

Kenneth Gibson MSP
Convener, Finance and Public
Administration Committee

By email

Thursday 14 April 2022

Dear Convener,

Subject: Inquiry into the National Performance Framework

The Equality and Human Rights Commission is Britain's equality and human rights regulator. Our human rights powers in Scotland extend to reserved matters. We welcome the Committee's inquiry, but are responding by letter as we wish to make one single point which is outside the parameters of the questions asked.

We believe there is an opportunity to develop a clear link between the national performance framework, including its national outcomes, and the equality outcomes set by public bodies under the equality legal framework.

The public sector equality duty

The [Public Sector Equality Duty](#) (PSED), which is found in section 149 of the Equality Act 2010, requires public authorities and those who carry out public functions, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected

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characteristic and those who do not.

- Foster good relations between people who share a protected characteristic and those who do not.

The broad purpose of the PSED is to integrate consideration of equality issues into the day-to-day business of public authorities. There are also [Scottish specific duties](#) to support implementation of the PSED and which apply to certain [listed authorities](#), including the Scottish Government and many other Scottish public bodies.

Regulation 4 of the specific duties requires each listed authority to publish a set of equality outcomes which it considers will support its performance of the PSED every four years.

Reform of the PSED

The Scottish Government is in the process of reviewing the PSED in Scotland. A relevant consultation has just closed.

In August 2021, as part of this process, we argued that:

“There is a convening role for Scottish Ministers to help identify national [equality] outcomes relevant across sectors, which seek to address the most significant inequalities, are clearly linked to the National Performance Framework, and to which other public bodies would contribute. In this way, equality outcomes should be seen as a means of contributing to the achievement of outcomes in the NPF.”

In the consultation which has just closed, the Scottish Government agreed with this suggestion, proposing to:

“Take on board the suggestions for the Scottish Government to take on more of a leadership role in setting national equality outcomes, which listed authorities could then adopt to meet their own equality outcome setting duty.”

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It further added that this would require the Scottish Government to:

“Ensure the national equality outcomes are measurable and link to the National Performance Framework.”

We welcome the Scottish Government’s agreement that linking equality outcomes set under regulation 4 to the National Performance Framework makes sense.

Linking equality outcomes and the NPF

Research we conducted in 2018 found that, when setting equality outcomes, listed authorities tend to:

- Rely on tacit knowledge of equality issues rather than robust evidence
- Focus on ‘low-hanging fruit’ – the easiest issues to address – rather than targeting the most persistent inequalities
- Direct disproportionate attention at internally-focused, capacity-building outcomes
- Lack transparency in setting out what actions they are taking to achieve outcomes.

We believe that equality outcomes should:

- Be specific about the inequalities they seek to address
- Be focused on the most persistent inequalities
- Be measurable and time-bound
- Have associated action plans.

We think that linking the setting of equality outcomes to the National Performance Framework would support these aspirations as the National Performance already sets out several relevant outcomes, is visible across the public sector, and has a clear measurement framework, including a range of relevant indicators.

Linking equality outcomes and the National Performance Framework would

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reduce the risk of listed authorities having to divide their attention across unconnected sets of outcomes, diluting their ability to achieve any of them. It would also make it easier for listed authorities to work together on the achievement of outcomes, which may include the setting of their own shared outcomes, as well as work on national outcomes identified by the Scottish Government.

Better equality outcomes, linked to and informed by the National Performance Framework, would therefore enable better focus on the inequalities that people face every day. Action intended to address these inequalities should, over time, reduce or even eliminate them, improving the lives of the people affected.

The Committee's inquiry

We hope that this short response provides the Committee's inquiry with a useful perspective on the connection between equality and the National Performance Framework, and that the Committee will therefore support the proposal to link equality outcomes set under regulation 4 with the National Performance Framework in its report.

Yours sincerely,

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