

# Developing equality schemes to meet the three existing duties

## Purpose and Scope of this guidance

This document provides guidance for public authorities in England, Scotland and Wales who are subject to the race, disability and gender specific duties<sup>1</sup>, on how you can effectively meet the three public sector general duties together through the development of one overarching scheme – commonly referred to as a single equality scheme. Any future reference to schemes within this guidance refers to schemes of this nature.

In producing this guidance, the Equality and Human Rights Commission (EHRC) is not recommending that public authorities must develop single schemes – it is up to each public authority to decide which route is the best for them to take. What the Commission is interested in, whether through single or separate schemes, is that each of the duties is being met.

The law<sup>2</sup> in relation to the public sector duties is due to be simplified and revised to include four more strands. This will not come into force until 2011 at the earliest, so until that time public authorities will need to continue to work with the existing legislation.

This guidance intends to make clear what you will need to put in your scheme to meet the legal requirements of each of the general duties<sup>3</sup>. It also highlights what the Commission will be looking for when it comes to assessing your scheme for compliance. The guidance ends with a checklist of the ten key things you need to consider to ensure that your scheme will meet the requirements of each of the duties.

As a general principle, wherever one of the duties has a more detailed requirement you should aim, as a matter of good practice, to match this requirement across each of the three duties. For example the disability duty requires involvement not consultation, but involvement for race and gender will be beneficial in terms of identifying priorities and meaningful engagement with communities.

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1 This guidance is aimed at people who are actively engaged in developing equality schemes and are, therefore, already familiar with the format and requirements of the race, disability and gender duties. You can find further information on the duties, including their detailed requirements and both the statutory and supplementary guidance issued in relation to the duties at: [www.equalityhumanrights.com/workingbetter](http://www.equalityhumanrights.com/workingbetter)

2 The current law is contained in the Sex Discrimination Act 1975, the Race Discrimination Act 1976 and the Disability Discrimination Act 1995. The new provisions will be contained within the Equality Bill, expected to pass through Parliament in 2009.

3 The main source of information regarding the requirements of the duties are the statutory Codes of Practice, which also contain the relevant statutory instruments.

**This guidance does not replace the existing guidance on meeting the duties** published previously by the CRE, the DRC and the EOC<sup>4</sup>. It does however seek to highlight the different requirements of the three duties and provide further clarification of the standards that Commission is looking for when it assesses schemes.

You can conduct a 'self-assessment' of your scheme using the assessment template developed by the Commission and available at: [www.equalityhumanrights.com/en/forbusinessesandorganisation/psd/enforcement/pages/assessmenttemplates.aspx](http://www.equalityhumanrights.com/en/forbusinessesandorganisation/psd/enforcement/pages/assessmenttemplates.aspx) This will help you to determine if your scheme addresses the key areas and whether or not it is compliant.

Separate guidance is being developed to assist schools and other educational institutions to meet their own particular requirements under the duties. Whereas the general Gender Equality Duty (GED) applies to all public authorities in England, Scotland and Wales, the specific gender equality duties do not apply to authorities whose public functions are solely in relation to Wales. However, the Commission strongly recommends that all public authorities in Wales operate as if the specific gender equality duties apply to them in order to ensure that they are meeting the general Gender Equality Duty. This is the approach that the Welsh Assembly Government and many other public authorities in Wales have taken. In this guidance, any reference to the specific gender duties should, therefore, be read as applying to England and Scotland.

## **What about the proposed new equality duty?<sup>5</sup>**

Until such time as the new equality duty is implemented, public bodies are still obliged to meet the requirements of the race, disability and gender duties. While the Commission would support public bodies to begin to take action to prepare for this single duty it is not the intention of this guidance to provide any advice in relation to extending schemes to cover the other equality strands or human rights. The Commission will be developing detailed guidance on these issues at a later date to assist public bodies to prepare for the new equality duty.

