

## SUBMISSION BY WLADYSLAW MEJKA

### Context

It has been an arduous and sometimes fractious journey from the milestone set by the Equality Act 2010 to this latest crossroads, the second attempt in Scotland to adopt a set of specific equality duties with which to make equality a reality for all people across Scotland's diverse communities.

While the draft regulations being put by government to the Parliamentary Equal Opportunities Committee for approval are unlikely to attain the magical score of 11 out of 10, they are a considerable improvement on what was put before the Committee over a year ago. This latest draft of the regulations on specific equality duties is to be welcomed as offering clear evidence of government's willingness to listen and, having done so, to amend previous positions and accept reasoned rationale for improving how these can deliver measurable, person-centred improvements in the experiences Scotland's diverse citizens have when accessing and making use of public services.

That said, the debate continues on just how much needs to be made explicit in the regulations, and just how much can be implied or hosted in guidance, if we are to make a fresh start on delivering real, person-centred and measureable equality. This should not be viewed as being simply some kind of academic debate. Discrimination, prejudice, bigotry, hate and the denial of fairness and dignity remain an everyday reality for too many people living in Scotland.

There comes a time when the debate on how to build a Scotland free from discrimination needs to close, in order for the focus and energy of all to switch to using the new powers in the shape of the specific duties to identify and eliminate discrimination from the design and delivery of Scotland's public services, and from the daily lived experience of people who access and use those services. That point has arrived and the Parliamentary Equal Opportunities Committee is commended to approve the draft regulations.

There remains, even at this very late stage, an opportunity for the Committee to encourage government to ensure guidance and action to support the specific equality duties is developed in particular areas in order to achieve the overarching goal – a Scotland free from discrimination. The remainder of this paper suggests what these areas might be.

### Overview

The consultation process and practice around this draft has improved on what was used to construct the previous draft regulations, and credit to government for undertaking and publishing a more balanced analysis of the responses. There remain critical areas for major improvement in the consultation process and practice which, if adopted, could in turn lead to significant qualitative improvements in the formulation of government policy in future.

Reviewing the effectiveness of the specific equality duties is a firm commitment set out by government in the 2011 consultation paper. In order to obtain the quality of learning we will need 5 years hence, we need to start work now in creating the monitoring framework required to capture the range of information and data we will need.

Equally important, the limited arrangements and capacity for enforcement of the general and specific equality duties appear to be fading in direct correlation with the sharply declining resources government is to make available to the EHRC.

Areas for further guidance and action

## The Consultation Culture

There are three aspects to this which, if lessons are to be learned from the considerable experience gained from forming the draft specific equality duties, can be improved. It is stressed the aim is not simply to improve the consultation culture itself, rather it is to improve the whole continuum of government policy development of which the consultation culture is just one, albeit critical, part.

The first aspect is one which goes to the heart of discrimination itself and is to be found in the core standard practice of how government consults. Too many features of the standard practices in consultation represent barriers to all but the usual suspects in having their views and experiences heard, recognised and, where appropriate, acted on by government. In brief, government currently requires the same ability to negotiate the bureaucracy of forms, papers, language, and the implicit constraints and opportunities which are commonly found in any government consultation, from any public sector body as it does from any individual citizen or as is commonly termed any 'hard to reach group'<sup>1</sup>. This 'one size fits all' approach to the practice of routine consultation and engagement is a barrier to all being given real opportunity to be heard.

Recommendation 1 – that the PEOC, in addition to approving the draft regulations, encourages government and the Equality Unit to offer a lead by innovating in consultation and engagement practices [such as those used recently by the PEOC] to ensure that marginalised communities experiencing discrimination have their views and experiences heard and acted on in the development of government policy and legislation.

The second aspect is that of how to achieve a balance between and across any analysis of responses to consultation and so build a case for change or for the status quo. In brief, and using the latest consultation on the draft specific duties to illustrate, I submitted a response to the consultation as a citizen. COSLA submitted a response, as the 'voice' of local government. To all intents and purposes, the analysis commissioned by the Equality Unit from Reid Howie treated my yes/no response to questions on a par with the answers from COSLA. While I may consider my response to offer as much if not more value to government as that from COSLA, it is I believe dangerous to conduct an analysis without some attempt to 'weight' those pro- and anti- views received.

