

## **Legal Services Agency's response to the Scottish Government's consultation on the Equality and Human Rights Mainstreaming Strategy.**

**February 2025**

The Legal Services Agency (LSA) welcomes the opportunity to respond to the Scottish Government's consultation on the Equality and Human Rights Mainstreaming Strategy. With a longstanding commitment to promoting social justice, addressing the effects of poverty, disadvantage, and discrimination, and advocating for human rights and equalities, LSA offers insights grounded in extensive experience providing legal services to marginalised communities across Scotland.

If you have any questions or require any further information about this response, please contact Amy McGilp, Communications Officer, at [amymcgilp@lsa.org.uk](mailto:amymcgilp@lsa.org.uk).

## Consultee Response

### Proposed vision and objectives

#### Question 1: Do you agree with the vision?

✓ Yes

#### Please explain your answer or provide more information.

LSA supports the strategy's vision to create strong, diverse, inclusive, empowered, resilient, and safe communities where everyone enjoys their human rights. This aligns with our mission to address the effects of poverty, disadvantage, and discrimination, and to promote human rights and equalities.

#### Question 2: Do you agree with the objectives?

✓ Yes

#### Please explain your answer or provide more information.

LSA broadly supports the proposed objectives, which focus on removing systemic barriers, improving policy decision-making, embedding leadership and cultural change, and ensuring transparency and accountability. These objectives are critical to achieving meaningful change in how equality and human rights are integrated into governance and public service delivery.

We emphasise that without strong legal enforcement and accountability, mainstreaming risks being a procedural exercise rather than a transformative approach. We recommend the objectives could be enhanced by:

- **Defining 'mainstreaming'** clearly in terms of legal duties, enforceability and expected outcomes to prevent it from becoming a vague aspiration.
- **Emphasising intersectionality:** Ensuring the compounded effects of multiple forms of discrimination are meaningfully considered in policymaking and service delivery.
- **Strengthening accountability mechanisms.** Implementing robust measures to hold public bodies accountable that go beyond self-reporting such as independent audits, enforcement mechanisms and direct route for individuals to challenge failure to uphold their rights. Enhancing enforcement and monitoring mechanisms ensures that public bodies are held accountable for mainstreaming equality and human rights. This could include strengthened statutory duties, independent oversight, and clear consequences for non-compliance. Strengthening accountability measures ensures that public bodies not only report on compliance but also take concrete action where disparities persist.
- **Explicit inclusion of access to justice** as a key means of dismantling systemic barriers. The ability to enforce rights through legal mechanisms is fundamental to ensuring that policy commitments translate into real change. Incorporating specific legal protections,

such as strengthening legal aid and community-based legal services, is essential to ensure that those facing discrimination have the means to challenge injustices.

## Strengthening leadership

### Question 3: Do you agree that strengthening leadership is a key driver for mainstreaming equality and human rights?

LSA agrees that the proposed drivers are essential for embedding equality and human rights across public services.

### Question 4: Do you agree with the focus on different levels of leadership?

LSA welcomes the strategy's emphasis on leadership at different levels, recognising that equality and human rights mainstreaming require commitment not only from senior decision-makers but also from operational staff.

### Question 5: Have we captured the core elements of strengthening leadership within the context of mainstreaming?

Leadership must be embedded throughout organisations to drive cultural and systemic change, ensuring that equality and human rights are not seen as peripheral but as fundamental to decision-making and service delivery.

### Question 6: What actions would you recommend to ensure strengthening leadership as outlined above will contribute to mainstreaming?

To strengthen this approach, LSA recommends:

- **Embedding legal accountability in leadership responsibilities**, ensuring that commitments translate into measurable actions with clear oversight and evaluation processes.
- **Providing training and capacity-building** at all levels, including for frontline staff, to ensure leadership is informed by a grounded and sound understanding of legal duties under the Equality Act 2010, the Human Rights Act 1998, and UNCRC ensuring these provisions are applied in practical decisions to avoid systemic discrimination, and recognising intersectionality.
- **Inclusive leadership development** to recognise and create pathways for leadership development taking into consideration the expertise of third-sector organisations who play an active role in advocating for individuals' rights, ensuring policy commitments translate to meaningful change.

## Developing accountability and transparency

### Question 7: Do you agree accountability and transparency are a key driver for mainstreaming equality and human rights?

Developing accountability and transparency is vital. Without clear mechanisms for scrutiny and openness, commitments to mainstreaming risk being ineffective or tokenistic. Ensuring that public bodies, policymakers, and service providers are held accountable enables meaningful progress in tackling discrimination and inequality.

### Question 8: Have we captured the core elements of accountability and transparency within the context of mainstreaming?

No

#### Please explain your answer or provide more information.

While the consultation document acknowledges the importance of accountability and transparency, it does not sufficiently outline how these principles will be operationalised or enforced. There is a need for stronger mechanisms to ensure compliance, such as independent oversight bodies, clear reporting duties, and accessible complaint mechanisms.