You can find out more about the development of the equality duty at: [www.equalityhumanrights.com/en/forbusinessesandorganisation/psd/psdnews/Pages/SingleEqualityBody.aspx](http://www.equalityhumanrights.com/en/forbusinessesandorganisation/psd/psdnews/Pages/SingleEqualityBody.aspx)

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4 This includes both the statutory guidance provided within the Codes of Practices and the supplementary guidance – all of these documents are available via the Commission's website at: [www.equalityhumanrights.com/en/forbusinessesandorganisation/psd/infopubauth/pages/guidance.aspx](http://www.equalityhumanrights.com/en/forbusinessesandorganisation/psd/infopubauth/pages/guidance.aspx)

5 At the time of writing this guidance, the Government has said that it is committed to introducing a new public sector duty and that its intention is to incorporate within it all the equality strands (i.e. race, disability, gender, gender identity, age, sexual orientation and religion or belief). While the precise format, scope and name of the new equality is still to be determined, all future references to this forthcoming duty will be referred to as the 'single equality duty'.

# Getting Started

## What is the purpose of the equality scheme?

You are required under the race, disability and gender specific duties to develop and publish an equality scheme for each of the three strands. The purpose of doing so is to enable you to meet each of the general duties. You should view your scheme as your timetabled, evidence-based, plan of action for meeting each and all of the general duties.

## Meeting the general duties

To meet the general duties, you are required to pay 'due regard' to them, that is the weight given to race, disability and gender equality must be proportionate to its relevance. This common requirement, across all the duties, means that you have to prioritise action on those areas of your work and issues that are most relevant to equality. For example, for a local authority, education is likely to be a greater priority for gender equality than highways.

You can demonstrate this within your scheme by the extent to which you have prioritised areas of work and actions to enable you to tackle the most significant issues in race, disability and gender equality within your remit. The race duty formalises this process with its requirement to list all your functions and policies within your scheme, marking them for relevance to race equality.

While developing a scheme, although you need to prioritise activities within each of the duties, it is not acceptable to prioritise one of the duties over another (for example, to focus on race rather than disability or gender), as all three duties need to be fully met.

Your scheme needs to consider the impact of the duties in respect of all your functions and policies – this includes the work you do in partnership with others – for example crime and disorder partnerships – and also in respect of goods and services that are delivered for you by private and voluntary sector contractors.

## What will the Commission be looking for?

In summary, the Commission is looking for your scheme to demonstrate:

- **how** you arrived at your priorities (i.e. what evidence you collected, how you used your evidence, including information from consultation, and the involvement of disabled people);

- **what** outcomes you are aiming to achieve that will address the most significant areas of race/disability/gender inequality in your remit;
- **when** you are going to take action to achieve your outcomes; and
- **who** is responsible for delivering them.

The Commission wants to see far more of a focus on action planning and the delivery of your priorities, as opposed to the development of a document as an end in itself.

We will assess schemes on the extent to which they are **evidence-based** and effective plans for delivering change: change that will lead to greater race, disability and gender equality.

### Hints and Tips

Don't develop your scheme in complete isolation to your business plan – use the development of your scheme and action plan as a way of helping you to meet your strategic business priorities.

Make sure you have covered all the general duties – some elements can often be 'missed', for example, the elimination of discrimination and harassment towards transsexual people, the promotion of good relations between people of different racial groups and the promotion of positive attitudes towards and participation in public life of disabled people.

## Gathering and Using Evidence

### What are the legal requirements?

**To meet the race duty:** you are required to monitor (including for adverse impact) all policies and practices that are relevant to race equality, for example, the number of people from different racial groups who are stopped and searched or the number of people who are accessing library or leisure facilities. Under the race duty you are also required to ensure that the public has access to information and services that you provide.

**To meet the disability duty:** you are required to gather information on the extent to which the services you provide (and any other of your functions) take account of the needs of disabled persons (for example, ensuring that all new housing meets basic access standards for disabled people). You are also required to use the information obtained to review the effectiveness of the steps set out in your action plan and in preparing subsequent schemes.

**To meet the gender duty:** you need to gather information on the effect of your policies and practices on men and women and the extent to which the services you provide and the functions you perform promote equality of opportunity and take account of the needs of men and women. You are also required to take into account other information that may be relevant which could include the national gender pay gap and its causes or differential health outcomes for men and women. In your scheme you are expected to set out the steps you have taken, or will take, to do this. You are also required to make use of the information obtained to review the effectiveness of your gender objectives and in preparing subsequent gender equality schemes.

