Is Scotland Fairer?

The state of equality and human rights 2015

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About this publication

What is the purpose of this publication?

Is Scotland Fairer? The state of equality and human rights 2015 is the Equality and Human Rights Commission's Scottish standalone supplement to our statutory five-yearly report on equality and human rights progress in England, Scotland and Wales, *Is Britain Fairer?*.

In 2010, the Commission produced its first progress report on equality, entitled *How fair is Britain?*, followed by the *Human rights review* in 2012. *Is Britain Fairer?* was the Commission's follow-up report on both equality and human rights.

This report outlines our findings and sets out the challenges for the future.

Who is it for?

This report is intended for policy makers, influencers and those who work at the grass roots to progress equality and human rights across all sectors.

Why did the Commission produce the report?

The Equality and Human Rights Commission promotes and enforces the laws that protect our rights to fairness, dignity and respect. As part of its duties, the Commission provides Parliaments and the nation with periodic reports on equality and human rights progress in England, Scotland and Wales.

What is inside?

The report includes:

* an executive summary
* the legal framework
* context
* key findings related to:
  – education and learning
  – work, income and the economy
  – health and care
  – justice, security and the right to life
  – the individual and society, and
* the most significant areas requiring improvement.

When was it published?

The report was published in January 2016.

What formats are available?

The full report and an executive summary are available in PDF and Microsoft Word formats at www.equalityhumanrights.com/IsScotlandFairer.

If you require this publication in an alternative format, please contact the Communications Team to discuss your needs at: correspondence@equalityhumanrights.com.

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Acknowledgements

We would like to express our thanks to colleagues in the Scottish Government, NHS Health Scotland and the Scottish Human Rights Commission.

Within the Equality and Human Rights Commission we would like to thank the Is Britain Fairer? team and IBF domain owners.

We would also like to thank Research Scotland.

Acronyms

AHC	after housing costs
ASHE	Annual Survey of Hours and Earnings
ASN	additional support needs
BSL	British Sign Language
CAMHS	child and adolescent mental health services
CAT	Convention against Torture
CEDAW	Convention on the Elimination of Discrimination against Women
CERD	International Convention on the Elimination of all forms of Racial Discrimination
DHP	Discretionary Housing Payments
ECHR	European Convention on Human Rights
EHRC	Equality and Human Rights Commission
EU	European Union
FMPO	Forced Marriage Protection Order
GB	Great Britain
GP	general practitioner
HIH	highest income householder
HIS	Healthcare Improvement Scotland
HMICS	Her Majesty's Inspectorate of Constabulary in Scotland
HMIP	Her Majesty's Chief Inspectorate of Prisons (England and Wales)
HMIPS	Her Majesty's Chief Inspectorate of Prisons for Scotland
HRA	Human Rights Act 1998
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IRC	immigration removal centre
ISDS	Information Services Division Scotland
LFS	Labour Force Survey
LGB	lesbian, gay or bisexual
LGBT	lesbian, gay, bisexual, transgender
MP	Member of Parliament
MSP	Member of the Scottish Parliament
MWC	Mental Welfare Commission for Scotland
NCISH	National Confidential Inquiry into Suicide and Homicide

NEET	not in education, employment or training
NGO	non-governmental organisation
NHS	National Health Service
NRM	National Referral Mechanism
NRS	National Records of Scotland
ONS	Office for National Statistics
S4	fourth year of secondary schooling in Scotland
SALSUS	Scottish Schools Adolescent Lifestyle and Substance Use Survey
SCJS	Scottish Crime and Justice Survey
SCQF	Scottish Credit and Qualifications Framework
SHQS	Scottish Housing Quality Standard
SHRC	Scottish Human Rights Commission
SNAP	Scottish National Action Plan for Human Rights
SPHO	Scottish Public Health Observatory
UK	United Kingdom
UN	United Nations
UNCRC	United Nations Convention on the Rights of the Child
UNCRPD	United Nations Convention on the Rights of Persons with Disabilities
UNHRC	United Nations Human Rights Council

Executive summary

Is Scotland Fairer? The state of equality and human rights 2015 **is the Equality and Human Rights Commission's Scottish supplement to our statutory five-yearly report on equality and human rights progress in England, Scotland and Wales,** *Is Britain Fairer?***.**

We hope that this report will be of value to policy makers, influencers and those who work at the grass roots to progress equality across all sectors. Our purpose is to report our findings, set out the challenges for the future, and invite those who have the statutory responsibilities or an interest in these areas to address the issues by identifying and implementing the necessary solutions. We do not speculate on the impact of proposed future legislative or policy changes, nor do we try to explain the causes of differences, or set policy solutions.

We have gathered data and evidence based around 10 domains: education; standard of living; productive and valued activities; health; life; physical security; legal security; individual, family and social life; identity, expression and self-respect; and participation, influence and voice. Within each of these domains, we have used a set of indicators and measures in order to evaluate progress. Produced in parallel to *Is Britain Fairer?* were 10 detailed GB-wide evidence papers (one for each domain), available on our website at www.equalityhumanrights/IsBritainFairer.

When deciding what (from the 10 evidence papers) to include in this report, we used three criteria:

- the degree to which there has been change over time
- the proportion of the specific population group that the issue affects, and
- the scale of impact on life chances.

The quantitative evidence we used draws from major surveys and administrative data compiled by public bodies. Given the time lag between gathering the data and analysing and checking it, most of our core quantitative data covers the period from 2008 to 2013. This has been supplemented by some more recent data drawn from other published analysis that meets our strict criteria. The qualitative data we used is more recent and includes reports by inspectorates and regulators, international organisations, parliamentary committees, the UK and devolved governments, and non-governmental organisations (NGOs).

The first three chapters of the report set out the introduction (Chapter 1), the equality and human rights legal framework (Chapter 2), and the economic and demographic context (Chapter 3). The subsequent five chapters set out our key findings, as summarised below.

Education and learning (Chapter 4)

Areas of progress over the review period include:

- Educational attainment in schools improved.

- Exclusions from school fell.

- The percentages of men and women with no qualifications (of any kind) fell.

- The percentage of people aged 25 and over with a degree increased.

Challenges include:

- The level of improvement in attainment differed for individuals with particular protected characteristics, and attainment gaps persisted.

- Gypsy/Traveller pupils continued to have the lowest educational attainment rates out of all ethnic groups.

- Children from poorer backgrounds performed less well than their peers.

- The attainment of looked after children was well below that of other pupils. The gap narrowed but remained large.

- Exclusion rates remained high for some groups, including Gypsy/Travellers, boys, and pupils with additional support needs (ASN).

- The proportion of young people not in education, employment or training (NEET) did not change over time.

- Bullying is a particular issue for some children and young people who share particular protected characteristics – including disabled, and lesbian, gay and bisexual (LGB) children and young people.

- Women and disabled people remained more likely to have no qualifications.

Work, income and the economy (Chapter 5)

Areas of progress over the review period include:

- There was increasing recognition of the human rights violations that arise as a result of trafficking, forced labour, servitude and exploitation.

- There was a fall in the proportion of households that did not meet the Scottish Housing Quality Standard (SHQS), and a fall in the proportion of children living in households that did not meet this standard.

- Homelessness fell and there was a reduction in the number of households in temporary accommodation.

Challenges include:

- The overall employment rate in 2013 was lower than in 2008.

- Women were less likely to be in work than men, and those women who were in work were less likely to be in senior positions and more likely to be in part-time work.

- Age-related employment gaps widened – young people were less likely to be in work and saw the greatest increase in unemployment between 2008 and 2013.

- Unemployment rates increased more for disabled people than for non-disabled people between 2008 and 2013.

- Unemployment rates were significantly higher for people from some ethnic minorities compared with White people.

- Modern Apprenticeships show clear gender segregation and low levels of access for ethnic minorities and disabled people.

- Average hourly pay declined in Scotland between 2008 and 2013. The steepest declines were for younger workers.

- In 2013, children living in households headed by someone from an ethnic minority were more likely to live in relative poverty after housing costs (AHC) compared with those in households headed by a White person.

- Material deprivation for working age disabled people was higher than for non-disabled people. The gap did not change between 2008 and 2013.

Health and care (Chapter 6)

Areas of progress over the review period include:

- The gap in life expectancy between men and women narrowed between 2007–09 and 2011–13. Scotland saw a greater decrease in this gap than England and Wales.

- The suicide rate decreased between 2008 and 2013.

- Although higher proportions of adults from ethnic minorities were at risk of poor mental health in 2008, this was not the case in 2012.

- The proportion of young people (aged 13 and 15) drinking once a week fell between 2008 and 2013. The proportion of young people smoking also reduced between 2008 and 2013.

Challenges include:

- Life expectancy is lower for both men and women in the most deprived areas of Scotland than in the least deprived areas.

- There is little evidence about life expectancy for those who share protected characteristics other than gender.

- Increasing proportions of adults described their health as bad or very bad between 2008 and 2012, driven by the increase in women describing their health as bad or very bad.

- Self-reported health status for people with some protected characteristics was worse (in the 2011 Census), including Gypsy/Travellers (compared with the general population) and older Indian, Pakistani and Bangladeshi women (compared with men in these ethnic groups).

- Between 2008 and 2012, there was an increase in the proportion of adults aged 25 to 34 at risk of poor mental health.

- The suicide rate is higher for men and for people living in deprivation.

Justice, security and the right to life (Chapter 7)

Areas of progress over the review period include:

- There was a fall in the homicide rate, specifically for male victims and victims aged 16 to 50 increased.

- There was a fall in the proportion of adults reporting they are victims of violent crime, sexual violence and domestic violence.

- There was a fall in the proportion of people who feel unsafe being alone at home at night, or walking alone in the local area after dark.

- Confidence in the criminal justice system increased.

- Police use of stop and search has been reviewed and is under reform.

- There was a drop in both serious and minor assaults between prisoners in Scottish prisons.

Challenges include:

- Police-recorded hate crime in relation to disability and sexual orientation increased.

- Some people – women, disabled people, older people and people who had never worked or were long-term unemployed – were more likely to report feeling unsafe.

- Confidence in the criminal justice system was lower for disabled people (compared with non-disabled people) and older people (compared with other age groups).

- Concerns were voiced by regulators about overcrowding in prisons.

The individual and society (Chapter 8)

Areas of progress over the review period include:

- Legislation enabling same-sex couples to marry was introduced.
- Public acceptance of people who are lesbian, gay or bisexual continued to rise.
- Most people felt they could rely on the support of family, friends and neighbours.
- There was small improvements to the gender balance of our elected representatives.
- There was increased political participation (including of young people) and an increased proportion of people perceiving that they can influence local decisions.
- British Sign Language (BSL) was recognised as a language in 2011 and the British Sign Language (Scotland) Act was passed in 2015.

Challenges include:

- There were gaps in evidence in relation to:
  - the prevalence of forced marriage
  - whether people feel able to practise their religion or belief freely
  - stigma, discrimination and harassment in relation to transgender people, and
  - Islamophobia and anti-Semitism.
- There was little improvement in public attitudes to mental ill health.
- Stigma remained towards Gypsy/Travellers and Roma people.
- Lesbian, gay and bisexual (LGB) people and ethnic minorities experienced harassment.
- The notification period for peaceful assembly remained long.

Conclusion

We conclude with Chapter 9, which draws on the evidence in the previous chapters and sets out seven key equality and human rights challenges for Scotland over the coming years. Action may need to be taken at Scotland or UK level. The order below does not indicate any level of priority and the list is not exhaustive:

1. **Improve the evidence** and the ability to assess how fair society is.

2. Raise standards and close attainment gaps in **education**.

3. Encourage fair recruitment, development and reward in **employment**.

4. Support improved **living conditions** in cohesive communities.

5. Encourage **democratic participation** and ensure **access to justice**.

6. Ensure that all people can access the **health** services they need.

7. Tackle**harassment and abuse** of people who share particular protected characteristics.

Chapter 1
Introduction

Fairness is important to everyone in Scotland. There are few things against which we react more strongly than a sense of unfairness or injustice. It is because we believe that fairness is important that we have put in place an infrastructure of laws and enforcement mechanisms to defend this principle.

These include:

- the Human Rights Act 1998 (HRA), which transferred into UK law many of the rights set out in the European Convention on Human Rights (ECHR), making them enforceable by individuals in the UK courts
- the Equality Act 2006, which created the Equality and Human Rights Commission, and
- the Equality Act 2010, widely regarded as the strongest anti-discrimination framework in the world.

As part of this legal framework, the Commission is required to produce a report on progress on equality and human rights every five years.

Is Britain Fairer? established a unique approach to reporting on progress in implementing equality and human rights across England, Scotland and Wales, offering comparisons where relevant. *Is Scotland Fairer?* sets out the key equality and human rights evidence and challenges for Scotland.

Is Scotland Fairer? reports on whether our society is fairer than it was when we published our first report, *How fair is Britain?*, five years ago. It sets out the evidence in terms of progress and regress, and is intended to be a platform for further discussion. It is not a guide to Scottish policy. The review period is 2008 to 2013. *Is Scotland Fairer?* is based on evidence and analysis produced for *Is Britain Fairer?*,

which has been supplemented with more recent data from other published analysis that met our standards of rigour, such as the Scottish Census.

There are inevitably limitations to any evidence-gathering process as substantial as this, owing to gaps in data and difficulties involved in collecting information, particularly about disadvantaged people.

While recognising these limitations, this report presents a wide range of evidence on how people's rights to equality and human rights are being realised in practice. We set out a clear, evidence-based assessment of where Scotland has made progress, where we have fallen back, and where we have stood still. Whatever the strengths and weaknesses, there will always be room for improvement as we strive to be a society in which everyone is treated with dignity and respect.

We believe that this report will be of value to policy makers, influencers and those who work at the grass roots to progress equality and human rights across all sectors. Our purpose is to:

- report our findings
- set out the challenges for the future, and
- invite those who have the statutory responsibilities to implement the necessary solutions that will address the challenges we have identified, working with all relevant stakeholders.

We have looked at the protections and rights afforded by legislation in place during the period of the review. We do not speculate on the impact of proposed or future legislative or policy changes. Nor do we try to explain why there are differences in experience and outcomes for some people who share particular protected characteristics, or propose policy solutions.

This report is based on a substantial process of gathering and analysing data and evidence around 10 domains. These domains cover the following:

Domain	Chapter of this report where it is covered
Education	Chapter 4 – Education and learning
Productive and valued activities	Chapter 5 – Work, income and the economy
Standard of living	
	Chapter 6 – Health and care
Health	
Life	
	Chapter 7 – Justice, security and the right to life
Physical security	
Legal security	
Individual, family and social life	Chapter 8 – The individual and society
Identity, expression and self-respect	
Participation, influence and voice	

Within each of these domains, we have used a set of indicators and measures in order to assess progress. Detailed data tables, providing the quantitative data that we have analysed for this report, and GB-wide evidence papers (which include some Scotland-specific evidence) are already available at www.equalityhumanrights.com/IsBritainFairer/SupportingEvidence.

In building the evidence for this report, we relied on a variety of methods and sources to establish an initial picture. We spoke to many organisations across Scotland in order to test and verify this.

We relied on a mix of quantitative and qualitative evidence:

- **Quantitative**. We drew from major surveys and administrative data compiled by public bodies. The unavoidable time lag between gathering, analysing and checking the data means that the core quantitative data we use is not current. Most of it covers the period from 2008 to 2013.

- **Qualitative**. This data is more recent. It includes reports by inspectorates and regulators, international organisations, parliamentary committees, the UK and devolved governments , and non-governmental organisations (NGOs).

When looking across the wealth of data and evidence gathered, we used the following criteria in order to select the key issues to include in this report:

- The degree to which there has been change over time. Change may be positive or negative; and, in addition, the absence of change was a criterion where major change was needed or expected.

- The proportion of the specific population group affected by the issue. This allows us to take account of issues that affect a substantial proportion of both large and small groups.

- The scale of the impact on life chances.

Although we have posed a simple question – is Scotland fairer? – we recognise that the answer is far from simple. The reader will find that Scotland has become fairer in many areas. We should be proud of and celebrate these advances.

Equally, we must recognise and question those areas where we have gone backwards or have failed to address stubborn inequalities that have been with us for too long.

Is Scotland fairer? – read on and reach your own conclusion. Can Scotland be fairer still? Yes – that is the challenge going forward.

Chapter 2
Legal framework

This chapter summarises the most relevant aspects of the current equality and human rights legal framework for Scotland.
This includes:

- the European Convention on Human Rights
- international human rights treaties signed and ratified by the UK
- the Human Rights Act 1998
- the Scotland Act 1998, and
- the Equality Act 2010.

2.1 Human rights

Human rights are rights inherent to all human beings regardless of who we are. Human rights include 'civil and political' rights such as:

- freedom of expression
- freedom of religion
- freedom of assembly
- the right to a fair trial
- the right to privacy, and
- the right to vote.

Human rights also include 'economic, social and cultural rights' such as:

- the right to an adequate standard of living
- the right to adequate food, housing, sanitation and water
- the right to an education, and
- rights at work.

Human Rights Act 1998

The Human Rights Act 1998 (HRA) is composed of a series of sections that have the effect of codifying the protections in the European Convention on Human Rights (ECHR) into UK law. All public bodies (such as courts, police, local governments, hospitals, and others) and other bodies carrying out public functions have to comply with the Convention rights. The obligations are both negative (that is, not to breach the rights) and in certain circumstances positive (that is, to take steps to guarantee the rights). The HRA does not create any new rights that are not in the ECHR.

There are three types of ECHR right:

- **Absolute rights** – The state cannot breach these rights in any circumstances. These include the right to life, protection from torture, and protection from inhuman or degrading treatment.

- **Limited rights** – These may only be limited under the circumstances set out in the ECHR Article that defines each of these rights. These include, for example, the right to liberty, security of person and a fair trial.

- **Qualified rights** – These require a balance to be made between the rights of the individual, and the needs and rights of others. They include, for example, respect for private and family life, freedom of assembly and association, and freedom to manifest thoughts, conscience and religion. They can be interfered with in specific circumstances, which are clearly set out in each Article. These include where:
  - there is a legal basis for this interference, which people can find out about and understand
  - there is a legitimate aim for the interference, and
  - the interference is necessary in a democratic society – with a pressing social need for the interference. This type of interference must be proportionate, and no greater than is necessary to meet this social need.

Article 14 of the ECHR provides the right for people to be free from discrimination in enjoying their human rights under the Convention. However:

- Article 14 is not a free-standing right – anyone wishing to rely on Article 14 must establish that the matter falls within the ambit of another Convention right, and

- discrimination does not breach another Convention right if it can be justified as a proportionate means of achieving a legitimate aim.

As part of the approach it takes to interpreting the ECHR in particular cases, the European Court of Human Rights has developed and applied the principle of subsidiarity, recognising that national bodies are sometimes better placed to understand domestic circumstances and requirements. This provides some flexibility for states in how they safeguard certain ECHR rights at national level, provided that those states apply a consistent approach with a minimum level of human rights protection.

