

GUIDANCE

Annual Reporting, Publishing and Ministerial Duties and the Equality Duty

A Guide for Listed Public Authorities
in Wales

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1 | Context for this guide

1.1 | What is a listed public authority in Wales?

For the purpose of this guidance, a listed public authority in Wales (or ‘listed body’) is one contained in Part 2 of Schedule 19 of the Act as supplemented and amended by the Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011. This includes, for example, local authorities, education bodies (including schools), health bodies and the Welsh Government.

1.2 | The Equality Act 2010

The Equality Act 2010 (the Act) brought together and replaced the previous anti-discrimination laws with a single Act. The majority of the Act came into force on 1 October 2010.

The Act includes a **public sector equality duty** (the ‘general duty’). This came into force on 5 April 2011.

1.3 | What is the general duty?

The aim of the general duty is to ensure that public authorities and those carrying out a public function consider how they can positively contribute to a fairer society through advancing equality and good relations in their day-to-day activities. The duty ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review. This will achieve better outcomes for all.

Public bodies are required to have due regard to the need to:

1. eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act

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2. advance equality of opportunity between people who share a relevant protected characteristic and those who do not
3. foster good relations between people who share a protected characteristic and those who do not.

This guidance refers to these three elements as the three 'aims' of the general duty and so when we discuss the general duty we mean all three aims.

The new general duty covers the following protected characteristics:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race – including ethnic or national origin, colour or nationality
- Religion or belief – including lack of belief
- Sex
- Sexual orientation

It applies to marriage and civil partnership, but only in respect of the requirement to eliminate discrimination in employment.

The phrase 'protected group' is sometimes used to refer to people who share a protected characteristic.

2 | Specific duties in Wales

The broad purpose of the specific duties in Wales is to help listed bodies in their performance of the general duty and to aid transparency.

2.1 | Who is covered by the specific duties?

The specific duties apply to listed bodies in Wales but not to non-devolved public authorities operating in Wales. These may be covered by the English specific duties.

Most devolved public authorities in Wales covered by the general duty are also covered by the specific duties. The specific duties set out the steps that listed bodies in Wales must take in order to demonstrate that they are meeting the general duty.

This guide is one of a series of guides on the specific duties.

The duties inter-relate and more details on each aspect can be found in the following guidance:

1. *The Essential Guide to the Public Sector Equality Duty (An Overview)*
2. *Equality Objectives and Strategic Equality Plans*
3. *Engagement and the Equality Duty*
4. *Assessing Impact and the Equality Duty*
5. *Equality Information and the Equality Duty*
6. *Employment Information, Pay Differences and Staff Training and the Equality Duty*
7. *Procurement and the Equality Duty*
8. *Annual Reporting, Publishing and Ministerial Duties and the Equality Duty*

2.2 | Who is the guidance aimed at?

The guidance has been developed primarily for those responsible for implementing the Wales specific equality duties, particularly those at senior and operational level who are responsible for policy and decision-making. The guidance will also be useful to anyone who has an interest in the work and activities of public authorities.

It is important that senior decision-makers in public authorities (such as Chief Executives, Chairs and Board members) receive adequate briefing on the equality duty. This should equip them to ensure that equality is properly considered within the organisation and that it influences decision-making at all levels.

The text box(es) below outline the requirements of the regulations and these appear also in the *Essential Guide*. The additional text in this guidance provides further context on the specific duties.

3 | Annual reporting

3.1 | What the duty requires on annual reporting

A listed body in Wales must produce an annual report by 31 March each year.

The annual equality report must specifically set out:

- the steps the authority has taken to identify and collect relevant information
- how the authority has used this information in meeting the three aims of the general duty
- any reasons for not collecting relevant information
- a statement on the effectiveness of the authority's arrangements for identifying and collecting relevant information
- progress towards fulfilling each of the authority's equality objectives
- a statement on the effectiveness of the steps that the authority has taken to fulfil each of its equality objectives
- specified employment information, including information on training and pay (unless it has already published this information elsewhere).

An authority may include in its annual reports any other matter it feels is relevant to meeting the general duty and the specific duties.

4 | Publishing

4.1 | What the duty requires on publishing

A listed body in Wales must publish in an accessible format:

- an annual equality report
- a Strategic Equality Plan (and any revisions)
- equality objectives including accompanying statements regarding timescales and actions to be taken
- its reasons for deciding not to publish an equality objective in respect of one or more protected characteristic. This must be done even where an authority has published an equality objective to address the causes of any pay difference related to that protected characteristic
- its reasons for deciding not to publish an equality objective to address the causes of gender pay difference if it has identified a difference in pay between men and women
- an action plan to address gender pay difference
- reports of its assessments of impact on groups of people sharing protected characteristics of proposed policies and practices and any reviews of existing policies and practices, **where the impact is substantial**. Reports must include:
 - the purpose of the proposed policy or practice
 - a summary of the steps taken in carrying out the assessment
 - a summary of the information taken into account in the assessment
 - the results of the assessment
 - any decision taken
- specified employment information, including information on training and pay (this may be published as part of the annual equality report)
- any relevant equality information (that it holds and which it considers appropriate to publish).

An authority may publish its annual report or its Strategic Equality Plan separately or within other documents.