## What needs to be in your scheme?

You need to put sufficient information in your scheme to be able to demonstrate that you understand what the most important issues are for your organisation in relation to race, disability and gender equality. You need to do this to enable you to demonstrate that the actions you are taking are justified, in terms of evidence presented.

You need to show that you have considered a range of relevant information primarily, but not exclusively, from your own organisation, (including disaggregated data) and include summaries of your analysis to show how this evidence has informed your actions.

Following these steps will help you to do this:

- Look at the information you already have to hand and whether it is disaggregated. If not, what steps can you put in place to disaggregate it?
- What national/other information is available that you can use, for example, from an umbrella body within your sector? Also, if you lack statistical data – is there other data (for example, from qualitative sources or your consultation/ involvement) that you could use instead?
- Once you have established what information is available, where it is and what the gaps in your information are - what steps can you take to fill those gaps? This could include using your consultation and or involvement processes, or working together with other public authorities in your area.
- Analyse and assess your information – what is it telling you? What significant issues is it pointing you towards?
- Use your information to determine what issues you need to prioritise for action within your scheme.

If you have evidence gaps (which we accept most public bodies will have), you need to show within your action plan what steps you are taking to fill those gaps and improve your evidence base.

## **What will the Commission be looking for?**

The Commission will look at both the quality of your evidence and the extent to which you have used your information to determine what action you are taking. We are looking for a reasonable level of data and analysis to enable you to be able to justify what actions you are prioritising, and how your actions will enable you to pay due regard to race, disability and gender equality – and that is, that you are meeting the general duties.

This means that there needs to be a clear and identifiable link between your evidence and the actions you are taking. If we cannot see this in your scheme, it will not be deemed sufficient to meet the duties.

It also means that we need to see how you have used your evidence to determine what you are prioritising for action. Where your evidence, or evidence from your sector as a whole, suggests that there is a significant issue that needs addressing within your remit and you are taking no action, you will not be meeting the duties.

### **Hints and Tips**

Lack of evidence is not an excuse for inaction. Where you have data gaps you need to demonstrate how you have tried to fill these by considering other sources of information and take action to improve your evidence base.

## **Consultation and Involvement**

### **What are the requirements?**

While the gender duty requires public bodies to consult stakeholders in the preparation of a scheme (and for GED this includes trade unions), to meet the requirements of the Disability Equality Duty (DED) you need to involve disabled people. While there is no explicit requirement to consult in preparation of a scheme in relation to the race duty, it is recommended that you do this, as it will improve your evidence base and community involvement.

In meeting the duties effectively, it is important not to confuse the requirements to consult and involve. Best expressed as ‘nothing about us without us’, the involvement obligation requires the ongoing participation of disabled people

throughout the process of developing the scheme and in its implementation. It is therefore an on-going working relationship rather than a one-off consultation. You may find it useful to involve all those covered by your scheme to help with evidence-based prioritisation and meaningful engagement with your communities. You can find out more about how to involve disabled stakeholders effectively at: [www.equalityhumanrights.com/en/publicationsandresources/Pages/DEDandinvolvement.aspx](http://www.equalityhumanrights.com/en/publicationsandresources/Pages/DEDandinvolvement.aspx)

## **What needs to be in your scheme?**

The legislation requires you to include within your scheme a statement of how you have involved disabled stakeholders (to comply with DED), and information about what action you have taken or will take to consult relevant employees, service users and others, including trade unions (to comply with GED).

In practice, this should include a short summary of who you consulted and involved; how you did it; and what people told you in your consultation and involvement exercise. If you want to put in more detail, consider doing this in an appendix to keep the main body of the scheme as concise as possible. Some of the more effective schemes have included this information in their schemes in the form of a table with information about what people said; what action is being taken as a result; and if no action is being taken, providing reasons for this.

## **What will the Commission be looking for?**

What we want to see from your scheme is some evidence that you have consulted and/or involved the most relevant stakeholders, and what action you are taking as a result of the issues raised.

We will be looking for a clear and identifiable link between what people told you and the action you are taking as a result. If you are unable to prioritise some of the issues raised for action, you need to make this clear within the scheme.

