

Equality and Human Rights Commission  
Research report

# Effectiveness of the PSED Specific Duties in Scotland

Coalition for Racial Equality and Rights

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# 1. Introduction and background

## Introduction

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This report sets out the evidence available on the change which has been produced by public authorities under the requirements of three elements of the Public Sector Equality Duties Specific Duties. The research draws on the material which listed authorities are required to publish as part of the Duties.

The Public Sector Equality Duty was introduced through the Equality Act 2010. The purpose of the Public Sector Equality Duty is to ensure that listed public authorities and those carrying out a public function consider how they can positively contribute to a more equal society through eliminating discrimination, advancing equality and fostering good relations in their day-to-day business. The purpose of the specific duties in Scotland is to help authorities in their performance of the equality duty.

A series of earlier research published by the Commission<sup>1</sup> focused on compliance with the duties. This research builds on and complements that work, by going beyond compliance to look at the evidence of the difference that the duties have made, and how authorities have produced change for people with protected characteristics through their responses to the duties.

It provides an increased body of knowledge of the aims and effectiveness of the Public Sector Equality Duty Specific Duties in Scotland. This knowledge may inform decisions on support to authorities to maximise the impact of the duties, and to more effectively demonstrate the change that their actions have made for people with protected characteristics.

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<sup>1</sup> [Measuring Up? series of reports](#) monitors listed authorities' compliance with the Equality Act (2010) (Specific Duties) (Scotland) Regulations 2012

## Background

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Since May 2013 the the Commission in Scotland has conducted 'Measuring Up?', a programme of work to monitor listed authorities' compliance with the Equality Act [2010] [Specific Duties] [Scotland] Regulations 2012. This monitoring programme has been carried out in 7 stages, each published as a report on the Commission website.

The first 4-year implementation period of the specific duties in Scotland completed in April 2017. This occasion provided an opportunity to look beyond compliance and consider the extent to which change could be identified in the reporting required by the specific duties, whether change had occurred and the impact this had.

This study was commissioned by the EHRC in 2017 to assess the extent to which three different elements of the specific duties in Scotland are delivering change, both within public authorities and for service users.

The three elements of the specific duties studied were:

- Duty to publish equality outcomes and report progress
- Duty to gather and use employee information
- Duty to publish gender pay gap information

The research examined published material to gather evidence on:

- Whether change has been achieved in relation to the original equality outcomes set in 2013
- How public authorities used a] evidence and b] involvement of people with or who share protected characteristics [in relation to outcomes]
- Whether there have been reported changes in diversity in workforce composition, recruitment, development or retention for public authorities
- Whether change has been achieved in relation to gender pay gaps between 2013 and 2017
- The extent to which outcomes relating specifically to pay gaps and employee information were developed
- The ways in which public authorities have used employee information
- Whether other stakeholders have perceived change.

The research drew mainly on the evidence available from the reports that authorities are required to publish under the three specific duties studied. While the reports from

other duties e.g. the duty to publish mainstreaming reports, and the duty to assess and review policies and practices, may contain other evidence on the change produced for people with protected characteristics, these were outwith the scope of this study.

## 2. Change in relation to the original equality outcomes

The specific duties require each listed authority to publish a set of equality outcomes which it considers will enable the authority to better perform the general equality duty. An authority must publish a report on the progress made to achieve its equality outcomes every two years and publish a fresh set of equality outcomes within four years of publishing its previous set.

An equality outcome is a result which the authority aims to achieve in order to further one or more of the needs in the general equality duty. By focusing on outcomes rather than objectives, this specific duty aims to bring practical, specific and identifiable improvements in the life chances of people with protected characteristics.

This element of the research aimed to assess the extent to which public authorities have demonstrated change in relation to the equality outcomes set in 2013 across the progress reports published in 2015 and 2017.

One hundred and twenty public authorities were selected and their reports examined. Of these, 40 authorities were excluded from the analysis due to the following factors affecting comparability over the four-year cycle:

- 23 public authorities had changed their outcomes mid-cycle
- No progress report for one of the years (2015 or 2017) could be located for 14 public authorities
- 3 authorities had reported progress too inconsistently to allow comparison

The final sample which was suitable for analysis consisted of 80 public authorities. For each of the 80 public authorities, information was gathered from equality outcomes publications in 2013, 2015 and 2017, 240 reports in total. Across the 80 equality outcomes reports published in 2013, a total of 610 individual equality outcomes were studied and progress on these tracked in 2015 and 2017. For each equality outcome, the following information was recorded:

- Equality outcome details from 2013 reporting

- Progress recorded in 2015
- Progress recorded in 2017
- Which protected characteristic groups any demonstrable progress in 2015 or 2017 had benefitted
- Whether activity (i.e. actions or outputs) had been recorded in at least one of the progress reporting cycles
- Scores of progress on a rating scale:
  - 0 - No demonstrable progress
  - 1- Limited demonstrable progress
  - 2 - Moderate demonstrable progress
  - 3 - Comprehensive demonstrable progress

Further information on methodology for this section of the research can be found at Appendix I.

### Defining progress

Commission guidance on equality outcome setting<sup>2</sup> explains that the primary aim of equality outcome setting is to better perform the three ‘needs’ of the general equality duty, each of which is intended to create positive change in the lives of people with protected characteristics. To ensure this element of the research produced relevant conclusions, only positive change directly impacting people with protected characteristics was included. Other activities and changes described in progress reports were not considered.

The following criteria were applied to identify positive change. Both criteria had to be met for a change to be considered relevant:

- Positive change demonstrated with quantitative evidence (including where an increase or decrease was asserted without providing numeric data), or with qualitative evidence obtained from the people impacted
- Positive change relevant to a specific protected characteristic, or to a specific equality issue. For example, a decrease in staff experience of discrimination at work would be relevant, but a decrease in general bullying at work would not.

The following content, although reported by authorities as demonstrating progress, did not meet the criteria and was therefore not recorded:

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<sup>2</sup> Equality and Human Rights Commission (2016). [Equality Outcomes and the Public Sector Equality Duty: A Guide for Public Authorities in Scotland](#)

- Actions and outputs
- Generic commentary on the potential impacts of activity
- Activity related to processes, policy and practice

A public authority set out to measure progress towards making public consultations more accessible for disabled people. It produced targeted publicity materials about a consultation and reported on the number of copies of these materials which were requested. However, receiving the publicity materials does not necessarily mean that people were able to take part. The measure used related to an output, rather than an outcome. To demonstrate an impact on people with protected characteristics, progress reporting would need to describe an increase in participation in the consultation process.

Another authority undertook activity aimed at increasing girls' uptake of school subjects where they are under-represented. They measured the difference they had made by surveying girls to establish the proportion of who changed their subject choice as a result of their exposure to awareness raising activity. This clearly shows the link between the intervention and the change for the people with protected characteristics targeted by the intervention.

## Equality outcome publications in 2013

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The content of equality outcome sets published in 2013 varied greatly across the sample. Some equality outcome sets simply listed the equality outcomes with no additional information; others stated equality outcomes and a small number of associated actions. The most detailed contained a range of evidence, baseline information and plans for implementation.

Many of the equality outcomes published by authorities in 2013 lacked a focus on producing change for people with protected characteristic. In most cases, these equality outcomes were largely administrative and aimed at changing policies or processes within the authority. In other cases, they were very broadly expressed, and this may have led to a lack of clarity or focus during implementation. For example, some simply re-stated parts of the general equality duty such as

committing to eliminating discrimination. Some had no clear link to change for people with protected characteristics, focusing instead on other issues such as socio-economic disadvantage or environmental sustainability.

Data on the inclusion of baselines, measures of progress and targets in the 2013 reports was collected to establish whether this level of detailed planning and performance measurement had any impact on the quality of progress reporting in 2015 and 2017. Analysis suggests that there is little connection between inclusion of this information in 2013 and the quality of progress reporting in subsequent years. Some authorities detailed fuller progress measurement criteria in 2013 but then failed to use any of the progress measurement criteria described. Others which had included little or no information on progress measurement criteria in 2013, made significant effort to report progress in 2015 and 2017.

It is possible that some authorities which did not include progress measurement criteria in 2013 later went on to develop and apply unpublished progress measurement criteria. It is also possible that progress measurement criteria were collected informally by individual staff, rather than through formal progress measurement processes.

A small number of authorities made more consistent use of baselines, measures of progress and targets over the four-year cycle. Where used in conjunction with effective implementation processes, these factors appear to have a positive impact on the quality of data in progress reports which demonstrated change for people with protected characteristics.

A public authority set out its 2013 equality outcomes in the form of a performance management framework with numerous progress measures for each equality outcome. Baselines were provided wherever possible. These were used effectively in the 2015 progress report, demonstrating positive change for people with protected characteristics across several areas.

Targets for change were not used often; only 10 of the 80 authorities studied set specific percentage based or numerical targets within equality outcomes, and only 25 equality outcomes which included targets were identified in the sample in total. Comparing these targets to progress reporting in 2017, only one target was reported as having been achieved. A further two were reported on, but not achieved. For the remaining 22 targets, authorities reported on these equality outcomes in a way that

did not clearly address whether the target had been achieved. This suggests that the inclusion of targets in 2013 equality outcomes has not resulted in clearer reporting of positive change for people with protected characteristics.

Across the board, approaches to use of progress measurement criteria were inconsistent. Where a measure had been identified at some point in the four-year cycle, whether through the 2013 or 2015 reports, it was rare for this measure to be used more than once. This made tracking progress on a specific equality outcome over the four-year cycle impossible in most cases.

## Progress reporting in 2015 and 2017

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Approaches to progress reporting varied, both across the sample and, in some cases, for the same authority over time. In 584 of the 610 equality outcomes in the study, some information on the actions taken to progress equality outcomes was reported. Progress reporting tended to be focused on actions and outputs, rather than change for people with protected characteristics. This meant only limited amounts of information fit the criteria for inclusion in this study.

In many cases it was difficult to observe a direct link between the actions taken to implement equality outcomes and the measures reported. Some progress may have occurred as a result of other factors, such as improvements in mainstreaming work. Some measurement criteria used, such as figures on hate crime, domestic abuse or prejudice-based bullying, are known to be subject to under-reporting. Change in these measurement criteria may reflect increased reporting, rather than a reduction in the incidence of the issue.

In some cases, it was difficult to identify how authorities had directly contributed to the progress they described. This was especially the case in relation to reporting which used data from other sources on hate crime or domestic abuse. Partnership working arrangements which were led and implemented by other agencies, such as third sector organisations or other public bodies, were often cited as the activity contributing to progress, and in several cases, authorities openly stated that the change being reported on was a result of activity carried out by other organisations.

Whilst some authorities used the same format for reporting in 2015 and 2017, others varied their approaches considerably. In many cases, 2017 reports were much shorter than 2015 reports. In one case, an authority which published over 90 pages of information on equality outcomes progress in 2015 published a single page for 2017.

Throughout the sample, there was extensive use of data which lacked a baseline or comparator to enable change to be measured. In addition, measures of progress used in 2015 which should still have been available to authorities were frequently not reported again in 2017, without an explanation for their omission. This meant that in many cases, progress towards an equality outcome could not be effectively tracked over the whole four-year cycle.

Many 2017 reports appeared superficial and simply recycled the content of the authority's 2015 report with little new information or were used as introductions to the new set of equality outcomes published for 2017-2021.

In 2017 no progress which met the criteria used in this analysis was identified for 32 authorities. In 2015, the number of authorities where no progress met the criteria was 25. Across the sample, 19 authorities did not demonstrate progress which met the criteria at any point during the four-year cycle.

More positively, some authorities presented their 2017 progress reports with a clear demonstration of progress achieved by 2015, further progress made by 2017 and occasionally also including their intentions for carrying work forward from 2017 onwards. In a few cases, progress reporting was more clearly presented in 2017 than in previous years, using more robust quantitative measures or making better use of qualitative measures.

A public authority simplified its approach to reporting progress in 2017, making positive change for people with protected characteristics easier to identify. Progress was laid out in a basic table format with clear headings:

- What we set out to do
- What we did
- What difference did we make?
- What will we do now?

Several 2017 reports stated that baselines for measuring the equality outcomes only became available in 2017, thus precluding measurement of change. In cases where equality outcomes from this cycle are continued in the same form or a slightly amended form for 2017-2021, the availability of a baseline may lead to improvements in the reporting of change. However, in the 2013-2017 cycle, authorities providing baseline data in 2013 often failed to track progress on this in 2015 or 2017.

## Factors impacting progress reporting

Many of the equality outcomes published by authorities in 2013 lacked a focus on addressing inequality for protected characteristic groups. Some had no clear link to equality for people with protected characteristics, focusing instead on other issues such as socio-economic disadvantage or environmental sustainability.

In many cases, equality outcomes were largely administrative and aimed at changing policies or processes within the authority and did not directly link to change for people with protected characteristics. In other cases, they were very broadly worded, and this may have led to a lack of clarity in focus during implementation. For example, some simply re-stated parts of the General Equality Duty such as committing to eliminating discrimination.

Progress reporting against equality outcomes often failed to describe change. Reporting on activities, actions and outputs was far more common than reporting on the achievement of equality outcomes, i.e. evidence showing an impact on people.

A public authority set over 20 equality outcomes in 2013, however most of these were not clearly expressed and lacked a focus on particular inequalities. Over 2015 and 2017, no positive change directly impacting people with protected characteristics was demonstrated as a result of activity towards these outcomes. In addition, for a third of the equality outcomes, no activity or outputs were reported. This suggests that a combination of poor construction of the equality outcome and lack of implementation produced barriers to demonstrable progress.

For many equality outcomes, data sources were available, for example workforce diversity or admissions, retention and attainment in education settings, which could be disaggregated by protected characteristic in order to report progress. However, these sources of data were not routinely used to evidence progress. Where such data was reported, it often lacked a baseline or comparison over time. In many cases, data was reported with little or no explanation of what this data meant for progress towards the equality outcome.

Analysis suggests that the following factors may have a positive impact on ability to report progress robustly:

- Clearly articulated equality outcomes which aim to address a specific, well-defined inequality, as opposed to setting out a broad aim or addressing organisational/administrative issues
- Availability of data / information disaggregated by protected characteristic
- Activities which target specific protected characteristic groups and address particular inequalities
- Activities which have built-in evaluation/progress measurement criteria
- Proximity between the public authority and the people intended to benefit from equality outcomes
- Consideration of mechanisms for monitoring and measuring progress within 2013 reports

It was notable that even where authorities set out extensive information on how they proposed to measure progress of the type examined here, including details of specific data they hold, many failed to report any application of this during the two reporting periods

It appears that in general, authorities appear more likely to report progress on areas where other parts of the Public Sector Equality Duty require them to collect information, for example equal pay focused outcomes. Authorities are required to report on this progress through other elements of the duties.

