



Northamptonshire County Council's response to the Government Equality Office policy review paper on the Public Sector Equality Duty – Specific Duties.

Reducing bureaucracy and delivering equality improvements

Northamptonshire County Council recognises and supports the approach the Government is taking in reducing bureaucratic processes, particularly in light of the spending challenges faced by local and central government, however we have some concerns about the proposals in the Government's Policy Review paper on the PSED.

We welcome the requirement to publish equality objectives which are specific and measurable, as well as the requirement to publish information; however, we feel that alone these two specific duties may not provide a consistent and clear response from public bodies in demonstrating compliance with the General Duty, and more importantly may not produce real outcomes for the communities they serve.

The General Duty requires all public bodies to have 'Due Regard' in the exercise of our functions to-

- A) Eliminate discrimination, harassment and victimisation.
- B) Advance Equality of opportunity between those who share protected characteristics and those who do not.
- C) Foster good relations between persons who share protected characteristics and those who do not.

'Due Regard' relates to minimising disadvantage; taking steps to meet peoples differing needs and encouraging participation in public life.

The specific duties underpinning the General Duty need to give public bodies' concise and clear guidance on how to comply. This will ensure that we can feel confident that we are meeting our duties. The extent of our obligations under the specific duties needs to be clear not only for us, but also for our communities if they are going to hold us to account as they will need to be able to judge whether or not we are compliant if they are to challenge us.

Removal of the requirement to publish equality analysis & engagement in determining policy decisions and setting objectives

Most public bodies use an Equality Impact Assessment process to evidence their analysis and engagement of decision making. Writing assessments requires skills and knowledge of the decision makers as well as those who undertake the assessments to ensure they are robust and deliver real outcomes. By publishing the results of assessments, the analysis of the impact of the decision on equality is transparent.

Equality Impact Assessments themselves have become more widely recognised by communities in recent time and have become a valuable means by which they can hold public and government bodies to account. They can provide real transparency and democratic accountability – a key ambition for the new approach outlined in the policy review which also complements the main aims of the transparency agenda, putting data and information used in decision making into the public realm.

Although Equality Impact Assessments can be viewed as a bureaucratic box ticking exercise they are for many an effective two way process of openness and challenge and provide a means for central and local government to be opened up to public scrutiny. They also allow decision makers to make informed and legally compliant decisions that take into account the needs of all sections of the community.

Without a requirement to publish results of the analysis of reaching decisions, many organisations may consider it an unnecessary process and it may well be sidelined. Communities may be unclear about how they can challenge a decision; therefore the removal of this requirement may also result in an increase in resource intensive FOI requests. If public bodies are complying with the requirements of the General Duty then a requirement to publish will not add to bureaucracy.

If there is no requirement to publish details of engagement, specifically with protected groups, there is a risk that engagement may not happen. Under previous duties, such as the Race and Gender Equality Duty public bodies had a duty to consult; the Disability Equality Duty included a requirement to involve disabled people. The proposed removal of a requirement to evidence this, alongside the recent announcement to repeal the Duty to Involve, may result in fewer opportunities for engagement and for people to tell us what impacts proposals might have on their lives. It will also mean that communities are less well-equipped to challenge local authorities – a key component of the current PSED consultation as well as several other current reforms and agendas. A requirement for this information to be published will make sure everyone is able to see who has been involved, engaged and consulted with regarding the analysis of impact and in setting objectives specifically to tackle inequality.

Summary

With the increased uncertainty around what the proposed changes will bring, our concern is that many public bodies will either do the bare minimum or feel compelled to do more than is necessary in an attempt to protect themselves from challenge. We would also argue that without a uniform approach, performance cannot effectively be judged or compared with similar bodies, therefore making it difficult to identify good practice and benchmark. We are also concerned that the lack of clarity may potentially subject public bodies to an increase in challenge as our communities seek to test the boundaries of the specific duties.

We feel that the Specific Duties need to provide clear, concise instruction of how to meet the General Duty in the exercise of our functions, without ambiguity and that are not open to interpretation. Greater clarity will ensure that the general duty is consistently considered for all functions, by all public bodies. This will not only protect public bodies from legal challenge, but will improve outcomes for all of our communities. It is indicated in page 5 of the Policy review that guidance will include good practice, however without regulation and particularly in light of fewer resources being available for public bodies, some organisations may opt to do the bare minimum or less. Guidance should provide details about meeting compliance, including good practice; it should not substitute robust regulation. Ultimately guidance will not be the measure by which we are held to account, compliance with the duties will.