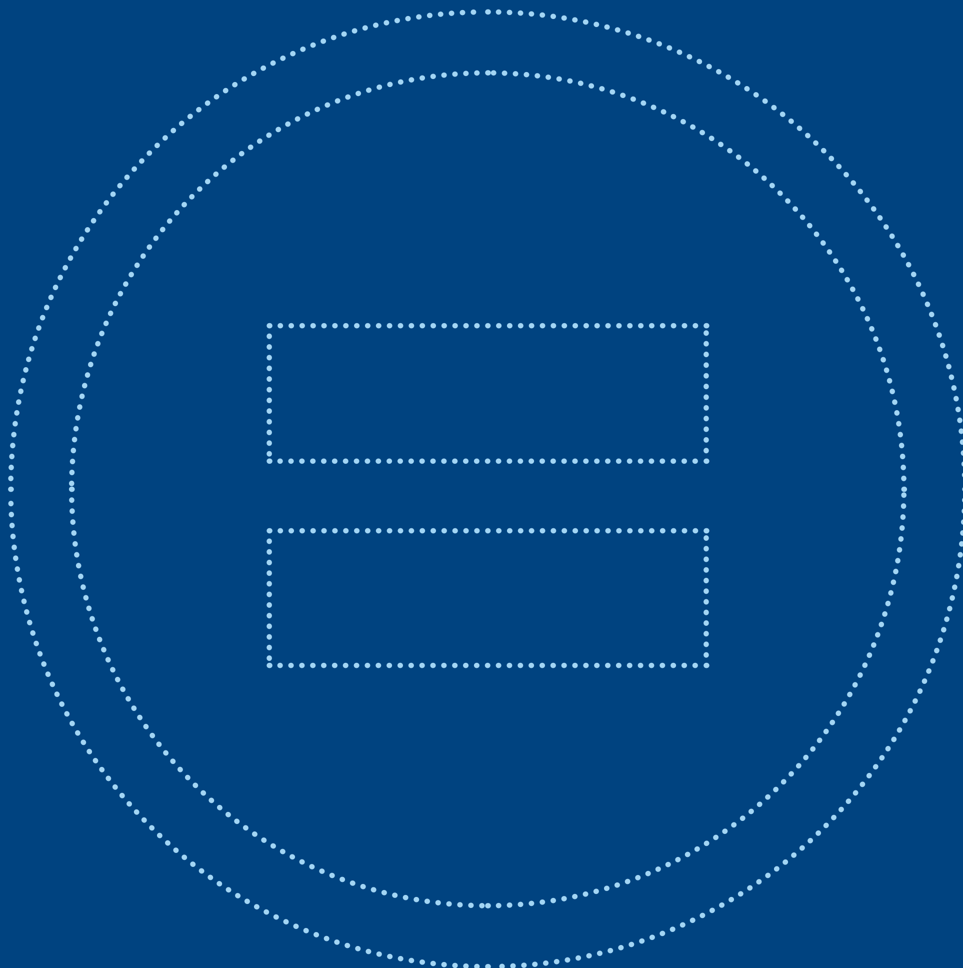
NHS Lothian

NHS Lothian Equality and Human Rights Strategy 2023–2028

Healthy and better lives for everyone



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We want as many people as possible to read and help contribute to achieving our strategy. If you need a copy in an alternative format or language please contact our switchboard on 0131 242 1000 or email us:

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Equality and human rights

We want to improve the health of **everyone** in Lothian so that:

- **Everyone** lives a longer, healthier life, with better outcomes from our care and treatment.
- **Everyone** has access to health and social care services that are connected seamlessly, wrapping around them in their home or homely setting.
- **Everyone** experiences better support and care as we improve our performance across our system, including people who work for and with us.

This strategy will support us to put equality and human rights at the centre of everything we do so that we achieve these aims and meet our legal requirements about equality and human rights over the next five years.

What does equality and human rights mean to us

Equality is about making sure that everyone has an equal opportunity to make the most of their lives and talents and no one should have poorer life chances because of where or who they were born or because of other characteristics.

There are some differences between us, our backgrounds, cultures, beliefs and needs and we need to understand and respect each other to live together with dignity. We know from our Director of Public Health Annual Report that our population is growing and is more diverse. However, we have more in common with each other than not.

Equality and human rights are for us all, regardless of age, race, sex, nationality, ethnicity, language, religion, or any other status.

