KNOWLEDGE EXCHANGE ON PUBLIC POLICY IN SCOTLAND

PROMOTING BEST PRACTICE IN EQUALITY AND HUMAN RIGHTS IN SCOTLAND

FINAL REPORT, JULY 2009

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1:   AIMS & OBJECTIVES

1a   Overarching goals

The aims and objectives of our project, as defined in the research proposal, were:

- To exchange knowledge and understanding of the new equality and human rights agenda with key stakeholders in the public, private and voluntary sectors;

- To develop a particular Scottish focus on equality and human rights in partnership with key Scottish institutions;

- To stimulate research on key areas and topics to meet the needs of public policy partners;

- To support best practice in implementing equality and human rights policies in Scotland.

Recent research also led by Sheila Riddell and Nick Watson (Riddell *et al.*, 2007) found that both equality of opportunity and human rights were high on the social, political and intellectual agenda, and that policy shifts, such as the mainstreaming of equality, the establishment of the new Equality and Human Rights Commission and the impact of devolution were all affecting the Scottish economy as a whole and the lives of people in Scotland. In interviews with key players they found confusion both about the nature of equality and human rights and about the ways in which those two concepts inter-relate. They identified a need for further work to examine the types and causes of inequality, the methodological issues that arise in charting inequality and the interconnections, commonalities and differences between different types of inequality.

Public, private and voluntary sectors welcomed the establishment of the new single equality body, the Equality and Human Rights Commission (EHRC), but some parties worried that the closure of the established Commissions would lead to loss of expertise and that some of the 'newer' equality groups would not be as well covered as 'race', gender and disability. The current project has offered an opportunity to monitor the impact of these changes.

This knowledge exchange project also offered an opportunity to draw on, and expand, the established network of individuals involved in the field of equality and human rights, representing the academic community and the public, voluntary and private sectors, who had contributed to the preceding project. At the heart of our proposal was the intention to share the agenda-setting for our project events with those individuals and to foster knowledge exchange across sectors and between national, sectoral and local levels. While such a short project was never likely to succeed in developing shared understandings of the key concepts of equality and human rights across all the public, voluntary and private sector organisations in Scotland, it could hope to make some inroads on that task and to stimulate thinking and further research

amongst those who attended our events or read our research briefings. It could also contribute to supporting best practice by providing a forum for presentations to mixed audiences including practitioners and policy-makers from the public, voluntary and private sectors, and for discussion of the successes and challenges in participants' own organisations and professional practice.

1b   Specific action objectives

Our proposal included actions in three stages:

- To seek advice on the year's work plan, we proposed a web-based discussion forum, email consultation with the established network, and the creation of a small advisory group which would meet regularly throughout the year.

- Once the agenda was set, we proposed to maintain a web-based discussion forum and to hold four 'think tank' events and a closing conference, to foster knowledge exchange across sectors and between national and local levels.

- Dissemination of issues emerging from the events.

As will be discussed more fully below, these objectives have been broadly achieved, with one major modification. In the light of advice at our preliminary meeting with the policy partners, and at the first Spirit Workshop in Edinburgh on 29 October 2008, we abandoned our plans to establish a web-based discussion forum. All other aspects of our objectives have been delivered.

1c   Outline of the structure of the project

After considerable efforts to find a date convenient for as many as possible of our policy partners and other advisory group members, the initial meeting on 26 September 2008 in the Moray House School of Education was used to explore further the broad themes for investigation as outlined in our proposal. From these discussions, we developed a firm agenda of four 'think-tank events', to be followed by a larger closing conference:

- *Lifelong Learning and Equity in Scotland* (Edinburgh, 13 November 2008)

- *Immigration, Equality and Human Rights* (Edinburgh, 3 December 2008)

- *Dimensions of Persistent Inequality in Scotland* (Glasgow, 17 January 2009)

- *What does the Human Rights Agenda have to say about Care and Dignity?* (Glasgow, 29 April 2009)

- Closing conference: *Conceptualising and achieving equality and human rights* (Edinburgh,17 June 2009).

For each 'think-tank' session, a pre-event briefing was prepared and distributed to participants a week before the event, and a post-event briefing, including issues raised in the presentations and ensuing discussions, was subsequently distributed and posted on our website (www.creid.ed.ac.uk). Further meetings, to which policy partners were also invited, were held throughout the project, to reflect on the events so far, and to plan the closing conference. The closing conference was held in the Moray House School of Education at the University of Edinburgh on 17 June 2009. The programmes for these five events are included in this report as annexes (A1a-e), as are the pre-event briefings for the four 'think-tanks' (A2a-d); the list of the 205 people known to have participated at some stage in this project (A3); and the post-event briefings (A4a-d).

2   DESCRIPTION OF KNOWLEDGE EXCHANGE PROCESSES AND ACTIVITIES

2a   Knowledge exchange processes

We can identify three broad types of knowledge exchange process used in our project:

1) **Drawing on the expertise, concerns and contacts of our policy partners and colleagues in other parts of our academic institutions** (e.g. Law) to plan the programme of events, and to reflect on the progress of the project. Although we alternated advisory group meetings between Edinburgh and Glasgow, and made considerable efforts to negotiate suitable dates for meetings, most of the advisory group members found difficulty in attending these. They were, however, involved throughout the course of the project. All were willing to advise when contacted by email, and in some instances, if they were unable to answer or contribute directly, involved colleagues in their stead. Changes of roles and responsibilities meant that the representatives of some of our partner organisations changed throughout the year. For example, Chris Oswald was the original named representative from the EHRC, but was replaced by Morag Patrick. She played an important part in the life of the project, attending advisory group meetings and acting as discussant at the third event in Glasgow; but as her role in EHRC changed, the EHRC baton passed to Suzi Macpherson, who has been most supportive in the latter stages of the project. Further EHRC support came from Ros Micklem, who gave a presentation at the first event on lifelong learning. The Scottish Human Rights Commission (SHRC) was also involved throughout the project. Alan Miller, Chair of the SHRC, gave a presentation in the fourth event on care and dignity, while his colleague Kay Hampton supported the second event, on immigration, equality and human rights, where she acted as discussant. Similarly, in the

Scottish Government, Sue Warner, who had attended the initial Advisory Group meeting in September, moved to a new role, but her colleague, Lesley Irving, played a very active role in chairing two sessions and discussions at the second event in December. Other colleagues in the Scottish Government were made aware of the project and attended subsequent events. Another member of our Advisory Group who exceeded our expectations was Professor Jo Shaw, of the School of Law, University of Edinburgh, who not only made many useful suggestions about the second of our events, on immigration, equality and human rights, but undertook to supervise the preparation of the pre-event briefing for that event by her post-graduate student, Anja Lansbergen (see Annex A2b).

2) **Organising events to attract a wide range of perspectives and opportunities for contact between officials, academics and practitioners** who otherwise would rarely meet or have an opportunity to share ideas. We recognised three important aspects in this process: finding the right balance of appropriate speakers to stimulate the participants; finding the right balance of participants by producing timely and appealing publicity about the events; and finding appropriate, accessible venues. More will be said about these three aspects as we describe the events in Section 2b, below.

3) **Sharing written information, through research briefings produced before and after each of the four events**. Pre-event briefings were prepared and distributed to participants a week before each of the four 'think-tank' events (See Annex A2a-d). As noted above, Anja Lansbergen produced *A Report on Equality and Human Rights Legislation in Scotland*, as the pre-event briefing for the Immigration event, while the other three were authored by team members. The post-event briefings (see Annex A4a-d) were all produced within the research team, although presenters were offered the opportunity to amend any of our text referring to their papers. These briefings aimed to strike a balance between describing the contributions of the presenters and highlighting the issues which emerged from the ensuing discussions, both in plenary and in break-out groups. They have been circulated to all participants and are available on the CREID website (www.creid.ed.ac.uk).

2b   Knowledge exchange activities

Each of the events – the four 'think-tanks' and the closing conference – will be described here briefly, focusing not on the content of the sessions (which is summarised in the post-event briefings), but on the knowledge exchange aspects and our learning about the process.

We decided to split the four events evenly between the two cities, to maximise accessibility to participants based in the East and the West of Scotland, as well as distributing the administrative work fairly within our collaborative team.

The opening event, **Lifelong Learning and Equity in Scotland**, was arranged on 13 November 2008 at fairly short notice. Through six presentations and surrounding discussions, it aimed to assess and raise questions about the current state of lifelong learning in Scotland. The first three presentations drew on recently completed research studies and presented empirical findings in relation to different aspects of lifelong learning. Lyn Tett and Viv Cree's paper, *Experiences of non-traditional students in an ancient Scottish university*, examined the experiences of a group of HNC/D students who progressed from further education into an elite university. Elisabet Weedon followed with a presentation on *What motivates adults to return to education and what are their attitudes and experiences?* This study was based on the findings of a survey of 1021 adult returners in Scottish educational institutions, undertaken as part an EU Sixth Framework funded project examining the contribution of the education system to lifelong learning, and contrasted the experiences of learners with no previous formal qualifications with those of other groups of learners. The third presentation also drew on work for that EU project. Sheila Riddell, Linda Ahlgren and Elisabet Weedon considered *Equity and Lifelong Learning in Scotland: Workplace development in SMEs,* using their review of policies and practices in relation to lifelong learning, and qualitative case studies of formal learning in SMEs in Scotland.

The next three presentations offered the policy perspective. First, Suzanne Marshall and Linda McLeod of Equality Forward described the challenges in *Promoting equality in Scotland's colleges and universities.* Jon Gray then presented the Scottish Funding Council perspective on *Lifelong learning and equity in Scotland's colleges and universities,* outlining the main strategy for implementing access, *Learning for All* and recent findings on participation and retention. Finally, Ros Micklem of EHRC considered *Learning and life chances*, focusing on the role of Scotland's colleges in creating a more equal Scottish society. She noted colleges' strong record in including a range of learners from diverse backgrounds and from deprived areas, but highlighted challenges to equality which are still faced, in ensuring equality of outcomes, processes and autonomy.

The audience which this event attracted was predominantly academic, as Annex A3 demonstrates. Comments on the evaluation sheets completed by 14 of the 29 delegates were predominately positive, including

Enjoyed the day.

Policy and research side complemented each other. Good seminar.

Thought-provoking and useful.

I found the event very interesting and informative and very relevant to my area of study.

Really useful presentation. Interesting discussions. Well managed programme.

We asked participants to list up to three important things that they had learned, or ideas that they were taking away from the event. A policymaker commented:

Examples of practice have been identified; very useful information on skills utilisation which is very relevant at the moment.

Comments from higher education staff included:

Value of bringing together academic researchers and policy.

Difficulties to extend HE to adult people coming from an informal education.

The challenge of keeping equalities to the forefront of change.

The potential contradiction of top-down policy-driven outcomes over-shadowing bottom-up initiative.

I did not know Equality Forward existed.

Strategic use of equality duties.

Cultural change is necessary if equality is to be embedded.

Need to think about processes as well as outcomes.

Need to clarify / simplify concepts around equality.

Finally, issues identified by students at the workshop showed how they had found it relevant:

There are still many inequalities in FE & HE.

There is a scepticism among businesses with regards to work-based learning and some express a reluctance to offer learning opportunities to employees.

Student identity greatly affects their LLL career.

Various ways to improve equity within college level.

Some co-operative research between higher education and government really appreciated.

Change in admissions criteria, more equality - opportunities for students - requires a change in curriculum and methods of teaching, support and recognition at HE/ FE.

Quality improvement aims and outcomes should not be superimposed, but co-agreed with stakeholders - community.

Issues with gathering data relevant to equality topics - importance, problems, awareness, etc.

We also asked participants to identify issues which they felt should have been covered. These included:

Extending the discussion on skills in the workplace to reflect on how HE/FE respond to this issue.

I think that it is very important to talk about education not only learning

Systematic discrimination in HE through curriculum design. Why do we make students fit our out of date expectations about areas of strength in prior knowledge?

Schools as part of lifelong learning.

Discussion of single equality bill and different strands within it. How social class fits into that.

Perhaps more definitions of diversity and mention of social mobility.

More interpretation of what the research results mean, how can the results be applied.

Lifelong learning strategies. Practical points for change - what can we do to address this. Drivers for change. Who does what?

There were also a few negative comments, predominantly about the venue, which proved disappointing on the day because of inadequate soundproofing between our event and a noisy business meeting in the adjacent hall. In the light of this, we sought a different venue for the second Edinburgh event. We also heeded the negative comment from one participant:

Far too much talking heads! Had hoped for interchange, discussion, etc. One question at a time, then answer and discussion, then next question. Chaotic and frustrating otherwise.

In subsequent events we adjusted the balance of presentation time and discussion time, and made greater use of discussion groups as opposed to plenary question and answer sessions, in the hope that this would lead to higher participation, greater knowledge exchange and also more useful contact between participants which might lead to future collaboration.

In Section 2a2 above, we outlined three important aspects of the knowledge exchange process relevant to events:

- finding the right balance of appropriate speakers to stimulate the participants;
- finding the right balance of participants by producing timely and appealing publicity about the events; and
- finding appropriate, accessible venues.

In this opening event, we felt we had achieved a good balance between contributions from researchers and from policy makers, although possibly we would need to adjust the balance of time between, on the one hand, formal presentations and plenary sessions, and on the other hand, time for less formal discussion and communication between participants. In terms of the balance of participants, higher education staff and students predominated: we had attracted a few representatives from further education, from government and quangos and from the private sector, but had not at this stage drawn in the voluntary sector representatives who were to play a much greater part in the later workshops. We learned our lesson from the problems with the venue. In all, we felt it was a strong start, but we could do better.

The second event, **_Immigration, Equality and Human Rights_**, held on 3 December 2008, was structured slightly differently. Firstly, only five papers were presented, a maximum of two in each of three sessions, increasing the time available for discussion at the end of each session and also in workshop groups in the afternoon. Secondly, the research papers were interspersed with practitioner contributions. In the opening session on immigration policy, Sarah Kyambi presented some comparisons of Scottish and English policy on immigration, before Gary Christie and Gareth Mulvey from the Scottish Refugee Council reported on its impact in their paper, _Exclusion not Equality: UK immigration and citizenship policy and its impact on refugees in Scotland._ In the second session, on the need of immigrants, Derek Mitchell of COSLA talked about _Meeting the needs of new arrivals in Scotland: the challenge for local services_, before Philomena de Lima of the University of the Highlands and Islands Millennium Institute presented her research-based findings on immigration in rural areas. After lunch, Christina Boswell explained her analysis of the use of migration research in policy-making, before the discussion groups and closing plenary led by our discussant, Kay Hampton from the Scottish Human Rights Commission.

