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*Discussion Paper: Key factors that contribute to better equality outcomes*

*For*

**The Equality Commission for Northern Ireland**



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**Note:** The views expressed in this report are those of the authors and do not necessarily represent the views of the Commission

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# Contents

## Executive summary

- 1. Introduction ..... 1
- 2. Context for public service delivery in Scotland ..... 2
- 3. Equality policy in Scotland ..... 8
- 4. Equality law in Scotland ..... 13
- 5. Achieving better equality outcomes ..... 20
- 6. Impact ..... 29

Appendix One: Interview discussion guide

Appendix Two: Duty to publish equality outcomes and report progress

# Executive Summary

## Introduction

This short paper sets out the Scottish experience of introducing equality outcomes, in the context of a shift to an outcomes focused approach in Scotland more generally. It explores:

- the context for public service delivery and equality in Scotland;
- the key factors that contribute to achieving better equality outcomes from public policy and public service delivery; and
- how the statutory equality duties on public authorities in Scotland fit with these factors.

## Context for public service delivery in Scotland

In Scotland, there has been a clear shift towards an outcomes focused approach to public service planning, delivery and monitoring. This shift began in 2001, through research commissioned by the Scottish Parliament Finance Committee, to investigate the feasibility of outcomes budgeting for the Scottish budget.

The Scottish National Party (SNP) was particularly interested in outcomes focused approaches, and included a commitment to introduce an outcomes focused model in its Manifesto for the 2007 elections. Following the elections in 2007, the SNP formed a minority led government, and introduced the outcomes based National Performance Framework. This National Performance Framework has been in place in Scotland since then, with only small changes to the framework being made in 2011 and 2016.

There has been a concerted effort to align local public service planning and delivery to this National Performance Framework. From 2008/09 local authorities were required to reach Single Outcome Agreements with the Scottish Government, based on both national outcomes and local priorities. From 2011/12, this responsibility extended to cover community planning partnerships which involve a range of public agencies (and local communities).

## Equality policy in Scotland

Within the National Performance Framework, there is an outcome which focuses explicitly on equality:

**“We have tackled the significant inequalities in Scottish society.”**

This outcome is measured through a wide range of indicators. Some of these indicators focus on specific inequalities (such as reducing the pay gap between men and women), while others are more general, but have a link with inequalities (such as reducing crime victimisation rates or improving educational attainment).

The Scottish Government's annual Programmes for Government also highlight a strong focus on supporting equality and tackling inequality. Since the first SNP led Programme for Government in 2008/09, the focus on equality and fairness has grown and strengthened. By 2012/13 the Programme for Government placed equality and fairness at its heart, with a strong focus on promoting equality and social cohesion. The priorities had shifted beyond an initial focus on tackling poverty and income inequalities, to include improving outcomes for all of Scotland's diverse communities and people.

The 2016/17 Programme for Government focuses even more strongly on equality. It sets out:

- specific actions around equality;
- the connection between prospering as a nation and embracing and valuing diversity; and
- the Scottish Government's commitment to maintaining a strong legal framework to secure rights to equality and protection from discrimination.

## **Equality law in Scotland**

The Equality Act 2010 harmonised, simplified and strengthened law in relation to equality. It sets out a single public sector equality duty which requires that public bodies give due regard to the need to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

The Act covers the whole of Great Britain. However, there are also specific duties which set out how to meet the general duties. Scottish Ministers have set different specific duties than those set in England and Wales. One of these specific duties in Scotland is to publish a set of equality outcomes, and record progress in meeting these outcomes. Listed authorities in Scotland, including Scottish Ministers, were required to publish equality outcomes by 30 April 2013.

In Scotland, listed authorities have been encouraged to explore local issues and set appropriate equality outcomes for their own area of activity. The purpose of the duty to produce equality outcomes is to support better performance of the general equality duty, and to make positive change for people with protected characteristics.

Scottish Ministers have a specific duty to publish proposals to enable listed authorities to better perform the public sector equality duty by 31 December 2013, and subsequently every four years. These proposals were published in late 2013, and involved the development of a support programme – including specific support on setting and reporting on equality outcomes, which was delivered by the Equality and Human Rights Commission in Scotland.

## Achieving better equality outcomes

While listed authorities in Scotland complied well with the duty to publish equality outcomes, there were some issues with the transition to this new way of working. The main challenges were:

- understanding outcomes – focusing on change rather than activities; and
- measuring outcomes – understanding and describing how to measure change, particularly change for the people the outcome was intended to support.

At a strategic level, the challenging financial environment in which listed authorities were operating also impacted on the ability to produce effective equality outcomes – with issues around skill loss and perceptions of equality in a pressured environment.

However, the shift to equality outcomes was well supported by the political environment. The relative stability of the SNP government helped to ensure a consistent, ongoing focus on outcomes. And there was strong national political support both for an outcomes focused way of working, and for focusing on equality.

Listed authorities indicated that they were better able to produce equality outcomes when they were working jointly with others; had committed and positive staff; aligned equality outcomes within their wider outcomes, strategies or plans; and undertook effective engagement and consultation processes.

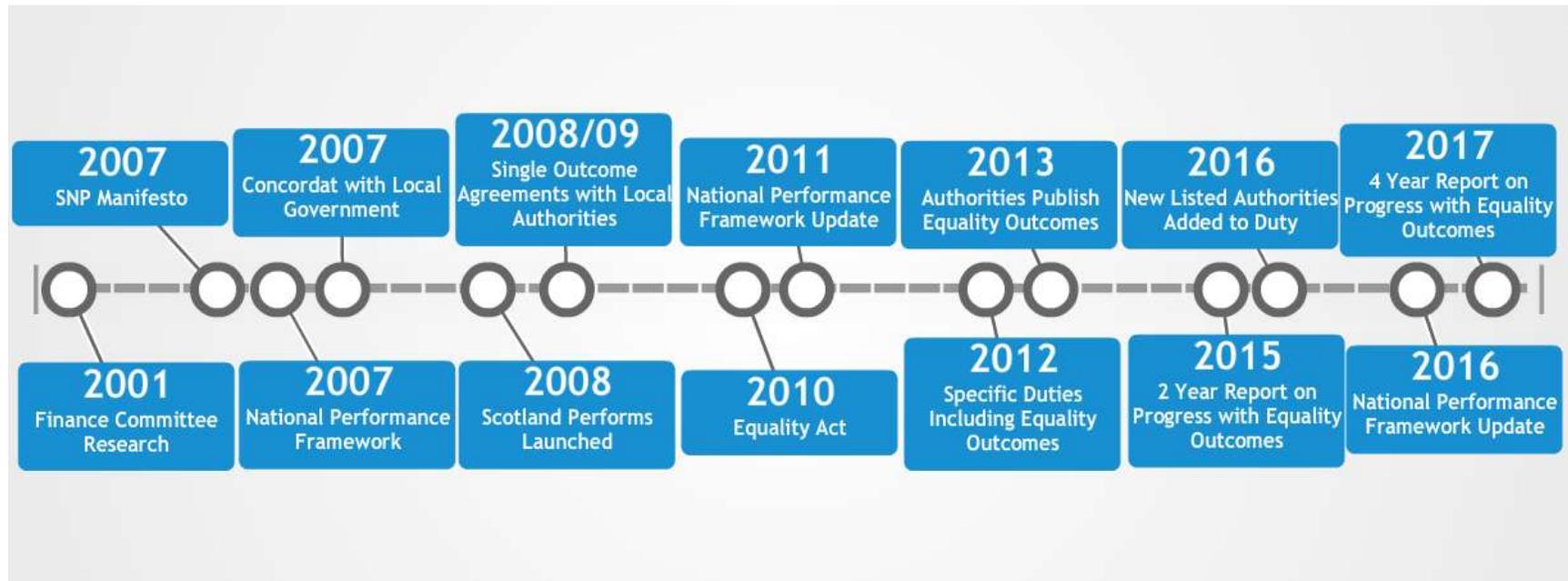
A programme of support for some listed authorities to help develop their equality outcomes also found that one to one support from the Equality and Human Rights Commission was very helpful in building confidence around how to develop, phrase and measure an equality outcome.

