The Equality and Human Rights Commission (EHRC) is a non-departmental public body in Great Britain that was established by the Equality Act 2006 and came into being on 1 October 2007. The Commission has responsibility for the promotion and enforcement of equality and non-discrimination laws in England, Scotland and Wales. It is one of Scotland’s two National Human Rights Institutions, sharing its human rights mandate with the Scottish Human Rights Commission.

The Equality Act also sets out provisions for a statutory Scotland Committee, which is responsible for ensuring the overall work of the Commission reflects the needs and priorities of Scotland. The Committee sets strategic direction and steers the Commission’s work in Scotland. As Chair of the Scotland Committee, Kaliani Lyle is the Commissioner in Scotland and sits on the board of Commissioners headed by Baroness Onora O'Neill (appointed in October 2012). The Commission welcomes the opportunity to give evidence to the Committee on our current and planned work in Scotland, the current changes to the EHRC’s governance arrangements and operating model, and the ongoing reductions in capacity and budgets. This note is designed to provide some key points which members may find useful ahead of that discussion.

Some Recent Commission Activity in Scotland

Inquiries: We have conducted ground-breaking inquiries into disability-related harassment and human trafficking in Scotland.

Publications and guidance: We published work on how place-based efforts to eradicate poverty could sometimes miss harder-to-reach groups. We have worked in partnership with the Scottish Government and the Improvement Service to identify ways of better capturing local equality data. We have published tailored Scottish technical guidance for public authorities on the Public Sector Duties. We have also just published new guidance for employers on managing religion or belief in the workplace, following recent European Court of Human Rights cases concerning religious freedom in the workplace. We have also produced detailed technical guidance for the FE and HE sectors.

Our legal team also produce an e-bulletin every 2 months, providing information on the law and important cases across the equality and human rights field. We have over 600 subscribers from across Scotland.

Training and transfer of expertise: In 2012–13 our Transfer of Expertise programme was made up of fourteen events organised by our own staff along with presentations and training delivered at an additional nine events organised by others. Through this work, 1,359 people were trained on equality and human rights law in Scotland. This is in excess of a 30% increase from the equivalent number of 1,006 people we trained in 2011–12. A key target was to train more solicitors. In 2012–13 we trained 404 solicitors, a 60% increase on the 237 solicitors who attended our events in 2011–12. Other attendees included advisors and those public servants with responsibilities to meet public sector duties.

We attracted attendees to our training events from 30 of Scotland’s 32 unitary authority areas, with events in Aberdeen, Airdrie, Ayr, Dumfries, Dunfermline,
Edinburgh, Elgin and Glasgow, and some training made available online as webinars.

To further increase our reach we held many of our events in partnership with others, including the Scottish Employment Rights Network, Scottish Discrimination Law Association and Equality Law Reports.

**Scotland’s international Human Rights obligations**: we have continued to work to reflect Scottish priorities in monitoring progress against international human rights standards, from the UN Conventions on eliminating discrimination against women and the rights of disabled people and the UK Universal Periodic Review state examination in May 2012. We also contributed to both rounds of consultation on a possible UK Bill of Rights.

**Some Recent Legal Work**
- A mother raised concerns with us that her disabled daughter was being discriminated against by an Education Authority who built a play area in an inaccessible area for her wheelchair using child. After our extensive involvement, the Education Authority admitted that they had not met their duties to make reasonable adjustments nor had they considered their public sector equality duties. Apologies were given and a new and better play area was built in an accessible location where the child is now able to enjoy playing with her friends.
- We investigated a complaint that a national voluntary sector organisation excluded transsexual members because of their gender reassignment status. This organisation has now changed its practices.
- A complaint was brought to the Commission that unlawful back-to-back mental health detentions were taking place in some parts of Scotland. We worked together with the Mental Welfare Commission (MWC) to examine and tackle this issue, with MWC issuing a set of recommendations to ensure that practice was improved.
- The Commission intervened to stop three local authorities using an employment application screening question regarding the holding of driving licences, in an online application process. The screening question prevented disabled people, who could not hold a driving licence because of their impairment, from applying and being considered for jobs, which was discriminatory.

