

Equality Act 2010:

The public sector Equality Duty: reducing bureaucracy

A Response by the Yorkshire and Humber Equality & Diversity Leads Network

1. Introduction

The Group supports the ambition of the Government to ensure that the Duty achieves *'real changes to people's lives'*. The Group recognises that the intention of the approach now being proposed by the Government is *'that public bodies will be held to account – through greater transparency and challenge from the public - for the equality improvements they deliver, not the processes they go through.'*

2. General Comment

Whilst the intention to focus on 'outcomes rather than processes' is well articulated in the supporting review paper we believe that it is not made clear in the draft regulations themselves and suggest that this needs to be addressed.

3. Specific Comments

In the table overleaf we provide comment on specific sections of the regulations. In each case the wording being commented on is highlighted in bold and underlined.

Extract From Draft Regulations	Comments	Suggestion
Equality Objectives		
<p>2.—(1) Each public authority must prepare and publish one or more objectives it thinks it should achieve to do any of the things mentioned in paragraphs (a) to (c) of subsection (1) of section 149 of the Act</p>	<p>There is a danger that organisations not committed to working within the spirit of the regulations will use this wording to justify having a single, vague objective. However, it will be up to the EHRC to provide challenge to such organisations!</p> <p>The wording as it now stands provides the scope for organisations to determine an appropriate number of objectives to reflect their size and range of functions</p>	<p>No action required</p>
<p>2.—(1) Each public authority must prepare and publish one or more objectives it thinks it should achieve to do any of the things mentioned in paragraphs (a) to (c) of subsection (1) of section 149 of the Act</p>	<p>This wording gives the impression that it is up to the organisation to decide its equality objectives for itself, as if ‘the organisation knows best!</p> <p>This does not seem to fit with the stated intention of creating ‘<i>greater transparency and challenge from the public</i>’. This would be better achieved by working in partnership with stakeholders.</p>	<p>It is suggested that the section of wording highlighted opposite be changed to either :</p> <p><i>‘agreed with relevant stakeholders’</i></p> <p>Or</p> <p><i>‘required’</i></p>

<p>2.—(1) Each public authority must prepare and publish one or more objectives it thinks it should achieve <u>to do any of the things</u> mentioned in paragraphs (a) to (c) of subsection (1) of section 149 of the Act</p>	<p>This wording is too vague and seems at odds with the language of the rest of the draft regulations.</p> <p>It seems to imply that an organisation can pick an objective that only focuses on one element of the general Equality Duty. We do not believe that that was the intention.</p>	<p>It is suggested that the section of wording highlighted opposite be changed to:</p> <p><i>'to fulfil the requirements'</i></p>
<p>2. - (2) An objective published by a public authority in compliance with paragraph (1) must be <u>specific and measurable.</u></p>	<p>We agree that the objectives should be 'specific and measurable'. However if the stated intention of the regulations is to ensure that organisations are held to account for <i>'the equality improvements they deliver, not the processes they go through'</i> this section should state that the objectives should be outcome focused</p>	<p>It is suggested that the section of wording highlighted opposite be changed to:</p> <p><i>'An objective published by a public authority in compliance with paragraph (1) must be specific, measurable and outcome focused'</i></p>
<p>Publication</p>		
<p>3.—(1) Each public authority <u>must publish information to demonstrate its compliance</u> with the duty imposed by section 149(1) of the Act—</p>	<p>We agree with the removal of the word 'sufficient' from this wording as we believe it gave the impression that organisations only needed to publish the bare minimum. It will be for the public and stakeholders to comment on whether what is published demonstrates compliance.</p>	<p>No change required</p>
<p>3- (2) In complying with paragraph (1) a public authority's published information must include, in particular, information relating to persons who share a relevant protected characteristic who are—</p>	<p>We believe that putting employees first in this section perpetuates the 'popular myth' that the equalities legislation is</p>	<p>Suggest reordering this section and putting employees in part (b)</p>

<p>(a) <u>its employees,</u> (b) other persons affected by its policies and practices.</p>	<p>primarily about employment issues. Whilst staff are extremely important, the priority consideration for public bodies should be to ensure that users of service are considered in relation to the general and specific duties</p>	
<p>3- (2) In complying with paragraph (1) a public authority's published information must include, in particular, information relating to persons who share a relevant protected characteristic who are— (a) its employees, (b) <u>other persons affected by its policies and practices.</u></p>	<p>We believe this wording gives the wrong emphasis and perpetuates the popular myth that the equalities legislation refers to a public bodies 'policies', The word 'practices' is vague. It is not clear what is being referred to! Also the phrase 'other persons' is not clear Again we believe the intention here should be to ensure public bodies focus primarily on the 'services' (e.g. health, education, housing, etc) that they provide to the community, and the wording should reflect this!</p>	<p>Suggest reordering this section and moving this item to part (a) We also suggest the wording should reorder and changed to be changed to '<i>(a) persons who use its services and/or are affected by its practices</i>'</p>

4. Guidance

The forgoing highlight issues in relation to interpretation, understanding of requirements for compliance, emphasis, etc. We believe it is therefore important that the Equality and Human Rights Commission should be tasked with producing comprehensive guidance which provides clarity about what 'compliance looks like' and this should be available well in advance of December 2011 when the duty to publish takes effect.