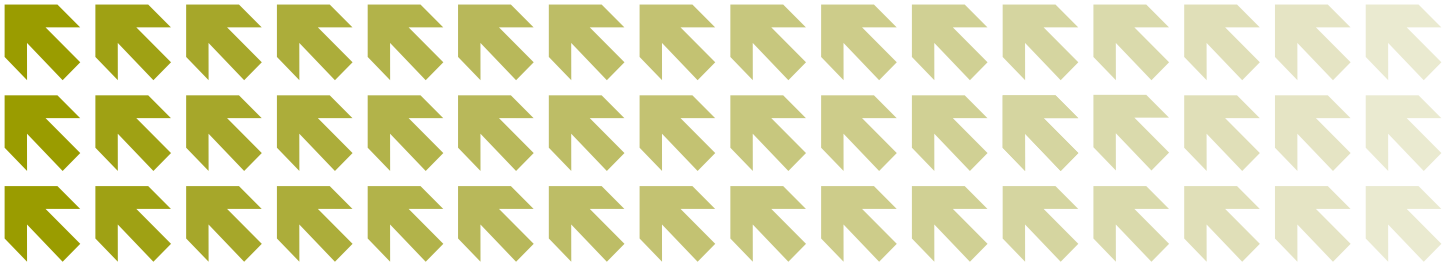
Government
Equalities Office

Putting equality at the heart of government

EQUALITY ACT 2010: SPECIFIC DUTIES TO SUPPORT THE EQUALITY DUTY WHAT DO I NEED TO KNOW? A QUICK START GUIDE FOR PUBLIC SECTOR ORGANISATIONS



www.homeoffice.gov.uk/equalities/



This quick start guide will help public bodies understand and implement the specific duties which support the Equality Duty.

Introduction

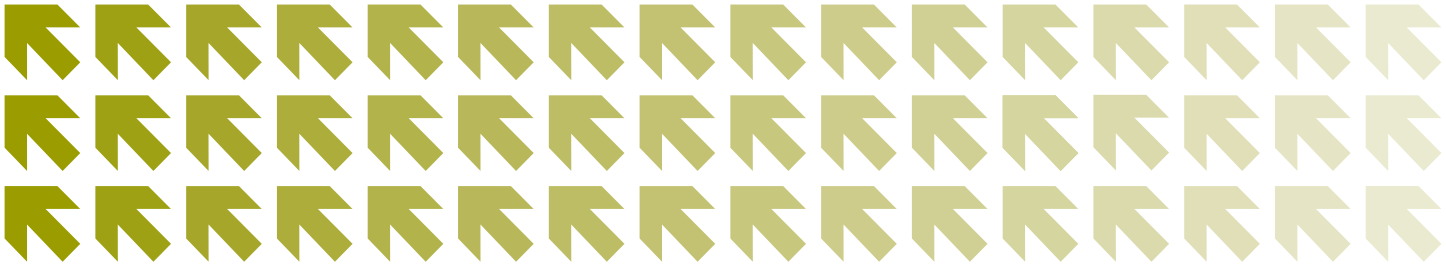
The Equality Act 2010 (the Act) replaced previous anti-discrimination laws with a single Act. It simplified the law, removing inconsistencies and making it easier for people to understand and comply with. It also strengthened the law in important ways, to help tackle discrimination and inequality.

The public sector **Equality Duty** (section 149 of the Act) came into force on 5 April 2011. The Equality Duty applies to public bodies and others carrying out public functions. It supports good decision-making by ensuring public bodies consider how different people will be affected by their activities, helping them to deliver policies and services which are efficient and effective; accessible to all; and which meet different people's needs.

The Equality Duty is supported by **specific duties**, set out in regulations which came into force on 10 September 2011. The specific duties require public bodies to publish relevant, proportionate information demonstrating their compliance with the Equality Duty; and to set themselves specific, measurable equality objectives.

Publishing relevant equality information will make public bodies transparent about their decision-making processes, and accountable to their service users. It will give the public the information they need to hold public bodies to account for their performance on equality.

You should read this guide alongside 'Equality Act 2010: Public sector Equality Duty. What do I need to know? A quick start guide for public sector organisations' available at: www.homeoffice.gov.uk/publications/equalities/equality-act-publications/equality-act-guidance/equality-duty



Who do the specific duties apply to?

The specific duties apply to most public bodies in England, such as local authorities and schools; most of those operating across Great Britain, such as Government departments (except in regard to devolved functions); and a small number of cross-border bodies. The bodies covered are listed in Schedules 1 and 2 to the regulations (see footnote 1). Separate specific duties apply to certain Welsh and Scottish public bodies[2].

What do the specific duties require?

The specific duties require public bodies to:

- publish information to show their compliance with the Equality Duty, at least annually; and
- set and publish equality objectives, at least every four years.