The UK has incorporated the ECHR into domestic law, through the Human Rights Act 1998. This Act makes it unlawful for all public bodies (and other bodies carrying out public functions, as defined by the Act) to act in a way that is incompatible with the ECHR. This means, among other things, that individuals can take human rights cases to Scottish courts.

International human rights instruments

Relevant instruments signed and ratified by the UK include the:

- International Covenant on Civil and Political Rights (ICCPR)
- United Nations (UN) Convention on the Rights of Persons with Disabilities (UNCRPD)
- UN Convention on the Rights of the Child (UNCRC)
- Convention on the Elimination of Discrimination against Women (CEDAW)
- International Convention on the Elimination of all forms of Racial Discrimination (CERD)

- International Covenant on Economic, Social and Cultural Rights (ICESCR), and
- Convention against Torture (CAT).

These are not legally binding in domestic law in the way that the ECHR is through the HRA. Because they have not been incorporated into domestic law, they do not create free-standing individual rights that serve as a cause of action in legal proceedings. They can, however, be considered by domestic courts and the European Court of Human Rights when interpreting other relevant applicable rights, and the UK is under an obligation to implement them.

Treaty bodies assess the progress made by the state in relation to the different instruments. The UK Government is obligated to submit periodic reports, including information from the Scottish Government, to allow treaty bodies to do this.

The links between the domains and human rights is set out in the evidence papers available on our website at http://www.equalityhumanrights.com/IsBritainFairer.

2.2 Scotland

The Scotland Act 1998 stipulates that:

- a provision of an Act of the Scottish Parliament is not law so far as it is incompatible with ECHR rights, and
- a member of the Scottish Executive has no power to make any subordinate legislation or to carry out any other act, so far as the legislation or act is incompatible with ECHR rights.

Human rights claims can be made as 'devolution' issues if there is incompatibility with ECHR rights as specified in the Scotland Act 1998.

Human rights regulation in Scotland

The Equality and Human Rights Commission operates across Great Britain (GB), and shares its human rights remit in Scotland with the Scottish Human Rights Commission (SHRC). The SHRC was established in 2008, following the Scottish Commission for Human Rights Act 2006. The SHRC is accountable to the Scottish Parliament and is, like the Equality and Human Rights Commission, one of the UK's three National Human Rights Institutions.

The Equality and Human Rights Commission's human rights remit in Scotland extends to those areas outside the legislative competence of the Scottish Parliament (for example immigration or anti-terrorism law). The Equality and Human Rights Commission can also work on devolved matters in Scotland with the agreement of the SHRC. The work of the two organisations in Scotland is underpinned by a memorandum of understanding, and agreed working arrangements on shared priorities, such as monitoring compliance with international human rights instruments.

The UK has also signed and ratified a range of international human rights instruments, including the UN Convention on the Rights of the Child. The Children and Young People (Scotland) Act 2014 places a duty on Scottish Ministers to keep under consideration the requirements of this Convention.

The Scottish National Action Plan for Human Rights (SNAP) aims to make human rights a reality for everyone. The SHRC, Scottish Government, Equality and Human Rights Commission, public sector organisations, civil society organisations and others work collectively to deliver SNAP.

2.3 The Equality Act 2010

The Equality Act 2010 prohibits unlawful discrimination, harassment and victimisation on the basis of 'protected characteristics', in a wide variety of fields (for example, employment, education, goods and services) in Great Britain.

The nine 'protected characteristics' are:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

The Equality Act 2010 simplified and strengthened previous anti-discrimination legislation. It provides protection for individuals from unfair treatment and promotes a fair and more equal society.

The Act applies in a variety of fields, including employment, education, the exercise of public functions, the provision of services, and associations. The Act prohibits certain types of conduct, including:

- Direct discrimination – less favourable treatment of a person because of a protected characteristic, compared with others in similar circumstances.

- Indirect discrimination – where a policy, practice or criterion is applied (or would be applied) to everyone but in fact puts (or would put) people who share a protected characteristic at a particular disadvantage when compared with others who do not.[1]

- Separate forms of discrimination specifically relating to disability, pregnancy and maternity, and gender reassignment.

- Harassment – unwanted conduct related to a protected characteristic that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.[2]

- Victimisation – subjecting someone to a detriment because they have, in good faith, carried out a protected act such as:
  - making an allegation of discrimination
  - bringing proceedings under the Act
  - giving evidence or information in relation to such proceedings, or
  - doing anything else in connection with the Act.

The Equality Act 2010 permits proportionate positive action measures that aim to overcome disadvantage connected to a particular protected characteristic.

The Act's public sector equality duty requires public authorities to have 'due regard' to the need to:

- eliminate discrimination, harassment and victimisation
- advance equality of opportunity, and
- foster good relations.

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[1] Indirect discrimination can be lawful if objectively justified as a proportionate means of achieving a legitimate aim.

[2] The harassment provisions do not apply to all protected characteristics in all circumstances.

The duty consists of a general equality duty, supported by specific duties for certain public authorities. These specific duties are different for Scotland, England and Wales.

In 2012, Scottish Ministers made regulations placing specific duties on Scottish public authorities to enable the better performance of the public sector equality duty. These are set out in the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (as amended), and are also known as the Scottish Specific Duties. The Regulations contain a list of public authorities that are subject to the following specific duties:

• reporting on progress on mainstreaming the general equality duty

• publishing equality outcomes and reporting progress

• assessing and reviewing policies and practices

• gathering, using and publishing employee information

• publishing gender pay gap information

• publishing statements on equal pay

• considering award criteria and contract conditions in relation to public procurement, and

• publishing required information in a manner that is accessible.

Chapter 3
Context

This chapter briefly summarises the key economic and demographic trends over the period 2008 to 2015, and the economic policies adopted by the Scottish Government over this period.

3.1 The economic downturn

In 2008, the UK experienced a major economic downturn (Office for National Statistics (ONS), 2015a). The UK economy shrank in the first quarter of 2008. Growth resumed towards the end of 2009, but the recovery was protracted and interrupted by brief periods of decline in 2012. It was only towards the end of 2013 that output returned to its pre-recession peak. Employment also fell, but recovered more quickly – returning to its pre-recession peak at the end of 2012. The recovery was unprecedentedly slow, but economic growth in 2014 and 2015 has been sustained.

The timing of the recession and the path of recovery differed across England, Wales and Scotland. For example, in 2007, employment rates in Scotland were higher than in England and Wales (ONS, 2015b). However, Scotland saw a decrease in employment rates of more than four percentage points between the end of 2007 and 2010 (from 74.3% to 70.1%). This compares with a fall of 2.2 percentage points for Britain. The recovery in the employment rate also was slower in Scotland, not showing a clear trend in recovery until 2012, and not returning to pre-recession peaks until 2013 (compared with 2012 for Britain).

3.2 Economic challenges

The financial crisis and economic downturn resulted in a substantial increase in the budget deficit and public sector debt. In 2010, the UK Government made the elimination of the deficit a policy priority. It decided that one-quarter of the contraction would be achieved through increases in taxation, and three-quarters would be achieved through cuts to spending (HM Treasury, 2010a, b). The Scottish Government (2015a) stated:

'Our response to the economic and social challenges we currently face must go further than simply aspiring to ensure a return to pre-recession levels of economic performance. The challenges of underemployment, youth unemployment, low pay growth and weak productivity, all relate to, and in some cases are exacerbated by, patterns of inequality in Scotland. It is therefore important that we take a wider view that encompasses action to tackle inequality and ensure that economic growth is inclusive.'

The Scottish Government budget is tied to the level of UK Government spending by the Barnett formula. Contraction at a UK level meant that adjustments were made to the Scottish Government budget in accordance with this formula.

The Scottish Government's largest source of revenue is the block grant from the UK Government (Seely and Keep, 2015). Some discretion in the setting of economic policies was available to the Scottish Government when the financial crisis affected the economy. However, this discretion was limited to specific spending decisions within devolved powers, for example the Scottish Government was not able to influence taxation or to borrow to finance the deficit.

The Scottish Government faced important economic challenges as a result. With reduced resources, the Scottish Government pledged to protect key public services such as health.

3.3 Welfare reform

The UK Government is currently undertaking changes to the UK welfare system, alongside the devolution of a range of social security powers to the Scottish Government. The Scottish Government carried out analysis of these UK Government welfare reforms to assess the direct and indirect impacts that they may have on the Scottish population. The research (Scottish Government, 2014a) concluded that disabled people faced a disproportionate loss of income compared with other people. Other research (Scottish Government, 2013a) also found that changes to the benefits system have a significant impact on women, largely due to caring responsibilities for their children and their receipt of benefits directed towards children.

3.4 Scotland's population

Between 2008 and 2014, Scotland's population grew. The growth in population was largely driven by migration – both internal migration from other parts of the UK, and international migration (ONS, 2015c). Scotland's estimated population in 2014 was its highest ever, at over 5.3 million (National Records of Scotland (NRS), 2014).

Table 1: Components of population change in Scotland from 2008 to 2014

Estimated population mid-2008	5,202,900
Births minus deaths	+23,232
Net internal migration	+30,791
Net international migration	+90,200
Other	+477
Estimated population mid-2014	5,347,600

Scotland's growing population is also ageing. Between 2004 and 2014, the total population increased by 5.2%. However, there was a 13% rise in the 45 to 59 age group, and a 17% rise in both the 60 to 74 and 75 and over age groups. This compares with falls in some of the younger age groups (NRS, 2014).

There is also evidence that Scotland has become a more diverse society between 2008 and 2015, with increases in diversity of religion and ethnic identity:

- The proportion of the population that identify themselves as being from an ethnic minority increased from 2% in 2001 to 4% in 2011 (Scottish Government, 2014b).

- The proportion that described themselves as having no religion increased from 27.8% in 2001 to 36.7% in 2011 (NRS, 2013).

- The proportion of people describing themselves as belonging to a minority religion[3] also increased from 1.4% in 2001 to 2.5% in 2011, largely due to an increase in the proportion of people identifying themselves as Muslim (NRS, 2013).

There is limited information about the lesbian, gay, bisexual or transgender (LGBT) population in Scotland. Approximately 1% to 1.6% of the population in Scotland identified themselves as gay, lesbian or bisexual in 2011 to 2013. However, this data is too recent to draw conclusions on changes over time (ONS, 2014).

Between 2001 and 2011, the proportion of people in Scotland who met the definition of disability set out in the Equality Act 2010 remained broadly the same – at 20% (NRS, 2013).

3.5 In summary

These economic and demographic trends present Scotland with some challenges. Scotland's population is growing and ageing, at the same time as public sector organisations have to work within significant spending constraints.

The country has moved out of recession, and output and employment levels are returning to pre-recession levels. There is also evidence that Scotland's population is becoming more diverse, particularly in terms of ethnic origin and religion.

The chapters that follow should be read within this demographic and economic context.

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[3] This term is used to describe people who identify with any religion other than Christian, which is the majority religion in Scotland, with 54% identifying themselves as Christian in 2011.

Chapter 4
Education and learning

This chapter discusses educational attainment; outcomes for children and young people in need of support; exclusion; bullying; post-16 participation in education, employment and training; further education and lifelong learning; and higher education.

Responsibility for education in Scotland is devolved and sits with the Scottish Government. This includes school, further and higher education, and lifelong learning.

The chapter highlights a number of areas of progress over the review period, including:

- Educational attainment in schools improved.

- Exclusions from school fell.

- The percentages of men and women with no qualifications (of any kind) fell.

- The percentage of people aged 25 and over with a degree increased.

A number of challenges are also highlighted, including:

- The level of improvement in attainment differed for individuals with particular protected characteristics, and attainment gaps persist.

- Gypsy/Traveller pupils continued to have the lowest educational attainment rates.

- Children from poorer backgrounds performed less well than their peers.

- The attainment of looked after children was well below that of other pupils. The gap narrowed but remained large.

- Exclusion rates remained high for some groups, including Gypsy/Travellers, boys, and pupils with additional support needs (ASN).

- The proportion of young people not in education, employment or training (NEET) has not changed over time.

- Bullying is a particular issue for some children and young people who share particular protected characteristics – including disabled, and lesbian, gay and bisexual (LGB) children and young people.

- Women and disabled people remained more likely to have no qualifications.

4.1 Educational attainment for children and young people

The main measure we use for educational attainment focuses on secondary school attainment, at age 15 or 16.[4] We use S4 (the fourth year of secondary schooling) measures as this is the last year of compulsory schooling.[5] It should be noted that over 90% of pupils in Scotland are White Scottish, and the number of pupils from some ethnic minorities is therefore small. Overall, educational attainment in school has improved:

- The percentage of S4 pupils achieving at least five awards at Scottish Credit and Qualifications Framework (SCQF) Level 5 or better increased between 2009/10 and 2012/13. For all pupils, this rate increased from 36.1% in 2009/10 to 39.4% in 2012/13.

- Average tariff scores[6] for S4 pupils increased between 2009/10 and 2012/13. The average tariff score for S4 pupils in 2009/10 was 181 points. This increased to an average tariff score of 192 points in 2012/13.

Differences by gender

Girls continue to perform better than boys:

- In both 2009/10 and 2012/13, girls were more likely than boys to achieve at least five awards at SCQF Level 5 or better. In 2012/13, 44.1% of girls achieved at least five awards compared with 34.8% of boys. A similar improvement in attainment by both boys and girls over this period meant the attainment gap[7] between girls and boys remained unchanged. On the basis of the average tariff scores of S4 pupils, girls improved from 189 points in 2009/10 to 200 points in 2012/13, while boys improved from 173 points to 183 points.

- Girls perform better than boys across all ethnic groups, though the attainment gap differs in size. In 2012/13, White Scottish girls achieved on average 17 tariff points more than White Scottish boys. The gap was narrower (7–12 points) for Asian-Indian, Asian-Pakistani and Asian-Chinese pupils, and wider for Other Asian pupils and African/Black/Caribbean pupils (30 and 42 points respectively).

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[4] Unless otherwise stated, the figures reported here, on the educational attainment of school age children and young people, are from analysis specifically for the *Is Britain Fairer?* review using pupil attainment data from the Scottish Government. See data table CE1.5.

[5] Prior to changes in the Scottish curriculum (beginning in 2013/14), these pupils worked towards Standard Grade qualifications. For the purpose of comparison over time, the analysis in *Is Britain Fairer?* only considers attainment under this previous system.

[6] Each qualification a pupil attains is awarded points based on the SCQF level, credit level and grade achieved.

[7] An 'attainment gap' refers to the percentage-point difference in outcomes between two groups.

Differences by ethnic group

The only attainment data available by ethnic group relates to average tariff scores. Pupils from some ethnic groups perform well above the average, while Gypsy/Traveller pupils have the lowest tariff scores:

- Pupils with higher average tariff scores than White Scottish pupils (191 points) in 2012/13 included Asian-Chinese pupils (255 points), Asian-Indian pupils (211 points), Asian-Pakistani pupils (206 points) and pupils from mixed or multiple ethnic groups (206 points).[8]

- Between 2009/10 and 2012/13, some groups saw higher than average increases in tariff scores. Across all Scottish pupils the average tariff score increased by 11 points while Asian-Chinese pupils had an average increase of 25 points; and Asian-Pakistani pupils had an average increase of 20 points.

- The number of White-Gypsy/Travellers[9] in Scotland in S4 at any one time is very small (typically fewer than 40 pupils). Attainment for this group is far lower than for other ethnic groups. The average tariff score for White-Gypsy/Traveller S4 pupils in 2012/13 was 133, compared with 192 for all S4 pupils (Scottish Government, 2015b).

Differences by level of deprivation

The gap in 2013/14 between White Scottish pupils in the most deprived parts of Scotland and their White Scottish peers in other areas was much larger than for other ethnic groups (51 points compared with 41 points for pupils of mixed ethnicity and less than 20 points for Asian or African/Black/Caribbean pupils).[10]

4.2 Children and young people in need of support

In Scotland, the Education (Additional Support for Learning) (Scotland) Act 2009 was introduced to provide greater assistance to children in need of support. Pupils with additional support needs (ASN)[11] have lower (but improving) attainment. Looked after children have lower (but improving) attainment.

Pupils with additional support needs

The gap narrowed between pupils with ASN and those without:

- In 2012/13, S4 pupils with ASN had a lower average tariff score (136 points) than pupils without ASN (203 points). However, between 2009/10 and 2012/13, the gap in attainment narrowed between pupils with ASN and those without. The average tariff score for pupils with ASN increased by 36 points over this time, compared with an increase of 16 points for those without ASN.

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[8] Changes in the definition of the White group to match the census means comparisons of the rate of improvement over time cannot be made.

[9] Since 2011/12, educational outcomes for Gypsy/Travellers have been recorded under 'White-Gypsy/Travellers'. This may exclude other Gypsy/Travellers.

[10] In this context, Scottish statistics distinguish, using the 2012 Scottish Index of Multiple Deprivation, between the most deprived 20% of areas and the other 80%.

[11] ASN refers to any child or young person who, for whatever reason, requires additional support for learning. See Glossary for the full definition of ASN.

- Between 2009/10 and 2012/13, improvements were made in recording – including an expansion in the criteria for ASN. Consequently, at least some of the decrease in the size of the gap is likely to have arisen from a change in the composition of the ASN and non-ASN groups.

Looked after children

Looked after children have seen improvements in attainment over the review period but their performance remained well below that of other pupils:[12]

- Young people who are looked after by local authorities tend to leave school at younger ages than other young people. Information on attainment of looked after children focuses on school leavers by age (rather than S4 pupils). Overall, the attainment of looked after children is much lower than for other school leavers. In 2012/13, average tariff scores for looked after school leavers were lower than for others – 71 points compared with 154 for all school leavers aged 16 and under; 286 points and 498 points respectively for those aged 17; and 260 points for looked after children and 549 points for all school leavers aged 18 and over.

- Between 2009/10 and 2012/13, the average score of looked after children increased by 48 points – a larger increase than the improvement seen for all school leavers over the same period (35 tariff points).

Children and young people in custody

The Scottish Prison Service's 2013 survey of male young offenders (McCoard *et al.*, 2013) suggests that a quarter of male young offenders had no qualifications, while a fifth had difficulty with writing (22%), reading (21%) and numbers (20%).

4.3 Exclusions from school

Between 2009/10 and 2012/13, exclusion rates fell.[13] The size of the reduction varied greatly by protected characteristic. Gypsy/Travellers, boys, and pupils with ASN had, and continued to have, the highest exclusion rates. However, gaps by protected characteristic have generally narrowed:

- Girls had a much lower exclusion rate than boys (14.8 per 1,000 pupils compared with 50.1 per 1,000) in 2012/13. Between 2009/10 and 2012/13, the gap between boys and girls narrowed as the decrease was greater for boys (−18.5 per 1,000 compared with −5.1 per 1,000).

- White pupils had the highest exclusion rates of any ethnic group in both 2009/10 and 2012/13, though reductions in the rate for White pupils have led to the gap closing with some ethnic minority groups.

