

## Board of Management People & Culture Committee

<b>Date of Meeting</b>	<b>Wednesday 1 November 2023</b>
<b>Paper No.</b>	<b>PCC1-K</b>
<b>Agenda Item</b>	<b>6.1</b>
<b>Subject of Paper</b>	<b>Equality, Diversity and Inclusion Update</b>
<b>FOISA Status</b>	<b>Disclosable</b>
<b>Primary Contact</b>	<b>Naira Dar</b>
<b>Date of production</b>	<b>23 October 2023</b>
<b>Action</b>	<b>For Noting</b>

### **1. Recommendations**

To note the paper.

### **2. Purpose**

The purpose of this paper is to provide an update on Equality Diversity and Inclusion activity and priorities.

## **4. Key Insights**

### **4.1 Legal Compliance of the Equality Act 2010**

The Board received an update in April 2023, detailing the interim Equality Reports. The following three interim Equality Reports were published by 30 April 2023 to ensure compliance of the Equality Act 2010:

- Equality Mainstreaming Report
- Equality Outcomes Report
- The Gender Pay Gap Report

Further detail of activity and impact will be reflected in 2025 when we publish our full Equality Mainstreaming Reports as required.

### **4.2 Public Sector Equality Duty (PSED)**

From December 2021 to April 2022 the Scottish Government conducted a consultation on the Public Sector Equality Duty. The College responded (Appendix 1) both as an institution and as part of a collective with the Scottish Equality Forum (SEF). This is a strategic equality leads forum representing Colleges and Universities across Scotland. The consultation response was put on hold due to the Ukrainian Conflict as the Scottish Government team leading on the consultation were re-directed to support the Scottish Government response.

In October 2023 the Scottish Minister Emma Roddick issued a letter (appendix 2) outlining some of the key recommendations in response to the PSED consultation. Further information and guidance will be forthcoming from the Scottish Government. Some of the key recommendations from the Minister's letter are outlined below: In addition to the Gender Pay Gap report, all Public Sector organisations would be required to report on the following:

- Disability Pay Gap
- Ethnicity Pay Gap
- Inclusive Communications
- Repeal of Section 6A

Inclusive Communications should be a key consideration for Public Sector organisations, which is in line with other Scottish Government strategies, further guidance on what this means will be provided by the Scottish Government.

The Repeal of Section 6A suggests that Public Sector organisations will no longer be required to report on Board Diversity in respect of gender, however further clarity has been requested by Scottish Equality Forum in relation to workforce data.

### **4.3 Equality & Human Rights Commission (EHRC) Letter to City of Glasgow College**

In July 2023 the college responded to a letter from the EHRC, following concerns from EIS-FELA relating to the Voluntary Severance (VS) Scheme and the subsequent potential compulsory redundancies. The college responded explaining that the scheme was voluntary, open to all staff and that staff who applied could withdraw at any time.

An Equality Impact Assessment (EQIA) was conducted to assess that nobody with any one protected characteristic was at a disadvantage from participating in the VS Scheme.

The EHRC subsequently wrote to City of Glasgow College in September 2023 raising concerns referred to the Commission by EIS-FELA about Public Sector Equality Duty (PSED) compliance. The concerns related to the EQIA the college had undertaken in relation to the VS scheme and the Commission provided context for consideration.

The Commission's Enforcement Team concluded that formal enforcement activity was not proportionate at this time, however made the following recommendations:

- The EQIA appeared to be retrospective – the EHRD recommended impact must be assessed before decisions are made.
- The drivers behind the scoring on impact for protected characteristics weren't clear.
- The three needs of the PSED should be the foundation of the EQIA process.
- EQIAs should consider relevant evidence.
- The EQIA should set out the detail & timeframes for review post implementation of the policy.

The EHRC referred the college to the provided technical guidance on the [Public Sector Equality Duty: Scotland](#).

The College will consider and respond to the EHRC recommendations.

### **4.4 Equality Impact Assessment**

A full overview of the EQIA process is underway including:

- A review of EQIA guidance
- A review of the EQIA template
- EQIA training is being development for the MyDevelopment platform.
- A short life working group has been established to support this work.

To ensure the college fulfils our duty we have invited the EHRC to advise on the new EQIA template ensure compliance.

