

Equality Outcomes

April 2013

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Background: Implementation of the Public Sector Equality Duty

The public sector equality duty (often referred to as the general equality duty) in the Equality Act 2010 came into force in April 2011.

Legislative Duties:

The **general equality duty** requires the RMA as a public authority, in the exercise of its functions, to 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.
- Foster good relations between people who share a protected characteristic and those who do not.

The Specific Duties

A set of specific duties were devised to help authorities in their performance of the general equality duty.

The requirements of the **specific duties** are:

- Duty to publish equality outcomes and report progress. The specific duties require each listed authority to publish a set of equality outcomes which it considers will enable the authority to better perform the general equality duty by no later than **30 April 2013**. These outcomes to be the focus of the authority's equality work for the next 4 years.
- In preparing this set of equality outcomes, the authority must take reasonable steps to involve people who share a relevant protected characteristic and any person which appears to the authority to represent the interests of those people.
- The authority must also consider relevant evidence relating to people who share a relevant protected characteristic.
- If an authority's set of outcomes does not seek to further the needs of the general equality duty in relation to every relevant protected characteristic, it must publish its reasons for proceeding in this way.
- An authority must publish a fresh set of equality outcomes within four years of publishing its previous set of equality outcomes.
- By no later than **30 April 2015**, an authority must publish a report on the progress made to achieve the equality outcomes it has published, and thereafter it must report on progress at intervals of not more than two years, starting from the date on which it last published a report.

The equality duty covers the following **protected characteristics**: Age, Disability, Gender, Gender Reassignment, Pregnancy and Maternity, Race, Religion or Belief and Sexual Orientation. The duty also covers marriage and civil relationships, with regard to eliminating unlawful discrimination in employment.

The RMA's development of equality outcomes

The RMA is a non departmental public body (NDPB) established in 2005 under the Criminal Justice (Scotland) Act 2003, for the purpose of ensuring the effective assessment and minimisation of risk. Our functions involve the communication of best practice, drawing evidence from national and international research and development programmes to improve the risk assessment and risk management of offenders across Scotland. The strategic direction of the RMA is set by our Board, which has a Convener and 7 other members. In terms of staff resource, the RMA has 14 members of staff.

As a public body we want to promote open and inclusive working practices within an approach that is straightforward and accountable. We also recognise the importance of continuous development and improvement in all that we do.

The themes of the RMA's equality outcomes are:

- **Enhancing Practice**
- **Good Governance**

In developing our equality outcomes, we considered the function of the RMA, our role as an employer and the contribution we wish to make to advance equality of opportunity. We were also mindful of the relatively small scale of our organisation and resources. We decided to structure our approach under two specific themes: as a body that provides advice and guidance to criminal justice practitioners, we feel we can enhance our contribution by incorporating an equality element into our research and development activities: **Enhancing Practice**. And as an employer, we will embed equalities as a key component of our human resource and internal governance processes: **Good Governance**.

The pages that follow outline the equality outcomes we have identified under these themes. For each outcome we have highlighted which elements of the general equality duty they contribute to, which protected characteristics they apply to, and the outputs we will undertake to enable their achievement. In developing these outcomes we liaised with staff and carefully considered available evidence to ensure their relevance and best use of resources. This evidence is outlined in Appendix A.

The RMA's Equality Outcomes

Outcome P1: Equalities information is more widely available to risk assessors

Theme: Enhancing Practice

Protected characteristic: All

General duty: Eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity

Output: As an authority that promotes best practice in risk assessment and management, we will refine and enhance equalities information contained within our publications (such as the Risk Assessment Tools Evaluation Directory (RATED)) to inform practitioners of relevant equalities considerations and help them apply appropriate risk assessment tools to specific populations. This will be an ongoing process to continuously refine the purpose and suitability of individual tools, and will involve implementation of new communication methods to disseminate this guidance and make it more widely accessible.