As explained in the Universal Declaration of Human Rights, all human beings are born free and equal in dignity and rights without distinction of any kind. Human rights may be most important for the most vulnerable, the poorest and the most underprivileged people in our communities. We are each entitled to respect for our human rights, and we should also respect the human rights of others.

There are different types of human rights, some are absolute and can never be breached by governments or public bodies. For example, the right to life or to not be tortured. Other rights are qualified, which means they can be restricted when it is lawful and legitimate to do so. For example, when there is a need to protect public health or other people's human rights. Any restriction or interference must also be proportionate, which means the action will be appropriate and no more than necessary.

The COVID-19 pandemic brought to the fore the inequalities that exist in our communities and showed how the negative impact of things that affect everyone can be more severely experienced by some groups of people compared to others. The lives of too many people are restricted and cut short because they are not able to live healthy and active lives, they experience disadvantage and discrimination, and their human rights are not respected. We want to help change this.

How we developed this strategy

Our equality and human rights strategy supports our organisational strategy (the Lothian Strategic Development Framework) and our 5-year plans for scheduled care, children's services, unscheduled care, primary care and mental health.

It also supports the Scottish Government's National Outcomes for everyone in Scotland including:

- We are healthy and active
- We respect, protect, and fulfil human rights and live free from discrimination
- We tackle poverty by sharing opportunities, wealth and power more equally
- We grow up loved, safe and respected so that we realise our full potential.

This strategy was developed collaboratively, following our Public Engagement Framework.

We reviewed our current equality and human rights work, including our:

- Corporate objectives and equality outcomes
- Approach to impact assessments
- Equality staff networks
- Workforce Advancing Equality Action Plan.

We listened to the lived experiences and views of people who work for us, use our services and represent equality groups and communities[1].

We considered research findings, data and reports relevant to health and employment needs and inequalities, inquiries and investigations into equality and human rights issues in the health sector, and inspections of NHS Lothian services.

Our evidence paper includes the main sources of evidence, the groups of people who engaged with this strategy and the results of our equality impact assessment.

1. This strategy uses the term 'equality groups' to mean people who share a relevant protected characteristic and where reference is made to 'equality groups and communities' this includes anyone who represents the interests of those people.

How we will deliver this strategy

This strategy is a long-term commitment to advancing equality and promoting human rights. Making this happen will require collaboration and effort from everyone in the organisation. We are experiencing significant staffing and financial challenges. However, if we don't act now, the disadvantages people face risk becoming further entrenched for generations to come.

The details of how we will achieve this strategy are set out in all the workplans across the organisation including:

- An overarching equality and human rights workplan
- Individual service and directorate workplans
- Workplans related to the Lothian Strategic Development Framework.

The Equality and Human Rights Team will support our staff and teams to:

- Ensure their strategic plans align with this strategy and they meet our legal equality and human rights obligations.
- Provide accessible equality evidence, information, and resources.
- Improve access to information, opportunities, and services.
- Build and maintain partnerships with staff and communities and the organisations representing them.
- Lead and coordinate outcome focused programmes of work across the whole organisation to achieve greater equality and protect human rights.

We will measure and report on our progress using existing performance and reporting systems. We will involve staff, patient, and equality groups to understand what we are doing well, and what we have to do. We will continue to engage with staff and the public to involve them in decisions about the actions we take and to understand the difference we are making to people's lives. Wherever possible we will apply shared decision-making approaches and partnership working to deliver these priorities.

We have identified six strategic priorities. Some focus on improving outcomes for specific groups and communities who experience disadvantage and discrimination. Some focus on improving internal processes, support and resources.

Each priority will help us understand and act on the experiences and needs of everyone who works for us and uses our services. The law and our policies and procedures apply to everyone equally, and everyone has more than one protected characteristic. Some of our priorities focus on specific groups, within

these groups there are people who may experience more than one kind of discrimination or disadvantage because they share more than one protected characteristic. This is recognised in our priorities and how we will deliver them for everyone including care experienced people, refugees and asylum seekers.

Our six strategic equality and human rights priorities

Priority 1:

Equality and human rights are a central part of our planning, decision-making, delivery, and reporting.

Priority 2:

We are an anti-racist organisation, and our work helps to eliminate racism, remove racialised inequalities and reduce racial prejudice.

