

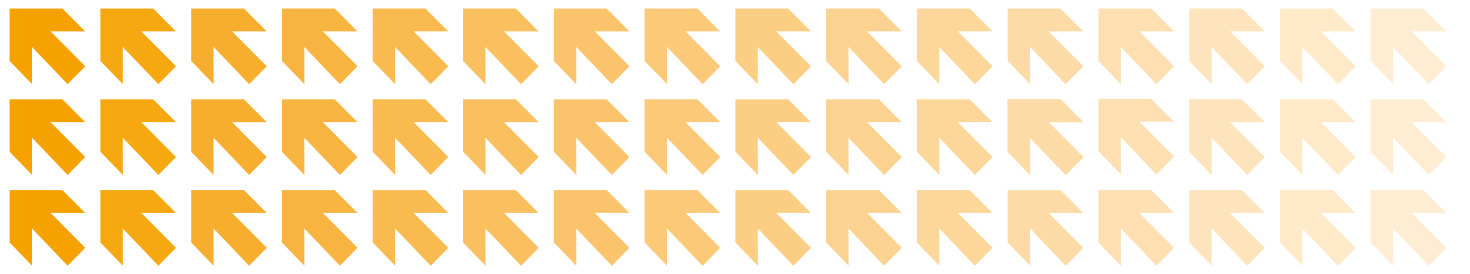


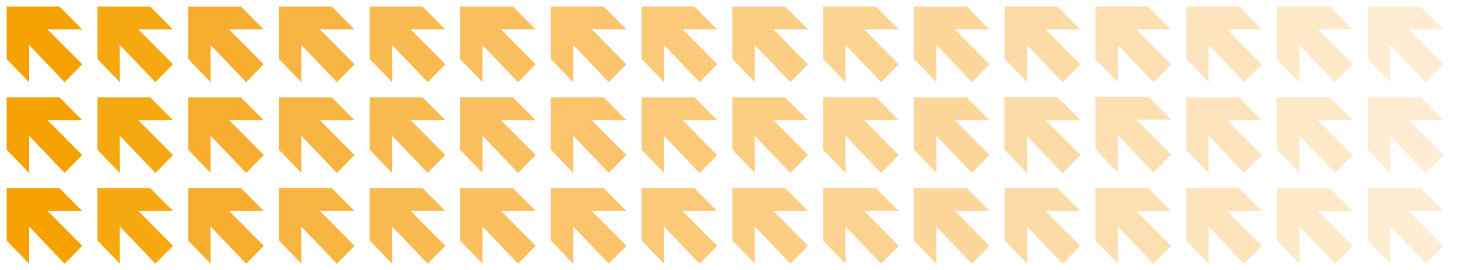
Government
Equalities Office

Putting equality at the heart of government

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





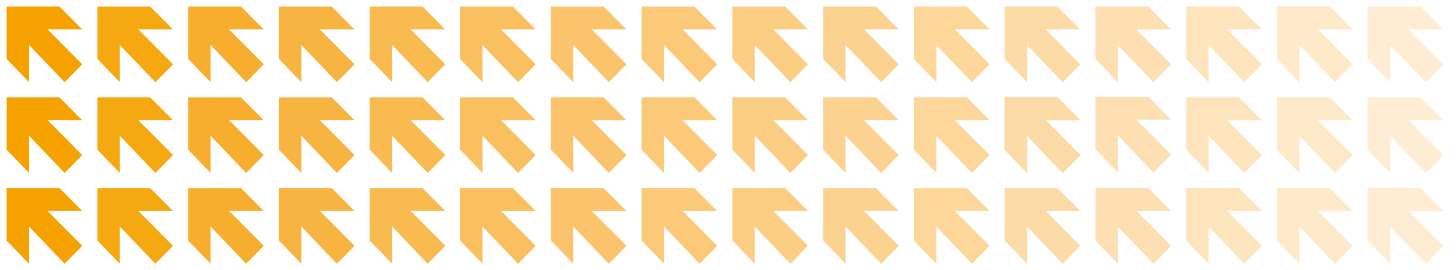


Introduction

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and inequality. The majority of the Act came into force on 1 October 2010.

This quick start guide is intended to help public sector organisations understand and prepare for a key remaining measure in the Act – the **public sector Equality Duty**, which comes into force on 6 April 2011.

Sources of further information about the Equality Duty are listed at the end of the guide.



What is the Equality Duty?

The Equality Duty is a duty on public bodies and others carrying out public functions¹. The aim of the Equality Duty is to embed equality considerations into the day to day work of public authorities, so that they tackle discrimination and inequality and contribute to making society fairer.

The Equality Duty supports good management practice - it encourages public bodies to engage with the diverse communities affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different groups, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective. The Equality Duty therefore helps public bodies to deliver their overall objectives for public services.

