

Local Government and Regeneration
Committee
Scottish Parliament
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4 November 2015

Dear Committee Members

Inquiry into Arm's Length External Organisations (ALEOs)

The Equality and Human Rights Commission (the Commission) has a statutory duty to promote equality and diversity, work towards the elimination of discrimination, promote human rights and build good relations between and among groups. The Commission has responsibilities in nine areas of equality: age, disability, gender, gender identity, race, religion or belief, sexual orientation, pregnancy and maternity and civil partnership; as well as human rights. We are also one of Scotland's two "A status"¹ National Human Rights Institutions (NHRIs²).

¹ www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf

² www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx

The Commission welcomes the opportunity to contribute to this Inquiry and to provide its views regarding changes to the governance arrangements for ALEOs.

The Commission has two particular areas of interest: ensuring the creation of ALEOs does not lead to a lessening of equality for staff and service users, and ensuring the requirements of the public sector duty are fully embedded within ALEOs themselves and within the management arrangements of local authorities.

Concerns were expressed when ALEOs were first created that they may lead to inequalities in pay as workers were transferred from local authority employment to ALEOs. Recent employment tribunal decisions appear to have mitigated this concern, but it remains important that the creation and management of ALEOs does not lead to any diminution of employees rights. .

Equality requirements should also be embedded in all that ALEOs do. ALEOs are subject to the public sector general duty when carrying out their public functions and should therefore be giving due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. They must also be able to demonstrate how due regard has been given to these three areas, when taking decisions on their policies and practices. They may therefore find it useful to carry out equality impact assessments, which will assist them to consider equality issues fully and demonstrate how that consideration has impacted on their decision making.

It must also be remembered that Local Authorities exert control over ALEOs and that they must meet their own public sector equality duty in any decisions they make or policies or practices they adopt in relation to that ALEO. Should they procure services from an ALEO they should also consider using the PSD procurement duty to embed equality requirements into any procurement contract.

Best practice for ALEOs, and for the Local Authorities involved in their management and control, should see equalities requirements at the heart of their activities: consideration of how best to advance equalities for all staff and users of an ALEOs service should be embedded in the policies and practices of the ALEO as well as in its management and in a Local Authorities oversight of its activities.

We are grateful for the opportunity to submit this response and hope that the Committee will find our comments helpful going forward.

Yours sincerely



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