It was notable in the reports from some non-public facing, policy focused authorities that as a result of the scope of their functions, they had limited ability to directly measure progress through seeking feedback or setting monitoring mechanisms. However, these authorities often did not report change for people with protected characteristics on areas they could directly influence, such as their role as an employer.

One authority with limited public facing functions performed a comprehensive analysis of the implication of the public sector equality duties for them, and of the available evidence on how people with protected characteristics interacted with their functions. They concluded that there were limited opportunities for them to set outcomes which they could influence. They nevertheless published a small number of outcomes which were focused on change for people with protected characteristics, insofar as they were directly affected by the actions of the authority, and set realistic performance measurement criteria.

Another authority with limited public facing functions published an action plan which contained a small number of outcomes, supported by a larger number of actions, the majority of which were focused on internal administrative systems or staff awareness of equality and diversity issues. They provided no contextual analysis of how the specific duties interacted with their functions, or evidence base for their selection of outcomes. The progress measurement criteria provided was mainly related to whether actions had been implemented, as a result there was little potential to demonstrate positive change for people with protected characteristics.

## Positive change impacting protected characteristic groups

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Across the 80 equality outcomes reports published in 2013 which were included in this research, a total of 610 individual equality outcomes were studied. Progress measurement criteria for people with protected characteristics were then tracked for each of these over 2015 and 2017. Progress reporting was generally patchy across the board:

- 66% of equality outcomes were rated as not demonstrating any progress directly impacting people with protected characteristics
- 26% were rated as demonstrating limited progress
- 6% were rated as demonstrating moderate progress
- 0.3% were rated as demonstrating comprehensive progress

Equality outcomes for which comprehensive progress was demonstrated were those which were most clearly defined and aimed at tackling a particular inequality for protected characteristic groups. This allowed reporting to directly address and evidence the progress made.

Where no progress was demonstrated, at times this related to poorly defined or process focussed equality outcome setting. However, this also included equality outcomes which could be described as clearly defined and aimed at tackling a specific inequality. In some of these cases, appropriate evidence may have been available but had not been published. At times, progress measurement criteria identified in 2013 for use in future progress monitoring had not been used in practice.

Performance in reporting positive change for people with protected characteristics varied in 2015 and 2017 reporting. Twelve per cent of the equality outcomes studied reported progress in both years, with a further 13% reporting progress only in 2015, and 8% only in 2017.

Several authorities reported outcomes on socio-economic disadvantage, which is not a protected characteristic. Some authorities referenced marriage and civil partnership within outcomes, which is not a relevant protected characteristic for the purpose of the duties. This information was not included.<sup>3</sup>

### References to protected characteristics and subsequent positive change

This part of the analysis compares specific references to protected characteristics in equality outcomes against evidence reported that those protected characteristics experienced positive change. Often, multiple protected characteristics were referenced within a single equality outcome or progress report for an outcome, and so the following data refers to references rather than to individual equality outcomes. Many equality outcomes were targeted at 'all' protected characteristics or did not state which protected characteristics were the intended beneficiaries.

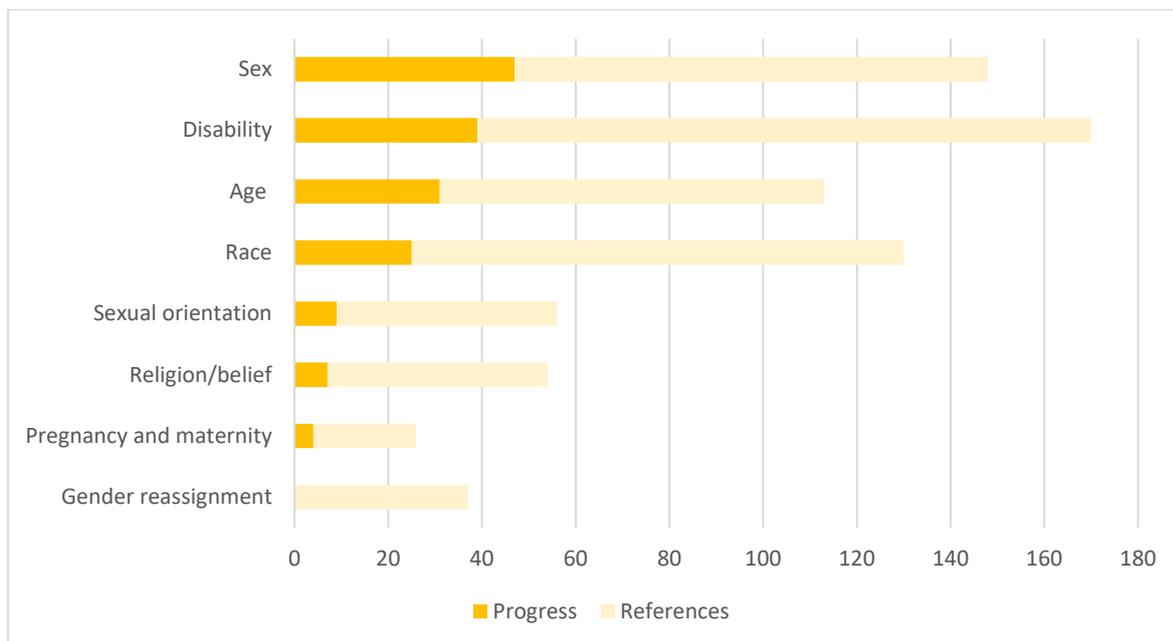
In 78% of cases, where a specific protected characteristic was referenced as the intended beneficiary of an equality outcome, reporting did not robustly demonstrate positive change for that protected characteristics.

In the remaining 22%, some level of progress was demonstrated for the protected characteristics being referenced. For individual protected characteristics, this can be disaggregated to show the number of times protected characteristics were referenced relative to the number of times a demonstrable positive change was shown for that protected characteristics.

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<sup>3</sup> Many public authorities have aimed to tackle socio-economic disadvantage as part of their equality work; some since the inception of the Scottish specific equality duties, and some in advance of the introduction of the Fairer Scotland Duty. However, despite its origins in the Equality Act 2010, the Fairer Scotland Duty differs significantly from the Public Sector Equality Duties and does not confer any of the specific protections or positive duties afforded to protected characteristic groups by the Equality Act 2010. Socio-economic disadvantage therefore continues to be a separate consideration, and not a protected characteristic.

**Figure 1.1 Number of references to protected characteristic groups in comparison to demonstration of progress for relevant outcomes**



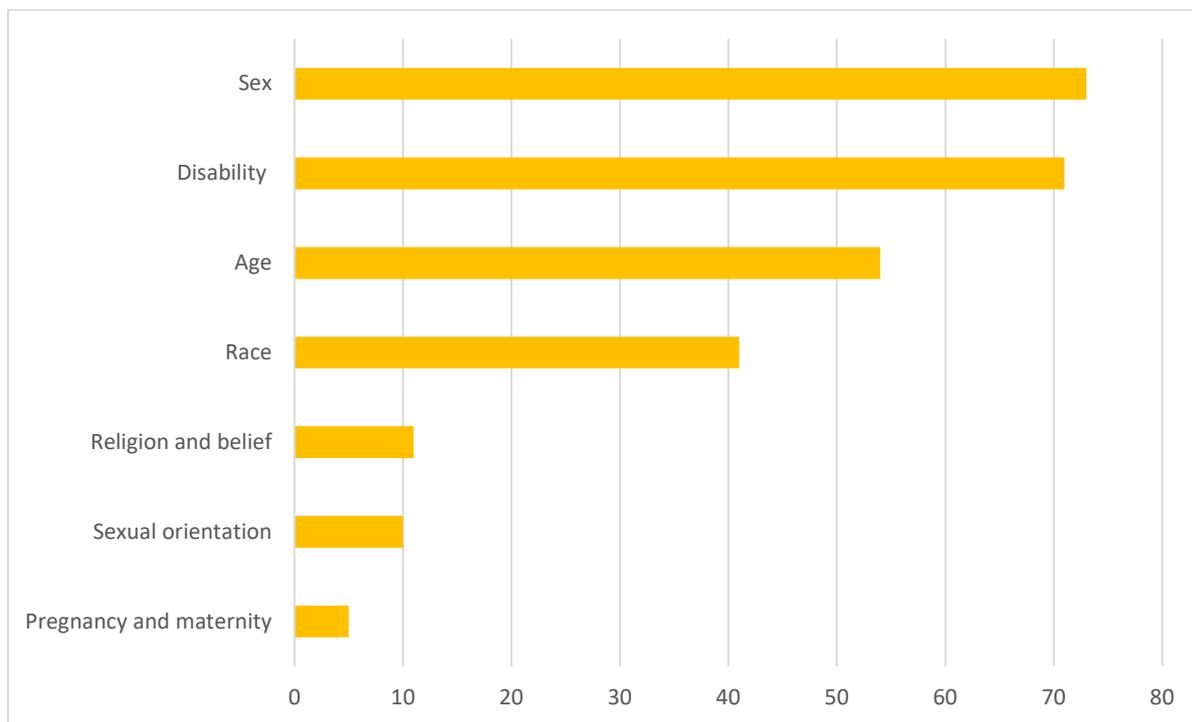
In many cases, equality outcomes were not clearly targeted at any specific protected characteristic. Authorities may have specified that the outcome was targeted at ‘all’ protected characteristics or may not have stated the target group at all. With the addition of these equality outcomes to the above analysis, it is possible to determine the total number of times positive change was demonstrated for each protected characteristic group across the sample. This is explored as part of the following section covering measures of demonstrable positive change.

**Measures of demonstrable positive change**

In total, across the 610 equality outcomes, there were 247 measures of demonstrable positive change for people with protected characteristics. In many cases, multiple measures of change were recorded for a single equality outcome.

The level of demonstrable positive change reported over the four-year cycle varied considerably across the protected characteristic groups, as shown in Figure 1.2 below.

**Figure 1.2 Total number of recorded incidences of positive change impacting people with protected characteristics**



The frequency and variety of demonstrable positive change reported by public authorities for each protected characteristic is explored in the following sections.

### Sex

Positive change related to sex was recorded 73 times, the highest number of measures recorded for any protected characteristic.

Much of the evidence used to show progress for women mirrors data required to be published under other parts of the Scottish specific equality duties, particularly gender pay gap data and workforce profile data.

Several authorities reported on equality outcomes aimed at reducing gender-based violence, or supporting women affected by gender-based violence.

A public authority gave clear and significant data on reduction in various types of abuse experienced by women since they began using a service aimed at supporting those experiencing domestic abuse and reducing their risk of harm. This was more robust than approaches used by other authorities, which often looked at criminal justice data for the local area so were harder to attribute to activity by a particular agency.

The only area where disadvantage was identified for men within the outcomes studied was attainment rates for boys at school.

## Disability

The second highest number of positive changes related to disabled people. Within the 71 changes reported, progress measurement criteria included increase in uptake of services and programmes for disabled people, sometimes relating to a specific group, for example those experiencing mental health problems, additional support needs related to learning disability or D/deaf people.

Work undertaken to improve the accessibility of buildings was frequently reported in relation to outcomes, although access is a requirement of the Equality Act independent of the Scottish Specific Duties. There were few reported impacts from this work. In a few cases, however, qualitative or quantitative information was successfully used to demonstrate a positive impact for disabled people.

A public authority was able to robustly measure positive change for disabled people, who were identified as being under-represented in uptake of culture services. Following a specific programme of engagement with disabled people's organisations and their members, an increase in uptake was recorded.

## Age

There were 54 instances where positive change related to the two age groups most commonly identified as being at risk of disadvantage; older people and young people.

One of the most robust measures of progress identified across the study used a percentage-based measure to demonstrate a decrease in a particular mortality risk experienced by older people following targeted intervention by a public authority to raise awareness of and mitigate the risk.

For young people, one of the more robust measures of progress identified an increase in school retention rates following delivery of a targeted programme. In both cases, a positive impact was shown which could be confidently attributed to the activity undertaken by the public authority.

A public authority set a very specific outcome aimed at reducing employment inequalities for young people. Setting the outcome using clear evidence, identifying baselines and setting targets, the authority was able to demonstrate that they had achieved the outcome by the end of the four-year cycle. They used quantitative evidence to show they had met their targets and included qualitative case studies with feedback from young people who had undertaken targeted programmes to show the impact of the work undertaken.

## Race

Positive impacts for race could be identified 41 times. Within the reported progress measurement criteria, examples included improvements in applications and admission rates for UK domiciled minority ethnic students and increase in uptake of various services following targeted interventions with minority ethnic communities

Again, the most robust measures specified which intervention had been put in place by the public authority and what the impact had been on those targeted. For example, one authority detailed statistical improvements for minority ethnic people taking part in a targeted weight loss programme, demonstrating the change achieved through the intervention as opposed to simply levels of participation in the programme.

A public authority set an equality outcome aimed at improving equality for Black and minority ethnic people within its workforce profile. As well as reporting on the workforce profile itself, the authority also set out the improvements made in the proportion of Black and minority ethnic people who were successful at interview relative to white candidates. The authority was able to demonstrate clearly how its approach had led to progress towards the equality outcome.

### Religion or belief

Measures relating to positive change for faith groups at risk of disadvantage or inequality were less frequently recorded, appearing only 11 times. Examples of progress measurement criteria reported for this group include improvements experienced as a result of policy and practice changes in relation to burial services and information on the impact of targeted work with people of faith by health services.

### Sexual orientation

There was comparatively little information given on positive change for gay, lesbian or bisexual people within the sample, with 10 examples of positive change recorded. Within this, progress measurement criteria included qualitative feedback from LGB young people on the impact of a targeted event and increased uptake of services following engagement with LGB people.

### Pregnancy and maternity

Pregnancy and maternity was one of the least referenced protected characteristics. Progress impacting this protected characteristic was recorded only 5 times primarily on the proportion of women returning from maternity leave, but also included qualitative feedback from women about the impact of new pregnancy and maternity provisions.