- In 2010/11, exclusion rates for Gypsy/Traveller pupils (57 per 1,000 pupils) and Other Traveller pupils (175 per 1,000) were the highest of all ethnic groups (Scottish Government, 2012a). More recent publications do not provide data showing exclusions specifically for Gypsy/Traveller pupils or Other Traveller pupils.

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12 Unless otherwise stated, the figures reported here, on the attainment of looked after children, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Government. See data table CE2.3.

13 The figures reported here, on exclusions from school, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Government. See data table CE2.10.
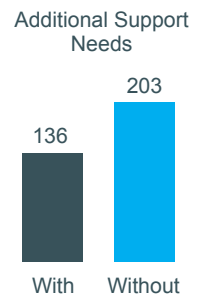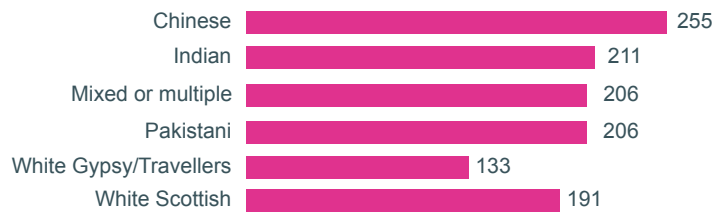
Attainment levels have gone up

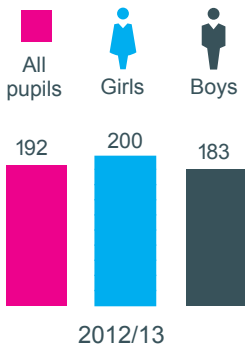|	
2009/10	36.1%
2012/13	39.4%
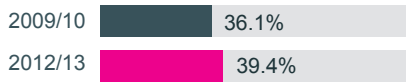
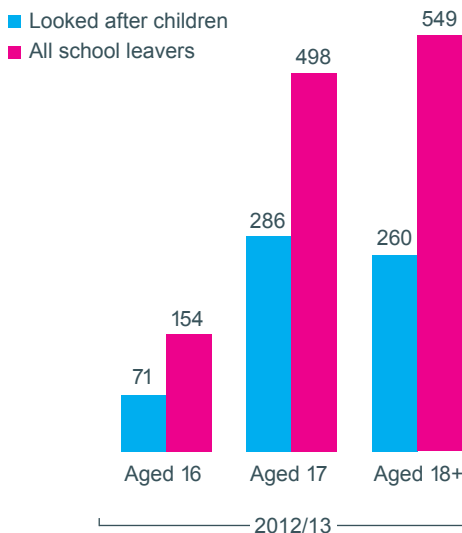Percentage of S4 pupils achieving at least 5 awards at SCQF Level 5 or better

However, there are some gaps in attainment between different groups

Average tariff score 2012/13

All pupils · Girls · Boys

- All pupils 192
- Girls 200
- Boys 183

2012/13

- Chinese 255
- Indian 211
- Mixed or multiple 206
- Pakistani 206
- White Gypsy/Travellers 133
- White Scottish 191

Additional Support Needs

- With 136
- Without 203

Looked after children have seen improvements in attainment but are still well below other pupils

- ■ Looked after children
- ■ All school leavers

	Looked after children	All school leavers
Aged 16	71	154
Aged 17	286	498
Aged 18+	260	549

2012/13

Exclusion rates have gone down

Per 1000

Girls · Boys

	Girls	Boys
2009/10	19.9	68.7
2012/13	14.8	50.1
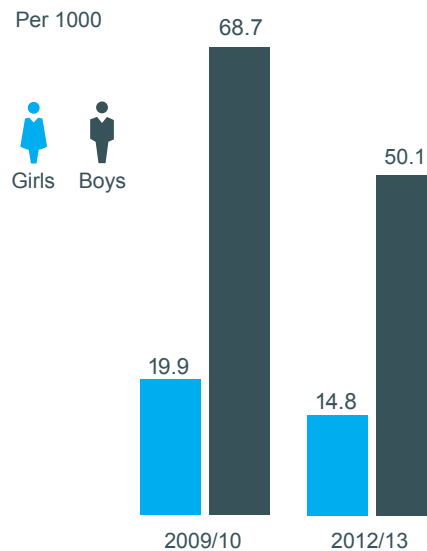
More people have degree-level qualifications

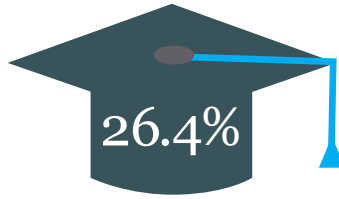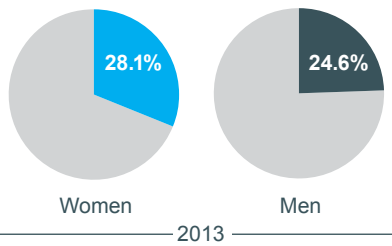By 2013, 26.4% of those aged 25-64 had a degree-level qualification

26.4%

Girls continue to do better than boys at school and women are more likely to have a degree-level qualification

Women are more likely to have a degree-level qualification

28.1%
24.6%

Women
Men
2013

But men still occupy more senior positions

Men are nearly twice as likely as women to be a manager, director or senior official

Fewer adults had no qualifications in 2013
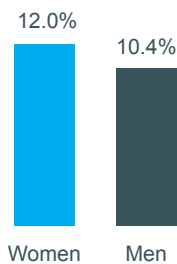
12.0%
10.4%

Women
Men

Disabled people remained more likely to have no qualifications in 2013

Disabled   24.3%
Non-disabled   7.6%
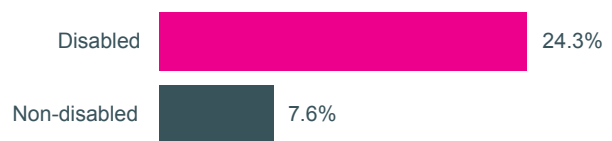
Using the evidence that we have gathered, there are areas where Scotland has improved and got fairer, and areas where it has got worse. Improvements need to be made across the board to really aim for a fairer Scotland.

All references available at: www.equalityhumanrights.com/IsScotlandFairer

- The exclusion rate for pupils with ASN is much higher than for those without ASN although the gap narrowed significantly. In 2009/10, the exclusion rate for pupils with ASN was 174.3 per 1,000 compared with 35.3 per 1,000 for pupils without ASN. In 2012/13, the rates were 89.5 per 1,000 and 20.4 per 1,000.[14]

- Pupils assessed or declared as having a disability had a higher exclusion rate in both 2009/10 and 2012/13. In 2009/10, the exclusion rate for disabled pupils was 70 per 1,000 compared with 44 per 1,000 for non-disabled pupils. In 2012/13, the rates were 63 per 1,000 compared with 31 per 1,000 (Scottish Government 2012a, 2014c).

4.4 Identity-based bullying

The UN Committee on the Rights of the Child (2008) expressed concern that bullying could hinder children's attendance at school and their potential for successful learning. Through the National Approach to Anti-Bullying for Scotland's Children and Young People and the anti-bullying service respect*me*, the Scottish Government seeks to support local authorities to ensure that prejudice-based bullying in schools is adequately covered in local policies.

Research indicated that:

- Just over half of LGB young people in Scotland experienced bullying in school (Stonewall Scotland, 2012).

- Nine in ten secondary school teachers said that pupils at their school were bullied, harassed or called names for being (or suspected of being) LGB (Stonewall Scotland, 2014a).

- Almost two in five pupils surveyed as part of EHRC research (2015a) had experienced bullying and one in four pupils were aware of other pupils experiencing prejudice-based bullying – particularly based on sexual orientation or social class.

- Bullying related to race and disability were most likely to be identified in local authority anti-bullying policies, with other protected characteristics receiving patchy coverage (EHRC, 2015a).

4.5 Post-16 participation in education, employment or training

In 2013, 9.4% of 16, 17 and 18 year olds[15] were not in education, employment or training (NEET). This is not significantly different from the rate in 2008. Gypsy/ Travellers are less likely to be in employment, education or training:

- There was no change in the NEET rate between 2008 and 2013.

- There was no significant difference between young men and women in the proportion who were NEET in either 2008 or 2013.

- Small sample sizes prevent any meaningful and robust comparison of rates by ethnic group or disability.

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[14] It is worth noting that there were changes in the classification of ASN in Scotland over this period, which may affect these figures.

[15] The age group of 16 to 18 year olds has been selected for consistency with the *Is Britain Fairer?* review, and differs from that used by the Scottish Government of 16 to 19 year olds.

Information on the destinations of leavers from publicly funded schools in 2012/13 showed:

- 60% of Gypsy/Travellers went on to positive destinations,[16] compared with 90% for all school leavers from publicly funded schools (Scottish Government, 2015b).

- 84% of school leavers with a declared or assessed disability went on to a positive destination compared with 90% of non-disabled school leavers (Scottish Government, 2015c).

- 82% of school leavers with ASN went on to a positive destination, although rates varied by type of ASN. The types of support needs with the lowest proportions of leavers going on to positive destinations were interrupted learning (65%), looked after (66%), social, emotional and behavioural difficulty (71%) and mental health problem (75%) (Scottish Government, 2015c).

- Out of all ethnic groups, Asian-Chinese school leavers were most likely to be in a positive destination (99%), with nearly three-quarters in higher education. This compares with 90% of White-Scottish school leavers who were in a positive destination, just over a third of whom were in higher education (Scottish Government, 2015c).

4.6 Access to further education and lifelong learning

The proportion of adults with no qualifications fell. Although some gaps narrowed, women and disabled people remained more likely to have no qualifications:[17]

- In 2013, 34.3% of people aged 17 and over had gained a qualification in the last 12 months, or participated in other formal or informal learning activities in the last three months.

- The percentage of men and women aged 25 to 64 with no qualifications of any kind fell between 2008 and 2013, from 13.1% to 10.4% for men, and 18.5% to 12.0% for women.

- The decrease in the percentage of women with no qualifications since 2008 was larger than for men, but women were more likely to have no qualifications than men in 2013 (12.0% compared with 10.4%).

- In 2008, people from ethnic minorities were more likely to have no qualifications than White people. However, by 2013 this gap had closed with a similar percentage of White people and people from ethnic minorities having no qualifications (just over 11%).

- Disabled people were much more likely to have no qualifications. In 2013, 24.3% had no qualifications, compared with 7.6% of non-disabled people. The size of the gap was unchanged between 2008 and 2013.

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[16] Positive destinations include education, training, work (paid and voluntary) or taking part in an activity agreement.

[17] The figures reported here, on people with no qualifications and on people gaining a qualification or participating in formal or informal learning, are from analysis specifically for the *Is Britain Fairer?* review using data from the Labour Force Survey. See data tables EE2.1 and EE3.1.

As well as being more likely to have no qualifications, disabled people were less likely to have participated in learning activities and to have accessed the internet:

- Disabled people were also less likely than non-disabled people to have taken part in other formal or informal learning activities over the past three months (20.6% compared with 39.2%).

- Disabled people were less likely than non-disabled people to have accessed the internet within the last three months in 2013. Only 61.5% of disabled people had accessed the internet by this measure, compared with 88.2% of non-disabled people.[18]

4.7 Access to higher education

The proportion of people aged 25 to 64 with a degree-level qualification increased from 20.6% in 2008 to 26.4% in 2013:[19]

- In 2008, men and women were equally as likely to have a degree. By 2013, women had overtaken men, with 24.6% of men holding a degree compared with 28.1% of women.

- In 2008, people from ethnic minorities were more likely to have a degree than White people (31.5% of people from ethnic minorities compared with 20.3% of White people). By 2013, the gap had increased, with 48.3% of people from ethnic minorities holding a degree compared with 25.7% of White people.

- Disabled people were less likely to have a degree than non-disabled people. In 2013, 14.6% of disabled people held a degree compared with 29.7% of non-disabled people. The proportion of disabled people with a degree increased between 2008 and 2013, but by less than the increase for non-disabled people, so the gap between the two widened slightly.

[18] The figures reported here, on internet usage, are from analysis specifically for the *Is Britain Fairer?* review using data from the Office for National Statistics (ONS) Opinions and Lifestyle Survey (formally the ONS Opinions Survey). See data table EE4.1.

[19] The figures reported here, on degree-level qualifications, are from analysis specifically for the *Is Britain Fairer?* review using data from the Labour Force Survey. See data table EE2.2.

Chapter 5
Work, income and the economy

This chapter discusses forced labour and trafficking, employment and unemployment, pay, housing, poverty and childcare.

Responsibility for employment and social security currently[20] sits with the UK Government. Responsibility for housing and childcare sits with the Scottish Government. Training for employment is a shared responsibility between the UK and Scottish Governments.

The chapter highlights a number of areas of progress over the review period, including:

• There was increasing recognition of the human rights violations that arise as a result of trafficking, forced labour, servitude and exploitation.

• There was a fall in the proportion of households that did not meet the Scottish Housing Quality Standard (SHQS), and a fall in the proportion of children living in households that did not meet this standard.

• Homelessness fell and there was a reduction in the number of households in temporary accommodation.

A number of challenges are also highlighted, including:

• The overall employment rate in 2013 was lower than in 2008.

• Women were less likely to be in work than men, and those women who were in work were less likely to be in senior positions and more likely to be in part-time work.

• Age-related employment gaps widened – young people were less likely to be in work and saw the greatest increase in unemployment between 2008 and 2013.

• Unemployment rates increased more for disabled people than for non-disabled people between 2008 and 2013.

• Unemployment rates were significantly higher for people from some ethnic minorities when compared with White people.

• Modern Apprenticeships show clear gender segregation and low levels of access for ethnic minorities and disabled people.

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[20] Aspects of social security will be devolved to Scotland following enactment of the Scotland Bill.

- Average hourly pay declined in Scotland between 2008 and 2013. The steepest declines were for younger workers.

- In 2013, children living in households headed by someone from an ethnic minority were more likely to live in relative poverty after housing costs (AHC) compared with those in households headed by a White person.

- Material deprivation for working age disabled people is higher than for non-disabled people. The gap did not change between 2008 and 2013.

5.1 Forced labour, modern slavery and human trafficking

Over recent years, there has been an increasing recognition of the human rights violations that arise as a result of trafficking, forced labour, servitude and exploitation.

Forced labour constitutes 'all work or service which is exacted from any person under threat of penalty and for which the person has not offered himself voluntarily' (Article 2 of the Forced Labour Convention, 1930) and is prohibited under Article 4 of the European Convention on Human Rights. The Human Trafficking and Exploitation (Scotland) Act 2015 is expected to come into force in 2016.

The Act means there is now a comprehensive legislative framework for the detection and disruption of human trafficking and support for its victims. The Act itself follows an earlier inquiry by the Commission (EHRC, 2010a) which identified a range of issues, including a lack of awareness and knowledge on the part of key agencies, a tendency not to view trafficking as a significant problem in Scotland, and an inconsistent and piecemeal legislative framework.

Current statistics cannot show the full scale and extent of all forms of forced labour, trafficking, slavery and servitude. Reporting under the National Referral Mechanism (NRM) currently only includes data on reported trafficking, which shows trafficking to be an ongoing cause for concern:

- In 2014, there were 111 cases of adults, children and young people reported as victims of trafficking in Scotland.[21]

- There are more reported cases of adults being trafficked than children and young people. In 2014, 23% of reported cases were children and young people.

- There were no significant differences between the number of male and female victims reported.

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[21] The figures reported here, on adults, children and young people trafficked for domestic servitude and other forms of exploitation, are from analysis specifically for the *Is Britain Fairer?* review using data from the National Crime Agency. See data table CG4.1.

5.2 Employment and unemployment

The overall employment rate in Scotland in 2013 was lower than in 2008.[22] The unemployment rate increased.[23] Within these overall changes there were a number of differentials by protected characteristic.[24]

Between 2008 and 2013, Scotland saw a decline in its employment rate from 75.6% to 73.2%. Over the same time period, unemployment rates in Scotland increased, from 4.4% in 2008 to 7.0% in 2013. Since 2013, the employment rate has increased and unemployment has fallen (Scottish Government, 2014d).

Differences by gender

Women were less likely than men to be in work. Women who were in work were less likely to be in senior positions and more likely to work part time.

Women were over-represented in part-time work – 13.1% of male employment was part time in 2013, compared with 42.9% of female employment (Scottish Government, 2014d).

Employment rates for women were significantly lower than employment rates for men in Scotland in both 2008 and 2013. The gap between men and women narrowed, but largely due to a significant reduction in the male employment rate (from 78.4% in 2008 to 74.3% in 2013). The employment rate for women did not change to a statistically significant degree over the same period (72.1% in 2013).

Unemployment increased for both men and women between 2008 and 2013. There was a significant increase of 2.4 percentage points for women (to 6.4%) and of 2.9 percentage points for men (to 7.7%).

Female self-employment has increased over recent years, from 76,000 in 2007 to 101,600 in 2014, an increase of 34%. Male self-employment also increased over this period but to a lesser extent, increasing by 6%. Men continue to be more likely to be self-employed than women (Scottish Government, 2015d).

In Scotland in 2013 (as in England and Wales), men were still significantly more likely to be in manager, director or senior official occupations than women – 10.4% of men in employment compared with 5.9% of women.[25]

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[22] Employment rate: number of people in employment as a percentage of the population (our analysis uses the working age population, aged 16 to 64).

[23] Unemployment rate: number of people not currently in a job as a percentage of the 'economically active population' (those who are able to work and have adequate availability to work; this does not include those not working through sickness, disability or because they are studying).

[24] Unless otherwise stated, the figures reported here, on employment and unemployment by protected characteristic, are from analysis specifically for the *Is Britain Fairer?* review using data from the Labour Force Survey. See data tables EG1.1 and EG1.2.

[25] The figures reported here, on occupational profiles by protected characteristic, are from analysis specifically for the *Is Britain Fairer?* review using data from APS NOMIS. See data table EG3.4.

In April 2015, the Scottish Government issued a consultation on the introduction of gender quotas on public boards. Currently, public boards in Scotland have 36% female representation, but only 21% of board chairs are women. Four public bodies' boards have no female representation and a further 10% of boards have less than 20% female membership (Scottish Government, 2014e). In March 2015, of the 66 board positions currently available across Scottish-based FTSE 100 firms, only 17 are held by women – a ratio of just 24% (Scotland Office, 2015).

Differences by age

Age-related employment gaps widened. Younger people were less likely to be employed and had the highest increase in unemployment:

- Young people aged 16 to 24 have the lowest employment rates of any age group, and have seen employment rates significantly decrease between 2008 and 2013. In 2013, 51.5% of 16 to 24 year olds in Scotland were employed (a decrease of 5.5 percentage points from 2008).

- People aged 16 to 24 had the highest unemployment rate (20.1%) in 2013 of any age group, more than double the rate for people aged 25 to 34 (8.0%) who had the next highest rate. Increases in young people's participation in full-time education only explain part of these falls in employment and increases in unemployment.

- Of people in work, those aged 16 to 24 are most likely of all age groups to be underemployed.[26] In 2014, 19.4% of people aged 16 to 24 were underemployed, compared with rates of 5% to 8% for other age bands (Scottish Government, 2014d).