Recommendation 2 – that the PEOC invites government to ensure that analysis of responses received to future consultations is weighted to reflect relevant factors. These factors and other changes to the consultation culture of government should themselves be the subject of a radical/innovative consultation themselves.

The third aspect is to do with establishing a clear provenance of responses received, before any analysis takes place and which is then used to draw conclusions and influence possible change. By way of illustration, I undertook a simple comparative analysis [attached] of the COSLA response alongside a random sample of 4 other responses submitted directly by individual local authorities .

As can be quickly discerned, there appears to be a considerable dislocation between what COSLA has submitted, on behalf of Councils, and what Councils themselves have said

---

<sup>1</sup> In an equalities context this phrase should have a very limited shelf-life, in that having identified a group as 'hard to reach' any public body should immediately take steps to identify and dismantle the barriers which have made it 'hard to reach'. The fact that it continues to feature in the vocabulary, thinking and actions of many in the public sector, including government, is simply yet another illustration of the pervasive and deep rooted nature of structural and institutional discrimination.

individually. In addition, I conducted a simple analysis [also attached] of what 22 Councils submitted directly to government. One strong pattern which emerged was that generally speaking Councils are in favour of using a template for reporting on employment data so that comparison and benchmarking can take place. COSLA counsels against comparisons being made.

In broad terms there appears to be a dislocation between what COSLA is saying on behalf of Councils and what Councils themselves are saying direct to government. In a wider context this dislocation does, I believe, reveal the need for some modification and modernisation of the government's routine approach to consultations.

Recommendation 3 – that the PEOC encourages government to consider the profiling of respondents to future consultation being expanded slightly beyond its present form to capture some measureable sense of the provenance of the responses being submitted.

## Review of regulations

The government's consultation paper from late-2011 set out a commitment :

### Review

3.7 We are committed to monitoring how the Regulations work in practice. We will explore our approach to this in partnership with the EHRC, with equality groups and with public authorities. If necessary, Scottish Ministers can amend the Regulations if particular elements are not having the intended effect.

This was and remains a very welcome commitment. Time has however passed since then and we are within sight of the point at which the specific duties will come into effect. It is suggested that in order to carry out a review of the regulations for their effectiveness, there is a need to put in place now some elements of a monitoring framework – such as monitoring approaches used by public bodies currently to show how services have changed as a result of meeting the general duty and how they have evidenced that change in person-centred terms, and tracking changes introduced by bodies as a result of the new specific duties and what person-centred difference that makes, again with evidence linked to the general duty.

The review should include work commissioned to retrospectively research what worked and what didn't work in relation to the general and specific duties previously covering race, disability and gender. It should also include examination of the performance of public authorities in meeting those 3 general and specific duties, as was done by EHRC in 2011 in regard to the performance of the NHS in England.

Recommendation 4 – that the PEOC commends government to introduce robust monitoring arrangements on the effectiveness of the impact of the specific duties as a matter of urgency, and calls for any project board established to devise, implement and oversee the monitoring to be a real partnership [between government, public sector and voluntary sector] and that it operate in a transparent and accountable manner, with the PEOC being part of the accountability arrangements.

## Enforcement

Committee members will be aware that the Westminster government has signalled a sharp decline in resources to be allocated to the Equality & Human Rights Commission [EHRC] between now and 2015. It is expected that staffing numbers will collapse from 420 to between 150-180.

The EHRC has very recently published its three strategic priorities for the next three years. All three of these priorities are prefaced with the words 'To promote .....

and the word 'enforcement' is significant by its absence.

In summary, there will be little if any capacity to enforce the observance by public bodies of the general and specific equality duties.