### Gender reassignment

Despite being referenced as intended beneficiaries of equality outcomes 31 times, no measures of positive change meeting the criteria for this study were recorded for transgender people within the sample.

### General

In some cases, data was provided which showed a benefit for equality groups but could not be disaggregated by protected characteristic. This occurred 13 times. These measures are less robust, as the impact on specific groups is unclear, however examples included changes in prejudice-based bullying or hate crime data - sometimes interpreting a reduction as positive, and at other times attributing an increase to activity around awareness raising and/or increased provision of reporting facilities - and decrease in equality related complaints or discrimination related grievances.

## Conclusions

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This analysis indicates that there is very limited evidence of positive change directly impacting people with protected characteristics available from progress reporting on equality outcomes for the 2013-2017 cycle.

A complex assortment of factors appears to underlie this, including the selection of equality outcomes with limited potential to produce change for people with protected characteristics, poor planning and progress measurement criteria, and a tendency to report on actions and outputs rather than the change produced by actions and outputs.

It is notable that there was little correlation between the provision of more comprehensive planning and progress measurement criteria in 2013, and more comprehensive reporting on change achieved in 2015 and 2017. Some authorities detailed fuller progress measurement criteria in 2013 but then failed to apply any of the progress measurement criteria described. Others which had included little or no information on progress measurement criteria in 2013, made significant effort to report progress in 2015 and 2017.

It appears that in general, authorities appear more likely to report progress on areas where other parts of the Public Sector Equality Duty require them to collect information, for example equal pay focused outcomes. Authorities are required to report on this progress through other elements of the duties.

## 3. How public authorities used evidence and involvement

The specific duties require a listed authority, in preparing and publishing a set of equality outcomes, to consider relevant evidence relating to people who share a relevant protected characteristic. The duties also require each listed authority to involve equality groups and those who represent their interests in preparing a set of equality outcomes.

‘Involvement’ and ‘considering relevant evidence’ are closely related activities which should inform the decisions of listed authorities in preparing and publishing a set of equality outcomes. In practice, the two will often overlap, as some ways of involving people also serve as forms of evidence gathering, as in a focus group for example. This part of the research examined how public authorities used evidence and involvement in the development of equality outcomes.

### Evidence

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When developing equality outcomes, listed authorities are required to consider evidence relating to people who share a relevant protected characteristic although they are not required by the regulations to report on this activity.

Earlier published research for the Commission<sup>4</sup> found that 55% of authorities published information that made a clear reference to the use of evidence in the development of their equality outcomes. This group of authorities formed the initial sample for analysis. Taking mergers since 2013, reports which could not be located or were insufficiently detailed to allow analysis into account, this produced a sample of 74 authorities.

For the purposes of this research only references to evidence which were based on factual sources, including data on the perceptions of people with protected

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<sup>4</sup> [Measuring Up Report 3: Monitoring public authorities performance of the Scottish Specific Duties](#), Equality and Human Rights Commission, November 2013

characteristics or other stakeholders, were considered relevant and appropriate. Reports made frequent references to government policy or the priorities of funding agencies or the strategic commitments made by authorities in other documents and planning processes. Although occasionally described as evidence, these were not considered appropriate sources.

In 2013, 71 of the 74 equality outcomes statements in the sample contained some relevant reference to evidence in the development of equality outcomes. In 2017, only one of the 74 contained no relevant reference to evidence. In 2013, the application of evidence to the selection of equality outcomes was clear in 61 of the outcomes statements studied, rising slightly to 63 in 2017. This relationship between evidence and equality outcomes was most clear where equality outcomes statements had a summary of evidence described as a rationale for each equality outcome, or where they supplied a separate chapter or associated report on the evidence base for the set of equality outcomes.

Guidance from the Commission states “While you have the flexibility to decide for yourself which outcomes to set and how many to set, you will need to consider evidence across all protected characteristics.” We saw few reports in which a holistic review of evidence of this nature was presented. Although the specific duties require a listed authority, in preparing and publishing a set of equality outcomes, to consider relevant evidence relating to people who share a relevant protected characteristic, there is no requirement in the regulations for authorities to publish the evidence used in setting equality outcomes. It is therefore possible that authorities made greater and more holistic use of evidence than apparent in reports.

In many cases, reports provided substantial volumes of evidence that was not reflected in equality outcomes. The rationale for the selection of evidence presented was not always clear.

One authority described extensive evidence relating to the circumstances and experiences of their service users and which was appropriate and proportionate to their organisational functions and geographic remit. On the basis of the evidence reviewed, the authority concluded that their equality priorities should address improved access and outcomes for those families with social disadvantages including those with lower incomes and for families living in areas remote from their base of operations.

Income and distance from the locations where services are provided are not protected characteristics and are not, in the context of the specific duties, appropriate priorities for outcomes. This demonstrates that, unless there is a clear understanding of the scope of the legislation, a stronger evidence base may not support the development of better outcomes.

The amount of evidence in reports varied from almost none, to large volumes, much of which had little clear connection to the equality outcomes set or the geographic or functional context of the authority.

Most authorities described a range of evidence in the equality outcomes statements. Employee information was the most frequently referred to, followed closely by population data drawn from the Census or similar sources. Academic evidence was less frequently referenced, and in the cases where it was referenced, it was generally in support of the nature of an intervention, rather than as a means of establishing the need for an outcome. Gaps in evidence were identified by 48 authorities in 2013 and by 53 in 2017. All these authorities used the gaps to inform the development of equality outcomes, commonly focused on improving the evidence base or supporting the rationale for involvement of people with protected characteristics.

Several authorities included evidence without a clear application to their organisational context. For example, several reports described demographic data at national level, but did not explain how this related to their organisational functions or geographic remit. More localised or otherwise disaggregated data is likely to have had a clearer and more relevant application.

Despite the inclusion of evidence on the circumstances for and experiences of people with protected characteristics, this evidence was rarely used to produce baselines from which to measure change. There was an apparent disconnect between the selection and presentation of evidence which informed equality outcomes, and the use of that evidence in planning and progress measurement criteria around equality outcomes.

There was limited evidence of the perspectives of other stakeholders on the change produced for people with protected characteristics. There were examples of practice where staff and service users had contributed to the evaluation of the impact of an intervention. This was particularly the case in relation to interventions designed to

address inequities in educational attainment, violence against women and career progression.

One authority had introduced systems for increasing flexibility of work location and working patterns. This was intended to enable employees who have caring responsibilities - particularly the potential for parental responsibility to disproportionately impact on the careers of female staff - or who have a disability or health condition, to work in senior roles across the region.

The authority produced a series of testimonials from staff describing, from a staff perspective, the ways in which the authority's flexible working systems had supported them in career progression and job retention. The testimonials described, in staff members own words, their situations and the problem posed for their employment objectives, the organisational response, and the benefit the staff members perceived from the supports provided.

There were few reports where the collection of evidence from other perspectives was built in to systems for involvement or performance measurement. Evidence from equalities lead officers in authorities indicated that as there is no formal requirement in regulation or guidance to collect this kind of data, it is usually only available in cases where other processes, e.g. service evaluations or service led reporting, demand it. There were examples where this kind of evidence was used in reports to highlight the difference made for people with protected characteristics.

One authority undertook research with young people to explore experiences and aspirations of young people of differing ages, abilities, identities and faith. This was intended to produce a more sophisticated analysis of young people's views and inform interventions for work and study. As a result of this research, the authority created employment and development opportunities targeted at young people. Further research with young people identified that an increased percentage felt that they lived in a better place for work and study than it had been five years before.

## Involvement

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The specific duties require each listed authority to involve equality groups and those who represent their interests in preparing a set of equality outcomes, although they are not required to publish the evidence produced by that involvement.

Earlier published research for the Commission<sup>5</sup> identified 126 authorities making reference, in mainstreaming reports or in equality outcomes, to the involvement of people with protected characteristics. This research reviewed equality outcomes statements and progress reports from these 126 authorities. Within this sample a total of 107 reports referring to involvement in 2013 were identified.

In 70 of the 107 reports, the nature of involvement was clearly described and 66 offered a clear rationale for the involvement they described. In 2017, the number of reports referencing involvement rose to 112, of which 76 offered a description of the nature of involvement and 88 offered a rationale for the involvement described.

In 2013, the involvement of staff was described in 79 reports, service users in 86 reports and both staff and service users in 72 of these. In 2017, the number of reports describing the involvement of staff rose to 83, the number describing the involvement of service users rose to 93, and the number describing the involvement of both staff and service users rose to 90.

The small increases in 2017 are slightly offset by the fact that there were several 2017 reports in which the same involvement processes and evidence described in 2013, were simply reiterated in 2017, i.e there was no evidence of any further involvement taking place since the processes which informed equality outcomes in 2013.

### Evidence from Involvement

The involvement of people with protected characteristics in setting equality outcomes is not an end in itself: it is a process intended to generate greater or better quality evidence to inform the setting of equality outcomes. In 2013, the evidence gathered through involvement – the views and perceptions of the people involved – was described in 31 reports, rising to 36 in 2017.

It was not always possible to observe a direct link between the evidence gathered through involvement and the equality outcomes set. This is partly a consequence of

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<sup>5</sup> [Measuring Up Report 3: Monitoring public authorities performance of the Scottish Specific Duties](#), Equality and Human Rights Commission, November 2013

the structure of reports, some of which provided a general evidence section separately from equality outcomes, and which did not explicitly describe the relationship between the evidence presented and the equality outcomes selected.

### **Involvement processes**

The regulations require involvement of people with protected characteristics in the setting of equality outcomes. It was not always clear from the reports that the involvement processes described were plainly labelled – from the perspective of participants - as being part of a process of equality outcome setting. Some evidence which was described in reports appeared to have been collected through other involvement processes and applied to equality outcome setting. Although the evidence may be relevant and appropriate, it is questionable whether the processes qualify as involvement in equality outcome setting. If they were not planned as such, and participants did not understand the processes as such at the time of their input, then they may reasonably not be regarded as involvement in equality outcome setting.

The guidance states that “Unlike consultation, involvement will support public authorities to develop active engagement on an ongoing basis with people over a period of time.” It was not always clear from reports how involvement on an ongoing basis had been considered or implemented. It was common for a single involvement exercise to be referenced in reports published several years apart. In this respect, much of the involvement described does not conform to the definition of involvement in the guidance.

In the cases where there had been a longer term dialogue, this was usually with representative groups, rather than directly with individuals and communities of people with protected characteristics. Evidence from representative groups indicates that that where there is a longer term relationship with an authority, this can have a greater impact on equality outcome setting.

### **Involving representative groups**

The guidance on involvement recognises a difference between involving communities and involving representative groups. A number of representative groups – national and regional third sector organisations with some role in representing the views of or lobbying on behalf of people with protected characteristics - were involved in equality outcome setting with multiple authorities.

Interviews with staff in 15 of the representative groups which were reported as being involved in equality outcome setting with multiple authorities found that three stated that they had not been involved in working with authorities on equality outcomes. This appears to be a result of them being unaware that the evidence arising from their involvement would later be applied to equality outcomes.

Of the remaining 12 representative groups who stated that they had been involved in setting equality outcomes, half stated that they had been involved in measuring progress on equality outcomes and 7 stated that they had been involved in reporting on progress on equality outcomes.

Three of the representative groups who stated that they had worked with authorities on setting equality outcomes, said that they had helped to design equality outcomes. The remainder stated that they were invited to comment on a set of equality outcomes which were already in draft form. Most, but not all, of the representative organisations were clear about the link between their involvement and equality outcomes, and some of them could identify changes that they believed to have been influenced by the evidence they provided.

Representative groups' involvement in measuring progress on equality outcomes took place through input on the nature of progress measurement criteria and advice on the reporting of progress.

Nine of the representative groups stated that they believed that their involvement had resulted in observable changes to equality outcomes statements and reports. Most reported that they were insufficiently resourced to check on the results of their involvement, i.e. they did not know for sure if their involvement had resulted in change.

Some representative groups reported that they were not resourced to provide the level of input that they had given but had prioritised staff time as they felt it was important to their overall mission. There were some indications that representative groups had prioritised their time to work with particular authorities and had declined invitations to be involved with others.

All representative groups stated that they had a long term relationship with some authorities and frequently offered advice on a variety of policy areas. Working with authorities on the setting of equality outcomes was only one part of a broader relationship. Despite this, many representative groups stated that they were not always clear how, or if, their advice was used.

Two representative groups reported that they believed their involvement had produced significant impact on equality outcomes. In both cases this was a result of

a long-term process of involvement with a single authority with whom they had a pre-existing relationship.

## Conclusions

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The explicit relationship between evidence and equality outcomes was variable. It was clearest where there was a summary of evidence for each equality outcome, or where reports supplied a separate chapter or associated report on the evidence base for the set of equality outcomes.

There was a wide variety of evidence referred to in equality outcomes statements, and some clear commitment to generating new evidence where existing sources were incomplete or inadequate. In most cases reports presented no explicit rationale for the selection of the evidence published and presented evidence that was of questionable relevance.

The majority of authorities described arrangements for involvement of people with protected characteristics, but the extent to which the evidence they produce is used in setting equality outcomes is variable. There was a small increase in the number describing processes for involvement in 2017, but much of this may be accounted for by authorities simply restating processes undertaken prior to the 2013 reports.

It was not always clear from reports how involvement as an ongoing process had been considered or implemented. In this respect, much of the involvement described may not conform to the definition of involvement in the guidance.

In the cases where there had been a longer term dialogue, this was usually with representative organisations, rather than directly with individuals and communities of people with protected characteristics. Evidence from representative organisations suggests that public authorities may prefer to engage with them, rather than directly with communities, because they have a more developed understanding of the duties and can more efficiently offer relevant input.

## 4. Change in diversity of workforce composition

The Specific Duties require listed authorities to take steps to gather information and report on the composition of the authority's employees and on the recruitment, development and retention of persons as employees of that authority. This information should be collected annually and cover all relevant protected characteristics. Authorities are required to use the information gathered to better perform the equality duty.

The analysis aims to show the extent to which workforce composition in terms of the representation of people with protected characteristics has changed over the period of the study.

Employee data reports from 2013 and 2017 from all relevant listed authorities<sup>6</sup> were reviewed. This was complemented by evidence on the use of employee information drawn from the analysis of equality outcomes statements.