## Impact

At this stage, there is limited research into the actual equality outcomes achieved in Scotland since 2013. Early research undertaken in 2013 immediately after listed authorities produced their equality outcomes found that some felt the process had increased awareness and confidence around equality issues, increased commitment to take action to address inequalities, and better aligned equalities within the wider strategic objectives of the listed authority.

In 2017, the Equality and Human Rights Commission will be reviewing the performance of the listed authorities in relation to their specific duties, and the effectiveness of the public sector equality duties more generally.

## Timeline of key stages in an outcomes focused equality environment in Scotland



# 1. Introduction

## About this report

- 1.1 This short paper sets out the Scottish experience of introducing equality outcomes, in the context of a shift to an outcomes focused approach in Scotland more generally. It explores:
- the context for public service delivery and equality in Scotland;
  - the key factors that contribute to achieving better equality outcomes from public policy and public service delivery; and
  - how the statutory equality duties on public authorities in Scotland fit with these factors.

## Method

- 1.2 This report is largely based on a literature review of existing relevant documentation. It also involved two interviews<sup>1</sup> with people who had been involved in the process of supporting organisations to develop equality outcomes, exploring reflections on the purpose, experience and impact of equality outcomes in Scotland. A copy of the discussion guide used for these interviews is included as Appendix One.

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<sup>1</sup> These interviews have been anonymised.

## 2. Context for public service delivery in Scotland

### About this chapter

2.1 This chapter explores the context for public service delivery in Scotland. It focuses particularly on the introduction of an outcomes focused approach to planning, delivering and monitoring public service delivery at both national and local level.

### The Scottish Government

2.2 The Scottish Government is Scotland's devolved government. It was set up in 1999 (originally as the Scottish Executive<sup>2</sup>). For the first two terms, up to 2007, the Scottish Executive was governed by a Labour and Liberal Democrat coalition. From 2007, the Scottish National Party (SNP) has held the largest number of seats and has formed the government on its own.

### Early consideration of an outcomes focused approach

2.3 The shift to a coordinated outcomes focused approach began in 2001, when the Scottish Executive was governed by a Labour and Liberal Democrat coalition. The Scottish Parliament was a key driver in discussing the outcomes focused approach, through the Finance Committee which scrutinised finance decisions and held the government to account on financial matters. The Finance Committee had identified an over focus on measuring spending and inputs, and believed that this was not the most appropriate way to measure the effectiveness of spending on Scottish public sector services. It was interested in finding out more about outcome budgeting, as a way of focusing on the results of expenditure.

2.4 The Scottish Parliament Finance Committee commissioned research<sup>3</sup> to:

- investigate the feasibility of outcome budgeting for the Scottish budget;
- identify areas where it could be applicable; and
- develop practical proposals for measuring outcomes in the Scottish budget.

2.5 The research explored existing use of outcomes within the Scottish Government, finding that outcome definition and measurement was used in some aspects of service planning, but rarely covered the whole of a service, nor was it consistent across sectors.

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<sup>2</sup> In 2007 the SNP changed the name of the Scottish Executive to the Scottish Government (a decision which was later passed in law in the Scotland Act 2012).

<sup>3</sup> <http://archive.scottish.parliament.uk/business/committees/historic/finance/reports-02/fir02-mob-02.htm>

- 2.6 This research made recommendations around:
- introducing an outcomes focused approach in the Scottish Parliament, including explicitly linking funding to outcomes;
  - using outcomes as the main basis for Parliamentary scrutiny of government; and
  - introducing a structured approach to performance review.
- 2.7 Over subsequent years, the Finance Committee continued to discuss this research and its application, identifying outcome focused planning as a challenging and long term prospect. In 2005, the Minister for Finance and Public Service Reform expressed a clear commitment that the Scottish Government became much more outcome focused in the use of resources, spent less time monitoring how money was spent, and spent more time achieving headline outcomes.
- 2.8 In 2006, the Scottish Government published its plans to transform and reform public services<sup>4</sup>, which included clear reference to an outcomes focused approach. It asked for views on the potential benefits and drawbacks of a radical shift to an outcomes focused approach. Also in 2006 the Finance Committee undertook a cross cutting review of deprivation spending<sup>5</sup>, to help identify whether Scottish Executive spending on deprivation was allocated and used efficiently, and whether improvements could be made. There were concerns that although significant amounts of money were being spent in some deprived areas, often the resultant changes had not been transformative. The review included proposals for introducing a single fund for deprivation which would require both local outcome agreements and national performance measures.
- 2.9 At the same time, officials within the Scottish Government were developing their understanding and application of an outcomes focused model in different fields of work.

### **The Scottish National Party (SNP) development of outcomes**

- 2.10 Scottish Parliament elections were held in May 2007, resulting in the SNP narrowly holding the largest number of seats – and forming a minority government. The SNP had been thinking about outcomes focused approaches in developing its Manifesto for the elections. The Manifesto included a commitment to bring forward proposals for new management and monitoring arrangements for government and agencies.
- 2.11 The Manifesto clearly referenced the SNPs desire to introduce a similar outcomes focused model to the one used in Virginia, USA, which is called

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<sup>4</sup> <http://www.gov.scot/resource/doc/130092/0031160.pdf>

<sup>5</sup> <http://archive.scottish.parliament.uk/business/committees/finance/reports-06/fir06-05-03.htm#Proposals>

'Virginia Performs'<sup>6</sup>. Virginia Performs is a performance leadership and accountability system for the state government, which sets out intended outcomes and reports on performance against these in a clear and simple manner.

2.12 Once formed, the minority led SNP government introduced the National Performance Framework (NPF) in its 2007 Spending Review. The NPF drew on the outcomes based approach used in Virginia. It set out a ten year vision in terms of the outcomes the government wanted to achieve for Scotland, focusing strongly on actual results achieved – rather than inputs or outputs. It was a single framework to which all public services in Scotland were to align.

2.13 The NPF as introduced in 2007 included:

- a Purpose, supported by a set of high level purpose targets;
- five strategic objectives which “support delivery of the Purpose”;
- 15 national outcomes which “describe in more detail what the government wants to achieve over a ten year period”; and
- 45 national indicators and targets which measure progress on the Outcomes.

2.14 In 2008 the Scotland Performs website was launched. The NPF was updated in 2011 and 2016<sup>7</sup>.

### **Aligning local authorities with national outcomes**

2.15 A key development in the focus on outcomes in Scotland was the agreement of a Concordat between Scottish Government and CoSLA (Coalition of Scottish Local Authorities) in November 2007. This saw a deliberate shift towards the Scottish Government setting policy direction and over-arching outcomes, but allowing local authorities flexibility to meet local needs. The aim was to develop a new relationship between national and local government based on mutual respect and partnership.

2.16 The Concordat underpinned the funding provided to local government over 2008/9 to 2010/11, and was agreed within a tight financial context. An important element of the Concordat involved a substantial reduction in ring fenced separate funding streams to local government. The amount of ring fenced specific grants reduced from £2.7 billion in 2007/08 to between £0.3 and £0.4 billion through to 2016/17<sup>8</sup>.