Again, our participant list for this event showed that we were continuing to attract university staff, with 17 staff from five different universities with a range of research and teaching roles in different disciplines, including education, law, social anthropology and other social sciences. Nine research students, drawn from the universities of Edinburgh, Glasgow and Strathclyde, and including Anja Lansbergen who had put together the pre-event briefing on human rights legislation, constituted the second largest group: they had a lot to say, both during the day and in the evaluations, and were an important part of this knowledge exchange. The remaining 13 participants represented voluntary sector organisations, COSLA, SHRC, NHS or Scottish Government, or were independent consultants.

Evaluation data for this event is positive, but sparse, because our reminder to complete the forms was delivered after many participants had already left. Comments on important ideas being taken away from the event included:

> _Need for more local research, family-based research with migrant and local so-called indigenous research._

> _Too much emphasis on problematising of migrants – in danger of doing this in my own research, but need to get away from the pathology model, look at positive aspects of migrant life and similarities, rather than differences, in terms of experience, both indigenous and migrant._

> _More research looking at what people want from their societies – quality services / structures for all._

> _The interaction of national / subnational policies on immigration_

> _Provision/ services is two sided: local community/new communities_

> _Urban v. rural contexts_

The various functions of research: the issue of research impact on policymaking/ reality

That we must not forget about the assets of immigrants – making the public aware that they don't only bring their needs with them.

General comments about the event and our discussant were also positive:

Thank you, thoroughly enjoyed the event. Good range of presentations, well organised around central theme.

Excellent variety of issues raised. Very good summary and evaluation by the discussant – very impressive.

Even with the increase in time for discussion at this event, one commented that more time for discussion would have been useful.

In terms of finding the right balance of appropriate speakers to stimulate the participants, this event seemed to have been a success, and there were no problems with the venue. Although the event was fully subscribed, we were a little disappointed not to attract more voluntary sector participants, but the surprisingly large student contingent may also be seen as very positive, both in terms of their contribution on the day and on the longer-term impact of the knowledge exchange.

For the third event, **Dimensions of persistent inequality in Scotland**, on January 15, 2009, we moved to Glasgow, and – given that the previous event had been fully subscribed with a limit of 40 – raised the participant limit to 60. A further reason for the higher limit lay in the nature of the event. In the invitation to the event, we highlighted that despite the efforts of Scottish Government statisticians to synthesise evidence from a range of sources on equality and inequality in Scotland, there is still a lack of data in some categories and a need for harmonisation of categories and definitions in other areas. There is also a major problem in communicating patterns revealed in Scottish Government statistics to public sector stakeholders, so that organisations' equality plans can take account of them. This third event therefore aimed to start filling some of these gaps in knowledge and understanding of inequalities, and was based on short presentations for organisations representing six different equality strands on enduring barriers to equality encountered by individuals in their everyday lives. The attendance limit was raised because we wanted room in the participant group to include not only people with an interest in perhaps just one of these equality strands, but also those who had an interest in all of them, such as equalities officers working in local authorities and other bodies. The aim was to maximise the diversity in the group exchanging knowledge.

The number of presentations on the day, which we had reduced to five in the second event, rose back up to six, but these were strictly limited in length, with three papers and associated questions packed into each of two hour-long sessions before lunch. In the first, Calum Irving, of Stonewall Scotland, John

Swinburne, of the Scottish Senior Citizens Unity Party (SSCUP), and Maureen Sier, of Faith Awareness, talked about their respective groups; and in the second, Marsha Scott, of Engender, Etienne d'Aboville, of the Glasgow Centre for Independent Living and Rami Ousta, of the Black and Ethnic Minorities Infrastructure in Scotland (BEMIS), each had their ten to fifteen minute allowance. In the afternoon, delegates were divided into three discussion groups, each considering the questions: *What are we lacking in terms of knowledge and data and how can we collect this data?* and *What are the implications of current policy?* Each discussion group was led by a member of the research team, with the assistance of a research student acting as scribe – an idea which suited both team and students and allowed us to build on the perceived usefulness of the events to research students which we had observed in the preceding event in Edinburgh.

Over 20 delegates completed evaluations and overwhelmingly reported the event to be useful, meaningful and timely. Further events covering these issues in greater depth were called for. Opinions were divided about the presentations: while some applauded the decision to include brief presentations on all six equality strands, others deplored the enforced brevity of the individual speakers' contributions, and would have liked each to be at least twice as long. Other evaluation comments were about the opportunities that the event had given them to make new contacts among the delegates. This evidence that knowledge exchange was occurring outside the structured programme suggests that the event was particularly useful, and we hope that some of these contacts will develop into fruitful collaboration.

In assessing against our own criteria for successful knowledge exchange, the most striking feature of this event was the diversity of the participants it attracted, with more than 20 from local authorities and 10 from the voluntary sector, as well as strong representation from Scottish Government and the universities. The balance of speakers also worked well for most participants, despite the calls for more time for them to speak. Although there were no complaints about the venue from participants, the team had misgivings about the acoustics in one of the discussion rooms, which were easily remedied at the next event by booking other breakout rooms.

The fourth event, held in Glasgow on 29 April 2009, was **What does the human rights agenda have to say about care and dignity?** The number of presentations was once more adjusted, down to four, with a timetable allowing speakers 20-25 minutes each. In the first session, Alan Miller, Chair of the Scottish Human Rights Commission (SHRC), discussed the *Benefits of a rights-based approach*, followed by Maire McCormack, of the Office of Scotland's Commissioner for Children and Young People (SCCYP), who explored issues around assisting disabled children and young people. In the second session, Billy Watson and Charlie McMillan of the Scottish Association for Mental Health (SAMH) considered *Mental health care and human rights*, before Gillian Dalley of the Relatives and Residents Association addressed *The human rights of care home residents*. The small group discussions after lunch sought to explore how human rights can be used to promote dignity and

autonomy in care or residential services, and how human rights can interface with equality to ensure that equal treatment means equally good treatment.

The largest group of participants at this event came from the voluntary sector, with slightly fewer from local authorities and from the National Health Service. Delegates from universities were relatively few, and the only student participants were those who had volunteered to act as scribes in the afternoon workshops. An interesting feature of the delegate list for this event was that some were already working together: North Lanarkshire Council, for example, sent Unit Managers from three residential homes, their Development Officer (Equalities) and a Senior Officer (Equalities) from Housing and Social Work Services. This suggests strongly the possibility of longer-term impact, as colleagues who had learnt together and contributed together to this event return to their workplaces and management team with shared experience and understanding. It also points to another possible model of knowledge exchange, which was in fact suggested by a participant in informal conversation: that instead of running five events, each with a differing focus, we might have run five regional workshops on the same theme, to encourage attendance by groups who work together regularly, but would benefit from time to focus on the equality and human rights issues in their everyday work.

Evaluation forms were completed by 13 participants, and are rich in evidence that people had acquired new knowledge and understanding in the course of the day, and had begun to think about how this might affect their professional practice. Comments about important ideas that they had learned included:

1. That I need to learn more about the human rights act. 2. that the focus for reform should be the service user and how staff should enable them to use their powers.

I now have a broader understanding of human rights. Many people are looking to address similar issues and facing the same challenges. Need to work on an attitude shift.

1. Fundamental issues in implementing change in this agenda are the same as more established equality and diversity agenda. 2. learned a lot more about human rights – an area I have needed to up-skill on. 3. far more complex understanding of care sector.

1. that privately owned care homes do not need to give due regard to human rights – I wasn't aware of this. 2. public providers need to be more robust in stipulating the human rights agenda when commissioning services. 3. Publicity around human rights needs to focus more on the wider agenda. Till now it has only had a poor/negative profile

To use the articles of the human rights declaration as a basis for change. The threshold of dignity and respect as a guide to ensuring human rights. Giving more air time to human rights in the equalities area. It is human rights that prevents us from begin treated equally badly.

1. Good practice of SAMH, i.e. how to integrate a Human rights approach/culture into an organisation and into service. 2. Difficulty in translating human rights acts into practical concepts related to specific services/situations.

It will not be quick. It will not be easy. Change will require a fundamental shift in mindsets across the piece.

Several mentioned networking opportunities, one highlighting the value of specific contacts and anticipated further knowledge exchange in future:

I made two very valuable contacts: one who will assist in developing and implementing the mental health element of my health and wellbeing strategy and the other who will assist me in developing a human rights culture in my organisation.

A few had suggestions for key issues which might have been included, including young people, palliative care and asylum seekers and refugees. Most, however, were very positive about the event and the speakers:

Very enjoyable and informative – more please!

Excellent presentations in the morning

Excellent venue. Excellent day – thank you.

Very interesting to hear about the wider agenda of human rights and its links to equalities.

The presenters were well-chosen being extremely knowledgeable in their area, passionate about their involvement and practice in promoting human rights. Would have been valuable to have at least one of these presenters in each small group discussion. Are there plans for a two day conference?

Fantastic, relevant and timely.

Really good presentations – well presented and excellent basis for subsequent discussions. Good networking opportunity.

Informative, thought provoking, seemed to be a consensus about need, but not about way forward. Really good presentations from all parties.

Speakers were excellent and topics well presented. Day well structured.

In terms of the criteria outlined in Section 2a2, this fourth event seemed particularly successful, although it is impossible to know whether this is attributable to the narrower focus of its theme, the quality of the presentations, growing confidence of the team in facilitating events, or simply to the energy and commitment of the participants.

Finally, on 17 June 2009, we held the closing conference, ***Conceptualising and achieving equality and human rights***, at the Moray House School of Education in the University of Edinburgh. The five presentations were structured in two sessions, the first on UK perspectives on equality and human rights, and the second on Scottish perspectives. In the first, Sylvia Walby from the University of Lancaster presented a paper on *Conceptualising and measuring 'equality' for the Equality and Human Rights Commission*; Ceri Goddard from the British Institute of Human Rights talked about *Human rights approaches to equality - from principles to practice*; and Teresa Rees from the

University of Cardiff posed the question: *What has ten years of devolution done for equality and human rights in Wales?* Both speakers in the second session came from the University of Edinburgh: Cristina Iannelli on *The role of education in the process of social mobility*; and Sarah Cunningham-Burley on *Inequalities in the early years - what the Growing up in Scotland Study can tell us.* The sixty participants were divided into four discussion groups in the afternoon, to consider key ideas that had emerged from the conference and the implications of those ideas for equality and human rights in Scotland.

The balance of participants who accepted our invitation to the conference was very different from the previous event. The numbers of university staff (22) and students (7) rose sharply; the voluntary sector was still well represented with 18 delegates; and nine came from Government, Parliament or quangos; but relatively few local authority and NHS staff attended on this occasion. The remaining delegates included independent consultants and researchers, and trade union representatives.

On the 18 evaluation forms completed, participants identified important things that they had learned, or ideas that they were taking away. Many included mention of networking or useful new contacts made that day. Examples of comments included:

> *The possibilities surrounding data collection and equalities; networking; hearing a wide range of perspectives.*

> *The wealth of expertise and support at my disposal if I networked better; the diversity of approaches that can be adopted and consolidation of an outcome-based approach; the importance of evidence based activity balanced against the imperfections of the available data.*

> *Example from Welsh Assembly; thought / learning processes in achieving 10 measures of equality; new ideas on interface between equalities and human rights.*

> *Knowledge of the Welsh experience; better understanding of the value of HR, in working in variety of social issues; importance of measurement, but complexities of how to do it right.*

> *It was really useful to have an opportunity to listen to the different speakers describing their work. Also it gave me a lot to think about especially relating the HRA to my work.*

> *Equalities are relative; Human rights are threshold-based (minimum); it is possible to measure equality.*

A few took a slightly more critical stance, the first possibly regretting the lack of practitioner presentations in this event:

> *That academics are catching up with good practice on the ground; measuring success / outcomes is a problem for everyone; language needs to match the audience.*

> *The significance of tackling equality or human rights approaches; the significance of trade unions' loss of influence and power; the problems in*

keeping both equality and human rights in focus – very much weaker in second two papers.

Additional comments about the event were predominantly very positive, many noting the high quality of the speakers, and the value of the opportunity to listen to and interact with a broad range of participants:

Very interesting & important. Wish it could be more widespread, longer, with more participants, i.e. to spread the debate further!

Particularly enjoyed the first three presentations. Extremely informative and well structured event. I am very sad not to be able to attend the afternoon workshops.

Excellent standard of presentations – well-structured, thought-provoking and expanding the breadth of the debate.

Excellent opportunity to listen and discuss issues like the HRA and equality/discrimination with people from a variety of different backgrounds/ organisations.

This was a really useful event with excellent speakers and a good opportunity to interact with a good range of people from a variety of sectors. Thanks.

2c   Indications of progress in knowledge exchange

We list here a few factors which we see as hopeful for the future of knowledge exchange in equality and human rights.

- The willingness of so many distinguished and engaging speakers to take part in these five events is itself encouraging.

- The range of participants, from local authorities, Government, quangos, voluntary sector organisations, higher and further education, the National Health Service, and the private sector, and their willingness to work and debate together has helped to make this project a success.

- We were pleased to note that around a quarter of participants from universities were currently research students beginning their careers, and that this project may have helped them develop a lasting habit of knowledge exchange with policy-makers and practitioners.

- It is also pleasing to note some instances of 'repeat business', where participants who had enjoyed one event returned for subsequent days.

- Although inevitably not all participants completed evaluation forms, those who did could generally list at least three things they had learned or ideas that would take away from the event.

- It is too early to assess whether participants will carry out their stated intentions to continue networking with colleagues encountered at our

knowledge exchange events, and whether this ongoing knowledge exchange will improve practice and understanding of practice in equality and human rights. It is, however, encouraging that so many stated that they had met useful people at events, and intended to stay in touch.

- References to the value of meeting people with very different perspectives are also encouraging for the future of knowledge exchange.

- We hope that the project has helped to increase knowledge and understanding (for ourselves, and for other participants) as we have been beginning to operationalise what equality and human rights might mean for social policy. It was timely, taking place when discussions around the Single Equality Act were also in progress. Equality and human rights are very complex concepts, and in these events we tried to anchor abstract concepts in concrete contexts. We believe that progress has been made in developing conceptual awareness for a broad range of participants, from government, local authorities and the voluntary sector, as well as academic colleagues.

3   ISSUES / BARRIERS AND SOLUTIONS

The team has had some difficulty in deciding whether attracting a different population to each of the four events represents a strength or a weakness of the project. We are by no means the first to discover that you cannot please all the people all of the time. While it is satisfying that, as the participation list (Annex A3) demonstrates, we attracted a wide range of policymakers, practitioners and researchers throughout the short life of the project, we note the differences in the balance of the audiences for, for example, the Care and Dignity event which attracted more practitioners, but fewer policy-makers and academics, and the more conceptual closing conference, which attracted fewer local authority staff and was seen by a few of them as too academically orientated, although others were extremely enthusiastic about the day.

