

# Annex E: Equality and Fairer Scotland Statement



March 2023

## 1. Scope of the statement

This document summarises what we know about the current equality evidence base and how evidence has been used in the development of the Equality Evidence Strategy 2023-2025. Individual impact assessments will be carried out, as required, for actions set out in the strategy as they are further developed and to inform their implementation. Additionally, it is envisaged that the improvement actions set out in the strategy will provide a sound and robust evidence base for the development of Equality Impact Assessments (EQIAs) for a range of policies across the Scottish Government and beyond.

This document sets out the evidence considered across the characteristics covered by the strategy, including new evidence gathered by the Scottish Government through:

- a Scottish Government [Equality Data Audit](#) carried out in autumn 2021
- public consultation, which ran between 1 July and 7 October 2022, and received 116 responses (Annex C)
- a series of stakeholder engagement events that were carried out in August and September 2022 (Annex C)

This statement also draws on relevant recent evidence, including [research published by the Scottish Government](#) in March 2021 that explored the range of equality data collected by 27 public sector organisations. We also draw on the findings of [consultation and engagement](#) carried out by the Office for National Statistics (ONS) on behalf of The Inclusive Data Taskforce (IDTF), which included people and organisations from all four countries of the UK.

It should be noted that while we report on evidence gathered on people with protected characteristics in turn in this document, in line with the requirements under the Public Sector Equality Duty (PSED) and common practice in carrying out impact assessments, we recognise that people's experiences of relative privilege and disadvantage often do not arise from single characteristics in isolation.<sup>1</sup> Each one of us has a combination of multiple characteristics that determines our lived experience of inequality in different contexts. The Equality Evidence Strategy 2023-2025 does not cover evidence on socio-economic disadvantage, although it is acknowledged that socio-economic background and household income will intersect with the characteristics covered to shape lived experiences.

## 2. Who will be affected?

Equality evidence impacts all of Scotland's people. Evidence is key to developing inclusive policies that are effective in tackling the inequality across our society. Some groups, however, are less likely to be captured in existing datasets making evidence-based policy making challenging.

The Scottish Government is mindful of its obligation under the Equality Act 2010 and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. Section 149 of the Equality Act 2010 places a general duty (Public Sector Equality Duty) on public authorities to have due regard to: eliminating discrimination, harassment and

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<sup>1</sup> [Scottish Government report on Using intersectionality to understand structural inequality in Scotland](#)

victimisation; advancing equality of opportunity; and fostering good relations between persons who share a protected characteristic and those who do not. The Fairer Scotland Duty (FSD) is set out in legislation in Part 1 of the Equality Act 2010 and came into force in Scotland from April 2018. It requires Scottish Ministers and named public bodies to actively consider what more can be done to reduce the 'inequalities of outcome' caused by 'socio-economic disadvantage' when making 'strategic decisions. We must consider how the decisions we make will meet these three needs.

Where any negative impacts are identified, we will seek to address and mitigate these. We are also mindful that the PSED is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality.

To address those needs and requirements and fulfil our legal duties, in this Equality Statement we set out the equality evidence which has informed the development of the Equality Evidence Strategy 2023-2025 vision and action plan across the range of protected characteristics as specified in the Equality Act 2010. This evidence gathering exercise brings together what we know about the existing equality evidence base and barriers to the provision of equality evidence, and identifies gaps in our knowledge base. We also present a summary of considerations in relation to the Fairer Scotland Duty and Children's Rights and Wellbeing.

## **2.1 What does evidence tell us?**

### **2.1.1 Age**

[Research commissioned by the Scottish Government](#) showed that, of 55 datasets held by 27 public sector organisations in Scotland, data on age was very commonly collected - in 53 of the 55 datasets.

On the whole, the collection of information on age was seen as relatively uncontroversial by the organisations that took part, with some noting that people were very used to providing information on their age in different contexts.

