

Equal opportunities and the Scottish Parliament: a progress review

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Any errors of interpretation are, of course, mine.

Executive Summary

Introduction

This progress review was commissioned by the Equality and Human Rights Commission (the Commission) in Scotland in order to contribute to understanding of the progress made by the Scottish Parliament and Scottish Government in using the equal opportunities powers granted under the Scotland Act 1998.

This is the first review to be undertaken of how the powers are presented and understood by stakeholders and policy makers. It provides an initial assessment of the impact of the equal opportunities duties on the design and delivery of devolved policies. This review focuses on the situation in relation to health, education, local government and transport.

The main aims in taking forward this progress review were to:

- examine the powers that the Scottish Parliament and Scottish Government have to act on equal opportunities and how these powers relate more widely to promoting equality
- provide an account of the ways that the Scottish Parliament and Scottish Government have used these powers over the last decade
- provide examples of where the powers have been used, and
- draw preliminary conclusions on the impact of the powers and what learning can be drawn from the Scottish experience to date.

This review is informed by analysis of available data from Scottish Parliament, Scottish Government and Scotland Office websites and publications. This is supported by twelve interviews with key actors from the public and voluntary sectors and from academia. These interviews offered a range of expertise and practical experience of the legislative and policy context of Scotland under devolution.

Equal opportunities powers and the Scottish Parliament

- Under the terms of the Scotland Act, equal opportunities are reserved to the Westminster Government. The Scotland Act, however, stipulates two important areas where the Scottish Parliament and Scottish Government have specific powers.

- i. The encouragement (other than by prohibition or regulation) of equal opportunities and, in particular, the observance of the equal opportunities requirements.
 - ii. The imposition of duties on Scottish public authorities and cross-border public authorities in relation to their Scottish functions.
- From inception, the Scottish Parliament has been positive about using its equal opportunities powers. This commitment is clear from the establishment of equal opportunities as one of the four key principles framing the work of the Scottish Parliament.
 - The establishment of the Scottish Parliament Equal Opportunities Committee further illustrates this commitment through the provision of an institutional infrastructure that supports a central focus on equal opportunities.
 - The wider definition of equal opportunities in the Scotland Act offers a broader definition of equal opportunities than that offered through the equality legislation laid down in Westminster.
 - The Scottish Parliament also has the capacity to shape the equality legislation coming from Westminster. For example, the Scottish Parliament built into the Disability Equality Duty and the Gender Equality Duty a requirement for Scottish Ministers to report on progress every three years.
 - The powers held by the Scottish Parliament and Scottish Government are, however, granted by way of an exception to the reserved legislation. This approach suggests limited freedom for the Scottish Parliament and Scottish Government to act on equal opportunities. For more details of the legal situation see the report on the place of equal opportunities in the devolution settlement prepared for the Commission.¹
 - There are different ways to interpret the Scotland Act equal opportunities powers. There are ‘strong powers’ and ‘soft powers’. Equal opportunities requirements written into Scottish legislation is an example of strong powers. The development of the Scottish Parliament Equal Opportunities Committee within the Scottish Parliament and the setting up of the Equality Unit within Scottish Government are examples of soft powers.

Understanding and use of equal opportunities powers

- Understanding of the equal opportunities powers conveyed by the Scotland Act is quite limited.
- There is confusion about what additional powers are available on top of those conferred by Westminster legislation.
- There is also confusion about how the specific devolved powers conferred by the Scottish Parliament interact with the Westminster public sector equality duties.
- Where the equal opportunities powers are used, the impact can be limited as a result of a perceived lack of scrutiny and leadership from the Scottish Government.
- That said, even with a variable understanding of what the Scotland Act powers mean in practice, equality considerations are found to be embedded in public policy discourse in Scotland.

Impact of equal opportunities duties

The overall impact of the Scotland Act equal opportunities duties has been generally positive as they are seen to support a distinctively Scottish approach to equality policy and practice. Below is a critique of the benefits associated with the introduction of these legislative duties.

- Positive benefits have been seen in relation to changes in processes including data collection, research, policy design and consultation.
- There has also been greater awareness and understanding of equality issues and capacity building through, for example, equality training and secondments across the public sector.
- The move to a more equality sensitive culture within public authorities and greater accountability for meeting the requirements of equality legislation is also seen as an important positive benefit of this activity.
- Mixed benefits are more evident where the policy area is not fully devolved or where there is significant private sector provision of services. Mixed benefits may also occur where

- A lack of follow-through in respect of reporting and monitoring on equality matters, and a lack of clarity on what is required, are the key factors that lead to limited benefit from equal opportunities powers.

Moving forward

Some possible steps that could be taken to improve the use and impact of the Scotland Act equal opportunities powers include:

- The need for follow-through in reporting/monitoring, clarity over what is required in practice, and greater attention to measuring effectiveness.
- A need for positive leadership from the Scottish Parliament and Scottish Government is seen as important to making a difference to how public authorities consider and act on equality matters.
- There is a need for the Commission, Scottish Parliament and Scottish Government to provide up to date information on the conceptual, legal and institutional framework for equality. This includes clarity on their roles and responsibilities in relation to equality.
- Given that timely and relevant information on how the legislation works in practice is not readily or easily available, consideration should be given to how the Commission, Scottish Parliament and Scottish Government can best provide information and support across the public sector.
- Strategic interventions that codify standards and competencies for the delivery of equality training in the public sector need to be provided by agencies working at the Scotland level such as the Commission or the Scottish Government

1. Introduction

This progress review was commissioned by the Equality and Human Rights Commission (the Commission) in Scotland. The Commission was established on 1 October 2007 with the aim of championing equality and human rights for all, working to eliminate discrimination, reduce inequality, protect human rights, build good relations and ensure that everyone has a fair chance to participate in society.

The new Commission brings together the work of the three legacy Commissions: the Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission. The new Commission is also responsible for four new protected equality areas: age, sexual orientation, transgender status and religion or belief, as well as the promotion of human rights and building good relations.

