

18th April 2011

RE: Equality Act 2010- The public sector Equality Duty: reducing bureaucracy- policy review paper (17th March 2011)

Dear Government Equalities Office,

Please see below the consultation response from the Leicestershire Equalities Forum regarding the Policy review paper 'the public sector Equality Duty: reducing bureaucracy'.

The Leicestershire Equalities Forum, is a partnership forum consisting of;

- Blaby, Harborough and North West Leicestershire District Council's
- Charnwood, Hinckley and Bosworth, Melton & Oadby and Wigston Borough Council's
- HM Young Offenders Institution and Remand Centre Glen Parva
- HMP Gartree, Market Harborough
- Leicester City Council
- Leicestershire County Council
- Leicestershire Constabulary
- Leicestershire Ethnic Minority Partnership (LEMP)
- Leicestershire Fire and Rescue Service
- National Offender Management Service East Midlands
- NHS Leicestershire and Rutland Primary Care Trust
- Rutland County Council
- Leicestershire Ethnic Minority Partnership

N.B: This is a partnership response and some organisations will also submit an individual organisational response.

Consultation Response

General

There is an overall feeling amongst the Forum that the Government are changing the legislation before we even know the impact- what was the point in the statutory consultation?

Also, the Equality Act should not be part of the red tape challenge as this is a piece of primary legislation and NOT the regulation itself. This 'light-touch' approach may become problematic in terms of legal challenge.

Wales have implemented stronger specific duties and Scotland are in the process of doing so. This creates inconsistency across the United Kingdom and level of inequality will exist and derive from this.

Reducing bureaucracy and delivering equality improvements

Section 7: ***“... public bodies are accountable for delivering on the Equality Duty by requiring them to be transparent about their own staff and the public services that they deliver”.***

This duty requires us to be transparent but as there is now a requirement to publish a lot less than originally intended so this requirement seems now to be more a request rather than a statutory requirement.

There are limits to transparency and the forum feel complete transparency does not exist.

Section 9:

“Publish equality objectives every four years” The forum still feels that this should be 3 years but the objectives should be monitored yearly to comply with the second bullet point to;

“publish information annually to demonstrate their compliance with the general equality duty” The forum feels this publishing of information should link with an organisations set equalities objectives. Currently, there is no reference to this linking up.

“in particular publish information relating to their employees.....” you need to be specific about what this means i.e. monitoring for all characteristics otherwise some organisations will use this as an opportunity to publish only the bare minimum.

Section 10: This needs further guidance i.e. where should it be published? what constitutes as 'accessible?' This information needs to be easy to find for those who are scrutinising an organisation with regard to it's equality duty.

Background

Section 11: ***Part (c) “focussing on measurable results....”***

What will the Government Equalities Office do to reduce the time public bodies spend fulfilling repetitive or un-productive processes?

We are currently re-consulting on an original three month statutory consultation- how can consultation become more effective in light of this?

Section 12: We are currently re-enforcing the draft regulations- are the Government Equalities Office listening to the responses already given?

Details of the new approach

Section 13: ***“interested in the delivery of equal treatment and equal opportunities for all...”*** The Forum feels strongly that the wording ‘equal treatment’ be changed. **Fair treatment** is more suitable wording.

Section 14: Engagement is essential- but how are you defining engagement? How will it happen in practice? More guidance is needed to support this specific duty.

Lighter- touch transparency requirement

Section 17: ***“Challenge from the public will be the key means of holding public bodies to account for their performance on equality”***. There doesn’t seem to be any real substance as to how this is going to happen. What guidance and information will be presented to the public to enable challenge to occur?

“We are developing tools and mechanisms to support organisations and individuals to challenge public bodies effectively to ensure they publish the right information”.

- What tools and mechanisms? When will we see them?
- What is the right information? What guidance will be given to support this?

The public will automatically challenge under this duty as we will not have specific outcomes and published information on the protected characteristics as outlined earlier within the consultation document.

“... with a particular focus on addressing the barriers facing some disabled people”. Which disabled people and why some and not others? Why is this a priority above other characteristics? This section needs further clarification.

Lighter- touch transparency requirement

As a forum we disagree with the wording ‘light- touch’- this makes equalities seem unimportant.

Section 18:

(Bullet point 1) As a forum we do not agree with this. There is only a change off one word- this change is not reducing the overall amount of bureaucracy. Again, what information is to be published? Is this even making any changes from the original version?

(Bullet point 3) The Forum has a concern about not publishing this evidence. People will ask this information in other forms such as ‘Freedom of Information’ requests. Therefore, this is increasing bureaucracy overall and

also only opens the process up to those who know the route and protocol to use these channels for information.

There is the potential for communities to be missed (especially smaller communities) and we will be marginalising these communities by not consulting with them. This regulation allows for bodies to choose which communities to consult with and therefore the voice of specific communities will be lost.

Section 19:

There is a requirement to “show due regard” but there are no requirements as to what we should be publishing to evidence this due regard. How can organisations be held to account if stakeholders are not presented with the relevant information? There needs to be guidance and consistency of what should be published.

“Information to help public bodies comply with the duties and understand what constitutes good practice will be delivered through guidance, not regulation” This needs strengthening. Where is the guidance? What do you class as ‘good practice?’ Equality is context specific- outcomes need to be strengthened.

Equality objectives

Section 20: How can any public body have only one objective? What will this achieve? How can just one objective comply with 9 protected characteristics and three general duties?

Within the private sector Equality and Diversity is used as best practice to market and sell to customers. With these new regulations we are taking away the business case for Equality and Diversity in any public sector organisation.

Section 23: Process is about management- how can you manage the Equality Act 2010 without a process? How can you report on your outcomes without a process in place? Again, this needs further clarification.

Matters specified by a Minister of the Crown

Section 24: We understand why this requirement has been removed but the Forum does have concerns surrounding it.

The Forum feels that sometimes a local approach doesn’t work and it needs national intervention (i.e. Stephen Lawrence case). It also allows consistency- we need equality consistency across all areas and not to let equality become a postcode lottery.

In some way it was worthwhile keeping this as it allowed stakeholders to understand what you have done and why. This also links to our comments earlier on transparency and challenge.

Other

When will guidance be published to ensure the voluntary and community groups have the necessary information available to challenge organisations?

If you require any further clarification on the matters raised above please contact Suzanne Kinder on 0116 305 5692 or suzanne.kinder@leics.gov.uk.

Yours Sincerely,

Leicester Shire Equalities Forum
pp. Suzanne Kinder