This is not to say that public bodies in Scotland wilfully ignore those duties unless there is the threat of court action or of being 'named and shamed'. History does however remind us that as recently as 2007, the former Commission for Race Equality did issue formal 'minded' letters to all of Scotland's NHS Health Boards in relation to a widespread failure to observe the then race equality specific duties on employment data gathering and reporting.

In Scotland, we can simply stand back and observe the embattled public sector drift backwards in its performance on equalities. We can decide to defer action until the outcomes from a review of the impact of the specific duties are available.

Or we can learn lessons from incidents such as the recent uncovering in NHS Lothian of manipulation of waiting time data. This recent failure reveals, I believe, an over reliance on self-reporting and self-monitoring by public bodies in relation to critical performance issues, including performance on equality duties. This risk will always be present and requires a more imaginative mitigation approach.

Given the NHS in Scotland already has significant resource in the shape of the Directorate of Equality, Performance and People [hosted in NHS Health Scotland] and that local government has the Improvement Service, it is suggested that government should look to use both these organisations to take on a pro-active performance monitoring role on observance of the equality duties. In addition and to strengthen the independence and integrity of a refreshed monitoring and enforcement culture and practice, the resources, staff and functions of both organisations should be merged and transferred into the voluntary sector and operate under service level agreements with government and the public sector.

This would provide government with a modern, coherent approach to light touch enforcement, as well as pro-active access to performance data and so mitigate risks to Scotland's reputation on equalities. Other areas of the public sector could be performance monitored in similar style by a modest expansion of the government's own Equality Unit. Over time this could then be transferred into the new organisation hosted in the voluntary sector as well.

Recommendation 5 – that the PEOC commends government to introduce innovative light-touch enforcement and performance monitoring on compliance with the general and specific duties within the existing resources available to it, that the function be transferred into the voluntary sector, and that these arrangements be exemplary in their transparency and accountability to both government and to the people of Scotland.

WLADYSLAW MEJKA  
4 APRIL 2012

## APPENDICES (TABULATED)

Simple analysis of COSLA and 4 LAs on response to SD consult

	<b>COSLA</b>	<b>City of Glasgow</b>	<b>City of Dundee</b>	<b>City of Edinburgh</b>	<b>Midlothian</b>
<b>Question 1:</b> Do you agree that if a public authority's equality outcomes do not cover all relevant protected characteristics, it should publish the reason(s) why?	Agree with aspiration Need support, resources & guidance	Yes – no qualification	Yes – no qualification	Yes – and has already started	Yes – some guidance needed
<b>Question 2:</b> Do you agree that a public authority should publish the results of equality impact assessment?	Yes – but timing of when seen as an issue	Yes – no provisos	Yes – no provisos	Yes – but with provisos on confidential information, policies or practices	Yes – no provisos
<b>Question 3:</b> Do you agree that a public authority's impact assessments should consider relevant evidence including any received from people with relevant protected characteristics in relation to the policy or practice in question?	Yes – but difficulties ID'd and ambiguities need guidance	Yes – should be fundamental	Yes – no provisos	Yes – some more guidance needed on 'relevant'	Yes – no provisos
<b>Question 4:</b> Do you agree that a public	Yes – but flags potential clash	Yes – taking a proportionat	Yes – as part of normal	Yes – if based on relevance	Yes – if reasonable time allowed

authority should make arrangements to review and where necessary change or revise existing policies and practices to ensure that these do not have a detrimental effect on its ability to fulfil the general duty?	between EQIA-driven changes and change 'detrimental to TU members'	e approach	process of review		
<b>Question 5:</b> Do you agree that a public authority should not be required to undertake an impact assessment where the policy or practice in question has no bearing on its ability to fulfil or otherwise the general duty (eg, purely technical or scientific matters)?	Yes – 'Councils agree with this proposal'	Yes – but needs screening and publish why no EQIA done	Yes	Yes	Yes
<b>Question 6:</b> Do you agree that authorities subject to the specific duties should be required to take reasonable steps to gather information on	On balance, Councils agree – but more support needed Wants to avoid 'ill-conceived league table style analysis between Councils'	Yes – need guidance on 'reasonable'	Yes – it is a major challenge	Yes – fully supports this	Yes – need guidance on reasonable