All information must be published in a way which makes it easy for people to access it.

Publishing information showing compliance with the Equality Duty

Public bodies subject to the specific duties must publish information to show their compliance with the Equality Duty. This means that the information they publish must show that they had due regard to the need to:

- **eliminate unlawful discrimination**, harassment and victimisation and any other conduct prohibited by the Act;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
- **foster good relations** between people who share a protected characteristic and people who do not share it.

We describe these as the three aims of the Equality Duty.

The protected characteristics covered by the Equality Duty are:

- age
- disability
- gender reassignment
- marriage and civil partnership (but only in respect of eliminating unlawful discrimination)
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – this includes lack of belief
- sex
- sexual orientation

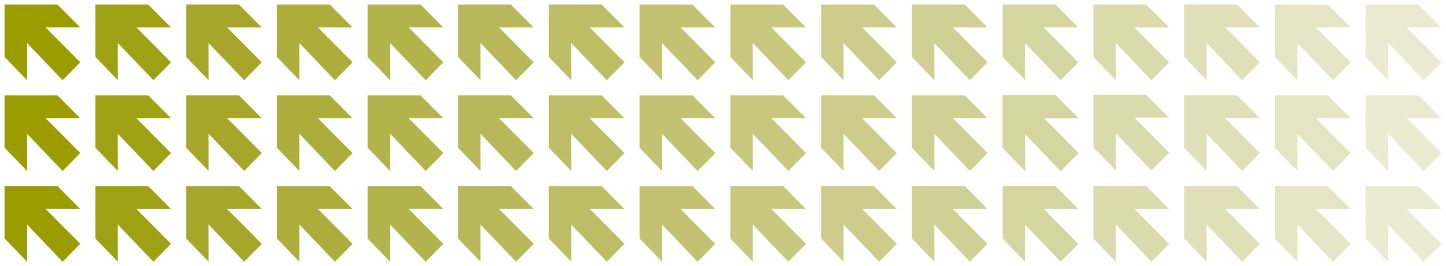
Public bodies must publish information to show that they consciously thought about the three aims of the Equality Duty as part of the process of decision-making.

The information published must include:

- information relating to employees who share protected characteristics (for public bodies with 150 or more employees); and

1 The Equality Act 2010 (Specific Duties) Regulations 2011 http://www.legislation.gov.uk/uksi/2011/2260/made

2 See http://www.legislation.gov.uk/wsi/2011/1064/pdfs/wsi_20111064_mi.pdf for Wales and http://www.scotland.gov.uk/Topics/People/Equality/PublicEqualityDuties for Scotland.



- information relating to people who are affected by the public body's policies and practices who share protected characteristics (for example, service users).

Most public bodies must publish this information by 31 January 2012. Schools must publish it by 6 April 2012. Subsequently, the information must be published at least annually.

It is up to each public body to decide for itself what information it publishes to show its compliance with the Equality Duty. This will vary greatly, depending on the size of the body; the range of functions it performs; and the extent to which those functions could affect equality. There is no prescribed format.

For most public bodies, the sensible starting point will be simply to look at what equality information it publishes already, and to consider whether that gives a reasonable picture of progress on equality issues affecting its employees and service users.

The specific duties do not require public bodies to prepare or publish equality schemes, equality action plans, equality impact assessments, or separate annual reports on equality.

Information about employees:

The Equality Duty requires public bodies to consider how their activities as employers affect people who share different protected characteristics. The specific duties require public bodies with 150 or more employees to publish information to show they did this.

This could include information they considered relating to:

- the make-up of the overall workforce;
- the gender pay gap and pay equality issues more generally for the public body;
- recruitment and retention rates for staff with different protected characteristics;
- applications for flexible working and their outcomes for different protected characteristics;
- applications for learning and development opportunities and their outcomes for staff with different protected characteristics;
- grievances and disciplinary issues for staff with different protected characteristics.

Published information could also include details of policies and programmes that have been put in place to address equality concerns within the workforce, and information from staff surveys.

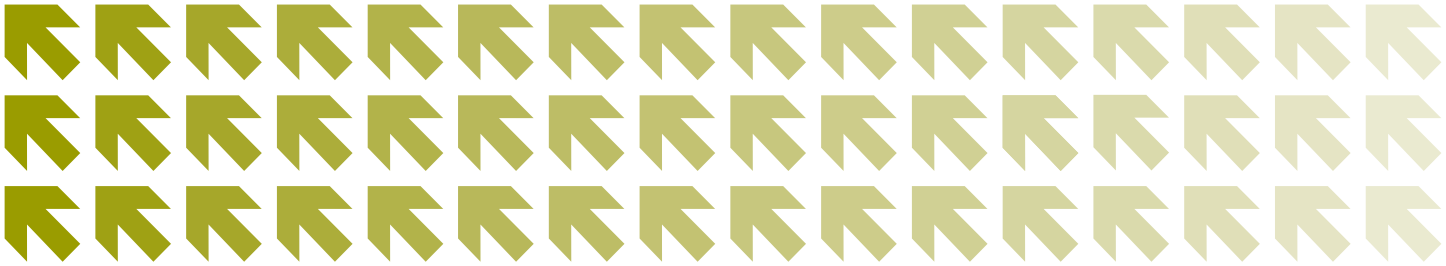
The specific duties do not require public bodies to ask every member of staff about such issues as their age, sexual orientation, or religious beliefs. It will be for individual public bodies to decide whether such information is necessary for them to demonstrate their compliance with the Equality Duty.