Information was gathered in four different ways across the datasets examined: either by asking for age, age group, data of birth or year of birth. Most commonly individuals were asked to provide their date of birth. The second most common way of gathering age information was by asking people to indicate an age range to which they belonged. There was variation in the age range options offered between and within organisations. However, it was often clear that the options offered were linked to the focus of the relevant service – for example, in the case of age-related eligibility for services.

Of all the equality variables covered by the strategy, age is the most commonly collected and published from significant datasets used by the Scottish Government. Of the 199 datasets included in [Equality Data Audit returns](#) received in autumn 2021, data on age were collected in almost two-thirds of datasets (65%) and data disaggregated by age published from just over half (54%). The audit also found that age by sex was the most commonly produced intersectional data breakdown.

Through the public consultation and engagement events carried out by the Scottish Government in summer 2022, stakeholders requested greater consistency in the

way data is collected across different datasets in Scotland, particularly highlighting a need for harmonised age bands or categories. This request was made again with respect to several proposed actions for inclusion in the strategy action plan. In addition, a small number of respondents noted a need for more nuanced older age / 65+ age categories.

Research carried out by the [Inclusive Data Taskforce](#) identified children as a group that is often missing from available data across the UK. Where data was available, this was often collected from people other than the children themselves – such as their parents, carers, teachers, or others who are responsible for the children. There was a specific lack of data for looked after children and children who have experienced abuse or neglect. The practice of aggregating data into age categories was seen to be disadvantageous by their consultation respondents.

The Scottish Government has produced [guidance on collecting data on age](#).

### **2.1.2 Sex**

The [research commissioned by the Scottish Government](#) showed that, of the 55 datasets examined, 48 data collections contained data on sex. In all the cases where a specific question was provided to the researchers, the term 'gender' rather than 'sex' was used. In more than a third of cases, respondents were (as with the 2011 Population Census question) offered a binary response choice of Male / Female, with or without a 'prefer not to say' option. Again, there was widespread awareness that this was not appropriate, or did not reflect current thinking on this issue.

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on sex or gender was collected in just under two-thirds of datasets (62%) and data disaggregated by sex or gender published from half of datasets (50%). The three most commonly produced intersectional breakdowns included sex or gender plus another variable – age, race or disability.

A significant minority of respondents to the Scottish Government consultation, mostly individuals, highlighted confusion and concerns over the definitions of sex and gender, with a small minority of respondents perceiving that sex and gender definitions impacted negatively on women.

The [Chief Statistician published guidance for public bodies on the collection and publication of data on sex and gender identity](#) in September 2021.<sup>2</sup> It is hoped that this will improve consistency in the collection of data on sex over the lifespan of the Equality Evidence Strategy 2023-2025. The guidance was developed in consultation with members of a working group of experts on collection and use of data. The work of the Sex and Gender working group was carried out in line with the principle of Open Government, and the Chief Statistician consulted widely in the development of the guidance. More than 20 meetings were held with important external stakeholders, public facing events were held in early 2020, and more than 80

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<sup>2</sup> The guidance recommends that that public bodies collect data on both sex and trans status/history. This recognises the importance of collecting high quality data on both sex and the trans population for driving changes and improvements for the benefit of society, and will allow a more harmonised approach to data collection across Scotland.

organisations and individuals responded to a public consultation on draft guidance published in December 2020. The Chief Statistician also published a number of public blogs and papers throughout the development process.

The research carried out by the [Inclusive Data Taskforce](#) similarly highlighted conceptual issues around the use of sex and gender. While the research found that data on sex (in some form) is collected in most administrative and survey datasets across the UK (echoing the findings of the Scottish Government's Equality Data Audit), there was a desire among those they consulted with for more intersectional data, with neurodivergent women and pregnant women given as particular examples.