The EDI team continue to support the College in reviewing EQIAs completed at various stages of the Organisational Change Programme including for staff “at risk” of redundancy and staff receiving a low score as part of the selection process.

#### **4.5 Recruitment**

As part of the People & Culture Business case for Organisational Change, it was identified that there was a need to review the position of EDI Officer which had been a vacancy for some time. An EDI Advisor post was agreed by ELT, recruitment for which is ongoing. At closing date of the post, we received 44 applications and 6 were shortlisted. Interviews for the post will conclude on 24 October 2023.

#### **4.6 Spiritual Care**

The Spiritual Care Team continue to support the College, with two spiritual care drop-ins, one being held in each campus. A Mass service is conducted every Tuesday at the City Campus, room C.04.81, led by Father Gareth. Recruitment for a more diverse spiritual care team is ongoing.

### **5. Impact and Implications**

The EDI team will ensure actions from the following reporting requirements are addressed:

- Equality Mainstreaming Report
- Equality Outcomes Report
- The Gender Pay Gap Report
- Revised Public Sector Equality Duties (PSED)

This will support the reporting of all Equality Actions by April 2025.

Equality Impact Assessment needs to be robust. Failure to affectively deliver EQIA could lead to compliance notices under the Equality Act 2010.

**Appendix 1** - City of Glasgow College PSED Consultation response

**Appendix 2** - Letter from Emma Roddick MSP on response to the PSED Consultation

## Review of the Operation of the PSED on Scotland: Consultation Paper Questions

## Stage 2 Review of the Public Sector Equality Duty (PSED) in Scotland

## City of Glasgow College

**Proposal 1: creating a more cohesive regime and reducing bureaucracy**

- *Publishing a strategic plan that sets out how the listed authority intends to meet all of the SSDs;*
- *Publishing all of the information required by other SSDs;*
- *Reporting on listed authorities' implementation of the SSDs, over the previous 4 years; and*
- *Reporting on how listed authorities have used lived experience, or the organisations representing people with lived experience, throughout their implementation of the duties.*

**Question 1.1:** What are your views on the proposal outlined above in relation to the substance of reporting?

The City of Glasgow College is supportive of the proposal, we understand that a separate equalities strategy does not fully result in mainstreaming equality. The four-year reporting will reduce the burden to produce separate reports from other key strategic reports and report on some key areas annually.

Further guidance and consultation should be considered on how this will be achieved and how we manage flexibility in reporting in line with the National Equality Outcomes and regional outcomes requirements and SSD requirements.

Clarity would be required on the purpose and the audience of the reporting.

The requirement to have people representation from lived experience is welcomed and is in line with it and however we do raise the concern that consultation fatigue does not set in and that minority groups are protected under GDPR legislation.

- *Simplify the regime so that there is only one reporting cycle for all of the duties;*
- *Allow listed authorities to satisfy all of their reporting duties in one report, reinforce the flexibility of reporting requirements and encourage listed authorities to report on their duties as part of their own operational reporting cycles;*
- *Ensure that reporting deadlines do not align with the end of the financial year; and*
- *Require reports to be published at a minimum of every 4 years.*

**Question 1.2:** What are your views on the proposal outlined above in relation to the reporting process?

The City of Glasgow College welcome an approach which would reduce the bureaucracy of the current reporting cycle; however consideration needs to be given to what this would look like in real terms. A balance between prescriptive requirements whilst offering more flexibility would be required. A standardised approach would allow better monitoring and benchmarking.

There is a concern that reporting is also applicable to pay gap reporting requirements this could diminish impact. Annual reporting in line with other UK Institutions enhances the opportunity to benchmark using the same statistical formula methodology.

**Question 1.3:** What are your views on consolidating the previous sets of amending regulations?

We support the consolidation of the previous set of amend regulations.

**Proposal 2: Embedding Inclusive Communications**

*The Scottish Government is of the view that a new duty should be placed on listed authorities that goes beyond publications under the SSD regulations, and that seeksto ensure inclusive communication is embedded proportionately across the work of listed authorities when they are communicating with the public. We will also provide a clear definition of what communicating in an inclusive way means, recognising thatinclusive communication is about ensuring effective engagement with everyone, including those who understand and express themselves in different ways.*

**Question 2.1:** What are your views on our proposal to place a duty on listed authorities to embed inclusive communication proportionately across their work?