Priority 3:

We anticipate and meet the needs of disabled people so they can access services, employment opportunities and have better outcomes.

Priority 4

We are gender inclusive, we do not discriminate on grounds of sex or gender identity and our work helps to tackle persistent gender inequalities.

Priority 5

We support people who use our mental health services and people with dementia to know about and claim their rights, and to make decisions about their care and treatment.

Priority 6

We reap the benefits of equality and human rights education and training.

1. Equality and human rights are a central part of our planning, decision-making, delivery and reporting

The Public Sector Equality Duty (PSED) was created following the public inquiry into the murder of Black teenager Stephen Lawrence in 1993 and the subsequent recommendations published in 1999 by Sir William Macpherson. It requires public bodies be proactive, and to reduce and remove the systemic inequalities related to disability, race, sex and the other protected characteristics in the Equality Act 2010.

Research by the Equality and Human Rights Commission (EHRC) and our own experience tells us that discrimination and inequalities persist and we tend to:

- Rely on tacit knowledge of equality issues rather than collecting and using robust evidence including people's different lived experience.
- Focus on 'low-hanging fruit' – the easiest issues to address – rather than targeting the most persistent inequalities.
- Have pockets of good practice but this does not translate into system wide change.
- See impact assessments as a tick box exercise, and we don't routinely understand their value as a planning and decision-making tool
- We don't always have equality and human rights information available at the right time to properly consider potential unintended consequences or opportunities.

To help reduce and remove persistent inequalities, both the EHRC and Scottish Human Rights Commission (SHRC) recommend public bodies take an equality and human rights-based approach when carrying out their public functions.

Over the next 5 years

We will improve how we use evidence

- We will collect, analyse, share and use equality and human rights evidence, including information about people with care experience, refugees and asylum seekers.
- We will include our equality and human rights performance in our corporate reports.
- We will have SMART equality outcomes that contribute to achieving our equality and human rights priorities. These will also include actions to address relevant findings and recommendations from the LGBT Health Needs Assessment.

We will follow best practice guidance

- We will update our approach to carrying out and using impact assessments so they are a tool that help us develop good strategies, policies and programmes for everyone.
- We will strengthen our performance of the Public Sector Equality Duty, Fairer Scotland Duty and children's rights (as set out in the United Nations Conventions for the Rights of the Child)
- We will meet the needs of care experienced children and young people.

2. We are an anti-racist organisation, and our work helps to eliminate racism, remove racialised inequalities and reduce racial prejudice

The EHRC has reported for many years on the persistent and structural disadvantages facing Black and Minority Ethnic (BME) people. Racism is considered a fundamental cause of bad health outcomes for BME people and differences in health.

Black and Ethnic Minority (BME) is the term used in this strategy and throughout NHS Lothian to describe Black and ethnically diverse people. It is the term preferred and adopted by NHS Lothian staff agreed through the BME staff network.

We know, for example:

- Black women are 3.7 times, and Asian women 1.8 times, more likely to die during pregnancy and maternity than White women. Separate Inquiries have found that racism and religious discrimination against Muslim women is at the root of many inequalities in maternity outcomes and experiences.
- A Mental Welfare Commission review examining racial inequality in Scotland found differences in the way the Mental Health Act is applied when BME people are detained for mental health care and treatment compared to White Scottish People, particularly between Black and White Scottish women.
- An EHRC Inquiry gathered substantial evidence of the poor treatment of BME people in health and social care workplaces. Many BME workers felt that others were treating them in a negative or unfavourable way because of their race or nationality.

- Some of our BME staff feel they are not integrated into teams, induction processes can be poorly run, they can be made to feel unwelcome and different and feel they have been treated unfavourably compared to their White colleagues. Some have experienced racism by colleagues or patients and have felt unsupported by managers.
- In NHS Lothian, 5.2% of staff are from BME groups and 3.3% of promotions were obtained by BME staff.

The Scottish Government is designing new, multi-year anti-racist work that will start in 2023 and has established an Ethnicity and Anti-Racism Interim Governance Group to develop National Anti-Racist Infrastructure. In response to the recommendations from the Expert Reference Group on COVID-19 and Ethnicity, the Programme for Government prioritised action to promote equality and human rights for BME people and communities and deliver the recommendations to reduce and remove racial health inequalities.