### **2.1.3 Disability**

The [research commissioned by the Scottish Government](#) showed that data on disability were collected in a large majority of cases – 42 out of the 55 public sector data collections studied. The information gathered on disability was wide ranging and often reflected the needs and practicalities of different services. As such, the question and response options were also very varied with some organisations simply aiming to determine if an individual had a disability or long-term condition, and others gathering very detailed information on the nature of a person's physical and mental health and the impact on their daily functioning. Whilst some of the variation reflects the requirements of a specific data collection, the research found that in many cases there was no obvious rationale for the differences.

There was also a view among participants that individuals are less likely to disclose personal and sensitive information if they did not trust (i) the organisation asking for the information, or (ii) the rationale presented to them. In some cases (particularly where the collection of the item(s) was mandatory, and when the data collection was an ongoing, administrative collection), discussion focused on the 'best moment' or the 'right time' to collect the equality data. A particular example was provided in relation to the collection of data on disability, in which the public sector data collectors who took part in the research noted that people can be reluctant to disclose a disability for fear of discrimination and may only disclose at a later point.

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on disability was collected in just over a quarter of datasets (28%) and data disaggregated by disability published from under a quarter (20%).

When asked about how draft actions for inclusion in the strategy could be improved, some Scottish Government consultation respondents suggested that more granular data on disability should be collected and noted a need to measure disability in a consistent way. The collection of data on disability based on the medical model (rather than social model) was seen as a barrier to the collection of good quality data on disability.

While the [Inclusive Data Taskforce](#) research found that the UK collects, reports and produces 'considerable analyses of data on disability', it was noted that there is a lack of consistency in the use of disability definitions across the UK resulting in disability information being captured in different ways. It also found that disabled people are among the groups at greatest risk of exclusion from research. As in the

Scottish Government consultation, those the taskforce engaged with also noted that questions on disability are often based on outdated concepts that do not capture the experiences of disabled people. There were likewise calls for disability data collection to shift from a focus on the medical model to the social model of disability.

The Scottish Government has published [guidance on collecting data on disability](#).

#### **2.1.4 Race**

The [research commissioned by the Scottish Government](#) showed that data on race/ethnicity were collected in a large majority of cases – 43 out of the 55 public sector data collections studied. The research found that there was variation in the questions and response options used within and between organisations, and most asked about ‘ethnicity’ rather than ‘race’ (following the example of Scotland’s Census). There was some limited use of multi-part questions, e.g. asking about ethnic origin and national identity. There was also some limited use of separate observed and self-identified ethnicity.

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on race was collected in just over a quarter of datasets (29%) and data disaggregated by race published from under a quarter (22%).

When asked whether there were any decisions that cannot be made because of a lack of equality evidence, a few respondents to the Scottish Government consultation and attendees at the events highlighted race as an example of where they perceived evidence to be lacking. This was mainly due to a lack of data breakdowns or inconsistent data collection, including the following perceived evidence gaps: comparing white with non-white ethnicity not being sufficient to tell which ethnic groups face the greatest barriers; access to – and utilisation of – legal and welfare benefits advice by minority ethnic groups compared with the general population; rates of application for citizenship by minority ethnic groups and refugees; data on earnings, under-employment and job satisfaction not being available by region and ethnicity.

The [Inclusive Data Taskforce](#) research found that civil society organisations and individuals with lived experience they consulted with considered the current approaches to collecting data on race to be outdated due to the conflation of race, ethnicity and nationality and due to the use of response categories that cover a range of ethnic groups and nationalities. The practice of aggregating personal characteristics into ethnicity categories was seen to misrepresent issues of smaller communities. The taskforce also noted relatively high levels of non-response from some ethnic groups in some administrative data sources in the UK, and highlighted Gypsy/Traveller communities as being a particular group that is largely missing from the available data.

The Scottish Government has published [guidance on collecting data on ethnic group](#).

#### **2.1.5 Sexual orientation**

The [research commissioned by the Scottish Government](#) showed that data on sexual orientation were collected in more than a third of cases – 24 out of the 55

public sector data collections studied. Questions on sexual orientation were formulated in a variety of ways but most commonly asked people how they would 'describe' their sexual orientation: for example: which of the following best describes your sexual orientation / how you think of yourself / how you think of your sexuality. Questions generally used the term 'sexual orientation', although there was occasional use of the word 'sexuality'.