Information about policies and services:

The Equality Duty requires public bodies to consider how the decisions that they make, and the services they deliver, affect people who share different protected characteristics. The specific duties require public bodies to publish information to show they did this.

This could include information they considered relating to:

- the number of people with different protected characteristics who access and use services in different ways;



- customer satisfaction levels and informal feedback from service users with different protected characteristics and results of consultations;
- complaints about discrimination and complaints from people with different protected characteristics;
- service outcomes for people with different protected characteristics.

Published information could also include details of policies and programmes that have been put in place to address equality concerns in service delivery.

The specific duties do not require public bodies to ask service users about such issues as their age, sexual orientation, or religious beliefs. They should never do this if such information is available from other sources (see below for other sources).

Issues to consider about publishing information:

Most public bodies already publish lots of equality-related information about their workforces and service delivery. The aim should now be to ensure that that information demonstrates compliance with the Equality Duty. The information will need to show that the public body has properly considered how its activities – both as an employer and a service provider – affect people with different protected characteristics. It may include details of any analysis the public body has done on the equality information it holds – such as when it was considering a new policy or programme.

A public body may also find it helpful to consider:

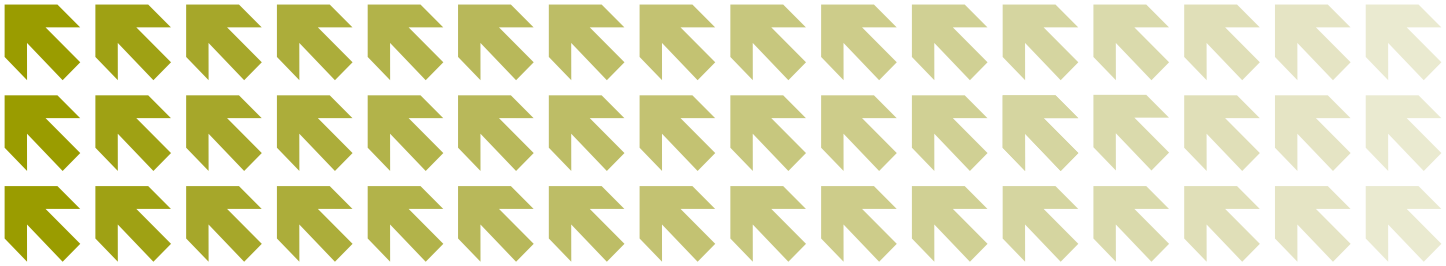
- what equality information is published by similar bodies; and
- whether there are topical equality issues – such as the gender pay gap – which are relevant to its activities and how these have been considered.

In complying with the Equality Duty, public bodies may also want to draw on the wealth of equality information available from external sources, such as census data; the electoral roll; ONS regional portraits; health survey results; Housing Needs and Homelessness statistics; data collected by local organisations such as Citizens Advice, and so on. Public bodies should not collect data which is available elsewhere, nor is there any need for the public body to re-publish this information. However, if they have drawn on it, they should reference it, and explain what information from it they used, and why.

The specific duties do not require public bodies to publish any more information than is necessary to demonstrate compliance with the Equality Duty.

The specific duties require public bodies to publish information by a specified deadline and then at least annually thereafter. It may be convenient to do this to fit in with planning cycles or to coincide with a particular policy announcement or service change. If information or data sets are incomplete, it may be helpful to publish the information available with an explanation of how the data gap will be filled in future.

If information is published in advance of the deadline, it will not be necessary to publish it again. Public bodies may wish to signpost to where the earlier information was published, though, to aid accessibility.



Information should not be published if doing so would breach the Data Protection Act 1998[3]. Information published must not identify individuals and good practice indicates that this means not publishing information about groups of fewer than 10 people. Instead, small numbers can be represented using an asterisk or a range (for example, <10).

Setting equality objectives

The specific duties require public bodies to prepare and publish one or more specific and measurable equality objectives which will help them to further the three aims of the Equality Duty. All public bodies subject to the specific duties must publish their first equality objectives by 6 April 2012. Subsequent objectives must be published at least every four years.

