

POLICY NOTE

THE EQUALITY ACT 2010 (SPECIFICATION OF PUBLIC AUTHORITIES) (SCOTLAND) ORDER 2015

S.S.I. 2015/83

1. The above instrument is proposed to be made in exercise of the powers conferred by section 151(3) of the Equality Act 2010 (“the 2010 Act”). The instrument is subject to the affirmative resolution procedure.

Policy Objectives

2. The public sector equality duty in section 149(1) of the 2010 Act requires public authorities to have due regard, when exercising their functions, to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3. Those bodies and office holders subject to specific duties, which enable better performance of the equality duty, are listed in Part 3 of Schedule 19 to the 2010 Act.

4. The draft Order proposes to add the following public authorities to Schedule 19 to the 2010 Act to make them subject to the public sector equality duty.

(i) Historic Environment Scotland

The Historic Environment Scotland Act 2014 provides for the establishment of a new Non Departmental Public Body, Historic Environment Scotland. This body will replace the Royal Commission on the Ancient and Historical Monuments of Scotland (a public body established by Royal Warrant) and Historic Scotland (an Executive Agency within the Scottish Government).

The 2014 Act gives Historic Environment Scotland the general function of investigating, caring for and promoting Scotland’s historic environment. To this end, it transfers to the new body responsibilities currently undertaken under the Royal Warrant and also a range of duties previously undertaken by the Scottish Ministers under other legislation, principally the Ancient Monuments and Archaeological Areas Act 1979 and the Planning (Listed Buildings and Conservation Areas)(Scotland) Act 1997. The 2014 Act also provides for certain continuing Ministerial functions in relation to properties and collections to be delegated (but not transferred) to the new body.

(ii) An integration joint board

The Public Bodies (Joint Working) (Scotland) Act 2014 provides arrangements for integrating adult health and social care, in order to improve

outcomes for patients, service users, carers and their families. Health Boards and local authorities will be required to enter into joint working arrangements in respect of certain of their statutory functions relating to health and social care services. Section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 Act provides for the establishment of integration joint boards to which Health Boards and local authorities may delegate functions for the purpose of these joint working arrangements.

(iii) A regional board

Among other things, the Post-16 Education (Scotland) Act 2013 amended the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”) to establish regional strategic bodies. There are currently three regional strategic bodies – the Regional Board for Glasgow Colleges, New College Lanarkshire and the University of the Highlands and Islands. The functions of a regional strategic body include funding and planning college provision in regions with more than one college of further education.

Schedule 2A to the 2005 Act establishes two types of regional strategic body: “regional boards” which are a type of regional strategic body that is a stand-alone organisation listed in Part 1; and “other regional strategic bodies” which are publicly funded colleges or universities listed in Part 2. Provision is already made in Schedule 19 to the 2010 Act for the regional strategic bodies that are listed in Part 2 of Schedule 2A to the 2005 Act. Regional boards are not covered by the existing provisions in Schedule 19 and it is therefore necessary to insert a reference to a regional board into that Schedule. The effect of this is to make the Regional Board for Glasgow Colleges a body listed in Schedule 19. If any new regional boards are created in the future, they will also be covered by Schedule 19.

Consultation and Consent

5. In accordance with the requirement at section 152(3)(a) of the 2010 Act, Scottish Ministers received the consent of a Minister of the Crown before making this Order.

6. In keeping with provisions at section 152(3)(b) of the 2010 Act, the Equality and Human Rights Commission was consulted on the draft Order and are content with the proposals.

Impact Assessments

7. There are no equality impact issues

Financial Effects

8. The Cabinet Secretary for Social Justice, Communities and Pensioners' Rights confirms that no BRIA is necessary, as the instrument has no financial effects on the Scottish Government, local government or business.

Scottish Government
6th January 2015