We welcome the opportunity to further develop Inclusive communications, however, there needs to be clarity on what this would- look like. This is already a statutory requirement but as the review acknowledges that this is not fully met. The Statutory BSL guidance has proved useful, however a joined-up approach to inclusive communication would be welcomed from the Scottish Government.

**Proposal 3: Extending pay gap reporting to include ethnicity and disability**

- *Being specific in the duties as to what formulas listed authorities should use to calculate pay gaps;*
- *Agreed data gathering questions and answer options; and*
- *A template for reporting which could enable better consistency of presentation and comparability, enable improved progress monitoring and minimise bureaucracy.*

**Question 3.1:** What are your views on our proposal to require listed authorities to publish ethnicity and disability pay gap information?

The publication of Ethnicity and Disability Gap is welcomed. However, there are factors to consider from an enforcement point of view, such as the geographical location of institutions; disclosure software systems being varied due to costings and statistical analysis resource availability.

A more proportional approach to reporting would benefit listed authorities, using a tiered process according to the listed authorities employee populations.

**Question 3.2:** Should the reporting threshold for ethnicity and disability pay gap reporting be the same as the current reporting threshold for gender pay gap reporting (where a listed authority has at least 20 employees)?

Listed authorities should report on disability and ethnicity pay gaps, to be meaningful it needs to be based on data that is comprehensive, feasible and appropriate for employers to gather

**Question 3.3:** What are your views on the respective formulas that should be used to calculate listed authorities' gender, ethnicity and disability pay gaps?

We are supportive of a standardised approach.

**Proposal 4: Assessing and reviewing policies and practices**

*The Scottish Government proposes to adjust the duty to assess and review policies and practices to emphasise that assessments must be undertaken as early as possible in the policy development process and should aim to test ideas prior to decisions being taken to ultimately make better policy for people.*

*The Scottish Government also proposes to strengthen the duty to assess and review policies and practices to require the involvement of people with lived experience, or organisations who represent them, in certain circumstances, like where the policy being assessed is a strategic level decision (of the type that engage the socio-economic duty in part 1 of the Equality Act 2010). This is also explored in proposal 7.*

*As set out in Proposal 1, the Scottish Government proposes to require listed authorities to report on how they have implemented all of their SSDs as part of their overarching mainstreaming reporting duty. This will include assessing and reviewing policies and practices. This could be illustrated through case studies and examples.*

**Question 4.1:** What are your views on the proposal outlined above (below)?

We welcome the reintroduction of people with lived experience being at the center of an Equality Impact Assessment. However, we are mindful of the duty to engage with protected characteristic groups per policy can lead to over-consultation, therefore policy review frequency through consultation may become challenging not just for listed authorities but for the community of interest groups. A more strategic approach based on geographical requirements could be explored.

**Question 4.2:** The Scottish Government recognises that improving the regime around assessing and reviewing policies and practices will take more than regulatory change.

How else could improvements be made?

Further investment into supporting Institution to develop better processes and training on this area of work. There are several versions of EQIA all reporting and approaching this differently. The Scottish Government Toolkit could be revisited and streamlined for current requirements. The Scottish Government could also look at developing an online resource that could access for developing EQIA assessments.

**Question 4.2:** What are your views on the current scope of policies that should be assessed and reviewed under regulation 5?

We support regulation 5 recommendations.

**Proposal 5: A new equality outcome setting process**

- *Set national equality outcomes, taking a collaborative approach ensure that outcomes were pertinent to the ambitions of relevant listed authorities;*
- *Ensure the national equality outcomes are measurable and link to the National Performance Framework; and*
- *Involve people with lived experience, and work with the organisations who represent them, when developing national equality outcomes, providing information on how they have taken account of that involvement in their development.*

**Question 5.1:** What are your views on our proposal for the Scottish Government to set national equality outcomes, which listed authorities could adopt to meet their own equality outcome setting duty?

Equality national equality outcomes are welcomed as many of the Equality Outcomes identified have common themes across listed authorities and society. How they are delivered should be proportionate to the listed authorities themselves.

