

Registers of Scotland

RoS Board

Inclusive Design in RoS – Annex D

Purpose

1. The purpose of this paper is to provide background information to the Board on the approaches taken to Inclusive Design in Registers of Scotland.
2. This paper is to provide additional context to inform Board conversations on Diversity.

Background

3. The Equality Act 2010, outlines the legal duty not to exclude protected group¹ and the 9 protected characteristics this applies to (*Appendix A*) and more recently 'The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018'²
4. Inclusive Design approaches the same need from a different position and looks to include as wide an audience as possible in the provision of products and services.
5. The inclusive approach is widely supported in government through
 - a. Scottish Governments 'Scottish Approach to Service Design' (SAtdSD) (*Appendix B*)
 - b. Scottish Governments Digital First (D1) standard (*Appendix C*)
 - c. Government Digital Services (GDS) standard. (*Appendix D*)
6. RoS actively develops new products and services beginning with these standards and principles for *all* digital service users (citizens, customers and colleagues)
7. Summaries of standards and legislation are contained in appendix.

Inclusive Design

8. When considering the implications of the Equality Act 2010 on digital products & services, the principles of accessibility and assisted digital become relevant

Accessibility

9. 1 in 5 people in the UK have a registered impairment or disability. This can include conditions that limit someone's ability to use technology including but not limited to sensory, cognitive or motor impairments.

¹ <https://resources.mygov.scot/standards/legislation-regulation/#equality-act-2010>

² <https://www.legislation.gov.uk/ukxi/2018/952/contents/made>

10. Cabinet office & Scottish Government both reference the WWW Consortiums Web Content Accessibility Guidelines (W3C WCAG v2.1) to the level of double A (AA) as the minimum standard to meet³

11. These standards focus digital products and services on being perceivable, operable, understandable & robust. Also providing guidance on how this can be realised for a range assistive technologies⁴, examples are how to ensure compatibility with;

- a. screen readers for the visually or cognitively impaired
- b. captioning for the deaf or hard of hearing
- c. alternatives to mouse or track pad navigation for those with motor impairments

Assisted Digital

12. Assisted Digital (AD) is provision for people who don't have access to the internet or have limited skill or confidence, preventing them from using digital products or services.

13. AD was a response to the UK governments aspiration to be 'Digital by Default' to ensure no one is left behind.

14. AD requires RoS staff to think about end to end service design, joining up the digital with customer services and operational areas.

15. RoS AD solutions have been part of the Scottish Governments D1 Assessment process.

16. RoS also support the D1 process by providing volunteer assessors, widening our understanding of how other departments achieve AD.

Inclusive Design Approaches

User Research

17. In order to understand the real needs of our users (citizens, customers or colleagues) teams undertake user research themselves via the UX team (who also update existing research held).

18. Where possible, the same team identify those that use assistive technology or may benefit from an assisted digital solution and invite them to take part in later activity, such as usability testing.

Co-Design

19. The SAAtSD advocates a Co-Design approach to products and services, where service users are invited to participate in the design process – designing with users, not for them. (Appendix C)

³ <https://www.w3.org/TR/WCAG21/>

⁴ <https://www.w3.org/WAI/perspective-videos/>

20. Co-Design is equally effective when designing and prototyping for digital or AD solutions.

Usability testing

21. This involves actively inviting users of products and services to give regular input and feedback as to suitability and ease of use.

22. A specialism of this is accessible usability testing where testing with a range assistive technology can give greater insight into the suitability of the solution.

23. RoS UX colleagues know that to demonstrate the breadth of compatibility required, they may need to recruit additional participants from a specialist agency (in line with SG procurement)

Continuous Improvement

24. After a product or service has been successfully launched, technology and standards continue to advance. If left unchecked, RoS may find it is no longer compliant with the aforementioned standards.

25. Mitigation for this is that domains each provide enduring ownership to their suite of products and services.

26. A key component of this is to maintain the level of knowledge and education of Inclusive Design in RoS. The UX Lead has taken responsibility for this and actively works in each of the community of practices and domains to ensure this remains fresh and not a (costly) afterthought. This approach saves external training at approximately £7k per member of staff.

27. Wider than domain teams, the UX team works across RoS, recent examples;

- d. Advising Estates on new signage proposed for MBH on legibility and comprehension
- e. A pop-up empathy lab where colleagues were invited to undertake simple tasks in
 - i. glasses that simulated visual impairments,
 - ii. gloves that simulated motor impairments
 - iii. headphones that simulated hearing impairments.

In order to gain a little insight into the challenges faced by some, often the elderly.

- f. Early in lockdown, through the relationships that have been developed, undertaking research with staff on their own 'adjustments' they had made to overcome specific challenges at home and with permission, sharing them with other colleagues who had similar needs.

Benefits

28. Studies⁵ have shown that services built to be accessible are also more usable for everyone, this not only meets our legal obligations but increases overall customer satisfaction.

⁵ <https://www.w3.org/WAI/business-case/>

29. Therefore, Service Design recommend RoS 'progressively enhance' the same solution for everyone, rather than building and maintaining multiple versions of a product & service (as was trend to have a second 'accessible version', incurring double the development and maintenance cost).

