

ANALYSIS OF CONSULTATION RESPONSES FOR THE DRAFT EQUALITY STATEMENT AND GOOD PRACTICE GUIDE

Introduction

Ten responses were received in all. One (from a solicitors' organisation) merely noted the draft Equality Statement and Good Practice Guide, and offered no comments. Two others from organisations representing protected characteristics did not arrive in the form of a completed questionnaire. One consisted of comments with page and paragraph references, and the other comprised tracked changes and comments. Both were based on an earlier version of the draft Equality Statement and Good Practice Guide. They contained many redundant comments as further changes had been made to the draft Equality Statement and Good Practice Guide before it was finalised and issued for consultation, and so both these responses have been excluded from this analysis.

There were, in total, seven completed questionnaires. Of these, four were from SCS Sheriffdom Business Teams; one was from an individual, one from a public sector organisation and one from an organisation representing a protected characteristic. Hereunder, numbers in brackets indicate response numbers.

Section A: Questions 1 to 4 on the SCS approach

The broad thrust of the questionnaire responses was positive, with all seven preferring the integrated approach selected by the SCS in the draft document. The support of four of the seven was unqualified. Perceived strengths of this approach included:

- It is an effective way of tying an organisation's equality objectives to the single public duty (#9)
- It is more accessible/handy reference guide (#1, #4, #6)
- It is easier to read (#1, #4)
- It is more understandable (#2, #9)
- It highlights SCS's commitment to promote equal treatment and eliminate discrimination (#4, #9, #11)
- Most people belong to more than one protected characteristic anyway (#6)
- It removes unnecessary repetition of information in several documents (#9)
- It helps to tackle issues of multiple discrimination (#9)
- It raises the profile of 'newer' protected characteristics (#9)

Perceived weaknesses were suggested by the other three respondents, although these did not seem to outweigh the strengths for any of them:

- Separate documents could cause segmentation amongst staff's views of court users with protected characteristics and this could in turn encourage bias or prejudice towards some groups (#2)
- It is long and complicated which does not make it a helpful quick reference guide (#4)
- It will be more difficult to update when legislation changes (#4)
- It is quite repetitive for each protected characteristic (#4)
- Some protected characteristics could be overlooked in favour of more media focussed characteristics such as race and disability (#11)

All seven respondents believed that the SCS approach captured the spirit of the Equality Act as well as the letter of the law. The only substantive supplementary comment concurred:

- The policy encourages people to be proactive in challenging discriminatory behaviour and actively promoting an inclusive society (#4)

When asked whether they thought that the proportionality between protected characteristics was about right in the draft Equality Statement and Good Practice Guide, four respondents (#1, #6, #7 & #9) thought it was about right, one (#4) thought it was too biased towards some protected characteristics and the other two (#2 & #11) thought it was not detailed enough about some protected characteristics.

Further comments included:

- Would it be helpful if slightly more explanation was given in the Age section? E.g. older jurors can now be accommodated if they wish to serve, and the SCS does not require employees to retire due to age (#2)
- Should blind people be mentioned specifically, as some might want to serve on a jury? (#2)
- There is an emphasis on some protected characteristics. Some may need a fuller explanation as they are not perhaps as well known, but naming conditions like schizophrenia may be too specific when most of the rest tends towards generalities (#4)
- Keeping separate strategies for the different equality strands plus 'generic' sections that apply to all protected characteristics is an appropriate way to structure an equality scheme. Sections with more content than others reflect that some protected characteristics need more space to explain the issues of what constitutes discrimination under these characteristics, but the key points are given equal prominence which shows that each protected characteristics is considered equal. (#9)
- In Appendix 1 it is not clear if this is the Good Practice Guide or a glossary explaining the various protected characteristics (#11)
- The descriptions under each of the protected characteristics are varied. For example there is a broad definition of disability but no action about the actions SCS will take to meet the statement "we will not

discriminate...” Under the heading Pregnancy there is a description of the specific characteristics but also information about actions SCS will take. Perhaps give some consistency to this appendix and/or signpost good practice for all the protected characteristics. (#11)

Section B: Question 5 on reporting on equality issues

Six of the seven respondents believed that equalities should be mainstreamed into corporate reports. Supplementary comments included:

- This ensures that equality and inclusion is considered at all levels of the organisation and helps everyone to understand why equality is essential (#9)
- I agree in the main, though there may be some specific projects or work of particular interest that merits their own report (#11)

The seventh respondent (#6) was ambivalent, and commented that it could mean equalities information is overlooked and/or lost among other information published and not necessarily where people would expect to find it.