the relevant protected characteristics of employees, including information on the recruitment, retention and development of employees?					
<b>Question 7:</b> Do you agree that authorities subject to the specific duties should be required to use the employment information which they have gathered to assist progress on the general duty?	Yes – need guidance and resources to implement	Yes – no point in gathering and not using	Yes	Yes – sees the logic and rationale	Yes
<b>Question 8:</b> Do you agree that authorities subject to the specific duties should be required to report on progress on gathering and using employment information, including an annual breakdown of information gathered, within the mainstreaming report.	Most Councils already publish data through existing mechanisms Concerns over frequency of reports Not possible to compare data between Councils	Yes -	Yes	yes	Yes – will help when comparing against others
<b>Question 9:</b> Do you agree that authorities with more than	Yes – with provisos around how data is used	No – against trigger of 150	Yes – but against extending to cover	Yes	Yes – in due course would prefer to see all protected

150 employees should publish an equal pay statement, the first covering gender and the second and subsequent statements covering gender, disability and race?	and discourage comparisons	employees – should be for all	race and disability at this time		characteristics covered
<b>Question 10:</b> Do you agree that where a listed authority is a contracting authority and proposes to enter into a relevant agreement on the basis of an offer which is the most economically advantageous it must have due regard to whether the award criteria should include considerations relevant to its performance of the general duty?	No answer	Yes – legal guidance required	Yes	Yes	Yes
<b>Question 11:</b> Do you agree that where a listed authority is a contracting authority and proposes to stipulate conditions relating to the	No answer	Yes – legal guidance required	Yes	Yes	Yes



performance of a relevant agreement it must have due regard to whether the conditions should include considerations relevant to its performance of the general duty?					
<b>Question 12:</b> Do you have any other comments on the proposed draft Regulations?	No comments	No comments	Would support national initiative on gathering & monitoring equality data	Would welcome more focus on relevance, proportionality and links to equality outcomes	Welcomes government commitment to add strength to the draft Scottish regulations

### Simple analysis of 22 Local Authority responses to SD consult

<b>Question 1:</b> Do you agree that if a public authority's equality outcomes do not cover all relevant protected characteristics, it should publish the reason(s) why?				
	Yes	No	Don't know	Comments of note
Aberdeen City	✓			But need guidance and reassurance that 'big stick' not to be used
Aberdeenshire	✓			
Argyll & Bute	✓			Guidance and definitions required, particularly around alignment with SOAs
Clackmannanshire Council	✓			
Western Isles Council	✓			As long as proportionate and guidance issued
East Renfrewshire Council	✓			Guidance needed
Dundee City Council	✓			
East Ayrshire Council	✓			
Fife Council	✓			Guidance and definitions needed and alignment with SOAs
Glasgow City Council	✓			
Inverclyde Council	✓			Guidance needed – not sure about capacity to engage
Midlothian	✓			
North Ayrshire Council	✓			
North Lanarkshire Council	✓			Will help with fostering good relations
Perth & Kinross Council	✓			
Renfrewshire Council	✓			Guidance and clarification needed
South Ayrshire Council	✓			Definitions required
Highland Council	✓			Need for guidance to ensure common understanding and use of 'Outcomes'
West Dunbartonshire Council	✓			Need for guidance and definitions on 'Outcomes'
West Lothian Council	✓			Does not believe this represents an additional administrative burden
City of Edinburgh Council	✓			Has already started work on Outcomes
East Dunbartonshire Council	✓			

