

UNIVERSITY OF BRADFORD

Dear Government Equalities Office,

Further to the recent Policy Review Paper on the specific duties under the Equality Act 2010, for which comments were invited before 23 April, we in the Equality and Diversity Unit at the University of Bradford would like to offer the following observations and comments for your consideration.

The draft duties and/or associated guidance would benefit from further clarification about the role of the Equality and Human Rights Commission and what they will be doing to monitor and challenge organisations who don't meet the duties.

The shift in emphasis, from process to performance, is welcome and overdue. As the policy review paper highlights, the existing approach came with a risk that bodies would be held to account for failing to follow a process rather than the outcomes the process delivered.

Having said that, however, there appears to be an assumption that processes and performance are incompatible and that outcomes can be improved without imposing or requiring effective processes. Research and experience show that processes are essential in order to drive improvements in performance. It may be that the overemphasis on stripping away processes will lead to lack of accountability and will leave public bodies without a framework for driving improvements. The further implication is that processes are now unnecessary, which is a dangerous message to give. Not all process requirements are bureaucratic and unnecessary, but the implication of the policy review is that they are and must be removed. We understand the intention of the Government, i.e. to remove the imposition of particular processes, however we are concerned that this has not been fully thought out and should be revisited to ensure a properly nuanced and balanced approach.

There is a lot of talk in the Paper about transparency, accountability and giving the public the information they need to hold public bodies to account. However, the requirement to publish information on the equality impacts of the public bodies' work and the engagement undertaken has been removed and instead replaced with a vaguely-worded requirement to simply publish information which demonstrates compliance with the General Duty. How can these two positions be reconciled? How will the public be given sufficient information, and how will the bodies be accountable and transparent, without proactively putting relevant information in the public domain - and what is the relevant information? We believe that public bodies will require significantly more guidance and steering in order to be able to comply with these requirements and also to ensure that relevant information is published. Later in the policy review, reference is made to the need to 'understand the effects on equality', but this will be hard to quantify, evidence and hold to account without a requirement to publish and make available the process and information used in developing this understanding.

Without a clear legal requirement about expectations, a range of approaches and detail is likely and this could create confusion and even less accountability.

The requirement to publish accessibly is, however, welcome.

Further to this, how will the Government hold to account public bodies who do not consider the equality impacts of their policies and procedures without an adequate process or requirement to publish? The policy review indicates that the focus will instead be on making public bodies generate equality improvements for staff and service users but without a bureaucratic process. How will public bodies be expected to drive these improvements and how will compliance be monitored - against what criteria? The policy review refers to public bodies deciding for themselves how they will meet their duties, but this does not allow for sectoral benchmarking, cross-comparison, information sharing and true accountability for failures. As it stands, a short one page statement on how the institution met its duties is likely to suffice - there needs to be more detail and obligation.

In addition, the duties appear to shift responsibility onto the public themselves to check that a public body is meeting its obligations and to challenge where failures are found (para 17). This approach is unlikely to work in reality and shifts the balance of accountability away from responsible, compliant and proactive organisations onto an assumedly fully educated, aware and vigilant public.

The General Duty as referred to in the document includes race, gender, disability, gender reassignment, age, religion and belief, and sexual orientation. Pregnancy and maternity seem to have been overlooked; will this characteristic not be included in the specific duties? This needs some further clarification.

The claim that "a requirement... 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" is a concern. Firstly this conflicts with the stated aims of driving accountability and transparency for the public: how are the public to know how a public body is going to measure, monitor and evaluate its equality improvements? How will the public be able to check that the public body is indeed measuring and monitoring its equality work, if a monitoring process is no longer explicitly required? Any effective strategy or policy requires ongoing evaluation and measuring, and so it is an inherent requirement of a process or policy that actually generates and drives change. On the other hands, Article 2(2) of draft regulations requires equality objectives to be specific and measurable: there is an implicit recognition of the importance of measurability in achieving an objective. There is a contradiction in the policy review here that requires addressing and clarifying.

We hope that these comments assist. Please do not hesitate to contact us should you require any clarifications.

Yours faithfully,

Rob Rhodes

Equality Impact Assessment Officer
Equality Unit
University of Bradford
Richmond Road
Bradford
BD7 1DP

Telephone: 07776 467840

Web: www.bradford.ac.uk/equality