

## Public Sector Equality Duty (Equality Act 2010)

### Introduction

The Equality Act 2010 (the Act) replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and inequality. The majority of the Act came into force on 1 October 2010.

One key measure in the Act is the **public sector Equality Duty**, which came into force on 5 April 2011. The Equality Duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all.

The Act gives Ministers powers to impose **specific duties** on certain public bodies to enable them to perform the Equality Duty more effectively.

This will free up public bodies to do what is appropriate in their circumstances, to take responsibility for their own performance, and to be held to account by the public, shifting the approach to give a focus on performance, not process.

The new Equality Duty should be applied in such a way as to reverse the overly-bureaucratic and burdensome approach often used under the previous duties, so that the focus is on performance not process.

**Common misunderstandings about the Equality Duty – can be viewed as an appendix A to this document.**

### What is the Equality Duty?

The Equality Duty is a duty on public bodies and others carrying out public functions. It will ensure that public bodies consider the needs of all individuals in their day to day work in shaping policy, in delivering services, and in relation to their own employees.

The new Equality Duty supports good decision-making – it encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs.

Compliance with the Equality Duty involves consciously thinking about the three aims of the Equality Duty as part of the process of decision-making understanding the potential effects of the organisation's activities on different people.

## What has changed?

The new Equality Duty replaces the three previous public sector equality duties – for race, disability and gender and now covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – this includes lack of belief
- sex
- sexual orientation
- marriage and civil partnership (but only in respect of the requirement to have due regard to the need to eliminate discrimination)

## Aims of the Equality Duty

The Equality Duty has three aims. It requires public bodies to **have due regard** to

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
- **foster good relations** between people who share a protected characteristic and people who do not share it.

Having due regard means consciously thinking about the three aims of the Equality Duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached, such as:

- how we act as employers
- how we develop, evaluate and review policy
- how we design, deliver and evaluate services
- how we commission and procure from others

Having due regard to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics
- meet the needs of people with protected characteristics; and encourage people with protected characteristics to participate in public life or in other activities where their participation is low

## **Appendix A**

### **Common misunderstandings about the Equality Duty – Examples**

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary. For example, if a public body is conducting a review in relation to an issue which has no implications for equality – such as an evaluation of the effect of coastal pollution on marine life – undertaking a formal consultation or analysis addressing equality issues where it is evident that the Equality Duty is not relevant would be pointless and is not required.

#### **The Equality Duty does not require public bodies to take disproportionate action on equality.**

Public bodies should take a proportionate approach when complying with the Equality Duty – in practice, this means giving greater consideration to the Equality Duty where a function or policy has the potential to have a substantial effect on discrimination or equality of opportunity for the public or the public body's employees, and less consideration where the potential effect on equality is slight.

For example, a public body might decide to translate a leaflet about a key public service into a few commonly spoken minority languages, in order to ensure people from particular ethnic minority communities have access to the service.

#### **The Equality Duty does not require public bodies to treat everyone the same.**

Rather, it requires public bodies to think about people's different needs and how these can be met. So the Equality Duty does not prevent public bodies providing women-only services – for example, for female victims of sexual violence or domestic violence. Indeed, such services may be necessary in order to ensure women have access to the service they need.

#### **The Equality Duty does not require public bodies to treat all religions as being equal or to treat all religious festivals equally.**

For example, a public body displaying a Christmas tree every year in its reception area would not be a breach of the Equality Duty

#### **The Equality Duty does not require public bodies to make services homogeneous or to try to remove or ignore differences between people.**

So, for example, it does not mean that a public body must stop providing age-appropriate services for people of different ages, or that it can no longer commission some services to be provided by different faith organisations. Faith organisations are sometimes well-placed to deliver services which meet the particular needs of their community.