Section C: Questions 6 & 7 on the content of the draft Statement and Guide

For the purposes of analysis it is easier to group both questions together.

Three respondents (#1, #2 & #6) said there was not anything in the content that would concern them. The others offered quite a large number of detailed comments on the content. These comments are listed in an appendix.

Four respondents (#1, #6, #7 & #9) did not think anything needed to be expressed more clearly. Three of the others (#2, #4 & #11) offered detailed comments, also listed in the appendix. One of these (#4) asked how aspects of the statement would be operationalised, e.g. would there be a corporate review of local managers' Equalities Impact Assessments, how would training be rolled out and how would the management of a grievance fit into the process if there is a disability issue.

Overall conclusions

The majority of the questionnaire responses were positive. There was a strong message that the integrated approach was the right one and that it captured the spirit of the Equality Act as well as the letter of the law. There was least agreement about whether treatment of individual protected characteristics was sufficiently proportionate, though a slight majority thought that overall it was proportionate. All but one questionnaire respondent thought that equalities should be mainstreamed into corporate reports.

Most of the detailed comments offered were positive. A couple of respondents were slightly concerned at the wording and emphasis of parts of the Appendix, though they were commenting on an earlier version of the draft Statement and Guide.

APPENDIX: DETAILED COMMENTS ON QUESTIONS 6 AND 7, BY RESPONDENT

Question 6

Response 4

Although in general I find the wording appropriate and clear I would draw the following to the attention of the writer:

Page 13 reference to 'Down's' - should this be "Down's Syndrome"?

Page 14 wording in the second paragraph as "better treatment" - perhaps this should be amended to more favourable treatment?

Page 15 first paragraph - what is the definition of "new mother"?

Page 17 the use of the word "straight" - I would have thought this should be referred to throughout as "heterosexual", especially in the first bullet point of the second list where it is the only word used to describe heterosexual.

Page 17 the section in relation to age - in terms of the Criminal Procedure (Scotland) Act 1995 children under 14 are not normally allowed in a courtroom unless they are giving evidence or have the court's prior approval. This is the practice and is clearly correct however it would appear that this is inconsistent with the statement in the draft guidance.

Response 7

General Comments:

Page 10, Equalities Impact Assessments – with managers undertaking these assessments locally, will any review take place corporately in case errors are made unwittingly? How often will the process be reviewed and by whom?

Training of staff – how will the roll out of training for staff happen continuously?

Page 11, Resolving complaints and conflicts – not clear how the management of a grievance will fit into the process in terms of a disability issue.

Response 9

Nothing is of concern; the language is very clear and concise and will facilitate understanding of the document. It is good practice to treat gender reassignment as a protected characteristic; it might be considered to amend the explanation on page 14 that sex discrimination includes people who consider themselves transgender or who have transitioned, i.e. to read: "We will not discriminate against men (including transmen) or women (including

transwomen). Transgender equality issues are further explained in the gender reassignment section of the equality statement and good practice guide."

The level of detail in the appendices is very good practice, as is the subsection on marriage and civil partnership.

Response 11

Further to my response to Q4 - it may be of some benefit to give examples of the actions SCS will take to meet its statements "not to discriminate".

Question 7

Response 2

It is complicated and probably can't be helped in regard to indirect discrimination and at times I fear almost a lawyer may be needed to interpret it for staff including myself!!

Response 4

Page 19 - bullet list would make more sense if it were ordered direct, indirect, combined.

Page 19 last paragraph - the final sentence is far too long, with no punctuation, and definitely could be expressed more clearly. Despite reading it several times I am unsure about its meaning.

Page 20 third paragraph - the words "in maternity" seem wrong. Should it read "on maternity leave"?

Page 28 the sentence which begins "A person does not have to have a particular protected characteristic" - this sentence would appear to contradict itself. One would assume that the Act either protects someone from victimisation if they don't have the protected characteristic or it doesn't. In any event perhaps this could be explained more clearly.

Response 6

No, it is very clearly written and accessible. Seems to have about the right amount of detail.

Response 9

No. Although single equality schemes cover complex issues of discrimination and have to strike the balance between being accessible and being adequately detailed. This document does that very well.

Response 11

I would find it helpful to have the Good Practice section of the document more clearly signposted. The separate action plan which is available on the website is interesting and it is helpful to note the actions which SCS intend to take and the expected outcomes - but is not included in this consultation. It may be useful to seek feedback on the proposed actions as part of a consultation exercise. Perhaps this is proposed for a future date?