30. Similarly, there are no dedicated mobile apps in RoS, websites adjust to working on a small screen, also leveraging being built in an accessible manner.

Conclusion

31. RoS not only adhere to their legal duties in providing access to products and services, the approach taken offers greater business benefit than compliance alone – A rising tide floats all boats.

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Appendix A

<https://www.gov.uk/guidance/equality-act-2010-guidance>

Overview

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society.

It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it's unlawful to treat someone.

Find out more about [who is protected](#) from discrimination, [the types of discrimination](#) under the law and [what action you can take](#) if you feel you've been unfairly discriminated against.

Discrimination: making a complaint

Before the Act came into force there were several pieces of legislation to cover discrimination, including:

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995

If you wish to complain about possible unlawful treatment there are 2 separate processes, depending on when it happened.

Complaints: before October 2010

If you were subjected to unlawful treatment (eg discrimination, harassment or victimisation) before 1 October 2010, the Equality Act won't apply. Instead, you'll be covered by the legislation that was in force at the time.

For example, if you experienced race discrimination on 30 September 2010 and want to make a complaint or bring legal proceedings, the Race Relations Act 1976 will apply, not the Equality Act.

This is also true of any legal proceedings. They will go ahead according to the legislation under which they were brought, even if they may have continued after 1 October 2010.

- [Questionnaires and guidance booklets for complaints under previous legislation](#)

Complaints: after October 2010

If you were subject to unlawful treatment on or after 1 October 2010, the Equality Act applies.

For example, if you experienced sex discrimination on 30 September 2010, which continued until 2 October 2010, the Equality Act will apply, not the Sex Discrimination Act.

Find out more about how to complain about unlawful treatment in the [Discrimination: your rights](#) guide.

Equality Act provisions: commencement dates

To allow people and organisations enough time to prepare for the new laws, the provisions of the Act were brought in at different times (known as commencement dates).

October 2010

Equality Act provisions which came into force on 1 October 2010:

- the basic framework of protection against direct and indirect discrimination, harassment and victimisation in services and public functions, premises, work, education, associations and transport
- changing the definition of gender reassignment, by removing the requirement for medical supervision
- providing protection for people discriminated against because they are perceived to have, or are associated with someone who has, a protected characteristic
- clearer protection for breastfeeding mothers
- applying a uniform definition of indirect discrimination to all protected characteristics
- harmonising provisions allowing voluntary positive action

Provisions relating to disability

- extending protection against indirect discrimination to disability
- introducing the concept of “discrimination arising from disability” to replace protection under previous legislation lost as a result of a legal judgment
- applying the detriment model to victimisation protection (aligning with the approach in employment law)
- harmonising the thresholds for the duty to make reasonable adjustments for disabled people
- extending protection against harassment of employees by third parties to all protected characteristics

- making it more difficult for disabled people to be unfairly screened out when applying for jobs, by restricting the circumstances in which employers can ask job applicants questions about disability or health

Provisions relating to work

- allowing claims for direct gender pay discrimination where there is no actual comparator
- making pay secrecy clauses unenforceable
- extending protection in private clubs to sex, religion or belief, pregnancy and maternity, and gender reassignment
- introducing new powers for employment tribunals to make recommendations which benefit the wider workforce

April 2011

Equality Act provisions which came into force in April 2011:

- positive action - recruitment and promotion
- public sector Equality Duty (see section below)

Ministers are considering how to implement the remaining provisions in the best way for business and for others with rights and responsibilities under the act. Their decisions will be announced in due course.

Equality Act Provisions that the government has decided not to take forward:

- public sector duty regarding socio-economic inequalities
- combined discrimination - dual characteristics

Age discrimination

The Equality Act 2010 includes provisions that ban age discrimination against adults in the provision of services and public functions. The ban came into force on 1 October 2012 and it is now unlawful to discriminate on the basis of age unless:

- the practice is covered by an exception from the ban
- good reason can be shown for the differential treatment ('objective justification')

The ban on age discrimination is designed to ensure that the new law prohibits only harmful treatment that results in genuinely unfair discrimination because of age. It does not outlaw the many instances of different treatment that are justifiable or beneficial.

You can read the original consultation on the [archived Government Equalities Office website](#).

There is an overview of how the ban works and tailored guides for small businesses, private clubs and the holiday sector in the [Equality Act guidance](#).

Age discrimination: exceptions

The [government response](#) to the consultation includes the draft Exceptions Order. You can also read the [impact assessment](#).

Exceptions under the Order are:

- age-based concessions
- age-related holidays
- age verification
- clubs and associations concessions
- financial services
- immigration
- residential park homes
- sport

These specific exceptions are in addition to:

- general exceptions already allowed by the Act
- positive action measures
- 'objective justification'

There are no specific exceptions to the ban on age discrimination for health or social care services. This means that any age-based practices by the NHS and social care organisations need to be objectively justified, if challenged.

Public sector Equality Duty

The [public sector Equality Duty](#) came into force across Great Britain on 5 April 2011. It means that public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.