Involvement: Staff, Board members, stakeholders, practitioners

Outcome P2: RMA research and development projects contribute to best practice in offender risk assessment and management

Theme: Enhancing Practice

Protected characteristic: All

General duty: Advance equality of opportunity

Output: We will enhance our efforts to promote best practice in risk assessment and management by incorporating the consideration of equalities into future research and development projects. RMA projects often involve extensive consultation with stakeholders to identify priorities and agree outcomes, thus we have the opportunity to actively encourage developments that are mindful of equalities. Through our outputs we will look to inform risk practice that is proportionate, relevant, consistent and supportive of human rights.

Involvement: Staff, Board members, Stakeholders

Outcome G1: More young people are in work and training

Theme: Good Governance

Protected characteristic: Age

General duty: Advance equality of opportunity, foster good relations

Output: As a socially responsible employer, we will provide meaningful work experience and internship opportunities for young people, giving them improved access to future employment and education opportunities within their chosen fields.

Involvement: Staff and Board members, HR consultancy, local education establishments

Outcome G2: There are no barriers in recruitment, training or promotion opportunities for RMA staff

Theme: Good Governance

Protected characteristic: All

General duty: Eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity, foster good relations

Output: We will improve and expand the way we collect employee data and monitor our practices to ensure that all staff are able to access opportunities equally. Greater levels of analysis and consideration of how we record data will be undertaken with a specific focus on protected characteristics.

Outcome G3: RMA staff are more aware of equalities and diversity, and apply this knowledge to their role

Theme: Good Governance

Protected characteristic: All

General duty: Eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity, foster good relations

Output: We will devise and deliver regular training courses for staff to raise awareness of equalities and good practice, thus ensuring that we understand our responsibilities and are better equipped to implement good practice across the organisation. As part of this process we will also carry out ongoing reviews of our current HR practices, and where relevant update and improve them.

Evidence

In developing our equality outcomes we considered evidence on protected characteristics, employment in Scotland, and education in Scotland.

Collecting regular and consistent information broken down by equality characteristics has been a challenge, even at a national level, in Scotland for a number of years. Reliable data on gender and age is available at local level for a wide range of variables. However, information on disability can be more challenging, and obtaining information on ethnicity, religion and sexual orientation is often difficult due to the small population numbers which are involved.

In the 2001 Census, ethnic minority groups made up 2% overall of the Scottish population. Recent evidence from the Annual Population Survey suggests that this number may now be nearer 3%. However, no single ethnic group made up more than a third of this proportion, indicating the diversity of the population in Scotland. In addition, a large proportion of these populations are concentrated in a small geographic area. Data on non-Christian religions reveal similar small numbers and geographic considerations. Further, the most recent data we have from the Integrated Household Survey estimates the total Lesbian, Gay and Bisexual population of Scotland to be 1.4%. Therefore overall it is clear that 'small numbers' and 'small samples' characterise these populations in Scotland.

To achieve sample sizes which would be robust and large enough for thorough analysis from the household surveys would require the overall population sample to be very large indeed. More targeted sampling strategies and boosts can be effective but have disadvantages in terms of complexity of sample design, less precision about results, significant cost and not having an up-to-date list of names and addresses from which to draw a sample. Also, targeting specific groups might mean that the same people are surveyed time and again.

Often we need to know more than just the number of people who are in a particular group. For example, we might want to know how do views on a particular subject differs between Muslims and Christians. To be able to answer this type of question fully we would need a large sample of Muslims. However as there are only small numbers available, analysis of ethnic and religious groups from survey based data will often be limited to comparing "all ethnic minorities" or "all non-Christian groups" which treats all non-White ethnic groups and all non-Christian groups as the same, and hides important differences between different groups.

Up until recently, sexual orientation had not been asked on most surveys in Scotland. However new questions have been developed and are now being used in surveys, but once again, the small number of people responding limits the utility of the data.