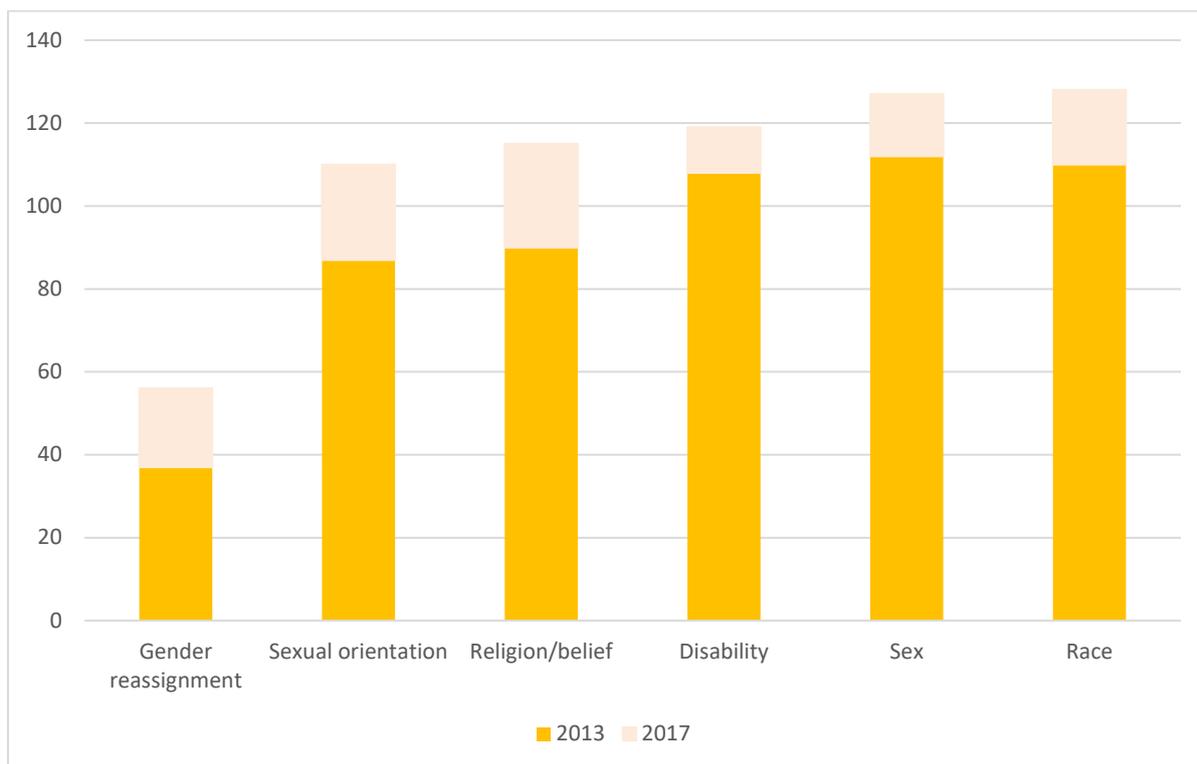
The final sample, after exclusions, consisted of 130 public authorities. This was made up of 32 local authorities, 22 health boards, 17 higher education institutions, 16 further education institutions and 43 other authorities.

Figure 1.3 shows that the number of public bodies reporting increased between 2013 and 2017 for all of the protected characteristics for which comparable data was available.

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<sup>6</sup> As outlined in the Equality and Human Rights Commission publication '[Public Authorities in Scotland: Who is covered by the Specific Duties](#)'.

**Figure 1.3 Number of Public Bodies Reporting by Protected Characteristic**



Age was reported in bands which varied widely in reports and it was not possible to combine them. Workforce composition data on pregnancy and maternity was rarely reported. As a result, analysis of change for these characteristics was not possible.

The ethnicity categories applied varied across authorities and some categories were open to different interpretations. Where possible these were combined into standard categories for analysis. This was not always possible, for example, if a ‘Scottish’ category was used but it could not be confidently determined that this referred to ‘white Scottish’ then it was excluded.

To allow for standardised analysis, all employee information was recorded as percentages of the total. Where percentages were not provided in the reports, numerical data was converted into percentages. Because the size of the staffing complement varies widely across authorities the use of percentages has the potential skew the data when reported as a combined total or average across several authorities. To mitigate this effect, where the average is given in this analysis, only public authorities with over 100 employees are included.

Where percentage change is given, this refers to the percentage increase or decrease in the overall workforce, not in the percentage of staff with protected characteristics.

Public authorities are not required to produce data in a way which allows a universal or sectoral analysis. Consequently, large volumes of data had to be excluded because they were in a format inconsistent with the planned analysis. In addition, there is a high volume of data where the characteristics of employees are unknown or unreported. The conclusions on change in workforce composition must therefore be caveated in recognition of the gaps and inconsistencies in the data.

It should be noted that this analysis only presents the evidence of change. It does not seek to assess the factors which produced that change. The range of reasons why workforce composition may change are complex, and may relate to multiple factors including those beyond the influence of the authority.

## Change in Workforce Composition

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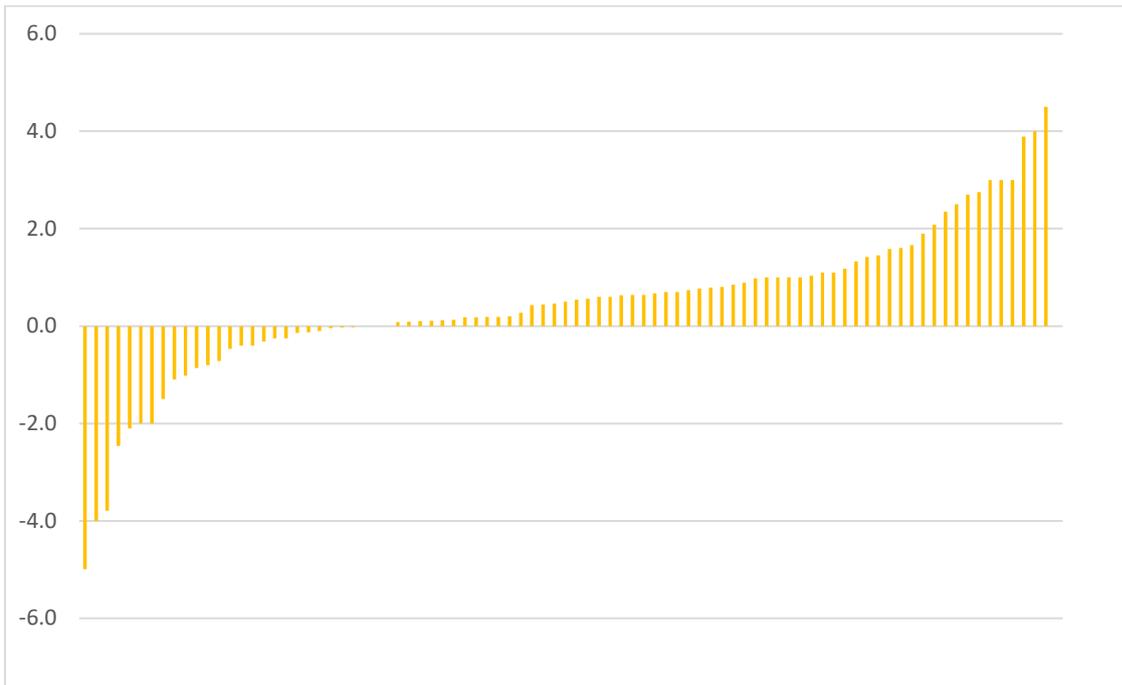
### Disability

The change achieved in representation of disabled staff ranged between 5% decrease in representation to just over 4% increase in representation. More authorities achieved an increase than experienced a decrease. The average change across the whole sample was an increase of 0.6%.

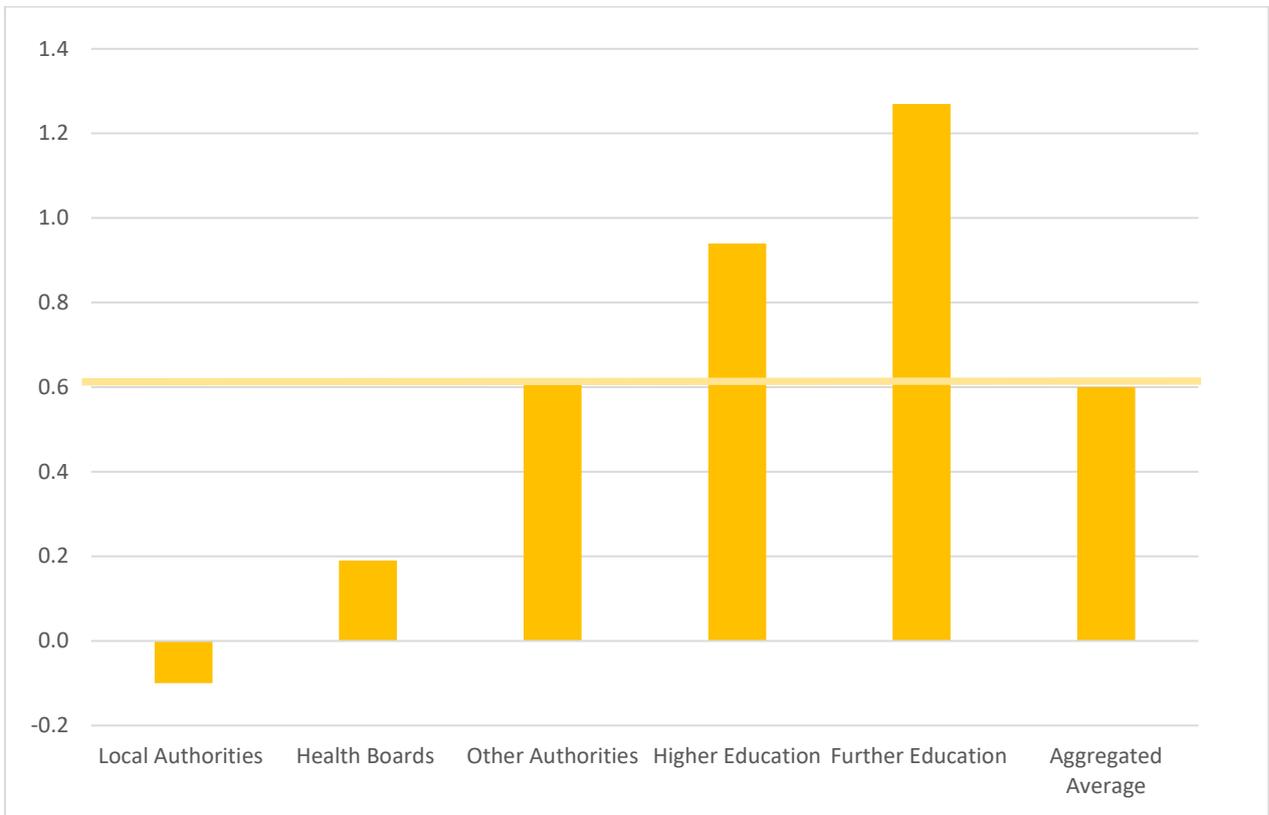
For a third of the authorities, the increase was under 1% of their total workforce. Nearly a third saw a decrease in the reported percentage of disabled employees, although in the main the decrease was also less than 1%.

Local authorities saw a small average decrease in their reported percentage of disabled employees. All other sectors saw a small average increase. The highest increase was in further education, at 1.3%.

**Figure 1.4 Change in % of Disabled Staff – Individual Authorities**



**Figure 1.5 Average Change in % of Disabled Staff**

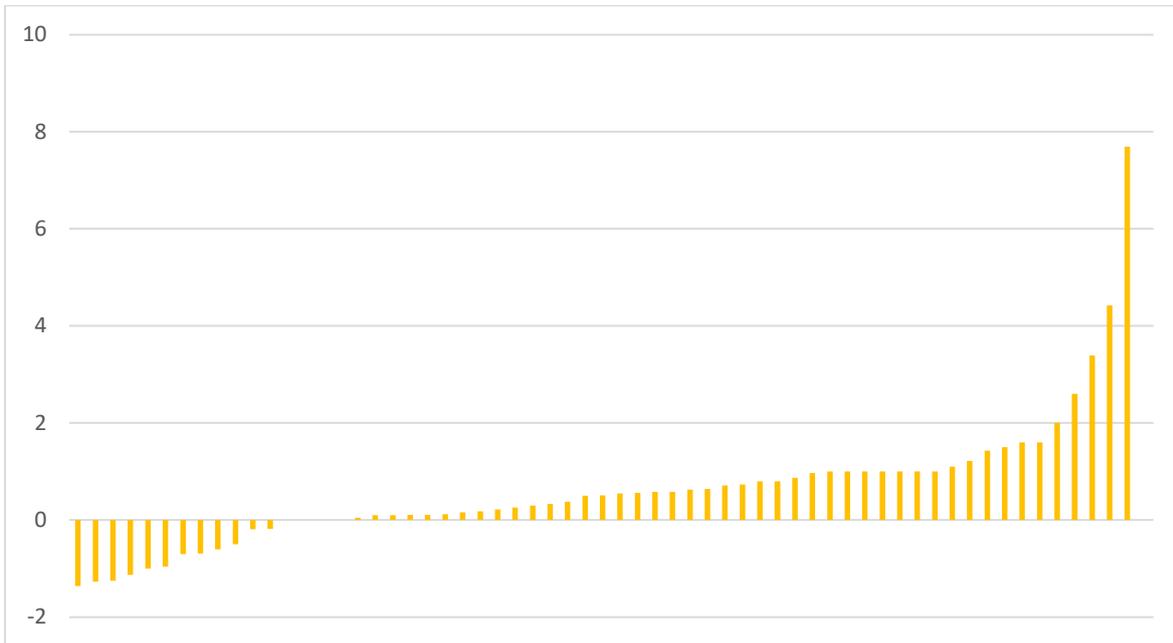


### Sexual Orientation

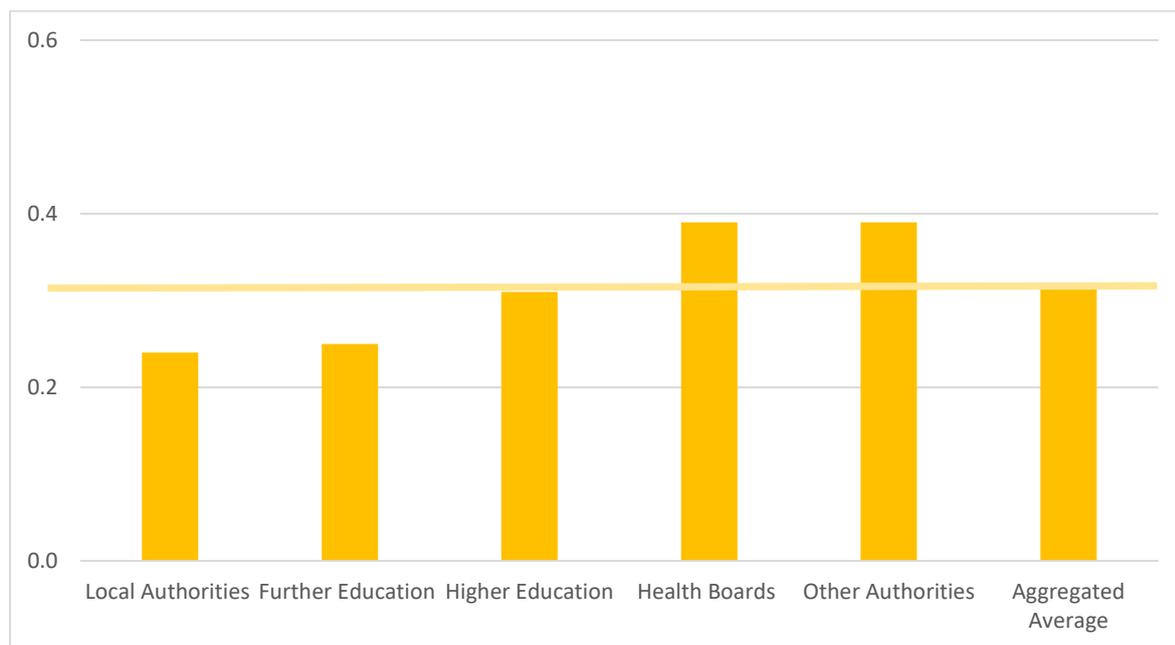
Most authorities reported an increase in the representation of LGB+ staff. For around half of these authorities, the increase was under 1% of the total workforce. A small number of authorities saw a decrease in the reported percentage of LGB+ employees, although again the decrease was mainly less than 1%.