These differences indicate the need for a knowledge exchange programme to provide a varied menu of events, if the goal is to encourage networking between people who would not normally engage directly with one another. We feel we have had considerable success in devising events which appeal to a wide audience, either by combining research and practitioner perspectives, as in the Immigration event, or by bringing together people who are working with similar goals but in different contexts, as in the Persistent Inequality event.

Another barrier to knowledge exchange arose from changes in staff in post, both in Scottish Government and in other bodies. We have seen several changes in our advisory group, as individuals move to new roles, and have had to build new relationships throughout the project. Although many of the

evaluation comments indicate that participants have made new and useful contacts with whom they intend to network in future, similar changes are likely to affect them too. There is no easy solution to this. The problem reminds us that knowledge exchange is a continuous process, not a one-off event. Practitioners, policy-makers and researchers need knowledge-exchanging relationships, and only if these relationships are maintained will they be able to repair or rebuild their networks if colleagues decide to move on to new roles.

4 OUTPUTS, OUTCOMES, IMPACTS OR INDICATORS OF IMPACTS-IN-PROGRESS

As noted above in Section 2a, the tangible outputs of the project are the four pre-event briefings (A2a-d) and post-event briefings (A4a-d) appended to this report. Moreover, plans are now being made to publish the papers delivered at the closing conference in a special section of the journal *Social Policy and Society* – a journal which seeks to bridge the gap between sociology and social policy.

We are asked to provide evidence that research findings/insights/approaches are being used by or having an influence on policy partners, and the corollary effects on research teams' activities and views. We believe we have contributed to the agenda being pursued by the Equality and Human Rights Commission and the Scottish Human Rights Commission. We have brought many people into contact for the first time, and have given some practitioners a chance to engage with senior staff in EHRC and SHRC. We know that these bodies have faced a big task in engaging with grassroots practitioners, and we hope we have assisted in this process. Within the voluntary sector, this project has enabled contacts to be made across the equality groups, who are starting to work within the mainstreaming agenda of modern social policy. Increased contact in these events appears to have led to increased recognition of common issues, and as some of the evaluation comments show, there is regret that the project is coming to an end and that the debate cannot be spread further amongst a larger group of participants.

We are also asked for any indicators of 'impacts or impacts-in-progress' in any of the following categories of impact. The examples used in the sections which follow have all been drawn from evaluation material which we have already quoted in the body of this report.

- **Instrumental (tangible change due to uptake)**

One participant left the Care and Dignity event with a very clear vision of how contacts made that day would lead to organisational change:

> *I made two very valuable contacts: one who will assist in developing and implementing the mental health element of my health and wellbeing strategy and*

the other who will assist me in developing a human rights culture in my organisation.

- **Conceptual (awareness raising, new ideas)**

Most of those who completed evaluation sheets were able to point to new ideas or understandings about equality or human rights. Examples include:

Various ways to improve equity within college level.

Too much emphasis on problematising of migrants – in danger of doing this in my own research, but need to get away from the pathology model, look at positive aspects of migrant life and similarities, rather than differences, in terms of experience, both indigenous and migrant.

I now have a broader understanding of human rights.

Knowledge of the Welsh experience; better understanding of the value of HR, in working in variety of social issues; importance of measurement, but complexities of how to do it right.

- **Capacity-building (training in subject, or even development of collaborative abilities)**

The involvement of students, both as participants in the events and as scribes in the discussion groups, illustrates one aspect of capacity-building. The involvement of many people from the voluntary sector also ensured that those who are involved in the practical application of equality and human rights ideas had the opportunity to hear some of the current academic debates on the concepts. Similarly, academics heard from grass-roots practitioners about the challenges involved in applying these ideas in real-life, rather than theoretical, contexts. Furthermore, a number of local authority staff attended particular events, including five members of staff working in social care in one local authority. This fits in exactly with the ambitions of the Scottish Human Rights Commission to make human rights part of the fabric of mainstream Scottish society. We hope that all groups involved (academics, policy-makers, practitioners, voluntary sector workers, grass-roots activists) will all have their work enhanced as a result of the insights gained and contacts made.

- **Cultural change (e.g. increased willingness to collaborate in future, or institutional facilitation of knowledge exchange processes)**

Several participants talked about the need to change the cultures of their organisations:

Many people are looking to address similar issues and facing the same challenges. Need to work on an attitude shift.

It will not be quick. It will not be easy. Change will require a fundamental shift in mindsets across the piece.

It is harder to find hard evidence of cultural change within the group of people who came to our events, but the fact that so many returned for a second, third or even fourth event suggests growing willingness to collaborate with others facing similar challenges. The fact that social care practitioners attended the event on care and dignity suggests that cultural change may well result in the future.

- **Enduring Connectivity (interactions post-project in the form of dialogue, networks, events or follow-on research & knowledge exchange)**

The fact that several people who had attended one event chose to sign up for others is a positive indicator. There are also calls for more and more extensive events, including the conference delegate who commented:

> *Very interesting & important. Wish it could be more widespread, longer, with more participants, i.e. to spread the debate further!*

As a research team, we feel that we have developed our own understanding, and can see the potential to carry the project forward. The brevity of this project obliged us to set an agenda at the outset in collaboration with policy partners, generating topics which we could then offer to potential participants. Although the topics we selected have attracted excellent groups of participants, we note that, if we had had more time available to develop the programme, we could have worked with delegates themselves to decide on future topics, developing a user-led, bottom-up approach to knowledge exchange. Both the Centre for Research in Education, Inclusion and Diversity and the Strathclyde Centre for Disability Research are already working on joint research proposals with some new contacts made in the course of this project. There is still potential to build on the strengths of this project, using the experience, the huge database of interested participants, and the links developed with policy partners.

Reference

Riddell, S., Ferrie, J., Mulderrig, J., Watson, N. and Weedon, E. (2007) *Report of a feasibility study into setting up a Scottish Centre for Research on Equality and Human Rights.* Edinburgh: CREID.

Knowledge Exchange on Public Policy in Scotland: Promoting Best Practice in Equality and Human Rights in Scotland
A knowledge exchange programme supported by the Scottish Funding Council
Lifelong Learning and Equity in Scotland

<u>Venue</u>:   Mercure Point Hotel, Bread Street, Edinburgh

<u>Date</u>:   Thursday, 13th November, 10.30 – 4.00

The Scottish Government, in its Economic Strategy produced in 2007, stated a commitment to accelerating sustainable economic growth and identified a number of strategic priorities that are recognised to be critical to economic growth. These include Learning, Skills and Well-being and Equity. A new approach was signalled to lifelong learning, focusing on the production of 'a supply of education and skills which is responsive to, and aligned with, actions to boost demand'. This think tank will analyse how Scotland compares in the field of lifelong learning with other European countries. It will present findings from a recently conducted survey (part of the EU LLL2010 project) investigating why learners with different prior levels of attainment return to education. From the same research project, data will be presented on workers' experiences of workplace learning in high skilled enterprises and those involved in manufacturing and construction. Research on the experiences of non-traditional learners in an ancient Scottish university will also be presented, reflecting on the challenges encountered by programmes seeking to deliver greater equity.

The specific aims of this event are:

- To share knowledge on the topic of lifelong learning and equity in Scotland, involving a range of bodies including Scottish Government, Scottish Funding Council, Equality Forward, local authorities, academics and third sector organisations
- To draw some international comparisons between Scotland, England and other European countries in relation to lifelong learning and equity
- To reflect on the knowledge exchange process and draw lessons for future events
- To produce a briefing with a 'state of the art' assessment of the current picture and key issues affecting Scotland.

10.30-11.00   **Registration and coffee**

11.00-11. 10   **Welcome**

        Sheila, Riddell, CREID, University of Edinburgh

11.10-12.00   **Lifelong learning in Scotland, empirical research findings**
        (Chair: Jim Crowther, University of Edinburgh)
        Experiences of Non-traditional students in an ancient Scottish University
        Professor Lyn Tett and Professor Viv Cree, University of Edinburgh

        What motivates adults to return to education? Comparing learners at different levels
        Dr Elisabet Weedon, University of Edinburgh

        Learning at work: Experiences in 'Knowledge Economy' and Traditional Scottish Firms
        Linda Ahlgren and Professor Sheila Riddell, University of Edinburgh

12.00-12.45   **Discussion**: What are the insights from the ground that the policy makers need to take into account?

12.45-1.30   **Lunch**

1.30-2.30   **Scottish policy, lifelong learning and equality**
        (Chair: Sheila Riddell, University of Edinburgh)
        Promoting equality in Scotland's colleges and universities
        Linda McLeod and Suzanne Marshall, Equality Forward

        Lifelong Learning and Equity in Scottish Colleges and Universities: Levers for Change
        Jonathon Gray, Scottish Funding Council

        Learning and life chances: how colleges can help create a more equal Scotland
        Ros Micklem, Director, Equality and Human Rights Commission Scotland

2.30-3.15   **Discussion**: What are the practical implications of current policy?

3.15-3.30   **Coffee**

3.30-4.00   **Reflection and implications for policy and practice**
        Discussant: David Raffe, University of Edinburgh

If you would like to reserve a place, please complete the Booking Form and e-mail to Helen Christie:
helen.christie@ed.ac.uk

KNOWLEDGE EXCHANGE ON PUBLIC POLICY IN SCOTLAND:
PROMOTING BEST PRACTICE IN EQUALITY AND HUMAN RIGHTS IN SCOTLAND

A KNOWLEDGE EXCHANGE PROGRAMME SUPPORTED BY THE SCOTTISH FUNDING COUNCIL

Immigration, Equality and Human Rights: towards citizenship in Scotland

Venue: Salisbury Suite, Dynamic Earth, Holyrood Road, Edinburgh

Date: Wednesday 3 December, 2008: 10.30 – 4.00

This is the second of our four 'think-tank' events, which aim to bring together individuals involved in the field of equality and human rights repesenting the academic community, policy-makers and the public, private and voluntary sectors. Five expert speakers with different perspectives on immigration, equality and human rights will be giving short papers, with ample time for discussion between policy-makers, practitioners working with recent immigrants and researchers. A briefing paper will be circulated to participants before the meeting, covering the legislative context. After the event, a publicly available briefing paper will be produced and widely circulated, contextualising the discussion and summarising the various inputs from speakers and participants.

The specific aims of this event are:

- To share knowledge on the topic of immigration in Scotland, involving a range of bodies including Scottish Government, local authorities, academics and third sector organisations
- To draw some international comparisons between Scotland, England and other European countries in relation to immigration, equality and human rights
- To reflect on the knowledge exchange process and draw lessons for future events
- To produce a briefing with a 'state of the art' assessment of the current picture and key issues affecting Scotland.

PROGRAMME

10.30-10.45   Registration and coffee

10.45-10.50   Welcome
                 Sheila Riddell, CREID, University of Edinburgh

10.50-11-30   Immigration policy
                 (Chair: Jo Shaw, University of Edinburgh)
Scottish and English Policy on immigration: some north/south comparisons
Sarah Kyambi, Independent Consultant, Integration and Immigration Policy

Exclusion not Equality: UK immigration and citizenship policy and its impact on refugees in Scotland
Gary Christie and Gareth Mulvey, Scottish Refugee Council

11.30-11.50   Discussion

11.50-12.30   The needs of immigrants
                 (Chair: Lesley Irving, Scottish Government)
Meeting the needs of new arrivals in Scotland: the challenge for local services
Derek Mitchell, COSLA, Strategic Migration Partnership

Creating thriving communities: immigration in rural areas
Philomena deLima, UHI Policy Web (UHI Millennium Institute)

12.30-12.55   Discussion

1.00-1.45   Lunch

1.45- 2.15   Immigration research and policymaking
                 (Chair: Lesley Irving, Scottish Government)
Using migration research in policymaking
Christina Boswell, School of Social and Political Sciences, University of Edinburgh

2.15 -2.55   Discussion in groups

2.55-3.10   Coffee

3.10- 4.00   Implications for policy and for practice
                 Discussant: Kay Hampton, Scottish Human Rights Commission
                 Input from discussion groups and closing plenary discussion.

If you would like to reserve a place, please complete the Booking Form and e-mail to Helen Christie:
helen.christie@ed.ac.uk

University of Glasgow | **Strathclyde Centre for Disability Research**

Knowledge Exchange on Public Policy
Dimensions of persistent inequality in Scotland

A knowledge exchange programme supported by the Scottish Funding Council

Venue: Park Inn Hotel, 2 Port Dundas Place Glasgow G2 3LD

Date: Thursday, 15th January, 10.00 – 4.00

The Equalities Review, published by the Cabinet Office in 2007, was regarded as helpful in delineating some of the features of persistent inequality in Britain, and in considering what an 'equality scorecard' for monitoring change might look like. However, it was criticised in Scotland for relying too much on English data and in failing to appreciate the different dimensions of inequality north of the Border. For example, the composition of minority ethnic groups in Scotland and England is very different, and sectarianism appears to be far more of a problem in Scotland. Furthermore, the definitions and categories which apply to particular equality strands may differ north and south of the Border. If we are going to tackle inequality and disadvantage then we must identify the patterns of persistent inequality in Scotland and the part which public sector organisations may play in interrupting the transmission of inequality across generations. In the High Level Review of Equality Statistics published in 2007, Scottish government statisticians have undertaken an important task in synthesising evidence from a range of sources on equality and inequality in Scotland. However, it is evident that in relation to some categories data are lacking and there is a need for harmonisation of categories and definitions in other areas. Furthermore, there is a major problem in communicating patterns revealed in high level statistics to public sector stakeholders, so that organisations' equality plans can take account of the bigger picture. This think-tank aims to start the process of filling these gaps. It will be based on presentations from organisations representing the range of different dimensions of equality on enduring inequalities and the lived experience of such groups from their perspectives. Most importantly of all, there is a danger that statistics drawn from large scale surveys may overlook particular barriers which are evident to organisations working at grassroots levels. This think-tank aims to start the process of filling in some of these gaps in knowledge and understanding. It will be based on presentations from organisations representing different equality strands on enduring barriers to equality encountered by individuals in their everyday lives.