### Question 9: What actions would you recommend to ensure greater accountability and transparency contributes to mainstreaming?

To strengthen this approach, LSA recommends:

- **Reporting and standardising indicators:** Current accountability structures lack enforceability. Public bodies often comply with reporting requirements without demonstrating substantive changes in practice. Accountability should include reporting requirements against clear benchmarking and standardised indicators to assess progress and include clear plans for corrective actions or enforceable consequences for non-compliance.
- **Transparency in decision-making:** Requiring public bodies to publish detailed impact assessments and justifications for policies, particularly where decisions may disproportionately affect marginalised groups.
- **Stronger legal recourse:** Ensuring individuals and groups have access to legal remedies if their rights are not upheld, including strengthening access to legal aid for those facing discrimination or human rights violations. Time limits in making claims should be adequate, considering the time that is required to gather information prior to raising an action.
- **Stronger non-legal remedies:** Ensuring individuals and groups have access to robust non-legal remedies in which they can enforce their rights so that legal action is a last resort. This should include making non-legal remedies – such as complaints processes – accessible and ensuring that individuals are supported in accessing these remedies if required.

## Ensuring effective regulatory and policy environment

### Question 10: Do you agree that ensuring an effective regulatory and policy environment is a key driver of mainstreaming equality and human rights?

An effective regulatory and policy environment is essential. Effective regulations provide the legal framework within which duty bearers must operate, ensuring that commitments to equality and human rights are not optional but legally binding. Policy coherence across sectors is necessary to prevent inconsistencies that could undermine these commitments.

Regulatory clarity is particularly important in legal and justice contexts, where individuals rely on enforceable protections to secure their rights. Ensuring that regulations include meaningful enforcement mechanisms, alongside clearly defined responsibilities for public bodies, is key to driving long-term change.

### Question 11: Have we captured the core elements of ensuring an effective regulatory and policy environment within the context of mainstreaming?

X No

Please explain your answer or provide more information.

While the consultation document recognises the role of regulation and policy, it does not fully address how these will be harmonised across different sectors or how enforcement will be ensured. We consider there is further detail required on how non-compliance will be addressed.

### Question 12: What actions would you recommend to ensure that an effective regulatory and policy environment will contribute to the achievement of mainstreaming?

- **Cross-sector policy alignment:** Ensuring consistency in policy implementation across all public sectors, with a requirement for impact assessments before policy changes are enacted.
- **Stronger enforcement mechanisms:** Including further clarity, and consequences for non-compliance.
- **Review and applying learning:** LSA also advocates for regular reviews of existing policies to identify and address any unintended discriminatory effects, and for the involvement of marginalised communities and those advocating and protecting their interests to be involved in the review of policy development.

## Utilising evidence and experience

**Question 13: Do you agree that utilising evidence and experience is a key driver for mainstreaming equality and human rights?**

Yes

**Please explain your answer or provide more information.**

Utilising evidence and experience is fundamental. Data-driven policymaking ensures that strategies are targeted, measurable, and capable of addressing structural inequalities.

A commitment to evidence-based policymaking must include granular data collection, qualitative research, and active engagement with civil society organisations to ensure an accurate and holistic understanding of inequalities.

LSA emphasises the importance of collecting disaggregated data to understand the diverse experiences of different groups, and of incorporating lived and learned experiences into policymaking. Without holistic evidence, policies risk being ineffective, disconnected from reality, or even exacerbating existing disparities.

**Question 14: Have we captured the core elements of utilising evidence and experience within the context of mainstreaming?**

No

**Please explain your answer or provide more information.**

While the consultation document acknowledges the importance of utilising evidence and experience, we suggest further consideration be given to the practical measures required to embed these principles.

**Question 15: What actions would you recommend to ensure that utilising evidence and experience as outlined above will contribute to the achievement of mainstreaming?**

To strengthen the approach, LSA recommends:

- **Transparency in evidence use:** Implementing requirements for public bodies to publish how they have used evidence including disaggregated data and learned lived experience in shaping policies, alongside justifications for decisions. We consider lived and learned experience to be powerful evidence in shaping policy changes, however, stress lived experience is obtained with ethical considerations.
- **Regular review and adaptation:** Implementing a continuous improvement model where policies are regularly reassessed in light of new evidence and community feedback.

## Enhancing capability and culture, and improving capacity

We consider our thoughts on capability, culture, and capacity to be related and have consolidated our answers to questions 16-18, with our answers to questions 20-22.

### Questions 16 and 20: Do you agree that enhancing capability and culture/improving capacity is a key driver for mainstreaming equality and human rights?

Yes

#### Please explain your answer or provide more information.

Sustained cultural and structural change is essential for embedding equality and human rights into everyday decision-making. Capability-building ensures that those responsible for implementing policies—whether within government, public bodies, or frontline services—have the necessary knowledge, skills, and confidence to apply equality and human rights principles in practice. Without sufficient expertise, there is a risk that mainstreaming efforts become inconsistent, superficial, or ineffective.

