

HISTORIC SCOTLAND BOARD, 13 DECEMBER 2007

EQUALITIES AND DIVERSITY POLICY DEVELOPMENT

1. This paper outlines work in progress to develop an HS equalities and diversity policy.

Background

2. Fuller background is set out in **Annex A**. There is a range of relevant legislation, the most recent of which is the Equality Act 2006. As well as outlawing discrimination on the grounds of religion/ belief, sexual orientation and gender, this Act introduces a more general duty on all public authorities to promote equality and diversity.

3. In view of the new obligations and the need to ensure coherence in our implementation of the full range of relevant legislation, SMT agreed earlier in the year:

- to prepare a single operational policy to deal with the obligations of the Equality Act 2006, other relevant legislation, associated Scottish Government equality schemes and the “Best Value” equal opportunities arrangements; and
- to establish a short-lived working group to develop policy, engage with stakeholders, set out equalities activities, and create a strategy for the review of the Scottish Government equalities schemes.

Discussion

4. We have a reasonably good record but we need to pursue this widening agenda in a more coherent way across the Agency. This policy development initiative is therefore designed to apply appropriate rigour in assessing, improving and reporting our performance.

5. We also need to address some vulnerability to challenge. We are therefore using the development of an operational policy as a catalyst for an associated action plan.

6. Our work programme is at **Annex B** and the first draft of the operational policy is at **Annex C**. The aim is to refine and flesh out the policy document in liaison with internal and external stakeholders. In the meantime, we are, of course, already implementing the relevant policies.

Conclusion

7. We plan for this work to come to fruition in the first half of 2008. In the meantime, I invite the Board to note the work in hand.

Donald Carmichael
Policy Director

7 December 2007

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BACKGROUND

Legal context

1. There are 6 equality strands or duties embodied in various pieces of legislation dating back to the mid-1970s (race; disability; gender; sexual orientation; age; and religion). The latest relevant legislation is the Equality Act 2006.

2. As well as outlawing discrimination on the grounds of religion/ belief, sexual orientation and gender, the Equality Act introduces a more general public sector duty. This requires public authorities to be outcome-focused and proactive, and specifically to:

- promote understanding of the importance of equality and diversity,
- encourage good practice in relation to equality and diversity,
- promote equality of opportunity,
- promote awareness and understanding of rights under the equality enactments,
- enforce the equality enactments,
- work towards the elimination of unlawful discrimination, and
- work towards the elimination of unlawful harassment.

3. In relation to the 6 duties, public bodies are required to consult, monitor and publish the results of their assessments, activities and consultations. In addition, the Disability Duty requires public bodies to **involve**, not merely consult, disabled people in the development of their disability schemes and ensure that their needs are being adequately considered.

Current public sector trends

4. The general trend is towards amalgamation and mainstreaming of these duties. Thus developing best practice is for the legal and administrative structures surrounding the 6 duties to be brought into line and amalgamated; and for equality to be integrated into all business functions, with all staff required to share responsibility for implementation.

Scottish Government implementation

5. The 6 duties have to be implemented within three years of publication and reviewed at least every three years. As part of Scottish Government (SG), the agency is not, of course, operating in a vacuum. We are covered by the SG Equal Opportunities and Diversity Policy; and within that framework 3 of the duties already have SG codes of practice (race, gender and disability). HS respects these codes and reviews its performance against them annually. The remaining 3 duties (age, sexual orientation, and religion and belief) are covered by the Employment Equality Regulations, which apply to employment and training. The agency also reports against these on an annual cycle.

HS implementation

6. Given our agency status, our delegated HR functions and our wide customer base, we have nonetheless taken the view that it would be prudent to develop our own overarching equalities and diversity policy (which would nonetheless need to dovetail with the overarching SG policy).
7. To develop such a policy and contribute to the SG policy, we must do the following:
 - adhere to an action plan involving both internal and external stakeholders;
 - develop and publish an equality policy;
 - demonstrate through regular reporting to the SG that the policy is in line with requirements and that the agency is meeting the demands of both its internal and external stakeholders;
 - implement the use of Equality Impact Assessments across all new policy and retrospectively when older policy is reviewed.