Programme of Events

10.00-10.30   **Registration and coffee**

10.30-10.35   **Welcome**

                  Nick Watson, Strathclyde Centre for Disability Research

10.35-11.30   **Persistent Inequality: Perspectives from the Voluntary Sector Part 1**
(Chair: Vicky Gunn, University of Glasgow)

                  Calum Irving, Director, Stonewall Scotland

                  John Swinburne, Scottish Senior Citizens Unity Party

                  Maureen Sier, Faith Awareness

Followed by questions from the floor

11.30-11.45   **Coffee**

11.45-12.45   **Persistent Inequality: Perspectives from the Voluntary Sector Part 2**
(Chair: Jennifer Harris, University of Dundee)

                  Marsha Scott, Convener, Engender

                  Etienne d'Aboville, Chief Executive, Glasgow Centre for Independent Living

                  Rami Ousta, Chief Executive Officer, BEMIS

Followed by questions from the floor

12.45-1.30   **Lunch**

1.30-2.15   **Discussion**: What are we lacking in terms of knowledge and data and how can we collect this data? What are the issues around inter-sectional disadvantage and how can we move forward?

2.15-2.30   **Coffee**

2.30-3.15   **Discussion**: What are the practical implications of current policy?

3.15-4.00   **Reflection and implications for policy and practice**
Discussant: Morag Patrick, EHRC
Concluding Remarks

If you would like to reserve a place, please complete the Booking Form and e-mail to Joanna Ferrie: j.ferrie@lbss.gla.ac.uk

University of Glasgow | Strathclyde Centre for Disability Research

THE UNIVERSITY OF EDINBURGH

Knowledge Exchange on Public Policy

A knowledge exchange programme supported by the Scottish Funding Council

_Venue__:_   Park Inn Hotel, 2 Port Dundas Place Glasgow G2 3LD

_Date__:_   Wednesday, 29th April, 10.00 – 4.00

What does Human Rights have to say about Care and Dignity?

The concepts of equality and human rights are often misunderstood as being synonymous to each other. Human rights however are overarching concepts of which equality is one part. Under the Human Rights Act (1997) and according to the United Nations Charter on Human Rights, the right to be free from discrimination is clearly understood as a human right. Anti-discrimination is the basis for equality law in the UK, for example the Disability Discrimination Act.

Equality-related legislation (including anti-discrimination policy) has focused on three key frameworks for understanding equality: equality of process; equality of outcome; and equality of autonomy. The latter refers to the extent to which a person feels that they have access to the former two, or to other rights-based discourses. Equality of autonomy then, is the closest match to human rights within equality legislation. Whereas equality clearly demands that all people be treated equally, the human rights approach may be less easy to define. It is though, critical to the development of rights. It is the principle of human rights that allows people to demand not just equal treatment, but treatment that is fair, that demands dignity, that respects freedom and that denounces harassment, discrimination or physical threat. It is the principle of human rights that prevents us from being treated equally badly.

While these principles have been engaged with by some elements of our communities (notably those detained by the Prison Service and asylum seekers), it is less clear how human rights have been used by older people, younger people, people with mental health difficulties or people who experience sustained periods in hospital. This event hopes to highlight these voices that have been missing from the debates around human rights. It is hoped that the event will open a dialogue between representatives of these groups and practitioners, policy makers, academics and the voluntary sector who also work with in this field of interest. Above all, the event aims to focus on the potential that human rights have to impact on care, to enhance autonomy and to preserve dignity.

This event is the fourth of five events. Our final event is a conference in Edinburgh on the 17th June 2009 which has a working title of 'Conceptualising and achieving equality and human rights'. More information about this final event will be published on the CREID website shortly http://www.creid.ed.ac.uk/.

Programme of Events

10.00 -10.20 **Registration and coffee**

10.20 -10.30 **Welcome**

Nick Watson, Strathclyde Centre for Disability Research

10.30 -11.30 **Care and Dignity Session 1**

Professor Alan Miller 'Benefits of a rights-based approach'
Chair, Scottish Human Rights Commission

Maire McCormack,
Head of Policy, Office of Scotland's Commissioner for Children &
Young People

Followed by questions from the floor

11.30 – 11.45 **Coffee**

11.45 – 12.45 **Care and Dignity Session 2**

Billy Watson, 'Mental Health Care and Human Rights'
SAMH

Dr. Gillian Dalley, 'The human rights of care home residents'
The Relatives & Residents Association

Followed by questions from the floor

12.45 -13.45 **Lunch**

13.45 – 14.30 **Small Group Discussion**: How can human rights be used to promote
dignity and autonomy in care/residential services?

14.30 – 15.15 **Small Group Discussion**: How can human rights interface with
equality to ensure equal treatment means equally good treatment?

15.15 – 15.30 **Coffee**

15.30 – 16.00 **Reflection and implications for policy and practice**
Discussant: Dr. Joanna Ferrie
Department of Sociology, Anthropology and Applied Social Sciences,
University of Glasgow

Promoting Best Practice on Equality and Human Rights in Scotland
A knowledge exchange programme supported by the Scottish Funding Council

Conference

Venue: Godfrey Thomson Hall, Thomson's Land, The Moray House
School of Education, University of Edinburgh, Holyrood Road,
Edinburgh, EH8 8AQ

Date: Wednesday 17 June 2009, 10.00am–5.00pm

Conceptualising and achieving equality and human rights

This event will present contributions by some of the United Kingdom's leading intellectuals in the fields of human rights and equality. This closing conference will reflect on the themes that have emerged from four previous events in this Knowledge Exchange Programme supported by the Scottish Funding Council.

Sylvia Walby will open the first session by reflecting on her review of equality statistics highlighting the need to understand the roots of inequality in the UK. Ceri Goddard will then focus on human rights and the barriers that prevent people accessing support services that promote dignity, autonomy and quality. The final speaker in our first session is Teresa Rees who will reflect on human rights and equality in devolved Wales, offering an alternative perspective (to Scotland) on the impact that devolution can have on a small nation's efforts to promote social justice.

In the second session, Cristina Iannelli will discuss the role of education in the process of social mobility and issues that generate persistent inequalities. Sarah Cunningham-Burley will continue with the Scottish focus, talking about the important and provocative results obtained from the *Growing up in Scotland* study and highlighting inequalities that impact on children and young people.

The conference is designed to encourage knowledge exchange and the afternoon sessions are devoted to Workshops. Delegates will be invited to reflect on the issues presented by our speakers, and consider their implications for promoting human rights and equality issues in Scotland.

Programme	
10.00am-10.20am	**Registration and coffee**
10.20am-10.30am	**Welcome** Nick Watson, Director, Strathclyde Centre for Disability Research
10.30am-12 noon	**Equality and Human Rights: Perspectives from the UK** Chair: Gwynedd Lloyd, University of Edinburgh Sylvia Walby, UNESCO Chair in Gender Research, University of Lancaster 'Conceptualising and measuring "equality" for the Equality and Human Rights Commission' Ceri Goddard, Acting Director, British Institute of Human Rights 'Human rights approaches to equality - from principles to practice' Teresa Rees, Pro Vice Chancellor (Research) University of Cardiff 'What has ten years of devolution done for equality and human rights in Wales? Followed by questions from the floor
12 noon-1.00pm	**Equality and Human Rights: Perspectives from Scotland** Chair: Maire McCormack, SCCYP Cristina Iannelli, Department of Education and Society, The Moray House School of Education, University of Edinburgh 'The role of education in the process of social mobility' Sarah Cunningham-Burley, Professor of Medical and Family Sociology, Public Health Sciences, University of Edinburgh 'Inequalities in the early years – what the *Growing up in Scotland Study* can tell us' Followed by questions from the floor
1.00pm-1.45pm	**Lunch**
1.45pm-2.45pm	**Workshop 1** What are the key ideas that have emerged from this conference?
2.45pm-3.00pm	**Coffee**
3.00pm-4.00pm	**Workshop 2** What are the implications of these ideas for equality and human rights in Scotland?
4.00pm-5.00pm	**Wine and soft drinks reception**

If you would like to reserve a place, please complete the Booking Form and e-mail to:
helen.christie@ed.ac.uk

Lifelong Learning and Equity in Scotland: pre-event briefing paper
Elisabet Weedon & Sheila Riddell

Lifelong learning has a long and chequered history. It is a widely debated concept and emerged in its current form in the 1990s. Described by some as a *'broad, imprecise and "elastic" term'* (Johnston, 2000, cited in Rogers, 2006:125) and accused of being *'human resource development in drag'* (Boshier, 1998), it is nonetheless in widespread use. Field (2006) argues that the term is useful because people nowadays have to acquire new skills and capacities throughout their lives in order to maintain their position in the labour market. However, he cautions that it can become a mechanism for exclusion and social control. The discourse, according to Field, emphasises individual agency and the expectation that learners will take responsibility for their own learning. People engage in lifelong learning for a range of reasons and there are inherent tensions between economic, social and personal development objectives. Whilst the term implies learning from cradle to grave, it is generally used to describe learning post-compulsory education and this is reflected in most of the policies and strategies developed to promote lifelong learning.

Lifelong learning was adopted by the EU and formed the basis for the Lisbon strategy which aimed at making Europe *'the most competitive and dynamic knowledge-based economy in the world … with more and better jobs and greater social cohesion'* by 2010 (CEC 2000). The Lisbon strategy influenced lifelong learning developments across Europe and is apparent in the Scottish strategy for lifelong learning entitled *Life Through Learning Through Life* (Scottish Executive, 2003)*.* However, Scotland also contributed to developments in lifelong learning, for example, through the development of the Scottish Qualifications Framework which informed the developing European Accreditation Framework.

The Scottish strategy defined lifelong learning as: *'the whole range of learning: formal and informal learning, workplace learning, and the skills, knowledge, attitudes and behaviours that people acquire in day-to-day experiences'* and states that: *'lifelong learning policy in Scotland is about personal fulfilment and enterprise; employability and adaptability; active citizenship and social inclusion'* (Scottish Executive, 2003: 7). It thus reflected both the employability and social cohesion aspect of the Lisbon Strategy. The strategy set out five goals:

- A Scotland where people have the confidence, enterprise, knowledge, creativity and skills they needs to participate in economic, social and civic life
- A Scotland where people demand and providers deliver a high quality learning experience
- A Scotland where people's knowledge and skills are recognised, used and developed to the best effect in their workplace
- A Scotland where people are given the information, guidance and support they need to make effective learning decisions and transitions
- A Scotland where people have the chance to learn, irrespective of their background or current personal circumstances

Six indicators were developed to measure the implementation and success of the strategy:

1. a reduction of 16-19 year olds not in education, employment or training;
2. an increase in support to 16-19 year olds from low income families to stay on at school and/or FE college, thereby raising the participation and retention rates of this group;

3. an increase in graduates as a proportion of the workforce;
4. a reduction of working age adults whose highest qualification is below SCQF level 5;
5. a reduction in the proportion of 18-29 year olds whose highest qualification is below SCQF level 6; and
6. an increase in the proportion of people in employment undertaking training.

While the strategy stressed both personal development and social cohesion, the indicators clearly focus on developing skills and qualifications within the workforce. These indicators formed the basis for an evaluation which was published in the *Lifelong Learning Statistics* in 2005 (Scottish Executive, 2005). It found that:

1. the proportion of 16-19 year olds not in education, employment or training reduced from around 15% in 1999 to just over 13% in 2004, in 2006 the percentage was 12.4%. It suggests that measures are working; however, the average figure hides considerable variation. Thirty percent of those from the 15% most deprived areas fell into this group in 2006. There are also gender differences as more young men found in this category than young women. In 2005 the difference was around 1.2% (there is no gender breakdown for 2006). The period of measurement is one where levels of employment have been high and it would seem important to examine impact on this indicator in the current climate of threatened recession, especially in relation to those from most deprived areas.

2. staying on rates have changed little over the period 1996-07.   The Educational Maintenance Allowance came into effect in August 2005 so it was too early to measure this indicator. The uptake in EMA increased in 2006-07 compared to 2005-06, the majority (54%) were female.

3. there has been a steady increase in the proportion of graduates in the workforce.   In 1997 15% were graduates by 2007 this had increased to 24.9%. As for the first indicator there is considerable variation between the proportion of graduates in the most deprived areas (11.2% in 2007) and the rest of Scotland (26.5% in the rest of Scotland). Gender differences are also in evidence – in 2005-06 58% of Scottish graduates were women.

4. the proportion of working age adults whose highest qualification is below SCQF 5 (Credit Standard Grade) has fallen from 28% in 1991 to 19% in 2004. In 2007 the proportion of those with level 4 (General Standard Grade) was 16.1% but in the 15% most deprived areas this was 34.6% there is no publicly available data available for gender differences.

5. the proportion of 18-29 year olds whose highest qualification is below SCQF level 6 (Higher) fell from 38% in 1997 to 30% in 2002 and has remained at that level (31% in 2004). It has since decreased slightly and in 2007 stood at 29.8%. In the 15% most deprived areas, however, it was 49.5%.

6. the proportion of people in employment undertaking training increased from 23% in 1995 to 29% in 2005. In 2007 this had decreased slightly to 27.8%. There is no data showing areas by deprivation or by gender. There is some variation by local authority showing that the lowest level of participation in training is in Aberdeenshire (21.7%) and the highest in Edinburgh (31.9%).

These statistics demonstrate some achievements against the goals set out for lifelong learning in Scotland but they also indicate that there are still considerable

challenges, especially in relation to engaging those in the most deprived areas in education or training, in engaging men in formal higher and further education and in ensuring that training by those in employment does not fall further.   There is a notable omission of any examination of race equality and no data, for example on access to training for those with a BME background. Other statistics (Futureskills, 2006) show considerable variation between sectors in relation to employee training. There are also very low rates of participation by disabled people in training programmes such as Training for Work and Skillseekers (Edward et al, 2008).

In May 2007, the administration changed and one of the key priorities for the current administration was to produce an economic strategy, including a skills development strategy for the current and future workforce in Scotland. The *Skills for Scotland: a lifelong skills strategy* (Scottish Government, 2007b) has a strong emphasis on developing skills and vocational education and provided a Scottish response to the UK-wide Leitch Review of Skills (HM Treasury, 2006). The Scottish skills strategy does not mention the previous lifelong learning strategy but it could be argued that its aims are similar to the earlier document with its stress on learners taking responsibility for their own development:

> *We need successful learners, confident individuals, responsible citizens and effective contributors to build a smarter Scotland … We need individuals to take more ownership of their own development and system that identifies people who need extra support and ensures that support is there. We need a system for developing skills that meets everybody's needs and aspirations and equips individuals with skills that are flexible enough to meet the needs of today and respond to the demands of tomorrow. (Scottish Government, 2007b: 02)*

Two key differences though are its clear emphasis on skills and also its adoption of a cradle to grave approach.   There is also a strong commitment to equality of opportunity and elimination of discrimination. Its key priorities aim to develop the workforce and tackle the skills deficits that are barriers to employability and employment.   These aims, set out under five headings, are not meant to be exhaustive but are a starting point for action:

Individual development:
1. Developing a distinctly Scottish approach to skills acquisition, balancing the needs of employers and individuals, aligning employment and skills and placing the individual at the centre of learning and skills development.

