

Scottish Women's Aid response to the Scottish Government consultation on the Public Sector Equality Duty (PSED), April 2022

Scottish Women's Aid (SWA) is the lead organisation in Scotland working to end domestic abuse and plays a vital role in campaigning and lobbying for effective responses to domestic abuse. We provide advice, information, training and publications to our 34 member groups and to a wide variety of stakeholders. Our members are local Women's Aid groups, which provide specialist services, including refuge accommodation, information and support to women, children and young people.

SWA reiterates our support for the joint response to the consultation by equalities stakeholders. For the revision of the Scottish Specific Public Sector Equality Duties to effectively overcome the shortcomings of the current duties, the Scottish Government should closely collaborate with equality stakeholders in the revision process and in drafting revised regulations.

SWA is concerned that the proposed reforms will be insufficient to deliver the change that is required to make the PSEDs effective because the Scottish Government is relying on non-statutory measures and minimal legislative changes. The reforms to the PSEDs needs to result in positive changes to the lives of people in Scotland who experience discrimination and marginalisation due to one or more protected characteristics. We are concerned that the scope of the reforms proposed risks resulting in making compliance with the duties easier for public authorities while not delivering real change for affected people.

Equality Impact Assessments

The goal of undertaking equality impact assessments should be for the results of the assessment to inform the contents of the policy or programme in a way that leads to tangible improvements in the lives of the most marginalised. The PSED regulations require that "the impact of applying a proposed new or revised policy that must be assessed. This means the assessment process must happen before a policy is decided. The assessment cannot be retrospective, or undertaken near the end of the process, but should instead be integral to the earliest stages of the development of proposed policies or practices, and in the revision of existing policies or practices".¹ However, this does not happen consistently or effectively.

For example, despite the Scottish Government's commitment to "Apply a gendered analysis to our actions, ensuring the homelessness system meets the needs of diverse groups of women",² the recent consultation on proposed prevention of homelessness duties contained little gender analysis and no EQIA had been prepared to inform the content of the proposals. Asking consultees two or three questions in a 100+ question consultation about the impact of proposals on people from marginalised groups is insufficient and does not

¹ <https://www.equalityhumanrights.com/sites/default/files/assessing-impact-public-sector-equality-duty-scotland.pdf>

² <https://www.gov.scot/publications/ending-homelessness-together-updated-action-plan-october-2020/documents/>

negate the need for a full EQIA to be done early in the process and then revised as the policy or proposals are developed. In addition, previous women's sector analysis of EQIAs relating to housing policy found that "If completed in the first place, EQIAs routinely fail to identify the most basic and readily accessible information regarding gender equality and the subject in question and/or are undertaken post-hoc or in parallel to the policy design".³

Reforms to the process must ensure that EQIAs are not formulaic nor tokenistic, done ineffectively at a late stage to meet a bureaucratic requirement. Instead the reforms should address the current problems and embed EQIAs as an integral element (with appropriate accountability) in the process of policy development, which in practice functions as an effective tool to assist public bodies to develop policies which result in real improvements in the lives of those with protected characteristics. Officials in public sector bodies should be held responsible through robust accountability structures, transparent monitoring, and public reporting.

Data collection

Equality sector organisations have consistently raised the lack of adequate data on the effectiveness of EQIAs and equality mainstreaming and the urgent need to address this. Without this essential evidence, the Scottish Government is less able to make effective policy proposals and it makes responding to the consultation more difficult for stakeholders. Research on this should be undertaken following this consultation so it can inform the next part of the process.

We welcome the discussion in the consultation on intersectionality and intersectional data disaggregation. The availability of good quality data disaggregated by relevant combinations of protected characteristics is important in better understanding how policies and practices affect groups who experience intersectional discrimination and to enable those policies and practices to better address the disparities. The current processes for collecting and disaggregating data have serious problems and it is important to ensure that additional duties relating to intersectional data do not replicate the existing problems. Many public bodies do not gather data on all protected characteristics. For use of intersectional data to be effective, it will be important for there to be accountability for failures to collect the required information.

Accountability

Good intentions and willingness are the essential first steps with anything; however, without effective monitoring and accountability processes, they are insufficient to produce the lasting change that is needed. Experience of the current PSEDs – inconsistent implementation and some non-compliances – suggests that monitoring and accountability needs to be enhanced, including via legislation, in order for public bodies to meet their legal obligations under the Equality Act, 2010.

³ Engender, A Women's Place: Gender, Housing and Homelessness in Scotland, 2020, <https://www.engender.org.uk/content/publications/A-WOMANS-PLACE---GENDER-HOUSING-AND-HOMELESSNESS-IN-SCOTLAND.pdf>