Relevant evidence gathered included:

Sex, Gender

- The Scottish Government estimate that in Scotland there was a full-time pay gap between men and women of 11.9% in 2010, down from 12.4% in 2009. This is influenced by the fact that a significant proportion of high earning employees are men and that many women tend to be clustered in the lowest paid professions.
- The average woman working full time in Scotland is paid 12.2% less than a man. The pay gap is 32% less per hour for part-time workers.
- Despite being better qualified for the workplace, women and certain ethnic minority group workers still do not enjoy equal employment and income outcomes to their male and white peers.
- In 2006/07, the average female local authority employee working full time in Scotland was paid 12% less than a male local authority employee.
- Girls perform better than boys at school, tend to stay on longer at school and leave school with better qualifications.

Race, Religion or belief, Sexual orientation, Gender reassignment

- The Scottish Social Attitudes Survey 2010 found that discriminatory attitudes were common in relation to gypsy travellers and transgender people. It found that there has been a significant decline in discriminatory attitudes towards gay men and lesbians and support for gay marriage has increased (61%).
- There is no evidence of any significant difference in attainment between pupils from different ethnic backgrounds.
- The majority of adults (96.8%) are of white ethnic origin with Scottish being the predominant ethnic group (80.3%). The next biggest group is 'other British' (12.6%) while 3.2% of adults are non-white. Adults of Asian ethnic origin represent the biggest non-white group (2.0%) (from the 2011 Scottish Household Survey SHS).
- A question on self-identified sexual orientation was introduced to the SHS in 2011 as one of the Scottish Government's core questions. The question was designed to provide statistics to underpin the equality monitoring responsibilities of public sector organisations and to assess the disadvantage or relative discrimination experienced by the lesbian, gay and bisexual population. 98% of adults identified themselves as heterosexual or straight, whilst just under one percent identified themselves as lesbian, gay or bisexual. The 'other' option (0.1%) addresses the fact that not all people will identify themselves as being in the three main categories. It is interesting to note that only 0.5% of adults stated they didn't know or refused the question. Comparisons by gender shows there was a slightly larger proportion of men stating they were gay at 0.8% compared to women at 0.6%.
- There are a number of people of both sexes in the United Kingdom whose gender identity (their sense of being a man or a woman) does not match their appearance and / or anatomy. Around 1,500 people every year seek medical help about this. People who, with medical advice and support, decide to permanently adopt the opposite gender to the one assigned at birth are known as 'transsexual people'. There are also a significant number of people

who adopt an opposite gender role without formal medical involvement. These are known as 'transgender' people. The term 'transgender' is also used (along with 'trans') as an umbrella term referring to everyone whose gender presentation doesn't entirely tally with the role originally expected according to the sex identified at birth (from the Equalities and Human Rights Commission website).

Age, Disability

- People are living longer healthier lives and older people now make up a much greater proportion of the population.
- In England 17% of children with special educational needs (SEN) get five good GCSEs compared to 61% of children without identified SEN. Across Britain, disabled adults are three times as likely as others to have no qualifications.
- There are more female (52%) than male (48%) household members in Scotland. 18% of household members are aged under 16, while 23% are 60+.
- 49% of adults are married and living with a spouse, and just under 1% are living in a same sex civil partnership. (from the 2011 Scottish Household Survey)
- There are 48,830 employees (all grades from senior civil service to administrative assistants) of which 32,980 declared themselves as non-disabled, 2,630 as disabled, and 13,230 not declared. (from Civil Service employment statistics – Scotland 31 March 2011)

Protected Characteristic definitions and information

Disability

Definition - Disability refers to someone who has a physical, sensory or learning impairment which is long term and has an adverse affect on their ability to carry out normal day to day activities. This also includes people with progressive or degenerative illnesses such as cancer, HIV and MS.

Under the Equality Act 2010, a person is protected under the act from the point of diagnosis. The Equality Act 2010 also creates a duty to make reasonable adjustments for disabled persons where they would be at a substantial disadvantage if the adjustments were not made. This includes making adjustments to criterion, requirements and practices, as well as physical features of buildings. This is to ensure that inclusion of people with a disability is promoted.

Discrimination arising from a disability means that a person is treated less favourably because of something arising in consequence of their disability. There is no discrimination, though, if it can be shown that the person discriminating did not know and could not reasonably have been expected to know of the other person's disability. Direct and indirect discrimination is unlawful, as is harassment.