Differences by disability

Disabled people are significantly less likely to be in work than non-disabled people:

- In 2013, the employment rate for disabled people was 43.3% compared with 80.3% for non-disabled people.

- The unemployment rate increased more for disabled people than for non-disabled people between 2008 and 2013. By 2013, disabled people were nearly twice as likely as non-disabled people to be unemployed.

- In 2013, 11.6% of disabled people were unemployed, compared with 6.4% of non-disabled people.

Differences by ethnicity

There was a significant gap between the employment rate of people from ethnic minorities when compared with White people in 2008 and 2013:

- In 2013, 57.4% of people from ethnic minorities were in work compared with 73.8% of White people.

- The lowest employment rates in 2013 for ethnic minority groups were for people in 'Other'[27] ethnic groups (56.0%) and Pakistani and Bangladeshi people (42.9%).

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[26] Underemployment occurs when people are looking for additional hours in the existing job, an additional job (to supplement their existing job) or a different job with more hours.

[27] 'Other' were people who did not report themselves as White, African/Caribbean/Black, Indian/Bangladeshi, or Mixed ethnicity.

- Higher proportions of ethnic minority workers than White workers in 2013 were employed in professional occupations – 31.1% of people from ethnic minorities compared with 19.7% of White people.
- Unemployment rates for people from ethnic minorities in 2013 were significantly higher than for the White people – 13.2% compared with 6.9%.

Analysis of the 2011 Census (Scottish Government, 2015e) found:

- Polish people were the ethnic group most likely to be working – 81% were either employed or self-employed.
- Gypsy/Travellers, Arab and Chinese people were least likely to be in work, though Arab and Chinese people had high proportions of students within the population.
- African people were most likely to be unemployed, followed by Caribbean or Black people and Gypsy/Travellers (15%, 11% and 9% respectively).
- Gypsy/Travellers were twice as likely to be self-employed compared with the general population in Scotland – 24% compared with 12%.

Differences by religion or belief

In 2013, religious minorities were less likely to be employed (at 61.1%) than Christians (74.4%) or those with no religion (72.9%). A higher proportion of Christian workers than those with no religion worked in administrative and secretarial occupations. There are no significant differences by occupation between religious minorities and those with no religion. There is no robust data on unemployment by religion for Scotland.

Discrimination at work

There is no national survey to measure unfair treatment, harassment or bullying at work. Most claims relate to either disability or sex discrimination. Since 2012/13, there has been a significant decrease in the proportion of claims related to age discrimination (EHRC, 2015b). Other evidence, including one-off studies, indicates that discrimination in the workplace is experienced:

- by lesbian, gay, bisexual, transgender (LGBT) people (Equality Network, 2015)
- by people with poor mental health (SeeMe, 2015), and
- in relation to pregnancy and maternity (EHRC, 2015c).

Access to employment through apprenticeships

The Scottish Government provides funding that contributes towards training costs for Modern Apprenticeships. These allow individuals to work towards an industry-accredited qualification and to learn on the job while earning a wage. The Scottish Government has a target of 25,000 Modern Apprenticeship new starts each year. This target has been met each year since 2011/12, although the number of apprenticeship starts peaked in 2011/12 (Skills Development Scotland, 2015).

Analysis of data on Modern Apprenticeships shows:

- There is clear gender segregation (EHRC, 2013). Women are concentrated in specific sectors, including early years care, education, social care and hairdressing. These sectors can attract low levels of pay and poorer labour market outcomes than

others. Men are clustered into engineering, construction and plumbing, which have higher rates of pay and lead to better labour market outcomes. The average spend per male apprentice is 59% higher than for a female apprentice (Engender, 2015).

- Ethnic minorities and disabled people appear to have low levels of access to apprenticeships. Figures for 2013/14 show that 1.1% of Modern Apprenticeship new starts were from ethnic minorities, lower than in 2009/10 (1.7%). While the proportion of disabled new starts did not change between 2009/10 and 2013/14, remaining at 0.4%, Skills Development Scotland is concerned that there is significant under-reporting of disability (Skills Development Scotland, 2015).

5.3 Pay

Pay declined in real terms in Scotland between 2008 and 2013. Average hourly pay in real terms decreased by roughly 50 pence in 2013 compared with 2008. Young people saw the largest decline in pay. Women continued to be paid less than men.[28]

Pay gaps

Women continue to be paid significantly less than men – in 2013, the median hourly earnings (excluding overtime) for men were £12.66 compared with £10.45 for women. Men's average pay declined between 2008 and 2011, with no significant change between 2011 and 2013. Women's average pay did not change significantly between 2008 and 2013. The fall in men's pay between 2008 and 2011 meant that the pay gap between men and women narrowed slightly between 2008 and 2013, from 17.7% to 17.5%.

Pay declined significantly between 2008 and 2013 for people aged under 35, by £1.30 per hour. The decline in pay for those aged 25 to 34 was significantly greater than for any other age group, and resulted in the pay gap between people aged 16 to 24 and those aged 25 to 34 significantly shrinking. Conversely, the pay gap between people aged 25 to 34 and older age groups increased.

Disabled people were paid significantly less than non-disabled people in Scotland in both 2008 and 2013. In 2013, disabled people earned £1.20 per hour less than non-disabled people.[29]

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[28] Unless otherwise stated, the figures reported here, on pay gaps, are from analysis specifically for the *Is Britain Fairer?* review using data from the Annual Survey of Hours and Earnings (ASHE), and the Labour Force Survey (LFS). See data tables EG2.2 and EG2.2b. Analysis of average pay uses median hourly earnings of all employees. The ASHE is used for figures relating to all employees and gender (this is the preferred source) and the LFS for all other protected characteristics. For ASHE median hourly earnings are excluding overtime but the variable used from LFS is including overtime.

[29] The preferred measure for earnings is ASHE. However, as ASHE does not contain any information on disability, the LFS has been used. LFS earnings data is less accurate because it asks respondents to recall earnings details, whereas in ASHE information on earnings is obtained from employers.

Is Scotland Fairer? The state of equality and human rights 2015
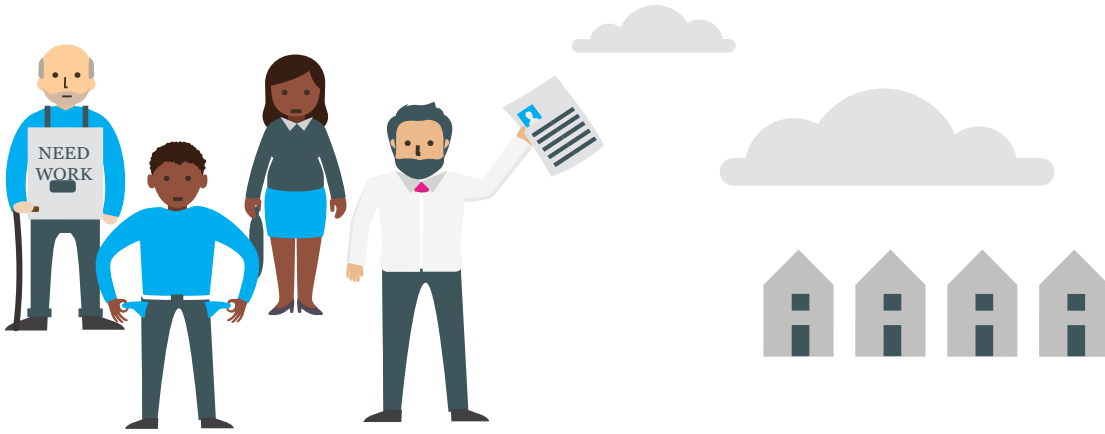
Housing quality is improving

The number of adults living in housing that did not meet the Scottish Housing Quality Standard fell from 65.4% in 2008 to 50.4% in 2013
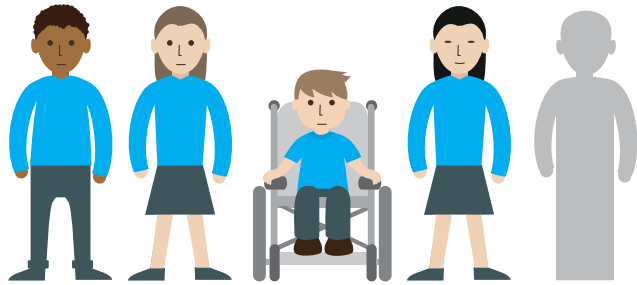
65.4%	2008
50.4%	2013
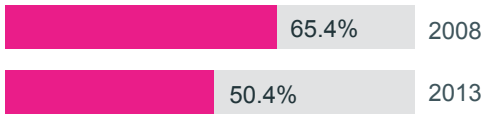
Poverty is a challenge

2012/13 figures show that

18.3%

of adults were living in relative poverty after housing costs

One in five children (22.4%) were living in relative poverty after housing costs in 2012/13

Relative poverty rates after housing costs differed

Disabled	Non-disabled	White	Ethnic minorities	Young people (16-24)
21.4%	17.3%	18.0%	32.1%	38.2%

2012/13

Relative poverty rates after housing costs were higher for children headed by someone from an ethnic minority than by someone from the White group

43.4%

Ethnic minorities

21.4%

White
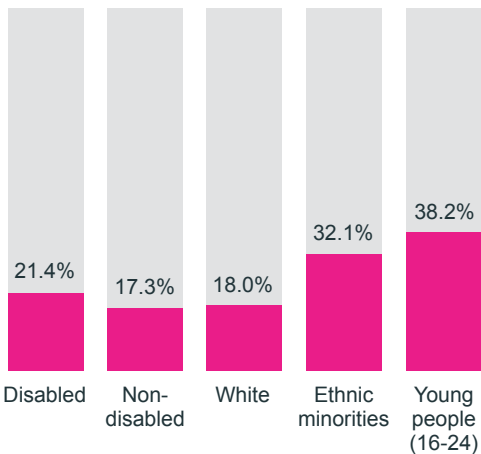
The gender pay gap decreased slightly due to a decline in the average pay for men
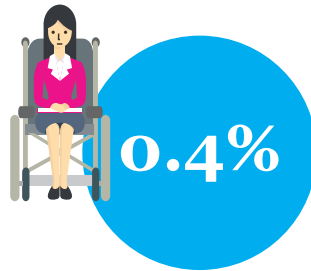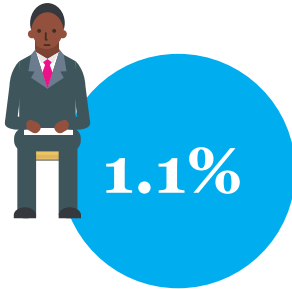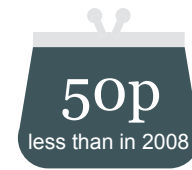
2008 **17.7%**

2013 **17.5%**
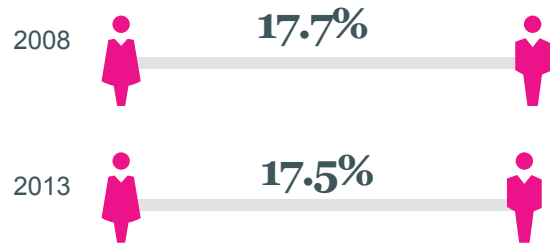
Ethnic minorities and disabled people have low levels of access to Modern Apprenticeships

In 2013/14, just 1.1% of modern apprentices were from ethnic minorities and only 0.4% were disabled.

1.1%

0.4%

Earnings are decreasing

50p
less than in 2008

In 2013, people were paid roughly **50p less** per hour in real terms than in 2008, affecting some people more than others

Unemployment is affecting more people

Young people aged 16 to 24 had the highest unemployment rate in 2013
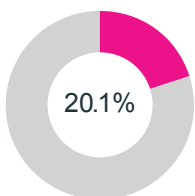
20.1%

Disabled people were nearly twice as likely as non-disabled people to be unemployed in 2013

11.6%
Disabled

6.4%
Non-disabled

13.2%
Ethnic minorities

6.9%
White

WILL WORK
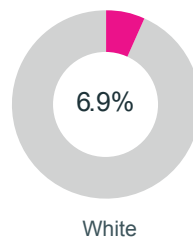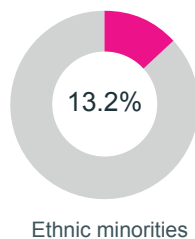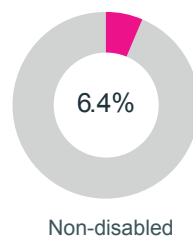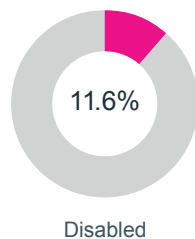
Using the evidence that we have gathered, there are areas where Scotland has improved and got fairer, and areas where it has got worse. Improvements need to be made across the board to really aim for a fairer Scotland.

All references available at: www.equalityhumanrights.com/IsScotlandFairer

5.4 Housing

This section considers housing quality and overcrowding, access to appropriate sites for Gypsy/Travellers, and homelessness.

Housing quality

The Scottish Housing Quality Standard (SHQS) is the main measure used to assess the quality of housing in Scotland.[30] Data from the Scottish Household Survey/Scottish House Condition Survey[31] showed that in 2008, 65.4% of households lived in housing that did not meet the SHQS. By 2013, this had fallen to 50.4%.

The proportion of households living in properties falling below the SHQS reduced for all age groups. There was also a similar fall in the percentage of children living in accommodation that did not meet the SHQS (from 60.2% in 2008 to 43.5% in 2013).

There were no differences where there was a disabled person in the household, or depending on the ethnicity of the highest income householder (HIH). However, in 2013, households with a disabled child were less likely than those without to be in accommodation that did not meet the SHQS.

Overcrowding and under-occupancy

In both 2008 and 2013, younger households and ethnic minority households[32] were more likely than others to live in overcrowded properties.

Social rent tenants of working age who receive Housing Benefit and live in a property that is deemed too large for them are subject to a reduction in their benefit entitlement. The reduction is 14% for one 'spare' bedroom, and 25% for two or more. The Scottish Government has provided funding to mitigate the impact of changes to Housing Benefit introduced by the UK Government in 2013. Funds have been provided to local authorities, who can then distribute funds through Discretionary Housing Payments (DHP).

By February 2015, there were 72,000 households who would have been affected by the under-occupancy reduction. Around 80% of these households contained a disabled adult (Citizens Advice Scotland, 2013).

Gypsy/Traveller communities

The Scottish Parliament (2013a) raised concerns about the quality and location of sites for Gypsies/Travellers. It described 'shocking standards of living and accounts of discrimination', including examples where families paying rent to their local council were expected to use freezing amenity blocks with high heating costs and where elderly and disabled people had to go outside to a toilet block. Approximately 14% of Gypsy/Travellers

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[30] The SHQS is a set of five broad housing criteria that must all be met if the property is to pass the SHQS. These criteria consist of 55 elements and nine sub-elements against which properties need to be measured.

[31] The figures reported here, on substandard housing and overcrowding, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Household Survey/Scottish House Condition Survey. See data tables EF1.1 and CF1.1.

[32] Ethnicity is based on the household reference person.

in 2011 lived in caravans, or other mobile or temporary structures. Gypsy/Travellers are half as likely to own their homes and twice as likely to live in rented accommodation as the general population (Scottish Government, 2015e).

Homelessness

Between spring 2010 and autumn 2014, there was an overall reduction in the number of applications for homelessness assistance, despite fluctuations over that time (Scottish Government, 2014f). Similarly, the total number of households in temporary accommodation decreased, from 11,254 in March 2011 to 10,308 in September 2014.

The Scottish Government and local authorities have focused on the prevention of homelessness, and strengthening the safety net for people threatened with homelessness (Scottish Housing Regulator, 2014).

Some groups of people were particularly vulnerable to homelessness, including young people leaving care. Research undertaken (Who Cares? Scotland, 2014), found that just over a quarter of young people leaving care experienced homelessness (based on 87 participants). The Children and Young People (Scotland) Act 2014 sought to provide new rights and opportunities for children and young people who have experienced care, particularly in relation to ensuring that they are involved in planning and discussions about their future.

5.5 Poverty

Relative poverty levels remained stable in Scotland. Children, disabled people and ethnic minorities were more likely to be living in poverty.[33]

Relative poverty is defined here as households who are living on less than 60% of the median income for Scotland, after housing costs (AHC). There was no statistically significant change in relative poverty levels between 2007/08 and 2012/13 – with 18.3% of adults living in relative poverty AHC in 2012/13. However, some groups – including children, disabled people and ethnic minorities – were significantly more likely to live in relative poverty AHC than others. While in 2007/08 men (16.1%) were less likely to live in relative poverty AHC than women (19.1%), by 2012/13 this situation had reversed (19.8% and 17.0% respectively).

Child poverty

In 2012/13, more than one in five children in Scotland were living in relative poverty AHC (22.4%). This is broadly the same rate as in 2007/08. A higher proportion of children than adults lived in relative poverty AHC, and poverty rates were highest for the very youngest children (0 to 4 years) and for young people aged 16 to 24.

There were no differences in the relative poverty AHC rate between disabled and non-disabled children or between boys and girls.

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[33] Unless otherwise stated, the figures reported here, on poverty, including child poverty, are from analysis specifically for the *Is Britain Fairer?* review using Households Below Average Income statistics. See data tables EF2.1 and CF2.2.

Young people in poverty

People aged 16 to 24 were much more likely than others to be living in relative poverty AHC in 2012/13 (38.2%). There was a widening of the gap between the youngest adults and all other adult age groups between 2007/08 and 2012/13. While the percentage of 16 to 24 year olds in relative poverty AHC increased from 28.8% to 38.2%, the percentage of 65 to 74 year olds in poverty decreased from 14.3% to 10.6%.

In 2012/13, children who lived in a household headed by someone from an ethnic minority were significantly more likely to live in relative poverty AHC (43.4%) than those in a household headed by someone who was White (21.4%).

Disabled people

The number of disabled people living in relative poverty AHC in 2007/08 was 24.3% compared with 15.8% of non-disabled people. By 2012/13, the proportion of disabled people in relative poverty AHC had fallen to 21.4%, while the proportion of non-disabled people in poverty had risen to 17.3%. The gap between disabled and non-disabled people therefore narrowed.

Ethnic minorities

People from ethnic minorities are much more likely than White people to live in relative poverty AHC. In 2012/13, 32.1% of people from ethnic minorities live in relative poverty AHC, compared with 18.0% of White people.

In-work poverty

Just over half (52%) of working age adults in poverty are in 'in-work poverty', that is they are living in households with at least one adult in employment (Scottish Government, 2015f). Scottish Government (2015f) identified three main inter-related factors that influence the amount of income a household receives – low pay, the number of hours of paid work done, and income gained and lost through the welfare and tax systems.

Material deprivation

Material deprivation is a measure of poverty based on the extent to which people can afford items and activities that are believed to be necessary.[34] Data are used to look at the material deprivation score of people above the relative poverty level. A higher score means greater deprivation. Material deprivation overall increased across Scotland. Within this overall increase, disabled people and women were particularly affected.