2. Developing a coherent funding support system for individuals of all ages and it all forms of education and training that encourages participation in learning and work. This will include support for individuals to increase control and choice over their learning and skills development.

3. Ensuring that this Strategy will promote equal access to and participation in skills and learning for everyone. This Strategy aims to promote equality of opportunity to those trapped by persistent disadvantage and to improve numbers of people economically active including those from groups such as race, disability, gender, sexual orientation, age and religion/faith and educational starting points.

Economic pull:
4. Stimulating increased demand for skills from employers, both public and private by:

- o encouraging employers to develop ambitious business strategies from which a need for higher level skills will flow;
- o helping employers to articulate what they need now and what they are going to need in the future;
- o supporting the capacity of learning providers to engage with employers and understand and respond to their needs; and
- o creating structures that facilitate closer working between employers and learning providers

5. Improving the utilisation of skills in the workplace through:
   - o encouraging better management and leadership and improved human resource practices (including recruitment) across the range of employers in Scotland;
   - o supporting job design that encourages autonomy, makes better use of employees and stimulates enterprise and innovation in the workplace;
   - o improving links between skills and the other drivers of productivity, such as investment in technology and infrastructure; and
   - o ensuring that individuals can use the skills they have acquired through learning in a way that immediately benefits their employer.

6. Understanding current and project demands for skills to help prepare for future skills needs.

7. Challenging employers, learning providers, awarding bodies and others to use the SCQF as a tool to support learning, specifically to facilitate the recognition of learning for enabling individuals to move smoothly through learning environments, getting credit for learning they have already achieved.

Cohesive structures:
8. Simplifying structures to make it easier for people to access the learning, training and development they need, including formal and informal learning by merging a number of bodies into one, focussed on skills.

9. Ensuring that *Curriculum for Excellence* provides vocational learning and the employability skills needed for the world of work and is the foundation for skills development throughout life.

10. Achieving parity of esteem between academic and vocational learning, recognising that vocational learning is a valuable alternative to the academic pathway and important to all.

11. Challenging our funding bodies to use their budgets to help achieve a step-change in skills development and use.

12. Encouraging providers to see themselves as part of a continuum or provision – links in chain – which helps individuals to see the relevance of learning to them, progress in their learning and make full and effective use of the skills they have acquired. Judging that system by how will it serve those who need the most support.

The strategy sets out goals for all those involved with the development of skills in Scotland but it includes no indication of any evaluation of the impact of the strategy.

The Government Economic Strategy (Scottish Government, 2007a) highlights the role of learning in developing sustainable economic growth and stresses that the

greatest asset to the Scottish economy is its well qualified workforce. It also notes that the high qualifications of the Scottish workforce are not currently reflected in Scotland's rate of economic growth. Scotland, in comparison to other European countries, has a high proportion of graduates in the working age population; in 2001 it ranked in the middle of 31 countries with 15% of its workforce being graduates as classified by the OECD (Scottish Executive, 2005). The Annual Population survey of 2007 shows an increase to 24.9% of the working age population. However, concern has been voiced that there is growing polarisation in the workforce with a sizeable proportion of graduates but also a sizeable proportion of people with low or limited skills, suggesting a gap in intermediate level skills. A brief report commissioned by Futureskills Scotland (Keep, 2007) noted that labour market structures encouraged a growing a gap between high skill and low skill employment opportunities:

> *Disparities in earnings, working practices, employee relations policies, and provision of training and development opportunities within the workplace all seem to be growing, while the political discourse of policy in this field still gravitates towards a vision where everyone becomes a knowledge worker. (Keep, 2007:6)*

This is supported by data indicating that there has been very little change in the proportion of 18-19 year olds who do not have SCQF level 6 (Highers/Upper Secondary) – this currently stands at 29.8% of the population. Earlier data indicate that, in relation to the total working age population who do not have SCQF level 6, the UK is in the middle range of European countries. However, the position is broadly the same for younger and older age groups, suggesting that little has changed. By way of comparison, Ireland, Hungary, Belgium and Bulgaria all have higher qualification levels amongst younger age groups (see Figure 1).

Figure 1: Percentage of the population who do not have at least an upper secondary education (SCQF level 6) by age group, 2002

Source: Eurostat, Key Data on Education, 2005, p. 307;
NB: Figures for Russia are an estimation from year 2003 and are only for the youngest and oldest age group, Source: OECD 2005, Education at a Glance

In comparison to other European countries, Scotland may therefore fall behind in

terms of middle level qualifications. This may could maintain and possibly increase the disparities between high and low skills employment opportunities. According to the lifelong learning statistics, the main pay differentials are between those with degree level qualifications and those with no or lower qualifications. This suggests that there may be little incentive to achieve qualifications at sub degree level. Opportunities at work are likely to reinforce this divide as there is evidence that those with the highest qualifications are most likely to receive further opportunities for learning and training. Data from the National Adult Education Survey, Scotland, shown in Table 2, indicate that those with the highest level of qualification are most likely to be involved in further learning and training.

Table 2: Percentages of highest qualification groups reporting different types of learning

	SVQ level 5	SVQ level 4	SVQ level 3	SVQ level 2	SVQ level 1	No quals	Total
	%	%	%	%	%	%	%
Any learning	100	98	85	88	73	28	83
Taught learning	85	83	67	67	55	23	67
Self-directed learning	94	88	63	74	50	15	67
Vocational learning	98	92	73	83	59	22	74
Non-vocational learning	27	35	27	34	26	10	29

Source: National Adult Education Survey, Scotland 2005
Includes all respondents 16-69 who had been in continuous full-time education but were not currently in full-time education

A Futureskill survey of employers highlights that those in the sector with the greatest proportion of low skilled workers are those who are least likely to get trained (Futureskill, 2006). Looking generally at workforce development, it has been shown that access to workplace learning is most likely to be offered to the following groups:

- Younger workers
- Women, except those under 24
- Those with higher qualifications
- Those employed in the public sector. Employees in services industries, agriculture and fishing are least likely to receive training
- Those in larger workplace

In relation to formal education both in further and higher education institutions, some progress has been made in relation to widening participation, however, this is unevenly spread with elite institution still having a disproportionate number of students from socially advantaged backgrounds.

Table 3: Type of institutions attended by students from different backgrounds

Deprivation quintile	Ist quintile (Least deprived)	2nd quintile	3rd quintile	4th quintile	5th quintile
FE Colleges	20%	18%	21.3%	20.5%	20.3%
New Universities	27%	20.8%	18.8%	17.5%	15.9%
Old Universities	29.9%	21.8%	20.2%	14.9%	13.1%
Ancient Universities	38.8%	22.3%	16.7%	13.1%	9%

Source: Raab and Small, *Widening Access to Higher Education In Scotland; evidence for change from 1996/97 to 2000/01*, updated by SFC to include 2003-04 data

To summarise, there has been some progress in the area of lifelong learning and Scotland has a relatively well qualified workforce. However, challenges remain, particularly with regard to equity, and these will be examined through the data presented during the seminar.

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Some key questions/challenges that appear to emerge from these data:

- How do you deal with tensions between inclusion and economic development which focuses on growing a high skill society?

- Should Scotland also grow its 'middle level' of skills by upskilling those with no/limited qualifications to decrease the polarisation on the labour market?

- What are the links between workforce education and training and labour and welfare policy?

- How can the Scottish Government deal with the tensions between labour market policy which is governed by UK wide policy and its own aims in relation to workforce development?

- How can the Scottish Government develop robust indicators to measure the ambitious priorities set out in the Skills Strategy?

- What impact is the current economic climate likely to have on the SG's ability to achieve the aims of the Skills Strategy?

A Report on Equality and Human Rights legislation in Scotland

[Pre-event briefing paper for Immigration, Equality and Human Rights]

Prepared by Anja Lansbergen in conjunction with Jo Shaw, University of Edinburgh

<u>Contents</u>

Executive Summary

i.   Introduction

The following report has been prepared as part of a Knowledge Exchange Project, funded by the Scottish Funding Council, intended to promote best practice on equality and human rights in Scotland. It will provide map out the legislative framework in this area within the context of UK-wide and EU level action and provide an overview of the trajectory of equality protection. The remainder of the report will then proceed to detail the key equality legislation operating in the UK.

As with the area of immigration and asylum law under consideration in the December 2008 KEP seminar, the principal competences lie above the level of the Scottish Parliament and there are limited competences under the Scotland Act. Thus so far as there are only limited policy levers which the Government can pull in relation to questions of asylum and immigration, this position cannot be fundamentally altered by developing an argument that equality and human rights policy objectives could be pursued in such a way as to create a distinctive Scottish agenda for asylum and immigration. Even so, it remains important to understand both the limited competences given under the Scotland Act and also the overall trajectory of legislative change at the UK and EU levels in relation to equality and human rights protection in order to see whether there are any additional spaces within the UK set up which could be exploited further by policy-makers in Scotland.

ii.   Legislative Framework

The protection of equal rights in Scotland is dictated primarily by the UK agenda at Westminster and – to an increasing extent even in areas hitherto outwith the scope of EU law – by the EU agenda. This is because equal opportunities remain an area of legislative competence reserved to Westminster under the Scotland Act 1998,[1] with the result that the Scottish Parliament cannot pass legislation concerning equality or human rights. The exception to this reservation is the conferral of competence to pursue policies that encourage the observance of equal opportunities, other than by prohibition or regulation.[2] The Scottish Government therefore has a statutory power to pursue an equal opportunities agenda, as has been exercised in the shape of the Scottish Government equality strategy, most recently that established by the current SNP Ministers (see below).

Although the Scottish Parliament lacks competence to legislate directly in the area of equal opportunities, it is required to conform to a particular standard of human rights protection when passing legislation in other areas. By virtue of the Scotland Act,[3] all legislation passing through the Scottish parliament must be in conformity with the European Convention on Human Rights. Any piece of legislation not conforming to the rights set out in the Convention will be outwith the legislative competence of the Scottish parliament and will consequently not be law.[4]

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[1] Scotland Act 1998, Schedule 5, Part II, para L2.
[2] As above.
[3] Scotland Act 1998 s29(2)(d).
[4] Scotland Act 1998 s29(1).

As equal opportunities remain a reserved issue, the legislation protecting equality and human rights in Scotland emanates primarily from UK-wide legislation passed at Westminster, much of which is in turn determined by EU legislation and EU-level general principles of non-discrimination. The UK parliament has consequently legislated in specific areas to prevent discrimination on several grounds. For a detailed analysis of the protection conferred by UK legislation, see part two of the report below.

The UK has a constitutional tradition of parliamentary sovereignty, meaning that the legislative competence of Parliament is unfettered and Acts of Parliament are supreme. The UK Parliament has therefore been historically free to legislate as it saw fit in the area of equality and human rights, and legislation could not as such be declared invalid for failing to comply with a certain standard of human rights protection.

The sovereignty of Parliament in the area of equality and human rights is however subject to certain limitations.

The UK is a signatory of the European Convention of Human Rights (ECHR). The ECHR is an international treaty signed by 47 countries, in which countries agree to secure the stipulated rights and freedoms for everyone within their jurisdiction. The UK has transposed this obligation into national law through the Human Rights Act 1998 (HRA). The HRA makes it illegal for any public body (with the exception of parliament) to act in contravention of ECHR rights.[5] The Act also stipulates that UK courts must interpret primary and secondary legislation, so far as it is possible to do so, in line with convention rights.[6] ECHR rights are therefore also protected against private individuals in UK law by the interpretive obligation placed on the courts. However, if a court considers a piece of legislation to be incompatible with a convention right, it may issue a 'declaration of incompatibility'.[7] The issuing of such a declaration does not affect the validity of the legislation in question,[8] thereby retaining the sovereignty of parliament and its ability to legislate expressly in contravention to ECHR rights. In addition, there is a right of individual petition under the ECHR to the European Court of Human Rights which sits in Strasbourg. This right of individual petition has existed substantially longer than the specific arrangements under the HRA, which date from the period of constitutional reform which occurred after the election of the Labour Government in 1997.

The UK also has certain obligations in respect of human rights standards that result from its membership of the European Union. The European Union has not currently acceded to the ECHR,[9] but ECHR rights are protected at the Union level as 'general principles of Community Law'.[10] This has the implication that certain sanctions could potentially be adopted at the EU level if any UK public body acted in persistent disregard of the ECHR.[11] In addition, the European institutions may also take enforcement action against the UK to combat discrimination by public authorities on the grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual

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[5] HRA 1998 s6(1)
[6] HRA 1998, s3(1)
[7] HRA 1998 s4(2)
[8] HRA 1998 s4(6)(a)
[9] The re-modelled EU would accede to the Convention under the Lisbon Treaty
[10] Art 6.2 TEU
[11] Art 7 TEU

orientation,[12] or if the UK fails to ensure that men and women are paid equally for equal work,[13] as the UK must comply with both Treaty provisions and secondary legislation which has been adopted in this field. The EU has also developed a Charter of Fundamental Rights detailing certain standards in human rights and equality. Although the Charter has been 'solemnly proclaimed' by the European institutions, its precise legal effects are currently rather unclear.[14]

The UK may be required to pass legislation in the area of equality in order to fulfil its obligation to transpose Community Directives. A Directive is a piece of secondary EU legislation that is binding on the UK as to the ends to be achieved, but leaves discretion as to the method of implementation. When a Directive is issued, the UK must pass national legislation to implement those ends within the proscribed time period. An example of such a directive is Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, which was implemented by the Employment Regulations in 2003 (see below).

iii.　　Trajectory of equality protection

The direction of equality protection in the UK is a move towards a more generalised right to equality, which is broader and with more general applicability than the traditional rights of non-discrimination based on the grounds of gender, race and disability. It therefore has the capacity to offer a more sensitive response to issues of intersectionality between different equality 'grounds' and to issues raised by multiple discrimination, where the status of an individual as – for example – a person who has a vulnerable legal status under immigration and asylum legislation becomes a further basis on which they may be suffering prejudice. Even so, the formal list of equality grounds which can be articulated in rights terms will be exhaustive.

