

## **Response to the Regulations relating to the Public Sector Equality Duty**

The Equality Act 2010 contains a new integrated Equality Duty on all public bodies which brings together the existing duties on race, gender and disability and extends to cover gender reassignment in full, age, religion or belief and sexual orientation. The general duty set out in the Act requires public bodies to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and those who do not share it. The Act provides a power to make regulations imposing specific duties on public bodies to support better performance of the general duty.

The stated aims of the regulations are as follows:

- to reduce burden and bureaucracy on public bodies, and move away from a process-driven approach to focus on transparency
- to 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

Overall, the focus is said to be on 'performance rather than process'.

### **Response**

1. The focus on outcomes rather than process is welcomed and it is helpful to remove truly unnecessary bureaucracy. Nevertheless, process is important and unless there is clearer, more detailed and prescriptive guidance on how to meet the general duty there is likely to be more, not less discrepancy between the outcomes of different public bodies in relation to equality.

2. Public bodies will no longer have to publish details of the:

- engagement they have undertaken when determining their policies;
- engagement they have undertaken when determining their equality objectives;
- equality analysis they have undertaken in reaching their policy decisions; and
- information they considered when undertaking such analysis.

The evidence and analysis listed above is referred to as 'bureaucratic process' in the policy review paper. However, engagement, consultation and research are the building blocks of effective policy formation and vital to achieving meaningful objectives and outcomes. It is impossible to assess the outcomes of public bodies without understanding the context of how and why they decided upon their equality objectives and why they may have disregarded others. Without proper scrutiny of the evidence of inequality it could be possible for public bodies to achieve improved outcomes for some groups at the same time as ignoring the evidence of inequality amongst other groups that will remain more marginalised. It is therefore felt that there will not be enough information publically available to hold public bodies to account.

3. The removal of an obligation on public bodies to publish the evidence and analysis informing their policies is also likely to have the unintended consequence of increased bureaucracy for public bodies. This is because Freedom of Information requests will become the only mechanism open to members of the public wanting to obtain the contextual evidence necessary to assess the performance of public bodies.

4. There needs to be greater clarity in relation to the obligation on public bodies to engage, carry out equality analysis and consider information (whether or not the results of these activities are published for public consumption). Any such obligation should be clearly stated in the regulations rather than left to guidance which may result in some public bodies no longer investing in these important activities.

5. One of the stated aims of the regulations is to ensure that 'more freely available data will enable people to compare the performance of public bodies and hold them to account'. However, unless there is consistency in the types of data public bodies are required to collect and publish, it will be difficult for the public to compare and interpret the data. Without a common framework it will not be possible to track and therefore address inequality.

4. Although improved public accountability of public bodies, in relation to equality, is welcomed, the policy review does not make it clear how this will happen in practice. Public accountability can not be used as a substitute for a more systematic review of performance by central government.