In both 2007/08 and 2012/13, disabled people had a higher mean deprivation score than non-disabled people, and the gap did not change over time. Women had a higher mean deprivation score than men in both 2007/08 and 2012/13, with no change in the gap over time.

Between 2012/13 and 2013/14, there was a fivefold increase in the number of people receiving emergency food aid (Scottish Government, 2014g). Some participants in a Scottish Government study (2014h) had to make difficult decisions about whether to spend money on food or heating.

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[34] Unless otherwise stated, the figures reported here, on material deprivation, are from analysis specifically for the *Is Britain Fairer?* review using data from the Family Resources Survey. See data tables EF2.2 and CF3.2.

5.6 Access to childcare

The extent to which childcare supply meets demand is difficult to assess.

UK-wide research by the Family and Childcare Trust found that several local authorities in Scotland had no data on childcare supply and demand (Rutter, 2015). However, data on availability of childcare services indicated that between 2012 and 2013, the number of registered services (childminding and daycare) decreased by 1.3% (Care Inspectorate, 2014). The proportion of day care services offering additional services, such as breakfast clubs, increased slightly from 27% to 29%. There were more services in the least deprived areas compared with the most deprived areas of Scotland.

Chapter 6
Health and care

This chapter discusses health status, premature death (including life expectancy, infant mortality and suicide) and access to healthcare (including mental health services).

Responsibility for National Health Services in Scotland is devolved and sits with the Scottish Government. NHS Boards plan, commission and deliver NHS services, including hospital and community health services. The Scottish Government has initiated a programme of reform, to be completed by April 2016, to integrate health and social care services.

The chapter highlights a number of areas of progress over the review period, including:

- The gap in life expectancy between men and women narrowed between 2007–09 and 2011–13. Scotland saw a greater decrease in this gap than England and Wales.

- The suicide rate decreased between 2008 and 2013.

- Although higher proportions of adults from ethnic minorities were at risk of poor mental health in 2008, this was not the case in 2012.

- The proportion of young people (aged 13 and 15) drinking once a week fell between 2008 and 2013. The proportion of young people smoking also reduced between 2008 and 2013.

A number of challenges are also highlighted, including:

- Life expectancy is lower for both men and women in the most deprived areas of Scotland than in the least deprived areas.

- There is little evidence about life expectancy for those who share protected characteristics other than gender.

- Increasing proportions of women described their health as bad or very bad between 2008 and 2012.

- Self-reported health status for people who share some protected characteristics was worse (in the 2011 Census), including Gypsy/Travellers (compared with the general population) and older Indian, Pakistani and Bangladeshi women (compared with men in these ethnic groups).

- Between 2008 and 2012, there was an increase in the proportion of adults aged 25 to 34 at risk of poor mental health.

- The suicide rate is higher for men and for people living in deprivation.

6.1 Health status

Increasing proportions of adults described their health as bad or very bad. Bad health particularly affected women, disabled people, those in 'routine' and 'lower supervisory and technical' occupations, and Gypsy/Travellers:[35]

- Between 2008 and 2012, the proportion of adults in Scotland who described their health as bad or very bad increased, from 7.1% to 8.6%.

- Women saw higher than average increases in reported bad health between 2008 and 2012. The proportion of women reporting bad or very bad health increased from below average in 2008 (6.7%) to above average in 2012 (9.0%). There was no difference in the proportion of men who reported bad or very bad health.

- A higher proportion of disabled adults reported bad health compared with non-disabled adults. The proportion of disabled people who reported bad or very bad health did not change between 2008 and 2012.

- Bad or very bad health increased significantly for people in lower supervisory and technical occupations between 2008 and 2012 (increasing from 9.0% to 13.8%).

Scottish Government analysis (2014b, 2015e, 2015g) of the 2011 Census also found:

- Older Indian, Pakistani and Bangladeshi women reported considerably worse health than older men in these ethnic groups.

- Gypsy/Travellers reported poorer health than the general population. A greater proportion of Gypsy/Travellers rated their health as bad or very bad (15%) compared with the average for Scotland (6%).

- The majority of recent migrants (people born outside the UK and who had been living in Scotland for less than 10 years) report their general health was good or very good.

People with learning disabilities have poorer health than the general population. Studies (Scottish Government, 2013b) have found high rates of previously unrecognised or poorly managed medical conditions among people with learning disabilities. People with learning disabilities are more likely than others to be exposed to common causes of poor health such as poverty, poor housing, lack of employment and social isolation.

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[35] Unless otherwise stated, the figures reported here, on poor self-reported health, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Health Survey. See data table EB2.1.

6.2 Premature death

Life expectancy

Life expectancy is influenced by a range of factors including poverty, housing, education and employment. These factors also influence patterns of health-related behaviours such as alcohol consumption, diet and exercise, and smoking. Overall, life expectancy rose and the gender gap narrowed.[36] There is a lack of evidence on life expectancy rates for those with certain protected characteristics or other marginalised groups:

- Life expectancy at birth[37] in Scotland rose between 2007–09 and 2011–13 from 75.3 years to 76.8 years for men, and from 80.1 to 80.9 years for women. Life expectancy was lower in Scotland than in England and Wales.

- Between 2007–09 and 2011–13, life expectancy increased for both men and women, though the increase for men was larger. The life expectancy gender gap at birth narrowed by 0.6 years as a result, leaving a gap of 4.1 years.

- Life expectancy at birth is higher for both men and women in the least deprived areas of Scotland than in the most deprived areas (Scottish Public Health Observatory, 2014).

- Mortality among 15 to 44 year olds was a cause for concern, with no net improvement for either men or women since the mid-1980s. Male suicide and lung cancer in women contributed to early death in this population (Scottish Government, 2014i).

- People with mental health problems experience higher mortality rates than people without. Analysis of 2011/12 data found that death rates for adults aged 18 to 64 who had a history of mental health problems were higher (8.5 per 1,000), compared with the general population (3 per 1,000) (Mental Welfare Commission for Scotland, 2014).

- There is little evidence about life expectancy for those with certain protected characteristics or other marginalised groups.

Infant mortality

The infant mortality rate decreased between 2008 and 2013 (from 4.2 to 3.3 per 1,000 live births).[38] Healthcare Improvement Scotland (HIS) (2014) found factors associated with an increased probability of foetal and infant deaths were older mothers, obesity, deprivation, smoking and alcohol consumption, substance misuse and lack of maternal employment.

There is limited evidence on infant mortality by protected characteristics.

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[36] Unless otherwise stated, the figures reported here, on life expectancy, are from the ONS National Life Tables. See data table EA1.1.

[37] Life expectancy at birth is the number of years a newborn baby would live if current patterns of mortality at the time of birth stayed the same throughout its life.

[38] The figures reported here, on infant mortality in Scotland, have been derived from Healthcare Improvement Scotland (2014). See data table CA1.

Lifestyle factors

Lifestyle decisions are influenced by a wide range of factors. The indicators below – alcohol consumption, obesity and smoking – give an overview of trends in Scotland but we do not consider the impact and influence of these factors.[39]

- The proportion of adults exceeding sensible drinking guidelines decreased between 2008 and 2012. Disabled people and women were less likely to exceed the guidelines. However, the proportion of 65 to 74 year olds exceeding drinking guidelines increased over this time.

- The Scottish Schools Adolescent Lifestyle and Substance Use Survey (SALSUS) (NHS National Services Scotland, 2014) showed that the proportion of young people drinking once a week or more fell between 2008 and 2013, for both 13 and 15 year olds (from 17.0% to 6.8%).

- From 2008 to 2012, the proportion of adults who were overweight or obese did not change significantly (65.1% in 2008, 64.3% in 2012). In both 2008 and 2012, men aged 16 and over and disabled adults were more likely to be overweight or obese than women and non-disabled adults.

- The proportion of adults who were current smokers did not change between 2008 and 2012 (24.5% in 2012). The proportion of 13 and 15 year olds who were current smokers reduced between 2008 and 2013 (from 14.6% to 8.2%). Higher proportions of girls smoked (8.9% in 2013) compared with boys (7.4%).

- There were no significant differences in smoking prevalence between men and women. Disabled adults were more likely to smoke compared with non-disabled adults (29.2% compared with 22.4% in 2012).

- Pooled data from 2008 to 2011 found that Pakistani (13%) and Asian 'Other' (9%) ethnic groups were significantly less likely to be current smokers than the national average (25%) (Scottish Government, 2012b).

Suicide

During the review period, a tailored national action plan for the prevention of suicide was produced: the Scottish Government's suicide prevention strategy (2013–16). The strategy seeks to improve engagement with people in distress, change the way suicide is talked about in Scotland, and support improvements in how the NHS responds to people who are suicidal (Scottish Government, 2013c).

Between 2008 and 2013, the suicide rate in Scotland decreased among people aged 15 and over – from 19.1 per 100,000 to 16.6.[40] Rates decreased between 2008 and 2013 for both men and women, though men continued to be at significantly higher risk of suicide – in 2013, this was 26.3 per 100,000 for men compared with 7.6 per 100,000 for women. There is a clear link between suicide rates and deprivation (Information Services Division Scotland (ISDS), 2014; Scottish Public Health Observatory, 2014). Work by the Scottish Public Health Observatory showed the suicide rate for 2010–14 was more than three times higher in the most deprived tenth of the population compared with the least deprived tenth (24.5 deaths per 100,000 population compared with 7.5). This difference has decreased between 2001–05 and 2010–14.

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[39] The figures reported here, on healthy lifestyles, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Health Survey. See data tables EB4.1 (a, b, e).

[40] Unless otherwise stated, the figures reported here, on suicide rates, are from analysis specifically for the *Is Britain Fairer?* review using data from the ONS and the National Records of Scotland. See data table EA3.3.

Increased suicide risk was associated with both socio-demographic characteristics (that is, higher number of males, people of 'middle age' and those who were single or divorced), and socio-economic characteristics (that is, increasing disadvantage and deprivation) (ISDS, 2014).

6.3 Access to healthcare

Evidence suggests that some groups such as Gypsy/Travellers, transgender people and people who need palliative care can experience problems accessing healthcare services.

Gypsy/Travellers

In *How fair is Britain?* (EHRC, 2010b), it was noted that the physical and mental health of Gypsy/Travellers was poorer than the rest of the population, and this group experienced poorer access to GPs and other primary care services.

The Scottish Parliament (2012) noted that some GP practices would not register Gypsy/Travellers on the grounds that they had no fixed address or photographic ID, or could not guarantee that they would stay in the area for at least three months.

In evidence to the Scottish Parliament's 2012 Equal Opportunities Committee on Gypsy/Travellers and Care, a range of approaches employed by Health Boards to improve services for Gypsy/Travellers were highlighted, including outreach initiatives, health visits to sites, and linking patients directly to GP practices and dentists (Scottish Parliament, 2012). Practice guidance has been produced for GPs on Gypsy/Traveller patients (NHS Health Scotland, 2015) and a revised GP registration form includes explicit guidance that the 'regulations relating to GP

registration apply equally to members of the travelling or settled populations' and 'there are no inherent obstructions which relate solely to the Gypsy/Traveller community' (Scottish Government, 2013d).

Lesbian, gay, bisexual, transgender people

LGBT people are less likely to access some key health services such as GP surgeries, and are more likely to use accident and emergency services and minor injury clinics. LGBT people who have been to their GP in the last year were more likely to rate their experience as poor or extremely poor than the general population (9% compared with 2%) (Stonewall Scotland, 2014b).

Specific evidence on the health of transgender people is limited. However, at UK level there is research which indicates that transgender people can experience problems accessing health services. A Trans Mental Health and Emotional Wellbeing Study in the UK and Ireland in 2012 (with part-funding from the Scottish Government) found that 6 out of 10 respondents had experienced negative questions, attitudes or services in relation to gender identity clinics (62%), mental health services (63%) and general health services (65%) (McNeil *et al*., 2012).

Refugees and asylum seekers

A study based on data from 2010/11 found that few refugees or asylum seekers had experienced any problems in accessing healthcare in Scotland (Scottish Refugee Council, 2011). Most of those who did were refused asylum seekers; reasons for non-registration included being asked for a letter from the Home Office, being new to the area, not knowing where to register or not having any health problems. More recently, a study (Da Lomba and Murray, 2014) of refused
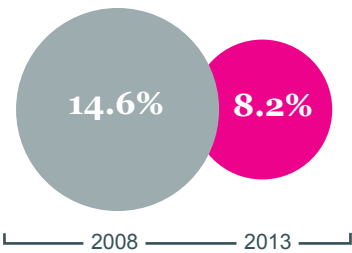
Life expectancy has increased across the population but is lower for:

- Men than women
- People living in deprived areas than those in more affluent areas
- People with mental health problems than those without

Improvements in

The proportion of 13 and 15 year olds who were current smokers reduced.

14.6% (2008) **8.2%** (2013)

Infant mortality decreased

Per 1,000 live births

4.2 — 2008

3.3 — 2013
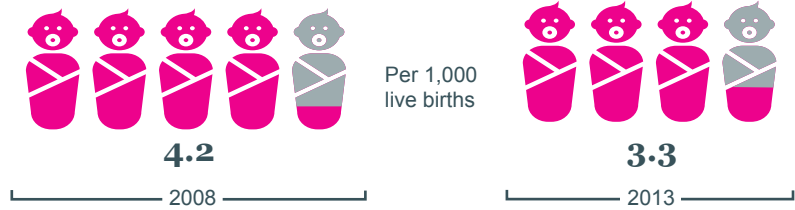
The proportion of adults who exceeded sensible drinking guidelines decreased between 2008 and 2012.

There was an increase in the proportion of women who reported bad or very bad health.

6.7% 2008 **9.0%** 2013
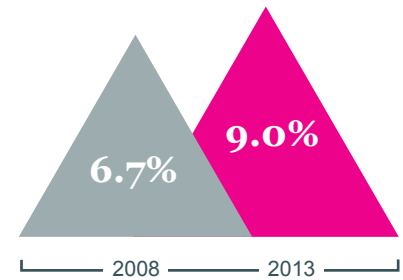
There was no overall change in risk of poor mental health in 2012

14.8% 2008 **15.2%** 2012

Except for people aged 25-34

14.6% 2008 **19.8%** 2012
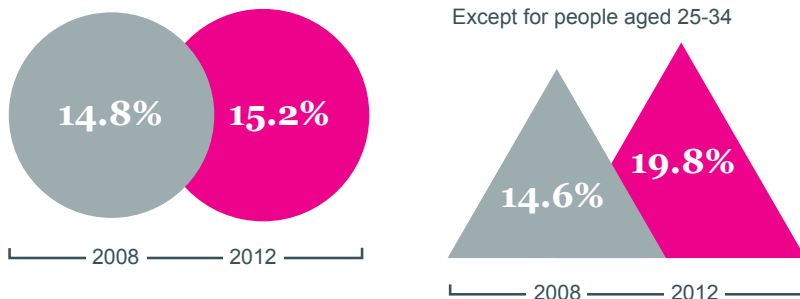
The risk of poor mental health was greater for:

- Women (**17.5%** at risk compared to **12.7%** of men)
- Disabled people (**26.9%** at risk compared to **10%** of non-disabled people)

Suicide

The overall rate decreased for those aged 15+

Per 100,000 inhabitants

19.1 (2008) 16.6 (2013) 26.3 (Men) 7.6 (Women)
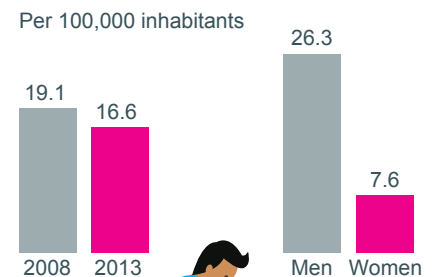
Men have a higher rate than women

Using the evidence that we have gathered, there are areas where Scotland has improved and got fairer, and areas where it has got worse. Improvements need to be made across the board to really aim for a fairer Scotland.

All references available at: www.equalityhumanrights.com/IsScotlandFairer

asylum seekers' access to and experiences of maternity care in Glasgow found that, although women who had received a negative decision on their asylum claim experienced difficulties relating to language and information, they nonetheless received access to free NHS primary and secondary care.

Access to end of life and palliative care

End of life care helps those with advanced, progressive or incurable illness to live as well as possible until they die. Approximately 55,000 people die in Scotland each year. Most deaths are not sudden (NHS Scotland, 2008). There was some evidence of inequalities in end of life care:

- It is estimated that around 11,000 people who need palliative care in Scotland each year are not accessing it. Access to palliative care varies depending on a person's condition, where they live and care setting. Lower levels of awareness and language differences among ethnic minorities may limit use of these services (Marie Curie, 2015).

- There is worse access to palliative care for marginalised groups, including people experiencing homelessness, prisoners, and people with learning difficulties (Scottish Parliament, 2015a).

Access to mental health care

There was no overall change in the proportion of adults who were at risk[41] of poor mental health between 2008 and 2012. However, some groups, such as women, disabled people and LGBT young people, were at higher risk of poor mental health:[42]

- In 2012, 15.2% of adults were at risk of poor mental health. Women were more at risk of poor mental health than men, in both 2008 and 2012 (17.5% compared with 12.7%, in 2012).

- Between 2008 and 2012, there was an increase in the proportion of adults aged 25 to 34 at risk of poor mental health. The risk of poor mental health across all age groups was higher for respondents in 'routine' occupations than for those in 'higher managerial, administrative and professional' occupations.

- Although higher proportions of adults from ethnic minorities were at risk of poor mental health in 2008, as compared with White adults, this was not the case in 2012.

- In 2012, disabled people were more at risk of poor mental health than non-disabled people (26.9% compared with 10%). However, a number of people will identify as disabled because of a mental health condition.

Between 2008 and 2012, there was no significant change in the proportion of children and young people at risk of poor mental health (6.7% in 2012, for 13 to 15 year olds).[43]

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[41] Risk is derived from answers to a series of 12 questions on concentration abilities, sleeping patterns, self-esteem, stress, despair, depression and confidence (widely known as GHQ-12) asked within the Scottish Health Survey.

[42] Unless otherwise stated, the figures reported here, on poor mental health, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Health Survey. See data table EB1.2.

[43] Unless otherwise stated, the figures reported here, on children and young people reporting poor mental health, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Health Survey. See data table CB1.2.

However, research looking specifically at emotional and behavioural issues found emotional problems have worsened between 2010 and 2013 for young people, particularly 15 year old girls (Scottish Government, 2015h).

A survey by LGBT Youth Scotland in 2012 found that LGBT young people are at risk of experiencing mental health problems. This can be as a result of prejudice and discrimination, negative responses and rejections, pressure to conform to gendered norms and expectations of heterosexuality, and fears of experiencing homophobia, biphobia or transphobia (LGBT Youth Scotland, 2013).

Scotland has a target to ensure faster access to psychological therapies for all patients (Scottish Government, 2014j). The target is 18 weeks from referral to treatment.

