

Response to Public Sector Equality Duty: reducing bureaucracy Policy Review Paper Equality Act 2010 – March 17 2011

This response to the Policy Review Paper and the consultation exercise is submitted by me as a practising Equality and Diversity specialist- **Paul Peng**;

The details set out in the policy review paper purport to offer transparency and light touch to the “Duties”, however by their interpretation they are more reflective of a move towards nullifying the support content of the Equality Act 2010. In addition, a specific inference of allowing Public Bodies to abrogate their responsibility is determined, by mere virtue of the fact that the proposals are actually a means to reduce obligations of accountability.

Each of the proposals is responded to through setting out their detail and thereafter offering my considerations;

1-Change the wording from: “*Publish sufficient information to demonstrate its compliance...*” to “*Publish information to demonstrate its compliance...*”;

By removing the word “sufficient” from the detail the emphasis of what should be a consistent context across the public sector becomes blurred. “Sufficient” can be regulated and if transparency is to be the key, the word affords not only service users, but also every public sector agency the ability to benchmark in order to determine what is appropriate and satisfactory. This representation would welcome a clear confirmation of what information Government expects to be published in support of consistency across the sector. However it should be noted that the EHRC has already published guidance to support this issue.

2- Remove the requirement to publish evidence of the analysis a public body undertook to establish whether its policies and practices had furthered the aims set out in section 149(1) of the Act, and remove the requirement to publish details of the information it considered when it undertook the analysis;

If the requirement to publish evidence of the analysis of whether policies and practices had furthered the aims of section 149 is removed, then those who are in the category of “protected characteristics” will be solely reliant on public sector determined outcomes being the only means by which they may challenge data which draws relative conclusions. The requirement to publish evidence of analysis is intrinsically linked to the prospect of policy and practice being processed through a cycle of neighbourhood, or demographic intelligence being the foundation for balancing measures and thereafter performance management. The publication of the evidence of analysis supports the

transparency principle of evidence led policy making and not decision focussed policy taking. Many Local Authorities are currently demonstrating their commitment to equalities through amongst other mediums, incorporating analysis, engagement and publication as part of their standardised mainstreamed approaches. There is already flexibility around what goes into the public domain, but “best practice” Local Authorities are clear with their intent to demonstrate their level of leadership and commitment to this agenda. For these Local Authorities, publication of their equality analysis and engagement is the kind of evidence contained within their Equality Impact Assessments (or equivalent) which reflects that they are meeting the general equality duty. Removing the requirement to publish definitely follows the concept of “lighter touch” however it is contradictory to transparency for the very people on whom such decisions may adversely impact.

3 - Remove the requirement to publish details of the engagement the public authority undertook with persons whom it considered to have an interest in furthering the aims set out in section 149(1) of the Act, and details of the engagement it undertook when developing its equality objectives

The processes to support inclusive policy making are enshrined within the context of consistent and open engagement. Without the requirement to publicly state how a public sector body has taken the interests of the people it purports to serve into consideration, the subsequent service delivery will be perceived to be a one sided approach, developed in isolation of person focussed equality objectives. Without the requirement for public bodies to appropriately advise that representation has been sought through the proactive publication of the details of targeted and relative engagement there will be an information vacuum for all of those categorised as “protected characteristics”. The concluding perception is of a dampened down statutory process, in total contradiction to the principles of equality focussed legislation.

4 - Under the 12 January draft regulations, there was no set number of objectives that public bodies would be required to have. The same is true of the new draft regulations.

I consider that the specification of a set number of objectives may be counter productive, particularly as each public sector agency would determine their appropriateness based on their population demographic. However I also feel that the specification of objectives “plural” should be kept, as a demonstration to confirm that the journey to equality has relevant short, medium and long term anticipated equality outcomes. The review makes no mention that in the consideration of how best to determine this issue, there is no reference or distinction between strategic and operational objectives.

5 - A requirement on public bodies to describe the process of how they will measure progress against their objectives will not contribute to the delivery of equality improvements, so we have removed it.

Every Local Authority it is fair to say has historically been driven by systems of performance reporting, whether this is based on outcome, throughput or outputs. These are the means to which Public Bodies can be held accountable by the people they serve and to a large extent those who are relatively employed. They also allow public bodies to track their own progress and contribution to equality improvements and where challenged, can be used as a rationale. Those who receive services and those who are employed to deliver have been supported to date through an awareness of the knowledge of what processes are used to measure objectives or targets. The process of measuring progress, directly contributes to the context of transparency, particularly with regard to “equality improvements” when applied against (for example) protected characteristic groups. To remove a requirement on public bodies to describe their process of measuring progress, takes away the emphasis of specification and will lead to uncertainty and a lack of confidence to challenge, whether that challenge is by a service user, employee or regulatory body such as Equality and Human Rights Commission.

Paul Peng