This is of particular importance in relation to your involvement of disabled persons as, without providing evidence that their input has been influential, it is difficult to prove that you have actually truly involved people.

### **Hints and Tips**

Think of your consultation and involvement obligations as a helpful tool to ensure you are prioritising the right issues, rather than as a stand-alone requirement or burden.

# Impact assessment

## What are the requirements?

Under the race duty, the requirement is to impact assess proposed policies and to monitor existing policies. For both the disability and gender duties, the requirement is to impact assess all existing policies and practices, in addition to proposed policies and practices.

Given the requirements of the disability and gender duties, when carrying out assessments on existing policies it makes sense to do this for race, in addition to disability and gender, if you have not already done so (particularly in light of the duty to assess functions and policies for relevance to race). The Commission is producing separate guidance on how to conduct effective impact assessments. What needs to be in your scheme?

Under the race duty you are required to set out within your scheme ‘your arrangements for assessing and consulting on the likely impact of your proposed policies on race equality’. You are also required to include information on how you will publish the results of these assessments. Under the disability duty you are required to include a statement on how you will assess the impact of your existing and proposed policies and practices on equality for disabled people, and for the gender duty you have to set out the actions you have taken or intend to take to assess the impact of existing and proposed policies and practices on equality between men and women.

## What will Commission be looking for?

Essentially we are looking for evidence that impact assessments are being carried out in a systematic and robust way within your organisation that enables you to meet your general equality duties. You can provide us with this evidence by including in your scheme:

- a timetable (in your action plan) for how you are going to assess existing policies (making sure you prioritise those policies most likely to be relevant);
- your impact assessment tool as an appendix (or a link to where it can be found); and
- a link in your scheme to where you publish your impact assessments.

The best schemes might also include a couple of examples where impact assessments have been effective in changing policies because of the information they have uncovered.

## Hints and Tips

Make sure that the steps you are taking to ensure that impact assessments are being robustly and consistently conducted throughout your organisation, are set out clearly within your action plan.

# Employment

## What are the requirements?

**To meet the race duty:** you are required to undertake ethnic monitoring according to racial group of: staff in post; applications for employment; applications for training; applications for promotion.

For those organisations with 150 or more full-time staff you are also required to monitor by racial group those who: receive training; benefit or suffer detriment as a result of performance assessment procedures; are involved in grievance procedures; are the subject of disciplinary procedures and cease employment.

You are also required to train your staff on the general and specific duties.

**To meet the disability duty:** you are required to gather information on the recruitment, development and retention of disabled employees.

**To meet the gender duty:** you are required to gather information on the effect of your policies and practices on men and women and the extent to which they promote equality between your male and female staff.

If you are a public authority in Scotland and employ over 150 staff you are also required to develop and publish an equal pay statement<sup>6</sup>.

In addition to the above requirements, under the gender duty you have to consider whether you should include an objective that addresses the causes of the gender pay gap. You can find out more about this element of the gender duty by reading ‘Developing gender equality objectives and a gender equality scheme’ at: [www.equalityhumanrights.com/publicsectorduties/genderpublications](http://www.equalityhumanrights.com/publicsectorduties/genderpublications)

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<sup>6</sup> You can find more information on this aspect of the duty by reading ‘Scottish equal pay guidance’ at: [www.equalityhumanrights.com/publicsectorduties/genderpublications](http://www.equalityhumanrights.com/publicsectorduties/genderpublications)

## **What needs to be in your scheme?**

You need to put in your scheme information about how you have consulted and involved staff as well as a summary of your employment monitoring data. We are expecting the majority of public bodies to disaggregate and analyse their data across each of the equality strands covered by the existing duties – refer to the sections above on evidence gathering and consultation/involvement for more information.

## **What will the Commission be looking for?**

The Commission will look not only at the quality of your employment data, but also at how you are using your data to inform your actions. As with the other evidence-gathering requirements of the duties, where there are gaps in your data we will be looking for what steps you are taking to improve the quality of the data (including increasing your overall response rates if they are poor).

