

Date: 20 April 2011

Specific Duties – Policy review
Government Equalities Office
Zone J9, 9th floor
Eland House
Bressenden Place
London SW1 5DU



Dear Sir/Madam

Comment on the revised draft 'The Equality Act 2010 (Specific Duties) Regulations 2011' consequent on the policy review paper 'Equality Act 2010: The public sector Equality Duty: reducing bureaucracy

It was a disappointment to learn that the Government was consulting on further changes to the Equality Act public body specific duties – particular when the consultation appeared to be more of a necessary gesture than a genuine attempt to elicit and act on views.

Having previously consulted on the specific duties and having recently issued revised Regulations, it is difficult to get to the point of this new approach without concluding that it is, without being transparent about this as the objective, to water down the impact of the Equality Act 2010.

Although I contributed to the earlier consultation exercise, my first thought was that this was a waste of time and that it was pointless making the effort.

However, on reflection and with the deadline for comment approaching, I find I do want to comment but to try to do so in a way that is positive. Therefore, I offer the following thoughts:

1. The relevance of 'specific duties' to the eliminating inequality. The real impact in the Act for public bodies is in the three aims of the general equality duty. Whatever, the specific duties, public bodies that take seriously their responsibilities to eliminate discrimination, further equality of opportunity and promote good relations between people from different groups will, as they have always done, get on and do it regardless. Sadly, those whose approach is to do the minimum will welcome the opportunity to take the foot off the equality pedal. The expectation that the community will hold the laggards to account is, in present circumstances, 'aspirational' at best but, if Government is content with a differential approach there is no need for prescribed 'specific duties'. But their elimination would need to be replaced by an absolute commitment from Government to ensuring that public bodies delivered on the aims of the general duty.

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- 2. Leading by example.** Following on from the above, it is an absolute truism that if something has to be done but those who are accountable for it happening do not do it, then it will not happen. Government must lead by example in the delivery of the aims of the public body general duty.
- 3. Bureaucracy.** Eliminating unnecessary bureaucracy and a focus on outcomes has always been the right way. In my experience, no one votes for bureaucracy, no one designs things deliberately to include unnecessarily bureaucratic processes and no one focuses on process in favour of the preferred outcome. But we do want order and we do want legislation to be effective and to create the desired change. The drive to reduce bureaucracy should not be absolute to the exclusion of steps necessary to make this essential Act work effectively.
- 4. Setting equality objectives.** Setting objectives and establishing measures to see how well the objectives are being achieved is an essential part of any business activity. In this context and with the emphasis on transparency, without such things in place, a public body will not be able to demonstrate that it is delivering the aims of the general duty. To have started with draft specific duty regulations that made reference to preparing and publishing one objective, to have removed it in favour the unspecific 'objectives' following consultation and to have now proposed the reinstatement of 'one or more' sends a clear signal that one is good enough. The emphasis should not be on how many but on the need to prepare and publish objectives relevant to the achievement of the aims of the general duty so that the community can know and understand the progress that is being made.
- 5. Connecting with Government priorities.** Government has made clear its principles of freedom, fairness and responsibility related to the need to improve transparency, devolve responsibility through localism and to focus on outcomes and measurable results. Against these principles, what is now being proposed in relation to public body specific duties appears to be saying that equality is not so important. That should not be the case.
- 6. Matters specified by a Minister of the Crown.** The removal of this provision is very difficult to understand. Surely it is the responsibility of Government to determine that there are matters of national significance that need to be reflected at local level even though what needs to happen specifically may depend upon the nature and role of particular public bodies. Government has recognised social mobility as a national issue which is, if not a protected characteristic, heavily bound in equality. Also, in the policy review paper 'The public sector Equality Duty: reducing bureaucracy', there is a hint of a national priority in paragraph 17 when it sets out '..... to challenge public bodies effectively to ensure they publish the right information and deliver the rights (stet) results, with a particular focus on addressing the barriers facing some disabled people'. (Although it is off this particular point, I will say that, although in some ways welcomed, to infer that barriers faced by disabled people are of more importance than the barriers faced by some people from the other protected characteristics may be invidious.) I would recommend leaving in this provision.

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7. The case for equality. Finally, although not totally relevant to the consultation topic, I want to raise why equality is important in the hope that it can be reflected by Government in some way. Equality may be important to meet a legislative requirement which is what this consultation is about. There may be a moral argument for equality which not everyone will buy into. But, when it comes to the bottom line argument, there is a business case for equality. It would help for Government to understand and promote that in relation to all of the provisions of the Equality Act – including where relevant to any specific public sector duties.

I put these comments forward for your consideration.

Yours faithfully,

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