**Question 2:** Do you agree that a public authority should publish the results of equality impact assessment?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			But more guidance needed
Aberdeenshire	✓			
Argyll & Bute	✓			Might reduce volume of Fols
Clackmannanshire Council	✓			It is important that they are published
Western Isles Council	✓			
East Renfrewshire Council	✓			Guidance on publishing needed
Dundee City Council	✓			
East Ayrshire Council	✓			Guidance on publishing needed
Fife Council	✓			Guidance needed on publishing
Glasgow City Council	✓			Guidance would be helpful
Inverclyde Council	✓			
Midlothian	✓			
North Ayrshire Council	✓			Only to be published once policy finalised and approved
North Lanarkshire Council		✓		They are already publicly available – duty would be unhelpful
Perth & Kinross Council	✓			
Renfrewshire Council	✓			Guidance required
South Ayrshire Council	✓			Guidance required
Highland Council	✓			Needs benchmarking and work on consistency
West Dunbartonshire Council	✓			Guidance on exactly what to be published
West Lothian Council	✓			Guidance needed. Council currently publishes summaries of all EQIA. Would not favour complete EQIAs being published
City of Edinburgh Council	✓			Guidance needed
East Dunbartonshire Council	✓			

**Question 3:** Do you agree that a public authority's impact assessments should consider relevant evidence including any received from people with relevant protected characteristics in relation to the policy or practice in question?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			But more guidance required and recognition that capacity not there in communities
Aberdeenshire	✓			
Argyll & Bute	✓			Cautions that capacity to engage some communities is not there
Clackmannanshire Council	✓			It is important
Western Isles Council	✓			Cites Christie Commission recommendation on engagement
East Renfrewshire Council	✓			
Dundee City Council	✓			
East Ayrshire Council	✓			Guidance needed
Fife Council	✓			
Glasgow City Council	✓			
Inverclyde Council	✓			Guidance required
Midlothian	✓			Guidance needed
North Ayrshire Council	✓			
North Lanarkshire Council		✓		Not necessary – already done
Perth & Kinross Council	✓			
Renfrewshire Council	✓			
South Ayrshire Council	✓			Guidance required
Highland Council	✓			Guidance required
West Dunbartonshire Council	✓			Guidance needed – flags under capacity in communities to engage
West Lothian Council	✓			Fundamental to meaningful EQIAs
City of Edinburgh Council	✓			Stresses the word 'relevance'
East Dunbartonshire Council	✓			Without this decision makers cannot make well informed decisions

**Question 4:** Do you agree that a public authority should make arrangements to review and where necessary change or revise existing policies and practices to ensure that these do not have a detrimental effect on its ability to fulfil the general duty?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			But concerns over timescales in which this can be done
Aberdeenshire			✓	Confused. Thinks priority should be given to HR policies.
Argyll & Bute	✓			
Clackmannanshire Council	✓			Timescales for this need to be reasonable
Western Isles Council	✓			
East Renfrewshire Council	✓			But cites decreasing staff as a basis for proportionate timescales
Dundee City Council	✓			
East Ayrshire Council	✓			
Fife Council	✓			Cites 'decreasing resources' as a basis for this being proportionate
Glasgow City Council	✓			
Inverclyde Council	✓			Queries resources to do this – would like guidance on timing
Midlothian	✓			Cites 'decreasing resources' as basis for more time needed
North Ayrshire Council	✓			wibble
North Lanarkshire Council		✓		Believes this is catered for in general duty
Perth & Kinross Council	✓			
Renfrewshire Council	✓			
South Ayrshire Council	✓			
Highland Council	✓			
West Dunbartonshire Council	✓			Decreasing staff, need proportionate timing
West Lothian Council	✓			Needs some local flexibility
City of Edinburgh Council	✓			But wants to see link to proportionality and relevance
East Dunbartonshire Council	✓			Timing needs to be proportionate