Separate targets were introduced relating to access to specialist child and adolescent mental health services (CAMHS). The target was a maximum 26-week wait from referral to treatment from March 2013, reducing to 18 weeks from December 2014 (ISDS, 2015). Data (ISDS, 2015) published in 2015 showed that 73% of those who started their treatment in the period July to September 2015 had been waiting less than 18 weeks. This is down from 78% in the same quarter in the previous year.

Compared with other mental health patients, patients with a learning disability or autism are likely to have longer stays in mental health, addiction or learning disability inpatient beds. The average time since admission for adult patients with a learning disability or autism is 33 months, compared with 5 months for other mental health patients (Scottish Government, 2015i).

Her Majesty's Inspectorate of Constabulary in Scotland (HMICS, 2014) found little evidence that police stations were being used as a place of safety for people in mental health crisis. The exceptions were where there was a lack of cooperation from local mental health services and a reluctance by local hospitals to accept people brought in under section 297 of the Mental Health (Care and Treatment) (Scotland) Act 2003.[44]

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[44] Section 297 is the power to remove a mentally disordered person from a public place to a place of safety by the police.

Chapter 7
Justice, security and the right to life

This chapter discusses crime (including homicide, violent crime, hate crime, sexual exploitation and abuse), fairness in the justice system, and detention and custody.

Responsibility for almost all crime and for the criminal justice system, police, prisons, and health sits with the Scottish Government. Responsibility for immigration sits with the UK Government.

The chapter highlights a number of areas of progress over the review period, including:

• There was a fall in the homicide rate, specifically for male victims and victims aged 16 to 50.

• There was a fall in the proportion of adults reporting they are victims of violent crime, sexual violence and domestic violence.

• There was a fall in the proportion of people who feel unsafe being alone at home at night, or walking alone in the local area after dark.

• Confidence in the criminal justice system increased.

• Police use of stop and search has been reviewed and is under reform.

• There was a drop in serious and minor assaults between prisoners in prisons.

A number of challenges are also highlighted, including:

• Police-recorded hate crime in relation to disability and sexual orientation increased.

• Some people – women, disabled people, older people and people who had never worked or were long-term unemployed – were more likely to report feeling unsafe.

• Confidence in the criminal justice system was lower for disabled people (compared with non-disabled people) and older people (compared with other age groups).

• Concerns were voiced by regulators about overcrowding in prisons.

7.1 Crime

Homicide

Homicide is the killing of one person by another. In Scotland, it includes all crimes of murder and culpable homicide.[45] Between 2008/09 and 2013/14, the homicide rate[46] decreased in Scotland (from 22.0 cases per million to 13.4 cases per million). The homicide rate fell more in Scotland than in England and Wales (combined), but remains higher in those countries.[47]

Some groups of people are more likely to be affected by homicide than others. A higher proportion of homicide victims were male than female – in 2013/14 the male homicide rate was 20.8 per million, compared with the female homicide rate of 6.5 per million. Between 2008/09 and 2013/14, the homicide rate decreased from 22.0 cases per million to 13.4 cases. A significant decrease in the homicide rate was evident for men and for people aged 16 to 50. No information is available on the ethnic origin of homicide victims.

There were five homicides of under-16s in 2008/09 and two in 2013/14. The numbers are too small to carry out any statistical analysis.

Violent crime

Between 2008/09 and 2012/13, the proportion of adults indicating they had been a victim of violent crime fell from 4.1% to 3.1%.[48] Some

groups were more likely to experience violent crime than others:[49]

- 16 to 24 year olds had seen a decrease in experience of violent crime (from 12% in 2008/09 to 8.2% in 2012/13) – but these rates remained the highest of all age groups.

- Men had also experienced a decrease in violent crime between 2008/09 and 2012/13, from 5.7% to 4.2%. Rates remained higher for men than for women (2.7% in 2008/09 and 2.2% in 2012/13).

- People with no religion experienced a decrease in violent crime (from 5.4% to 4.1%), but rates remained higher than for Christian people (2.5% in 2012/13).

Fear of crime

The proportion of adults who feel unsafe being alone at home at night, or walking alone in the local area after dark, fell between 2008/09 and 2012/13 (from 33.9% to 27.9%).

Older people, disabled people, women, and people who had never worked or were long-term unemployed were all more likely than others to feel unsafe:

- The proportion of disabled people feeling unsafe decreased (from 49.4% to 42.4%) but remained higher than for non-disabled people (31.1% in 2012/13).

- The size of the gap between disabled and non-disabled people did not change over the time period.

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[45] Culpable homicide is committed where the accused has caused loss of life through wrongful conduct, but where there was no intention to kill or 'wicked recklessness'.

[46] The number of homicide cases per one million of the population.

[47] Unless otherwise stated, the figures reported here, on homicide rates, are from analysis specifically for *Is Britain Fairer?* using data from the Scottish Government homicide records and Office for National Statistics (ONS) population estimates. See data tables EA2.1 and CA2.1.

[48] The figures reported here, on victims of violent crime in Scotland, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Crime and Justice Survey. See data table EC1.1.

[49] Note that there were no statistically significant findings for disability, sexual identity, ethnic minorities or religious minorities.

- In both 2008/09 and 2012/13, women felt more unsafe than men, and the size of the gap (24 percentage points) did not change.

- People who had never worked or were long-term unemployed felt more unsafe (37.7% in 2012/13) than other socio-economic groups (18.3% for higher managerial, administrative and professional, 20.9% for routine and manual).

- There was no difference by ethnic group in the proportion of adults who feel unsafe being alone at home at night, or walking alone in the local area after dark.

However, people from ethnic minorities, religious minorities and women were more likely than others to be worried about physical attack, sexual assault or being a victim of an acquisitive crime:[50,51]

- Overall, worry about physical attack, sexual assault or acquisitive crime decreased in Scotland from 55% in 2008/09 to 48.7% in 2012/13.

- Worry decreased across all age groups, and people aged 75 and over were the least worried of any age group (37%).

- Worry about physical attack or acquisitive crime also decreased for both disabled and non-disabled respondents. However, in both years a higher percentage of disabled people were worried about these crimes: in 2012/13, 54.3% of disabled respondents compared with 47.3% of non-disabled respondents.

- People from religious minorities were more concerned than those with no religion – 57.6% compared with 45.6% in 2012/13.

- Worry decreased for people from ethnic minorities, thus closing the gap between ethnic minorities and White people. Between 2008 and 2013, the percentage of ethnic minorities worried about these crimes decreased by 15.9 percentage points, while the percentage fell by 6.1 percentage points for White respondents.

Hate crime

A hate crime is any criminal offence that is perceived by the victim, or any other person, to be motivated by hostility or prejudice based on a person's actual or perceived race, religion, sexual orientation or disability; or by hostility or prejudice against a person who is or perceived to be transgender (Crown Prosecution Service, no date). Legislation for newer categories of hate crime (disability, sexual orientation and transgender) came into force in March 2010. Data therefore compares 2010/11 and 2013/14. Between 2010/11 and 2013/14, the number of cases of reported hate crime increased by 8% (from 5,387 to 5,804). The interpretation of this increase is difficult, as increased reporting could mean either that more hate crimes are occurring or that there is increased confidence in the police. Convictions for hate crime also rose by 27% during this period (from 1,405 to 1,788).

Hate crimes related to race were the most commonly identified hate crimes recorded by the police (accounting for 7 out of every 10 charges).[52] There was no significant change in the number of reported cases

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[50] Physical attack, sexual assault or acquisitive crime covers house break-in, being mugged or robbed, being physically assaulted or attacked in the street or other public place, involvement or being caught up in violence between groups of individuals or gangs, and sexual assault.

[51] The figures reported here, on worry about physical attack, sexual assault and acquisitive crime, are from analysis for the *Is Britain Fairer?* review using data from the Scottish Crime and Justice Survey. See data table EC4.2.

[52] Unless otherwise stated, the figures reported here, on convictions for hate crime, are from analysis specifically for the *Is Britain Fairer?* review using data from the Crown Prosecution Service and the Scottish Government. See data table ED1.3.

related to race when comparing 2010/11 and 2013/14, although numbers fluctuated between these years.

Hate crime recorded by the police related to disability and sexual orientation both increased between 2010/11 and 2013/14.[53] There was no change in the number of hate crimes recorded by the police related to transgender identity.

Between 2010/11 and 2013/14, religiously aggravated hate crimes fell by 35% from 898 to 587 (Scottish Government, 2014k). The Offensive Behaviour at Football and Threatening Communications (Scotland) Act 2012 criminalises religious hatred connected to football, providing an alternative legal route for tackling hate crime. As a direct result of this legislation, there were 48 'additional' religious hatred charges in 2013/14. When all legislation is considered, there was therefore a total of 635 charges related to religious prejudice in Scotland in 2013/14, a fall of 29% from 2010/11.

Sectarianism is 'a complex of perceptions, attitudes, beliefs, actions and structures, at personal and communal levels, which originate in religious difference and can involve a negative mixing of religion with politics, sporting allegiance and national identifications' (Scottish Government, 2015j). The Scottish Government Advisory Group on Tackling Sectarianism in Scotland (Scottish

Government, 2015j) found the perception of sectarianism is widespread and worrisome. It also found that while many people in Scotland can live their lives untouched by sectarianism, there is clear evidence that a minority of Scottish people report having been victims of sectarianism – and these experiences are not restricted to any particular religious or ethnic community.

Sexual violence

Over recent years there has been a series of initiatives to address sexual violence, including:

• the creation of a Sexual Assault Referral Centre that provides forensic medical examinations for complainants of sexual assault, and

• the Scottish Government's 'Equally Safe' Strategy (2014l) involving the Scottish Government, Police Scotland and health bodies partnering with organisations such as Scottish Women's Aid and Rape Crisis Scotland.

Survey data shows that the percentage of people in Scotland (aged 16 and over) who state they have been a victim of sexual violence over the past year fell from 1.6% in 2008/09 to 1.0% in 2012/13.[54] Young people and women were more likely to report being a victim.

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[53] Unless otherwise stated, the figures reported here, on police-recorded hate crime, are from analysis specifically for the *Is Britain Fairer?* review using data from the Crown Prosecution Service and the Scottish Government. See data table ED1.3.

[54] The figures reported here, on sexual violence, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Crime and Justice Survey. See data table EC1.3.

Police records show that the number of rapes or attempted rapes reported to the police increased from 963 in 2008/09 to 1,808 in 2013/14. The interpretation of this increase is difficult, as increased reporting could mean either that more rapes are occurring or that there is increased confidence in the police. There was also an increase in the number of convictions for rape or attempted rape.[55]

Domestic abuse

The number of domestic abuse incidents recorded by the police increased between 2008/09 and 2012/13, from 53,931 to 60,080. Incidents with a female victim and a male perpetrator represented 80% of all domestic abuse incidents recorded by police in 2012/13 (Scottish Government, 2013e). The number of convictions for domestic abuse increased.[56] The number of domestic abuse self-reported cases (as measured by the Scottish Crime and Justice Survey) fell from 142,000 in 2008/09 to 90,000 in 2012/13.

The percentage of adults aged 16 and over who reported being victims of partner violence over the past year decreased between 2008/09 and 2012/13 (2.9% to 2.1%).[57] Across both years, a higher proportion of 16 to 24 year olds reported being victims of partner violence during the past year compared with age groups 35 and over.[58] There were no significant differences in the percentage of adults who reported being victims of partner

violence over the past year between men and women, between White people and ethnic minorities, or between disabled and non-disabled people.

The Scottish Government has included financial abuse in its definition of domestic abuse since 2003, referred to as 'withholding money and other forms of controlling behaviour' (Scottish Government, 2015k).

Both Police Scotland and the Scottish Government include emotional abuse within their definition of domestic abuse, but there is no specific offence of emotional abuse in Scotland.

In 2012/13, the Scottish Crime and Justice Survey indicated that 2% of respondents who had a partner, or had been in contact with an ex-partner, had experienced at least one incident of psychological abuse in the last 12 months (McQueen, 2014). The proportion of respondents who experienced psychological abuse had decreased from 4% in 2008/09, but had remained at 2% since 2011/12.
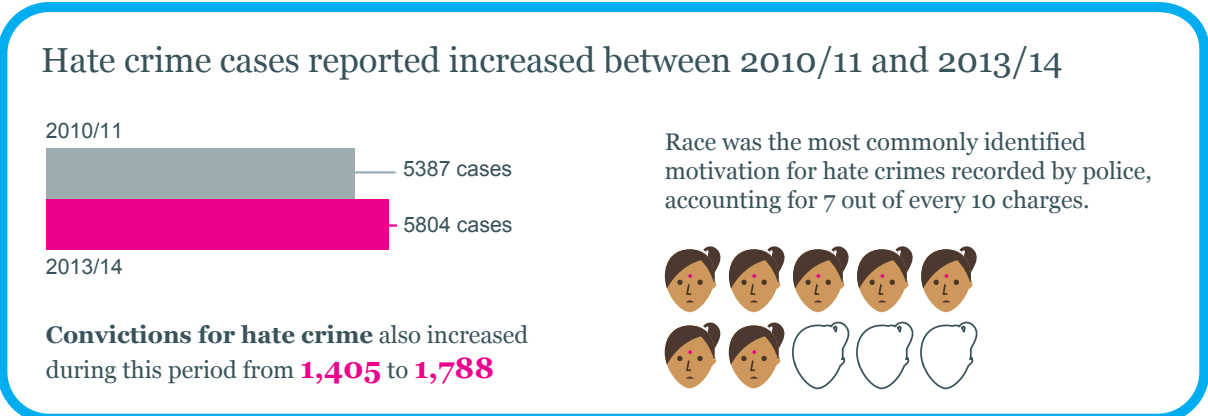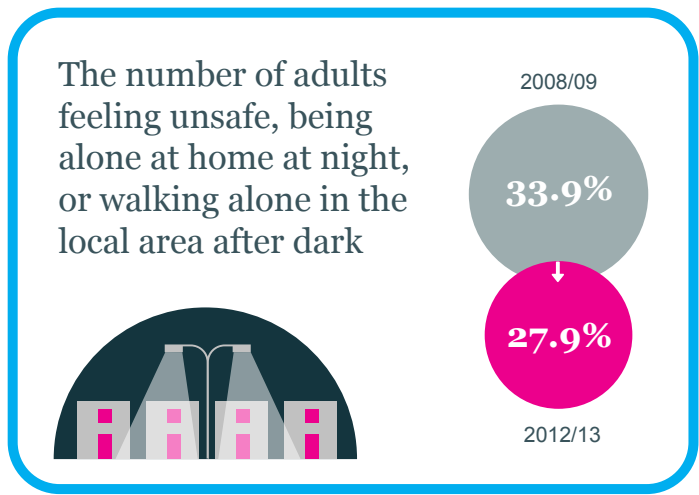
Data from the child protection register at July 2014 showed that over a third of cases (39%) involved children who were experiencing emotional abuse.

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[55] The figures reported here, on rape cases recorded by the police and convictions for rape, are from analysis specifically for the *Is Britain Fairer?* review using data from the Ministry of Justice and Scottish Government. See data table ED1.1.

[56] The figures reported here, on police-recorded domestic abuse, are from analysis specifically for the *Is Britain Fairer?* review of data from the Scottish Government on domestic abuse recorded by the police in Scotland. Data on prosecutions are from the Scottish Government Criminal Proceedings in Scotland. See data table ED1.2.

[57] Unless otherwise stated, the figures reported here, on convictions for domestic abuse, are from analysis specifically for the *Is Britain Fairer?* review of data from the Scottish Government Criminal Proceedings in Scotland. See data table ED1.2.

[58] The figures reported here, on self-reported domestic abuse in Scotland, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Crime and Justice Survey. See data table EC1.4.

Self-reported violent crime has decreased

2008/09
4.1%

3.1%
2012/13

Fairness in the criminal justice system

Agree that the criminal justice system provides an appropriately high standard of service for victims of crime

38.1% **51.8%**
2008/09 2012/13

Agree that the criminal justice system serves all communities equally and fairly

53.9% **64.1%**
2008/09 2012/13

Homicide rate for victims aged over 16 has decreased

2008/09
22%

13.4%
2012/13

The number of adults feeling unsafe, being alone at home at night, or walking alone in the local area after dark

2008/09
33.9%

27.9%
2012/13

Hate crime cases reported increased between 2010/11 and 2013/14

2010/11
5387 cases
5804 cases
2013/14

Race was the most commonly identified motivation for hate crimes recorded by police, accounting for 7 out of every 10 charges.

Convictions for hate crime also increased during this period from **1,405** to **1,788**

POLICE

Using the evidence that we have gathered, there are areas where Scotland has improved and got fairer, and areas where it has got worse. Improvements need to be made across the board to really aim for a fairer Scotland.

All references available at: www.equalityhumanrights.com/IsScotlandFairer

Child sexual abuse and exploitation

The Public Inquiry into Historical Child Abuse in Scotland, announced in May 2015, will consider the extent to which institutions with legal responsibility for the care of children failed in their duty to protect children from abuse, in particular to identify any systemic failures and make recommendations. This had not reported at the time of publication.

7.2 Fairness in the justice system

People's confidence in the criminal justice system is increasing, although confidence levels are not uniform across all groups. Stop and search by the police has been reviewed and is under reform.

Public confidence

This section draws on three measures of the Scottish criminal justice system, taken from analysis of the Scottish Crime and Justice Survey:

- **Confidence that the system provides an appropriately high standard of service for victims of crime.** Confidence increased from 38.1% in 2008/09 to 51.8% in 2012/13. Young people aged 16 to 24, non-disabled people and ethnic minorities were more likely to feel confident about this compared with older, disabled and White respondents.[59]

- **Confidence that the system serves all communities equally and fairly.** Confidence rose from 53.9% to 64.1%.

Young people aged 16 to 24, non-disabled people, and men were more likely to feel confident about this compared with older and disabled respondents.

- **Confidence that the system provides an appropriately high standard of service for witnesses.** Confidence increased from 42.7% in 2008/09 to 55.2% in 2012/13. Young people aged 16 to 24, non-disabled people, ethnic minorities and men were more likely to feel confident about this compared with older, disabled and White respondents, and women.

Stop and search

The use of stop and search powers in Scotland has been subject to significant review in recent years (Scottish Police Authority, 2014; Her Majesty's Inspectorate of Constabulary in Scotland (HMICS), 2015; Police Scotland, 2015).

In 2012/13, young people aged 16 to 24 were more likely to have contact with the police, either to be asked questions or searched, than other age groups.[60] In 2014, Police Scotland amended its policy in order to end the use of stop and search on children aged under 12 (Police Scotland, 2015).

The Scottish Government formed an advisory group to examine the use of stop and search powers in Scotland, which reported in August 2015. Police Scotland responded with an improvement plan. In September 2015, it was announced that the practice of non-statutory stop and search would cease in Scotland (Scottish Parliament, 2015b).

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[59] Unless otherwise stated, the figures reported here, on public confidence in the criminal justice system, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Crime and Justice Survey. See data table ED2.2.

[60] Unless otherwise stated, the figures reported here, on individuals who were stopped and searched, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Crime and Justice Survey. See data table ED2.1.