The Equality Duty consists of a **general duty**, with three main aims (set out in section 149 of the Equality Act 2010); and **specific duties** (set out in secondary legislation to accompany the Equality Act 2010). The specific duties are designed to help public bodies meet the general duty.

What's changed?

The new Equality Duty replaces the three existing public sector equality duties - for disability, race, and gender. The Equality Duty covers the following protected characteristics:

- age
- disability
- gender reassignment

- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – this includes lack of belief
- sex
- sexual orientation

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

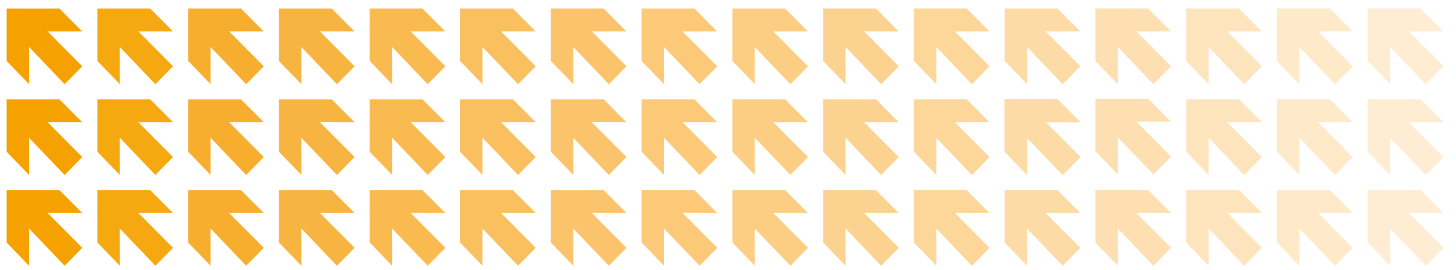
The new Equality Duty is designed to reduce bureaucracy while helping public bodies to deliver equality outcomes. It devolves power from central government to public bodies so they are better able to meet the needs of the people they serve. It will require public bodies to publish more information on equality than before, and to demonstrate how they are delivering improvement so that the public can hold them to account.

Who does the Equality Duty apply to?

The **general duty** applies across Great Britain to public bodies listed in Schedule 19 to the Equality Act 2010, and to other organisations when they are carrying out public functions.

The **specific duties** covered by this guide apply to certain public bodies in England, Scotland and Wales in relation to their non-devolved functions. The relevant public bodies are listed in secondary legislation available at www.equalities.gov.uk. Separate specific duties apply to Scottish and Welsh bodies in respect of their devolved functions.

¹ A public function is a function of a public nature for the purposes of the Human Rights Act 1998.



The general duty

The general duty has three aims; it requires public bodies to have **due regard** to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- advance equality of opportunity between people from different groups; and
- foster good relations between people from different groups.

Having *due regard* means consciously thinking about the three aims of the general duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies – in how they act as employers; how they develop, evaluate and review policy; how they design, deliver and evaluate services, and how they commission and procure from others.

Having *due regard* to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics;
- meet the needs of people with protected characteristics; and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people from different groups.

Complying with the general duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for a particular group.

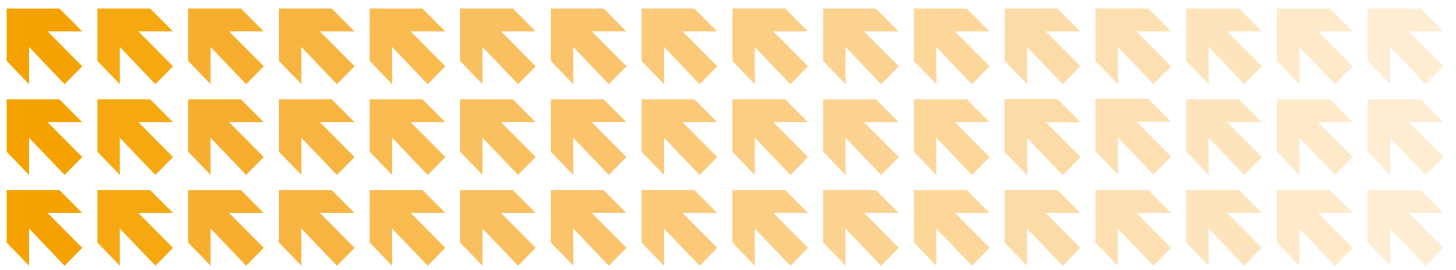
The general duty also explicitly recognises that disabled people's needs are different from those of non-disabled people. In considering the need to meet the needs of disabled people, public bodies should therefore take account of disabled people's disabilities. This might mean making reasonable adjustments for them or treating them better than other people.

Example

A police authority reviews its recruitment procedures to ensure the height requirements do not unintentionally discriminate against women applicants, with the aim of *eliminating unlawful sex discrimination*.