The gathering of data on sexual orientation was highlighted by some public sector data collectors who took part in the research as being particularly sensitive, reflected in lower response rates and reports of their staff members feeling uncomfortable in gathering the information due to its personal and sensitive nature.

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on sexual orientation was collected in a tenth of datasets (10%) and data disaggregated by sexual orientation rarely published (4%). When asked to consider how draft actions for inclusion in the strategy could be improved, small numbers of respondents suggested the collection or publication of data on sexual orientation for a few different actions, and a lack of data on LGBTIQ people was pinpointed as a gap in or limitation of the existing evidence base.

Likewise, the [Inclusive Data Taskforce](#) research highlighted a scarcity of information on the differing experiences of people in terms of their sexual orientation, and aggregating into categories was seen to misrepresent the issues and needs experienced by individuals and communities.

The Scottish Government has produced [guidance on collecting data on sexual orientation](#).

### **2.1.6 Gender reassignment**

The [research commissioned by the Scottish Government](#) showed that data on gender reassignment were collected in around a quarter of cases – 14 out of the 55 public sector data collections studied. Generally speaking, questions asked about 'identity', asking if individuals identified (or had ever identified) as trans / transgender / a transgender person.

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on gender reassignment was very rarely collected or published (3% of datasets).

As mentioned above (see [section on Sex](#)), the [Chief Statistician in Scotland published guidance for public bodies on the collection and publication of data on trans status](#) in September 2021, which was developed in consultation with a range of external stakeholders.

When asked to consider how draft actions could be improved in the Scottish Government consultation, there were some requests for the collection of data on gender reassignment from respondents and the lack of robust data available on trans status was considered to be a barrier to achieving our ambition of a robust and wide-ranging equality evidence base.

Across the [Inclusive Data Taskforce](#) consultation activities, transgender, non-binary and gender-diverse people were repeatedly identified as groups missing from the data and for whom even basic demographic information is missing.

### **2.1.7 Religion or belief**

The [research commissioned by the Scottish Government](#) showed that data on religion or belief were collected in more than a third of cases – 22 out of the 55 public sector data collections studied. Most often data was gathered by asking questions about ‘religion’, with no reference to ‘belief’. Of the 22 organisations that took part, one asked two separate questions – one about religion and one on belief. Questions asked were often similar to those used in Scotland’s Census. Where information on response rates was available from the public sector bodies who took part in the research, religion or belief had the lowest response rates of all the characteristics studied.

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on religion or belief was collected in just over a tenth of datasets (10%) and data disaggregated by religion or belief published from under a tenth (8%).

Religion or belief was highlighted by consultation respondents as being a characteristic being particularly vulnerable to issues around insufficient sample size, but was not otherwise mentioned with respect to the draft actions.

Academics and respondents to the [Inclusive Data Taskforce](#) consultation noted gaps in the data on religion, particularly that religion is not often collected and, where it is collected, it is not routinely reported or is often conflated with beliefs and practices.

The Scottish Government has published [guidance on how to collect data on religion/belief](#).

### **2.1.8 Pregnancy and maternity**

The [research commissioned by the Scottish Government](#) showed that data on pregnancy and maternity were collected in a small minority of cases – 7 out of the 55 public sector data collections studied. Where data was collected, the information gathered was mainly focused on ‘pregnancy’ rather than ‘maternity’ (i.e. the 26 weeks following birth).

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on pregnancy and maternity was collected rarely (6% of datasets) and data disaggregated by pregnancy and maternity rarely published (4% of datasets).

Scottish Government consultation respondents suggested that pregnancy and maternity data could be considered in the context of Social Security and Health and Social Care actions but was not otherwise mentioned.