**Proposal 6: Improving duties relating to Scottish Ministers**

The Scottish Government proposes to simplify the regulation 6A process to require listed authorities to gather information on the relevant protected characteristics of members of a listed authority, as part of their own duties on data collection. Listed authorities would then be required to set out how they plan to use the information they have required as part of their overarching mainstreaming reporting obligation (see proposal 1). Listed authorities would not be required to set out the breakdown of the board by protected characteristic, unless they could do this without individuals being identified on the basis of their protected characteristics. The Scottish Government intends to take more of a leadership role in relation to the equality outcome setting process. This would therefore create a mechanism where the Scottish Government could direct listed authorities to consider what we see as significant inequalities. However, through this system, the Scottish Government proposes to retain key elements of the current regulations 11 and 12 to ensure we have scope to direct listed authorities to consider other matters, or to propose activity to enable better performance, so that we and listed authorities can respond to any arising issues that may not have been foreseen when, for example, setting national equality outcomes.

**Question 6.1:** What are your views on the Scottish Government’s proposal to simplify the regulation 6A process?

We welcome the opportunity to simplify the requirements and focus on actions of the institutions. However, we reflect on our experience, where there is a required focus, change can be demonstrated, and a gender balance was achieved. We recognise were number are small and people can be identified it narrows the scope of what can be reported both in terms of numbers and the narrative around it.

**Question 6.2:** What are your views on the proposal in relation to regulations 11 and 12?

We support this.



**Question 6.3:** In 2019, the First Minister's National Advisory Council on Women and Girls recommended that Scottish Ministers deliver an Annual Statement, followed by a debate, on Gender Policy Coherence to the Scottish Parliament. In our response to this we said we would: "Consider the merits of aligning the delivery of a statement and debate with the existing legal duty on Scottish Ministers to publish a report on progress to better perform the PSED under the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012".

What are your views on this?

Supportive this recommendation, would also like to see other protected characteristics afforded the same opportunity for debate not just gender.

### **Proposal 7: Procurement**

*Procurement as a successful lever for change*

**Question 7.1:** What are your views on our proposal and call for views in relation to procurement?

The College has in place a process whereby companies tendering for business are required to be compliant with the College equalities policies. This is one of the methods for ensuring compliance in a systematic manner.

Training provided by the Scottish Government on equalities to Small to Medium size Enterprises (SMEs) would be welcome before they are required to adhere to enhanced compliance requirements placed upon institutions. This would yield better responses to the Equality requirements of the procurement process.

### **Proposal 8: Intersectional and disaggregated data analysis**

**Question 8.1:** The First Minister's National Advisory Council on Women and Girls called for the Scottish Government to place an additional duty on listed authorities to "gather and use intersectional data, including employment and service-user data, to advance equality between protected groups, including men and women"?

(a) What are your views on this?

(b) How could listed authorities be supported to meet this requirement?

We support the requirement to use intersectional data to better deliver our Equality Duty.

However mindful that the recommendation is to reduce bureaucracy the same time as introducing additional duties can be challenging.

Employee data population sizes per institution is an area of concern in order to publish non-identifiable data sets (in line with the GDPR element of the Data Protection Act (2018)) due to geographical demographics or disclosure trends.

**Question 8.2:** [Question directed specifically to listed authorities]

(a) If there was a requirement for your organisation to “gather and use intersectional data, including employment and service-user data, to advance equality between protected groups, including men and women”, would you be confident your organisation could comply with it?

**NO**

Routing depending on answer to part (a).

If yes, why?

(b) If no, what would you need to ensure you could comply by 2025?

Notwithstanding limits of HR systems that collate workforce data, further support would be required to enhance the reporting systems to gather this information. The Scottish Government would need to support listed authorities to integrate systems through a phased approach in order to deliver the complex Equality data requirements.

**Question 9.1:** The First Minister’s National Advisory Council on Women and Girls’ called for the Scottish Government to integrate intersectional gender budget analysis into the Scottish Budget process, and to place this on a statutory footing.

What are your views on this?

We support this recommendation.

**Question 9.2:** The First Minister’s National Advisory Council on Women and Girls’ called for the Scottish Government to place an additional duty on listed authorities to integrate intersectional gender budget analysis into their budget setting procedures.

(a) What are your views on this?

(b) How could listed authorities be supported to meet this requirement?