**Question 5:** Do you agree that a public authority should not be required to undertake an impact assessment where the policy or practice in question has no bearing on its ability to fulfil or otherwise the general duty (eg, purely technical or scientific matters)?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			But more guidance needed and thinks it is more about power relations than technical or scientific matters
Aberdeenshire	✓			Cites roads maintenance as an example of where everyone affected 'regardless' so no need to EQIA
Argyll & Bute	✓			
Clackmannanshire Council	✓			Needs effective screening
Western Isles Council	✓			Need screening and an evidence trail
East Renfrewshire Council	✓			Very similar to Aberdeen answer – could be they have 'shared' notes on this.
Dundee City Council	✓			
East Ayrshire Council	✓			
Fife Council	✓			
Glasgow City Council	✓	✓		Suggests screening and publish reasons why not EQIA
Inverclyde Council	✓			Would like guidance on screening for this
Midlothian	✓			
North Ayrshire Council	✓			Concern that this might be exploited by some
North Lanarkshire Council	✓			
Perth & Kinross Council	✓			
Renfrewshire Council	✓			But guidance required on how to validate not doing EQIA
South Ayrshire Council	✓			But would require screening – guidance required for consistency
Highland Council	✓			Should be able to explain or evidence why not
West Dunbartonshire Council	✓			Guidance required and screening recommended
West Lothian Council	✓			
City of Edinburgh Council	✓			Wants to see a link between EQIAs needed and the published Outcomes
East Dunbartonshire Council	✓			But guidance required

**Question 6:** Do you agree that authorities subject to the specific duties should be required to take reasonable steps to gather information on the relevant protected characteristics of employees, including information on the recruitment, retention and development of employees?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			But need more guidance
Aberdeenshire	✓			Will be difficult while data is provided voluntarily by staff
Argyll & Bute	✓			Welcome guidance
Clackmannanshire Council	✓			Need definition of 'reasonable steps'
Western Isles Council	✓			Has concerns around ability of rural/remote authorities to gather sufficient data
East Renfrewshire Council	✓			Need guidance
Dundee City Council	✓			Need more guidance or definition on 'development'
East Ayrshire Council	✓			Need guidance
Fife Council	✓			Need guidance and definitions
Glasgow City Council	✓			Need guidance
Inverclyde Council	✓			Clarification needed on 'reasonable steps'
Midlothian	✓			Define 'reasonable steps'
North Ayrshire Council	✓			Concerns around data gaps
North Lanarkshire Council		✓		Not required
Perth & Kinross Council	✓			
Renfrewshire Council	✓			
South Ayrshire Council	✓			Flags challenges. Suggests little innovation used currently in data gathering
Highland Council	✓			Guidance needed and definition on 'reasonable steps'
West Dunbartonshire Council	✓			Need definition of 'reasonable steps' and more guidance
West Lothian Council	✓			
City of Edinburgh Council	✓			
East Dunbartonshire Council	✓			Guidance required

**Question 7:** Do you agree that authorities subject to the specific duties should be required to use the employment information which they have gathered to assist progress on the general duty?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			But more guidance needed for something which is 'fraught with challenges'
Aberdeenshire	✓			
Argyll & Bute	✓			Makes sense to use it
Clackmannanshire Council	✓			But needs lots of help with getting data
Western Isles Council	✓			May be difficult when data gaps are large
East Renfrewshire Council	✓			Clearly some sharing going on – response very similar to others – cites 'fraught with challenges' as does Aberdeen
Dundee City Council	✓			
East Ayrshire Council	✓			
Fife Council	✓			But 'fraught with challenges'
Glasgow City Council	✓			
Inverclyde Council	✓			Guidance needed
Midlothian	✓			
North Ayrshire Council	✓			
North Lanarkshire Council		✓		Not required – comes under general duty
Perth & Kinross Council	✓			
Renfrewshire Council	✓			Guidance required. Council only uses EO form data gathering.
South Ayrshire Council	✓			Meaningless otherwise
Highland Council	✓			
West Dunbartonshire Council	✓			'fraught with challenges' echoes Aberdeen and others. Looking for some national strategy/support
West Lothian Council	✓			
City of Edinburgh Council	✓			
East Dunbartonshire Council	✓			Strongly agree



**Question 8:** Do you agree that authorities subject to the specific duties should be required to report on progress on gathering and using employment information, including an annual breakdown of information gathered, within the mainstreaming report.