On the basis of their research, the [Inclusive Data Taskforce](#) concluded that information on inequality in pregnancy and pregnancy outcomes is partial. Consistent with the findings of the Scottish Government research and audit, the



taskforce highlighted missing data on those whose characteristics or circumstances are temporary, such as the number of pregnant people in employment.

### **2.1.9 Marriage and civil partnership<sup>3</sup>**

The [research commissioned by the Scottish Government](#) showed that data on gender reassignment were collected in around a quarter of cases – 12 out of the 55 public sector data collections studied. Questions varied in terms of whether they asked about an individual’s ‘legal status’ or asked how an individual ‘thinks about themselves’. Some questions referred to marital status only while others referred to marital or civil partnership status. However, all offered civil partnership response options.

The Scottish Government [Equality Data Audit](#) showed that, of the 199 datasets identified, data on marriage and civil partnership was collected in just under a sixth of datasets (15%) and data disaggregated by marriage and civil partnership published from under a tenth (8%).

There were no comments made regarding marriage and civil partnership data in the consultation or in the [Inclusive Data Taskforce](#) research.

## **2.2 How will the Equality Evidence Strategy 2023-2025 address these issues?**

The Equality Evidence Strategy 2023-2025 presents a refreshed vision, and set of accompanying vision principles, that sets out the ambition of the Scottish Government in strengthening the equality evidence base over the next three years. This vision was developed based on the issues highlighted in the aforementioned evidence. It does not single out any individual characteristics but works to identify common themes for improvement.

The strategy also sets out a route map for improvement in the form of a specific plan that sets out 45 actions that will be taken forward by analysts across the Scottish Government and NRS over the next three years. These actions were developed as a direct result of the gaps highlighted by the Scottish Government Equality Data Audit and the broader evidence on the challenges around equality evidence collection, analysis and use. The plan was refined and improved based on stakeholder views gathered through the Scottish Government’s engagement activity. There are actions within the plan across the full range of the protected characteristics covered by the Equality Act 2010.

Many of the actions focus on improvements to routinely-used datasets and statistical outputs to ensure investment in evidence sources known already to inform significant decision making. However, it is important to note that there is likely to be numerous social research questions that will arise over the course of the strategy which will be considered and prioritised locally based on policy needs, stakeholder input and available resources. These social research projects are likely to result in the collection of new evidence and will supplement the actions presented in the plan.

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<sup>3</sup> ‘Marriage and civil partnership’ is covered by the Public Sector Equality Duty (PSED) only in relation to unlawful conduct in employment.

We anticipate that the Equality Evidence Strategy 2023-2025 will result in improvements to the equality evidence base across a range of protected characteristics, and a range of policy areas. Based on the available evidence, we have not identified any negative or adverse impacts on any groups with protected characteristics for the strategy as a whole. As actions are taken forward, these should be implemented in ways that are mindful of potential negative impacts, including ensuring the same individuals or groups with protected characteristics are not overburdened. Through the strengthening of the equality evidence base, the actions set out in the strategy are expected to have positive indirect impacts on the development of inclusive policies that tackle inequality.

### **2.3 The Equality Evidence Strategy 2023-2025 and socio-economic disadvantage**

The FSD is set out in legislation in Part 1 of the Equality Act 2010. It came into force in Scotland from April 2018. It requires Scottish Ministers and named public bodies to actively consider what more can be done to reduce the 'inequalities of outcome' caused by 'socio-economic disadvantage' when making 'strategic decisions'.

Data on socio-economic disadvantage is outwith the scope of the Equality Evidence Strategy 2023-2025.

In line with the FSD, we have assessed impacts of the Equality Evidence Strategy 2023-2025 on socio-economic disadvantage. We have not identified any direct impacts, positive or negative, of the strategy as a whole on socio-economic disadvantage (but see indirect impacts via intersectionality below). We would expect full FSD assessments to be carried out for actions, as appropriate, as they are taken forward and for the new and improved equality evidence generated through the actions to be used to inform FSD assessments going forward.