All sectors saw a small average increase, ranging from 0.2% in local authorities to 0.7 in 'other' public authorities.

**Figure 1.6 Change in % of LGB+ Staff – Individual Authorities**



**Figure 1.7 Average Change in % of LGB+ Staff**



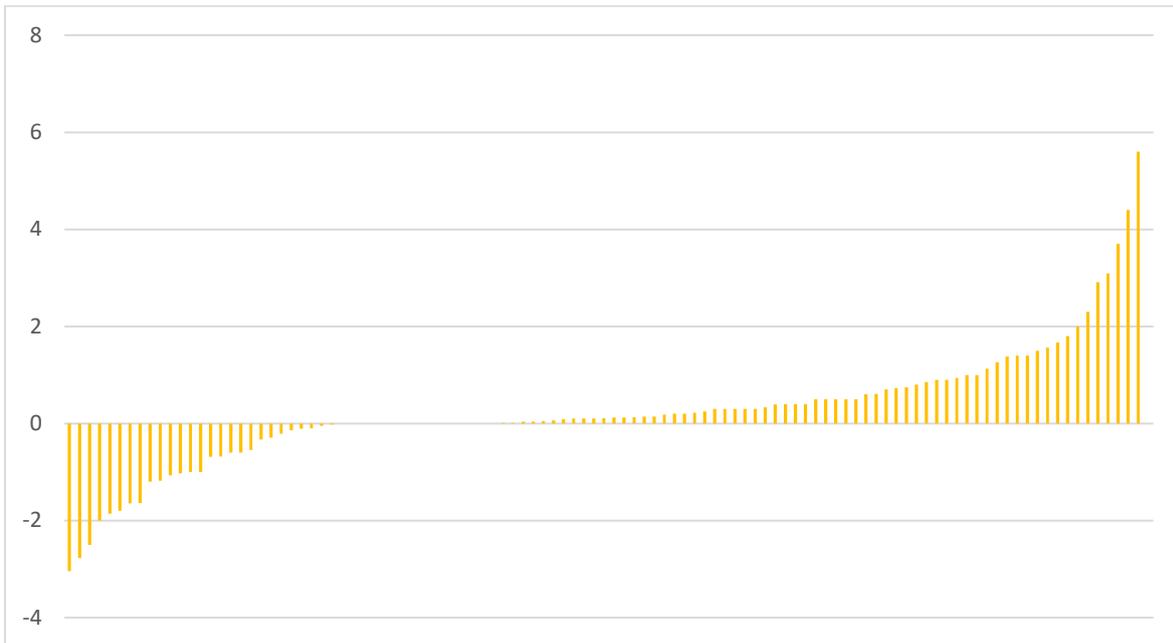
### Gender Reassignment

The majority of authorities experienced no demonstrable change in that the number of employees who identified as transgender remained at zero. Only 10 authorities reported data on gender reassignment in a way which could be compared across the period, and no significant change could be identified within this sample.

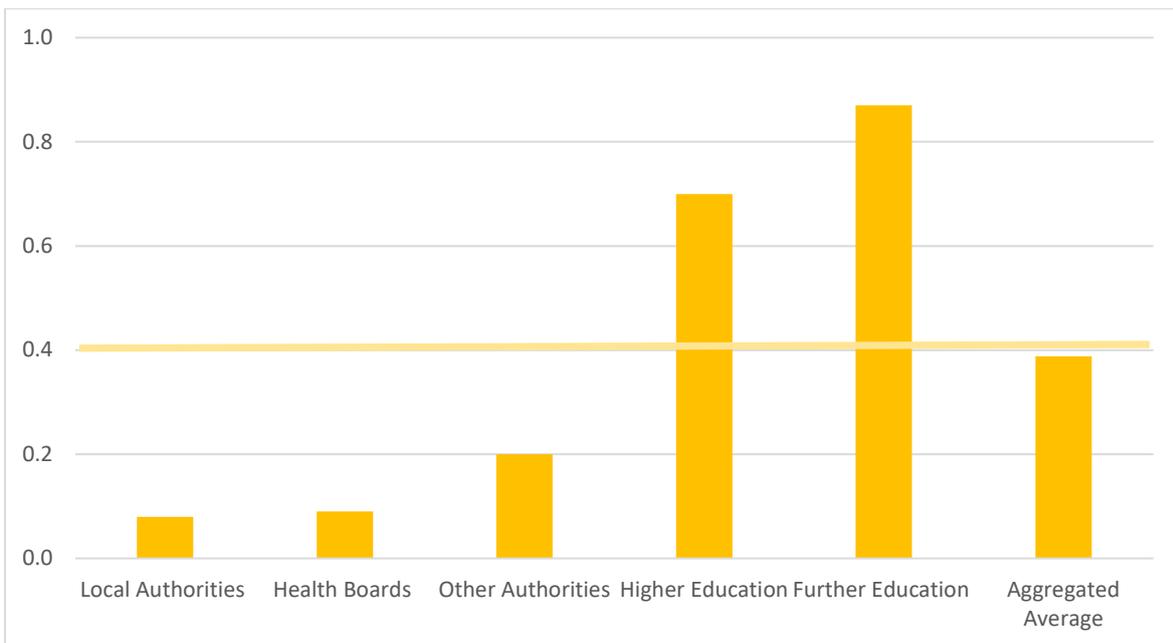
### Race

The majority of authorities experienced an increase in representation of non-white minority ethnic staff. For nearly half of the authorities, the increase was under 1% of the total workforce. A significant number of authorities saw no increase in the percentage of their non-white minority ethnic employees and over a quarter saw a decrease, although with a few exceptions, the decrease was less than 2%.

**Figure 1.8 Change in % of BME Staff – Individual Authorities**



**Figure 1.9 Average Change in % of BME Staff**

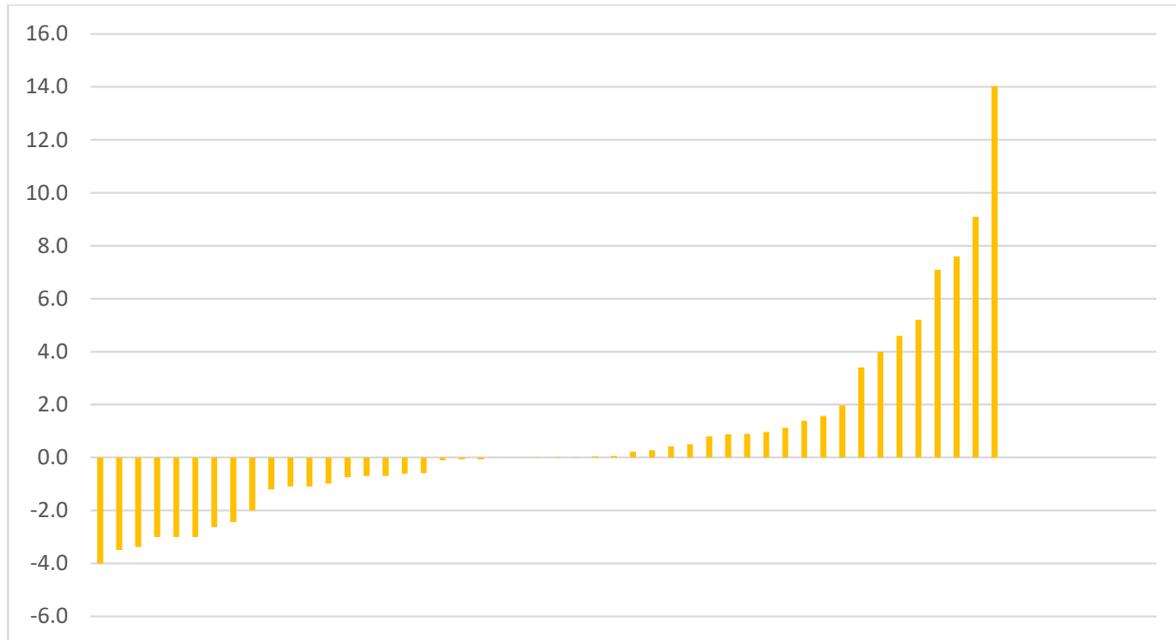


All sectors saw a small average increase, ranging from 0.1% in local authorities to 0.9% in further education establishments.

### Religion and Belief

Nearly half of authorities experienced an increase in the representation of staff from non-Christian religious backgrounds, and half a decrease. For nearly a third of the authorities showing an increase, the increase was less than 1% of their total workforce.

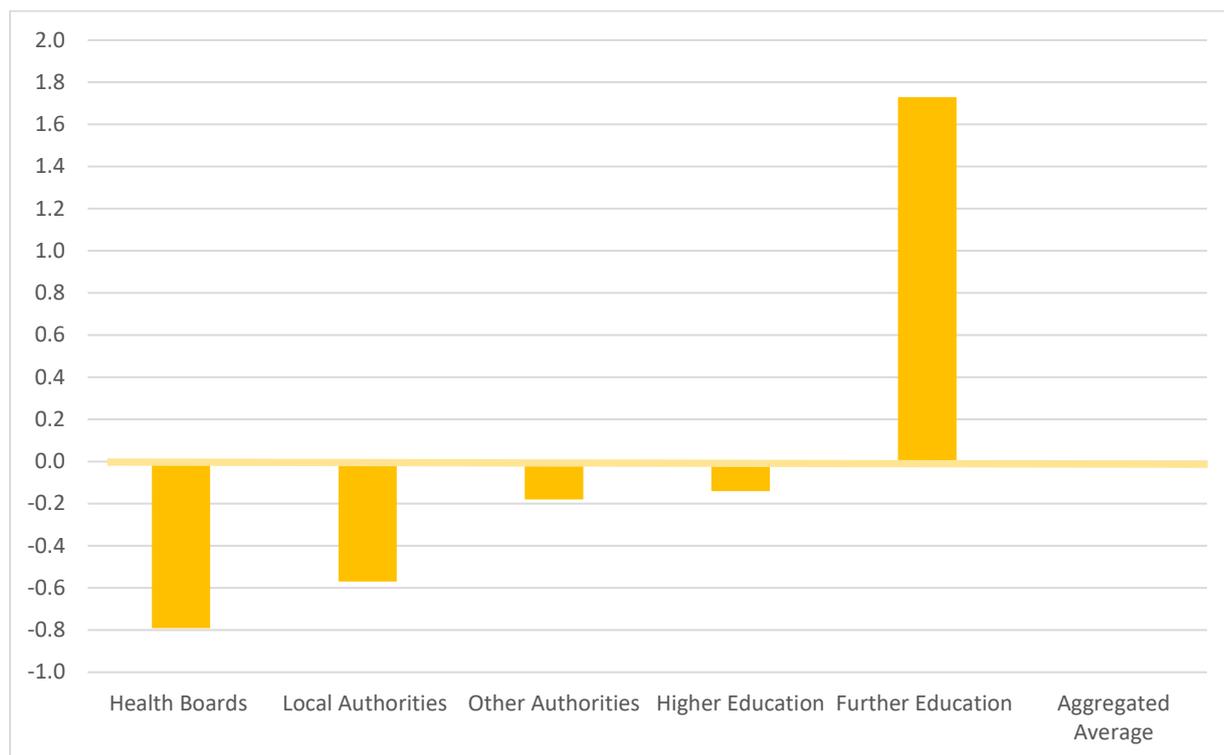
**Figure 1.10 Change in % of Religious Non-Christian Staff - Individual Authorities**



As figure 1.11 shows, the only sector which experienced an average increase was further education, where a small number of institutions reported a relatively large increase in staff with a religion other than Christian.

The mean average percentage of staff from non-Christian religious backgrounds ranges from 0.5% of staff in local authorities to 3.9% in other public bodies.