1.1 Project aims

The devolution settlement in Scotland provided for a Parliament and Executive with primary and secondary legislative powers. Although the draft Scotland Bill did not include legislative powers in respect of equal opportunities, relevant Scottish stakeholders raised concerns at that time that the lack of legislative powers devolved to Scotland would impact on the credibility of the Parliament. As a result, while equal opportunities remains reserved to the Westminster Parliament, the Scotland Act devolves to the Scottish Parliament specific equal opportunities powers. The details of these powers are outlined in the legal analysis prepared for the Commission.²

This is the first review to be undertaken that looks at the understanding and perception of the Scotland Act equal opportunities powers among stakeholders and policy makers. It provides an initial assessment of the impact of the equal opportunities duties on the design and delivery of devolved policies. This review focuses on the situation in relation to health, education, local government and transport.

The main purpose of this progress review is to:

- examine the powers that the Scottish Parliament and the Scottish Government have to act on equal opportunities and explain how these powers relate more widely to equality
- provide a comprehensive and detailed account of the ways in which the Scottish Parliament and the Scottish Government have used these powers in the last decade
- provide specific examples of where the powers have been used
- draw preliminary conclusions about what impact the powers have had and what we can learn from the Scottish experience.

1.2 From equal opportunities to positive duties

When the Scotland Act was passed in 1998, the legal framework in place at UK level focused on the regulation, elimination and prevention of discrimination with an imperative to treat people fairly regardless of their race and gender. The Scotland Act powers reflect this legal framework.

The legislative, institutional and conceptual landscape has now changed. The use of positive legal duties to promote equality - rather than being compelled simply to not discriminate - began with the introduction of the Race Relations Amendment Act 2000. Since the introduction of this legislation, public authorities are required, as a statutory duty, to actively promote race equality. Positive duties were introduced in relation to disability equality in December 2006 and gender equality in April 2007. The Equalities Review,³ published in 2007, further emphasises a positive approach to equalities, calling for a rights-based capabilities model to be used. The capabilities model takes a pro-active approach and calls for a focus on different aspects of equality: outcomes (the central and valuable things in life that people actually achieve), process (discrimination and disadvantage which people experience) and autonomy (the control and choice which people are able to exercise).

A short glossary (see Appendix 1) sets out the origins of a range of relevant terms and their relationship with legislative frameworks and conceptual debates.

1.3 Methodology

The review is informed by analysis of available data from Scottish Parliament, Scottish Government and Scotland Office websites and publications, and by a brief overview of available academic literature. In addition, twelve interviews with key actors from academia and the public and voluntary sectors offered valuable additional Scotland-specific information (see Appendix 2 for a list of interviewees). These interviewees offered a range of expertise and practical experience of the legislative and policy context of Scotland under devolution. This allowed a richer picture of the equal opportunities powers emerging from the Scotland Act to be explored.

2. Equal opportunities powers and the Scottish Parliament

2.1 Introduction

The devolution settlement in 1998 granted Scotland a range of legislative powers, including provision of a Scottish Parliament and a Scottish Executive (now known as the 'Scottish Government') who hold primary and secondary legislative powers. The Scotland Act 1998 devolved to the Scottish Parliament and Scottish Government all matters that are not explicitly reserved to the UK Parliament and Government. Devolved power is therefore framed principally by what the Scottish Parliament and Government do *not* have legislative competence in, rather than being defined in more positive terms by what they can do.⁴

Under the terms of the Scotland Act, equal opportunities is reserved to the Westminster Government, with equalities legislation the preserve of Westminster rather than the Scottish Parliament. In this political context, it is the UK that is the member state of the European Union. It is, therefore, ministers and officials from the UK Government who are primarily responsible for negotiating and accepting EU directives and Treaty commitments, while the content of these directives and commitments has implications for the regulation of equality across all countries within the UK.

Although equal opportunities matters are reserved, the Scotland Act stipulates two important areas where the Scottish Parliament and Government have specific powers.

- The encouragement (other than by prohibition or regulation) of equal opportunities and in particular the observance of the equal opportunities requirements
- The imposition of duties on Scottish public authorities, and cross-border public authorities in relation to their Scottish functions.⁵

Within the Scotland Act, equal opportunities is defined as the elimination, regulation and prevention of discrimination across a number of areas: sex, marital status, race, disability, age, sexual orientation, language, social origin or other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions. It is important to

note that this is an open definition of equal opportunities rather than a closed one. This means that items not listed may be included in the definition, as is evident from the inclusion of 'other personal attributes'.⁶

2.2 Interpretation and scope of the powers

The Scottish Parliament, the Scottish Government and the Scotland Office websites all provide information relating to the Scotland Act and the equal opportunities powers granted to the Scottish Parliament. There is, however, no analysis or explanation of how the equal opportunities powers outlined in the Scotland Act should be applied in practice.

From its inception, the Scottish Parliament has been positive about using the equal opportunities powers within the Scotland context. This commitment is clear from the establishment of equal opportunities as one of the four key principles framing the work of the Scottish Parliament.⁷ The establishment of the Scottish Parliament Equal Opportunities Committee illustrates this commitment further through the provision of institutional infrastructure that supports a central focus on equal opportunities. Interviewees who participated in this progress review suggested however that in the first parliamentary session (1999 to 2003) the Scottish Executive and their legal advisors were reticent about the use of the legislative powers while being more pro-active in relation to policy making (for example, through the publication of the Equality Strategy in 2000.⁸) By 2002, as the new Parliament and Executive were settling in, the pattern changed and both institutions were making progress in supporting equal opportunities through policy and legislation.⁹

There remains, however, a lack of clarity on the scope and interpretation of the Scotland Act's equal opportunities powers in practice. While there is substantial expertise and understanding of these issues among those who were interviewed for this review, there remains - for some at least - a lack of clarity about the powers that the Scottish Parliament holds. There is also a lack of clarity about the relationship between the equal opportunities duties that have emerged from the Scotland Act and the public sector equality duties imposed by the Westminster Parliament.

2.3 Limitations of the powers

A key issue affecting how the Scotland Act equal opportunities duties are taken forward emerges when either *regulations* or a *regulatory*

function are part of the legislative framework. We can look to the Regulation of Care (Scotland) Act 2001 as an example.

The Regulation of Care (Scotland) Act 2001 led to the setting up of the Care Commission.¹⁰ This Act imposed a general equal opportunities duty on Scottish Ministers with regard to all functions associated with the Care Commission.¹¹ The National Care Standards, produced by the Scottish Executive and used to monitor the quality of services and their compliance with the Regulation of Care Act, do not reflect this duty. The Standards have been developed around a number of principles including equality and diversity but the Standards do not contain a requirement in respect of equal opportunities.