Proposed HS approach

8. The approach adopted in our draft policy is that the agency and its staff will avoid and challenge discrimination in any context over which it has direct influence, will work proactively to improve the situation in each strand, and will integrate equality considerations into all functions and policies of the agency.
9. We intend that the policy will apply to the way that workers within HS treat each other, the way we treat members of the public who are our customers or who are dealing with the agency in any way, and the ways in which we will protect our staff from discriminatory behaviour while they carry out their duties.

HS performance to-date

10. Our action plan will identify what we need to do to further improve our current performance.
11. Some illustrations of what we already do are:
 - in relation to recruitment, not asking for disclosure of the applicant's gender or age on the form seen by the short-listing panel, but nonetheless monitoring the age, gender, marital status, disability and race/ethnicity of applicants;
 - in relation to buildings and sites, where possible making provisions for physical and intellectual access.
12. Some illustrations of areas in which we will have to improve our performance are:
 - compiling more comprehensive information on the diversity of our workforce, as defined by the 6 duties;
 - assessing precise nature of any intended or unintended discrimination that may be taking place;

- involving internal and external stakeholders more systematically with the development and implementation of our policy (particularly in relation to the Disability Discrimination Act); and
- extending our use of equality impact assessment in relation to new and existing policies and practices.

HS policy development work plan

13. Annex B sets out a timetable of activities for stipulated involvement of the public and employees. The aim is an equality policy that reflects the thoughts, challenges and feedback of agency employees, members of the visiting public, and our target groups. Key features of the workplan are:

- an internal HS Equalities Working Group meeting once every two months;
- an external network to involve target groups proactively in our policy development (utilising the charity “Outside the Box” as a facilitator);
- an internal staff survey;
- a review of best practice;
- a communications strategy;
- diversity training (for example, to ensure that consultation documents are accessible; and that proper use is made of Equalities Impact Assessment); and
- development of associated performance indicators.

Conclusion

14. We envisage 2 workstreams (internal and external consultation) that will feed back in to the production of a final equalities and diversity policy by the middle of 2008. This joint policy development activity is a prerequisite for a robust policy and performance improvement action plan. It is also necessary in order to limit the risk of legal challenge (for example, in respect of the statutory duty to involve target groups in developing our disability arrangements). It should also leave us well placed to assess and report our overall performance realistically and objectively against best practice.

National Policy Team

December 2007

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EQUALITIES AND DIVERSITY POLICY DEVELOPMENT

WORKPLAN

Equality Policy Development	Dec 07	Jan 08	Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08
Complete draft equality policy and present to Board									
Survey agency employees									
Survey general public									
Develop EQIA process									
Develop final equality policy using gathered info and EQIA process									
Deliver completed equality policy									

Actions for Employee Survey	Dec 07	Jan 08	Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08
Agree aims and content of intended survey and agree budget									
Identify and cost suitable consultants									
Apply for budget from finance									
Appoint preferred consultant and objectives of survey									
Data collection by consultants									
Data collation by consultant									
Receive data back from consultants									
Feed into Equality Policy									

Actions for External Consultation	Dec 07	Jan 08	Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08
Contact Anne Connor as chair of Outside the Box									
Meet to discuss requirements									
Develop comms plan for agency and OTB									
Gather information									
Analyse gathered information									
Use information to inform Equality Policy									

Actions for EQIA roll out	Dec 07	Jan 08	Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08
Attend EQIA Q &A									
Meet other SG agencies doing EQIAs									
Apply EQIA to development of Equality Policy									
Nominate EQIA representative from each group									
Representatives to attend training	?	?	?	?	?	?	?	?	?
Upload equality policy EQIA onto the SG database									

