

## **EQUALITY DUTY: DETAILED PROPOSALS**

### ***CONSULTATION ON PUBLIC SECTOR EQUALITY DUTY DRAFT REGULATIONS AND ORDER***

#### **RESPONSE PROFORMA**

The response proforma has 2 parts – a respondent information form and the list of consultation questions. **Both** should be completed.

The final date for responses is **26 November 2010**.

## Response Proforma – Respondent Information Form



Please Note That This Form **Must** Be Returned With Your Response To Ensure That We Handle Your Response Appropriately

### 1. Name/Organisation

Organisation Name

Children in Scotland

Title Mr  Ms  Mrs  Miss  Dr  *Please tick as*

Surname

Allen

Forename

Katrina

### 2. Postal Address

Children in Scotland

Princes House

5 Shandwick Place

Edinburgh

PostcodeEH2 4RG

Phone 0131

Email

### 3. Permissions

I am responding as...

Individual

*Please tick as appropriate*

Group/Organisation

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

yes  no

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Yes, make my response, name and address all available

Yes, make my response available, but not my name and address

Yes, make my response and name available, but not my address

(c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

**Please tick as appropriate**

yes  no

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

**Please tick as appropriate**      yes  no

## Response Proforma – Consultation Questions

### *Coverage of the General Duty*

#### **Question 1**

Do you agree with the proposed list of Scottish public authorities (pages 16-17 of the consultation document) to be added to schedule 19 of the Equality Act 2010 and made subject to the **general duty** for all of their functions? If not, please tell us why you disagree and provide your suggestions for changes.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

### *Coverage of the Specific Duties*

#### **Question 2**

Do you agree with the proposed list of Scottish public authorities (pages 19-21 of the consultation document) to be covered by the **specific duties**? If not, please tell us why you disagree and provide your suggestions for changes.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

Agree with those listed. Due to its distinct and important role, would also expect the **Scottish Prison Service** to produce its own discrete equality outcomes and reports (as the agency has previously chosen to do in relation to its Gender Equality scheme). This may be included in Scottish Government reporting, or remain separate – the key point is that Scottish Prison Service outcomes and reports should be easily identifiable and able to be distinguished from those of other Scottish Government Directorates and agencies in relation to service delivery aspects of the duty.

### *Content of Specific Duties*

**Question 3**

Do you agree that a public authority should be required to publish equality outcomes which are informed by evidence, informed by the involvement of equality groups and communities, and informed by how the outcomes will assist the authority to meet the general duty? If you do not agree, please let us know why.

YES     NO     DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

Outcomes can take many forms, and it should be a requirement that these cover **all characteristics**. Otherwise, it is highly likely that public authorities will focus on those characteristics which are easiest to address, resulting in an effective hierarchy of equalities and making it difficult to hold public authorities to account.

**Questions 4**

Do you agree that a public authority should be required to report on progress towards its equality outcomes no later than 2 years after the outcomes are published and at subsequent intervals of no more than 2 years?

YES     NO     DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

**Question 5**

Do you agree that a public authority should be required to review its equality outcomes no later than 4 years after the outcomes are published and at subsequent intervals of no more than 4 years?

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

**Question 6**

Do you agree with the proposed duty that an authority must report on action taken to 'mainstream' equality, across all protected characteristics, into day to day systems and practices? If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

Mainstreaming equality across all policies, practices and systems should be the ultimate goal and it is important that – as currently proposed – reporting encompasses **all** of the characteristics covered by the Equality Act.

**Question 7**

Please tell us your views on how we can build appropriate proportionality into the requirements around mainstreaming.

Providing good, national level guidelines and support to public authorities, including creating mechanisms for the timely sharing of good practice nationally would aid the process.

**Question 8**

Do you agree that the first report on progress on the action taken to 'mainstream' equality should be in April 2012, with subsequent reports no later than every 2 years? If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

**Question 9**

Do you agree that a public authority should be required to consider the impact on equality of new policies and practices, including changes or redesign of policies, practices, services and provision; to use evidence to inform its impact assessment; and have regard to the outcome of assessment? If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

However, the general duty requires that inequalities resulting from existing policies and practices be identified and addressed – some formal mechanism (short of judicial review) would be desirable to achieve this, particularly for the newly protected characteristics.

In the interests of accountability and transparency, public authorities should be required to publish their methodology – without this, any 'evidence' relied upon is meaningless.

### **Question 10**

Please tell us your views on how we can build appropriate proportionality into the requirements around impact assessment.

Providing good, national level guidelines and support to public authorities, including creating mechanisms for the timely sharing of good practice nationally would aid the process.

### **Question 11**

Do you agree that a public authority with 150 or more full time staff should report on employment data starting from April 2012 and no later than every 2 years? Employment data are – the minority ethnic employment rate, the disability employment rate, the employment rates for women and men and the gender pay gap? If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

**Question 12**

Do you agree that a public authority with 150 or more full time staff should be required to publish an equal pay statement in April 2012 containing information on equal pay policy within the organisation and occupational segregation within the organisation and should report on the statement no later than every 4 years? If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

**Question 13**

Do you agree that Scottish Ministers should determine national equality priorities? If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

The timing of reporting proposed in the current draft suggests that Scottish Ministers will not so much be “determining” national priorities as providing a national overview of local and sectoral priorities and, perhaps, monitoring national progress over time – both important functions in their own right. Establishing a more locally driven agenda could be a positive move but it will be important to clarify exactly what the role of Ministers will be – perhaps through re-wording of this section.

Currently, it is unclear what the purpose of publishing national equality priorities 2 months after public authorities have published their outcomes is, and crucially, what type of action this would be likely to result in. This also raises questions of accountability for national priorities.

#### **Question 14**

Do you agree that Scottish Ministers should publish their national equality priorities in June 2012 and report on them after no later than December 2014? Subsequent priorities would then be set in June 2016 with a report in December 2018 and at 4 year intervals thereafter. If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

Agree that if Scottish Ministers are setting national priorities it is appropriate that these should be set and reported on in the same Parliamentary term.

However, see reservations under Q 13 above on the timing and clarification of responsibilities in relation to public authority reporting.

**Question 15**

Do you agree that a public authority should report on progress on the specific duties within its existing public performance reporting systems, and should be required to state in advance where it will report and its intended timescale? If you do not agree, please let us know why.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

**Question 16**

Do you agree that a public authority should be required to state in advance where it will publish its equality outcomes? If you do not agree, please let us know why

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

**Question 17**

Do you agree that the proposed regulations for the specific duties set out a flexible, proportionate and outcome based approach? If you do not agree, please let us know why and tell us what changes you would make.

YES       NO       DON'T KNOW

*Please provide any additional comments. For example, why you agree or disagree, or your suggestions for changes.*

However, the emphasis placed on proportionality is reliant on public authorities using the flexibility granted productively to focus on equality outcomes. This will require significant cultural change, which will need strong national-level support to be effective.

In addition to the points raised above in response to Questions 3 & 9, the value of the proposed link to public performance reporting mechanisms – which we would welcome – is undermined by the stated intention not to place additional duties on scrutiny bodies in relation to equality.

**Question 18**

Do you have any other comments on the proposed regulations?

**Question 19**

Do you have any evidence or data that would help us to develop our draft Business and Regulatory Impact Assessment?