2.17 Each local authority was required to reach a Single Outcome Agreement with the Scottish Government, based on the national outcomes and local priorities. This was accompanied by a new performance reporting system to enable reporting of

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<sup>6</sup> <http://vaperforms.virginia.gov/>

<sup>7</sup> <http://www.gov.scot/Resource/0049/00497339.pdf>

<sup>8</sup> <http://www.gov.scot/Resource/0049/00494087.docx>

progress against national outcomes and indicators. Each local authority was required to submit a report at the end of each financial year, starting in 2008/2009.

- 2.18 The Concordat also included agreement between local and national government about specific priorities including freezing council tax rates, making more police officers available, reducing class sizes for P1 to P3 children and providing free school meals for P1 to P3 children.
- 2.19 In 2011/12 the responsibility for producing the Single Outcome Agreement moved from the local authority to the community planning partnership for each area - which involves the range of public agencies alongside local communities. This shift was part of a process to strengthen community planning, as set out in a joint Scottish Government and CoSLA Community Planning Review Statement of Ambition<sup>9</sup>.
- 2.20 Single Outcome Agreements are available on each community planning partnership's website. Examples include Glasgow (which has produced a summary<sup>10</sup> and full<sup>11</sup> version) and Aberdeenshire<sup>12</sup>.
- 2.21 In 2016 the Community Empowerment Act<sup>13</sup> further strengthened links between local and national outcomes. It requires Scottish Ministers to continue the approach of setting national outcomes for Scotland; regularly report progress on these; and review them at least every five years. Public authorities and others that carry out public functions must have regard to the national outcomes in carrying out their devolved functions.

### **Supporting equality within Single Outcome Agreements**

- 2.22 The Scottish Government also undertook an Equality Impact Assessment on the move towards Single Outcome Agreements (SOAs)<sup>14</sup>. This highlighted the shared commitment between national and local government to equality and legal duties, and emphasised that nothing in this process suggested a change in existing policy or approaches. The Equality Impact Assessment also highlighted that the commitment to equality underpinned all national outcomes, but was explicitly covered by the national outcome on reducing significant inequalities in Scottish society.
- 2.23 An overview of SOAs in 2009/10<sup>15</sup> found that most local authorities had taken account of equality in developing or implementing the SOA in some way –

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<sup>9</sup> <http://www.gov.scot/Topics/Government/local-government/CP/soa>

<sup>10</sup> <https://www.glasgowcpp.org.uk/CHttpHandler.ashx?id=19106&p=0>

<sup>11</sup> <https://www.glasgowcpp.org.uk/CHttpHandler.ashx?id=15989&p=0>

<sup>12</sup> <http://www.gov.scot/Resource/0043/00435520.pdf>

<sup>13</sup> <http://www.gov.scot/Topics/People/engage/CommEmpowerBill>

<sup>14</sup> <http://www.gov.scot/Topics/People/Equality/18507/EQIASearch/SingleOutcomeAgreement>

<sup>15</sup> <http://www.parliament.scot/Research%20briefings%20and%20fact%20sheets/SB10-18.pdf>

ranging from minimalist approaches to more in depth. Six local authorities had not included a statement on how equality issues were dealt with in developing or implementing the SOA.

- 2.24 New guidance produced in 2012<sup>16</sup>, as the responsibility to produce SOAs was transferred to community planning partnerships, had a strong focus on equality. This makes clear that community planning partnerships need to develop a co-ordinated approach to tackling inequalities, with equality considerations running through all activities and woven into the development of the Single Outcome Agreement. The guidance emphasises the responsibilities under the specific duties (which came into force in April 2012). The guidance explained that the specific duties apply to individual statutory partners rather than community planning partnerships (which are not statutory bodies). However it suggested that partners were likely to benefit from working with each other in planning and delivering improvements in equality.
- 2.25 The guidance mentions the particular requirement to set equality outcomes by April 2013, providing an opportunity to build a co-ordinated approach to equality within each community planning partnership. The Equality and Human Rights Commission was referenced as a potential source of support.
- 2.26 The Community Empowerment (Scotland) Act 2015<sup>17</sup> also imposes duties on community planning partnerships around planning and delivering local outcomes, with a stronger focus on tackling inequalities and producing locality plans at a more local level for areas experiencing particular disadvantage.

### **Measuring progress towards outcomes**

- 2.27 Evidence about progress towards national outcomes is included on the Scotland Performs website, through data tracking progress against the 55 national indicators. Scotland Performs updates are produced annually, providing broader commentary on the national outcome areas. In early 2015 the Scottish Parliament Finance Committee highlighted that there continued to be more scope to use the NPF to hold public bodies to account for delivery of outcomes<sup>18</sup>.
- 2.28 Audit Scotland is responsible for checking that public money has been spent efficiently and effectively. It has undertaken a range of research into the application of the outcomes focused approach within the context of community planning. Overall, this research concludes that:

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<sup>16</sup> <http://www.gov.scot/Topics/archive/SOA2012/SOA2012>

<sup>17</sup> <http://www.legislation.gov.uk/asp/2015/6/contents/enacted>

<sup>18</sup> [http://www.parliament.scot/S4\\_FinanceCommittee/General%20Documents/Guidance\\_to\\_subject\\_commitees.pdf](http://www.parliament.scot/S4_FinanceCommittee/General%20Documents/Guidance_to_subject_commitees.pdf)

- despite progress, community planning is not yet delivering the planned ambitious changes in the way public services are organised and delivered; and
  - despite improvements, public bodies are still not held to account on outcomes – which requires changes to national targets and stronger strategic leadership.
- 2.29 Audit Scotland undertook an initial review of community planning in 2006<sup>19</sup>. This highlighted that there had been progress, but more needed to be done to demonstrate how their work was improving public services. In 2013, it undertook another review<sup>20</sup>. This highlighted two key points relating to outcomes and equality. Firstly, it explained that the Single Outcome Agreements produced by community planning partnerships generally tried to cover all of the national outcomes (within the National Performance Framework), rather than focusing on the things that were most important to the local area. Secondly, it emphasised that there was real potential for community planning partnerships to make a difference, particularly if they focused their combined efforts on tackling social inequality.
- 2.30 In 2014, Audit Scotland again explored progress in turning ambition into action around community planning<sup>21</sup>. This highlighted that community planning was becoming more of a shared enterprise, but ambitions for community planning had yet to be translated on the ground. Again this report highlighted the particular lack of focus on improving outcomes for specific communities, and reducing the gap in outcomes between the most and least deprived groups in Scotland. The report also notes some challenges around performance monitoring, highlighting that there was no coherent national framework for assessing the performance of community planning partnerships.
- 2.31 Most recently in 2016, Audit Scotland produced another update on community planning<sup>22</sup>. This report concluded that community planning had not yet fulfilled its potential to reduce inequalities. It highlighted that the Scottish Government was improving its understanding of how individual community planning partnerships were performing, but that the way in which public bodies report performance and are held to account (including short term targets) does not always reflect the Scottish Government's policy of promoting outcomes and reducing inequalities.

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<sup>19</sup> <http://www.audit-scotland.gov.uk/report/community-planning-an-initial-review>

<sup>20</sup> <http://www.audit-scotland.gov.uk/report/improving-community-planning-in-scotland>

<sup>21</sup> <http://www.audit-scotland.gov.uk/report/community-planning-turning-ambition-into-action>

<sup>22</sup> <http://www.audit-scotland.gov.uk/report/community-planning-an-update>

## About this chapter

- 3.1 This chapter explores equality policy in Scotland. It reviews equality priorities within the National Performance Framework, the annual Programme for Government (including the growing focus on equality in attainment) and the equality outcomes set by Scottish Government.

## The focus on equality in Scotland

- 3.2 Since it was established in 2007, the National Performance Framework has included an explicit outcome on equality:

“We have tackled the significant inequalities in Scottish society.”

