4) No publication is necessary if, throughout the period since these Regulations came into force or since publication was last due, the authority did not have 150 or more employees at any point.

(5) Paragraphs (2)(a)(ii) and (iii) and (2)(b)(ii) and (iii) apply only in relation to the second and subsequent statements published by a listed authority under paragraph (1).

(6) In paragraph (2), “racial group” is to be construed in accordance with section 9 of the Act.

(7) The Scottish Ministers must review from time to time whether the matters specified in paragraph (2) and the figure of “150” in paragraphs (3) and (4) should be amended.

Duty to consider award criteria and conditions in relation to public procurement

9.—(1) Where a listed authority is a contracting authority and proposes to enter into a relevant agreement on the basis of an offer which is the most economically advantageous, it must have due regard to whether the award criteria should include considerations to enable it to better perform the equality duty.

(2) Where a listed authority is a contracting authority and proposes to stipulate conditions relating to the performance of a relevant agreement, it must have due regard to whether the conditions should include considerations to enable it to better perform the equality duty.

(3) Nothing in this regulation imposes any requirement on a listed authority where in all the circumstances such a requirement would not be related to and proportionate to the subject matter of the proposed agreement.

(4) In this regulation— “contracting authority”, “framework agreement” and “public contract” have the same meaning as in the Public Contracts (Scotland) Regulations 2012(a); and “relevant agreement” means a public contract or a framework agreement that is regulated by the Public Contracts (Scotland) Regulations 2012.

Duty to publish in a manner that is accessible, etc.

10.—(1) A listed authority must comply with its duty to publish under Regulations 3, 4, 7 and 8 in a manner that makes the information published accessible to the public.

(2) A listed authority must, so far as practicable, comply with its duty to publish under regulations 3, 4, 7 and 8 by employing an existing means of public performance reporting.

Duty to consider other matters

11. In carrying out its duties under these Regulations, a listed authority may be required to consider such matters as may be specified from time to time by the Scottish Ministers.

Duty of the Scottish Ministers to publish proposals to enable better performance

12.—(1) The Scottish Ministers must publish proposals for activity to enable a listed authority to better perform the equality duty—

(a) not later than 31st December 2013; and

(b) subsequently, at intervals of not more than 4 years, beginning with the date on which it last published proposals under this paragraph.

(2) The Scottish Ministers must publish a report on progress in relation to the activity—

(a) not later than 31st December 2015; and

(b) subsequently, at intervals of not more than 4 years, beginning with the date on which it last published a report under this paragraph.

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