**Figure 1.11 Average Change in % of Religious Non-Christian Staff**



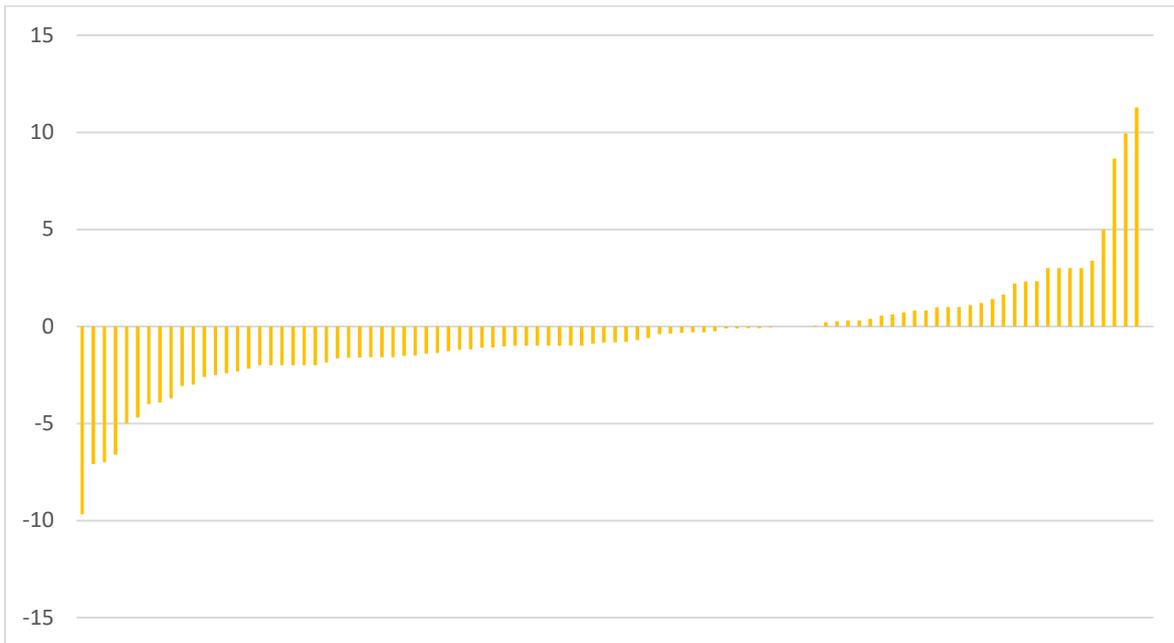
### Sex

Most authorities have workforces which are mainly female<sup>7</sup>. For these authorities, change reported is in relation to representation of male employees. For the few authorities that have a majority male workforce, the change in relation to representation of female employees is separately reported.

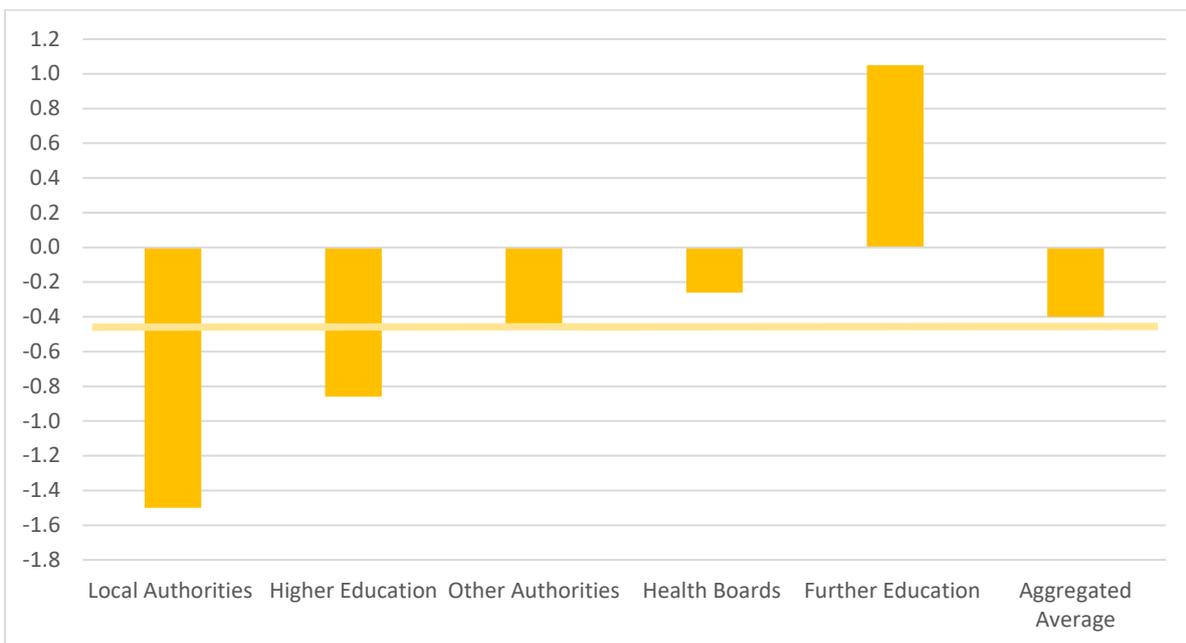
Most of the authorities with a female majority workforce experienced a further decrease in male representation, although a third, mainly in the further education sector, reported a small increase in the male composition of their staff.

<sup>7</sup> No analysis is made in this chapter on horizontal or vertical segregation of the workforce

**Figure 1.12 Change in % of Male Staff – Individual Female Majority Authorities**

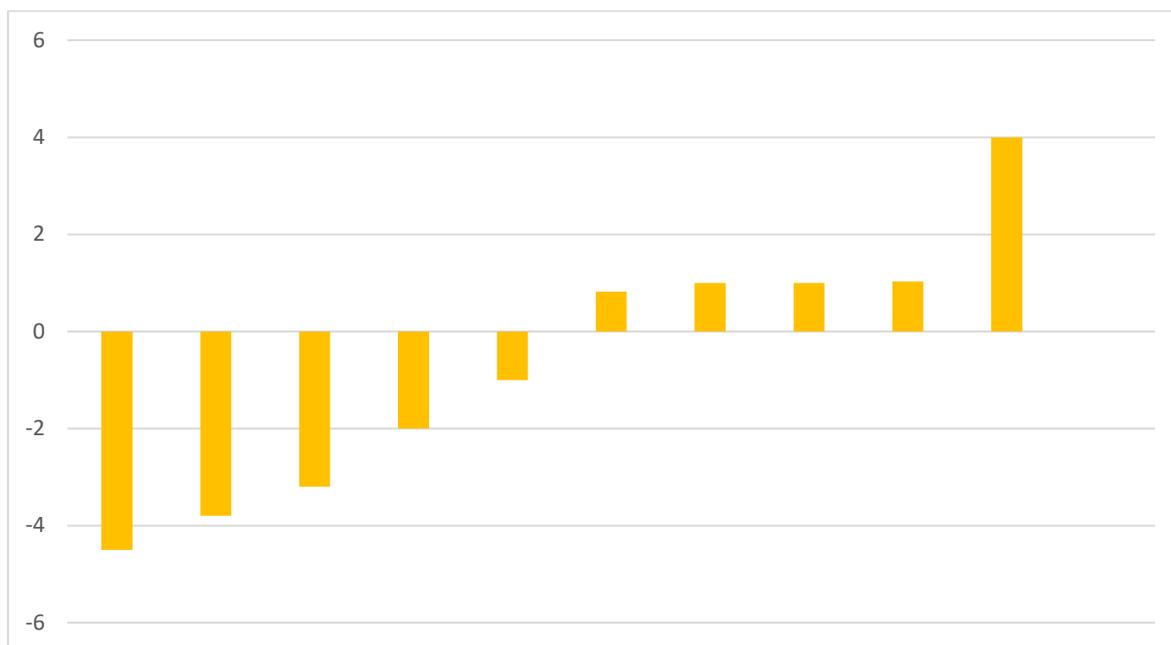


**Figure 1.13 Average Change in % of Under-represented Male Staff**



For the authorities with a male majority staff, nearly half reported an increase in the percentage of female staff and half a decrease. On average, across all the authorities with a male majority staff an increase of 1.3% in the number of female staff was achieved.

**Figure 1.14 Change in % of Female Staff – Individual Male Majority Authorities**



**Unknown and Prefer Not To Say (PNTS) Data**

Public authorities do not hold information about the protected characteristics of a large number of their employees. Data remains unknown for a variety of reasons, including staff not being asked their details or choosing not to respond when asked. There are also many employees who explicitly prefer not to give details about their protected characteristics to their employers.

Figure 1.15 below looks only at the level of non-reporting for disability, ethnicity, religion and sexual orientation. Information on sex is almost universally provided, and data for gender reassignment is usually not published.

**Figure 1.15 Mean % Employees Declaring PNTS/Unknown 2013 -2017**

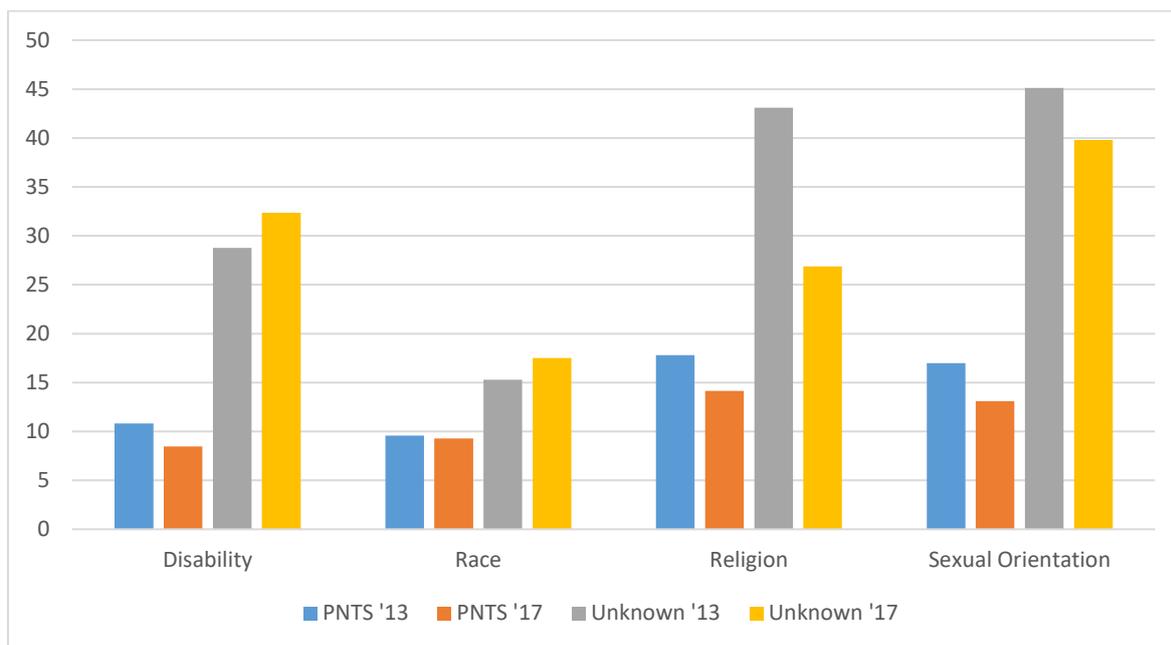


Figure 1.15 shows that there are substantial levels of unknown or ‘prefer not to say’ data. The gaps in knowledge about the protected characteristics of the staff range from a low of 7.7% of staff in higher education with ethnicity recorded as unknown or ‘prefer not to say’ to a high of 71% of staff in local authorities with their sexual orientation recorded as unknown or ‘prefer not to say’. Health authorities have the highest recorded unknowns for disability and higher education bodies the highest for religion and belief.

One authority sent staff the Stonewall “What’s It Got To Do With You?’ brochure with recruitment packs. The brochure aims to encourage completion of equality monitoring forms by explaining 10 reasons why LGBT people should complete monitoring forms.

Another authority allows staff to update their own personal information and sends a monthly automated email reminder to staff who have not completed their records.

### Change in employee recruitment, development and retention

The volume, quality and consistency of the data available for recruitment, development and retention of people with protected characteristics was overall poorer than the data for workforce diversity. It was not possible, from the data

available, to establish if change in the actual numbers was due to improvements in data collection or changes in the workforce. Because of this, the data was not considered suitable for a numeric analysis which could produce misleading conclusions. The following are more general observations arising from the data available.

Where data could be located, most authorities provided information on the protected characteristics of applicants, with sex, disability and ethnicity almost universally provided, and sexual orientation and religion less so.

Data was not always available in relation to short-listed applicants. Comparison of the protected characteristics of appointed candidates to applicants provides a mixed picture in relation to sexual origin and religion, but in general, there appears to be a tendency for a lower proportion of disabled and BME applicants to be appointed compared to their rates of application.

Protected characteristic data of those gaining promotion was provided by nearly half of public authorities. As this only applies to existing staff, it is difficult to produce any conclusions on change for people with protected characteristics who are under-represented in the workforce. Most of those authorities who reported on promotion data in 2013 did so again in 2017.

Data on training was generally provided for local authorities, health boards and other public authorities. Some authorities reported specifically on formal Continuing Professional Development, others appeared to include data on any training attended. Very few authorities reported any data in relation to appraisals or return to work after maternity leave or following disability-related sick leave.

Data by protected characteristic for those undergoing grievance or disciplinary procedures was more readily collected for 2013 and 2017, but in many cases the numbers relating to people with protected characteristics who are under-represented in the workforce were small and therefore not reported.

Data on the protected characteristics of leavers was provided by 49 authorities in 2013 and 62 authorities in 2017, with a small number of authorities detailing reasons for leaving, e.g. differentiating between retirement, end of a fixed term contract, dismissal, etc.

## Use of Employee Data

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The guidance states that listed authorities must gather and use employee information to help them better perform the general equality duty. Information on how authorities used employee data was rarely described in employee data reports. The research reviewed 2013 and 2017 equality outcomes statements from the 55 authorities identified in earlier EHRC research as producing good measurable equality outcomes to identify instances where reference was made to employee data as evidence to support equality outcomes, or improvement in the quality of employee data as an equality outcome itself.

In 2013, 26 authorities described 38 equality outcomes which related to employee information. In 2017, 19 authorities described a total of 29 equality outcomes which related to employee information.

In several cases, equality outcomes and the associated supporting material were presented in general terms. For example “We are seen as an inclusive equal opportunities employer where all staff feel valued and respected and our workforce reflects our community”, with no clear aspiration for change or clarity about who would benefit and how they would benefit. In other cases, they related to generic employment practices, with no reference to employment information as the motivating factor for the planned change in practice. These, more general, equality outcomes and supporting material were excluded from this analysis.

In 2013, 20 authorities described equality outcomes or supporting actions that related to improving response rates to requests for employee information. Authorities are required under the specific duties to gather and use employee information. Seven described commitments to reviewing recruitment and selection processes to increase the number and success rates of applicants with protected characteristics. Thirteen described commitments to address occupational segregation and 12 described commitments to reducing or eliminating pay gaps. The evidence used to support these commitments was drawn from a mixture of employee information and pay gap data. Others described intentions or actions to change applicant perceptions of the authority, change staff attitudes/knowledge in relation to equalities, or take positive action in recruitment.