Over the next 5 years

We will improve how we use evidence

- We will continue our journey to acknowledge and learn from the legacies of our historical connections with Atlantic slavery and colonialism.
- We will act on our workforce equality data and take positive action to improve the representation of BME people in senior positions.
- We will strengthen informal and formal reporting processes, continue to collect data about informal and formal complaints and routinely ask for feedback about our processes.

We will listen to people with lived experience and act

- We will use our public engagement framework to hear the voices of people from our ethnically diverse communities and use their lived experience to deliver inclusive services.
- We will understand the prevalence of racism, race discrimination and harassment and act on this. We will not tolerate racism in any form.

We will support our staff and improve services

- We will provide our staff with leadership and confidence to understand and actively challenge racism, racial prejudice, harassment and bullying.
- We will give staff the information they need to be respectful and appreciative of different cultures and backgrounds and to have positive relationships with the people they work with and who use our services.
- We will ensure all parts of our organisation are welcoming and inclusive places for people from our ethnically diverse communities to be part of so that no one feels unsafe, unwelcome or inferior.
- We will take action to address racialised health inequalities.

3. We anticipate and meet the needs of disabled people so they can access services and employment opportunities

Disabled people are a key group affected by health inequalities because they often live in poverty and experience discrimination accessing health services.

We know, for example:

- Many disabled people find it difficult to access mainstream transport and rely on more expensive transport, such as taxis. This can make it difficult and more expensive to get to healthcare appointments.
- Disabled people may be at risk of exclusion from access to digital services. Flexible systems such as phone or online appointments are often not available to disabled people either because they are not accessible options, or hospitals and surgeries don't use them.
- People with learning disabilities face barriers accessing health services, which are compounded by communication difficulties and a lack of support provided by organisations and wider society.
- Evidence from NHS Lothian staff, patients and equality organisations tell us we don't always know what people's additional needs are in advance. We don't record and have this information available to staff so they can make sure people's needs are met or send information out in the right language or accessible format. We have been told we should make more patient information available in Easy Read, Large Print, British Sign Language (BSL) and plain English.
- We have been told we should proactively encourage and support disabled people and older people, and their carers, to visit health care settings or offices to orientate themselves before their appointments.
- Disabled people are less likely to be in employment and more likely to be unemployed. Only 1.9% of NHS Lothian workforce declared themselves as disabled, compared to an 32% of Scottish adults.

We have a duty to make reasonable adjustments for disabled people. This requires us to take positive steps to ensure that disabled people can access our services, and can access and progress in employment. It is a cornerstone of the Equality Act 2010 and goes beyond simply avoiding discrimination. We are required to anticipate the needs of disabled people using our services and so far as is reasonably practicable, to make sure the access they enjoy is as near as possible to that enjoyed by the rest of the public.

The UN Committee for the Rights of Persons with Disabilities has raised concerns about the UK's legal standards to make services accessible to disabled people, and austerity measures that have prevented improvements in accessibility for disabled people.

Over the next 5 years

We will improve how we use evidence

- We will accurately record and use information about patients' additional needs on our TrakCare healthcare information system used in secondary care to make sure disabled people can access our services.
- We will improve our understanding of the representation of disabled people across the organisation and, if necessary, take action.

We will listen to people with lived experience and act

- We will use our public engagement framework to hear the voices of disabled people and use their lived experience to help implement and uphold the rights in the UN Convention of the Rights of Persons with Disabilities (UNCRPD).

We will improve our services

- We will provide information in accessible ways
- We will update and implement our BSL Action Plan.

We will support our staff

- We will ensure staff have a good understanding and awareness of disability, including the social model of disability, and how to make reasonable adjustments to our services.
- We will publish and implement our workforce reasonable adjustment policy.

4. We are gender inclusive, we do not discriminate on grounds of sex or gender identity and our work helps to tackle persistent gender inequalities

Being gender inclusive means behaving in a way that does not discriminate against a particular sex, social gender or gender identity, and does not perpetuate gender stereotypes.

The Scottish Government Women's Health Plan has identified there is a clear need for wider systemic change to ensure that all our health and social care services meet the needs of all women.