- 3.3 This outcome was developed in recognition that outcomes were not improving fast enough for the most disadvantaged sections of Scottish society. This was described in a broad way, highlighting that this included people who face barriers because of their race, gender, age, disability, sexual orientation or religion or belief; those who have least access to income, employment and good housing; and those who experience poverty and inequality created by prejudice, discrimination or by structural bias. The outcome relates to all five of the Scottish Government’s strategic objectives (healthier, wealthier and fairer, greener, safer and stronger, and smarter).
- 3.4 A wide range of national indicators were aligned to this outcome<sup>23</sup>, including indicators around reducing specific inequalities and improving outcomes for all. The indicators aligned to the outcome on tackling inequality are listed at Table 1.

**Table 1: Indicators aligned to the national outcome on tackling inequality**

Improve the skill profile of the population	Increase the proportion of graduates in positive destinations
Reduce underemployment	Improve mental wellbeing
Reduce the proportion of employees earning less than the Living Wage	Reduce premature mortality
Reduce the pay gap	Improve support for people with care needs
Improve levels of educational attainment	Reduce crime victimisation rates
Increase the proportion of young people in learning, training or work	Reduce the proportion of individuals living in poverty
Reduce children’s deprivation	Widen use of the internet
Improve access to suitable housing options for those in housing need	Increase cultural engagement
Increase people’s use of Scotland’s outdoors	

<sup>23</sup> <http://www.gov.scot/About/Performance/scotPerforms/outcome/inequalities>

3.5 The national outcome on tackling inequality has remained the same over the past ten years. When the National Performance Framework was refreshed in 2011, one new national outcome was added (focusing on older people maintaining independence and accessing support). The suite of national indicators was also slightly altered, resulting in an overall increase in indicators from 45 to 50. Five of the new indicators were aligned to the national outcome on inequality:

- reduce children’s deprivation;
- improve levels of educational attainment;
- widen use of the internet;
- increase cultural engagement; and
- reduce premature mortality.

3.6 The National Performance Framework was also refreshed in 2016. There were no changes to the purpose or national outcomes, but some changes to the indicators. Five new indicators were added, two of which were aligned to the national outcome on inequality:

- reduce the pay gap between men and women; and
- reduce underemployment.

### **Scottish Government equality priorities**

3.7 The Scottish Government has a strong focus on supporting equality and tackling inequality. Each year, the Scottish Government produces a Programme for Government setting out its plans. The Programme for Government focuses on the key legislative and practical steps that the government will take each year.

3.8 The focus on equality within the Programme for Government has developed and strengthened over time.

3.9 In 2008/09, the Scottish Government produced the first SNP led Programme for Government which set out its new approach. This Programme for Government did not have clear and explicit references to actions around equality and fairness, beyond a strong focus on tackling health inequalities. However, the Scottish Government did publish ‘Achieving Our Potential’ in 2008 which focused on tackling poverty and income inequality<sup>24</sup>.

3.10 By 2010/11, there was slightly more mention of equality within the Programme for Government, including:

- plans to introduce secondary legislation setting out specific equality duties (following on from the 2010 Equality Act);

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<sup>24</sup> <http://www.gov.scot/Resource/Doc/246055/0069426.pdf>

- a commitment to improve equality analysis of Scottish Government future spending plans;
- plans to publish an Equality Statement on the draft 2010/11 Budget for the first time; and
- continuing to tackle poverty and income inequality.

3.11 By 2012/13 the Programme for Government placed equality and fairness at its heart, with a strong focus on promoting equality and social cohesion. The priorities shifted beyond tackling poverty and income inequality to include improving outcomes for all of Scotland's diverse communities and people. Priorities included child poverty, community empowerment, equality for women in work, tackling discrimination and inequality, allowing same sex couples to marry and allowing civil partnerships to be registered through a religious ceremony.

3.12 The 2016/17 Programme for Government focuses even more strongly on equality:

“The central ambition at the heart of our programme is to make real and lasting progress towards equality and greater opportunity for all. We prosper as a nation and succeed as a society when we encourage every person’s potential; treat every person with respect and dignity; embrace and value diversity; and enable everyone to live and work free from prejudice, discrimination, inequality and disadvantage. Equality is everyone’s business.”

3.13 The Programme for Government makes clear that the Scottish Government wishes to maintain a strong legal framework to provide protection from discrimination, and to secure rights to equality. It states clearly that the Scottish Government is opposed to the weakening of the Equality Act 2010, has strengthened the duties on Scotland's public bodies and expects them to be active in promoting equality and embedding equality in all that they do. It sets out its plan to focus strongly on equality in the Scottish Government's work on employability, inclusive growth, improving access to public office, in educational attainment, and in the revision of the National Performance Framework. It also places a strong emphasis on embedding human rights across public services, in legislation and policy.

3.14 The Programme for Government also sets out specific actions around:

- consulting on reforming the Gender Recognition Act (to ensure the law is in line with international best practice);
- producing a cross-government Disability Action Plan to reduce inequality experienced by disabled people;
- providing financial support for disabled people who wish to stand for selection or election in the 2017 local government elections;
- ensuring that **sportscotland** works to end LGBTI discrimination in sport; and
- continuing to tackle hate crime and build community cohesion.

## Focus on equality in attainment

- 3.15 In Scotland, closing the attainment gap is a key national priority and is closely linked to tackling inequality and deprivation. Children living in the 20 per cent most deprived areas of Scotland are around a year behind their peers at age five (in problem solving and expressive vocabulary), with this gap increasing to around two years by the age of fifteen. Importantly, this variation exists within, rather than between, schools.
- 3.16 The Raising Attainment for All Programme<sup>25</sup> was launched in June 2014, aiming to improve outcomes for all learners across literacy, numeracy and health and wellbeing, and to improve positive destinations for school leavers.
- 3.17 The Scottish Attainment Challenge<sup>26</sup> was launched in February 2015 to give a greater sense of urgency and priority to achieving equity in educational outcomes. It has a particular focus on closing the poverty related attainment gap. It was reinforced through the Programme for Government in 2015/16 and 2016/17 and is underpinned by the National Improvement Framework<sup>27</sup>. The 2016/17 Programme for Government emphasised that the government's top priority was closing the attainment gap. The commitment to reduce inequality of outcome for pupils is set out in law through the Education (Scotland) Act 2016 (see also paragraph 4.24).

## Scottish Government equality outcomes

- 3.18 The Scottish Government is also covered by the specific duty to produce equality outcomes. It produced eight equality outcomes, focusing on:

<b>Scottish Government Representative Workforce</b>
90% of Scottish Government employees are responding to diversity monitoring by 2017 contributing to the Scottish Government workforce becoming broadly reflective of the Scottish population by 2025.
<b>Scottish Government Equality and Diversity Matters</b>
Scottish Government directorates are by 2017 more confident in and better informed on equality and diversity matters and can engage with partners and stakeholders to effect change and improvement.
<b>Ministerial Public Appointments</b>
Ministerial public appointments are more diverse reflecting broadly the general population by 2017.
<b>Violence Against Women is Reduced</b>
Progress is made towards the reduction in violence against women by 2017 through a strategic and co-ordinated approach by agencies and women's organisations.

<sup>25</sup> <http://www.gov.scot/Topics/Education/Schools/Raisingeducationalattainment/RAFA>

<sup>26</sup> <http://www.gov.scot/Topics/Education/Schools/Raisingeducationalattainment/RAFA>

<sup>27</sup> <http://www.gov.scot/Topics/Education/Schools/NationalImprovementFramework>

**Gypsies/ Travellers**

Gypsies/Travellers experience less discrimination and more positive attitudes towards their culture and way of life by 2017.