The first Care Standards on older people did reflect this general equal opportunities duty. Lawyers within the Scottish Executive, however, made the case that this was not permissible under the Scotland Act. The reason given was that the Scottish Executive is a regulatory body and the Scotland Act stipulates encouragement of equal opportunities *except* by regulation. As a consequence, the subsequent Care Standards that emerged did not include any equal opportunities requirements.¹²

2.4 Positive or negative powers?

The powers granted to the Scottish Parliament and Scottish Government under the Scotland Act 1998 have been compared by some to the powers granted under Section 75 of the Northern Ireland Act 1998 and those granted under Section 120 of the Government of Wales Act 1998.¹³

The powers conferred to Wales are considered more expansive than those granted by the Scotland Act. For example, Chaney and Fevre¹⁴ argue that what gives the Welsh statutory duty its distinctive character is that it is an *absolute* duty that has no exceptions to it. This can be interpreted as giving Welsh citizens a *positive right*.

In contrast, the powers held by the Scottish Parliament and Scottish Government are granted by way of an exception to the reserved legislation on equal opportunities. This approach suggests limited freedom for the Scottish Parliament and Scottish Government to act on equal opportunities. Perhaps this contributes to the perception among some of those that participated in this study that the powers conferred

through the Scotland Act are limited to anti-discrimination interventions and do not extend to promoting equality.¹⁵

Further analysis demonstrates that this perception is unfounded. The powers conferred through the Scotland Act, while framed around encouraging equal opportunities, include promoting observance of existing equal opportunities requirements, that is, UK equality legislation.¹⁶

2.5 Use of the powers

There are different ways to define what constitutes a use of the Scotland Act equal opportunities powers. One readily identifiable use is when equal opportunities requirements are written into the primary legislation passed by the Scottish Parliament which covers devolved policy areas such as health, local government, transport and education. This is an example of the Scottish Parliament using ‘strong powers’ through the imposition of legally enforceable requirements on public bodies in Scotland.

2.5.1 Strong powers

Formulation of the equal opportunities duties that are written into legislation varies. A detailed list, including the type of duty imposed, and the body, authority or functions that it is imposed upon, is included in Appendix 3. The following list offers a summary of the current legislation where use of the Scotland Act powers can be seen.¹⁷

Standards in Scotland’s Schools etc. Act 2000
The Housing (Scotland) Act 2001
Regulation of Care (Scotland) Act 2001
Mental Health (Care and Treatment) (Scotland) Act 2003
Local Government in Scotland Act 2003
The Public Appointments and Public Bodies etc. (Scotland) Act 2003
Commissioner for Children and Young People (Scotland) Act 2003
National Health Service Reform (Scotland) Act 2004

Anti-Social Behaviour etc. (Scotland) Act 2004
Transport (Scotland) Act 2005
The Charities and Trustee investment (Scotland) Act 2005
Further and Higher Education (Scotland) Act 2005
Police, Public Order and Criminal Justice (Scotland) Act 2006
The Planning (Scotland) Act 2006

Whereas the public sector duties imposed through UK legislation cover race, disability and gender, the equal opportunities duty imposed on Scottish public authorities by the Scottish Parliament or Scottish Government is based on the more inclusive definition of equal opportunities within the Scotland Act.¹⁸ So while all public authorities have a duty with regard to promoting equal opportunities in relation to race, disability and gender, some public authorities also have equal opportunities duties to other groups of people.

2.5.2 Soft powers

The most explicit application of the Scotland Act's powers is the 'strong powers' associated with the equal opportunities legislation and duties like those listed above. There are, however, also examples of 'soft powers' being used to promote equal opportunities in Scotland. For example, this can be seen through:

- equal opportunities being a founding principle within the Scottish Parliament
- the creation of the statutory Scottish Parliament Equal Opportunities Committee
- the creation of the Equality Unit within the Scottish Government
- the scrutiny function that is undertaken by the Scottish Parliament Committees.

2.6 Role of the Scottish Parliamentary Committees

As noted above, the scrutiny function¹⁹ of the Scottish Parliament Committees represents an example of the use of soft powers. There is, however, scope to increase this power and improve the level of scrutiny carried out by the Parliament.

- The scrutiny function of the Scottish Parliament provides both a strong focal point and a positive force in respect of equal opportunities powers. However, there is scope to improve the actual function through more rigorous follow-through and monitoring.
- In respect of better *actual* scrutiny, the resource allocation process, including the annual budgetary cycle and the Spending Review cycles are important tools. More rigorous scrutiny of the budgetary documents would improve transparency with respect to how resources are allocated. It would require government to make better links between policy priorities and expenditure. In addition, there is potential to utilise the Financial Issues Advisory Group (FIAG)²⁰ recommendations to promote greater scrutiny of resource allocation throughout the budgetary and parliamentary cycle.
- There is potential to expand the remit of the Scottish Parliament Equal Opportunities Committee to reflect the positive duties of modern legislation. In conjunction with this expansion, the question arises as to whether other subject committees of the Scottish Parliament should have a specific equality remit. This would help to underpin the commitment to mainstreaming equality in the work of the Parliament.

3. Impact of the powers: case studies

This chapter analyses four areas where equal opportunities duties have been imposed in a number of ways. The examples offered illustrate the use of ‘strong powers’.

Specific points from interviewees are incorporated in the case studies detailed below. In addition, interviewees made the following general points about their understanding of, and the application of, the Scotland Act duties.

“The legislation is there, but there is limited accountability and scrutiny within the Scottish Parliament and Government.”

“Having a duty imposed under the Scotland Act powers is important, but we need enforcement and accountability, and a sense of what represents progress in this area.”

“As a public authority, we are uncertain about what the Scotland Act duties requires us to do and how this relates to Westminster legislation. Compliance with the public sector duties has become our focus.”

“In fulfilling our role, we could not identify definitive guidance about what is permitted under the legislation nor could we identify what are the limitations for our intervention.”

“A real weakness is the lack of follow through. It sends a signal to public authorities that there will be no sanction for noncompliance. Leadership is critical from both the Government and Parliament if public authorities are to take equality seriously.”