We know, for example:

- Women in the most affluent areas of Scotland will have 25.1 more years of good health compared to women in the most deprived areas. In West Lothian female life expectancy and healthy life expectancy is lower than the Scotland average.
- Almost 1 in 10 deaths in women in Scotland each year are caused by coronary heart disease.
- On average, the life expectancy of women with a learning disability is 18 years shorter than for women in the general population.
- An estimated 1.5 million (1 in ten) women in the UK of reproductive age are affected by endometriosis, and it takes an average of 8.5 years to diagnose.

Non-binary and trans people have very poor health and wellbeing.

We know, for example:

- Only 9% of non-binary and 12% of trans masculine people rated their general mental and emotional wellbeing positively. Trans and non-binary people were particularly likely to speak about suicidal thoughts, although these tended to subside after transition.
- There can be issues about GPs misdiagnosing people through assumptions about their sexuality or gender identity, inadequate knowledge about some identities and concerns around confidentiality.
- There is huge frustration and dissatisfaction with the waiting times for Gender Identity Clinics. People describe the impact of excessive waiting times as including anxiety, depression and anguish and continued dysphoria.
- A study in England found poor communication and assumptions made by clinicians about patients' gender and sexual orientation undermines clinical relationships. This leads to disengagement and loss of trust. Some terminology and practices can feel excluding to LGBT people and negative experiences can be linked to incorrect assumptions about partners, gender identities and the use of incorrect pronouns. This can also cause unnecessary anxiety and distress.

Over the next 5 years

We will listen to people with lived experience and act

- We will use our public engagement framework to hear the voices of men, women, trans and non-binary people and use their lived experiences to create gender inclusive services.

We will improve our services

- We will take action to reduce women's health inequalities as set out in the National Women's Health Plan.
- We will take action to address the findings from the LGBT health needs assessment for trans and non-binary people.
- We will continue to take action to reduce the negative impact on the health and wellbeing of trans people caused by Gender Identity Clinic waiting times.

We will support our staff

- We will support staff to use gender inclusive language through new guidance and tools.
- We will ensure our workplaces are inclusive and welcoming for men, women, trans and non-binary people.

5. We support people who use our mental health services and people with dementia to know about and claim their rights, and to make decisions about their care and treatment

One in three people in Scotland experience mental health problems, and more than half of those face stigma and discrimination. Dementia is an important public health challenge in Scotland, and it is estimated that approximately 9% of the population over the age of 65 years old have a diagnosis of dementia.

Dementia and mental health care and treatment engages a range of human rights including the right to life, liberty, freedom from inhuman and degrading treatment and respect for private and family life. People with mental ill health are also often disadvantaged in accessing other rights like the right to an adequate standard of living, to participate in communities and to employment and work opportunities.

The Scottish Mental Health Review published its final report in September 2022. The Scottish Human Rights Commission (SHRC) has commended the report and proposals. It said that if implemented this would move Scotland much closer to complying with international human rights standards and also have the potential to deliver an improved experience for people experiencing mental ill health. The report recommends people should be supported to exercise their capacity, even in situations of crisis. This should be done by reframing the law and the support provided so that interventions in someone's life are based on understanding and focusing on someone's own wishes. The report also recommends wider programmes of action, such as initiatives to reduce the use of coercion[2] and improve the experiences of

2. Coercion and coercive medical practices are the terms used by the Scottish Mental Health Law Review (SMHLR) in its final report. They understand that this description is not appreciated by everyone who works in those services, and some prefer other terms such as restrictive or involuntary practices. However, it is their view that the word and the concept do exactly describe part of practice within mental health services, and are recognised by people with lived experience and by the United Nations and that coercion should be recognised as such, so we can address it.

the people who are subject to it, and to develop a comprehensive system of supported decision-making.

Following inspection visits, the Mental Welfare Commission has made recommendations to NHS Lothian to deliver rights-based care to young people who are detained under mental health legislation, including ensuring they can meaningfully participate in care and activity planning.

Over the next 5 years

We will listen to people with lived experience and act

- We will use Experienced Based Co-Design to hear the voices of people who use and work in our mental health services, including people with dementia.
- We will use their lived experience to implement and monitor actions to deliver the recommendations from the Scottish Mental Health Review and Mental Welfare Commission reports.

We will improve our services

- We will improve supported decision-making and the use of advance statements and care plans.
- We will improve discharge planning and admissions processes.
- We will reduce the use of coercive (involuntary) medical practices and develop alternative or non-coercive (voluntary) practices.