**Women and Employment**

Women's position in the economy and in employment is improved in the long term and reflected more comprehensively in Scottish Government economic policy and strategies by 2017.

**Disability and Access to Justice and Advice**

Disabled people have improved access to justice and to advice in relation to their rights by 2017.

**Education**

Within the longer term outcome that all children and young people will be able to make the most of the education opportunities available to them to reach their full potential, there will be progress by 2017 in the experience of those with protected characteristics who are currently disadvantaged or underperforming.

- 3.19 These equality outcomes were designed to fit with a four year cycle of reporting on equality outcomes between 2013 and 2017. They aimed to focus attention on some longstanding and deep rooted issues, and are deliberately challenging. They reflect the role of the Scottish Government both as a policy maker and as an employer.
- 3.20 The outcomes were informed by a review of evidence across each protected characteristic<sup>28</sup>, and consultation with key stakeholders and individuals. They have been taken forward through key activities such as extending free childcare, a focus on closing the attainment gap between the most and least disadvantaged children and young people, and work to increase the diversity and gender balance of public boards, which have been key priorities within Programmes for Government in recent years<sup>29</sup>.

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<sup>28</sup> <http://www.gov.scot/Topics/People/Equality/Equalities/Equalevrev>

<sup>29</sup> <http://www.gov.scot/Publications/2015/04/7781>

### 3. Equality law in Scotland

#### About this chapter

4.1 This chapter sets out the law in Scotland in relation to equality, focusing on the Equality Act 2010 and the public sector equality duties. It also explores the rationale behind the specific duty to produce equality outcomes, and the Scottish Government's provisions for support to enable listed authorities to meet this duty.

#### The Equality Act 2010

4.2 The Equality Act 2010<sup>30</sup> came into force on October 1<sup>st</sup> 2010. Under the Act, law in relation to equality was harmonised, simplified and strengthened. The Equality Act 2010 aims to protect people from discriminatory treatment and promote a fair and more equal society. Under the Equality Act 2010, there is now:

- greater protection against discrimination;
- a greater emphasis on equal opportunity recruitment and promotion;
- greater power for employment tribunals; and
- greater protection offered to pregnant women and breast feeding mothers.

4.3 The Equality Act 2010 sets out a Single Public Sector Equality Duty (the general equality duty). It came into force on 5 April 2011. Under this duty, a public body must give due regard to the need to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity between people who share a protected characteristic and those who do not; and
- foster good relations between people who share a protected characteristic and those who do not.

4.4 The nine relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion and belief, marriage and civil partnership, sex and sexual orientation.

4.5 The Act covers the whole of Great Britain. However, there are also specific duties which set out how to meet the general duties. Scottish Ministers have set different specific duties than those set in England and in Wales. These are discussed below.

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<sup>30</sup> <http://www.legislation.gov.uk/ukpga/2010/15/contents>

## The Scottish specific duties

4.6 The specific duties in Scotland were passed in March 2012, through the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012<sup>31</sup> and came into force on 27 May 2012. The Regulations list all public authorities who are subject to the specific duties (referred to as 'listed authorities'). This includes Scottish Ministers (including Executive Agencies). In summary, the specific duties require the listed authorities to:

- produce a report on their efforts to meet the equality duty;
- publish a set of equality outcomes, and record their progress in meeting these outcomes;
- review and assess any new policies or practices to ensure they meet the equality duty;
- gather and use work-force related information to advance equality;
- where a listed authority has 150 or more employees, publish information on pay gaps between men and women;
- where a listed authority has 150 or more employees, publish a statement covering their equal pay policy and specific information on occupational segregation;
- consider equality in their procurement practices; and
- publish the above information in a way that makes it accessible to all members of the public.

4.7 Scottish Ministers are included as a listed authority, with the duty covering the Scottish Ministers and Scottish Government Executive Agencies. The Executive Agencies are not specifically listed but include organisations like Education Scotland, Scottish Prison Service and Transport Scotland. Executive non-departmental public bodies are also listed, such as Creative Scotland, Scottish Enterprise and Scottish Environmental Protection Agency. Other listed authorities include further and higher education bodies, education authorities, police and fire authorities, councils, licensing boards, health boards, joint boards and transport partnerships<sup>32</sup>. Initially there were 259 listed authorities, with 34 more listed in 2015.

## Publishing equality outcomes

4.8 Under the Regulations, listed authorities were required to publish equality outcomes by 30 April 2013. The Regulations also require that listed authorities publish a report on progress made to achieve equality outcomes by 30 April 2015. Equality outcomes must be updated at least every four years.

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<sup>31</sup> <http://www.legislation.gov.uk/sdsi/2012/9780111016718/contents>

<sup>32</sup> [https://www.equalityhumanrights.com/sites/default/files/who\\_is\\_covered\\_sept\\_2016\\_v2.pdf](https://www.equalityhumanrights.com/sites/default/files/who_is_covered_sept_2016_v2.pdf)

4.9 'Equality outcomes' are the results an authority intends to achieve through their work to further one or more of the requirements of the general equality duty, which are to:

- eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct;
- to advance equality of opportunity between people who share a relevant protected characteristic and those who do not; and
- to foster good relations between people who share a protected characteristic and those who do not.

4.10 In preparing equality outcomes, listed authorities are required to:

- take reasonable steps to involve people with a relevant protected characteristic and anyone who appears to represent the interests of people with a relevant protected characteristic; and
- consider relevant evidence relating to people who share a relevant protected characteristic.

4.11 If the equality outcomes do not cover people with all relevant protected characteristics, listed authorities are required to explain why. The precise wording of the specific duty in relation to publishing equality outcomes is set out in Appendix Two.

### **The rationale behind the specific duty to produce equality outcomes**

4.12 The purpose of the specific duty to produce equality outcomes is to support better performance of the general duty and make positive change for people with protected characteristics. By focusing on outcomes rather than activities or processes the specific duty aims to ensure improvements in the life chances of people who experience discrimination and disadvantage.

4.13 The specific duty to produce equality outcomes, and the other specific duties, is not an end in itself. It is designed to assist listed public authorities in meeting the general equality duty, which in itself is intended to integrate consideration of equality and good relations into the day-to-day business of public authorities.

4.14 As it was developing the specific duties, the Scottish Government already had a very strong focus on outcomes based approaches. It was also in the process of shifting responsibility for local outcomes focused approaches from local authorities to community planning partnerships more broadly. The specific duty to produce equality outcomes was closely linked to the overall desire to be clear about intended outcomes of activity, and very much fit with the broader environment and context.

- 4.15 More generally, other specific duties also deliberately became more focused on driving change. For example, the specific duty around publishing employment information includes the term 'and use' to explicitly set out the expectation that this data will actively inform change in public services.
- 4.16 The introduction of equality outcomes was also strongly based on a clear intention and philosophy that the listed authorities were the experts – they know what an equality outcome would look like in their own operational context, they need to do the thinking behind it, and own it. Listed authorities were encouraged to develop their own equality outcomes, for their own local context.

### **Supporting equality outcomes – Scottish Ministers duty**

- 4.17 The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 place a specific duty on Scottish Ministers to publish proposals for activity to assist Scottish listed authorities better perform the Public Sector Equality Duty by the end of December 2013, and subsequently at least every four years.
- 4.18 In December 2013, Scottish Ministers produced a set of proposals<sup>33</sup> to help improve performance on the public sector equality duty. These proposals were informed by the experience of listed authorities producing equality outcomes and meeting the other specific duties during 2013, and were developed in consultation with listed authorities and the Equality and Human Rights Commission. The proposals recognised that the transition to effective equality outcomes was a long term improvement journey.
- 4.19 Proposals were based on four linked priority areas for improvement over 2013 to 2017, with support delivered through the Scottish National Equality Improvement Project (SNEIP). This project involves the Scottish Government, Equality and Human Rights Commission and Close the Gap (which focuses on women's participation in the labour market).