The action you are taking as an employer needs to make sense in relation to the evidence – that is, we will be looking for that clear and identifiable link between your evidence and the actions you are taking. In particular, in relation to the need to consider whether you need to include an objective in relation to the gender pay gap we are expecting public bodies to include such an objective – or to provide some form of justification as to why one is not required.

We also expect your action plan to detail the steps you are taking to train your staff. Although you are only required to train staff in relation to the race equality duty it is recommended that you train staff in relation to each of the duties.

### **Hints and Tips**

Monitoring means more than simply collecting data – you also need to analyse and use your data to prioritise and take the action that will lead to greater race, disability and gender equality for your staff.

# Action planning and Delivery

## What are the requirements?

You can only meet the duties by taking action to achieve greater race, disability and gender equality in what you do. **This is the most important part of developing your scheme.**

The race duty code of practice states that schemes should be a timetabled and realistic plan for meeting both the specific and general duties. Both the disability and gender duties require you to include a statement of the steps that you are going to take to enable you to meet your general duties. These are expressed as explicit requirements, under the disability duty, to develop an action plan and, under the gender duty, to set out overall objectives that you have identified will enable you to meet your general duties (for example, an objective to reduce repeat offending rates for domestic violence).

Put simply, these requirements mean you have to make explicit in your scheme and action plan what steps you have decided to take to enable you to meet the general duties. This means that you have to be clear about what outcomes you are looking to achieve, and how and when you will take the necessary actions.

## What needs to be in your scheme?

Your scheme needs to include a clear and prioritised action plan that clearly sets out what you are going to do over the period of the scheme to meet the duties – that is to deliver specific improvements in race, disability and gender equality. You can successfully meet the requirements of the duties by making sure that your action plan:

- Includes specific actions that will lead to **demonstrable** improvements in race, disability or gender equality. You need to avoid headline actions with potentially meaningless outcomes such as ‘to reduce discrimination for everyone’. Ask yourself, “What difference will this make to race, disability or gender equality?” – if you struggle to find an answer, the action is not specific or clear enough to enable you to meet the duties.
- Includes actions that have clear timescales.
- Includes actions that enable you to meet each element of the race, disability and gender general duties – the best schemes clearly set out against each action which of the general duties the action will meet.

- Includes actions that are measurable – you will have to report on your progress, which will be difficult to do if actions are not capable of measurement. Ask yourself, “How will I be able to measure whether I have been successful?” – if you struggle to find an answer, your action is not specific enough and will not be sufficient to meet the duties. The best action plans include information about what indicators will be used to measure success. These do not necessarily have to be numerical.
- Covers the entire remit of your organisation – for example, covers actions in relation to policy development, service delivery, employment, procurement and partnerships.
- Strikes the appropriate balance between improving your processes for delivering equality (for example, collecting data, establishing stakeholder involvement systems) and those that will deliver real outcomes for people (for example, improving health service usage by, or outcomes for, under-represented groups, improving prosecution rates for offences against people with learning disabilities). Only action plans that include action which will deliver clear outcomes in race, disability and gender equality will be sufficient to meet the duties.
- Conveys a clear sense of what your priorities are and demonstrates that you are tackling the most significant issues for race, disability and gender equality within your remit.

## **What will the Commission be looking for?**

When assessing schemes the Commission views the action plan as the most important part of the scheme since it reflects what you are actually doing to meet the duties. We expect the commitments you make in your scheme to be adequately reflected in your action plan.

We will be looking for how you have paid ‘due regard’ to equality in your action plan, for example, what you have prioritised for action and whether this has meant that you are focusing on the significant issues for race, disability and gender equality within your remit, and that your approach is proportionate. In deciding whether you have paid ‘due regard’ we will consider your evidence, what your stakeholders told you and will also use our own knowledge of key issues of race, disability and gender inequalities within your sector.

We are expecting action plans to clearly address all the aspects of the general duties.

### **Hints and Tips**

Don't let your scheme be let down by a poor action plan – put your main efforts into getting your actions clearly identified and prioritised and ensure that they are the right ones to enable you to meet each and all of the general duties.

