

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Historic Environment Scotland Act 2014 - Changes to the processes for regulation of the historic environment
Summary of aims and desired outcomes of Policy	The overall approach to legislative change seeks to further streamline the system, aligning scheduled monument, listed building and planning systems where possible while retaining the same level of protection for our valuable historic environment. The approach also seeks to improve transparency through new requirements for notification and publication.
Directorate: Division: team	Culture and Historic Environment Division/Historic Scotland

Executive summary

This EQIA assessed the impact of the secondary legislation that follows the passing of the Historic Environment Scotland Act 2014. This Act creates a new public body, Historic Environment Scotland (HES) which will take over the functions of Historic Scotland and the Royal Commission on the Ancient and Historic Monuments of Scotland. The Secondary legislation will set out the detail of how the heritage management functions of the organisation will work, for example with regards to listing and scheduling and scheduled monument consent.

The impact assessment found that there was a positive impact on all users as a result of a greater responsibility to act

transparently, achieved through new requirements in terms of notification and publication of decisions. Publication would be primarily on-line so the EQIA noted the need to design web services to conform to accessibility standards and to also maintain more traditional methods of disseminating information in order to ensure some groups are not disadvantaged through lack of internet access. The assessment noted the positive impacts that could come from the inclusion of (disability) access statements within relevant consent applications.

In addition, the assessment recommended staff training to increase awareness of the barriers faced by people according to specific protected characteristics and how to mitigate these. The assessment noted that HES will also operate with regard to the public sector equality duties and their own function to promote the diversity of persons accessing the historic environment.

Background

The Historic Environment Scotland Act 2014 establishes Historic Environment Scotland (HES) as a new Non Departmental Public Body to take over the functions of Historic Scotland (HS) and the Royal Commission on the Ancient and Historic Monuments of Scotland (RCAHMS).

Following on from the passing of the HES Act, the Scottish Government is laying before Parliament a suite of secondary legislation which will further set out the detail of how the historic environment will be regulated.

The overall policy intention is to further streamline the system, aligning scheduled monument, listed building and planning systems where possible while retaining the same level of protection for our valuable historic environment. The approach also seeks to improve transparency through new requirements for notification and publication. In many cases this is how HS already operates, but including these requirements in

ISBN: 978-1-78544-438-8

Regulations demonstrates the commitment of this Government, and HES, to transparency and access to information.

In the draft Regulations, several revised or wholly new administrative arrangements are set out that come within the scope of this assessment. These Regulations include the detail of how:

- HES must notify owners, occupiers and tenants when they designate new listed buildings and scheduled monuments and/or make amendments to existing designations;
- HES must publish the list and the schedule online and make them available at their offices;
- applications for Scheduled Monument Consent (SMC) Applications and the final decisions must be published online;
- HES must notify the applicant if their SMC application is referred to Ministers (called-in);
- Planning Authorities must consult with HES before determining applications for Listed Building Consent(LBC) in respect of works to category A or B listed buildings;
- Planning Authorities must consult with HES before determining applications to demolish any listed building or a building in a Conservation Area (Conservation Area Consent – CAC); and
- applicants for LBC should include an access statement where it is required by the local authority.

The regulations also set out details of the process for appeals to Ministers against designation decisions and scheduled monument consent decisions including:

- Appeals against designation decisions; the time within which an appeal must be made; and
- Appeals against Scheduled Monument Consent decisions and/or conditions the grounds for appeal.

There are also two consequential/supplementary orders that naming HES in place of, or alongside, the Scottish Ministers in a

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range of other legislation dealing with consultation and corporate standards. This broadly constitutes a continuation of the current situation with HES being consulted where Historic Scotland would previously have been consulted.

The secondary legislation contributes to the delivery of the high-level objectives of the HES Act including:

- Ensuring that the new body is adequately empowered to ensure the celebration and protection of the historic environment.
- Improving and simplify the delivery of public services, better aligning designations and statutory consents processes than at present.
- Providing a clearly defined basis for historic environment regulation that adds value and transparency to the planning system and benefits the widest possible range of stakeholders.
- Ensuring that the new body is a capable and competent partner for other decision-makers, empowering them to make locally relevant decisions.