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<sup>33</sup> <http://www.gov.scot/Resource/0044/00440910.pdf>



Source: <http://www.gov.scot/Resource/0049/00491640.pdf>

4.20 An update report<sup>34</sup> two years into the support programme highlighted the range of support provided. In relation to equality outcomes, the main support has included:

- the Improving Equality Outcomes Project delivered by the Equality and Human Rights Commission, for authorities whose equality outcomes could potentially benefit from improvement;
- practice sharing and knowledge transfer events; and
- improving local and national data availability – with the Scottish Government enhancing the equality data available and regularly updating the Equality Evidence Finder<sup>35</sup> and producing an Equality Evidence Toolkit<sup>36</sup>.

### **EHRC powers**

4.21 The Equality and Human Rights Commission’s remit is set out in the Equality Act 2006. It has a duty to encourage good practice, promote equality of opportunity, promote awareness and understanding of rights, and enforce the 2010 Equality Act. It can publish information, undertake research, give advice and guidance and issue statutory or non-statutory codes of practice. It can also use formal enforcement powers, which may be used in connection with the public sector equality duty.

<sup>34</sup> <http://www.gov.scot/Resource/0049/00491640.pdf>

<sup>35</sup> <http://www.gov.scot/Topics/People/Equality/Equalities/DataGrid>

<sup>36</sup> <http://www.gov.scot/Publications/2015/03/6567/0>

4.22 The EHRC aims to support compliance with the public sector equality duty (and specific duties) through using information, promotion, monitoring, pre-enforcement, enforcement and evaluation. If enforcement is required, informal enforcement measures can include working with a public authority to agree a programme, or working with a sector to agree what guidance, information or support would be required. Formal enforcement measures can include putting in place an action plan to ensure compliance with the duty; issuing a compliance notice setting out steps to be taken to comply with the general duty or a specific duty; or conducting an inquiry<sup>37</sup>.

### Wider equality legislation

4.23 The Scottish Government has also taken forward matters relating to equality through wider legislative changes. For example:

- The Social Care (Self Directed Support) (Scotland) Act 2013 places a duty on local authorities to have regard to involvement, informed choice and collaboration when assessing need for and providing community care services. It requires local authorities to offer options including a direct payment to the individual so they can arrange their own care, directing how the resource is used, local authority arranged support, or a mix of options.
- The Marriage and Civil Partnership (Scotland) Act 2014 makes provision for marriage of people of the same sex, allows civil partnership to change to marriage, and removes the requirement for a couple to divorce before obtaining a full gender recognition certificate.
- The British Sign Language (Scotland) Act 2015 aims to promote the use of BSL, increase its profile as a minority language, and increase its use in delivery of public services.
- The Carers (Scotland) Act 2016 aims to further the rights of carers to ensure they are better supported, can continue to care if they wish, and can have a life alongside caring.

4.24 The Scottish Government has also included provisions relating to equality within other legislation. For example, the Education (Scotland) Act 2016<sup>38</sup> places duties on both Scottish Ministers and local authorities to have due regard to reducing inequalities of outcome for pupils who experience inequalities as a result of socio-economic disadvantage, or for other reasons. Draft statutory guidance will be produced in spring 2017, with new duties commencing in August 2017.

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<sup>37</sup>[https://www.equalityhumanrights.com/sites/default/files/policy\\_on\\_regulating\\_the\\_public\\_sector\\_equality\\_duty\\_scot.pdf](https://www.equalityhumanrights.com/sites/default/files/policy_on_regulating_the_public_sector_equality_duty_scot.pdf)

<sup>38</sup><http://www.legislation.gov.uk/asp/2016/8/contents>

4.25 The Community Empowerment (Scotland) Act 2015 aims to empower community bodies through ownership or control of land and buildings, and by strengthening their voices in decisions about public services. It requires community planning partnerships to focus specifically on tackling inequalities. This requires a strong understanding of inequalities experienced by households and communities, and that partners focus their collective energy on where their efforts can add most value for communities, with a particular emphasis on reducing inequalities.

## 4. Achieving better equality outcomes

### About this chapter

5.1 This chapter explores the factors which influence the equality outcomes set by listed authorities. It draws mainly on published reports, but also includes the reflections of a small number of individuals who were involved in the process. These reflections are presented anonymously.

### Activity to support and assess equality outcomes

5.2 Since May 2013 the Equality and Human Rights Commission (ERHC) has conducted a programme called 'Measuring Up'. This programme monitors the compliance of listed authorities with the specific equality duties (including the 259 initially listed, and the 34 newly listed authorities in 2015). It has involved:

- Three reports in 2013 - The EHRC in Scotland's first review of progress towards meeting the specific equality duties including three separate reports on all duties<sup>39</sup>, employment duties<sup>40</sup> and equality outcomes<sup>41</sup>.
- Two reports in 2015 – A performance report<sup>42</sup> and a practice report<sup>43</sup>, which included a review of the extent to which listed bodies were able to report on equality outcomes (and other duties).
- Two reports in 2016 – A review of Scottish Ministers' progress<sup>44</sup> in meeting their specific duty of setting out proposals to assist authorities to better perform the public duty, and a report on progress towards meeting the specific equality duties for newly listed authorities<sup>45</sup>.

5.3 The Scottish Government has also undertaken a programme of work, including:

- reviewing the experiences of listed authorities in meeting their specific duties (including producing their equality outcomes); and
- setting out a programme of support for listed authorities to enable them to better perform the general duty – which involved specific support on developing better equality outcomes.

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<sup>39</sup> <https://www.equalityhumanrights.com/en/file/4796>

<sup>40</sup> <https://www.equalityhumanrights.com/en/file/4801>

<sup>41</sup> <https://www.equalityhumanrights.com/en/file/4806>

<sup>42</sup> <https://www.equalityhumanrights.com/en/node/556>

<sup>43</sup> <https://www.equalityhumanrights.com/en/node/557>

<sup>44</sup> <https://www.equalityhumanrights.com/en/publication-download/review-scottish-ministers%E2%80%99-progress-meeting-their-specific-duty>

<sup>45</sup> <https://www.equalityhumanrights.com/en/publication-download/monitoring-public-authorities-performance-against-scottish-specific-equality>

## Compliance with the duty

5.4 Overall, listed authorities performed well in terms of basic compliance with the requirements – and a small minority of authorities were subject to further investigation to ensure that they met their duty. The EHRC’s review in May 2013 found that:

- 90% of listed authorities had published full equality outcomes;
- 4% had published draft equality outcomes; and
- 6% had not published equality outcomes.

5.5 Authorities published between four and twenty nine outcomes. Over half (55%) of listed authorities published information that made a clear reference to the use of evidence in developing their equality outcomes, and more than half (56%) demonstrated evidence of involvement of service users, communities, staff and/or community planning partners in developing their outcomes.

## Focus of equality outcomes

5.6 A subjective assessment of the equality outcomes<sup>46</sup> found that:

- most (67%) listed authorities made a clear link between their outcomes and the need to advance equality for protected groups;
- just over half (55%) made a clear link between their outcomes and the need to eliminate unlawful discrimination, harassment and victimisations; and
- half (51%) made a clear link between their outcomes and the need to foster good relations between people who share a protected characteristic and those who do not.

5.7 The most commonly mentioned protected characteristic was disability, and the least common was pregnancy and maternity.

5.8 The themes covered by the outcomes were not systematically reviewed across all listed authorities. However, the EHRC analysed the key themes among equality outcomes set by listed authorities in four sectors:

- local authorities;
- education authorities;
- further education and higher education institutions; and
- Health Boards.

