



Oxfam's response to the Government Equalities Office Policy review paper:
The public sector Equality Duty: reducing bureaucracy

Summary

Oxfam welcomes the Government's continued commitment to the delivery of equal treatment and equal opportunities for all. However, we feel that the changes proposed in the Policy review paper will significantly reduce transparency and public bodies' focus on delivering equality improvements, in contradiction to the stated aims of the Government. By reducing the transparency requirements the Government undermines the ability of the public and affected groups, such as ethnic minorities, to hold public bodies to account for their performance on equality.

In our response we make the following key points:

- Reduced clarity over how the general duty is met and inconsistency in implementation in the three countries.
- Transparency will be severely reduced by removing the need to publish details on engagement, analysis and information considered.
- Reduced engagement with affected groups and limited equality analysis in the formation of policy is a likely outcome.
- Lack of accessible information is likely to result in greater emphasis on the need for the public to challenge and hold the public sector to account, which could be costly.

Reduced clarity over how the general duty is met

Although public authorities will still have to meet the requirements of the general equality duty in section 149 of the Equality Act 2010, legislating to reduce the specific duties to a nominal level will reduce clarity for public authorities as to how they should meet their general equality duty. The result is likely to be confusion at the local level and inevitably costly litigation.

The Regulations sharply contrast with those in Wales as currently drafted, which are more prescriptive and consolidate the progress that has been made and link in with the public performance agenda. Public bodies that work across England, Wales and Scotland will face considerable uncertainty as to how to meet the requirements, which may in turn affect the consistency with which the duty is implemented in the three countries.

Reduced transparency

Oxfam opposes the 'lighter-touch transparency requirement' outlined in the Policy review paper. Transparency is vital to ensuring that public bodies demonstrate 'due regard' to aims set out in the Equality Act. By removing the requirement to publish details of engagement when determining policies and equality objectives, details of equality analysis, or information considered when undertaking analysis, the Government greatly reduces transparency, which is vital to allowing the public to influence policy formation before the occurrence of unintended outcomes that increase inequality.

Without the publication of equality analysis or information considered when undertaking analysis, it becomes increasingly difficult for the public, who may not be experts in Equality Act, to challenge the analysis – this entails risks to the Government's aim of enabling the public to hold public bodies to account.

Possible reduced engagement and analysis in policy formation

Oxfam welcomes the Government's reiteration that public bodies will need to understand the effect of their policies and practices on equality. However, removal of the transparency requirements will impact upon *actual* engagement with affected groups and *actual* equality analysis undertaken in policy formation, as public bodies will no longer be required to publish details on these areas. Active engagement with the recipients of services and with employees, particularly those from protected groups, is likely to lead to better and more appropriate decision making. The reduction of requirements therefore threatens to significantly reduce the impact of the Equality Duty in achieving the Government's aim to get public bodies to focus on delivering equality improvements. It is far more time-consuming and costly to reverse policies that create inequality than to work with affected groups from the outset to properly implement the general duty.

Lack of accessible information will be costly

It is important that the regulations should make it clear that transparency should be available in advance of decision making. The Minister for Women and Equalities has confirmed that the Government's intention was that information should be available in time to influence decision making, however, the draft regulations do not make this clear. If data is to facilitate the decision making process and achieve the aims of the general duty it will also be important that it is produced in accessible form to help civil society in their response to proposals. If there is no adequate system for regular, timely and appropriate publication of information those seeking information will be forced to use Freedom of Information requests to elicit information. This will be much more time consuming, costly and disruptive for public bodies.

Recommendations

- Requirements to publish details of engagement and equality analysis and undertaken, and information considered when undertaking analysis should be maintained.

- Alternatively, the Equality and Human Rights Commission should publish a statutory code of practice giving clear guidance based on case law as to what is involved in the future to meet the requirements of the general equality duty.

About Oxfam

Oxfam is a British development agency working to end poverty both internationally and in the UK. Oxfam works to overcome poverty in the UK in three ways: we develop projects with people living in poverty to improve their lives and show how things can change; we raise public awareness of poverty to create pressure for change; and we work with policymakers to tackle the causes of poverty.

The focus of our work is ensuring that everyone in the UK has a secure income which gives them enough money to live on. We also tackle the discrimination which makes women, ethnic minority groups and others more vulnerable to poverty, and we work on public attitudes to ensure that people experiencing poverty are treated with dignity and respect.

For further details about Oxfam's work in the UK, see www.oxfam.org.uk/uk