In 2017, 11 authorities described equality outcomes or supporting actions that related to improving response rates to requests from employee information. This reduction from 2013 may reflect a view in authorities that they have established fit for purpose systems for collecting employee information. This is supported by the

increased number of authorities who committed to simply monitoring the data collected.

Five described commitments to reviewing recruitment and selection processes to increase the number and success rates of applicants with protected characteristics. Again, this reduction in the number of reviews may be reflective of the conclusion of reviews initiated in 2013. Four described commitments to address occupational segregation and 3 described commitments to reducing or eliminating pay gaps. As in 2013, there were a small number of intentions or actions to change applicant perceptions of the authority, change staff attitudes/knowledge in relation to equalities, or take positive action in recruitment.

Overall in 2017 there was a reduction in the number of actions which authorities committed to as a result of employee information, and an increase in the number of non-specific commitments to act on data collected or the findings of reviews. There was also a small shift observable in the reports from some authorities towards a greater focus on the experience of their service users, as opposed to their employees. This may also have contributed to the reduction in the use of employee information to inform outcomes or actions in 2017.

In both years, there were few examples of clear, systematic analysis or application of employee information. The ways in which data would be used to produce insights on inequality or under-representation in the workforce were infrequently detailed. The benchmarks which would be used to identify variance were infrequently specified. In cases where benchmarks were provided, these were normally whole population data, with little apparent consideration of whether this was the most appropriate benchmark for the authority.

It is arguable that for some authorities, the most appropriate comparator is not the Scottish population as a whole. In relation to workforce diversity, data for the working age population may be more useful for all authorities. For some authorities, data for their geographic catchment area or travel to work area may provide greater insights than data for the whole of Scotland. For example, Glasgow based authorities may find it relatively easier than rural authorities to meet or exceed a comparison with the ethnic diversity of the whole population. For some authorities, a sectoral comparator may produce useful insights for planning of action to address inequalities in workforce composition.

## Conclusions

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Some authorities showed an increase in workforce diversity, others showed no change or a decrease in diversity. A large volume of data was excluded from the analysis as it was not available or not in a format which allowed consistent analysis with other authorities. The mixed results, and the volume of data excluded from the analysis, including the large volume of information that is unknown about employees' protected characteristics, mean that it is not possible to confidently produce overall conclusions in relation to change in workforce diversity across listed authorities, or clusters of authorities.

It is apparent that authorities are taking steps to improve the volume of the data collected and reduce the number of 'prefer not to say' responses.

It was also apparent that the requirement for authorities to use employee information was interpreted and implemented with varying degrees of comprehensiveness. Approaches to benchmarking against population data, generating insights from benchmarking, developing interventions to address identified inequalities, and measuring the impact of interventions are rarely systematically described.

## 5. Change in gender pay gap

The Scottish Specific Equality Duties require certain listed public authorities to publish information on their gender pay gap. Information should be reported for the whole authority, including full and part-time staff, and incorporating the pay of the most senior staff. It should exclude overtime and be reported as the percentage difference between men's mean average hourly pay and women's mean average hourly pay. Reports should detail the methodology applied to calculate the gender pay gap.

Only listed public authorities who had a workforce with 150 or more employees were required to publish gender pay gap information in 2013. Changes to the regulations in 2016 lowered the threshold for reporting on gender pay gap to those with 20 or more employees. To ensure that data was comparable across the years, only authorities which had 150 or more employees in both 2013 and 2017 were included in this analysis. The total number of authorities with 150 or more employees in both years was 148.

Sixty-nine of the 148 authorities published data in such a way that change in the gender pay gap between 2013 and 2017 could be determined.

The reasons the change in pay gap could not be determined for the remaining authorities were as follows:

- Pay gap presented as a monetary figure rather than percentage.
- Pay gap presented for particular grades, rather than as a whole authority figure.
- Pay gap calculated using the median rather than the mean average.
- Pay gap information could not be located within the searching time limits for one or both years.
- Pay gaps calculated using salary rather than hourly pay.
- Calculation methodology not detailed in one or both years.
- Calculation methodology differed between 2013 and 2017.

A large proportion of higher education institutions, further education institutions, 'other' public bodies, and education authorities were excluded from the analysis due to one of the previously listed reasons.

Most local authorities published a gender pay gap which related to the entire local authority including the education authority; others published a figure which excluded the education authority. Some did not specify which employees were considered in the calculation.

One local authority published a complete Pay Gap Audit for 2016/2017 which included information on the methodology applied, a summary of findings, detailed results of the audit, and recommendations to the Cabinet.

The authority made clear the method applied to calculate the gender pay gap and provided a breakdown of the pay gap for all employees, local government employees, teachers, and Chief Officers.

The authority also stated that the pay gap had reduced across all employee workgroups from the previous audit in 2013/14, which provided a useful context for readers of the report.

The authority published the gender pay gap by grade within both the local government employee workgroup and teaching staff. This offered further transparency and demonstrated that the authority is aware of the potential for pay gaps to persist within certain grades. The audit offered a breakdown of pay gap by selected occupationally segregated jobs (e.g. catering, clerical assistant, personal carers, road workers) which demonstrated an understanding of the role that occupational segregation can play in maintaining the gender pay gap.

Several education authorities did not publish gender pay gap calculations which were distinct from the wider local authority, despite being listed as discrete authorities.

There was some change in the 2017 reporting round, with a greater number of education authorities publishing a separate pay gap figure and more authorities publishing the mean pay gap figures.

A working paper published by Close the Gap in 2014 found similar issues in the level of compliance with the publication of correctly calculated pay gap information.<sup>8</sup>

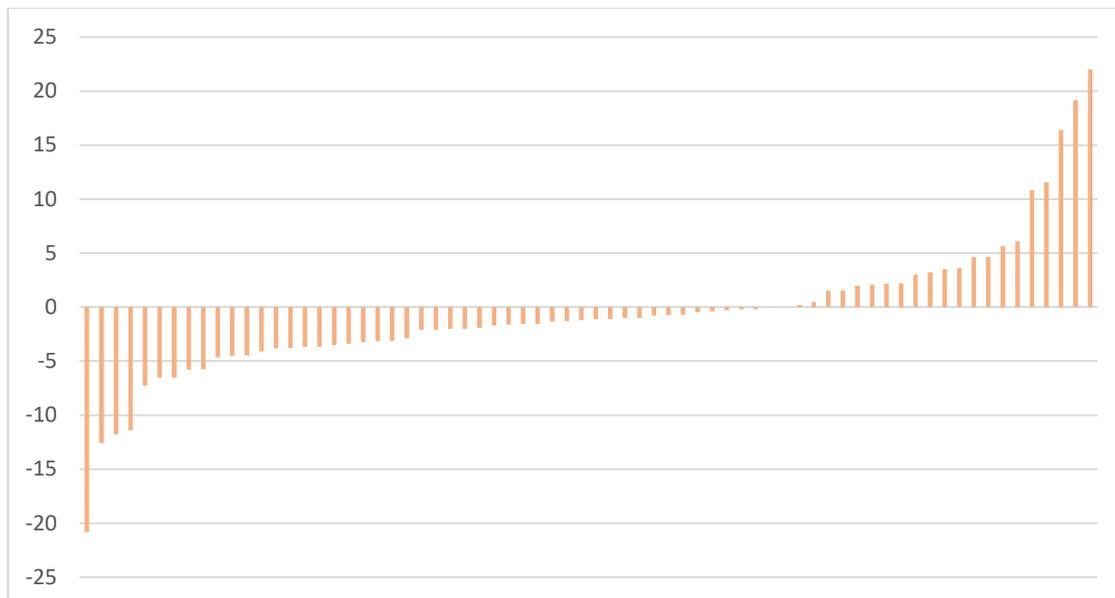
One authority published an outcome which committed it to reducing the gender pay gap by 50%. It described the benefits expected from increased equity in pay and pledged to review and validate the data on gender pay gap, analyse reasons for the gap and formulate an action plan to reduce pay gap in line with the target reduction.

### Change in Gender Pay Gap

For the authorities for whom the pay gap could be determined in both 2013 and 2017, a majority experienced a decrease in the gender pay gap. For nearly half (22) of the 47 authorities who saw a decrease, the decrease was less than 2.0%. In contrast, 17 authorities saw an increase in their pay gap of more than 2.0%.

For the 69 public authorities for whom the change in pay gap could be determined the percentage change was as follows:

**Figure 1.16 Percentage change in gender pay gap – all eligible authorities**



Of the 69 authorities for whom the change in pay gap could be determined:

<sup>8</sup> Close the Gap (2014) [Monitoring Scottish Public Bodies' Compliance with the Public Sector Equality Duty](#)

- 47 experienced a decrease in the gender pay gap
- 21 experienced an increase in the gender pay gap
- 1 experienced no change in the gender pay gap

Of the 47 authorities who experienced a decrease in the gender pay gap:

- 10 experienced a decrease less than 1.0%
- 12 experienced a decrease between 1.0% and 1.9%
- 17 experienced a decrease between 2.0% and 4.9%
- 4 experienced a decrease between 5.0% and 9.9%
- 4 experienced a decrease of 10% or more

Of the 21 authorities who experienced an increase in the gender pay gap:

- 4 experienced an increase less than 2.0%
- 8 experienced an increase between 2.0% and 3.9%
- 4 experienced an increase between 4.0% and 9.9%
- 5 experienced an increase of 10% or more

One Higher Education institution published an annex to its 2017 report which addressed the gender pay gap. This authority provided information on the average hourly rate of pay for male and female employees, basic and total pay by grade and sex, mean and median basic and total pay by sex and grade, and a detailed analysis of the gender pay gap. The authority also detailed how many male and female employees are employed within each grade.

This authority also made clear the method applied to calculate the gender pay gap and chose to publish an analysis utilising both mean and median calculations. It further noted that the difference in the average hourly rate for women and men had reduced in 2017. Uniquely among the authorities examined, this report complemented its analysis of average hourly pay by grade, with examples of roles at that grade. This offered greater transparency for readers who are not familiar with structures of employment and pay in the authority.

The authority published useful information over and above the requirements of the Duties.

## Outcomes relating to Pay Gap

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The guidance states that reporting on pay gaps helps authorities understand the size and causes of their pay gaps, identify issues that need to be addressed, help them understand the reasons for any gap and consider whether they need to take action to tackle the causes.

Information on how authorities used pay gap data was rarely described in pay gap reports. The research reviewed 2013 and 2017 equality outcomes statements from the 55 authorities identified as producing good measurable equality outcomes to identify instances where reference was made to pay gap data as evidence supporting equality outcomes or change in pay gap as an equality outcome itself.

In 2013, 27 authorities described 31 equality outcomes which related to pay gap information. Twenty-three of these equality outcomes had actions associated with them, and 17 were expressed in a manner which allowed measurement of progress. Four described a measurable performance target.

In 2017, 14 authorities described a total of 16 equality outcomes which related to pay gap information. Twelve of these equality outcomes had actions associated with them, and 9 were expressed in a manner which allowed measurement of progress. None of them described a measurable performance target.

One authority asserted in their evidence base for their equality outcome statement that imbalance between men and women and the gender pay gap exists and inequality in terms of employment and noted that a higher proportion of women in low paid or part-time work and the costs of childcare could contribute to increased child poverty rates and health inequalities. In response to this they committed to four actions/outputs

- There is greater diversity of males/females across non-traditional roles.
- The gender pay gap for non-teaching employees is reduced.
- Develop plans targeting males and females to apply for non-traditional roles.
- Develop plans to address gender pay gap for non-teaching employees with the aim to reduce from current figure of 8.73%.

The authority's Equal Pay Policy Statement further committed the authority to action to address occupational segregation and gender pay gap.

## Conclusions

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The majority of authorities included in the analysis experienced a decrease in the gender pay gap. Nearly half of those authorities experienced a decrease of less than 2.0% and several authorities saw an increase of 2.0% or more. This demonstrates that change, while positive overall, is not consistently in a positive direction.

Many authorities did not publish pay gap calculations in a way which aligned with guidance, or which allowed for consistent analysis within sectors or overall. There was improvement in the 2017 reporting round, with a greater number of authorities correctly publishing their pay gap figures. This suggests an enhanced understanding of reporting procedures and the implementation of system changes to better meet this duty.

## 6. Conclusions

### Overall Conclusions

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The research examined published material to gather evidence on:

- Whether change has been achieved in relation to the original equality outcomes set in 2013
- How public authorities used: [a] evidence; and [b] involvement of people with or who share protected characteristics (in relation to outcomes)
- Whether there have been reported changes in diversity in workforce composition, recruitment, development or retention for public authorities
- Whether change has been achieved in relation to gender pay gaps between 2013 and 2017
- The extent to which outcomes relating specifically to pay gaps and employee information were developed
- The ways in which public authorities have used employee information
- Whether other stakeholders have perceived change.

Overall, there was limited evidence of change for people with protected characteristics. Authorities are required to comply with the statutory requirements of the duties which apply to them. It is possible for authorities to meet the requirements of the duties, without investing substantially in producing or demonstrating change. This may partially explain the limited evidence of change for people with protected characteristics found in this study. Unless there is greater incentive for authorities to focus on achieving and demonstrating change, rather than simply completing the administrative demands of the duties, then there is the potential that further rounds of reporting may not produce greater evidence of change.

There were examples of change for people with protected characteristics, including several where the link between the intervention and the outcome was clearly evidenced. There were numerous others where the link was less clear, and it was not always possible to confidently attribute the change described to the activities of the authority. This is particularly the case in relation to changes in workforce

composition and pay gap, where the actions which influenced change may not be described in reports and may relate to multiple and complex factors including those beyond the influence of the authority.

## Evidence of Change

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### Equality outcomes

There was limited evidence of change for people with protected characteristics in progress reporting on equality outcomes for the 2013-2017 cycle.

A complex assortment of factors appears to underlie this, including the selection of equality outcomes with limited potential to produce change for people with protected characteristics, poor planning and progress measurement criteria, and a tendency to report on actions and outputs rather than the change produced by actions and outputs.