A person is protected under the Act even if they are wrongly perceived as disabled, or are associated with someone who is, such as carers. This means there is a consideration of the perception of disability, not just its actual existence.

The broader picture - In Scotland a third of all households contain at least one person with a disability. Half of them have an annual income of less than £15,000, and people with a disability are twice as likely to live in poverty. The prevalence of disability increases with every age group, with half of over 60s reporting having a disability. Around 300 people are prosecuted every year in England and Wales for disability hate crimes, with half involving violence. Three quarters of completed cases result in a conviction. The Scottish Parliament legislation which protects people with a disability from hate crimes came into force in 2010 and brought Scotland into line with the UK.

The Equality and Human Rights Commission have released a report entitled Hidden in Plain Sight their final report on the enquiry into disability related hate crime. A specific report for Scotland has also been published.

Age

Definition - People are covered by the Equality Act 2010 if they are directly or indirectly discriminated against or harassed because of their age.

Age refers to either an individual's age or group of individuals' ages, such as 49 year olds, or a range of ages, such as 12 to 18 year olds or over 65s. There are some exceptions to age discrimination. These depend on whether or not less favourable treatment because of age is a proportionate means of achieving a legitimate aim. In other words, is the action a necessary part of achieving an outcome.

Marriage and civil partnerships

Definition - Marriage and civil partnership refers to people who have entered into a marriage or a civil partnership. Under the Equality Act 2010, it is unlawful to directly or indirectly discriminate or harass a person because they are married or in a civil partnership. Marriage and civil partnership, though, is not a protected characteristic in relation to services and public functions, premises, education and associations. This means it is only a protected characteristic in the context of work.

A civil partnership provides most of the rights of a marriage. A person who is in a marriage must be treated the same as a person who is in a civil partnership. This means that anything that is available to a married couple, such as special rates, privileges or benefits, must also be available to a couple in a civil partnership. Although this is not explicitly laid out in the Equality Act 2010, if a couple in a civil partnership were to be treated less favourably than a couple in a marriage outside of work, it would be discrimination based on sexual orientation.

In situations where a person is asked to disclose their marital or civil partnership status, it is very important, and often a legal requirement, for that information to be kept private. Revealing or implying that a person is in a civil partnership may expose them to discrimination or prejudice based on sexual orientation. For this reason, it is best practice to put the options of marriage and civil partnership together in any forms.

Pregnancy and maternity

Definition - Pregnancy refers to the condition of being pregnant and maternity refers to the period of 26 weeks after birth. The Equality Act 2010 protections also cover a woman who has had a miscarriage.

Under the Equality Act 2010, it is unlawful to directly discriminate against a woman who is pregnant or in a period of maternity in the areas of services and public functions, premises, work, education and associations. It is unlawful to indirectly discriminate against or harass a person in relation to pregnancy and maternity. Any incident that would fall under the categories of conduct of indirect discrimination and harassment would be likely to fall within the protected characteristic of sex. A person cannot be discriminated against because they are pregnant or on maternity leave, and all pregnant employees are entitled to maternity leave, maternity pay, paid leave for antenatal care and protection against unfair treatment or dismissal. After maternity leave, all women are entitled to return to their old job. If an employer refuses to allow a woman to return after maternity leave, the woman may be able to make a claim for unfair dismissal, and make a claim for discrimination because of pregnancy and maternity.

It is also unlawful to directly discriminate against a woman who is pregnant or in the maternity period in relation to the provision of services and public functions, premises, education, and associations. This means that it is unlawful to discriminate against a woman because she is breastfeeding. Scotland is also covered by the Breastfeeding (Scotland) Act 2005, which makes it an offence to stop or prevent a woman from breastfeeding a child in a public place.

Race

Definition - Under the Equality Act 2010, race includes nationality, and ethnic or national origin. It is unlawful to directly or indirectly discriminate against or harass a person because of their race. This includes segregating a person from others on the grounds of race.