It is for each public body to decide what equality objectives it should set and how many there should be. Objectives which are stretching, and focus on the biggest equality challenges facing the public body, will have the greatest impact in furthering the aims of the Equality Duty.

When deciding what equality objectives to set, a public body should take into account evidence of equality issues across all its functions; consider issues affecting people sharing each of the protected characteristics; and think about each of the three aims of the Equality Duty.

The number of objectives set should be proportionate to the public body's size; the extent to which its functions affect equality; and the evidence that such objectives are needed. A large government department may decide to set a number of objectives; a small rural school may decide to set only one or two.

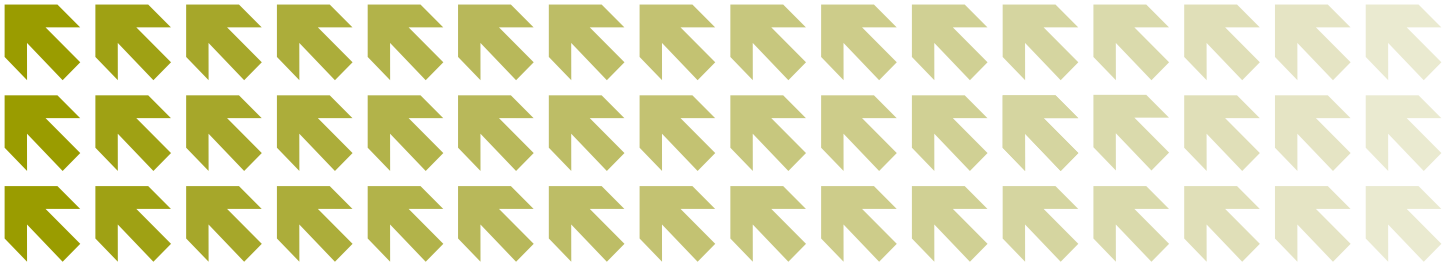
In setting its objectives, a public body may find it helpful to think about:

- what evidence it could use to inform the objectives, from both internal and external sources;
- what types of equality issues are raised by its staff and customers;
- where the evidence indicates that equality performance is poor;
- what objectives could be set to stretch the organisation to perform better on equality issues in key areas;
- whether there is scope to benchmark equality information and objectives against similar public bodies;
- the people and organisations it would be useful to talk to in the process of setting objectives;
- whether to set short term, medium term or long term objectives in different areas;
- how progress against the objectives will be measured.

Accessibility of information and objectives

Public bodies must ensure that the information they publish and the equality objectives they set are accessible to the public, free of charge. In addition to publishing them electronically on their website, they should consider making them available in other formats. They should also consider whether the information is provided in a way which makes it easy for the public to understand and use, to enable public accountability.

3 Information on the Data Protection Act 1998 is available on the Information Commissioner's Office website at www.ico.gov.uk



The Public Sector Transparency Board's Public Data Principles[4] outline general steps public bodies should take to ensure information is accessible and useful. In particular, such information should be easily found; published as quickly as possible after its collection; be as detailed as possible; and be freely available for reuse by the public.

Public bodies should also consider producing information in alternative formats for disabled people. The Act requires reasonable adjustments to be made for disabled people, and this includes ensuring information is provided in an accessible format[5].

Where to publish information and objectives

Equality information and equality objectives can be published as part of another document, such as the public body's annual report or business plan. There is no need to produce a separate document. The information published must show compliance with the Equality Duty, regardless of how or where it is published. Public bodies should publish information in a place and format that is easy to access for both internal and external users. If some information is published periodically over the year, public bodies may want to consider how to link to all the relevant information together.

The specific duties do not require the production of a stand-alone annual equality report.

Enforcement

The Equality and Human Rights Commission is responsible for assessing compliance with the specific duties, and for their enforcement. As with the Equality Duty, it has powers to issue a compliance notice to a public body that it believes has failed to comply with the specific duties, and can apply to the courts for an order requiring compliance.

Unlike the Equality Duty, the specific duties cannot be enforced by judicial review.

Further sources of information

The Equality and Human Rights Commission is the statutory body established to help eliminate discrimination and reduce inequality. It plans to produce a statutory Code of Practice on the Equality Duty and specific duties, explaining the law in more detail. It will also produce practical guidance on how public bodies can comply with the Equality Duty and achieve good practice.

www.equalityhumanrights.com
0845 604 6610

General information about equality legislation and the Government's equality strategy is available from the Government Equalities Office.

www.homeoffice.gov.uk/equalities/

4 See http://data.gov.uk/blog/new-public-sector-transparency-board-and-public-data-transparency-principles
5 The Office for Disability Issues provides information about how to make information accessible to disabled people. See www.odi.gov.uk/formats

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