There was variance in the extent to which the outcomes presented were clearly intended to produce change for any particular protected characteristic. It was common for the protected characteristic to be unspecified, or for outcomes statements to assert that an outcome applied to all protected characteristics. In many cases where an outcome was intended to produce change for all protected characteristics, it was not clear how it would do so.

A small number of authorities included progress measurement criteria which robustly demonstrated positive change for people with protected characteristics. The best of these clearly represented how their activities had impacted people using quantitative measures to show the level of impact, and occasionally also qualitative measures detailing the perceptions of change experienced by the people impacted.

Similarly, the evidence on whether employees and service users have perceived change presents a mixed picture. Where change is perceived, it is not always clearly attributable, from the published evidence, with actions that an authority has taken under the specific duties. There is no requirement in the duties for authorities to gather data or report on employee or service user perceptions.

### Gender Pay Gap

The majority of authorities included in the analysis experienced a decrease in the gender pay gap, although nearly half of those authorities experienced a decrease of less than 2.0% and several authorities saw an increase of 2.0% or more. This

demonstrates that change, while positive overall, is not consistently in a positive direction.

Many authorities did not publish pay gap calculations in a way which aligned with guidance, or which allowed for consistent analysis overall or within sectors. There were systems changes implemented to meet the duty to gather, calculate and publish gender pay gap data, and some examples of changes to recruitment, development and employee support practice as a result of gender pay gap data.

For the authorities reviewed in this project, there was improvement in the 2017 reporting round compared with 2013, with a greater number of authorities correctly publishing their pay gap figures. This suggests an enhanced understanding of reporting procedures and the implementation of system changes to better meet this duty.

### Employee information

A listed authority must collect employee information and use the employee information it gathers to better perform the general equality duty. There is considerable variation in how authorities use employee information and some evidence that authorities are not clear on how to use it to benchmark performance or demonstrate change.

Since 2013, many authorities have invested in changing their systems for data collection, and some authorities have made changes to recruitment and development practice as a result of employee information. Assuming the changes are effective, further change should become apparent in future rounds of reporting.

The picture across authorities in terms of increasing diversity of their workforce is mixed. Some authorities showed some increase in workforce diversity, others showed no change or a decrease in diversity. For those who have increased diversity, it is not always clear that changes are a result of their actions in relation to the specific duties.

A large volume of data was excluded from the analysis as it was not available or not in a format which allowed consistent analysis with other authorities. The mixed results, and the volume of data excluded from the analysis mean that it is not possible to confidently produce overall conclusions in relation to change in workforce diversity. The data on workforce composition, recruitment, development and retention varied significantly between individual authorities, limiting the opportunity for this analysis to produce any conclusions about sectoral change in workforce composition or more general change across the public sector.

## Evidence

The explicit relationship between evidence and equality outcomes was variable. It was clearest where there was a summary of evidence for each outcome, or where reports supplied a separate chapter or associated report on the evidence base for the set of equality outcomes.

There was a wide variety of evidence referred to in equality outcomes statements, and some clear commitment to generating new evidence where existing sources were incomplete or inadequate. In most cases reports presented no explicit rationale for the selection of the evidence published. In some cases reports presented evidence that was of questionable relevance to equality outcomes and to the organisational context and functions of the authority.

## Involvement

The specific duties require each listed authority to involve equality groups and those who represent their interests in preparing a set of equality outcomes. There is no duty to report on what involvement had been undertaken.

The majority of authorities described arrangements for involvement of people with protected characteristics, but the extent to which the evidence they produce is used in setting equality outcomes is variable. There was a small increase in the number describing processes for involvement in 2017, but much of this may be accounted for by authorities simply restating processes undertaken prior to the the production of 2013 reports.

It was not always clear from reports how involvement as an ongoing process had been considered or implemented. In this respect, much of the involvement described may not conform to the definition of involvement in the guidance.

In the cases where there had been a longer term dialogue, this was usually with representative organisations, rather than directly with individuals and communities of people with protected characteristics. Evidence from representative groups suggests that public authorities may prefer to engage with them, rather than directly with communities, because they have a more developed understanding of the duties and can more efficiently offer relevant input.

## Areas for Improvement

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This section of the report sets out the key issues in how the three elements of the duties studied produce and demonstrate change for people with protected characteristics and describes what improvements in practice might involve.

These have been drafted on the basis of the research and analysis undertaken to date on the Equality and Human Rights Commission PSED Specific Duties Effectiveness Project.

### Articulation of outcomes and reporting on change

Although the overall intention of the duties is to produce change for people with protected characteristics, this was not always the focus of outcomes or progress reporting. In many cases, the evidence presented and the outcomes set focused on administrative matters. Often, outcomes contained no reference to change, or focused on change which was not for people with protected characteristics.

The explicit relationship between evidence and equality outcomes was variable. In most cases reports presented no explicit rationale for the selection of the evidence published. In some cases, reports presented evidence that was of questionable relevance to equality outcomes and to the organisational context and functions of the authority.

There was considerable variance in the quality of the planning and performance measurement processes described. Few reports described a comprehensive system of baselines, progress measurement criteria, targets, benchmarks and other elements of planning and performance measurement. Some reports did describe relatively comprehensive systems but did not appear to have used them in reporting on progress. Analysis suggests that there is little connection between the comprehensiveness of the planning and performance measurement systems described in 2013 and the quality of subsequent progress reporting.

This may indicate that capacity for planning and performance measurement in public authorities is insufficiently developed. If this were the case, it would be reasonable to expect to observe similar flaws in planning and performance in other aspects of an authority's duties. If similar flaws are not apparent in other planning and performance measurement frameworks, it suggests a phenomenon which is peculiar to the specific duties. Further research may be required to clarify the extent to which the quality of planning and performance measurement for the three elements of the

specific duties examined here varies from the quality present in other planning and performance measurement frameworks in the public sector.

It is possible that changes for people with protected characteristics were achieved, but the limitations of planning and performance measurement meant that these were not demonstrated and evidenced.

Improvement in this area would involve a greater focus on producing change for people with protected characteristics, and an improvement in the selection of evidence applied to setting outcomes, including greater use of baselines from which to measure change. It would also involve clearer and more appropriate progress measurement criteria, and the implementation of and reporting on progress measurement criteria.

Many public authorities would likely benefit from a reduced focus on reporting on actions and outputs, and a reduced focus on simple compliance with the demands of the duties in favour of producing, demonstrating and reporting on change.

### **Use of published guidance**

The Equality and Human Rights Commission published 8 guides to explain how public authorities can meet the requirements of the Equality Act 2010. Guidance included publications on equality outcomes, evidence, involvement, assessing impact and employee information.

There were numerous areas where, despite the availability of guidance, authorities did not deliver work which corresponded with the processes, systems and standards recommended in the published guidance. This research makes no conclusions on the clarity, relevance or comprehensiveness of the guidance itself.

Despite the purpose of action which produces a demonstrable change for people with protected characteristics being made clear in the guidance, it was common for outcomes to focus on administrative or other procedural matters which had no clear direct benefit for people with protected characteristics.

The gender pay gap guidance is largely quantitative and therefore clearer and open to less variation in interpretation than much of the other guidance. Despite this, many authorities failed to follow the guidance on calculating and publishing the gender pay gap.

Improvement in this area would involve more consistent application of the guidance in the use of evidence to prioritise equality outcomes and in articulating equality outcomes that focus on change in respect to a particular inequality for people with

protected characteristics. It would also require a more consistent application of the guidance on involvement, measuring performance and employee information.

The reasons why the guidance has not always been followed are not clear. It is clear that many of the limitations on the potential for actions taken in response to the duties to produce change, and for that change to be demonstrated would be diminished if the guidance had been better utilised.

### **Improving the quality of data and how it is used**

There were substantial gaps, irregularities and inconsistencies in the data available, particularly regarding workforce composition, but also in relation to pay gaps and outcomes. These gaps, irregularities and inconsistencies were sufficiently serious to affect the delivery of a comprehensively robust analysis for this research, resulting in the exclusion of some elements of the analysis.

Although there is no requirement on authorities to produce data in a form which enables universal or sectoral analysis, this form of analysis may be useful in terms of assessing the overall impact of the duties in producing change for people with protected characteristics. The guidance states that one of the reasons to gather and use employee information is to “assess performance against that of similar organisations, nationally or locally.” This kind of benchmarking against peers may not be possible unless data is broadly comparable.

It was apparent that the main focus of reports in relation to data was on its collection. There was more limited description of how data would be used. There is considerable variation in how authorities use employee information and some evidence that authorities are not clear on how to use it to benchmark performance or demonstrate change. There was some evidence of authorities taking action to improve the quality of data, indicating that there was some awareness of the limitations of existing data.

Improvement in this area would involve a reduction in the level of ‘unknown’ data, and more consistent and comparable analysis and reporting, including the application of the guidance on calculation and reporting of pay gaps for relevant authorities. It would also involve a clearer link between data, action to address issues, progress reporting and wider organisational reporting systems. There is also a need for a shift in focus from gathering data to using it effectively to produce change

## Appendix I – Methodology

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### About the Research

The research was principally delivered through a desk-based analysis of published reports, supplemented by some primary research where evidence available from published reports was considered insufficient to form conclusions.

The work on whether change has been achieved in relation to the original equality outcomes set in 2013 prioritised the 55 public authorities who were assessed by EHRC research in 2013 as having published good, measurable equality outcomes. This sample was supplemented by a further 50 authorities whose outcomes had been assessed as being less measurable.

The work on how public authorities used a) evidence and b) involvement of people with or who share protected characteristics [in relation to outcomes], prioritised those authorities identified in Measuring Up as performing well on these factors. This desk research was complemented by a programme of interviews with representative organisations identified as having worked with multiple public authorities.

The work on whether there have been reported improvements in diversity in workforce composition, recruitment, development looked at all listed authorities.

The work on whether change has been achieved in relation to gender pay gaps between 2013 and 2017 was restricted to those authorities with 150+ employees in 2013 the threshold for publication of gender pay gap information at that time.

The work on the extent to which outcomes relating specifically to pay gaps and employee information were developed and the ways in which public authorities have used employee information also prioritised the 55 public authorities who were assessed by EHRC research in 2013 having published good, measurable equality outcomes.

The work on whether other stakeholders perceived improvements prioritised those authorities who had been assessed as providing better quality data in the earlier documentary analysis.

### Change in relation to the original equality outcomes

The sample for this section of the research was identified through a process of prioritisation and exclusion. The total number of listed public authorities which could have been considered for inclusion in the sample was 267.

The first phase of the work looked at equality outcomes reports for 2013, 2015 and 2017 for the 55 public authorities identified within the Equality and Human Rights Commission's Measuring Up? 3 publication<sup>9</sup> as having developed good quality, measurable equality outcomes in 2013. The purpose of this was to limit the sample to those authorities who would have been most likely to have the ability to record progress towards achieving equality outcomes. However, not all of these were suitable for analysis, and following discussion with the Project Advisory Group the sample was extended to increase the robustness and applicability of the findings across the range of listed public authorities.

Of the 267 potential public authorities, 53 were discounted because they no longer existed, had merged or had extremely limited potential to meet the criteria being used to measure progress.

In total, 120 public authorities were included in the data collection phase. Of these, 40 were unsuitable for analysis due to the following factors affecting comparability over the four-year cycle:

- 23 public authorities had changed their outcomes mid-cycle
- 8 public authorities had not published a progress report for one of the relevant years (2015 or 2017)
- 6 public authorities had published one or more reports which could no longer be accessed
- 3 authorities had reported progress too inconsistently to allow comparison

The final sample which was suitable for analysis consisted of 80 public authorities. The remaining 41 public authorities were not included in the research.

For each of the 80 public authorities, information was gathered from equality outcomes reporting in 2013, 2015 and 2017, 240 reports in total. For each equality outcome, the following information was recorded:

- Equality outcome details from 2013 reporting
  - Equality outcome as stated in 2013
  - Page number
  - Number of actions / commitments
  - Number of baselines (not including information set out in other sections of the report, for example sections covering evidence or mainstreaming)

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<sup>9</sup> Equality and Human Rights Commission (2013). [Measuring Up? Report 3: Monitoring public authorities' performance of the Scottish Specific Duties](#).

- Number of non-specific intended measures of progress (those which did not specify a percentage based or numeric target)
- Number of specific intended measures of progress (those which specified a percentage based or numeric target)
- Protected characteristics stated as intended beneficiaries
- Progress recorded in 2015
  - Number of instances where qualitative progress was demonstrated
  - Number of instances where quantitative progress was demonstrated (including where an increase or reduction had been stated without percentage based or numeric data)
- Progress recorded in 2017
  - Number of instances where qualitative progress was demonstrated
  - Number of instances where quantitative progress was demonstrated, including where an increase or reduction had been stated without percentage based or numeric data.
- Which protected characteristic groups any demonstrable progress in 2015 or 2017 had benefitted
- Whether activity (i.e. actions or outputs) had been recorded in at least one of the progress reporting cycles
- Scores of progress on a rating scale:
  - 0 - no demonstrable progress
  - 1- limited demonstrable progress
  - 2 - Significant demonstrable progress
  - 3 - Comprehensive demonstrable progress
- Notes of any potentially significant reporting practices or content

### Calculation of Gender Pay Gap

At the time of the 2013 and 2015 reporting rounds, only authorities with 150 or more staff were required to publish a statement on gender pay gap. Subsequent amendment to the legislation required listed authorities with 20 or more staff to publish gender pay gap information beginning with the 2017 reporting round.

This analysis has only considered those authorities which had more than 150 employees in 2013. Authorities which did not exist in 2013, which existed in 2013 but no longer existed in 2017, or which have different reporting timescales were also excluded from the analysis.

Reports from the remaining 148 authorities were reviewed to establish differences in the gender pay gap in 2013 and 2017.

Where published, the following information was recorded

- pay gap for 2013 and 2017.
- the calculation used by authorities to determine the pay gap.
- whether the pay gap was calculated using a mean average or a median average.
- whether the pay gap was calculated using employees' determined hourly pay or annual salary.
- whether the pay gap was in favour of men or women.

As the legislation requires the publication of the percentage difference between men's and women's mean average hourly pay, only change in the pay gap for those authorities which determined their pay gap in this way was measured.

Where information on the pay gap was unavailable, the reason for this was noted, e.g. no overall pay gap given, pay gap not published, report unavailable.

While the analysis did record whether a pay gap for senior management was published, these figures were not recorded, as the grades considered to be 'senior management' differed across authorities.

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