Racial discrimination and prejudice is a major problem in Scotland. Around 5,000 racist incidents are reported to the police every year. Half of all the incidents are against people of Asian origin, and three quarters are committed against men. Most incidents take place on the street, in the victim's home or in a shop. Around half of all perpetrators are aged 20 or under, with a quarter aged under 16.

Racial and religious discrimination are closely related. Islamophobia has increased in recent years, and is often directed against people of Indian, Pakistani or Arab origin, regardless of their actual religion. Jewish people are classed as belonging to both a religion and ethnicity.

Asylum seekers, Roma, and Irish Traveller groups often experience significant discrimination across multiple areas of life, with major barriers in access to housing, employment, education and healthcare.

Religion or belief

Definition - Religion refers to people who belong to a major world religion such as Christianity, Judaism or Islam, and also people who belong to smaller religions or denominations, such as Rastafarianism or Methodism. Religion also includes people who do not identify with any particular religion, and also includes philosophical belief, such as atheism. Belief refers to any religious or philosophical belief that affects a person's life choices or the way they live.

Under the Equality Act 2010, it is unlawful to directly or indirectly discriminate against or harass someone because of their religion or beliefs, or lack thereof.

Sex

Definition - Sex, previously referred to as 'gender', refers to either a man or a woman.

Under the Equality Act 2010, it is unlawful to directly or indirectly discriminate against or harass someone because of their sex. This includes less favourable treatment of a woman because she is breastfeeding, except in relation to work.

A man cannot claim direct discrimination by taking account of the special treatment afforded to women in connection with pregnancy and childbirth.

The broader picture - Globally, there are still vast inequalities between men and women. Nearly 800 million adults are illiterate, with two thirds of them women. More boys than girls get access to primary education.

Women make up 52% of the global labour force, but own only 1% of the world's wealth. In Britain, women earn 16% less than men for doing work of equivalent value. In FTSE 100 companies, 4% of the executive directors are women. In the UK Parliament elected in 2010, 22% of the MPs elected were women.

In Scotland, 33% of MSPs in the 2007-2011 Scottish Parliament were women, and women make up 34% of MSPs of the 2011-2016 Scottish Parliament. On Scotland's local authorities, women make up 22% of Scotland's 1222 councillors. The council with the highest percentage of female elected members had 32%, whilst the lowest had no women councillors.

Sexual orientation

Definition - Sexual orientation refers to someone's attraction to a person of the same sex, opposite sex, or both sexes.

People who are attracted only to persons of the opposite sex are known as heterosexual or straight. People who don't identify as heterosexual or straight might describe themselves as being lesbian, gay, bisexual or transgender, or use the umbrella term LGBT. An LGBT person can be single, in a relationship with another person of the same sex, or of the opposite sex, such as bisexual or transgender people.

Some LGBT people are 'out', which means that they openly acknowledge their sexual orientation, but many other LGBT people keep their sexual orientation private, often because they are concerned about discrimination or prejudice. Under the Equality Act 2010, it is unlawful to directly or indirectly discriminate against or harass a person because of their sexual orientation. Homophobia, biphobia and transphobia are terms that are used to describe hatred or prejudice towards lesbian, gay, bisexual and transgender people.

The broader picture - Being LGBT is still illegal in over 70 countries, 42 of which are in the Commonwealth, and it is punishable by death in eight countries. Even in places where it is not criminalised, LGBT people regularly face harassment, discrimination, physical abuse and torture by their governments, and are not able to live openly in society. In Britain, 97% of lesbian, gay and bisexual secondary school pupils have heard homophobic language in schools, and 65% have been directly abused at school. 1 in 3 LGBT people in Scotland have been physically attacked.

70% of fans who have attended a sporting match in the last 5 years have heard homophobic abuse. Less than 100 professional sportspeople around the world have ever openly identified as LGBT. In the 20th century, LGBT people suffered persecution in every country in the world. Many governments and medical institutions carried out practices such as electric-shock therapy to try and 'cure'

people, and countless numbers of LGBT people all across the world were imprisoned or killed in concentration camps.

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