We are aware that experiences of socio-economic disadvantage, such as living in a lower income household or deprived area, can intersect with the characteristics covered by the strategy in ways that exacerbate inequality of outcomes. In addition, there is evidence that rates of socio-economic disadvantage are higher among most protected characteristic groups (see [Equality Evidence Finder](#) for details). There are actions in the strategy that are relevant to improving understanding of the experiences of socio-economic disadvantage for groups with the characteristics covered by the strategy, particularly:

- Action 13: Social Security Official Statistics
- Action 14: Social Security Scotland Client Survey
- Action 15: Scottish Welfare Fund
- Action 16: Family Resources Survey (FRS): Food security data
- Action 17: Various: poverty-related surveys/associated analytical resources
- Action 25: Homelessness data collections (HL1 and PREVENT1)

These actions are expected to have some indirect positive impacts on those experiencing socio-economic disadvantage through the strengthening of the equality evidence base available for inclusive policy making in these domains. Having a more

comprehensive and robust equality evidence base may help us to better understand differences in socio-economic outcomes within groups with the characteristics covered by the strategy. For example, two of the priority groups in the [Tackling Child Poverty Delivery Plan](#) are defined by the protected characteristics of disability and race.

We also recognise that some of the barriers to equality evidence collection and data quality likewise affect the collection of data on socio-economic disadvantage. Sharing learning and good practice is a vision principle of the Equality Evidence Strategy 2020-2025 and it is a reasonable expectation that the approaches showcased through this activity with regard to the collection, analysis and use of data on the characteristics covered will likewise apply to evidence on socio-economic disadvantage, such as issues around trust.

#### **2.4 The Equality Evidence Strategy 2023-2025 and child rights and wellbeing**

The Scottish Government is mindful of its obligations under the Children and Young People (Scotland) Act 2014 and the United Nations Convention on the Rights of the Child (UNCRC)<sup>4</sup> to undertake a Child Rights and Wellbeing Impact Assessment (CRWIA) on all new legislation and policies that impact children. This is to ensure that the rights of children in Scotland are advanced and that the wellbeing of children and young people is protected and promoted.

Evidence considered in relation to age is highlighted above, particularly data quality issues highlighted by the research of the Inclusive Data Taskforce in relation to children and young people. Within the Equality Evidence Strategy 2023-2025, there are a number of actions designed to strengthen the available equality evidence on children's experiences, particularly:

- Action 1: Looked after children
- Action 2: Child protection
- Action 3: Growing up in Scotland
- Action 4: School leaver attainment
- Action 17: Various: poverty related surveys/associated analytical resources
- Action 31: Core Data for Tier 2 and Tier 3 Weight Management Services for Children/Young People and Adults in Scotland

While some potential impacts of the Equality Evidence Strategy 2023-2025 were identified in the CRWIA Screening Form, these should be further explored as specific actions are taken forward and new potential approaches to strengthening the evidence base are developed. We are therefore not undertaking a full CRWIA for the strategy. The CRWIA Screening Form (published separately on the [Scottish Government publications page](#)) provides a rationale for this decision.

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<sup>4</sup> The Articles of the UNCRC and the child wellbeing indicators under the Children and Young People (Scotland) Act 2014 apply to all children and young people up to the age of 18, including non-citizen and undocumented children and young people.

### **3. Conclusion**

The Equality Evidence Strategy 2023-2025 has tackling inequality at its heart. Its core aim is to produce a more accessible, wide-ranging and robust equality evidence base to enable the development and delivery of sound, inclusive policies and services and enable the measurement of improvements in the lives of all of Scotland's people.

The evidence presented in this statement has informed the development of the Equality Evidence Strategy 2023-2025 vision, principles and action plan and will continue to inform implementation as we progress the actions and review progress. Importantly, the strategy is designed to address gaps in the equality evidence base and design effective solutions to tackle known barriers to the provision of equality information and data quality. This statement and improvements to the equality evidence base will support the development of impact assessments for a range of policies taken forward in the future.