Beyond individual competency, organisational culture plays a critical role in determining how deeply mainstreaming efforts are integrated. A culture that prioritises human rights and equality as core values, rather than optional considerations, encourages proactive engagement and accountability. This requires leadership commitment, clear expectations, and ongoing reinforcement through training, resources, and support.

Improving capacity is essential for mainstreaming equality and human rights because it equips individuals and organisations with the necessary skills, knowledge, and resources to integrate these principles into everyday practices.

### Questions 17 and 21: Have we captured the core elements of enhancing capability and culture/improving capacity within the context of mainstreaming?

No

#### Please explain your answer or provide more information.

While the consultation document acknowledges the importance of capability, culture, and capacity, we suggest further consideration be given to the practical measures to embed these principles and how cultural change will be measured or what mechanisms will ensure that learning is translated into meaningful action.

Furthermore, a commitment to enhancing capability must extend beyond standard training sessions to include mentoring, peer learning, and professional accountability.



Culture change also requires mechanisms to recognise and constructively address resistance, ensuring that equality and human rights principles are not merely seen as optional considerations but are fully embedded and upheld in policy and practice.

In regard to improving capacity, it is important to ensure that capacity-building efforts are comprehensive, addressing not only knowledge and awareness but also skills development.

**Questions 18 and 22: What actions would you recommend to ensure that enhancing capability and culture/improving capacity will contribute to the achievement of mainstreaming?**

- **Leadership and role modelling:** Require senior leaders to champion equality and human rights within their organisations, with clear expectations for their active involvement. Training should be supported with practical measures and linked to performance indicators.
- **Embedding human rights in decision-making tools:** Develop practical frameworks, checklists, and impact assessment tools that enhance clarity in understanding and are simple and practical to apply to ensure equality and human rights are integrated into everyday policy and service delivery.
- **Independent evaluation and reporting:** Introduce mechanisms for assessing whether cultural change is taking place, with independent bodies monitoring progress and identifying areas for improvement.
- **Collaboration and sharing best practices:** Creating opportunities for cross-sector collaboration and sharing best practices can also help to improve capacity and build a more cohesive approach to mainstreaming.

**Question 19: Do you agree that this strategy will provide a foundation to influence a culture of mainstreaming equality and human rights within Scottish Government and the wider public sector?**

✓ Yes

**Please explain your answer or provide more information.**

The strategy provides a solid foundation by outlining key aspirations for cultural change.

Influencing culture goes beyond policy statements and requires a concerted effort through concrete actions, strong leadership support, and a clear framework for measuring progress.

Without adequate resources and clear mechanisms for accountability, enforcement, and evaluation turning these commitments into tangible outcomes, there is a risk that commitments remain largely rhetorical.

## How will the strategy support real change?

**Question 23: Do you think the proposed approach to a collated Action Plan will drive change?**

✓ Yes

**Question 24: Do you think there is a need for a cross-public sector toolkit to support mainstreaming of Equality and Human Rights?**

A cross-public sector toolkit would be incredibly valuable in providing practical guidance and resources for embedding equality and human rights across public sector organisations. It would create a shared understanding and offer concrete tools, templates, and best practices that could be adapted to local contexts. A toolkit can also help to standardise approaches and ensure that equality and human rights are consistently prioritised.

**Question 25: What practical steps would you include to make the toolkit an effective resource?**

The proposals for supporting real change are promising. LSA stresses the need for clear implementation plans, regular monitoring, and the flexibility to adapt strategies based on feedback and changing circumstances.

To make the toolkit effective, it should include practical, user-friendly resources such as checklists, case studies showing both compliance and lessons learnt of non-compliance, and step-by-step guides. It should also provide clear instructions on how to integrate equality and human rights into existing policies, strategies, and operations.

Additionally, offering training modules, setting out clear accountability frameworks, and establishing mechanisms for feedback and continuous improvement would ensure the toolkit remains relevant and impactful over time. Importantly, ensuring that it is easily accessible and adaptable for different sectors will enhance its practical utility.

## Conclusion

LSA appreciates the consideration of an equality and human rights strategy framework and the comprehensive approach it proposes.

We fully support the strategy's ambition to embed equality and human rights into public sector mainstreaming decision-making to ensure it is not a procedural exercise but a meaningful shift in power, policy, and service delivery—particularly for those who face the greatest barriers to justice and equality.

LSA urges the Scottish Government to ensure that mainstreaming is underpinned by enforceability, accountability, and practical support for public bodies to make a meaningful impact.

In this regard, we urge the Scottish Government to prioritise other legislative frameworks, such as the review of legal aid and the Human Rights Bill, which would further support the implementation of the principles in the framework. By incorporating these additional considerations and recommendations, we believe the strategy can more effectively promote equality, protect human rights, and foster inclusive communities across Scotland.