



Gender Identity Research and Education Society
Registered Charity No: 1068137
Improving the lives of trans people

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20 April 2011

The GIRES response to the Specific Duties Policy Review

GIRES has prepared this response in the light of the needs of people protected by the gender reassignment characteristic. This is an especially vulnerable group for whom the Equality Act 2010 was especially welcome. GIRES applauds the GEO's sustained effort to publicise the Act 2010 and the emergent duties. It is admirable that the Department and its responsible ministers have moved forward with the equality agenda against the backdrop of the Comprehensive Spending Review. GIRES especially welcomes the strengthening of the GEO LGB&T team.

GIRES provided extensive evidence in its response to the earlier consultation on the size and the gender variant population and the growing proportion of them that are seeking medical help and undergoing the risky process of transition.

Transgender people are too easily forgotten in measures to advance equality. Therefore, it was disappointing that, in the January 2011 edition of the specific duties, the GEO did not include requirements to gather data and set objectives in relation to each protected characteristic. This requirement is still absent from the latest version. There is now an opportunity to reconsider that exclusion. For instance, evidence gathered by GLSEN in the USA indicates a generally improved ethos in schools that specifically recognise the LGB and T characteristics in their anti-bullying policies.¹

GIRES endorses the submission submitted by the National LGB&T Partnership, of which it is a member. In particular, it draws the GEO's attention to what that submission says about transphobia, as well as homophobia.

GIRES strongly endorses the Partnership's statement that "legislation must be strong enough to support the highest possible minimum standards of equalities work in the public sector". Public bodies need clarity and so do stakeholders. The GEO must ensure that it minimises the need to resolve uncertainty. Freedom of information requests and judicial reviews are stressful, lengthy, exhausting and expensive.

The GEO's proposed amendments to the specific duties actually reduce transparency. Stakeholders need to be informed about the action that public bodies are actually taking to achieve greater equality.

¹ Students whose schools have a policy that specifically includes sexual orientation and gender identity/expression are less likely than other students to report a serious harassment problem at their school (31.6% vs. 40.8%%). (The Gay, Lesbian and Straight Education Network (GLSEN), National School Climate Survey – 2005, page 83 - <http://www.glsen.org/cgi-bin/iowa/all/library/record/1927.html>)

The GEO appears to be resiling even from its January position for no good reason:

- The removal of the requirement on public bodies to publish details of the engagement they have undertaken in determining policies and objectives cannot be justified on the basis that this merely related to process. Increasing engagement with the trans support groups listed in www.TranZwiki.net would be a worthwhile objective in its own right. Progress against that objective could be measured by regularly publishing information about the engagement actually undertaken: is it more or less than last year?
- The amendment of the requirement regarding objectives, so that it now states “one or more”, is most unhelpful. There is a real danger that many public bodies would think that one was adequate. The wish to spare unnecessary burdens on small entities does not justify this change. A better solution would be to insert the word “sufficient” before “objectives”.
- In clause 3.-(1) The word “sufficient” should be reinstated before “information”. To reinforce the emphasis on performance rather than process, the words “the effect of” should be inserted after “demonstration”. Accordingly, the revised wording would be “publish sufficient information to demonstrate the effect of its compliance”.
- Public bodies should be required to describe how they will measure progress against their objectives. Otherwise, employees and other stakeholders will have no basis on which to assess the adequacy of each organisation’s preparations to improve equality or to ask for the data generated from its measurements.
- Although it may be overly burdensome to require each public body to publish evidence of the equality analysis it undertook and the information it considered regarding its policies and practices, in the interest of transparency that information should be readily available to employees and other stakeholders. There should, therefore be a specific duty to “Prepare and maintain records of the equality analysis undertaken and the information considered in establishing whether its policies and practices would further or had furthered the aims set out in section 149(1) of the Act.”

It is not prudent only to enable Ministers to use guidance rather than regulation to supplement the Equality Act and the specific duties. Abandoning a reserve power is not necessary. Ministers can be relied on to use it responsibly and it would, in any case, require a written statement to Parliament.

It is regrettable that no draft of the guidance intended to supplement the specific duties is yet available. The two documents could and should have been published simultaneously.

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