Clarity would be required on what Intersectional budget analysis would look like. Unrealistic to think that this would be appropriate for reporting from 2025.

**Question 9.3:** [Question directed to listed authorities]

(a) If an additional duty was placed on your organisation to integrate intersectional gender budget analysis into its budget setting procedures, would you be confident your organisation could comply with it?

**NO**

Routing depending on answer to part (a).

(b) If yes, why?

(b) If no, what would you need to ensure you could comply by 2025?

Training of Intersectional gender Budget, guides, and protocols on how this could be delivered.

**Question 10.1:** In your view, are there any Scottish public authorities who are not subject to the PSED or the SSDs that you think should be?

YES

(a) If YES, please give detail on which Scottish public authorities you think should be subject to the PSED or SSDs.

N/A

**Question 10.2:** EHRC has expressed the view that regulatory bodies, as part of their own compliance with the SSDs, should be encouraged to do more to improve PSED performance within their sector.

What are your views on this?

Agree with this approach.

**Question 11.1:** The Scottish Government will consult on the issues in this section further through the mainstreaming strategy. However, if you think any of these matters could be addressed through the PSED review, please give details here.

The mainstreaming strategy would be the most appropriate place to respond in reference to section 11.

**Question 12:** What would you like to see in improved revised guidance for the SSDs?

There are nine protected characteristics we would like to see further guidance on how to incorporate these better into the reporting cycle, to alleviate from an hierarchy of reporting. Whilst we welcome the focus on Gender and Intersectionality there is little reference to other protected characteristics and how they can be better reported and delivered.

Access to training and development opportunities to enhance and support cultural change within the listed authorities.

**Question 13:** EHRC has expressed the view that listed authorities should report on how they have used positive action under section 158 of the Equality Act 2010, as part of their reporting obligations.

What are your views on this?

This statement presumes that listed bodies have used Positive Action measures. This is one area that has been under utilised. Further guidance on this would be welcomed so that listed bodies can further develop this work.

**Question 14.1:** Overall, what are your reflections on the proposals set out by the Scottish Government and the further areas explored?

The proposal attempts to reduce bureaucracy and deliver a more impactful SSD regime. However, it fails to clarify the potential impact of the new suggested changes to the reporting requirements. Furthermore, focus on gender and intersectionality are welcomed however

would have like to see referencing to other protected characteristics.

**Question 14.2:** Please use this box to provide any further information that you think would beuseful, which is not already covered in your response.

**NA**

T: 0300 244 4000

04 October 2023

Dear Colleagues,

**Thank you for your interest to date on the review of the effectiveness of the Public Sector Equality Duty (PSED) in Scotland. I am now writing to update you on the next stages of the review. However, this work does not sit in isolation. I have therefore included some further information on how this relates to wider activity, including the development of the forthcoming Mainstreaming Strategy and the Human Rights Bill.**

As you will be aware, in our [public consultation](#) (published December 2021 and open until April 2022), we consulted on a series of proposals, both for legislative changes and changes to the wider implementation environment in relation to the Scottish Specific Duties. [Consultation responses](#) have since been published alongside [independent analysis](#) of these responses.

As we move forward with the review, we will be taking a phased approach to improving the PSED regime.

### **New or revised Regulations**

Initially this will include delivering on two key prioritised regulatory changes, which I believe will be highly impactful in terms of advancing equality in Scotland for some of the most disadvantaged groups, with the aim of implementing these changes by the end of April 2025. These are: **revising the current pay gap reporting duty** to include reporting on ethnicity and disability pay gaps; and introducing a new duty on listed public bodies in relation to their use of **inclusive communication**.

#### ***Revising pay gap reporting***

Pay gap reporting is an important means of driving action to spotlight and reduce the pay inequalities affecting certain disadvantaged groups in our society. Pay gaps represent different groups' divergent experiences of not only the workplace, but also education, skills acquisition, care and other domestic labour, and wider societal conventions.

The proposal to extend the existing duty to publish gender pay gap information (regulation 7 of the Scottish Specific Duties) to include ethnicity and disability first appeared in the [2021 SNP manifesto](#); and a commitment to consult on these proposals was subsequently contained in the [2021 Programme for Government](#).