Example

A local council provides funding for a women's refuge for victims of domestic violence, with the aim of *advancing equality of opportunity* for women, and in particular meeting the needs of women.



Example

A local authority focuses training and mentoring schemes towards disabled members of the community to help them to stand as local councillors, with the aim of *advancing equality of opportunity* for disabled people, and in particular encouraging their participation in public life.

Example

A school hosts a series of cultural events providing information to its pupils about different cultures and religions, to remove barriers and so enable them to engage with each other, with the aim of *fostering good relations* between different groups.

The specific duties

The general duty is underpinned by a number of specific duties which provide a framework to help public bodies meet the general duty. Most public bodies subject to the general duty are also subject to the specific duties. The specific duties require public bodies to set specific, measurable equality objectives and to publish information about their performance on equality, so that the public can hold them to account. All information must be published in a way which makes it easy for people to access it.

Information showing that they have complied with the general duty

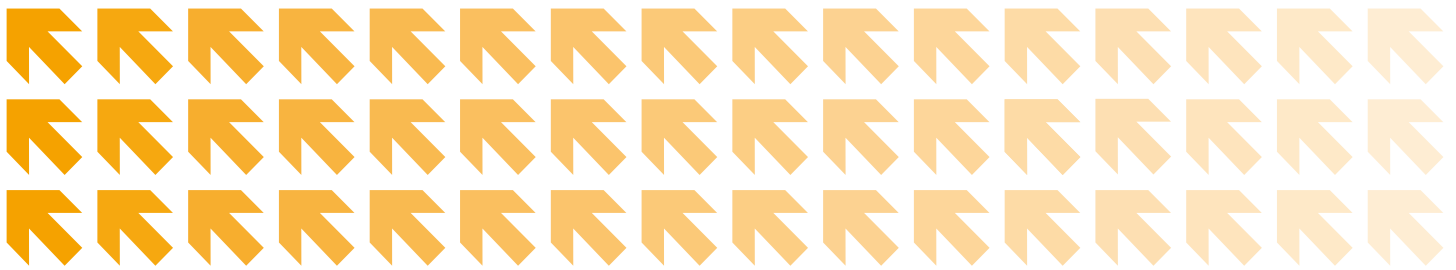
Public bodies covered by the specific duties must publish sufficient information to show that they have considered the three aims of the general duty across their functions. Public bodies other than educational bodies must publish this information by 31 July 2011. Educational bodies must publish it by 31 December 2011. Subsequent information must be published at least annually.

The information published must include information on the effect that the public body's policies and practices have on equality for service users, and (for those with 150 or more staff) on equality for their employees. Public bodies with 150 or more staff will be expected to publish information on significant and long-standing inequalities such as the gender pay gap and the proportion and distribution of disabled employees and staff from ethnic minority communities.

Evidence of equality analysis undertaken

To comply with the general duty, public bodies need to understand how their policies and practices will affect equality for different groups, and do this early enough to influence how things are done. Under the specific duties, they must publish evidence of equality analysis they have undertaken to establish whether their policies and practices would further, or have furthered, the three aims of the general duty. They must also publish details of the information they considered in conducting that analysis.

Public bodies other than educational bodies must publish this evidence and information by 31 July 2011. Educational bodies must publish it by 31 December 2011. Subsequent information must be published at least annually.



Equality objectives

Public bodies covered by the specific duties must publish equality objectives that will help them to further the aims of the general duty. These must be based on published equality evidence and analysis, and they must be specific and measurable. Public bodies must also publish how they will measure progress towards their equality objectives.

Public bodies must publish their equality objectives and how they will measure progress by 6 April 2012. Subsequent objectives and accompanying information must be prepared and published at least every four years.

Details of engagement undertaken

Public bodies covered by the specific duties must publish information about engagement they have undertaken with people who have an interest in furthering the three aims of the general duty.

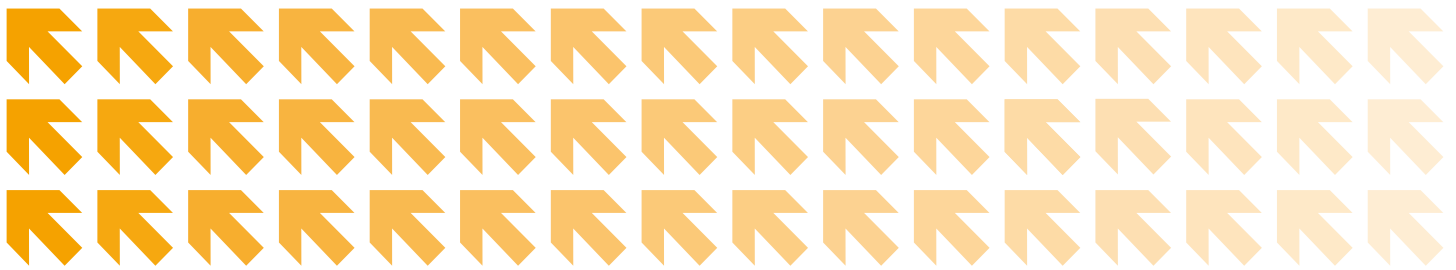
They must also publish details of the engagement they undertook in developing their equality objectives.