Project Milestones	
Complete draft equality policy and present to Board	December 07
Receive employee survey results	June 08
Receive public survey results	May 08
Upload completed Equality Policy EQIA	August 08
Deliver completed Equality Policy	August 08

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EQUALITIES AND DIVERSITY POLICY DEVELOPMENT

DRAFT EQUALITY AND DIVERSITY POLICY

Equal Opportunities and Diversity

1. This document sets out Historic Scotland's policy in relation to equality and diversity. It is designed to be an operational policy. As such, it signals what behaviours are expected but also goes beyond such general observations and establishes an action plan, the purpose of which is to ensure that our systems, structures and business plans actively support the encouragement and development of best practice and appropriate behaviours.

[Action plan not yet drafted]

Our general approach

2. Everyone employed by HS or dealing with the agency in any way should be treated with dignity, fairness, equality, respect and autonomy. One size does not fit all: we all have different needs because of our gender, culture, religion, race, sexuality, age and a range of other factors. Services should to be delivered in a way that takes account of these needs.

3. A diverse workforce should reflect the diversity of Scotland's population and will allow the agency to make better policy, through recognising and meeting the population's diverse needs and expectations.

4. Some key benefits of a diverse workforce are:

- a wide range of skills, fresh ideas and different perspectives;
- an organisational culture that is welcoming and supportive to a wide range of internal and external stakeholders;
- an organisational culture that will facilitate policies, practices and products to meet the diverse expectations of a diverse population;
- an organisational culture that will attract applications from a wider population base; and
- reduced staff turnover, increased staff morale, a better employer image, and loyalty and commitment from staff.

5. Some key benefits of extending the equality and diversity policy as our normative behaviour (even where not a legal requirement) are:

- being seen to lead and observe best practice;
- being seen as consistent; and
- simplicity in training our staff to deal in exactly the same way with everyone, inside and outside the agency.

Our specific policies

6. Our equality and diversity policy actually embraces 6 different strands or duties introduced by a variety of legislation dating back to the 1970s. The most recent legislation (the Equality Act 2006) also introduces a general duty. These duties are addressed individually below.

Discrimination in general

7. Discrimination can be practised by the agency, by managers, by employees and by members of the public on our employees. Discrimination may be:

- direct - treating people differently because of some actual or presumed characteristic, such as race, religion, age, or gender; or
- indirect - when a provision, criterion or practice is put in place that has the effect of disadvantaging a group, either inadvertently or deliberately.

8. To eradicate all types of discrimination the Historic Scotland policy on equal opportunities and diversity is that:

Historic Scotland will treat all staff, customers and people dealing with the agency even-handedly and with respect, irrespective of their gender, marital/civil partnership status, age, race, ethnic origin, sexual orientation, gender identity, disability, religion or belief, working pattern and employment status. We also believe that people should not be treated inappropriately because of their physical appearance.

Historic Scotland will also increase the diversity of staff within the organisation. The agency will develop all staff, ignoring all irrelevant differences in an employee's management and development. Furthermore, we will positively value the different perspectives and skills of all staff and make full use of these in our work.

Disability

9. The Disability Discrimination Act 2005 states that a disabled person is someone with 'a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities'. If someone has a physical or mental impairment, they have specific rights that protect them against discrimination. Employers and service providers are obliged to make reasonable adjustments for their employees within the bounds of practicality.

Historic Scotland will provide equality of opportunity for all its employees and applicants for jobs in the agency; and will make provision for the physical and intellectual access to its products and its properties in care, the latter within the wider context provided by the Scottish Historic Environment Policy on Properties in Care.

Race/ Ethnicity

10. Wherever a person is born, wherever their parents come from, whatever the colour of their skin, they have a right to be treated fairly. It is unlawful for a person to discriminate on racial grounds against another person. The Race Relations legislation protects people from

racial discrimination; it defines racial grounds as including race, colour, nationality or ethnic or national origins.

