

Consultation on Public Sector Equality Duty

Draft Response from Member Equality Champions Group

Introduction and purpose

The Government Equality Office has drawn up a policy paper on the Public Sector Equality Duty. They have invited public responses by 21st April.

This document provides a response from elected member Equality champions and portfolio holders across the Local Authorities of Cumbria.

Background

The Equality Act (2010) combines all existing Discrimination Law and EU Directives into one place. The Act sets out powers of the secretary of state to introduce secondary legislation including Public Sector Equality Duty.

The Public Sector Equality Duty consists of two parts:

- The General Duty
- Specific Duties

The General Duty came into force on 5th April and places upon public authorities the duty to:

- Eliminate unlawful discrimination, harassment and victimisation.
- Promote equality of opportunity
- Promote good relations between people who share a protected characteristic and people who do not.

The Specific Duties will follow on from the General Duty and lay out particular actions public authorities will be expected to take in order to meet the General Duty.

In January 2011 the Equality and Human Rights Commission published a draft Guidance document on the Specific Duty, in March the Government Equality Office's Policy paper responded to the EHRC's Guidance with a reduction in the requirements of the Specific Duty..

The table below summarises the two proposals:

EHRC proposal	Government Equality Office proposal
Publish equality objectives every four years	Publish equality objectives every four years
Publish information annually to demonstrate their compliance with the general Equality Duty	Publish information annually to demonstrate their compliance with the general Equality Duty
Publish information relating to their employees (for bodies with 150 or more staff) and others affected by their policies and practices (such as service users)	Publish information relating to their employees (for bodies with 150 or more staff) and others affected by their policies and practices (such as service users)
Publish engagement undertaken when	

determining policies and equality objectives	
Publish Information they considered when undertaking such analysis.	

Response from Cumbria Member Equality Champions Group

With reductions in public spending and an uncertain economic climate, there is a significant risk that people will use the General Duty to challenge decisions around spending cuts and redundancies.

The Equality and Human Rights Commission proposal sets out a framework that gives clearer guidance to Local Authorities.

Small authorities, and in particular some District Councils will struggle to interpret the General Duty. There is a danger that a light touch approach to the Specific Duty could lead to some authorities being challenged on the grounds of discrimination, harassment, not promoting equality of opportunity or good relations.

By specifying requirements around engagement and data, and showing how the Equality Objectives have been arrived at, this risk is significantly reduced.

A particular fear is that officers will interpret the Specific Duty in different ways, and that this could lead to significant differences in the way people who share a protected characteristic experience services in neighbouring authorities.

To illustrate the point:

Two neighbouring authorities may introduce contradictory policies on disability parking charges, or doorstep refuse collection. This could threaten challenge by disability groups or individuals who feel discriminated on the grounds of their disability.

With clear guidance on information and engagement, there would be a requirement for authorities to demonstrate how disabled people are being engaged, and hopefully this kind of challenge would be prevented.

Although paragraph 17 of the GEO Policy Paper says that toolkits would be created to support public authorities in understanding and applying the General Duty, we would need advance sight of these before being able to tell if the proposed Specific Duty is comprehensive enough. Our main fear is that they will not bridge the gap between the General and the Specific Duties, and that it will be Local Authorities that pay the price.

Our recommendation is to proceed with the Public Sector Specific Duties as proposed by the Equality and Human Rights Commission.

Link to Government Equality Office – Policy Paper on Specific Duty

<http://www.equalities.gov.uk/pdf/110317%20Public%20sector%20Equality%20Duty%20-%20Policy%20review%20paper.pdf>

Link to Equality and Human Rights Commission Guidance on the Specific Duty

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/new-public-sector-equality-duty-guidance/>