6. We reap the benefits of equality and human rights education and training.

We need to invest resources in equality and human rights education and training for everyone working in NHS Lothian. There is a significant amount of equality and human rights educational resources that we can build into our existing education and development programmes.

Staff have told us:

- Sometimes they are worried about doing the wrong thing and offending people. They want to call out discrimination and harassment respectfully and effectively. We need to give staff the confidence to react in the moment.
- They want to know more about equality and human rights law and principles and how they can embed them into their day-to-day work to improve the quality of their practice.

Over the next 5 years

We will support staff

- We will invest additional staff resource to allow us to take an innovative and effective approach to delivering equality and human rights education and training across the organisation.
- We will continue to promote and embed psychological safety and a commitment to excellence.
- We will develop and implement a new equality and human rights education framework that recognises people learn and change behaviour in different ways.
- We will co-design and deliver local equality and human rights education and training with people with lived experience.

- We will aim to achieve educational outcomes that tackle prejudice and promote understanding of other people’s circumstances and attributes.
- Working with NHS Scotland, NHS Education for Scotland and others we will contribute to a Once for Scotland approach to equality and human rights education and training.

Supporting legal framework

The equality and human rights legal framework set out in the Children and Young People Scotland Act 2014, Equality Act 2010, Human Rights Act 1998 and the core international human rights treaties provide the tools to help us:

- Respect, protect and fulfil human rights
- Eliminate discrimination, advance equality of opportunity and foster good relations
- Reduce socio-economic inequalities
- Achieve better outcomes for people who experience discrimination and disadvantage.

Universal Declaration on Human Rights and European Convention on Human Rights
Human rights come from their foundation document – the Universal Declaration on Human Rights. The European Convention on Human Rights (ECHR) was developed at the same time, has direct effect in the UK through the Human Rights Act 1998 and includes a lot of the rights in the Universal Declaration on Human Rights.

Human Rights Act 1998
The Human Rights Act 1998 incorporated the European Convention on Human Rights (ECHR) into UK domestic law. The Human Rights Act 1998, together with the Scotland Act 1998, protects ECHR rights in Scots law. It places a legal duty on public bodies to comply with ECHR rights.

United Nations Core Human Rights Treaties
There are nine core human rights treaties developed by the United Nations (UN). The UK has ratified seven, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). This means the Scottish Government must act to progress the rights in these seven treaties and not act in a way that would lead to a deterioration in human rights protections. The Scottish Government is incorporating the treaties into Scots law. The treaties provide us with guidance on the human rights standards we should be aiming to achieve.

The right to the highest attainable standard of physical and mental health
Article 12 of the International Covenant on Economic, Social and Cultural Rights requires us to recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This provides the most comprehensive article on the right to health in international human rights law.

The UN Committee on Economic, Social and Cultural Rights interprets the right to health as 'an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health. A further important aspect is the participation of the population in all health-related decision-making at the community, national and international levels.'

Children and Young People (Scotland) Act 2014
The Children and Young People (Scotland) Act 2014 sets out the importance of the UNCRC in influencing the design and delivery of policies and services in Scotland. We must publish a report every 3 years explaining the steps we have taken to give better effect to the rights and requirements in UNCRC.

Equality Act 2010
The Equality Act 2010 provides people with protection from discrimination, harassment and victimisation and sets out measures to advance equality of opportunity for all. It is unlawful to discriminate, harass or victimise someone in relation to a protected characteristic in work, when carrying out public functions, providing a service and in other areas. If we meet the statutory conditions, we can take positive action to address disadvantage, meet the needs, or increase the participation of equality groups.

We have a statutory duty to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations when we are carrying out our public functions. This means we must consider equality in almost everything we do (the General Equality Duty). We have a statutory duty to have due regard to how we can reduce socio-economic inequalities when we are making strategic decisions (Fairer Scotland Duty).

Scotland Specific Equality Duties
The purpose of the Specific Equality Duties is to help us to meet our General Equality Duty. We must:

- Publish a report on progress to mainstream equality into our work
- Publish a set of equality outcomes and report on progress
- Assess the equality impact of new or revised policies and practices and publish the results if a policy is implemented
- Gather and use employee equality information
- Publish information about gender pay gaps and a statement on equal pay
- Consider including equality specifications in procurement and contracts
- Publish this information in a way that is accessible to the public and, as far as practicable, by using existing public performance reporting.

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