Case study 1: The Standards in Scotland’s Schools etc Act 2000

The Scotland Act powers can be seen within Section 5 of the Standards in Scotland’s Schools etc. Act 2000, which requires that the annual statement of education improvement objectives, prepared by local education authorities, must include an account of how they will encourage equal opportunities.

Two important points on the use and impact of this duty are worth noting.

1. The impact of the duty is limited

- A lack of follow-through by the Scottish Parliament and Scottish Government means that the duty has not been used in the way it was envisaged, that is, to prompt education authorities - and thereby schools - to address equality issues.
- The changes needed to mainstream equal opportunities are not well resourced. The result is frustration with the burden of administrative processes to be navigated. For example, equality impact assessments can be seen as overwhelming, while also competing for resources with other educational activities and considerations.
- The central focus on attainment through education policy may mean that structural inequalities are overlooked. For example, Scottish Gypsy Traveller children have very low attainment levels. This situation may prompt an educational response, but with little consideration to respecting the child's culture within the classroom, or to their experience of discrimination, there may only be a limited impact on attainment levels.

2. The duty is overshadowed by other pieces of legislation and guidance for schools

- Scottish educational legislation, such as the Education (Additional Support for Learning) (Scotland) Act 2004 has resulted in a greater focus on educational legislation than on the Scotland Act reporting duty or the Westminster public sector duties.
- The revision of *How Good is our School* - the guide to excellent schools in Scotland - to include more references to equal opportunities, is positive.²¹ However, the guide stresses quality rather than equality. One indicator around equality and fairness is not adequate for mainstreaming equality through the work of schools. Nor is this sufficient to support accountability on equality within schools.
- Because they have specified procedures, an outcome based focus and clear reporting requirements, the Westminster public sector duties offer more potential for addressing educational inequalities

by recognising and tackling issues like poor attainment for boys, subject choice for girls, negative perceptions of disabled people or people from different ethnic communities within the school context.

The research highlights important points that need to be addressed in order to make progress in this area.

- The Scottish Parliament should take a more vigorous role in respect of scrutiny. One specific suggestion is for the Scottish Parliament to consider combining commitments under Article 14 of the European Convention on Human Rights²² with Scotland Act equal opportunities requirements. In doing so, there is potential to maximise mainstreaming equality considerations in the delivery of school-level education.
- The Scottish Government Directorate for Schools should play a more robust role in respect of reports from educational authorities. They could, for example, ask for more details and for greater links with reporting requirements relating to Westminster public sector duties.
- The Scottish Government could encourage and prompt the audit and inspection bodies to develop their expertise in monitoring and reporting on equality.
- There is the potential for more constructive interventions by the Equality and Human Rights Commission in Scotland. For example, the Commission could carry out a critical analysis of School Improvement Reports and use this analysis to outline action that local authorities could take in these areas.
- The Commission should also explicitly recognise the demands on those involved in delivering educational policy. Playing a supportive role that focuses on achievements will get better results than a critical approach that focuses only on faults and areas for improvement.

Case study 2: National Health Service Reform (Scotland) Act 2004

This legislation sets out the removal of statutory powers from NHS Trusts and the setting up of Community Health Partnerships. The Scotland Act powers are evident through this legislation as there is a

requirement for NHS Boards to encourage equal opportunities when discharging their duties.

Key points to note in relation to health policy are as follows.

1. This is an area where there have been significant advances with regard to equalities

- Scottish initiatives such as *Fair for All* and the National Health Service (Scotland) Reform Act 2004 have combined with Westminster legislation on equal opportunities to provide a range of legislative support as well as policy and practice change.
- Considerable process and practice change within the NHS has taken place. Workforce monitoring, improvements in patient monitoring, extensive consultation with patients and staff, and the development of equality expertise among NHS Boards through the work of the six *Fair for All* strands have all been introduced in recent years.
- Between 2000 and 2002, changes were initiated in various processes, like data collection and consultation with communities of interest. These included the launch of NHS Inclusion, involving work with LGBT communities, which later became *Fair for All LGBT*.
- The National Resource Centre for Ethnic Minority Health (NRCEMH) came into operation on 1 April 2002 in response to the implementation of the Race Relations (Amendment) Act 2000. As a Unit within NHS Health Scotland, the NRCEMH set about assisting all Health Boards and Trusts in Scotland to develop their Race Equality Schemes and *Fair for All* Action Plans. Work was also undertaken with Scottish Gypsy Traveller communities.
- Further partnerships were formed in respect of age and religion or belief. In response to the positive equality duties on disability and gender, further *Fair for All* initiatives were also funded.
- The creation of the Equalities and Planning Directorate in NHS Health Scotland in April 2008 is a further positive step. This incorporates and builds on the *Fair for All* activities. It provides both a resource for NHS Boards and a driver for further progress.

2. These advances are not all necessarily the result of the Scotland Act powers

- While the initial driver of NHS change was devolved equal opportunities powers, equality issues are now driven by the Westminster public sector duties. The specific duties contained in this legislation provide a set of detailed requirements that indicate actions and accountability for NHS Boards.

3. Equality activity is viewed as being process driven and not having an impact on the delivery of services for patients

- The requirement through the disability and gender equality duties that Scottish Ministers must report every three years is positive. However, there is a concern that links are not being made with NHS core business. Frustration arises over the focus on process change and completion of paperwork which has meant little identifiable change in areas such as improvements in health outcomes for different communities, changes in patterns of participation by women and men within the workforce and changes in service design.

The research highlights important points that need to be addressed in order to make progress in this area.

- Leadership from MSPs is crucial for progressing change. Ministers need to make it clear to NHS Boards that equality is part of core business.
- Providing some non-statutory guidance for NHS Boards which includes equality targets, clarification of the requirements of the Scotland Act equal opportunities duty and those of the Westminster public sector duties could effectively be taken forward by the Scottish Parliament or Government and/or the Commission.
- Clear guidelines are needed on what NHS Boards are required to do in regard to setting targets, providing evidence and monitoring.
- While acknowledging that clarification around roles and responsibilities is both welcome and necessary, NHS Boards need to work on tackling health inequalities. The record of some Boards is very poor in respect of preparing and delivering their equality or strand specific schemes.

- There is potential in the Scotland Act's wider definition of equal opportunities to develop further work, notably in the area of social origin where early work on Scottish Gypsy Travellers has to date not been followed up.