The overhaul of the three former Commissions dealing with issues of discrimination is indicative of this move towards a more generalised protection of equality. The Equal Opportunities Commission, the Commission for Racial Equality and the Disability Rights Commission were replaced as of 1 October 2007 by a single Equality and Human Rights Commission.[15] In addition to assuming the functions of the former three Commissions, the Equality and Human Rights Commission gained new responsibilities for sexual orientation, age, religion and belief, and human rights. The Commission is a non-departmental public body that advises the government in its move towards a single equality legislation, organises campaigns and events and promotes best practice in preventing discrimination.[16] It also has extensive legal powers and is able to take legal action on behalf of individuals.

The move towards a more generalised approach right of equality is more explicitly stated in the Equality Bill 2008 which is expected to be introduced in Parliament during the current session after an extended consultation process.[17] This Bill, if passed, would impose a single equality duty on public officials that embraces grounds such as sexual orientation and religious belief as well as race, disability and

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[12] Art 13 EC (Nice consolidated version)
[13] Art 141 EC
[14] Under the Lisbon Treaty, the Charter would gain full binding force.
[15] Equality Act 2006
[16] See Equality and Human Rights Commission website
[17]　See
http://www.equalities.gov.uk/publications/Government_Response_to_the_consultation.pdf.

gender. It will, moreover, preserve space for Scottish Ministers to impose specific duties on Scottish public bodies, and in relation to the Scottish functions of cross-border bodies.

In addition to the UK Equality and Human Rights Commission, Scotland has its own Commission for Human Rights which co-operates closely with the UK-wide Equality and Human Rights Commission. This Scottish Commission was established by the Scottish Commission for Human Rights Act 2006, under the broader scope of the Scottish Government's Equality Strategy. The functions of the Commission include publishing information about human rights, providing education and training and conducting research. The Commission also has the power to conduct enquiries into Scottish public authorities in relation to general human rights matters.[18]

Legal Protection of Rights

i   General provisions

There is currently no general right to equality within UK law, and although the Equality Bill 2008 (see above) would reinforce a trend towards a more generalised approach, it would not as such introduce a general right to equality. Moreover, its focus will be more on the duties of public authorities than on the rights of individuals.

General non-discrimination provisions can be found both in the European Convention on Human Rights and in the EC Treaty. Art 14 of the European Convention on Human Rights provides that all of the enjoyment of rights and freedoms set out in the Convention are to be secured without discrimination on any ground, an obligation that has been transposed into UK law by the Human Rights Act 1998 (see above). However, Article 14 ECHR is not a self-standing right and it cannot be invoked without reference to other ECHR rights.

EU law also contains a general clause enabling the adoption of legislation prohibiting discrimination on certain specified grounds: Directives have been adopted by the Council of Ministers on the basis of Art 13 EC and Article 141 EC which prohibit discrimination on grounds of sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. In the case of discrimination on grounds of sex and race/ethnic origin this extends beyond the workplace (including in relation to training) to the area of the provision of goods and services. Directives as such do not impose obligations on individuals, but the UK implementing legislation must extend to both the public and the private sectors.

ii   Race

UK Race Relations Act 1976 (as amended by the 2000 Regulations) prohibits discrimination by public authorities on the grounds of race. The Act also makes it unlawful for private employers, educational bodies and goods or service providers to discriminate on the grounds of race, subject to the limitation of genuine occupational requirement.

The Act also prohibits harassment on grounds of race. Expressions of racial intolerance that fall short of harassment, incitement of racial hatred[19] or

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[18] See Scottish government website
[19] See Racial and Religious Hatred Act 2006

discrimination are protected by the right to freedom of speech and are not therefore unlawful.

iii Gender

The Sex Discrimination Act 1975 makes it unlawful for private employers, educational bodies and those providing goods or services to discriminate, harass or victimise on the grounds of gender, gender reassignment or marital status. Discrimination for these purposes includes indirect discrimination, where the provision would apply equally to a man but will detriment a significantly larger proportion of men than women.

In addition to these provisions, the Equal Pay Act 1970 implies an equality clause into all employment contracts, and provides that if any term of a woman's contract is less favourable than a similar term of a man's contract, that term shall be treated as modified so as not to be less favourable.

While these provisions appear to precede the relevant EU legislation, it is important to note that there have been significant amendments over the years in order to adapt UK legislation to the requirements of EU law, including a reversal of the burden of proof.

iv Disability

The Disability Discrimination Act 1995 makes it unlawful for private employers, educational bodies and goods or service providers to discriminate on the grounds of disability. Small businesses with fewer than 20 employees are exempt from this prohibition. In addition, the Disability Discrimination Act 2005 makes it unlawful for a public authority to discriminate against a disabled person in carrying out its activities.

Under the Special Educational Needs and Disability Act 2001 it is unlawful for a school or higher education institution to discriminate on the grounds of disability in determining the admission of students, or in stipulating the terms of admission.

The UK Government is considering, in the context of the Equality Bill 2008, how – if at all – it will implement the ruling of the European Court of Justice on discrimination 'by association' in the *Coleman* case, as the ECJ has made it clear that where a carer is treated less favourably because s/he cares for a disabled person, this is covered by the prohibition on discrimination on grounds of disability.[20]

v Other

Further Employment Equality Regulations prohibit discrimination by employers on the grounds of age, religion or belief and sexual orientation respectively.

Looking forwards

The protection of equality and human rights increasingly involves a multiplicity of public bodies exercising different functions. Those complexities map across, in sometimes quite problematic ways, onto the roles of public bodies in relation to

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[20] Case C-303/06 *Coleman* v. *Attridge Law*, judgment of 17 July 2008.

immigration and asylum law. In both cases, we are looking at the increased diffusion of powers, functions and duties in relation to the determination of rights and duties and, in particular, the protection of vulnerable groups. Those subject to asylum and immigration legislation have been protected in very significant ways by human rights law generally, and by protections against arbitrary state actions in particular. There is an important tradition of judicial activism in this field, which has been continued in the UK in recent years by the approach which the higher courts have taken to questions such as detention of terrorist suspects, as well as the imposition of asset freezing orders, as well as the more traditional questions of asylum and immigration law such as deportation, the right to reside and the scope of access to public services and welfare benefits. The role of equality legislation as such has been much more attenuated. However, the important shift towards a greater focus on public duties rather than individual rights highlighted in this short paper, combined with the trend towards a more generalised rather than particularised approach may have the capacity, in the future, to bring about an increase impact of equality legislation upon those who are at the sharp end of asylum and immigration law enforcement.

List of Relevant Legislation

Disability Discrimination Act 1995
Disability Discrimination Act 2005
Employment Equality (Age) Regulations 2006
Employment Equality (Religion or Belief) Regulations 2003
Employment Equality (Sexual Orientation) Regulations 2003
Equality Act 2006
Equal Pay Act 1970
Human Rights Act 1998
Race Relations Act 1976 (amended 2000)
Racial and Religious Hatred Act 2006
Sex Discrimination Act 1975
Special Educational Needs and Disability Act 2001
Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocol No. 11
Equality Bill and White Paper 2008

Abbreviations Used

EC   European Community / Treaty Establishing the European Community
ECHR   European Convention on Human Rights
EU   European Union
HRA   Human Rights Act 1998
TEU   Treaty on European Union

Further Information

The Equality bill - Government Response to Consultation
http://www.equalities.gov.uk/publications/Government_Response_to_the_consultation.pdf

The Equality and Human Rights Commission
http://www.equalityhumanrights.com/en/Pages/default.aspx

Pages specifically on Scotland
http://www.equalityhumanrights.com/en/scotland/aboutus/pages/default.aspx

The Scottish Commission for Human rights
http://www.scotland.gov.uk/Topics/Justice/Civil/17838/10235

The European Convention on Human Rights
http://www.echr.coe.int/nr/rdonlyres/d5cc24a7-dc13-4318-b457-5c9014916d7a/0/englishanglais.pdf

Scottish Government Equalities Strategy
http://www.scotland.gov.uk/library3/social/wtem-00.asp

Dimensions of persistent inequality in Scotland: pre-event briefing paper

Joanna Ferrie, University of Glasgow

This knowledge exchange programme provides an opportunity to open dialogue between groups representing the equality strands and those working in academia and in policy development. It is motivated by the recognition that one of the main barriers to the effective implementation of national policy is the tendency to misunderstand or subvert it at local level. Similarly, national policy-makers may not fully understand the priorities, pre-conceptions and problems of local activists and 'street level bureaucrats'. This then gives equality groups the opportunity to critically reflect on how equality and human rights legislation has impacted, and what key elements of their own agenda for change are yet to be noticed by national bodies and policy makers.

The Equalities Review, published by the Cabinet Office in 2007, was regarded as helpful in delineating some of the features of persistent inequality in Britain, and in considering what an 'equality scorecard' for monitoring change might look like. However, it was criticised in Scotland for relying too much on English data and in failing to appreciate the different dimensions of inequality north of the Border. For example, the composition of minority ethnic groups in Scotland and England is very different, and sectarianism appears to be far more of a problem in Scotland. Furthermore, the definitions and categories which apply to particular equality strands may differ north and south of the Border.

Whilst there was broad support for the establishment of the Equality and Human Rights Commission, key questions remained with regard to understanding the key concepts and implementing policy effectively in key Scottish institutions. This knowledge exchange initiative will enable us to conduct the activities identified by stakeholders, drawing on the expertise of our already established network, which includes representatives from the public, private and voluntary sectors.

The Scottish Government has an important role to play in identifying patterns of persistent inequality in Scotland and the part which public sector organisations may play in interrupting the transmission of inequality across generations. In the High Level Review of Equality Statistics (Scottish Executive, 2007), Scottish government statisticians have undertaken an important task in synthesising evidence from a range of sources on equality and inequality in Scotland. However, it is evident that in relation to some categories data are lacking and there is a need for harmonisation of categories and definitions in other areas. Furthermore, there is a major problem in communicating patterns revealed in high level statistics to public sector stakeholders, so that organisations' equality plans can take account of the bigger picture. This think-tank aims to start the process of filling these gaps. It will be based on presentations from organisations representing the range of different dimensions on enduring inequalities and the lived experience of such groups from their perspectives.

The event aims to deliver more than a chance to listen to representatives from a range of organisations. It also aims to nurture a dialogue that could initiate new ways of thinking around inequality and new partnerships to take the work identified, forward. This event will encourage debate around how persistent inequalities should be and can be

identified. This will particularly focus on the intersection between equality strands and poverty. Further the debates will aim to generate what we need to do about persistent inequality in Scotland. It is hoped that the multi-disciplinary and multi-professional delegate list will produce relevant and meaningful insight into inequality, and innovative and effective ideas for how inequalities can be minimized.

Review

The launch of the Equality and Human Rights Commission, the demise of the three legacy commissions (EOC, CRE and DRC) and the publication of the *Equalities Review* (Cabinet Office, 2007) have been seen as a new approach to equality. These developments have allowed not only the inclusion and interrogation of new strands, but an examination of how strands intersect to construct inequality. The *Equalities Review* defined equality in terms of freedoms and so echoed the rhetoric of the Human Rights Act (1998) and capabilities:

> *An equal society protects and promotes equal, real freedom and substantive opportunity to live in ways people value and would choose, so that everyone can flourish. An equal society recognizes people's different needs, situations and goals and removes the barriers that limit what people can do and be.*
> *Equalities Review* (Cabinet Office, 2007: 16)

EHRC's *Review of Equality Statistics* (Walby, Armstrong and Humphreys 2008) aimed to map the equalities landscape across Scotland, Wales and England. In organizing their Review, Walby et al used the ten domains of equality identified in the *Equalities Review* (Cabinet Office, 2007: 18).

- Longevity
- Physical security
- Health
- Education
- Standard of living
- Productive and valued activities
- Individual, family and social life
- Participation, influence and voice
- Identity expression and self-respect
- Legal security

Each dimension was examined according to the extent that each equality strand was visible in statistics published by government departments and bodies; the DRC, EOC and CRE; the office for national statistics; devolved administrations; policy organizations; academics; organizations such as the European Commission; national surveys. In addition a consultation exercise with these agencies provided further indications of how well each strand was represented within each of the ten domains. The strands that were shown to have the least gaps were sex and age. Despite having legacy commissions, there were notable gaps in information collected on ethnicity and disability. The greatest challenges were found around collecting data on religion/belief and sexual orientation (Walby, 2008). What follows is an abbreviated version of Walby et al's Executive Summary. The questions asked have emerged from our reading of the review, and may provide a basis to begin discussions and debate at our Knowledge Exchange event.

Gender

Statistics relating to sex and gender existed for most of the ten domains. Notably sex was less evident in the physical and legal security domains. For example official crime statistics did not record the sex of a victim of crime, and 'domestic violence' is not recorded as a crime category where gender may be expected to factor. Walby et al (2008) did detect some improvements in the collection of data on women and minorities. Also noted was the new use of the term 'household' rather than 'individual' when describing victims of crime, and this has served to hide gender. Given the quantity of information available on gender, is more still required? Are their aspects of experience that are yet uncharted? Is it time to think about men as well as women? As the pay gap remains and women continue to be under-represented in public office, what is the value of rich data?

Ethnicity/race

The Walby et al review discussed the collection of Census data in England and Wales only. The sixteen categories of race and ethnicity were considered to create problems for statistical analysis due to the small sample sizes generated. Yet obvious problems would occur if the existent categories were aggregated. Further grouping samples from simultaneous years (to generate a sufficiently large sample size) depends upon the same people being represented in each year, and the same questions being asked (and interpreted in the same way). Longevity is difficult to measure as ethnicity does not appear on death certificates. This raises some questions, is aggregation possible? Or are there more pressing arguments for the further disaggregation of categories? Can Scotland be considered outside of these arguments?

Disability

The main issue to emerge from an examination of the relevant data-sets is the way that disability has been defined. Some statistics have emerged from an impairment-based definition of disability, whereas others are based on a political understanding of the social model that defines disability as caused by social and cultural barriers. Any use of material relating to disability then, must first establish how disability has been defined. Is it appropriate for surveys to ignore the social model definition? Has preoccupation with the definition got in the way of generating useful and needed statistics?

Religion or Belief

This strand and the following two strands were not supported by a legacy commission and so there is likely to be less data available. Indeed few data sources have routinely recorded religion or belief. There are some problems around collecting data as there is considered to be a distinction between religious identity and practice (Purdam et al, 2007). As with race and ethnicity, some faiths that have smaller congregations in the UK will not be easily represented in data-sets that undergo statistical analysis. Can the collection of data on religion or belief be used to oppress religious/faith groups? Is sectarianism an issue that Scotland needs to view as an equality issue?