## **Publishing, Reporting and Reviewing**

### **What are the requirements?**

All the public sector duties require you to publish your equality scheme. Under the race duty, you are also required to publish the results of your impact assessments (including consultation), monitoring information and, on an annual basis, your employment monitoring results.

There is no specific requirement under the race duty to revise your scheme but it is expected that you will, in part due to the requirement to review your initial assessment of the relevance of your functions every three years.

Under the disability and gender duties you are required to publish an annual report on your progress in achieving the outcomes within your scheme and fully revise your scheme after a period of three years. The next deadlines for revised schemes are:

- Disability Duty: 4/12/2009.
- Gender Duty: 30/4/2010 (30/6/2010 in Scotland).
- Race Duty: 31/5/2011 (30/11/2011 in Scotland).

The gender duty requires revision 'at least' every three years, so there is scope to align those revisions with those under the other duties.

### **What needs to be in your scheme and annual reports?**

In your scheme you need to include in the action plan the steps you will take to ensure that the reporting and reviewing requirements of the duties are met. Your annual report should identify what progress you have made in achieving the outcomes you set yourself within your scheme to meet the general duties. If you have not been successful in some areas you will also need to include information regarding why this is and what action you are taking to revise your plans as a result.

Your annual report will also need to include details of any information-gathering that has been carried out in relation to disability equality and your race employment monitoring data, unless you intend to publish this separately. It makes sense to include this information across all the three duties.

## **How can you reconcile the different reporting and review dates for each of the duties?**

By developing a single equality scheme it is likely that your reporting and review dates will no longer correspond precisely to those laid down in the regulations. Wherever possible you should aim to bring forward your annual reporting and scheme review dates. The Commission accepts that this may not always be possible and as long as none of these dates are 'missed' for a period longer than three months it is likely that we will take a pragmatic view. This will only be the case, however, where we can see that the public body is clearly demonstrating a commitment to take action on race, disability and gender equality and not using the development of a single scheme as an excuse to delay action. However, you should bear in mind that the Commission cannot and will not offer official 'extensions' to individual public bodies in relation to annual reporting and scheme review dates

## **What will the Commission be looking for?**

The most important thing you need to do is to assure us that you are on track in terms of achieving your outcomes, which will enable us to determine if you are meeting the general duties. It is important to note that the duties place you under a continuing duty to improve and as such we are expecting you to be making overall progress in race, disability and gender equality. It is critical that the duties are not seen as a minimum standard but rather as enabling you to improve in relation both to equality and public service delivery.

### **Hints and Tips**

Make sure your scheme is well signposted on your website and think about using the reporting requirements of the duties as a way of demonstrating the impact of your work and a way of celebrating your achievements.

# Checklist

## What makes a single equality scheme effective in meeting all three general duties?

	Yes/No
1 Are your priorities for action clearly identified?	<input type="checkbox"/>
2 Is it clear which of the general duties each of your actions is addressing?	<input type="checkbox"/>
3 Is there a clear link between the evidence you have gathered and the action you are taking?	<input type="checkbox"/>
4 Does your action plan set out the action you are taking in relation to assessing the impact of your policies and practices?	<input type="checkbox"/>
5 Is there a clear link between your consultation/involvement feedback and the action being taken?	<input type="checkbox"/>
6 Is there an appropriate balance between improving your processes and delivering real outcomes?	<input type="checkbox"/>
7 Have you clearly set out the action you will take in relation to employment (including the gender pay gap)?	<input type="checkbox"/>
8 Is it clear within your scheme what action you have taken to consult and involve and who was involved?	<input type="checkbox"/>
9 Does your scheme clearly build on what you have achieved in previous schemes?	<input type="checkbox"/>
10 Is your scheme easy to find on your website?	<input type="checkbox"/>

# Contact us

The Commission's website contains all the information you need about the duties including more details on the specific requirements of each. You can find a range of guidance documents, including the statutory guidance contained within the Codes of Practice, and a number of other resources at:

[www.equalityhumanrights.com/  
publicsectorduties](http://www.equalityhumanrights.com/publicsectorduties)

You can find out more about the Commission or get in touch with us for further information and assistance via our website at:

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

or by contacting our helplines 9am–5pm, Monday to Friday, except Wednesday 9am–8pm:

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