The regulation of the historic environment under the proposed secondary legislation will support delivery of several of the Scottish Government's National Outcomes as set out in the National Performance Framework.

In particular the following outcomes:

10. We live in well-designed, sustainable places where we are able to access the amenities and services we need

11. We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others

12. We value and enjoy our built and natural environment and protect it and enhance it for future generations

13. We take pride in a strong, fair and inclusive national identity

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16. Our public services are high quality, continually improving, efficient and responsive to local people's needs

The EQIA was carried out by Historic Scotland as the predecessor body to HES, with input from the Culture and Historic Environment Division of the Scottish Government.

The Scope of the EQIA

Historic Scotland Heritage Management staff, and policy staff from the Culture and Historic Environment Division of the Scottish Government were involved in developing the EQIA for this suite of secondary legislation.

In developing the evidence base, Historic Scotland took account of existing evidence available from a range of sources, studies and discussion around equalities issues, these included:

- Scottish Household survey (SHS) 2013
- People and Culture in Scotland, SHS 2013 Report
- Public consultation (December 2014 to March 2015)
- An equalities seminar and equalities survey (January 2014)

Between December 2014 and March 2015, officials undertook a public consultation on this suite of secondary legislation. As part of the consultation, a draft partial EQIA was issued and consultees were asked whether or not they thought the proposals might impact on people differently depending on characteristics such as age, disability, gender, race, religion or belief, sexual orientation, or gender identity, and whether there was potential for the proposals to enhance equality or good relations?

Although this consultation was issued to Equalities Groups, no responses were received. However, we did receive relevant comments from other respondents such as Local Authorities, and a targeted equalities workshop in 2014 has also informed this assessment.

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Key Findings

In broad terms, the impact of changes in the secondary legislation are relatively minor as they mostly give effect to the policy contained in the 2014 Act. Further more, they also largely reflect current practice at HS, for example with regards to notification. Therefore this assessment concentrates on the impact of in practice changes specific to the secondary legislation. However, the assessment also takes note of the diversity duties in the 2014 Act, and the public sector equality duties to which HES will be subject.

No evidence was found that there will be any negative impact on users with particular protected characteristics. The broadening of publication of information on decision-making has the potential to open up the decision-making process to more people in general, in the spirit of open government.

The online publication of decision-making and advice by the new body has the potential to have a larger reach towards some groups of people, including those with particular protected characteristics, and therefore provide benefits. However, these benefits may be more difficult to realise amongst users with limited access to the internet. The assessment suggests that overall, online publication of decision-making and advice has an overall slight positive impacts on age and disability, particularly where people in those groups may not be able to easily access printed resources. The potential adverse impact implicit in lack of access to online resources can be mitigated through maintaining existing paper-based alternatives.

Users may be adversely impacted if the web services of the new body fail to take into account the diversity of the general population, and of service users in particular. We recommend that the web services of the new body, including those that relate to its heritage management functions, are designed to conform to accessibility standards and where they include

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images of people, these are genuinely representative of users. We consider that such actions could have a positive impact.

A specific positive impact as a result of the changes, are the new requirements that all relevant listed building consent applications must be accompanied by a disability access statement.

Finally, as mentioned above, HES will be subject to the public sector equality duties, and there is also specific duty in the HES Act 2014 to promote the diversity of persons accessing the historic environment. HES will have regard to these duties when they operationalise this suite of secondary legislation.

Recommendations and Conclusion

The EQIA concluded that no changes to the secondary legislation were required as a result of the EQIA, but that HES should consider protected characteristics when operationalising the legislation. In particular the EQIA recommended training for staff and that HES should ensure that traditional means of disseminating information such as through the post should continue to be used for application materials and guidance.

HES will take responsibility for monitoring and evaluating progress on equality issues identified in this assessment, including the commitments to establishing an internal programme of raising awareness of the key issues.

In addition, HES will be subject to the public sector equality duties and will therefore be report on how it is meeting these duties across the whole of its functions including its work in relation to the heritage management regulations which formed he specific focus of this EQIA.