It also requires that public bodies have due regard to the need to:

- eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities

Who the Equality Duty applies to

The Equality Duty applies across Great Britain to the public bodies [listed in Schedule 19 \(as amended\)](#), and to any other organisation when it is carrying out a public function.

Specific duties

The Equality Act 2010 (Specific Duties) Regulations 2011 came into force on 10 September 2011.

The specific duties require public bodies to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives.

Guidance for public bodies

The Government Equalities Office has published 2 quick-start guides to help public bodies understand the Equality Duty and the specific duties:

- [Quick start guide: public sector Equality Duty](#)
- [Quick start guide: Specific duties](#)

The [Equality and Human Rights Commission](#) is the statutory body established to help eliminate discrimination and reduce inequality. The Commission has published new non-statutory guidance on:

- [The essential guide to the public sector Equality Duty](#)
- [Meeting the Equality Duty in policy and decision-making](#)
- [Engagement and the Equality Duty](#)
- [Equality objectives and the Equality Duty](#)
- [Equality information and the Equality Duty](#)
- [Technical guidance on the public sector Equality Duty - England](#)

Devolution

Section 153 of the act enables the Welsh and Scottish ministers to impose specific duties on certain Welsh and Scottish public bodies through secondary legislation. For Welsh and cross-border Welsh public bodies, specific duties have been finalised by the Welsh Assembly government and came into force on 6 April 2011.

[The Equality Act 2010 \(Statutory Duties\) \(Wales\) Regulations 2011](#)

For Scottish public bodies, the Scottish government launched a consultation on revised draft Regulations for specific duties on 9 September 2011. The consultation closed on 25 November 2011.

[More information from the Scottish Government](#)

Guidance on the Equality Duty specific to Wales and Scotland is available from the [Equality and Human Rights Commission](#).

Equalities Act 2010: legislation

[Equality Act 2010](#) on the legislation.gov.uk website

[Explanatory notes](#) on the legislation.gov.uk website

Legislation repealed or revoked by the Equality Act

A list of all legislation that was repealed or revoked on 1 October 2010 is available in Schedule 27 to the act.

Equality Act Statutory Instruments

Statutory Instruments made under the act are available:

- all [UK Statutory Instruments](#) related to the Equality Act on the legislation.gov.uk website
- all [Welsh Statutory Instruments](#) related to the Equality Act on the legislation.gov.uk website
- all [Scottish Statutory Instruments](#) related to the Equality Act on the legislation.gov.uk website

Guidance on the Equality Act

We have produced a series of [guides outlining the key changes in the law made by the act](#).

Appendix B

<https://resources.mygov.scot/standards/digital-first/>

Digital First Service Standard

This document describes the minimum standard required when delivering a digital public service. The document is based upon GDS' "Digital by Default" standard.

The Digital First Service Standard is a set of 22 criteria that all digital services developed by Scottish Central Government sector organisations and Scottish Government corporate services must meet. This includes services for users (for example submitting an application) or corporate services (for example checking your payslip online).

The standard has 3 themes:

- user needs - focus on what your users want to do rather than the organisation's objectives or the mechanics of delivering your service
- technology - how you've built your service
- business capability and capacity - having the right team with enough time to maintain the service

The standard aims to make sure that services in Scotland are continually improving and that users are always the focus.

- Criteria
 - User Centred
 - Usable and Accessible
 - Channel Shift
 - Consistent User Experience
 - Continuous Feedback
 - Data Driven
 - Cross-functional Team
 - Sustainability
 - Continuous Improvement
 - Business Continuity
 - Technology Appraisal
 - Information Governance
 - Open Data
 - Ecosystem
 - Open Source
 - Open Standards
 - Green ICT
 - Data Hosting and Data Centres
 - Performance Management
 - Transparent
 - Operational Acceptance
 - Sponsor Acceptance

Appendix C

<https://www.gov.scot/publications/the-scottish-approach-to-service-design/pages/the-7-principles-of-satsd/>

The 7 principles of SAAtSD

While we don't have all the answers, we think we should start with a set of founding principles and build from there.

1. We explore and define the problem before we design the solution.
2. We design service journeys around people and not around how the public sector is organised.
3. We seek citizen participation in our projects from day one.
4. We use inclusive and accessible research and design methods so citizens can participate fully and meaningfully.
5. We use the core set of tools and methods of the Scottish Approach to Service Design.
6. We share and reuse user research insights, service patterns, and components wherever possible.
7. We contribute to continually building the Scottish Approach to Service Design methods, tools, and community.

Appendix D

<https://www.gov.uk/service-manual/service-standard>

GDS Service Standard

The Service Standard helps teams to create and run great public services.

1. Understand users and their needs
2. Solve a whole problem for users
3. Provide a joined up experience across all channels
4. Make the service simple to use
5. Make sure everyone can use the service
6. Have a multidisciplinary team
7. Use agile ways of working
8. Iterate and improve frequently
9. Create a secure service which protects users' privacy
10. Define what success looks like and publish performance data
11. Choose the right tools and technology
12. Make new source code open
13. Use and contribute to open standards, common components and patterns
14. Operate a reliable service