



# Association of Equality Scheme Providers

Equality Act 2010 Consultation

The public Sector Equality Duty: reducing bureaucracy

## Policy review paper

The paper calls for a shift in approach from the process driven where each public sector body, irrespective of size or public objective, comply with certain processes, to one more focused on performance and accountability based on published targets developed by the public body.

The government believe that the process driven top-down approach disconnected the public body from the public to whom they should be accountable and was wasteful of resource as the processes were unfocussed and bureaucratic which did not reflect the individual requirements of each public body.

The proposed changes in the Specific Duties mirror those in the General Duty where greater emphasis is laid on outcomes and not on processes.

## AESP approach to the issue

The AESP provides leadership on issues that have a bearing on the sector's strength and image and to shape and influence decisions made by Government, regulatory and other public bodies within the UK in order to benefit the members collectively.

The analysis of Review Paper reflects this role and represents an objective assessment based on the interests and the product outcomes of Scheme Providers in general.

Stuart Speeden

Chair

# Comments on the review and as set out in sections of the draft Equality Act 2010 (Specific Duties) Regulations 2011

## Paragraphs 9 and 10

9. *The revised draft regulations will require public bodies to:*

- *publish equality objectives every four years (Note: the draft regulation actually states at intervals on not greater than four years)*
- *publish information annually to demonstrate their compliance with the general Equality Duty (Note: the draft regulation actually states at intervals on not greater than one year)*
- *in particular publish information relating to their employees (for bodies with 150 or more staff) and others affected by their policies and practices (such as service users)*

10. *All information must be published in a way that is accessible to the public.*

Comment: The 4-year reporting cycle on equality objectives falls into line with the planning cycles used by most public bodies but setting an objective is not the same as achieving it. If the change in approach is to focus on outcomes and for public bodies to be held to account for performance, then there has to be some form of measurement and some formal link with the publication of annual General Equality Duty compliance information as required under section 149(1).

While the government will be issuing guidance, there needs to be some agreement on definitions and areas to be measured, in particular with respect to equal pay. There needs to be a commonality in approach and in interpretation so that the information can be used to hold individual public bodies to account but also to compile or aggregated to provide a more detailed picture of the wider public service.

## Paragraph 15

*The new regulations also omit the regulation which gave the Secretary of State a power to specify certain matters which public bodies must consider.*

Comment: AESP would disagree with this amendment. This surrender of power means that the public body can only be required to take action through public pressure and that there is no ultimate sanction where the public interest is protected by an elected official.

## Paragraph 17

*“...We are developing tools and mechanisms to support organisations and individuals to challenge public bodies effectively to ensure they publish the right information and deliver the rights results, with a particular focus on addressing the barriers facing some disabled people”.*

Comment: AESP notes this amendment and the proposed development of tools and mechanisms which will help individual and other stakeholders hold public bodies to account. Those tools and mechanisms already exist through many of our members’ schemes which encourage or require transparency and objective measurement of progress..

## Paragraph 19

*“...Information to help public bodies comply with the duties and understand what constitutes good practice will be delivered through guidance, not regulation”.*

Comment: The AESP would wholeheartedly agree with the view that equality and diversity is not an “add-on” issue, but one that has to form part of each operational function and businesses should be free to develop strategies and mechanisms that best suit them. However, the effectiveness of this approach relies heavily on the skills and knowledge of the workforce and the strategy followed by the business. Any published information therefore needs to recommend, or at least make reference to; properly validated equality schemes where the outcomes help build equality in the workplace.

## Paragraph 20

*The new draft regulations:*

- *amend the requirement from “Public authorities must prepare and publish objectives” to “Public authorities must prepare and publish one or more objectives”*
- *remove the requirement to set out how progress will be measured.*

Comment: AESP would disagree with this amendment. The stated focus of the new policy is to concentrate on the outcomes, not on compliance with centrally dictated processes or measuring inputs. While setting objectives has a part to play, measuring progress and setting out the methodology for that measurement, is vital if the public body is to be held to account. Not all targets can be met within one-year or indeed over a four year time period. What is important is that progress continues towards the main target and that the tracking of that progress is transparent and made available to the public.

## Paragraph 23

*A requirement on public bodies to describe the process of how they will measure progress against their objectives will not contribute to the delivery of equality improvements, so we have removed it.*

Comment: AESP would strongly disagree with this amendment. It is important that members of the public and other stakeholders have confidence not only in the strategy, but also in the processes used to deliver that strategy, in order to hold the public body to account. This knowledge gives a level of assurance, informs stakeholders and supports greater transparency and accountability.

## Paragraph 24 - 26

*The new draft regulations:*

*24. Remove the requirement for public authorities to consider such matters as may be specified by a Minister of the Crown in a written statement to Parliament.*

*25. Some respondents to the August 2010 consultation thought that this provision could be invoked if it became necessary to highlight significant national equality issues.*

*26. We have been clear that equality considerations for public bodies will vary according to their nature and role. Priorities are best set by public bodies locally, not by Ministers centrally. Other issues that this provision could be used for (e.g. standards for the publication of data) can be dealt with through guidance.*

Comment: AESP would disagree with this amendment. It is important that an elected official retain the power to direct. While this power may only be a measure of last resort, it is the only sanction which can be effectively used to instruct a public body to comply and to be held to account. Issuing guidance does nothing but places the burden onto the public to monitor and complain and does not address the public interest.