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			And supports standardised template for local authorities to allow compare and benchmarking
Aberdeenshire	✓			
Argyll & Bute	✓			
Clackmannanshire Council	✓			Supports template to enable comparison and benchmarking across local authorities
Western Isles Council	✓			Some uniformity desired to enable data sharing and benchmarking
East Renfrewshire Council	✓			As per Aberdeen
Dundee City Council	✓			
East Ayrshire Council	✓			Supports uniformity of approach so that comparison and benchmarking is enabled
Fife Council	✓			Supports standard template to allow comparison and benchmarking across local authorities
Glasgow City Council	✓			
Inverclyde Council	✓			Template would be welcome to allow benchmarking
Midlothian	✓			Template would allow comparison and benchmarking with other public bodies
North Ayrshire Council	✓			
North Lanarkshire Council	✓			
Perth & Kinross Council	✓			
Renfrewshire Council	✓			
South Ayrshire Council	✓			Needs to allow comparison and benchmarking
Highland Council	✓			
West Dunbartonshire Council	✓			Suggests standard template for LAs to allow comparison and benchmarking
West Lothian Council	✓			
City of Edinburgh Council	✓			
East Dunbartonshire Council	✓			

**Question 9:** Do you agree that authorities with more than 150 employees should publish an equal pay statement, the first covering gender and the second and subsequent statements covering gender, disability and race?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			Not convinced of the need to restrict to 3 characteristics
Aberdeenshire	✓			Already done and will be no problem – statement
Argyll & Bute	✓			Wibble
Clackmannanshire Council	✓			
Western Isles Council	✓			Cites potential barriers to data disclosure
East Renfrewshire Council	✓			As per Aberdeen
Dundee City Council	✓	✓		Does not support extending to race and disability – cites problems with employees providing data on race and disability
East Ayrshire Council	✓			
Fife Council	✓			As with Aberdeen
Glasgow City Council		✓		Does not support 150 threshold – should be all public bodies
Inverclyde Council	✓			Believes SG should give a lead as it is still not happening across all sectors
Midlothian	✓	✓		Would prefer to see all characteristics covered
North Ayrshire Council	✓			Concerns over low numbers and skewed analysis
North Lanarkshire Council	✓			
Perth & Kinross Council	✓			
Renfrewshire Council	✓	✓		But wonders why just those 3 and asks if extending this will happen in future. Wants more guidance.
South Ayrshire Council	✓			
Highland Council	✓			
West Dunbartonshire Council	✓	✓		But wants to see evidence as to why not extended to other characteristics
West Lothian Council	✓			Flags data gaps on disability as potentially problematic
City of Edinburgh Council	✓			Flags barriers to getting employees to provide data
East Dunbartonshire Council	✓			

**Question 10:** Do you agree that where a listed authority is a contracting authority and proposes to enter into a relevant agreement on the basis of an offer which is the most economically advantageous it must have due regard to whether the award criteria should include considerations relevant to its performance of the general duty?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			Guidance needed
Aberdeenshire	✓			Equates to best value – guidance needed
Argyll & Bute	✓			
Clackmannanshire Council	✓			
Western Isles Council	✓			
East Renfrewshire Council	✓			Guidance needed
Dundee City Council	✓			
East Ayrshire Council	✓			
Fife Council	✓			Guidance needed
Glasgow City Council	✓			Guidance needed
Inverclyde Council	✓			
Midlothian	✓			
North Ayrshire Council	✓			Guidance needed and alignment with EU directives on procurement
North Lanarkshire Council	✓			
Perth & Kinross Council	✓			
Renfrewshire Council	✓			Councils already do this under LG Scotland Act, but need guidance on compliance with EU directives
South Ayrshire Council	✓			
Highland Council	✓			Guidance and examples required
West Dunbartonshire Council	✓			Guidance needed
West Lothian Council	✓			Need for guidance which is congruent with existing procurement law
City of Edinburgh Council	✓			
East Dunbartonshire Council	✓			

**Question 11:** Do you agree that where a listed authority is a contracting authority and proposes to stipulate conditions relating to the performance of a relevant agreement it must have due regard to whether the conditions should include considerations relevant to its performance of the general duty?

