

Consultation response from the Fawcett Society

‘Equality Act 2010: The public sector Equality Duty: reducing bureaucracy’

The Fawcett Society is disappointed to be responding, for the third time, to consultation on proposed draft regulations to impose specific duties on public bodies under the general public sector Equality Duty as set out in the Equality Act 2010.

Fawcett strongly endorses the submission made by the Equality and Diversity Forum (EDF) on this issue. In respect of this endorsement, our response does not seek to repeat the central points made by the EDF but only to include additional views where useful.

In particular, we echo the EDF’s analysis of the proposed regulation on setting ‘one or more (equality) objectives’ and have no supplementary points to make. We do however wish to submit the following points with regards to the rationale for the changes to the regulations on the ‘publication of information’:

- We wish to express our considerable concern about the removal of the requirements for public bodies to publish the details of the engagement and analysis they have undertaken in determining their equality policies and objectives. This sits at direct odds with the government’s stated aim of enabling organisations and members of the public to hold public bodies to account on their compliance with the general duty through ‘*greater transparency*’.
- As the consultation document states, greater transparency will enable ‘*challenge from the public – for the equality improvements they (public bodies) deliver, not the processes they go through*’. However, it is plainly clear that in order to assess effectively - and if necessary challenge - a body on its equality outcomes, the processes by which these outcomes were set and progressed against needs to be understood.
- Furthermore, removing the requirement to publish such information does not negate the necessity for public bodies to undertake such processes in order that they can effectively meet their legal duties under the general duty. To echo the EDF, in no sense can public bodies meet their duties ‘*without thoroughgoing analysis of equalities issues during policy making*’.
- As such, we do not think it onerous for public bodies to be required to publish such information. Indeed, we believe that the removal of the requirement to publish

information may conversely lead to an increase in the bureaucratic burden placed on public bodies as a result of increasing levels of FOI requests where, if the objective of transparency is to be effectively met, public bodies will be compelled to provide such information in an accessible format.

- Indeed, Fawcett and many other equality organisations will continue to encourage their stakeholders and supporters to call both local and central government to account on their legal duties under the general duty, including to seek information on the processes and analysis that bodies have undertaken in setting out and measuring progress against their equality policies and objectives.
- Whilst we welcome the assertion that the government will be *'[...] developing tools and mechanisms to support organisations and individuals to challenge public bodies effectively to ensure they publish the right information and deliver the rights results'*, we are nonetheless extremely concerned that any such tools should be underpinned by clear and directive regulations. Failure to provide clarity through a legal framework risks signalling to public bodies that they need do little to comply with their legal duties and will undoubtedly lead to confusion and inconsistent implementation of the general duty across public bodies.
- We believe there is a fundamental tension in the government's ambition of decreasing the burden on organisations through de-regulation. We believe that, in this instance, replacing clear regulation with additional and onerous guidance will in fact lead to increased levels of confusion and work load for public sector bodies.
- Finally, we wish to express our concern that the draft specific duties have now been through three separate rounds of consultation - with this last round being announced at very short notice and with a consultation time-period of only one month (as opposed to the standard three). This can only lead to frustration for both the already over-stretched equality and diversity sector and for public bodies seeking clarity of their duties. The approach taken is at complete odds with the government's ambition of reducing unnecessary bureaucracy.

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