

Equality Act

Specific Public Sector Equality Duties in Wales

The Equality and Human Rights Commission in Wales warmly welcomes the Welsh Assembly Government's new powers, under the [Equality Act](#), to introduce specific public sector duties for Wales. We strongly support duties that are created in Wales for Wales. We also welcome the basis for these duties as set out in the Written Statement by the Welsh Assembly Government published in February.

These duties will assist public authorities in Wales to implement the general public sector duty in a way that closely reflects the Welsh Assembly Government's objective of delivering better equality outcomes for our citizens.

The Commission's proposals for Welsh specific duties are based on:

- Evidence gathered through involving our stakeholders in focus groups
- Research on the benefits to public authorities in Wales of implementing the current duties
- Responses to the Welsh Assembly Government Listening Exercise on specific duties for Wales
- Responses to the Government Equalities Office consultation on specific duties for England.

The Commission is encouraged by the high level of agreement that has emerged from the evidence gathering. This shared agenda provides a firm foundation for specific duties in Wales that are effective in achieving the best possible equality outcomes in the current economic climate.

We propose the Government introduces specific duties covering a number of key areas. Taken together these provide a strong basis for assisting public authorities in tackling entrenched inequalities and implementing the general public sector duty effectively.

They are:

1. Equality Objectives

The evidence from stakeholders demonstrates a clear aspiration for a duty that requires public authorities to set and publish equality objectives. The Commission agrees with this.

These objectives should be developed as part of public authorities' core business planning and publication process and tied closely to corporate plans. The objectives should:

- Set out the steps authorities will take to achieve these objectives over their business cycle
- Be reviewed and updated as necessary

In setting the objectives public bodies should:

- Consult and involve employees, service users, trade unions, third sector organisations and others with an interest in their functions. This should particularly involve those from the protected groups.
- Ensure the objectives are based soundly on an evidence base, identifying the areas where organisations can address the greatest inequalities in their remit.

The objectives should be regularly reviewed and reported upon, as a minimum every 3 years.

2. Involvement

The evidence gathered by the Commission, in relation to the current duties, indicates that the disability involvement duty has been very effective in progressing equality. We welcome recognition of this in the Minister's Written Statement and consider that an involvement duty should:

- Extend to all protected groups.
- Be meaningful and involve all those with an interest in the public bodies' work including employees, service users, trade unions and third sector organisations.

3. Equality Impact Assessment

We are pleased to see the recognition of the importance of equality impact assessments in the Minister's Written Statement. We agree that equality impact assessment should be carried out by public authorities across all protected characteristics. Equality impact assessments should focus on outcomes and the assessment process should not be complicated, paper-driven or prescriptive. It needs to be tailored to the remit, work and needs of the organisation carrying out the assessments.

Impact assessment should be transparent, evidence based and draw on expertise of diverse stakeholders through involvement.

4. Building the evidence base

In response to the Listening Exercise, organisations made clear their support for collection of data in relation to all protected groups in service provision as well as employment. It is critical that authorities collect meaningful data across all protected groups. This should be analysed and used to identify inequalities. How these are then addressed, and services improved, will be reflected in equality objectives and corporate plans.

5. Gender Pay Gap

In Wales the Commission, along with many other respondents to the Welsh Assembly Government's Listening Exercise, would welcome the introduction of a robust specific duty on equal pay that is aligned to the Government's policy on closing the gender pay gap.

The duty should ensure that public authorities should undertake equal pay reviews to identify:

- Whether they have a gender pay gap
- What factors are contributing towards it
- How these can be addressed in an effective and timely way.

Public authorities should collect data about the jobs, pay, grades, work patterns and contracts of male and female employees. Stakeholders, including trade unions, should be involved in analysing the data and understanding the narrative behind it. This will enable public authorities to identify the factors that will have the greatest impact in closing the gender pay gap and to take the appropriate action.

Regular reporting will allow public authorities to track progress in achieving their objectives and will increase the accountability of public services to citizens.

6. Data gathering and reporting on employment

In response to the Listening Exercise, organisations made clear their support for collection of data in relation to all protected groups. We recognise that this needs to be proportionate, depending on the nature and scale of the organisation, but consider that the duty should cover all public bodies regardless of size.

The duty needs to recognise the challenges of collecting data around particular areas, for example sexual orientation and religion, and authorities should be given time to build their evidence in relation to the newly protected strands.

It is important that the data should be reported on and should include workforce pay gaps. Where numbers are small and/or confidentiality could be breached, there should be appropriate limitations to what has to be publicly reported.

7. Procurement

The Commission supports other organisations in considering public sector procurement as a valuable lever in achieving equality. The specific duty should include authorities being required to:

- Show how they intend that public procurement will further its equality objectives
- Use relevant and proportionate equality related criteria in awarding contracts and measuring the performance of contracts
- Show how equality considerations are built into procurement.

8. Inspectorates

Inspectorates have a critical role to play in driving up the quality of public services.

The Commission shares the view of many of those organisations which responded to the Listening Exercise that a duty on inspectorates would be helpful. The duty should ensure that information is shared by inspectorates, auditors and regulators with the Commission. The duty should also ensure that equality is explicitly addressed within inspection and regulation frameworks.

9. Reporting by Ministers

Many of those who responded to the Listening Exercise said that there should be regular reporting by Welsh Ministers on all protected strands. The Commission agrees with this.

Next Steps

The Commission in Wales welcomes the opportunity to contribute to the forthcoming consultation exercise on the specific duties for Wales.

We are publishing Equality Act Codes of Practice on Employment, Equal Pay and Goods Facilities and Services by October 2010. Codes on the Public Sector Duty and Education will be available once the relevant provisions in the Equality Act come into effect in 2011.

We will also be publishing a range of guidance to assist individuals and organisations to make the most of the opportunities the Act provides to achieve better outcomes.

In Wales we will be engaging with the public, private and voluntary sectors to increase understanding of both rights and responsibilities.

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