Case study 3: The Public Appointments and Public Bodies etc. (Scotland) Act 2003

Scotland Act equal opportunities powers are seen in s. 2(10) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003. This section requires the Commissioner for Public Appointments (CPA) to produce a strategy that states how Scottish Ministers are to encourage equal opportunities in the public appointments system.

Key points to note are:

1. Early analysis suggests some positive impact from these powers

- The CPA has enshrined equality in the Ministerial Code of Practice for public appointments to ensure that it is mainstreamed in the public appointment process. The code came into force on 1 April 2006.
- A number of Commissioners appointed through Scotland Act powers, including the Commissioner for Children and Young People and the CPA, have formed a group to share practice and learning.
- That said, it is too early to fully assess the impact in this area as the CPA were only consulting on their first equal opportunities strategy for public appointments in Scotland in October 2007. The strategy that emerged from this, *Diversity Delivers*, was launched in September 2008.²³

2. Progress may have been hampered by a lack of guidance in this area

- In preparing its equal opportunities strategy, the Office of the Commissioner for Public Appointments in Scotland (OCPAS)²⁴

noted a lack of readily available information on how to develop the strategy, and a lack of detail on what the devolved equal opportunities powers meant in practice for their role.

- Interviewees noted that sources of information and expertise on the Scotland Act powers and how to translate these into practice, were not often readily available. For example, while the OCPAS team did identify a relevant publication to meet their needs²⁵, they highlighted that this information would have been more helpful if it had been available at an earlier stage in their process.

3. How this power is scrutinised and what powers OCPAS should have under the Scotland Act are open to interpretation

- Although there is a duty on OCPAS to produce an equal opportunities strategy, they do not have the power to implement and enforce this strategy. This is part of ensuring their independence from political intervention by Government or Parliament. The OCPAS team must be careful not to overstep their remit, while also anticipating what public bodies may need by way of practical direction.
- OCPAS's draft strategy focuses on diversity as a means of reflecting their commitment to promoting equality in the broadest sense. The use of this term has been seen as positive by the Scottish Parliament Equal Opportunities Committee, and indeed, resulted in an interesting exchange on the use of Scotland Act equal opportunities powers²⁶. However, the audit group for OCPAS has queried this terminology, raising concerns that it goes beyond the remit of the CPA granted by the Scotland Act powers, which refers to a strategy to encourage equal opportunities in public appointments.

The research highlights important points that need to be addressed in order to make progress in this area.

- The Scottish Parliamentary Committees, notably the Equal Opportunities Committee and the Standards, Procedures and Public Appointments Committee, should take a pro-active role in scrutinising OCPAS' work. One route may be through review of their annual reports.

- Clarification from the Commission of the requirements that OCPAS must meet would be helpful. While not subject to specific duties under Westminster public sector equality duty legislation, OCPAS is interested in what more it can do to meet the general duty.
- OCPAS would welcome clarification on the role and responsibilities of the Scottish Parliament, the Equality and Human Rights Commission in Scotland and the implications for the work of the CPA.

Case study 4: Transport (Scotland) Act 2005

The Transport (Scotland) Act 2005 provided for the establishment of Regional Transport Partnerships (RTPs) and places a duty on public authorities in respect of how transport in the regions will be developed, improved and operated. This involved use of Scotland Act powers to develop a strategy to encourage equal opportunities and, in particular, the observance of the equal opportunities requirements. Internal transport in Scotland is devolved, but other transport arrangements are reserved.

Key points to note are:

1. The impact of the devolved equal opportunities powers on RTPs has been generally positive

- As a large authority, Strathclyde Passenger Transport (SPT) has found that the duty complemented their existing equalities work which includes activities like *dial a bus* and compliance with the Disability Discrimination Act.
- SPT conducted an Equality Impact Assessment (EQIA), the first on a transport strategy in Scotland. They sent the assessment to the Scottish Government who subsequently approached the other RTPs asking them all to carry out an EQIA.
- It is possible that other regional authorities with less experience of translating the duty into practice may face more of a challenge in making explicit their response to the equal opportunities duty.

2. There is a lack of targeted guidance and support in respect of mainstreaming equality for the sector

- SPT received no feedback from Government on the quality of their EQIA. This is an area where the sector would benefit from feedback, alongside more sector specific exchanges. EQIA is not well embedded in transport activities at present. A strategic approach across the sector would assist with progress in this area.
- SPT note that the experience of Environmental Impact Assessment (EIA) is more positive. There is clarity about requirements, about what consultation is needed and outcomes that are expected at every stage.

The research highlights important points that need to be addressed in order to make progress in this area.

- More leadership from Scottish Government would help to make it clear to RTPs that equality is part of their core business and that there are expectations in respect of delivery and achievement on this theme.
- Opportunities to network and share experience and good practice about issues for the sector, as well as assistance/training on EQIA, would be helpful. In contrast to the process driven EQIA model, the EIA model is considered to be more user-friendly and effective, specifying detailed requirements at every stage of the process, from consultation to implementation.
- As RTPs work with partners, such as local authorities, to deliver various aspects of transport policy, networks for exchange could offer a useful conduit for sharing knowledge and good practice.
- Greater clarity is needed from the Scottish Parliament and the Commission in Scotland about requirements that RTPs must meet in respect of devolved equal opportunities duties as well as requirements emanating from UK equality legislation.

4. The devolved context: reflections from the research

With regard to how the devolved equal opportunities powers in the Scotland Act 1998 are currently understood and used, four issues are worthy of note: the limits of understanding, the interaction of reserved and devolved powers, the limits of impact and the commitment to mainstreaming equal opportunities within public policy.

4.1 Limits of understanding

Understanding of what powers are conveyed under the Scotland Act with respect to equal opportunities is quite limited. There is confusion as to what additional powers are held on top of those conferred by Westminster legislation.

Among those interviewed for this project, there is a good awareness of the equal opportunities powers associated with the Scotland Act. However, even where there is awareness, there remains limited understanding of these powers. This limited understanding results from a lack of clarity about what the powers mean in practice. Interviewees highlighted that there is no definitive source that provides a detailed interpretation of what the law requires 'on the ground' for their sector or organisation. Interviewees in campaigning organisations and in the devolved institutions have the most developed understanding of the Scotland Act equal opportunities powers.

4.2 Interaction of reserved and devolved powers

This study found there to be some confusion about how the specific devolved powers of the Scottish Parliament interact with the public sector duties coming from Westminster.