Appropriate justice for children and young people

The UN Committee on the Rights of the Child (UNCRC) has consistently called for the age of criminal responsibility to be raised across the UK. Its most recent list of issues raises the matter again (UNCRC, 2015). The UN Committee Against Torture (2013) and the European Social Committee have also expressed concerns. The UNCRC has set the standard minimum age of criminal responsibility at 12. The current minimum age of criminal responsibility in Scotland is 8. However, the Criminal Justice and Licensing (Scotland) Act 2010 raised the age of criminal prosecution from 8 to 12 years.

7.3 Detention and custody

This section considers the evidence on deprivation of liberty in the settings of prisons, police custody, health and care, and immigration detention.

Prisons

The overall incarceration rate for adults aged 16 and over did not change between 2008 and 2011 (1.8 per 1,000 for both).[61] Significant change between 2008 and 2011 was found for:

- young people where rates fell from 1.5 to 1.0 per 1,000 for 16 to 17 year olds, and from 4.2 to 3.4 per 1,000 for 18 to 20 year olds, and

- people aged 35 to 44 where rates increased from 2.2 to 2.7 per 1,000.

In 2011, higher incarceration rates were recorded for men (3.6 per 1,000 compared with 0.2 per 1,000 for women), people aged 21 to 24 and 25 to 34 (4.3 per 1,000 and 4.2 per 1,000 respectively) and African/ Caribbean/Black people (4.0 per 1,000).

The HM Chief Inspector of Prisons for Scotland (HMIPS, 2014) reported that overcrowding continued to be a significant problem. Regular overcrowding reduced the ability of prisons to provide sufficient work, education and exercise.

Suicide prevention is one of the most challenging tasks of prison management and there are safeguarding and prevention systems in place. The Scottish Prison Service (SPS) (2015a) recorded four suicide/overdose deaths in prison custody in 2010/11, seven in 2011/12, five in 2012/13 and three in 2013/14.[62] HMIPS (2014) reported that Scottish prisons were, broadly speaking, safe places.

Both serious and minor assaults in Scottish prisons between prisoners dropped between 2013 and 2014 (77 to 70 serious assault, and 508 to 485 minor assaults) (SPS, 2015b). At HM Young Offenders Institution Polmont, a total of 563 offender-on-offender minor assaults were recorded between November 2011 and October 2012. This was a decrease from the previous 12 months, but higher than any other establishment (HMIPS, 2013).

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[61] Unless otherwise stated, the figures reported here, on the incarceration rate, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Government Prison Statistics. See data table ED3.1.

[62] Figures correct as of June 2015.

Secure care for young people

The rate of 12 to 17 year olds in secure care accommodation in Scotland was 2.4 per 10,000 in 2008 and 2.2 per 10,000 in 2013.[63] Rates were significantly higher for 15 year olds than all other age groups, although this fell between 2008 and 2013 (6.0 per 10,000 to 3.0 per 10,000). In both 2008 and 2013, the rate of detention in secure care accommodation for 12 to 17 year olds was lower for girls (1.6 per 10,000) than for boys (2.8 per 10,000).

Police custody

Many detainees in police custody have complex issues. Work by HMICS (2014) found that 68% of detainees declared medical, mental health and/or substance misuse issues or problems (of 310 police records sampled). HMICS stated in 2014 that management of detainees with mental health issues remained an area for improvement.

HMICS (2014) undertook a thematic review of police custody in Scotland, and recommended that Police Scotland should review its approach to the use of force in custody, and should review the wider security of the custody environment.

Police Scotland reported four non-natural deaths in police custodial settings in 2010, three in 2011 and none in 2012.[64] All victims were male. Five of the deaths were drug related. There were a further six deaths in 2013 and two in 2014, but Fatal Accident

Inquiries had not been concluded at the time of writing.[65]

A report by HMICS (2013) found that a child being held in custody is now a rare occurrence in Scotland. However, children as young as 11 may still be subject to overnight detention in police cells (McLaughlin, 2013). Between 2008 and 2014, there were seven suicides of people in custody aged 15 to 20. One was aged 15 to 17, and six were aged 18 to 20.

Health and care

Concerns were raised that people with dementia or another cognitive impairment were being confined to hospital wards to safeguard their physical health without any underlying legal process (Scottish Law Commission, 2014). Furthermore, some people in residential facilities were subject to considerable restriction in their daily lives. The Scottish Law Commission (2014) called for an authorisation process and proposed some reforms.

In Scotland, non-natural deaths of patients detained under the Mental Health (Care and Treatment) (Scotland) Act 2003 should be referred to the Procurator Fiscal, and in some cases the Mental Welfare Commission for Scotland (MWC) may formally investigate (and must be notified of all deaths by suicide).

The Adults with Incapacity (Scotland) Act 2000 provides a framework for safeguarding the welfare of patients who lack capacity

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[63] The figures reported here, on young people in secure care accommodation, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Government's Social Work Statistics. See data table CD2.2.

[64] These updated figures were provided to the Commission by Police Scotland in correspondence dated 14 July 2015.

[65] Deaths from non-natural causes include, for instance, homicides, suicides and accidents.

due to mental illness, learning disability or a related condition. Judgments in Scotland have found that the review and appeal mechanisms for detaining people on mental health grounds are sufficient.[66] However, there have been concerns expressed in relation to:

• the operation of safeguards around detention in health and care settings – particularly in remote and rural areas, and

• restrictions on daily lives for some people in residential facilities (Scottish Law Commission, 2014).

There are concerns about restraint of detained individuals in health, care and detention settings. In Scotland, the MWC (2012) found that some individuals were restrained and prevented from leaving hospital without proper recording and notification of nurses' detention powers.

In 2013, there were 259 patient suicides[67] where the person had been in contact with mental health services in the 12 months prior to death, a reduction from 284 in 2011 (National Confidential Inquiry into Suicide and Homicide by People with Mental Illness, 2015).

Immigration detention

Immigration controls remain the responsibility of the UK Government and so there is a UK-wide approach. The UK continues to be the only European Union (EU) member without a time limit on how long it can detain people subject to immigration controls.[68] People can be detained in the UK for months or years, in contrast to the 6- to 12-month time limit set under EU rules. The UK has exercised its right to opt out of these. The only premises of this type in Scotland is Dungavel Immigration Removal Centre (IRC).

Only Her Majesty's Inspectorate of Prisons (for England and Wales) (HMIP) can inspect or conduct unannounced visits to Dungavel IRC. An unannounced visit to Dungavel in 2015 reported that it was a 'safe place' but that 'detainees were routinely handcuffed for outside appointments, regardless of individual risk' and that 'some detainees were held [in the separation unit] for long periods' (HMIP, 2015).

The UK Government does not routinely publish figures on self-harm in IRCs. The unannounced inspection in 2015 reported low levels of self-harm in the centre (seven detainees had self-harmed over the preceding six months). Staff at Dungavel were considered to be aware of and alert to vulnerability, and were appropriately trained with access to proper equipment and support (HMIP, 2015).

The detention of children at Dungavel ceased in 2010.

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[66] For the purposes of complying with Article 5(4), *Black v Mental Health Tribunal for Scotland [2012] SC 251.*

[67] Includes inpatients, crisis resolution and home treatment patients, and patients recently discharged from hospital.

[68] Immigration removal centres (IRCs) are used to detain individuals to establish their identity or pending their removal where they have been refused leave to enter the UK at the border. Detained individuals also include those who have no valid leave to remain in the UK, those who are considered to pose a risk of absconding and would fail to comply with any conditions attached to the grant of temporary admission or release, and those whose release into the community would not be for the public good. The latter include time-served foreign national prisoners. IRCs are also used to hold some foreign nationals awaiting decisions on their asylum claims in the 'detained fast track'. The detained fast track was suspended on 2 July 2015.

Chapter 8
The individual and society

This chapter discusses personal, family and social life, and political participation.

This chapter is broad and covers a range of issues that span both devolved and reserved powers.

The chapter highlights a number of areas of progress over the review period, including:

- Legislation enabling same-sex couples to marry was introduced.

- The rise in public acceptance of people who are lesbian, gay or bisexual (LGB) continued.

- Most people felt they could rely on the support of family, friends and neighbours.

- There were small improvements to the gender balance of our elected representatives.

- There was increased political participation (including of young people) and an increased proportion of people perceiving that they can influence local decisions.

- British Sign Language (BSL) was recognised as a language in 2011 and the British Sign Language (Scotland) Act was passed in 2015.

A number of challenges are also highlighted, including:

- There were gaps in evidence in relation to:
  - the prevalence of forced marriage
  - whether people feel able to practise their religion or belief freely
  - stigma, discrimination and harassment in relation to transgender people, and
  - Islamophobia and anti-Semitism.

- There was little improvement in public attitudes to mental ill health.

- Stigma remained towards Gypsy/Travellers and Roma people.

- Lesbian, gay and bisexual (LGB) people and people from ethnic minorities experienced harassment.

- The notification period for peaceful assembly remained long.

8.1 Personal, family and social life

The legal framework governing people's freedom to form and maintain relationships of their own choosing has been significantly strengthened and clarified. The support of family, friends, neighbours and others was increasingly seen as key to building resilient communities, whereas stigmatisation of certain groups remained of concern.

Freedom to choose relationships

The rights of individuals to marry and to maintain and form relationships of their own choosing were significantly extended by new legislation.

The Marriage and Civil Partnership (Scotland) Act 2014:

• extended marriage to same-sex couples

• enabled those who were already civil partners to convert their partnership into a marriage if they wished to do so, although civil partnerships currently remain open only to same-sex and not to opposite-sex couples, and

• enabled transgender people who are married to change their legal gender without first ending their marriage, and enabled both partners in civil partnerships to change their legal gender without first dissolving their partnership.

The Scottish Social Attitudes Survey (Reid *et al.*, 2014) included a question on attitudes towards same-sex relationships in 2010. This showed a marked decrease in the proportion of respondents who thought that sexual relationships between two adults of the same sex were mostly or always wrong (falling from 41% in 2002 to 27% in 2010).

Forced marriage is established as a breach of human rights, and is prohibited by a range of international and domestic legal frameworks. The Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011 was introduced to provide a specific civil remedy for those threatened with forced marriage, and those already in a forced marriage. It allows people to apply for a Forced Marriage Protection Order (FMPO). This is a civil measure, although breaching an FMPO is a criminal offence. Since the introduction of the 2011 Act, 13 FMPOs have been issued in Scotland, and no breaches have been recorded. There are no reliable estimates currently on the prevalence of forced marriage in Scotland.

To extend protection for those at risk, the Scottish Government in 2014 made it a criminal offence to force a person into marriage (section 122 of the Anti-Social Behaviour, Crime and Policing Act 2014). An FMPO may run in tandem with criminal investigation/proceedings.

Freedom to practise religion or belief

There is limited Scotland-specific evidence about whether people feel able to practise their religion or belief freely. In Scotland, more than a third of the population reported to the 2011 Census that they had no religion (Scottish Government, 2014b).

Specific evidence from a survey of the prisoner population in Scotland found that, in 2013, most adults in custody (88%) were able to practise their religion or belief, and that most (82%) felt that their religious beliefs were respected by staff. However, one in ten (12%) reported that the food did not meet their cultural or religious needs (Carnie *et al.*, 2014).

Privacy of personal information

The Regulation of Investigatory Powers (Scotland) Act 2000 governs the powers of public bodies to carry out surveillance and investigation, including the interception of communications. However, research has found widespread agreement that the legal framework across the UK needs significant reform as it is seen as too complex, piecemeal and not adequately addressing developments in technology (EHRC, 2012).

The Scottish Government's approach to collecting and retaining DNA samples was given a favourable mention in the *S and Marper v United Kingdom* (2008) judgment for being consistent with 'the need for an approach which discriminates between different kinds of cases and for the application of strictly defined storage periods for data, even in more serious cases'. This was in contrast to the approach in England and Wales at that time where DNA samples could be collected from anyone charged with any recordable offence and retained indefinitely.

Availability of support

Having the support of family, friends, neighbours and others in the local community is increasingly seen as key to building resilient communities and promoting the health and wellbeing of individuals (Mind and the Mental Health Foundation, 2013).

Overall, the proportion of people reporting support from family, friends and neighbours in their neighbourhood increased in 2013 compared with 2007/08.[69] However, some people reported lower levels of support than others:

• people aged 16 to 24 compared with older age groups

• people with a minority religion compared with those with no religion, and

• people from ethnic minorities compared with White people.

Research (Carnie *et al.,* 2014) reported a greater emphasis on the need to maintain and promote family contact while in custody, which had resulted in improved satisfaction rates for visits among Scottish prisoners.

The Social Care (Self-Directed Support) (Scotland) Act 2013 came into force in April 2014, providing the legal basis for choice about care and support. In addition, the Children and Young People (Scotland) Act 2014 gave care leavers the right to stay in care in all settings until the age of 21, and to access support until the age of 26.

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[69] The figures reported here, on the amount of support available in respondents' neighbourhoods in Scotland, are from analysis specifically for the *Is Britain Fairer?* review using data from the Scottish Household Survey. See data table EH1.1b.

Community transport

Access to, and affordability of, transport in Scotland can have an effect on access to services, education, work and leisure, particularly in rural areas (Scottish Human Rights Commission (SHRC), 2012). Around one in ten people in remote and accessible rural areas in Scotland does not have access to a bus service. These areas also have a higher proportion of older people and disabled people (Scottish Government, 2015l).

The Scottish Parliament Infrastructure and Capital Investment Committee (2013b) noted funding challenges for community transport in Scotland. A review of evidence in 2015 found that good practice is developing around community bus networks, car sharing and improved accessibility of ferries and terminals (SHRC, 2015).

Ability to communicate in your language of choice

The 2011 Census (Scottish Government, 2014b) highlights:

- 1.4% (62,000) of people aged 3 and over were reported as being unable to speak English well
- 1.1% (57,000) reported being able to speak Gaelic, and
- 0.24% (12,500) reported using British Sign Language (BSL) at home.

The Gaelic language is an official language of Scotland and is also protected as a minority language under the European Charter for Regional or Minority Languages.

The Scottish Government formally recognised BSL as a language in 2011.

In 2014, court action was raised against one Scottish health board for having failed to make reasonable adjustments under the Equality Act 2010, after allowing a deaf person to spend six days in hospital in 2013 without any access to a sign language interpreter. This was despite her repeated requests for one to be provided. This health board now has in place a formal agreement with the EHRC to ensure that it will meet its duty so that all deaf patients have their communication needs met when accessing services.

The Scottish Government supported the British Sign Language (Scotland) Bill, which was passed unanimously in Parliament on 17 September 2015 and received Royal Assent on 22 October 2015. The Act aims to promote the use and understanding of BSL and requires Scottish Ministers to publish a national BSL plan, and listed authorities to publish their own BSL plans.

Freedom from stigma

Stigma includes experiences such as name-calling, ridicule and regular hurtful criticism that have a cumulative effect, and feeling humiliated or ashamed as a result of the attitude and behaviour of others. There are gaps in robust evidence relating to stigma in Scotland in relation to transgender people, Gypsy/Travellers, Islamophobia and anti-Semitism.

The Scottish Household Survey (Scottish Government, 2014m) is one large-scale survey that collects information on the extent to which people experience discrimination and harassment. However, much of the evidence is drawn largely from smaller-scale, one-off and non-representative studies that

are indicative only. This means that few conclusions can be drawn about how much one group is stigmatised compared with another, or about progress or regression over time.

Some people are more likely than others to experience discrimination and harassment:

- Overall, 6% of adults had experienced harassment in the last three years and 7% had experienced discrimination.

- LGB people were more likely to experience harassment than heterosexual/straight people (17% compared with 6%).

- People from ethnic minorities were more likely than White people to report it (14% compared with 5%).

- People with 'another religion' were more likely to report this (14%) than those identifying themselves as having no religion (6%), Church of Scotland (4%), Roman Catholic (7%) and 'Other Christian' (6%) (Scottish Government, 2014m).

Scotland has a long-running national mental health campaign called 'See Me', aimed at tackling stigma and discrimination. However, unlike in England and Wales where public attitudes to mental health have improved slightly, in Scotland attitudes to mental health saw little change over the last decade. The Scottish Social Attitudes Survey 2013 (Reid *et al.,* 2014) showed:

- Almost half of Scottish respondents 'wouldn't want people knowing' if they were suffering from a mental health problem. This figure ranged from 41% to 50% since 2002, but with no consistent pattern over that time period.

- Almost one in five people said that they would find it difficult to talk to someone with a mental health problem, and more than one in five said they would not be willing to interact with a person with schizophrenia in any way.

Attitudes towards Gypsy/Travellers and Roma people remain an issue of concern:

- Qualitative research in Govanhill, Glasgow found that Roma people were subject to frequent unsubstantiated allegations of criminality, public nuisance, sanitation issues and overcrowding (Clark, 2014).

- An audit of published media articles over six months in 2014/15 about Gypsy/Travellers, found that around two-thirds contained negative coverage (Article 12 in Scotland, 2015).
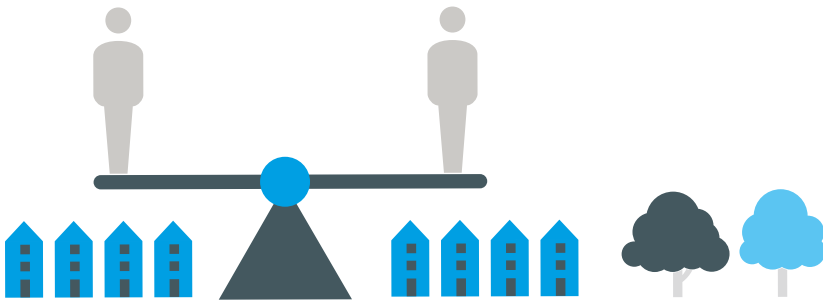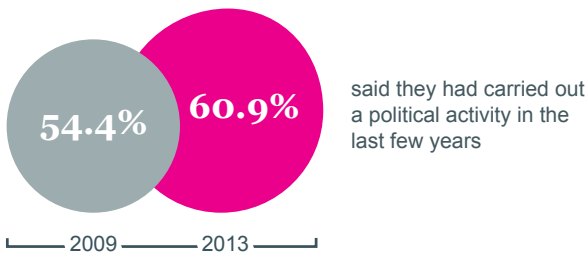
Small improvements to the gender balance of our elected representatives

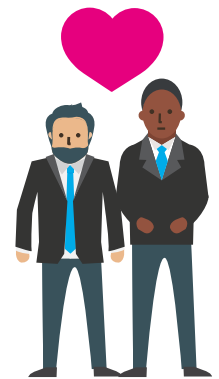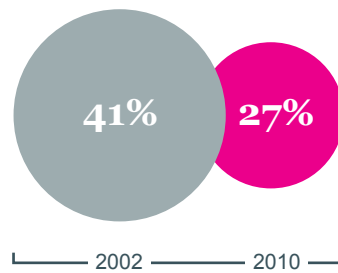Proportion of female
Members of the Scottish Parliament (MSP):

33% 2007
35% 2011

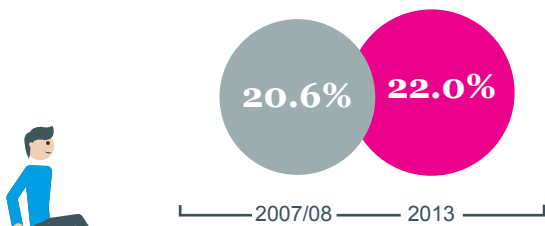Only **2** out of **129** MSPs elected in 2011
were from an ethnic minority

Levels of participation in political activity increased between 2009 and 2013

54.4% **60.9%** said they had carried out a political activity in the last few years

2009 — 2013

Increased proportion of people perceiving that they were able to influence local decisions

20.6% **22.0%**

2007/08 — 2013

Although disabled people were less likely to perceive they had influence (**18.8%** compared to **22.9%** for non-disabled)

The proportion of people who believe that 'sexual relations between two adults of the same sex were mostly or always wrong' has decreased

41% **27%**

2002 — 2010
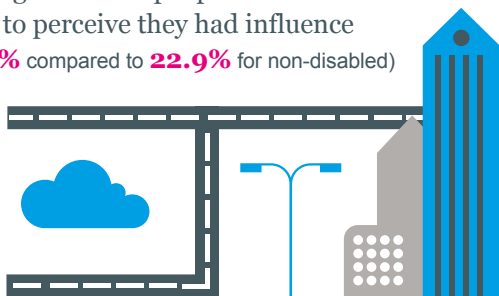
Some people experience harassment and discrimination

6% of adults had experienced harassment in the last 3 years

7% of adults had experienced discrimination in the last 3 years

People more likely to report harassment:

LGB people, people from ethnic minorities, those identifying as having a religion other than Christianity

Using the evidence that we have gathered, there are areas where Scotland has improved and got fairer, and areas where it has got worse. Improvements need to be made across the board to really aim for a fairer Scotland.