Sexual Orientation

This strand was found to have the least information collected on it. The ONS is committed to changing this by developing two programmes: one to examine same-sex cohabitation and civil partnership status, and the other aims to develop questions relating to the sexual identity of a household. Questions on sexual orientation will not be included in the 2011 census, and so it is the only excluded strand. There may be a question on legal civil partnerships however. A major challenge against the recording of

this data has emerged from gay, lesbian and bisexual people who have argued that the data could be used to discriminate against them. To what extent does this fear reflect experience? Can the improvements in recognition that could be achieved by the collection of this data, justify the intrusion?

Age

In contrast, age has been fairly well recorded and surveys generally include this information. Problems exist however, in cross-comparisons of data where age has been recorded using different systems (for example, a survey that recorded actual age cannot easily be compared with a survey that categorized age into decades, or another survey that used a different categorical pattern). Similarly other descriptors which imply age (like retired, or school age categories) are not actually straightforward to interpret. Currently age has been interpreted by British policy (and the EHRC) to include adults and older people. Children and young people have been excluded from this. Given that white Scottish boys are currently the most likely to under-achieve in Scottish schools, shouldn't age include this group of people so that the intersection of age and race/ethnicity be examined? Has the inclusion of age benefitted those most likely to engage with social and care services?

Socio-Economic Status (social class)

Socio-economic status is not one of the Equality strands listed in the Equality Act (2006) but has been recognised, alongside poverty as co-existing with inequality. The ONS has recommended that equality statistics also collect data on this dimension. The 'National Statistics Socio-Economic Classification' (NS-SEC) has attempted to combine occupation, ownership and perceived control within a single measure to approximate the concept of socio-economic status. Missing from this, arguably, is the impact of gender. Further it has been suggested that individuals, rather than households should be measured in order to highlight disadvantage that would otherwise be hidden.

Though Socio-economic status does not appear as an equality strand, social origin does appear in the Scotland Act (1998) alongside the equality strands, arguably stating that Scotland has a legislated interest in the socio-economic causes of disadvantage. To what extent should/could Scottish data be used to lobby for the inclusion of socio-economic status to be included as an equality strand?

Scotland

Devolution and a smaller population make it difficult for Scotland to generate the complexity of data that could exist in the larger sample area of the UK. However, this argument is not sufficiently strong to exclude Scottish data from a UK picture of inequality. The *Equalities Review* (Cabinet Office, 2007) has been criticised for placing a priority on reporting data that emerged from England and Wales and ignoring Scotland. The Scottish Executive publication *High Level Summary of Equality Statistics* (2006) produced something of a base line of knowledge that existed in Scotland. Within the summary it is shown that age and gender data are collected routinely in almost every aspect of life, with ethnicity being collected in the majority of data-sets. Data on disability is less well represented and tends to be confined to health, housing and employment matters. In education information has been collected on the number of children who have Recorded status but this category is not synonymous with disabled children. Religion is recorded less often, necessarily in connection to religious expression but also within lifelong learning data. Sexual orientation has not been recorded in any data-set reported in the summary. Poverty or deprivation in turn, has been recorded in connection

with longevity, health and risk behaviours (like drinking, smoking and sexually transmitted disease) and school education. Do we need to generate Scottish data now? Or is it more vital that Scotland exists as a strong voice within UK data-sets?

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What does the Human Rights agenda have to say about Care and Dignity?
Pre-event briefing paper
Joanna Ferrie, University of Glasgow

This paper has been prepared as an introduction to some of the issues to be discussed at our forthcoming think-tank event, in Glasgow on 29th April 2009. The event will be the fourth in a series organised as part of a Knowledge Exchange project funded by the Scottish Funding Council, looking at Promoting Best practice on Equality and Human Rights in Scotland.

The aim of this knowledge exchange programme is to provide an opportunity to open dialogue on and promote an understanding of the new equality and human rights agenda with key stakeholders in the public, private and voluntary sectors across Scotland. It also aims to stimulate research on and support best practice in implementing equality and human rights policies in Scotland.

Key aims and objectives of the day
- To exchange knowledge and understanding of how the new equality and human rights agenda is impacting on the provision of care for people in long stay institutions;
- To develop a particular Scottish focus on the human rights of people in care in partnership with key Scottish institutions;
- To stimulate research on the human rights of people in care;
- To support best practice in implementing policies that promote the human rights of people living in long stay institutions in Scotland

Human Rights and Care
The concepts of equality and human rights are often, erroneously, seen as being synonymous. Human rights, however, is an overarching concept of which equality is one part. The human rights agenda combines civil and political rights as well as economic, social and cultural rights, under an overarching theory of equality and non-discrimination. The core principles of human rights include dignity and autonomy; non-discrimination; participation and inclusion; access; diversity; equality of opportunity and respect. It allows people to demand not just equal treatment, but treatment that is fair, that demands dignity, that respects freedom and that denounces harassment, discrimination or physical threat. It is the principle of human rights that prevents us from being treated equally badly.

This argument is particularly relevant to those who live in institutional accommodation including care homes, long stay hospitals or respite facilities. Much of the discussion around human rights, legislation and care for people in long stay institutions has focussed on the medical and legal assessments of capacity and procedural implications rather than on any wider implications for citizenship rights. There is a historic tension that has existed over how concepts of citizenship and rights apply to people who have conditions that may affect or are deemed to affect, their capacity to take decisions for themselves. These include people with a mental health problem, specifically dementia and learning difficulties (Boyle 2008a). A claim to citizenship is often based on a fairly paternalistic concept of the rational man (Brock 1993). Thus those considered irrational (or not male) were excluded from the rights and status of citizenship, and so excluded from the civil right to liberty, the political right to influence governance and the social rights to be seen as equal. Thus, on a point of definition, people with mental ill health, dementia or learning difficulty have been afforded inferior status. For this reason the treatment of and provision of care for people living in long-stay institutions requires a human rights agenda more than a focus on equalities.

Care in a long term residential setting is seen as something that you turn to when all else fails. Care homes are seen as a last, and worst, resort and much emphasis in planning and developing social care is aimed at trying to keep people out of such institutions and the focus is on the rights of people to live in the community rather than the rights of people who live in such homes. As a consequence, the rights of residents of long stay institutions have been to a large extent unexplored. This study day aims to start to address these gaps.

This briefing will now examine some of the academic literature that has evaluated the HRA, focussing in particular on care and dignity. The focus mainly falls on the relevant policy pertaining to older people, people with mental ill health and anyone else in receipt of health and/or social care services. A brief outline of academic work, notably informed by Geraldine Boyle (2004; 2005; 2008a; 2008b) will follow. This work has attempted to consider the impact of the HRA on real people by considering the influence this increased focus on rights has had for older people and people who have mental ill health.

Care in Scotland
This section will outline some of the key legislation relating to care in Scotland. To begin though, it is useful to introduce the Joint Committee on Human Rights (JCHR). Following the passing of the Human Rights Act in 1998 the JCHR was established in 2001 to scrutinise every Bill to ensure that it did not clash with the HRA. In this way, the promise of the HRA should infuse each bill. Despite the intentions of the JCHR it has not fully lived up to its promise. The Klug Report (Klug 2006) has claimed that the JCHR has little power to change Bills. It has also been described as being overly legalistic, ignoring the sociological or economic impacts of legislation (Tolley 2009). Despite these claims there is some evidence to suggest that Scottish legislation relating to care, since 2001, has increasingly paid attention to rights, to dignity and to freedom of choice.

Since devolution, there have been a number of Acts designed to promote the rights of people who receive social and/or health care services, including those people who live in residential accommodation. The Adults with Incapacity (Scotland) Act 2000 (AWIA) set out the system for protecting the welfare of adults who are unable to take decisions for themselves, in Scotland. Its aim is to help adults (aged 16 plus) who lack the capacity to make decisions on some or all aspects of their lives. It enables health care professionals, carers or others to have legal powers to make financial, welfare and health care decisions on their behalf. The 2000 Act streamlined support provision for people considered to have no capacity or limited capacity to manage or choose their own provision. Crucially the Act permits individuals the right to protect the control they had over their decisions and finance by nominating a Guardian to help them make informed choices. Although the Act does not use the language of 'assisted autonomy' that was introduced by the Mental Capacity Act 2005 (implemented in England and Wales from 2007), it does provide a comparative framework and its aim is to optimise autonomy.

The Regulation of Care (Scotland) Act 2001 has a wider remit that the Incapacity Act 2000, and relates to all healthcare services in Scotland (including adult, child and independent services). This 2001 Regulation of Care Act launched the Scottish Care Commission. This Commission works to regulate all care providers in Scotland using the Scottish Government's National Care Standards. There are six care standards: Dignity, Privacy, Choice, Safety, Realising Potential, Equality and Diversity. Though human rights are not specifically touted as a principal aim of this legislation, it is clear from the care standards that rights are a central message of this policy. The National Care Standards are used to not only assess care providers but also to assist users of care and support services as to how to best to optimise the service they receive. For example

the document '*National Care Standards: Care Homes for People with Mental Health Problems*' is one of many documents designed to help service users understand their legal rights, and to optimise their awareness of how they can exercise choice and organise support arrangements (Scottish Government 2005).

Adults experiencing mental ill health have further legislative support. The Mental Health (Care and Treatment) (Scotland) Act 2003 came into force in October 2005. It launched two new bodies: the Mental Welfare Commission and the Mental Health Tribunal. This legislation builds on earlier policy to further strengthen each person's right to autonomy and choice. Within this Act all health care users should be fully involved in all aspects of their care including assessment, treatment and support. If a person requires assistance to achieve this, then health care providers should grant this. If a case is to go to the Tribunal then any named person is eligible for non-means legal aid. This then allows all people to use the Act and Tribunal to receive useful support.

Though the legislative changes made in Scotland since devolution appear to place each person firmly at the centre of their care provision and optimise their rights to choice, there has been little work examining the impact of these policies in practice. Some work has been done exploring equivalent legislation in England and Wales.

An Evaluation of English/Welsh Policy

The equivalent English and Welsh legislation has been subjected to much greater scrutiny than their Scottish counterparts. For example Boyle (2008a) has examined the Mental Capacity Act 2005 and how it introduced the notion of 'assisted autonomy' where support is required to enable the exercise of autonomy – an idea central to any concept of citizenship for people with a mental health problem such as dementia or a learning difficulty or younger people. It argues that this is a useful way of considering the quality of care and of bringing in the Human Rights Agenda. In a study examining quality of life of older people (Boyle 2004) it was found that only half of older adults felt that they were able to make decisions for themselves, and related the lack of autonomy to mental ill health. A Scottish study by Tester et al, (2004) concluded that having control over decisions relating to autonomy and choice increased quality of life.

The 'assisted autonomy' of the Mental Capacity Act 2005 may be sufficient to increase the inclusion of some adults. The notion of assisted autonomy lies in the practice of allowing those with the impaired capacity to exploit the capacity that they do have to make rational decisions. Within this idea, the fact that the decision is assisted makes it no less autonomous recognising that most of us make decisions with others. The issues surrounding people with dementia are particularly relevant here.

While it is acknowledged that the move to a care home may be a positive and informed choice of many individuals, sometimes the decision is made by health and social care professionals or the relatives and carers to protect the individual and, in practice excluding the individual from being involved (Moriarty and Webb 2000; Davies and Nolan 2003). The Mental Incapacity Act 2005 was designed to alleviate the tensions created by enforced institutional care. For example, Dickenson, (2001) summarized the case of a man who was admitted to a psychiatric hospital without due consideration to his wishes. His foster carers appealed on his behalf to a judicial review of the National Health Service Trust at the High Court, the UK Court of Appeal, The House of Lords (1998) and finally the European Court of Human Rights (ECHR, 2004) who found that the civil rights of the man had been compromised as his liberty had been unlawfully deprived. The 2005 Act attempted to close this loophole, thus supporting the finding of the ECHR.

While the terms of the Mental Capacity Act 2005 aim to promote a human rights message, there is concern that the practical use of the Act is limited for more people that it helps. It usefully moves the concept of capacity from a medicalised definition to a socially defined concept with tests of functionality where previously tests of cognition were used (British Association of Social Work, 2003). The Department of Constitutional Affairs (2007a) has published a Code of Practice to facilitate the work of health and social care professionals to which workers are required to 'have regard' (2007a: 2). Where an individual does not have friends or family available to consult with on decisions an Independent Mental Capacity Advocate (IMCA) should be appointed to safeguard their interests (Boyle, 2008a).

However, while the mechanisms are largely available for an individual with dementia, for example, to have 'assisted autonomy' in fact, if their decision is at odds with the views of health and social care professionals, the paternalistic view of 'best interests' carries more weight (Boyle, 2008a). Where an adult with dementia has carers or friends available to advise (even if the advice is damaging to the autonomy of the individual) they are ineligible to receive the support of an IMCA (Boyle, 2008a, Redley et al, 2006). Further despite the Code of Practice published by the Department of Constitutional Affairs (2007a) many care workers were unfamiliar with its guidance (Redley et al, 2006). The Scottish version of the Mental Capacity Act, the Adults with Incapacity (Scotland) Act 2000 has also been criticised for leaving health and social care professionals unsure about how to assess capacity (Killeen et al, 2004). Although this legislation appears to have a positive impact, it seems clear that in practice some people's rights to autonomy are not respected.

Regulation of Care
Palmer (2008) is careful to remind us that part of the problem lies not with the legislation per se, but with many care and health services being provided by the private sector (including voluntary and charitable sector): a product of thirty years of privatization and out-sourcing. While the standard of care offered by the private sector can be excellent there is some concern that it is not subject to the stringent scrutiny of public sector provision (Palmer, 2008).

The key difference is that private enterprises aim to make profit and this potentially is a priority over providing care and dignity (this is not true for many residential homes managed in the private sector, the argument though, is that it could be). In order to ensure care and dignity then, the Government must scrutinize and measure service delivery (for example via the Scottish Care Commission); Palmer (2008) however, suggests that this is not done well. Where local authorities fund services run by the private sector, the private sector should pay due regard to the legislation that impacts on the public sector, for example, the HRA, the Equality Act, the Disability Equality Act and so on. But there remains concern about the extent to which the performance of the private sector is adequately monitored. Where cases have been taken to Court under the HRA against private sector bodies providing public sector services, the Court has generally ordered that private sector bodies should not be considered bound by the HRA. Perhaps not surprisingly the JCHR were not happy with this judicial interpretation of the HRA but did not directly challenge decisions, (JCHR, 2003-4). This trend of dismissing claims made under the HRA extends to all cases heard by the House of Lords. Since October 2000 (when the HRA became enforceable) only 27% of cases have been upheld (35 of 132 cases) (Shah and Poole, 2009).