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

Following consultation, we found stakeholders are largely in agreement (93%) that listed authorities should publish ethnicity and disability pay gap information. It was also evident that several listed authorities already voluntarily publish this information.

While pay gap reporting is vital, stakeholders have suggested that it does have some limitations. Reporting statistics alone can be of limited value without contextualising data, as it shows only part of the story. Therefore, we are considering feedback regarding the need for wider reform of pay gap reporting duties, to achieve meaningful change. It is also our priority that individuals cannot be identifiable under any new reporting duties, and my officials are considering how reporting useful data on an aggregated and disaggregated basis might best be achieved.

In the consultation, one stakeholder commented *“this proposal will help increase transparency and accountability and may lead to better employment outcomes for people with disabilities and those of ethnic minority origin. Using the pay gap information and an action plan will provide an opportunity to identifying [sic] actions required to address disadvantage or different needs connected to disability, sex or race.”* I agree with stakeholders that any new duties must be focused on meaningful action and that *“it will also be important to use this data to help understand and progress measures to address the under-representation of people with disabilities and those who belong to minority ethnic groups in the workforce.”*

By extending the current requirement to report on pay gaps between men and women to include reporting on pay gaps related to disability and ethnicity, we can encourage public bodies to take more effective action on equality issues affecting their disabled and ethnic minority staff.

### ***Introducing a new duty on inclusive communication***

A commitment to improving inclusive communications also first appeared in the [2021 SNP manifesto](#); and a commitment to consult on this proposal was subsequently contained in the [2021 Programme for Government](#).

As part of our public consultation, we proposed to create a new Scottish Specific Duty that seeks to ensure inclusive communication is embedded proportionately across the work of listed authorities. Stakeholder feedback on that proposal was overwhelmingly positive, both from equality advocacy groups and listed authorities. Most respondents expressed support in principle for the proposal to place a duty on listed authorities to embed inclusive communication proportionately across their work.

Introducing a new duty in this area should be beneficial for everyone in Scotland. We believe this is an important step towards a larger cultural change around the way we communicate and will make a real difference to the lives of the people of Scotland. Many consultation respondents highlighted the benefits of inclusive communication (e.g. improving accessibility, reducing barriers, increasing participation, promoting inclusion).

The new duty will sit alongside the Scottish Government’s other work to embed inclusive communication across the public sector, such as developing national standards, best practice, and monitoring systems.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



For both of the above proposals we are in the process of developing our final policy based on your consultation responses, and on extensive stakeholder engagement.

## **Guidance**

An appropriate lead-in period will be provided to ensure that listed authorities understand and can prepare for what will be required of them under new or revised Regulations. We will work with the Equality and Human Rights Commission, who produce technical guidance on all aspects of the PSED regime under section 13 of the Equality Act 2006, to ensure that listed authorities are fully prepared for any new duties.

It is our belief that these proposals would represent realistic incremental change, while also having a significant impact on the advancement of equality.

## **Repeal of regulation 6A**

Following careful consideration of all elements of the regime, including aspects which are not working well, I have decided to take steps to repeal regulation 6A of the Scottish Specific Duties. I have asked my officials to continue to consider what other means could deliver the policy outcomes intended when that regulation was created, as part of the ongoing programme of PSED improvement activity.

As you may know, regulation 6A relates to the collection of data on listed authorities' members' characteristics. Officials have taken steps over many years to seek to set up a workable process to comply with this regulation, however it has not yet been achieved due to barriers and challenges around how the data collection requirement of the regulation is framed.

Since this regulation was introduced, the landscape relating to board diversity has changed considerably. Much has been done to diversify boards. There have been specific schemes targeted at under-represented groups, including work with a Disabled People's Organisation and workshops with minority ethnic communities on board applications.

Another important development since regulation 6A was enacted is the passing of the Gender Representation on Public Boards (Scotland) Act 2018. This Act makes provision about gender representation on boards of Scottish public authorities. The intention of the Act is to help address the historic and persistent under-representation of women in public life. The Act has been subject to legal challenges relating to the definition of 'woman' but nonetheless it has led to important debate about board diversity. As of the end of 2022, 51% of regulated board members are women.

Taking all of the above into account, my decision is to repeal the current regulation 6A, and to ask my officials to continue to explore possible future means of achieving the intended policy outcomes, including through dialogue with the Public Appointments Team.