Historic Scotland will employ people irrespective of their racial origin; will work to encourage people from a wide range of backgrounds to enjoy Scotland's historic environment, and in particular to visit the Properties in Care; will not discriminate against any customer or anyone else dealing with the agency on the basis of their race or ethnicity; and will challenge discriminatory behaviour shown by any member of staff, or shown to its staff by any member of the public.

Gender

11. Equal opportunities laws aim to create a 'level playing field', so that people are employed, paid, trained and promoted only because of their skills, abilities and how they do their job. Under the Sex Discrimination legislation, it is unlawful for an employer to discriminate against an employee because of their sex or because their marital status. It is also unlawful to discriminate against employees because they have had, are having or intend to have, gender reassignment.

Historic Scotland will employ people regardless of their gender or marital status; deal sensitively with employees undergoing or who have undergone gender reassignment; provide flexible working arrangements to allow, wherever possible, parents, carers and other individuals to work the hours and in a pattern that fit their needs; not discriminate against any customer or anyone else dealing with the agency on the basis of their gender; and challenge discriminatory behaviour shown by any member of staff, or shown to its staff by any member of the public.

Sexual Orientation

12. Whether a person is gay, lesbian, bisexual or straight should not put them at a disadvantage. Unlawful sexual orientation discrimination happens when someone is treated less favourably due to their sexual orientation, their perceived sexual orientation, or the sexual orientation of those with whom they associate.

Historic Scotland will employ people regardless of their sexual orientation; will not discriminate against any customer or anyone else dealing with the agency on the basis of their sexual orientation; and will challenge discriminatory behaviour shown by any member of staff, or shown to its staff by any member of the public.

Age

13. It is unlawful to discriminate against an individual on grounds of age. Unlawful age discrimination happens when someone is treated unfavourably because of their age, without justification, or is harassed or victimised because of their age.

Historic Scotland will commit to equality of opportunity for its entire staff, whatever their age; will work to end any form of discrimination on age grounds and to ensure that the contribution of every single individual is valued for what it can bring to the organisation; will not discriminate against any customer or anyone else dealing with

the agency on the basis of their age; and will challenge discriminatory behaviour shown by any member of staff, or shown to its staff by any member of the public.

Religion and Belief

14. Religion or belief should not interfere with the right of the individual to be treated fairly at work or at leisure. An individual has the legal right to hold their own religious beliefs or other philosophical beliefs similar to a religion. They also have the right to have no religion or belief. Regulations cover discrimination on the grounds of "religion, religious belief or similar philosophical belief". They cover discrimination on the grounds of perceived, as well as actual, religion or belief, that is, assuming that someone has a particular religion or belief. The regulations also cover association, that is, if a person discriminated against because of the religion or belief of someone with whom they associate (whether friends, colleagues or family members).

15. The agency believes that the individual is entitled to practise their religion or belief, express their views and get on with the day-to-day life without experiencing threats, pressure, fear or discrimination.

Historic Scotland will employ people regardless of their religion, belief or lack of belief; will not discriminate against any customer or anyone else dealing with the agency on the basis of their religion, beliefs or lack of beliefs, whether actual or perceived; and will challenge discriminatory behaviour shown by any member of staff, or shown to its staff by any member of the public.

Assertion of rights and victimisation

16. Historic Scotland recognises that individuals should to feel free to assert the above mentioned rights without fear, where they feel that the agency may have failed to exhibit the relevant duties. Failure to do so would constitute victimisation, which is any action against a person because they have asserted their rights under the law or supported another person in doing so.

Historic Scotland will ensure that staff are not victimised; take action against any person who victimises or harasses someone asserting their rights or supporting another person; and will offer appropriate support to those asserting their rights.

Conclusion

17. These duties and policies apply to the Agency as an organisation and to its employees. Turning this policy into practice requires recognition that it is a shared responsibility for all staff rather than a specialist function for "equalities experts". For that reason, the associated action plan [to follow] makes it clear that these responsibilities must be demonstrated in our behaviours and integrated into our policy development, our working practices and our corporate and individual business planning.