A minority of those interviewed, notably those subject to the specific duties, suggested that the public sector duties have become the main focus for equality considerations and activities in public authorities. The fact that the specific duties have a set of requirements that public authorities must meet provides a more defined set of tasks for those implementing the duties in practice.

Most interviewees suggested that greater clarity about the links between the Scotland Act equal opportunities powers and the Westminster public sector equality duties would be beneficial. Non-statutory guidance that includes suggestions for sector specific equality targets was proposed as one route to addressing this issue.

4.3 Limits of impact

When the equal opportunities powers are used, the impact can be limited as a result of what is seen as a lack of scrutiny and leadership from the Scottish Government.

For the majority of interviewees in this project, a key concern was the lack of follow-through by the Scottish Parliament and Scottish Government. While equal opportunities duties may be imposed on public authorities under the Scotland Act powers, the lack of a systematic approach to monitoring and reporting means that the effectiveness of those duties is limited in practice.

4.4 Mainstreaming equal opportunities within public policy

Even with varying understanding of what the Scotland Act powers mean in practice, there was consensus among those interviewed that equality considerations are embedded in public policy discourse in Scotland. That is, there was awareness that equal opportunities or equality matters are part of how they must operate as a public authority. In part, this is because of the commitment to mainstreaming equality in the devolved institutions.

This approach recognises that, while equality legislation is important, policy change is critical for the achievement of equality. This awareness is also due to the legislative requirements brought about through the public sector equality duties imposed by the Westminster Parliament. However, for interviewees, there is a lack of clarity about how this commitment and these requirements fit together and how equality can be delivered in practice.

5. Impact of equal opportunities duties

This is the first review to be undertaken of the impact of the equal opportunities duties on the design and delivery of devolved policies. Here we focus on the situation in relation to health, education, local government and transport. Analysis of the explanations for differing impact of equal opportunities powers is presented below.

For the majority of interviewees, the overall impact of the Scotland Act equal opportunities duties was seen as positive as they support a distinctively Scottish approach to equality policy and practice. The critique presented here is intended to offer opportunities to enhance the working of the legislative duties by improving implementation of activities in this important area.

5.1 Positive benefit

Where the impact or effect of equal opportunities duties and requirements has been generally positive, the benefits identified by interviewees include positive changes in relation to processes such as data collection, research, policy design and consultation.

Further positive impacts identified by interviewees are: greater awareness and understanding of equality issues, capacity building activities such as equality training²⁷ and secondments across the public sector. The move to a more equality sensitive culture within public authorities and greater accountability for meeting the requirements of equality legislation are also highlighted as important positive impacts from this activity.

5.2 Mixed benefit

Where the impact or effect of equal opportunities duties and requirements has been mixed, interviewees suggest that this may be the result of the policy area not being fully devolved or where there is substantial private sector provision of services. This, for example, is the case with transport. Mixed benefits may also occur where there is poor understanding within a sector of equality issues and requirements.

5.3 Limited benefit

Where the effects or impact of equal opportunities duties have been judged to be generally limited, issues identified as critical are the lack of follow-through in respect of reporting and monitoring on equality matters and lack of clarity about what is required.

6. Moving forward

In this final section, attention turns to some possible steps that could be taken to improve the use and impact of the Scotland Act equal opportunities powers.

- Further equality legislation is not the answer. The key issues are the need for follow-through in reporting and monitoring, clarity about what is required in practice and how to measure effectiveness.
- The Scottish Parliament and Scottish Government should strengthen their leadership. This will make a real difference to how public authorities consider and act on equality matters. More rigorous follow-up and reporting is the key to better delivery and to the achievement of greater equality in Scotland.
- The Commission, the Scottish Parliament and the Scottish Government should provide an update on the changed conceptual, legal and institutional framework for equality. This includes clarifying their roles and responsibilities in respect of equality.
- The Commission, the Scottish Parliament and the Scottish Government should explain what the devolved equal opportunities powers mean in practice, setting out exactly what requirements public authorities must meet in respect of Scotland Act equal opportunities powers and how this fits with the requirements of Westminster equality legislation.
- Given that timely and relevant information on how the legislation works in practice is not readily or easily available, consideration should be given to how best to provide information and support across the public sector. Currently, website and paper publications do not seem to reach public authorities, nor are websites as user friendly or as comprehensive as they could be.
- Consideration should be given to providing strategic intervention at the Scotland level to codify standards and competence in the delivery of equalities training to the sector.

Appendix 1: Glossary

This short glossary draws on academic and practical policy definitions to draw out the range of terminology used to discuss equality. Appraisal of the language of equality highlights the fact that it is a complex notion and no agreed single definition exists. Sometimes terms are used interchangeably, but they may in fact have their origin in legislation or in conceptual debates.

Capabilities

The capability approach, originally developed by Amartya Sen and Martha Nussbaum, has been elaborated in the Equalities Review Report *Fairness and Freedom: the Final Report of the Equalities Review*, published in February 2007. The report offers the following definition of an equal society.

- An equal society protects and promotes equal, real freedom and substantive opportunity to live in the ways people value and would choose, so that everyone can flourish.
- An equal society recognises people's different needs, situations and goals and removes the barriers that limit what people can do and can be.

Diversity

Diversity describes the range of visible and non-visible differences that exist between people. Managing diversity harnesses these differences to create a productive environment in which everybody feels valued, where talents are fully utilised and in which organisational goals are met.²⁸

For some commentators, diversity provides a more holistic approach because it necessitates organisational change, leadership and action. It could also be noted that these are key elements of a mainstreaming approach.

Equal opportunities

Equal opportunities was a term introduced in the 1970s in Britain in response to the first pieces of equalities legislation – The Equal Pay Act 1970, the Sex Discrimination Act 1975 and the Race Relations Act 1976.

The equal opportunities approach is based on the prevention and elimination of discrimination in employment and in the provision of goods and services. It provides a protection against discrimination in employment or in the provision of goods and services if you are a man or a woman (SDA 1975 and EPA 1970) and to everyone on the basis of colour, race, nationality, national or ethnic origin (RRA 1976).