## **Making use of regulation 11 powers to highlight key emerging issues**

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

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

I have asked my officials to explore how I might use this power in the coming months to highlight issues which I consider would have an immediate impact on public bodies' progress in equality mainstreaming, such as making more effective use of intersectional equality data in policy making and increasing consideration of equality in budget process. I will issue a further update on this in the coming months.

## **Longer-term changes**

### ***Reporting***

Further legislative changes will be considered over the longer-term; this includes how we create a more cohesive regime. This phased approach enables us to very deliberately work towards increasing alignment with other changes which are currently proposed regarding the mainstreaming of equality and human rights – such as the introduction of the Human Rights Bill which is currently out for consultation. We recognise that reducing the perceived reporting burden was a key concern in many consultation responses and are keen to make that a reality.

### ***Outcome setting***

Many consultation responses supported the Scottish Government taking on more of a leadership role in setting national equality outcomes, which would inform the outcomes of listed authorities. I have asked my officials to further explore the appetite for this, using a non-regulatory route to improve the current equality outcome-setting process, subject to resource and capacity, and dialogue with relevant policy teams and stakeholders about their expectations in regard to future outcome-setting work. The new National Performance Framework, which is currently under development, will be a key element in our thinking.

### ***Learning from International Best Practice***

You may be aware that in April 2023, my officials commissioned research on international best practice in relation to equality duties to help inform policy development.

That research is now nearing completion, and my officials are considering the findings. This will inform our thinking about further changes to the PSED regime in Scotland over the longer-term. The research will be published on the Scottish Government website shortly.

## **Regulations which remain unchanged**

At this point in time, I am not proposing any change to the procurement duty (regulation 9), or to the duty to assess and review policies and practices (regulation 5).

My intention, like that of my predecessor Ms McKelvie, who steered the review in its early stages, is to deliver a balance of continuity and change. This is in recognition of the extensive work already underway in listed authorities, who work with this regime day in and day out. It also recognises the desire for faster progress on mainstreaming equality that was articulated in consultation responses and in my officials' engagement with interested parties. I would emphasise that I have decided on a phased approach to improving this regime, and that my officials will continue to engage with interested parties as they consider what more could be done over the medium and longer term.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)



## Legislative competence

The changes I am proposing to particular elements of the current suite of Scottish Specific Duties will necessarily require to fall within the limits of devolved competence.

## Wider mainstreaming activity: forthcoming strategy

We also intend by the end of this year to consult on a Mainstreaming Strategy, as part of our commitment to embed equality and human rights throughout government and the public sector. This provides a parallel route to progress other, non-legislative, improvements to equality and human rights mainstreaming across the public sector, with the aim of improving the lives of the most disadvantaged people in Scotland.

After earlier engagement with internal and external stakeholders, the main themes of the Strategy which we will formally consult on, will be:

- Strengthening Leadership;
- Accountability and Transparency;
- Regulatory and Policy Environment;
- Evidence and Experience;
- Enhancing Capability and Culture; and
- Ensuring Capacity.

We are also using the information provided through the PSED review consultation to inform this work and look forward to hearing your views as part of this.

## In conclusion

I would like to thank you for your input and patience to date. I appreciate that this review has been underway for some time, and has been affected by pauses, while officials were redeployed to work on emergent crises. I want to reassure you that I am committed to implementing changes that will improve the PSED regime, and to keeping our valued stakeholders updated and involved throughout the process. The ongoing review aims to strengthen the approach to advancing equality in Scotland, which I would intend to have the effect of ensuring that equality is built into future crisis management processes. I believe that this phased approach to improving the effectiveness of PSED in Scotland will enable us to collectively make progress; while still considering what more could be done, and how.

If you have any questions about anything above, please get in touch with Jenny Kemp or Sandra Malloy ([Jenny.Kemp@gov.scot](mailto:Jenny.Kemp@gov.scot); [Sandra.Malloy@gov.scot](mailto:Sandra.Malloy@gov.scot)).

Yours sincerely,



**EMMA RODDICK**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

The Scottish Parliament, Edinburgh EH99 1SP  
[www.gov.scot](http://www.gov.scot)



INVESTORS  
IN PEOPLE

Accredited  
Until 2020