	Yes	No	Don't know	Comments of note
Aberdeen City	✓			
Aberdeenshire	✓			Should include all sub-contracted work – needs guidance
Argyll & Bute	✓			
Clackmannanshire Council	✓			
Western Isles Council	✓			But guidance needed
East Renfrewshire Council	✓			Curious language [EHRC ?] refers to 'all the actors under their jurisdiction'
Dundee City Council	✓			
East Ayrshire Council	✓			
Fife Council	✓			
Glasgow City Council	✓			Guidance needed
Inverclyde Council	✓			Guidance needed
Midlothian	✓			
North Ayrshire Council	✓			
North Lanarkshire Council	✓			
Perth & Kinross Council	✓			
Renfrewshire Council	✓			
South Ayrshire Council	✓			Guidance required
Highland Council	✓			Guidance and examples required
West Dunbartonshire Council	✓			
West Lothian Council		✓		Might be worth looking at a similar opt out as with Q 5 – where there is no equality content/impact/relevance
City of Edinburgh Council	✓			
East Dunbartonshire Council	✓			

<b>Question 12:</b> Do you have any other comments on the proposed draft Regulations?				
	Yes	No	Don't know	Comments of note
Aberdeen City	✓			Concerns around bodies near but not over 150 employees, and need clarity over timing on equal pay
Aberdeenshire		✓		
Argyll & Bute	✓			Guidance needed on timing of equal pay statements and on ensuring procurement duty aligns with EU law
Clackmannanshire Council	✓			commitment to strengthening the draft regulations should be welcomed and the changes made provide additional clarification, accountability and transparency
Western Isles Council		✓		
East Renfrewshire Council	✓			We are fully committed to implementing the specific duties when they come into being. We urge the Scottish government to provide adequate guidance
Dundee City Council	✓			Dundee City Council would support a national initiative to raise awareness of the positive benefits of equality monitoring in delivering services to all communities
East Ayrshire Council		✓		
Fife Council	✓			We welcome the Scottish Government's commitment to strengthening the draft regulations and consider that the changes made provide additional clarification, accountability and transparency. We also welcome the commitment in Para3.7 to monitoring how the Regulations work in practice and revising these if necessary and wholeheartedly endorse this being undertaken in partnership with the public sector and equality group
Glasgow City Council		✓		
Inverclyde Council	✓			We feel that questions 10 and 11 are not particularly well-worded and could result in extreme confusion for members of the public who wish to participate in the consultation exercise.
Midlothian	✓			Midlothian Council welcomes the Scottish Government's commitment to add strength to the draft Scottish regulations. The Council considers that this commitment along with the Christie Commission's call to reduce inequalities and promote equality will help all public bodies to challenge and overcome inequalities within our communities and help successfully deliver the duties of the Equality Act 2010.
North Ayrshire Council	✓			Overall, the proposed duties are acceptable and should allow for a streamlining of reporting under the new equality duty

North Lanarkshire Council		✓		
Perth & Kinross Council	✓			In the only comment provided, Council says : The additional duties contribute to a more coherent set of Regulations and should, if effectively implemented, support the public sector in Scotland to successfully implement the Equality Act 2010 including all parts of the General Duty
Renfrewshire Council	✓			Lots more clarity required
South Ayrshire Council		✓		
Highland Council	✓			Highland Council welcomes the clarity that these draft revisions have brought to the specific duties. As highlighted in the original consultation response from Highland Council, it is essential that clear guidance on all the duties is produced in a timescale that supports authorities in meeting their duties
West Dunbartonshire Council	✓			We welcome the Scottish Government's commitment to strengthening the draft regulations and consider that the changes made provide additional clarification, accountability and transparency
West Lothian Council		✓		
City of Edinburgh Council	✓			The Council welcomes the broad intent and content of the revised draft regulations. However, whilst it fully supports a specific duty on EQIA, it still has concerns about the specific duty on EQIA as it is currently constructed. Consequently, it would welcome more focus on relevance, proportionality and the link to the listed authority's published list of equality outcomes
East Dunbartonshire Council		✓		