4.2 | When to publish

- **Equality Objectives:** Listed bodies needed to publish equality objectives for the first time by **2 April 2012**. They may revise an equality objective at any time, but must publish the new version (or revisions) as soon as possible after making any changes.
- **Strategic Equality Plan:** A listed body needed to publish its first Strategic Equality Plan by **2 April 2012**. A listed body may revise a Strategic Equality Plan at any time, but must publish the new version (or revisions) as soon as possible after making any changes.
- **Equality Information:** A listed body is required to make appropriate arrangements to ensure it periodically:
 - identifies relevant information it holds
 - identifies and collects relevant information it does not hold
 - publishes relevant information it holds, unless it would be inappropriate to do so.

This information had to be published for the first time by **2 April 2012**. It should be reviewed periodically. The information should include an assessment of things done by the authority that could contribute to its meeting the general duty.

- **Employment information:** An annual report may include the specified employment information in respect of employees and applicants as of 31 March each year. If the annual report does not contain that information, it will need to be published in other documentation on an **annual basis**.
- **Annual equality reports** must be published by **31 March** each year.

Justification

Where a listed body has decided not to publish an equality objective in respect of one or more protected characteristic it must publish its reasons for that decision. A listed body must publish its equality objectives in its Strategic Equality Plan. It could include its reasons for not publishing an equality objective in respect of one or more protected characteristics as part of its Strategic Equality Plan.

Reporting schedule

The first annual report covered the period from 6 April 2011 to 31 March 2012. The deadline for the first annual report was 31 March 2013. Listed bodies may find it helpful to report in line with their usual business cycle rather than waiting until the following 31 March to report separately. This would have the benefit of providing a more mainstreamed and up to date account of progress on equality.

5 | Review

5.1 | What the duty requires on review

Listed bodies need to review:

- their equality objectives at least every four years
- their Strategic Equality Plan and any revisions. This must be done with due regard to relevant information held by the authority and to any other information that the authority considers would be likely to help in the review.

As a result of the review process an authority may choose to revise the arrangements, objectives or Strategic Equality Plans. If it does so, it must again publish these changes as soon as possible and in an accessible way.

A listed body in Wales must keep under review its arrangements for:

- monitoring the effectiveness of its steps and its progress towards fulfilling its equality objectives
- identifying, collecting and publishing relevant information
- assessing the impact of policies and practices being proposed or reviewed
- monitoring the impact of policies and practices
- promoting knowledge and understanding of the general and specific equality duties, using any performance assessment procedures to identify and address related training needs.

6 | Accessibility

6.1 | What the duty requires on accessibility

A listed body in Wales must take all reasonable steps to ensure that any document or information it is required to publish to meet its general or specific equality duties is published in a form that is accessible to people with protected characteristics.

As part of its arrangements for promoting knowledge and understanding of staff in relation to the equality duties, an authority should consider raising awareness of issues around accessibility. Staff will need to plan ahead in their publishing timetable to ensure that they can factor in the additional time it takes to have information prepared in alternative languages and accessible formats.

The Equality Act 2010 requires anybody who provides services, goods and facilities or who carries out a function to make reasonable adjustments so that disabled people are not put at a substantial disadvantage. This includes taking reasonable steps to ensure that information is provided in an accessible format. The specific duty partly builds on this anti-discrimination provision for disabled people, but applies to all relevant protected characteristics.

For example, a listed body will need to consider not only formats such as Easy Read (primarily for people with learning disabilities), but also a range of community languages including British Sign Language. Where information is published on a website care will need to be taken to ensure that it is accessible to those with visual or other impairments. Information should be logically and consistently located and straightforward to find via a search facility.

Since people with some protected characteristics are less likely to have access to the internet, listed authorities will need to publish key information in print or other formats (such as Braille or CD).

7 | Welsh Ministers' reporting

The Welsh Ministers are subject to all of the specific duties in the same way as other listed bodies in Wales.

In addition, Welsh Ministers have a specific duty to publish a report on how devolved public authorities in Wales are meeting their general duty. They are required to first publish a report by 31 December 2014 and every four years thereafter. They are required to publish an interim report every two years.

These reports must set out an overview of the progress made by public authorities in Wales towards complying with the general duty and proposals to coordinate action by public authorities in Wales to bring about further progress on the general duty.

As a transition arrangement from the requirements of the former disability duty, Welsh Ministers had to publish a report by 31 December 2011, setting out an overview of progress made by devolved public authorities in Wales towards meeting the general duty in respect of disability and proposals for the coordination of action.

Information gathered by listed bodies under the duties will provide Welsh Ministers with evidence on the progress made on equality by devolved public authorities.

Ministers will be able to look at progress, or lack of progress, by authorities within their portfolio or by locality, in order to identify trends or barriers to meeting the general duty.

Contacts

This publication and related equality and human rights resources are available from the Commission's website: www.equalityhumanrights.com

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

Website www.equalityadvisoryservice.com

Telephone 0808 800 0082

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Hours 09:00 to 20:00 (Monday to Friday)
10:00 to 14:00 (Saturday)

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Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com. The Commission welcomes your feedback

Alternative formats

This guide is available as a PDF file and as a Microsoft Word file in English and Welsh from www.equalityhumanrights.com. For information on accessing a Commission publication in an alternative format, please contact: correspondence@equalityhumanrights.com

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