Equality

This term can be used in a number of ways. For example, equality of opportunity and equality of outcome are sometimes used within an equal opportunities framework. The term was used in the Race Relations (Amendment) Act 2001 in outlining requirements for public authorities to have a race equality policy. This policy must go beyond avoidance or elimination of discrimination and actively mobilise policies to achieve race equality.

Equity

Equity is an ethical concept of social justice, fairness and human rights, where need rather than privilege is the foundation for the allocation of resources. Health professionals claim that it is a more useful term/approach than equal opportunities as it is based on need and recognises differential treatment may be necessary to achieve equality. The Scottish Government has used this term in recent strategic publications on the economy and on tackling poverty and inequality.

Inclusion

This term has been used in respect of social inclusion – an umbrella term that encapsulates tackling unemployment, poverty, deprivation and access to services. However, more recent use is in respect of inclusive education, promoting the inclusion of disabled people in mainstream education at all stages.

Mainstreaming

While the term was initiated at the UN and adopted by the EU in the 1990s, the Scottish Executive *Equality Strategy* in 2000 gave the following definition and description of mainstreaming.²⁹

‘Mainstreaming equality is the systematic integration of an equality perspective into the everyday work of government, involving policy

makers across all government departments, as well as equality specialists and external partners.... Mainstreaming is a long-term process and essentially means that policy makers, researchers, and those delivering services should take account of and reflect the diverse needs of the population in Scotland. Policy makers and researchers need to understand that different communities and groups face particular inequalities and difficulties. With this in mind, we need to consider how the policies and projects that we develop, impact upon these communities and groups.'

Appendix 2: Interviewees

Rowena Arshad: Director of the Centre for Education for Racial Equality in Scotland (CERES) and a Senior Lecturer with the School of Education at the University of Edinburgh.

Alison Cameron: Education and Learning, North Lanarkshire Council.

Tim Hopkins: Equality Network, Edinburgh.

Bruce Kiloh: Team Leader - Planning & Strategy, Strathclyde Partnership for Transport.

Dr Corryne MacLean, Development Manager, Office of the Commissioner for Public Appointments in Scotland.

Eleanor McKnight, Head of Equalities Support, Directorate of Equalities and Planning, NHS Health Scotland.

Dr Ailsa McKay: Reader in Gender and Economics, Glasgow Caledonian University [Dr McKay was advisor on the budget process to the Equal Opportunities Committee, Scottish Parliament (September to December 2007)].

Marese O'Reilly, Performance Improvement Manager, Equalities and Planning Directorate, NHS Health Scotland.

Alastair Pringle: Patient Focus Manager, Directorate of Healthcare Policy & Strategy, Scottish Government.

Muriel Robison: Head of Legal Enforcement, Equality and Human Rights Commission Scotland.

Terry Shevlin: Clerk, Equal Opportunities Committee, Scottish Parliament.

Yvonne Strachan: Head of the Equality Unit, Scottish Government.

Appendix 3: Scottish legislation with equal opportunities duties

Legislation	Type of duty	Applies to
Standards in Scotland's Schools etc. Act 2000	Annual statement of education improvement objectives prepared by local education authorities must include an account of how they will encourage equal opportunities. S. 5 of the Standards in Scotland's Schools etc. Act 2000	Local education authorities
The Housing (Scotland) Act 2001	To encourage equal opportunities in relation to their functions and powers under the Housing (Scotland) Act 2001. s. 106	Scottish Ministers, local authorities and Registered Social Landlords
Regulation of Care (Scotland) Act 2001	The Council shall, in the exercise of its functions, act in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements. S. 1 and s. 43 of the Regulation of Care (Scotland) Act 2001	Scottish Commission for the Regulation of Care and the Scottish Social Services Council

<p>Mental Health (Care and Treatment) (Scotland) Act 2003</p>	<p>Listed persons shall discharge their function in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements. Asp 13. s. 3</p>	<p>‘The persons who are bound by the requirements of section 3 are the Scottish Ministers; Mental Welfare Commission; a local authority; a Health Board; a Special Health Board; the managers of a hospital; a mental health officer; a patient’s responsible medical officer; a medical practitioner; and a nurse’</p>
<p>Local Government in Scotland Act 2003</p>	<p>In securing best value, must have regard to equal opportunities requirements along with economy, efficiency and effectiveness. S. 1(d)</p>	<p>Scottish Ministers, local authorities</p>

<p>The Public Appointments and Public Bodies etc. (Scotland) Act 2003</p>	<p>Commissioner for Public Appointment's strategy must include how Scottish Ministers are to encourage equal opportunities in the public appointments system. S. 2(10)</p>	<p>CPA, Scottish Ministers</p>
<p>Commissioner for Children and Young People (Scotland) Act 2003</p>	<p>The Commissioner must act in a manner which encourages equal opportunities and, in particular, the observance of the equal opportunity requirements. S.5</p>	<p>Commissioner for Children and Young People</p>
<p>National Health Service Reform (Scotland) Act 2004</p>	<p>Requires Health Boards, Special Health Boards and the Common Services Agency to perform their functions in a manner that encourages equal opportunities and the observance of equal opportunity requirements</p>	<p>Health Boards, Special Health Boards and the Common Services Agency Scottish Ministers</p>

Anti-Social Behaviour etc (Scotland) Act 2004	Listed persons shall discharge their function in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements	Any person discharging a function under the Anti-Social Behaviour etc (Scotland) Act 2004 asp 8. S. 140.
Transport (Scotland) Act 2005	Requirement to prepare a strategy explaining how a body will encourage equal opportunities and in particular observance of equal opportunity requirements. S. 5(2)	Regional Transport Partnerships
The Charities and Trustee Investment (Scotland) Act 2005	OSCR must perform its functions in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements. S. 1(8)	The Office of the Scottish Charity Regulator
Further and Higher Education (Scotland) Act 2005	Must perform its functions in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements. Part 1, 21 (i) and (ii)	The Further and Higher Education Council

<p>Police, Public Order and Criminal Justice (Scotland) 2006</p>	<p>A person discharging a function by virtue of this Act shall discharge that function in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements. Part 4, 100</p>	<p>Scottish Police Services Authority</p>
<p>The Planning (Scotland) Act 2006</p>	<p>The Scottish Ministers and planning authorities must perform their functions under this Act in a manner which encourages equal opportunities and, in particular, the observance of the equal opportunity requirements. Part 10, 51, (i) and (ii)</p>	<p>Scottish Ministers and Planning Authorities</p>

Sources: Camilla Kidner, SPICE; and researcher's own review of documents.