In response to the case YL v. Birmingham City Council and others, the House of Lords ruled in 2007 that:

'… a privately owned care home, operating on a for-profit basis and acting pursuant to a contract with a local authority could not be deemed to be a hybrid public authority under section 6 (3)b of the HRA.' (Palmer, 2008:593)

Thus care received in a placement funded by the private sector need not give regard to human rights under British Law, the preservation of autonomy or dignity, and can ignore the right to freedom, because they are orientated towards making profit.

Conclusion

In conclusion, there has been a proliferation of policy from both Holyrood and Westminster that has sought to protect and enhance the rights of people living in the United Kingdom. The implementation of these policies has been problematic however. As this Briefing Paper has demonstrated, the HRA has been used legalistically and rarely to regulate which Acts have been passed since 2001. Legislation relating to health and social care have gone a long way to improving the rhetoric around the support of people who rely on such services, however as many workers at the grass-roots level are still unclear about legislation, its impact must be limited. Can human rights go further to improve autonomy, choice, dignity and care in Scotland? This event seeks to explore the impact of the HRA on Scottish services and to consider how human rights can be conceptualized to the advantage of people who depend on care services.

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PROMOTING BEST PRACTICE IN EQUALITY AND HUMAN RIGHTS IN SCOTLAND
PARTICIPATION LIST

Codes used:

a) for events
> 1: Lifelong Learning and Equity
> 2: Immigration, Equality and Human Rights
> 3: Dimensions of Persistent Inequality
> 4: Human Rights, Care and Dignity
> 5: Conceptualising and Achieving Equality and Human Rights (Conference)

b) for individuals

(AG) = Advisory Group member   (P) = Presenter
(Ch) = Chair   (S) = Student
 (D) = Discussant   (T) = Research team member

Note: This record is based primarily on lists drawn up two days before each event for inclusion in participants' packs. While we have updated this wherever possible in the light of actual attendance on the day, we may have missed some instances of last minute attendance or withdrawal, or replacement of delegates by a colleague from their organisation.

Name	Organisation	Events attended
N. Abdelkhaliq	University of Edinburgh	2 (S)
L. Ahlgren	University of Edinburgh	1 (P); 5
L. Ahlquist	Empowering Practice	5
H. Alanazi	University of Strathclyde	2 (S)
L. Alexander	NHS Health Scotland	4; 5
M. Alkhatnai	University of Edinburgh	2 (S)
L. Anderson	SCVO	3
R. Arshad	University of Edinburgh	(AG)
A. Baird	Independent researcher and consultant	5
N. Balaj	Scottish Churches Racial Justice officer	3
J.Barr	University of Glasgow	1
S. Begum	Scottish Independent Advocacy Alliance	5
N. Bell	Researcher	5
B. Billings	Inverclyde Council	3
P. Boreland	Strathclyde Fire and Rescue	3
C. Boswell	University of Edinburgh	2 (P)
S. Bruce	Aberdeen City Council	3
F. Bryce	NHS	3
A. Byerly	University of Edinburgh	1; 2; 3; 5 (S)
A. Cameron	North Lanarkshire Council	3; 4
S. Cameron	South Lanarkshire Council	3
N.Canton	University of Glasgow	3 (S)
R. Catts	University of Stirling	1
G. Christie	Scottish Refugee Council	2 (P)

L. Christie	Dundee City Council	3
S. Christie	LLUK	1
S. Clarke	University of Edinburgh	2 (S)
A. Connolly	Inverclyde Council	3
J. Cooke	CEMVO Scotland	4
A. Cowan	Scottish Parliament	5
A. Cowen	UNISON Scotland	3
V. Cree	University of Edinburgh	1 (P)
J. Croft	Glasgow Association for Mental Health	4
B. Cross	University of Glasgow	1
J. Crowther	University of Edinburgh	1 (Ch)
S. Cunningham-Burley	University of Edinburgh	5 (P)
K. Curtis	News Network Ecumenical Women Scotland	4
E. d'Aboville	Centre for Independent Living, Glasgow	3 (P)
G. Dalley	Relatives and Residents Association	4 (P)
S. Da Lomba	University of Strathclyde	2
P. de Lima	UHI Millennium Institute	2 (P)
D. Denton	SAMH	5
L. Dobbie	Glasgow Caledonian University	3
D. Dodd	City of Edinburgh Council	3
K. Doyle	EHRC	5
E. Duncan	Help the Aged	3
F. Edmond	EHRC	5
S. Edward (T)	University of Edinburgh	1; 2; 3; 4; 5
P. Elmslie	Migrant Rights Network	5
A. Emejulu	University of Strathclyde	3
N. Fancott	SCVO	4; 5
J. Ferrie (T)	University of Glasgow	1; 2; 3; 4(D); 5
M. Ferriter	University of Glasgow	3; 4; 5 (S)
V. Finney	Scottish Independent Advocacy Alliance	5
C. Flack	Engender	5
M. Flett	GARA	3; 4
Y. Foley	University of Edinburgh	5
S. Forbes	Positive Action in Housing	2
I. Fyfe	University of Edinburgh	1
A. Gadda	University of Edinburgh	5 (S)
A. Ghai	BEMIS	3; 5
D. Gildea	SCVO	2; 5
M. Gillespie	Poverty Information Unit	3
M. Glen	Scottish Parliament	5
C. Goddard	British Institute of Human Rights	5 (P)
A. Good	University of Edinburgh	2
J. Gray	Scottish Funding Council	1 (P)
M. Green	COSLA	2
K. Grieve	Scottish Government	3
B. Grogans	University of Glasgow	5
V. Gunn	University of Glasgow	3 (Ch)
P. Hambleton	City of Edinburgh Council	3

K. Hammond	University of Glasgow	1
K. Hampton	SHRC & Glasgow Caledonian University	2 (Ch)
J. Haria	GARA	3
J. Harris	University of Dundee	3 (Ch)
A. Henderson	STUC	5
W. Henderson	City of Edinburgh Council	3; 4; 5
C. Iannelli	University of Edinburgh	5 (P)
T. Irshad	University of Edinburgh	4
B. Irving	Star Refrigeration Co	1
C. Irving	Stonewall Scotland	3 (P)
L. Irving	Scottish Government	2 (Ch)
L. Jamieson	COSLA	3
L. Jeffrey	University of Edinburgh	2
N. Juetten	SCCYP	5
L. Jurczyk	North Lanarkshire Council	3
M.V. Kamlesh	Stirling Council	3
M. Kandemiri	University of Edinburgh	2
N. Kandirikirira	Engender	3; 5
E. Katartzi	University of Edinburgh	2 (S)
D. Kelter	Momentum Scotland	3; 4; 5
K. Kennedy	Inverclyde Council	
P. Khan	NHS Health Scotland	5
K. Kollman	University of Glasgow	3
S. Kyambi	Independent consultant	2 (P)
J. Lafferty	North Lanarkshire Council	4
N. Laird	NHS Health Scotland	4; 5
A. Lansbergen	University of Edinburgh	2 (S)
Lu Ling-Ying	University of Edinburgh	1 (S)
G. Lloyd	University of Edinburgh	5 (Ch)
A. Logan	Sense over Sectarianism	3
E.Lucio-Villegas	University of Edinburgh	1
H. McArthur	Glasgow Equalities Partnership	5
G. McCluskey	University of Edinburgh	5
M. McCormack	SCCYP	4 (P); 5 (Ch)
H. McCulloch	Scottish Disability Equality Forum	5
G. McDermott	West Dunbartonshire Council	5
E. McDonald	University of Glasgow	3
J. MacEachern	West Lothian Council	4
J. McEwan	Inverclyde Council	3
R. McEwan	NHS Greater Glasgow & Clyde	3
M. McGovern	University of Edinburgh	5
E. McIntosh	University of Edinburgh	2 (S)
M. McKee	University of Glasgow	5
J. McKendrick	Glasgow Caledonian University	3
L. MacLennan	NHS Borders, Scottish Borders Council	4; 5
L. McLeod	Equality Forward	1 (P)
C. McMillan	Scottish Association for Mental Health	4
S. Macpherson	EHRC	(AG); 3; 4
J. McQueen	State Hospital	4

E. McShane	North Lanarkshire Council	4
K. Mahendran	Open University	2
M. Makita	University of Glasgow	3; 4; 5 (S)
S. Mands	Dundee City Council	5
S. Marshall	Equality Forward	1 (P)
C. Merry	Kilmarnock College	1
R. Micklem	Equality and Human Rights Commission	1 (P)
A. Miller	Scottish Human Rights Commission	(AG); 4 (P)
D. Mitchell	COSLA	2 (P)
L. Morrison	West Dunbartonshire Council	3
M. Morrison	University of Edinburgh	2 (S)
G. Mulvey	Scottish Refugee Council	2 (P)
A. Munnoch	Stevenson College	1
J. Murdoch	University of Glasgow	(AG)
A, Noble	Renfrewshire Council	3
C. Okore	University of Strathclyde	5 (S)
S. O'Loan	EHRC	5
G. O'Neil	EHRC	5
G. O'Neill	GARA	3
C. Oswald	EHRC	(AG)
R. Ousta	BEMIS	2; 3 (P); 5
B. Park	Glasgow Access Panel	4
T. Parnez	BEMIS	5
M.Patrick	EHRC	(AG); 3 (D)
P. Pershad	Glasgow Association for Mental Health	4; 5
M.Pickering	North Lanarkshire Council	4
E. Pietka	University of Strathclyde	2
J. Powney	Consultant	2
R. Purves	University of Edinburgh	1
A. Quinn	Action for Children	4
J. Rae	Scottish Government	3
D. Raffe	University of Edinburgh	1 (D)
P. Ralphs	NHS Greater Glasgow and Clyde	4
M. Redwood	Highlands and Islands Equality Forum	5
N. Reetoo	Glasgow Anti-Racist Alliance	3; 4
T. Rees	Cardiff University	5 (P)
S. Riddell (T)	University of Glasgow	1 (P, Ch); 2; 5
S. Ridley	Action for Children	4
C. Robertson	West Lothian Council	4
L. Rowlett	Scottish Disability Equality Forum	5
C. Runciman	University of Glasgow	3; 4; 5 (S)
K. Sanford	Quarriers	5
N. Santoro	Charles Stuart University	5
L. Scott	Age Concern, Help the Aged in Scotland	4; 5
M. Scott	Engender	3 (P)
K. Selbie	West Lothian Council	3
M. Shapira	University of Edinburgh	2
R. Sharma Joshi	Trust/Hanover/Bield Housing Associations	3
J. Shaw	University of Edinburgh	(AG); 2

M. Sheridan	University of Strathclyde	3; 4
M. Sier	Faith Awareness	3 (P)
D. Sime	University of Strathclyde	2
M. Simpson	NHS Health Scotland	4
A. Sinfield	University of Edinburgh	5
A. Smith	University of Edinburgh	5
A. Smith	University of Glasgow	3
G. Smyth	University of Strathclyde	2; 5
K. Stalker	University of Strathclyde	3
E. Stewart	University of Strathclyde	2
J. Stead	University of Edinburgh	1
J. Swinburne	SSCUP	3 (P); 4; 5
S. Taylor	Glasgow Learning Disability Partnership	3; 4
L. Tett	University of Edinburgh	1 (P); 5
E. Thornley	Glasgow City Council	3
S. Tierney	North Lanarkshire Council	4
C. Tolan	NHS Highland	2
M. Tyrer	SCVO / HIEF	4
M Waites	University of Glasgow	3; 4; 5
S. Walby	University of Lancaster	5 (P)
C. Walkinshaw	North Lanarkshire Council	4
K. Wallace	University of Edinburgh	2 (S)
S. Warner	Scottish Government	(AG)
B. Watson	SAMH	3; 4 (P)
N. Watson (T)	University of Glasgow	1; 2; 3 (C); 4; 5
E. Weedon (T)	University of Edinburgh	1(P); 2; 4(C); 5
G. Weiner	University of Edinburgh	5
R. Whatling	Scottish Government	3
N. White	Action for Children	4
V. Williams	University of Glasgow	4 (S)
G. Williamson	NHS Ayrshire and Arran	4
A. Wilson	Scottish Government	3
D. Wilson	Dundee City Council	3
Z. Yeaman	Positive Action in Housing	3
Zhu Jian	University of Edinburgh	1 (S)

PROMOTING BEST PRACTICE ON EQUALITY AND HUMAN RIGHTS IN SCOTLAND
A KNOWLEDGE EXCHANGE PROGRAMME SUPPORTED BY THE SCOTTISH FUNDING COUNCIL

This summary sheet describes post-event briefings based on each of the four events held as part of this project between November 2008 and April 2009. Each contains summaries of the presentations and discussion of themes emerging from the discussions. They have been distributed to participants and other interested parties, and are part of the sequence of CREID Briefings available on our website: www.creid.ed.ac.uk

The electronic format of these publications prevents their integration into this project report, but we have included all four of them here as separate attachments.

Lifelong Learning and Equity in Scotland (CREID Briefing 15)
Based on event held in Edinburgh, November 2008, with the following presentations:
L. Tett & V.Cree, *Experiences of non-traditional students in an ancient Scottish university*; E. Weedon, *What motivates adults to return to education and what are their attitudes and experiences? A comparison of learners with different levels of previous qualifications*; S. Riddell, L. Ahlgren and E. Weedon, *Equity and Lifelong Learning in Scotland: Workplace development in SMEs.*

Immigration, Equality and Human Rights (CREID Briefing 17)
Based on event held in Edinburgh, December 2008, with the following presentations:
S. Kyambi, *Scottish and English Policy on Immigration: some north/south comparisons;* G. Christie and G. Mulvey, *Exclusion not Equality: UK immigration and citizenship policy and its impact on refugees in Scotland;* D. Mitchell, *Meeting the needs of new arrivals in Scotland: the challenge for local services*; P. de Lima, *Creating thriving rural communities: migration in rural areas;* C. Boswell, *Using migration research in policymaking*

Dimensions of Persistent Inequality in Scotland (CREID Briefing 19)
Based on event held in Glasgow, January 2009, with presentations from:
Calum Irving, Stonewall Scotland; John Swinburne, Scottish Senior Citizens Unity Party; Maureen Sier, Faith Awareness; Marsha Scott, Engender; Etienne d'Aboville, Glasgow Centre for Independent Living; and Rami Ousta, BEMIS.

What does the Human Rights agenda have to say about Care & Dignity? (CREID Briefing 20)
Based on event held in Glasgow, April 2009 with presentations from:
Alan Miller, Chair of the Scottish Human Rights Commission; Maire McCormack, Head of Policy at SCCYP; Billy Watson, and Charlie McMillan, SAMH; and Gillian Dalley of the Relatives and Residents Association.