

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Forestry and Land Management (Scotland) Bill
Summary of aims and desired outcomes of Policy	To complete the devolution of forestry
Directorate: Division: team	Environment and Forestry Directorate: Natural Resources Division: Forestry Devolution Team

Executive summary

The Forestry and Land Management (Scotland) Bill will transfer the functions of Forestry Commissioners (FC), as they relate to Scotland, to the Scottish Ministers. This Equality Impact Assessment (EQIA) has been conducted in order to ascertain the impact of this transfer on the workforce of around 1,000 staff, based in national and local offices around Scotland. It has drawn out the substantial differences between the expectations placed on public authorities in different parts of the UK and sets out what changes will result from staff changing from the employment of FC to the Scottish Government. It does, however, also acknowledge that FCS and FES were already moving towards operating under the Scottish regime in any case.

The Bill will not make changes to the policies relating to forestry in Scotland, for example the detail that is currently set out in the Scottish Forestry Strategy, how the National Forest Estate is managed (as set out in ‘The role of Scotland’s National Forest Estate and strategic directions’), how new planting is approved (recently reviewed by Jim Mackinnon CBE, a former Scottish Government Chief Planner) or how new planting is funded (The Forestry Grant Scheme under the Scottish Rural Development Programme). We therefore make no assessment here of the impacts of any changes that could be made to any of these policies or funding support mechanisms.

Background

The Equality Act 2010 harmonised existing equality legislation and includes a public sector duty ('the Duty') which requires public authorities to pay due regard to the need to:

- Eliminate discrimination, harassment, victimisation or any other prohibited conduct;
- Advance equality of opportunity; and
- Foster good relations between different groups – by tackling prejudice and promoting understanding

The Equality Act also gave powers to Ministers of the Crown (England), Welsh Ministers and the Scottish Ministers to impose specific duties on a public authority to help them better meet the General Duty. The duties set by the Minister of the Crown (known as the Westminster Duties) are:

- To publish information to show their compliance with the Equality Duty, at least annually; and
- To set and publish equality objectives, at least every four years.

Public authorities in England are therefore required to publish information to show their compliance with the public sector equality duty, but can choose how to do so (within some parameters).

The situation in Scotland is rather different. The Scottish Ministers have legislated for nine specific equality duties for public authorities in Scotland:

- Duty to report progress on mainstreaming the equality duty
- Duty to publish equality outcomes and report progress
- Duty to assess and review policies and practices
- Duty to gather and use employee information
- Duty to publish gender pay gap information
- Duty to publish statements on equality pay
- Duty to consider award criteria and conditions in relation to public procurement
- Duty to publish in a manner that is accessible etc.
- Duty to consider other matters

Cross border public authorities, including the FC, are required to meet the Westminster Duties. FC currently demonstrates compliance with the Westminster Duties by publishing an annual Equality Monitoring Report, last published in January 2017, and Equality Objectives which were last published April 2016. The Forestry Commission's Central Services, which has provided corporate services (such as HR, Finance and IT) on a shared services basis to FCS and FES and their English counterparts, are however already being split up as part of an internal Forestry Commission change project. This includes moving towards Forestry Commission Scotland (FCS) and Forest Enterprise Scotland (FES) operating to the standard required by the Scottish Specific Equality Duties.

The Scottish Government informs its actions relating to the public sector equality duties using evidence from a range of sources, including an annual survey, electronic HR systems and specific evaluations and interaction with staff networks and individuals. The Scottish Government Equality Outcomes and Mainstreaming Report, last published in April 2017, is how the Scottish Government reports on the duties listed above.

The Scope of the EQIA

Policy officials from the Scottish Government and Forestry Commission worked jointly to assess the differences between the equality and diversity policies (and practices) in the two organisations. This included assessing the basic legislative requirements and the way in which those were met.

Account was also taken of the responses to the Scottish Government's public consultation, The Future of Forestry in Scotland. The analysis of the responses to the consultation highlighted the following:

- A belief that the Scottish Government's policy on equality and diversity is either admirable or acceptable and that bringing FCS and FES under that policy is to be welcomed.

- That FCS and/or FES has a good reputation or is already doing good work in terms of inclusivity but that this might be compromised by the Scottish Government's proposed organisational changes.
- Other comments related to matters of wider policy that could improve participation either in opening up employment in the sector or increasing access to the benefits of forestry to certain groups.

Key Findings

The Forestry Commission, in order to demonstrate its compliance with the English Specific Equality Duties, currently provide information, by way of an annual Equality Monitoring Report, on its employees in terms of: the composition of the workforce, recruitment and leavers, and other related issues on four protected characteristics: age, disability, ethnicity (race) and sex.

In Scotland, public authorities are required to gather and use detailed information on nine protected characteristics: age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, and marriage and civil partnership. This means that, for example, they must show what steps they are taking to address an issue brought to light by its employee monitoring data. In Scotland, there is also a specific duty to develop and publish a set of evidence-based equality outcomes every four years, whilst under the current approach the FC publishes a set of equality objectives.

This means that, as the employer of the workforce changes from the Forestry Commissioners to the Scottish Government, the following will change as a result of the change to the statutory duties that apply:

- Any current issues relating to the five additional protected characteristics within the FC workforce in Scotland will be reported in the future (currently do not report on pregnancy and maternity, gender reassignment, sexual orientation, religion or belief, and marriage and civil partnership).

- For reported issues on any of the nine protected characteristics, action will be expected and the impact of that action will be monitored by virtue of subsequent reporting rounds.
- For all nine of the protected characteristics the workforce will have in place equality outcomes and supporting action plans.

In addition to the statutory requirements placed on public authorities in Scotland, the Scottish Government has identified groups of people, or aspects of people's lives that require support from them, as an employer. This includes:

- Up to five days carer leave to support staff who have caring responsibilities – available over and above special leave
- flexible working policy – which includes part-year, term-time, annualised hours, job share, agile working in different locations and various different working patterns (presumption that all posts can be flexible unless a business case is put forward)
- a pilot of Disability Passports
- Staff networks covering gender, sexual orientation, disability, mental health, ME/CFS, carers, Race and Belief, EU citizens and Allies. The networks have an important role in SG and are supported by SCS Champions and Allies. Networks provide a platform for staff to share experiences and offer help and support as well as being consulted on new policies.

Recommendations and Conclusion

The FC has been engaged in a change project for some time and are already moving towards FCS and FES operating to the standard required by the Scottish public sector equality duties.

As a result of transferring the functions of the Forestry Commissioners to the Scottish Ministers, FCS and FES employees will become employees of the Scottish Government and will therefore be subject to existing Scottish statutory requirements and the existing reporting arrangements in place within the Scottish Government. This will lead to changes identified above

in 'Key Findings', acknowledging that this will principally deliver a change that was already being effected within FC.

We therefore conclude that the impact will be positive although minimal, if compared to the likely position of the workforce if the FC change project had continued, and likely to be limited to the impact of the policies that the Scottish Government has in place that go beyond requirements set out in statute.