5.9 Where possible, the outcomes were linked to the ten domains of central and valuable freedoms defined in the EHRCs Equality Measurement Framework<sup>47</sup>.

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<sup>46</sup> <https://www.equalityhumanrights.com/en/file/4806>

<sup>47</sup> <https://www.equalityhumanrights.com/en/equality-measurement-framework>

5.10 The most frequent themes across all four sectors were:

- productive and valued activities (and particularly around employment); and
- standard of living (including housing, income, independence and security).

5.11 Listed authorities generally set out outcomes that were directly relevant to their sectors. For example, education authorities focused strongly on education outcomes. A high proportion of Health Board outcomes related to health, but many also related to employment and standards of living. Further and higher education institutions set wider ranging outcomes focusing on productive and valued activities, education, standard of living, and participation and influence. And local authorities set varied outcomes covering themes such as:

- standard of living – including better access to council services, improving community relations or reducing poverty and deprivation;
- productive and valued activities – often focusing on internal employment practices such as equal pay or workplace discrimination and harassment;
- physical security – including better outcomes for victims of crime, and improved services for victims of crime; and
- participation, voice and influence – including better representation and capacity to influence decision makers.

### Quality of equality outcomes

5.12 In 2013, the EHRC commissioned research<sup>48</sup> which looked in more depth at the production of equality outcomes. This included a brief assessment of the quality of equality outcomes produced by each of the listed authorities. A ratings system was established by the researchers. Analysis found that:

- 31% of authorities had produced ‘good’ outcomes – it was clear what equality problems the listed authority was addressing, the outcomes were specific, clear and focused on change, and there was a clear rationale for their selection;
- 40% of authorities were rated as ‘mixed’ – a mix of good and poor outcomes; and
- 29% of authorities were rated as ‘poor’ – the ‘outcomes’ were not actually outcomes, in that they did not focus on bringing about change for individuals or communities.

5.13 The review found that public authorities frequently published poorly defined equality outcomes. There appeared to be widespread misunderstanding about the definition of an ‘equality outcome’. Instead authorities frequently described ‘outputs’ and ‘actions’ but called them outcomes.

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<sup>48</sup> <https://www.equalityhumanrights.com/en/file/4806>

## Outcomes measurement

- 5.14 The Regulations require that listed authorities report on progress in achieving the outcomes set. Outcomes must therefore be measurable to allow progress to be tracked and reported on.
- 5.15 In 2013, an assessment of the equality outcomes produced by listed authorities<sup>49</sup> found that in terms of measurement:
- 24% were rated as ‘good’ – there was clear indication of how progress would be measured against a baseline, and there were mechanisms in place to measure progress (or a commitment to developing the baseline in the short term);
  - 35% were rated as ‘limited’ – there were references to how progress would be measured, but it was not clear how this would be achieved, or there was no baseline information; and
  - 41% were rated ‘none’ – there was no reference to measurement.
- 5.16 Some listed authorities provided a set of clear and well-structured performance indicators and made it clear how progress on achieving their outcomes would be monitored. This included detail on actions, measurements and timescales.
- 5.17 However, the review found limited evidence that listed authorities had the ability to report on progress towards achieving outcomes. There was concern that these authorities ran the risk of being unable to report on progress against their equality outcomes in 2015. This became clear in 2015 when a brief EHRC review<sup>50</sup> of the reports produced on progress towards equality outcomes found that common areas for improvement were:
- moving from reporting just activity towards reporting on outcomes; and
  - moving from reporting general progress towards addressing progress specifically for people with, or who share, protected characteristics.

## Enablers and success factors

- 5.18 Existing research<sup>51</sup>, and discussions with people involved in the process<sup>52</sup>, identified the following key enablers and success factors for effective equality outcomes:
- **Political environment** – The duty to produce equality outcomes was introduced within an environment which was clear that an outcomes based approach was

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<sup>49</sup> <https://www.equalityhumanrights.com/en/file/4806>

<sup>50</sup> <https://www.equalityhumanrights.com/en/publication-download/measuring-report-4-practice-report-public-authorities-practice-meeting-scottish>

<sup>51</sup> <http://www.gov.scot/Publications/2013/12/2072>

<sup>52</sup> Anonymised interviews with two individuals involved in supporting organisations to produce outcomes.

the way public services should operate in Scotland. There was also a supportive environment, with strong national political support and interest around equality. The relative stability of the government also helped to ensure an ongoing focus on outcomes, which provided consistency.

- **Joint working and sharing practice** – The production of equality outcomes was almost always a joint effort, involving equality leads, senior management across services, and boards or governing committees. 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. National level sharing of best practice within sectors, or work with national equality organisations, was also identified as a key success factor.
- **Commitment and positivity of staff** – Senior level buy in and support helped to raise the profile of equalities and make it easier to encourage people across the organisation to take ownership of the delivery of key actions. Committed and motivated individuals who understood equality and outcomes were also key drivers of the approach in some listed authorities.
- **Embedding the process** – 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.
- **Effective engagement and consultation processes** – This helped to inform equality outcomes and build support for the outcomes across organisations and communities.

## Barriers and challenges

5.19 The same research and discussions identified the following barriers and challenges for producing effective equality outcomes:

- **Financial environment** – At a strategic level, a big challenge has been the introduction of equality outcomes within a context of public sector cuts and budget pressures. Listed authorities lost skills as people left; the cuts impacted on how the equality duties were perceived (in a very pressured environment); and often work which was already marginalised became more so. The focus was no longer about making sure everyone shared in positive growth which was a tacit assumption in the era when the equality duties were designed.
- **Understanding outcomes** – Many were unable to distinguish between outcomes and outputs, in relation to equality. The transition to an outcomes focused approach takes time – and is one which was going on in many listed

authorities already in other contexts. However, the EHRC research reported that it believed this experience had not been applied to setting equality outcomes.

- **Skills, expertise and capacity** – Many smaller organisations had no dedicated equality lead in place, and a small number of these organisations felt that they lacked skills, expertise and capacity around equality. While many were not able to quantify the broad resources dedicated to producing equality outcomes, those who could said that it took the equivalent of three to eight months on a full time basis. A small minority of organisations had not realised until very late on that they were covered by the specific equality duties.
- **Robust evidence base** – Most felt there were gaps in both local and national evidence. This related to the timing of publication of statistics, the geographical areas the information could be disaggregated to, and the protected characteristics covered.
- **Guidance** – Many felt that the guidance produced on equality outcomes was not clear enough, and that more practical guidance would be useful. Some felt that there was a need for a more consistent approach between listed authorities.
- **Measuring progress** – Some highlighted challenges in measuring progress against outcomes. This was a particular issue if robust baseline data was not available. As a result, there could be a reliance on anecdotal, national or broader sources of evidence to try to fill gaps. There were differing opinions on the use and value of qualitative evidence, with some feeling they had been steered towards using more quantitative information to evidence outcomes.
- **Engagement and consultation** – Some found it difficult to gather representative views from communities, which were diverse and could be hard to engage.
- **Organisational change** – Some newly formed or merged organisations reported particular challenges. Some of the newly listed authorities in 2015 said that they would re-visit their equality outcomes once their organisation was more established.

## Progress over time

5.20 As at 2016, listed authorities are still working towards their first cycle of equality outcomes – which will be reviewed by most in spring 2017. Over this time, policy priorities have developed at national level. However, a small selection of listed authorities have developed their equality outcomes following a review in 2013, and a programme to improve equality outcomes. In addition, a small number of new listed authorities were added in 2015. These developments are explored below.