All references available at: **www.equalityhumanrights.com/IsScotlandFairer**

8.2 Political and civil participation

The gender balance of our elected representatives is generally improving, although slowly, while levels of political and civil participation show a mixed picture.

Formal political participation

Elected representatives

At national level, the gender balance is improving slowly:

- In 2007, 33% of Members of the Scottish Parliament (MSPs) were women. This increased to 35% in 2011 (Herbert *et al.*, 2011).
- In 2014, the First Minister appointed equal numbers of women and men to the Cabinet in the Scottish Government.
- Many political parties (SNP, Labour, Green and Liberal Democrats) have introduced all-women shortlists for the 2016 Scottish Parliament election.
- Two of the 129 MSPs elected in 2011 were from an ethnic minority but, other than gender, there is no published information on the diversity of MSPs in relation to protected characteristics.

At local level, women are not so well represented:

- In 2007, 21.8% of councillors were women, rising slightly to 24.3% in 2012. The proportion of female candidates also changed little between 2007 and 2012 (22.8% to 23.4%) (Denver *et al.*, 2012).

In addition:

- 90% of Members of Parliament in Scotland are from comprehensive schools, compared with 69% in Wales and 45% in England (Sutton Trust, 2015).

In 2014, the Scottish Government funded a pilot Parliamentary Internship Scheme that created a series of internships in the Scottish Parliament for disabled graduates. It has also supported an Access to Elected Office project through Inclusion Scotland, investigating barriers in the 'party career path' and co-producing a blueprint for future work to address the identified barriers.

Voting

Voter turnout in the 2015 general election was higher in Scotland (71%) than in the UK overall (66%). Evidence suggests that Scottish young people were more likely to vote than young people in the rest of the UK (Paterson *et al.*, 2015).

The 2014 referendum on Scottish independence had a considerably higher turnout (84.6%) than recent general elections. In keeping with other elections, young people were less likely to have voted than older ones, although a higher proportion of 16 and 17 year olds said they had voted in the referendum than 18 to 24 year olds (75% compared with 54%).

The 2014 referendum was the first (and at the time of writing only) national election in the UK in which young people aged 16 and 17 could vote. The Scottish Elections (Reduction of Voting Age) Act 2015 extended voting rights to 16 and 17 year olds in Scottish elections, from 2016.

A study on the political attitudes of 16 and 17 year olds found that 67% of respondents in Scotland would have voted in the 2015 general election if they had been given the opportunity, compared with 39% in the rest of the UK. Two-thirds of 16 and 17 year olds in Scotland felt that they should have the right to vote, compared with half in the rest of the UK (Eichhorn *et al.*, 2015).

Other political activity

Between 2009 and 2013, levels of participation in political activity in Scotland increased:

- Analysis of the Scottish Social Attitudes Survey 2013 found that 60.9% of respondents in Scotland said that they had carried out a political activity in the last few years, a rise from 54.4% in 2009.
- Young people aged 16 to 24 and ethnic minorities were less likely to be politically active than older people and White people.
- Recent research found that a higher proportion of people in Scotland (63%) had taken part in specified political activities than in Wales (59%) and England (56%) (Paterson *et al.*, 2015).

The notification period for peaceful assembly and protest is longer in Scotland than in England and Wales:

- The Police, Public Order and Safety (Scotland) Act 2006 extended the minimum amount of notice that organisers of a procession must give their local authority from 7 days to 28. The notification period is six days in England and Wales.

- In 2012, the Human Rights Review found that legislation governing the restriction of the right to freedom of assembly and association is overly broad, and can have a negative effect on the ability to enjoy this right (EHRC, 2012).
- In 2013, the Special Rapporteur on freedom of assembly raised concerns about the long notification period in Scotland (UNHRC, 2013a, b). He also indicated that the power for local authorities to ask organisers to pay for the provision of public safety, hygiene facilities and after-event cleaning had the effect of 'unduly restricting the exercise of public assembly'.

Civil participation

Between 2007/08 and 2013, the proportion of people perceiving that they were able to influence local decisions increased (from 20.6% to 22%). There were few differences by age, and no differences between White and ethnic minority respondents, by religious grouping, or between women and men. However, in 2013:

- disabled people were less likely than non-disabled people to perceive that they had an influence over local decisions (18.8% compared with 22.9%), and
- people in higher managerial and professional occupations were more likely to believe they could influence local decisions than all other occupational groups.

Between 2007/08 and 2013, there was little overall change in the proportion of people reporting being active within local groups in the last 12 months (from 6.9% to 6.6%). Notable exceptions were:

- a significant increase of 2.9 percentage points in the proportion of those aged 75 and over who were active locally. This contributed to an increase in the size of the gap in activity within local groups between the youngest and oldest age groups, and

- considerable differences in participation within local groups by socio-economic group, in both 2007/08 and 2013. People in routine occupations had the lowest level of participation, and there was a fall in the level of their participation of 3.1 percentage points over the time period. The gap between participation of people in routine occupations and in higher managerial and professional occupations widened by 4.1 percentage points.

Chapter 9
Most significant areas requiring improvement

While progress has been made in a number of areas, more needs to be done to make Scotland a fairer society. This chapter summarises seven key challenges identified by our initial analysis in this report. These challenges are for statutory bodies and others with an interest in these areas, and will require concerted and joint efforts over the coming years in order to address them. Action may need to be taken at Scotland or UK level. The order below does not indicate any level of priority and the list is not exhaustive.

Key challenges

Over the coming years, it is important that Scotland takes the following steps:

1. Improve the evidence and the ability to assess how fair society is

More **comprehensive and better quality evidence, as well as insight,** is needed to enable us to assess how fair we are as a society and take action to improve fairness where needed:

- While some progress has been made in this area, even where data is available, it isn't being routinely used. Public bodies should ensure that they have, and routinely use, evidence to assess the impact of any legislation, policies or interventions across protected characteristics and human rights.

- Often data sources can only provide evidence for broad overarching categories of people who share particular characteristics, such as people from ethnic minorities or disabled people. The experiences of people can vary significantly within these overarching categories but limitations in the data mean more nuanced analysis is not possible.

- As people do not fit neatly into one social identity or characteristic, it is important that more intersectional analysis is undertaken to enable a more sophisticated assessment of the key areas of disadvantage.

- Some small groups such as transgender people, Gypsy/Travellers, and people with specific disabilities (for example, deafness or blindness) are rendered virtually 'invisible' by the lack of data. These groups may be experiencing significant disadvantages, or infringements of their human rights, and greater effort is needed

to identify the scale and nature of the issues affecting people with these and other characteristics.

In addition to the need to address current shortcomings in availability and use of evidence, we believe the following six areas are in particular need of attention.

2. Raise standards and close attainment gaps in education

Within an overall picture of improvement, some **attainment gaps** persist alongside variable exclusion rates. Work to raise educational standards and attainment should ensure that they address the following:

- **Gender:** boys continued to fall behind girls in achieving at least five awards at Scottish Credit and Qualifications Framework (SQCF) Level 5 or better, across all ethnic groups.
- **Socio-economic deprivation:** children from poorer backgrounds performed less well than their peers.
- **Ethnicity:** Gypsy/Traveller children continued to have the lowest attainment levels.
- **Disability:** the attainment gap between pupils with additional support needs (ASN) and those without narrowed but remained significant. Disabled pupils and pupils with ASN were more likely to be excluded from school than non-disabled pupils and those without ASN.
- **Looked after children:** the attainment gap between looked after children and other pupils narrowed but attainment levels remain well below that of other pupils.

3. Encourage fair recruitment, development and reward in employment

Young people are set to be better qualified than in previous generations but, despite this, experienced considerable disadvantage in the labour market:

- People aged 16 to 24 had the highest unemployment rate and experienced the highest increase in unemployment. Those in work were more likely to be underemployed.
- The employment gap between young people and other age groups widened between 2008 and 2013.[70]
- Pay declined significantly for people aged under 35.

The strong educational performance of **girls and young women** did not translate into rewards in the workplace:

- Women's employment continued to be concentrated in part-time work and low-wage sectors.
- While the gender pay gap narrowed, this was owing to men's average pay declining more than women's, and average male pay continued to be greater than average female pay.
- The evidence we have collected identifies a lack of gender diversity in senior and managerial occupations and at board level in both the public and private sectors. More evidence is required on other protected characteristics to identify problems and inform any actions.

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[70] Increases in young people's participation in full-time education only explain part of the falls in employment and increases in unemployment. Even accounting for this increased participation, the employment rate for young people has fallen and the unemployment rate risen over the review period.

People from ethnic minorities continue to achieve highly in education but also experienced labour market disadvantage:

• The employment gap between people from ethnic minorities and White people is significant. People from ethnic minorities are more likely to be unemployed.

• They are less likely to be in senior and managerial occupations.

Disabled people were also disadvantaged in the labour market:

• Disabled people are paid less than non-disabled people, and the disability employment gap widened.

• Disabled people were disproportionately affected by unemployment.

Apprenticeships are a valuable route into employment. However, evidence suggests inequality of opportunity, especially by ethnicity and disability, as well as gender segregation in apprenticeship type.

4. Support improved living conditions in cohesive communities

People from ethnic minorities were affected by a range of detriments in terms of an adequate standard of living:

• They were more likely to be living in relative poverty after housing costs.

• They were more likely to have significant experience of living in overcrowded households.

• Children living in households headed by someone from an ethnic minority were more likely to live in relative poverty after housing costs.

• They were likely to report receiving lower levels of support from family, friends and neighbours compared with White people.

Disabled people also experienced disadvantage:

• Disabled people remained more likely to live in poverty than non-disabled people. Their level of material deprivation (the 'mean deprivation score') is also higher than for non-disabled people.

Young people leaving the care system were particularly vulnerable to homelessness.

5. Encourage democratic participation and ensure access to justice

Some people with certain characteristics remained less likely to **participate in the political process**:

• Young people and people from some ethnic minorities were less likely to report being politically active.

• Women, disabled people and people from ethnic minorities were politically under-represented both at national and local levels across Scotland.

6. Ensure that all people can access the health services they need

Demands on many services increased, and some people experienced problems **accessing** them:

• An increasing proportion of women described their health as bad or very bad.

• Gypsy/Travellers reported much higher levels of bad or very bad health, with poorer access to health services.

• Suicide rates were higher for men and those living in deprivation.

• Access to palliative care was uneven, with lower levels of access for people from ethnic minorities, homeless people, prisoners, and people with learning difficulties.

- Lesbian, gay, bisexual, transgender (LGBT) people experienced problems accessing healthcare services.

- People with communication support needs are not always provided with the support they need when accessing health services.

A number of disadvantages were associated with **mental health**:

- There was a higher risk of poor mental health for adults aged 25 to 34, and LGBT people.

- People with some forms of serious mental health conditions had shortened life expectancy.

- There was little change in stigmatising attitudes to mental ill health.

7. Tackle harassment and abuse of people who share particular protected characteristics

More needs to be done to prevent and combat **violence, harassment and abuse carried out against children, young people and adults**:

- Trafficking of adults remains an issue.

- Women were more affected by sexual violence than men.

- Lesbian, gay and bisexual young people were particularly affected by bullying.

Hate crime remains an ongoing challenge:

- Police-recorded hate crimes related to race were the most commonly identified hate crimes.

- Police-recorded hate crimes related to disability and sexual orientation both increased, though this may be in part due to increased confidence in reporting.

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Glossary

Additional support needs (ASN): Any child or young person who, for whatever reason, requires additional support for learning. The Scottish Government (2012c) defines the following reasons for ASN: learning disability; dyslexia; other specific learning difficulty (for example, numeric); other moderate learning difficulty; visual impairment; hearing impairment; deafblind; physical or motor impairment; language or speech disorder; autistic spectrum disorder; social, emotional and behavioural difficulty; physical health problem; mental health problem; interrupted learning; English as an additional language; looked after; more able pupil.

Asylum seeker: A person who has left their home country as a political refugee and is seeking asylum in another country.

Civil partnership: Legal recognition of a same-sex couple's relationship. Civil partners must be treated the same as married couples. 'Marriage and civil partnership' is one of the nine protected characteristics in the Equality Act 2010.

Disability: A person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities. Sometimes people are treated as having a disability where they do not meet these criteria (for example, people with asymptomatic cancer or HIV). Disability is one of the nine protected characteristics in the Equality Act 2010.

Equality: The state of being equal, especially in status, rights and opportunities.

Ethnic minority: Some sources employ the term 'non-White', meaning all ethnic groups excluding White ethnic groups as defined by the Office for National Statistics. In this report, the term has been replaced by the equivalent 'ethnic minority', in line with the Commission's editorial policy.

European Union: An association of 28 European nations formed in 1993 for the purpose of achieving political and economic integration.

Gender: The wider social roles and relationships that structure men's and women's lives. These change over time and vary between cultures. See also **Sex**.

Gender reassignment: This is the process of transitioning from one sex to another. See also **Transgender**. People who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex have the protected characteristic of gender reassignment under the Equality Act 2010.

Great Britain: England, Scotland and Wales.

Gypsy/Travellers is a collective term used to describe a wide variety of cultural and ethnic groups. There are many ways in which ethnicity may be established, including language, nomadic way of life and, crucially, self-identification. Defining people as Gypsy/Travellers is a matter of self-ascription and does not exclude those who are living in houses. Ethnic identity is not lost when members of the communities settle, but it continues and adapts to the new circumstances. Although most Gypsy/Travellers see travelling as part of their identity, they can choose to live in different

ways, including permanently 'on the road', in caravans or mobile homes, or in settled accommodation (for part or all of the year).

Human rights: Human rights are the basic rights and freedoms that belong to everyone. Ideas about human rights have evolved over many centuries, but they achieved strong international support following the Holocaust and World War II. To seek to protect future generations from a repeat of these horrors, the United Nations adopted the Universal Declaration of Human Rights. For the first time, the Universal Declaration set out the fundamental rights and freedoms shared by all human beings.

Learning disability: A learning disability affects the way a person understands information and how they communicate. Learning disabilities can be mild, moderate or severe.

Looked after child: A child who is in the care of their local authority and either lives with his/her own family, or in an alternative care setting.

Marriage: Marriage is no longer restricted to a union between a man and a woman and now includes a marriage between two people of the same sex. See also **Civil partnership**. 'Marriage and civil partnership' is collectively described as one of the nine protected characteristics in the Equality Act 2010.

Mental health: Mental health conditions affect the way a person thinks, feels and behaves. A mental health condition is considered a disability if it has a long-term effect on a person's day-to-day activity. Types of mental health conditions that can lead to a disability include depression, anxiety and bipolar disorder.

Pregnancy and maternity: Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context where special protections apply. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding. Pregnancy and maternity is one of the nine protected characteristics in the Equality Act 2010.

Protected characteristics: This refers to the nine characteristics protected under the Equality Act 2010, and the grounds upon which discrimination is unlawful.

The characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

Race: Refers to a group of people defined by their race, colour, nationality (including citizenship), ethnic or national origins. It is one of the nine protected characteristics under the Equality Act 2010.

Religion or belief: Religion means any religion, including a reference to a lack of religion (for example, atheism). Belief includes religious and philosophical beliefs such as lack of belief (for example, atheism). Generally, a belief should affect your life choices or the way you live in order for it to be included in the definition. Religion or belief is one of the nine protected characteristics under the Equality Act 2010.

Religious minority: Some statistical sources employ the term 'non-Christian' or similar, meaning all religious groups excluding Christian groups. In this report, this term has been replaced by the equivalent 'religious minority', in line with the Commission's editorial policy.

Sex: Refers to whether a person is a man or a woman (of any age). It is one of the nine protected characteristics under the Equality Act 2010.

Sexual orientation: This is whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes. It is one of the nine protected characteristics under the Equality Act 2010.

Transgender: An umbrella term for people whose gender identity and/or gender expression differs from their birth sex. They may or may not seek to undergo gender reassignment hormonal treatment/surgery. Often used interchangeably with 'trans'. See also **Gender reassignment**.

United Kingdom: England, Northern Ireland, Scotland and Wales.

Unlawful: Not permitted by law (as distinct from illegal which means 'forbidden by law'). On occasions, unlawful and illegal may be synonymous, but unlawful is more correctly applied in relation to civil (as opposed to criminal) wrongs.

Victimisation: Subjecting a person to a detriment because they have done a protected act or there is a belief that they have done a protected act, including bringing proceedings under the Equality Act 2010; giving evidence or information in connection with proceedings under the Equality Act 2010; doing any other thing for the purposes or in connection with the Equality Act 2010; making an allegation that a person has contravened the Equality Act 2010.

Contacts

Is Scotland Fairer? The state of equality and human rights 2015 is published by the Equality and Human Rights Commission. This publication is available from the Commission's website at www.equalityhumanrights.com/IsScotlandFairer.

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

Web: www.equalityadvisoryservice.com

Telephone: 0800 800 0082

Textphone: 0808 800 0084

Hours: 09:00 to 20:00
(Monday to Friday)
10:00 to 14:00
(Saturday)

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Questions and comments regarding this publication may be addressed to: scotland@equalityhumanrights.com

The Commission welcomes your feedback.