**Planned Activity in 2013/14**

**Public Sector Equality Duty**: The General Duty (GD) to eliminate discrimination, advance equality of opportunity and foster good relations applies across the public sector in Scotland. The GD is supported by Specific Duties (SD) which set out procedural steps that some 240 Public Authorities must comply with to make the intentions of the GD reality. The SDs require equality impact assessment, employment monitoring, mainstreaming, procurement, the publication of occupational segregation and equal pay information, the setting of equality outcomes and the Scottish Ministers Duty. The procurement and impact assessment requirements came into place on 27 May 2012. Publication of outcomes, employment data and mainstreaming reports is required by 30th April 2013.
The Commission’s focus in 2013 will be the analysis of published outcomes, and checking to ensure that the duties to publish employment data, pay gap information, equal pay policies, occupational segregation and mainstreaming reports have been complied with.

We intend to report quickly on compliance with the publication duty but will conduct a deeper analysis of the type of equality outcomes published and report on this in the summer of 2013.

We plan to undertake a range of Scottish projects in 2013-14

- Following on from earlier work (2011) on how public bodies use EQIA to mitigate anticipated negative outcomes, we will be looking at a specific part of the public sector, to look again at how EQIA is working in practice.
- We will continue to work with key Scottish regulators, based on the new Scottish specific equality duty to mainstream equality.
- We will commission work on how identity-based harassment and bullying is monitored and addressed in Scottish schools.
- Together with the SHRC we will promote the findings of pilot projects on joint human rights and equality impact assessment.
- We will fulfil our role as one of Scotland’s two NHRIs to monitor and report on progress against Scotland’s international human rights obligations, particularly in relation to UNCRPD and CEDAW.
- We will bring together key voices in equality, human rights, constitutional law and service delivery to steer an ambitious research and engagement project looking at how various possible future constitutional models could be configured to best ensure a fairer, more equal Scotland.
- We will continue to support strategic legal cases and to use our enforcement powers proportionately to achieve real change across Scotland.
- As in previous years we will implement an ambitious and country-wide transfer-of-expertise programme to improve and support the equality and rights advice and support network in all parts of Scotland.

The EHRC Change Programme and Reductions in Budget and Capacity

EHRC change programme

Change Programme: The Commission’s change programme aims to create a more flexible and sustainable organisation, providing greater resilience to external pressures, be they financial or political, over the coming years. It supports delivery through commissioning work, partnerships or using in-house resources unique to the Commission.

The new operating model:

- allows the Commission to allocate resources flexibly to deliver maximum impact on its strategic priorities. All staff in Scotland are now part of the GB Resource Pool and can be allocated to tasks suitable to their skills and grade to fulfil agreed business plan objectives.
- develops effective and efficient processes, investment in technology and organisational design.
- is underpinned by strong business planning and performance management and will be fully operational for the 2013/14 financial year.
Following the UK Government review of the EHRC’s past budgets and the resource needed to deliver on our new operating model, we have indicative budget allocations of around £18m in 2013/14 and 2014/15, although an additional £8m bid fund is available from the UK Government for additional projects. This represents a drop of roughly a third in both years from the indicative allocation in the UK Government’s 2010 Spending Review. However with staffing levels now at just over 200 across GB (with an anticipated 17.5 posts in Scotland) we are now confident that we can retain the current staffing levels until at least March 2015. This is a significant improvement on some of the potential figures being discussed six months ago.

It is difficult to give a figure for overall Scotland budget in the coming years. While there will be resource allocated to some of the projects outlined above, it is difficult to disaggregate figures for all Scotland activity; it is also important to remember that most back-office functions (HR, IT, facilities) are dealt with centrally at GB level.

Funding for our grant-making function has been removed by the UK Government and the in-house helpline service has been replaced by a centralised Equality Advisory Support Service (EASS) run from Birmingham. This means that organisations or members of the public in Scotland will no longer be able to contact helpline staff in Scotland. This inevitably has meant some loss of expertise and focus, and we are working to try and quantify precisely what this means for equality advice and support in Scotland. EASS does itself recognise that improving the services visibility and capacity in Scotland is a priority.

Euan Page
Parliamentary & Government Affairs Manager
Equality and Human Rights Commission Scotland
25 February 2013