

# **Equality & Human Rights**

## **Preparing for New Data**



**12<sup>th</sup> November 2019**

## The legal case for Equal Opportunities

- Key changes for the recent Regulatory review
- The Equality Act 2010
  - Protected Characteristics, Unlawful behaviour
  - Implications for RSLs
- The Human Rights Act (1998)
- Monitoring
  - What 's expected of housing associations?
  - How will you collect data?
  - How will you publicise what you are doing?
  - What will you do with the data?
  - How does GDPR, anonymity and need to make reasonable adjustments work?
  - What guidance would you like

# The Legal Case



# The Housing (Scotland) Act 2010

“Social Landlords, when performing housing services, must act in a manner which encourages equal opportunities and in particular the observance of the law for the time being relating to equal opportunities.”

*Section 39: Housing (Scotland) Act*

The act also established the **Scottish Social Housing Charter** which includes an Equalities outcome

# Charter Outcome 1- Equalities

Social landlords perform all aspects of their housing services so that:

*every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.*

***The Scottish Social Housing Charter***

# Changes due to new Regulatory Framework



# New Regulatory Framework Requirements for RSLs

## Equality and Human Rights

- Have assurance and evidence that it considers **equality** and **human rights** issues properly when making all of its decisions, in the design and review of internal and external policies, and in its day-to-day service delivery.
- To comply with these duties, landlords must collect data relating to **each of the protected characteristics** for their existing tenants, new tenants, people on waiting lists, governing body members and staff.

# The Equality Act 2010





# **The Act – an overview**

- The Act identified groups who need protection due to their “protected characteristics”
- Set out expectations for providers of goods and services and employers (unlawful behaviour)
- Further strengthened discrimination legislation

# Protected characteristics



Age



Disability



Gender  
Reassignment



Marriage  
Civil  
Partnership



Maternity  
Pregnancy



Race



Religion  
Belief



Sex



Sexual  
Orientation

# Unlawful behaviour

- **Direct Discrimination**
  - Discrimination by association
  - Discrimination by perception
- **In-direct Discrimination**
- **Harassment**
- **Victimisation**

## Part 4 of the Equality Act covers

- Section 33 (1) – prohibits discrimination in relation to disposals (i.e. selling or **letting of premises**)
- Section 35 (1) – prohibits discrimination by a person who manages premises when they are **evicting** the occupier of the premises
- Sections 36 – 37 concerns making **reasonable adjustments** in relation to premises

# Reasonable Adjustments and the act

The failure to make reasonable adjustments under the Act is a form of unlawful discrimination which applies only to the protected characteristic of disability. The duty to make reasonable adjustments has three requirements associations need to comply with the first and third.

**1st Requirement** – if a ‘provision, criterion or practice’ puts a disabled person at a ‘substantial disadvantage’ then the association must take steps to avoid the disadvantage.

**3<sup>rd</sup> Requirement** – where a disabled person without the provision of an ‘auxiliary aid’ would be at a ‘significant disadvantage’ the association should take reasonable steps to provide the ‘auxiliary aid’. Examples include provision of a sign language interpreter, special equipment, extra assistance, special communications, etc.



# Human Rights Act

“The rights contained in Articles 6, 8 and 14 are those which are most likely to be relevant to your work in social housing.”

## **Article 6: Right to a fair trial**

Everyone has the right to a fair and public hearing, before an independent and impartial tribunal, within a reasonable time.

For example, a person who is subject to a decision-making process in relation to a possible eviction should have access to an interpreter

## **Article 8: Right to respect for private life, family life and the home**

People should be able to live in privacy and be able to live their life in the way that they choose. You should take positive steps to prevent other people seriously undermining a person's home or private life, for example, through serious pollution or **anti-social behaviour**

## **Article 14: Prohibition of discrimination (Qualified Right)**

This means that everyone must have equal access to the other rights contained in the HRA, regardless of their race, religion, gender, sexual orientation, disability, political views or any other personal characteristic

## The legal case for Equal Opportunities

- Key changes for the recent Regulatory review
- The Equality Act 2010
  - Protected Characteristics, Unlawful behaviour
  - Implications for RSLs
  - Reasonable adjustments
- The Human Rights Act (1998)
- Monitoring
  - What 's expected of housing associations?
  - How will you collect data?
  - How will you publish what you are doing?
  - What will you do with the data?
  - How does GDPR, anonymity and need to make reasonable adjustments work?



# New Regulatory Framework Requirements for RSLs

## Equality and Human Rights

- Have assurance and evidence that it considers **equality** and **human rights** issues properly when making all of its decisions, in the design and review of internal and external policies, and in its day-to-day service delivery.
- To comply with these duties, landlords must collect data relating to **each of the protected characteristics** for their existing tenants, new tenants, people on waiting lists, governing body members and staff.

# Current monitoring requirement (until 1<sup>st</sup> April)

**Indicator 2**

**Ethnic origins and disability details of service users, staff and for RSLs only, governing body members.**

**Indicator**

**(A) For all landlords the ethnic origins of:**

- (i) staff;**
- (ii) existing tenants;**
- (iii) applicants on housing lists;**
- (iv) new tenants; and**
- (v) governing body members – (RSLs only).**

**(B) The number people who consider themselves to have a disability in categories (i) - (v) above.**

# How should RSLs monitor...

**Their staff – current and future?**

**Their committees?**

**Their tenants – current and future?**

- How will you collect data?
- How will you publicise what you are doing?
- What will you do with the data? (why are you collecting it?)
- How does GDPR, anonymity and need to make reasonable adjustments work?
- What guidance would you like?

## Potential phrase at the top of monitoring forms

“Although we use your information for statistical purposes, there may be information you provide that is so specific to you that we should record it in order for us to provide specific services to you. So by completing this form you give us permission to retain data for statistical and specific purposes”

# New Regulatory Framework Requirements for RSLs

## Equality and Human Rights

- Have assurance and evidence that it considers **equality** and **human rights** issues properly when making all of its decisions, in the design and review of internal and external policies, and in its day-to-day service delivery.
- To comply with these duties, landlords must collect data relating to **each of the protected characteristics** for their existing tenants, new tenants, people on waiting lists, governing body members and staff.

## What guidance would you like?



**Scottish Housing**  
Regulator

# Any last questions?



## The legal case for Equal Opportunities

- Key changes for the recent Regulatory review
- The Equality Act 2010
  - Protected Characteristics, Unlawful behaviour
  - Implications for RSLs
- The Human Rights Act (1998)
- Monitoring
  - What 's expected of housing associations?
  - How will you collect data?
  - How will you publicise what you are doing?
  - What will you do with the data?
  - How does GDPR, anonymity and need to make reasonable adjustments work?
  - What guidance would you like