References and Notes

¹ O’Cinneide, C. (2009). *The place of equal opportunities in the devolution settlement: a legal analysis*. Manchester: Equality and Human Rights Commission.

² O’Cinneide, 2009.

³ Cabinet Office. (2007). *Fairness and freedom: the final report of the equalities review*. London: Cabinet Office.

⁴ ‘In other words, the Scottish Parliament in Edinburgh can pass laws (or change existing laws) concerning any issue, except where an issue relates to or is linked with a ‘reserved matter’, as long as the laws the Parliament passes comply with EU requirements and European human rights law. However, only the UK Parliament at Westminster can pass new laws or amend existing law that affects reserved matters.’ O’Cinneide, 2009, p.7.

⁵ More information can be found at:
<http://www.scottish.parliament.uk/corporate/powers/index.htm>. Last accessed August 2009.

⁶ O’Cinneide, 2009, section 5.2.

⁷ In November 1997 the then Secretary of State for Scotland appointed a Consultative Steering Group (CSG) to develop proposals for the practical operation of the new Parliament. Its membership was representative of the major political parties in Scotland, and of other civic groups and interests. The CSG produced a report in January 1999 called *Shaping Scotland's Parliament*. This Report included comprehensive proposals for the working of the new Parliament.

⁸ Scottish Executive (2000) *Equality strategy: working together for equality*. Edinburgh: Scottish Executive.

⁹ Examples of the legislative duties developed in Scotland are set out within the case studies presented in section 3 of this report.

¹⁰ More formally known as the Commission for the Regulation of Care.

¹¹ The Act gave Scottish Ministers the power to publish standards that the Care Commission must take into account when making its decisions. It also gave Scottish Ministers the power to make regulations imposing requirements in relation to care services.

¹² My thanks to Tim Hopkins of the Equality Network for details on this legislation and for critical points on the reserved/devolved split.

¹³ Section 75 of the Northern Ireland Act 1998 requires public authorities to have due regard to the need to promote equality of opportunity. Section 120 of the Government of Wales Act 1998 states that: 'The Assembly shall make appropriate arrangements with a view to securing that its functions are exercised with due regard to the principle that there should be equality of opportunity for all people.'

¹⁴ Chaney, P. and Fevre, R. (2002) *An absolute duty: the equality policies of the government of the National Assembly for Wales*. Cardiff: Equal Opportunities Commission, Disability Rights Commission, Commission for Racial Equality and Institute of Welsh Affairs. p. 216.

¹⁵ That said, there has more recently been, within the Equal Opportunities Committee, more emphasis on promoting equality and linking with the Westminster duties through the Disability Inquiry and follow-through actions.

¹⁶ For more information see O'Conneide, 2009.

¹⁷ Both of these lists are compiled from work done by Camilla Kidner of the Scottish Parliamentary Information Centre (SPICe) alongside the review work done for this study.

¹⁸ Schedule 5 of the Scotland Act 1998 defines equal opportunities as: 'the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.'

¹⁹ Within the overall competence and powers of the Scottish Parliament, the main tasks of the committees are to: scrutinise the policy and work of the Scottish Executive and to hold it to account for its activities; initiate their own inquiries; consider proposals for legislation, including both the

general principles and the fine detail; consider any European Communities legislation or any international conventions or agreements; consider the need to reform the law; initiate Bills; consider the financial proposals and financial administration of the Scottish Executive, including variation of taxes, estimates, budgets, audit and performance; and consider public petitions.

²⁰ The Group was set up the Secretary of State for Scotland in February 1998 with the task of proposing rules, procedures, standing orders and legislation for the handling of financial issues by the Scottish Parliament. The FIAG proposed that the budget process of the Scottish Parliament should be 'open, accessible and accountable to the people of Scotland.'

²¹ See <http://www.hmie.gov.uk/Generic/HGIOS> for more information. Last accessed August 2009.

²² Article 14 ECHR: 'The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.'

²³ The Office of the Commissioner for Public Appointments in Scotland (OCPAS) (2008) *Diversity delivers: a strategy for enhancing equality of opportunity in Scotland's ministerial public appointments process*. Edinburgh: OCPAS.

²⁴ OCPAS was established to create and regulate the process by which people are appointed to the boards of many of Scotland's public bodies.

²⁵ Commission for Racial Equality (CRE), Disability Rights Commission (DRC), Equal Opportunities Commission (EOC) and the Scottish Government (2007) *Building towards equality: the role of scrutiny bodies in promoting equalities in Scotland*. Edinburgh: CRE, DRC, EOC and Scottish Government.

²⁶ Scottish Parliament Equal Opportunities Committee Official Report. Public Appointments (Proposed Equal Opportunities Strategy). Col 236. 15 January 2008. Available online: URL www.scottish.parliament.uk/s3/committees/equal/or-08/eo08-0102.htm Last accessed June 2009.

²⁷ It is worth noting that some interviewees also highlighted negative experiences of training providers whose approach and competence was not adequate to the task of building capacity in Scottish institutions and public authorities.

²⁸ Kandola, B. and Fullerton, J. (1994) *Managing the Mosaic: diversity in action*. London: Chartered Institute of Personnel and Development. p.2.

²⁹ Scottish Executive (2000) *Equality Strategy: working together for equality*. Edinburgh: Scottish Executive. Available online: URL <http://www.scotland.gov.uk/library3/social/wtem-00.asp> Last accessed August 2009.

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Equal opportunities and the Scottish parliament: a progress review

This progress review aims to contribute to an understanding of the progress made by the Scottish Parliament and Scottish Government in using the equal opportunities powers granted under the Scotland Act 1998.

It examines the powers that the Scottish Parliament and Scottish Government have to act on equal opportunities and how these powers relate to promoting equality more widely. It provides an account of the ways that the Scottish Parliament and Scottish Government have used these powers over the last decade and provides examples of where the powers have been used. The review draws preliminary conclusions on the impact of the powers and what learning can be drawn from the Scottish experience to date.

This is the first review to be undertaken of how the powers are understood and perceived by stakeholders and policy makers. It provides an initial assessment of the impact of the equal opportunities duties on the design and delivery of devolved policies in relation to health, education, local government and transport.