## Improving equality outcomes

- 5.21 A programme of support, delivered by the Scottish Government, EHRC and Close the Gap, has been provided to better enable listed authorities to perform the public sector equality duty.
- 5.22 A key strand of that work has involved building capacity in equality outcomes setting and self evaluation. This has been delivered by the EHRC, and supported by wider practice sharing and knowledge transfer activity and activity to improve national and local data availability, led by the Scottish Government.
- 5.23 The Improving Equality Outcomes project was delivered by the EHRC between June and December 2014. It provided a programme of direct support for 46 listed authorities, judged as likely to benefit from some support from the EHRC to improve them. The support included seminars, peer support, one to one support from the EHRC and the development and dissemination of a self-assessment tool<sup>53</sup>.
- 5.24 This work was evaluated<sup>54</sup>, which demonstrated that the support was helpful. The one to one feedback from EHRC staff was seen as particularly useful, as it was personalised, tailored and struck the right balance between support and compliance. The support helped particularly with re-wording outcomes, focusing on outcomes rather than activities, and developing understanding of how to measure outcomes. Many reported increases in confidence in developing outcomes at the end of the programme.
- 5.25 However, the measurement of progress against outcomes remained a challenge, which many would appreciate greater assistance with. There was some interest in understanding more about what good practice looks like – particularly in relation to equality outcomes.
- 5.26 In addition, many felt that the support had come too late. Many would have preferred more immediate feedback and support around the time of originally producing their equality outcomes.
- 5.27 More widely, a review showed that while networking and knowledge sharing was useful, there was a desire for more practical and focused support. And many found the Equality Evidence finder website<sup>55</sup> very helpful for measuring equality outcomes, particularly the equality analysis of the 2011 Census.

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<sup>53</sup> <https://www.equalityhumanrights.com/en/publication-download/equality-outcomes-self-assessment-tool-public-authorities-scotland>

<sup>54</sup> <https://www.equalityhumanrights.com/en/publication-download/evaluation-improving-equality-outcomes-project>

<sup>55</sup> <http://www.gov.scot/Topics/People/Equality/Equalities/DataGrid>

## Experiences of newly listed authorities

- 5.28 In 2015 the existing Regulations were amended to add new bodies to the list of those subject to the specific duties. These newly listed authorities were required to carry out their duties and publish information for the first time by the end of April 2016.
- 5.29 The newly listed authorities were largely Integration Joint Boards, bringing together health and social care services in each local authority area in Scotland. These were newly formed organisations. The experience of these listed authorities was similar to those already covered by the duties.
- 5.30 In terms of quality of equality outcomes:
- 13% were rated as good;
  - 70% were rated as mixed; and
  - 17% were rated as poor.
- 5.31 One particular challenge was that a significant number of equality outcomes simply stated that the requirements of the Specific Duties, or other legislative requirements, would be met, such as carrying out Equality Impact Assessments, monitoring employment data, or having accessible buildings.
- 5.32 In terms of measurement of outcomes:
- 10% achieved a 'good' rating;
  - 30% were rated as 'limited'; and
  - 60% were rated as 'none' as there was no reference to measurements.
- 5.33 In addition, the Commission had to write to many (23 of the 34) newly listed authorities as the required publications could not easily be located online.
- 5.34 Reflections on this process suggest that the newly listed authorities faced similar problems to those going through the process in 2012/13. However, many of the authorities newly covered by the duties were only just established, and had other pressures at the time of developing equality outcomes.

## Compliance with equality outcome duty: Summary



### **PUBLISHED**

Most listed authorities published equality outcomes by May 2013.



### **EVIDENCE**

Just over half made a clear reference to use of evidence in developing their equality outcomes.



### **INVOLVEMENT**

Just over half demonstrated evidence of involving service users.



### **GOOD QUALITY**

Less than a third of listed authorities produced good quality equality outcomes when assessed in 2013. This fell to just 13% for the newly listed authorities in 2016.



### **MEASUREMENT**

Less than a quarter of listed authorities had good arrangements for measuring outcomes when assessed in 2013. This fell to just 10% for the newly listed authorities in 2016.



### **LINKS**

Most made clear links between their equality outcomes and the general duty to advance equality.

## 5. Impact

### About this chapter

6.1 This chapter briefly explores the impact of equality outcomes in Scotland.

### Impact

6.2 Qualitative research undertaken in 2013<sup>56</sup> found that many listed authorities felt it was too early to identify any changes within their organisations or communities they serve as a result of producing equality outcomes. However, some felt that there was:

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

6.3 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.

6.4 However, there is little further research into evidence of impact up to 2016. The reports submitted by listed authorities in 2015, on progress towards equality outcomes, received a light touch review. There is a focus instead on assessing progress in 2017 at the end of the four year cycle.

### Future activity to review impact and effectiveness

6.5 Listed authorities are required to report on progress made to achieve the equality outcomes they have set every two years, and are also required to produce new equality outcomes every four years.

6.6 In spring 2017, most listed authorities will be required to produce a report on their progress with regard to the equality duties, and to produce new equality outcomes. The exception is the listed authorities that were newly listed in 2015.

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<sup>56</sup> <http://www.gov.scot/Publications/2013/12/2072>

6.7 In 2017, the EHRC plans to undertake a detailed review of the performance of listed authorities, with recommendations relevant to the duty of the Scottish Ministers to publish proposals to enable better performance. The EHRC also plans to undertake a review of the effectiveness of the public sector equality duties, beginning in 2017.

## **Appendix One: Interview Discussion Guide**

### **Getting started**

- Your role in relation to equality (and equality outcomes)

### **The focus on equality outcomes**

- How would you describe the purpose of the specific duty around equality outcomes?
- (If relevant) How did the focus on equality outcomes come about?
- To what extent do you think the specific duty around outcomes was influenced by the political/ legal/ policy context?
- Do you think equality outcomes are intended to help with achieving wider change – beyond the public sector equality duty?
- Do you feel that the purpose of equality outcomes is clear from the Regulations and guidance?
  - What about this works well? What doesn't?

### **Achieving better equality outcomes**

- Overall, how do you feel the transition to introducing equality outcomes went?
  - What were the challenges/ enablers for policy makers?
  - What were the challenges/ enablers for the listed authorities?
- How do you feel about the quality of equality outcomes?
  - Initially and currently?
- What would you say are the characteristics of good quality equality outcomes?
  - What helped listed authorities produced good equality outcomes?
  - What hindered?
- How do you feel about the intended outcomes that listed authorities are trying to achieve?
  - Are there key themes/ key gaps?
- What kinds of support have been provided to listed authorities?
  - What has worked/ what hasn't?
- How have outcomes strengthened/ developed/ improved?

### **Impact**

- How do you feel about the evidence that listed authorities have about progress towards achieving their equality outcomes?
- What are the challenges around gathering effective evidence? What helps?
- Is the specific duty around equality outcomes:
  - resulting in better outcomes around equality?
  - enabling progress towards the general duty?
  - changing how the listed authorities work more broadly?
  - contributing to wider local and national policy objectives?
- What else do you think contributes to better outcomes around equality?

**And finally**

- What are the next steps around equality outcomes in Scotland? Are any changes/ developments planned for the future? Why?

## **Appendix Two: Duty to publish equality outcomes and report progress**

A listed authority is required to publish a set of equality outcomes which it considers will enable it to better perform the general equality duty, by no later than 30 April 2013.

In preparing a set of equality outcomes, the authority must take reasonable steps to involve people who share a relevant protected characteristic and anyone who 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 further the needs of the general equality duty in relation to every relevant protected characteristic, it must publish the reasons for this.

An authority must publish a fresh set of equality outcomes within four years of publishing its previous set.

By no later than 30 April 2015 and every two years thereafter, an authority must publish a report on the progress made to achieve the equality outcomes it has set.