Public bodies other than educational bodies must publish details of their general engagement activity by 31 July 2011 and then at least annually. Educational bodies must publish this information by 31 December 2011 and then at least annually. Details of engagement undertaken in developing equality objectives must be published at the same time as the objectives.

Implementing the Equality Duty

So that public bodies can meet their responsibilities, it is important for people throughout the organisation to know about and understand the Equality Duty and what it means for how they do their work. Complying with the Equality Duty requires active consideration of equality across the functions of the organisation, so staff need to be aware of its requirements and have access to the right training, information and tools to help them embed consideration of equality into their work. You should consider what this means in particular for:

- Board members – in how they set strategic direction, review performance and ensure good governance of the organisation.
- Senior managers – in how they oversee the design, delivery, quality and effectiveness of the organisation's functions, and how they ensure the organisation has the capability and capacity to deliver on its equality responsibilities.
- Equality and diversity staff – in how they raise awareness about the Equality Duty within the organisation and how they support staff to deliver on their responsibilities.
- Human resources staff – in how they embed equality considerations in employment policies and procedures.
- Policy makers – in how they embed equality considerations in all stages of the policy making process.
- Communications staff – in how they ensure equality messages are built into the organisation's communications strategy, and how they ensure equality information is available and all information is accessible.



- Analysts – in how they support the organisation to understand the effect of its policies and practices on equality for different groups.
- Front line staff – in how they embed equality considerations in the delivery of services to the public.
- Procurement and commissioning staff – in how they embed equality considerations in the organisation's relationships with suppliers, through specifications and contract management.

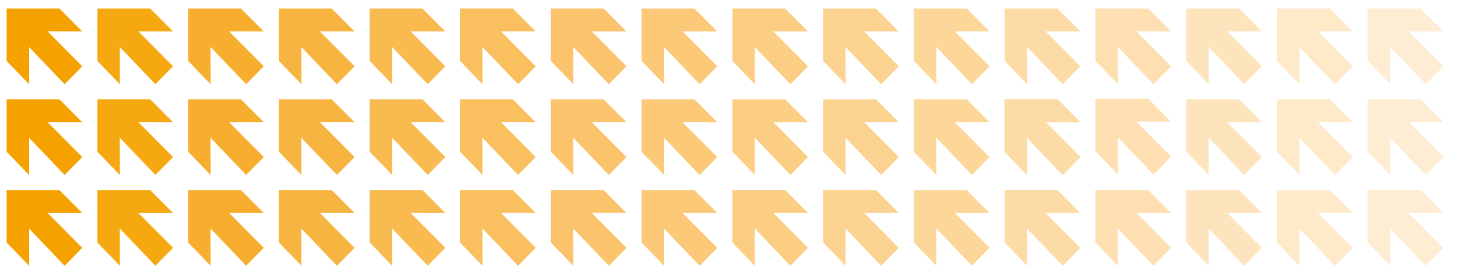
The following examples illustrate how the Equality Duty could work in practice:

Example

A local authority is implementing the new Equality Duty and considering how this will affect its services. One of its functions is maintenance and development of local parks and green spaces. It reviews the information it has on the usage of the main local park by different groups of people. This shows that the park is used well by a wide range of people in the mornings and early evenings, but that usage in the middle of the day is predominantly by pre-school children and their parents. Despite a large local population of older people, the information shows they tend not to use the park very much in the middle of the day. The local authority publishes the information it has about the protected characteristics of park users (except where there are fewer than ten people in any group, to protect individuals' confidentiality). It publishes this information on 31 July 2011 on its website.

The local authority commissions research and engages with local community groups involving older people, to explore the reasons for this. The research and engagement shows that older people tend not to use the park during the day because there are few quiet seating areas. Talking to groups of older people reveals that they would also use the park more if they could have lunch there, but the café sells only snacks rather than hot meals and is often noisy because of the number of young children.

As a result of this research and engagement activity, the local authority decides to set an equality objective to deliver a measurable increase in the number of older people using the park between 11am and 3pm over the next two years. It decides to measure this by adding a question about age to its annual survey of park users, and introducing customer feedback forms in the café which include questions about protected characteristics including age. The local authority publishes this equality objective on 6 April 2012 on its website, along with how it will measure progress towards it and details of the research and the discussions it held with older people.



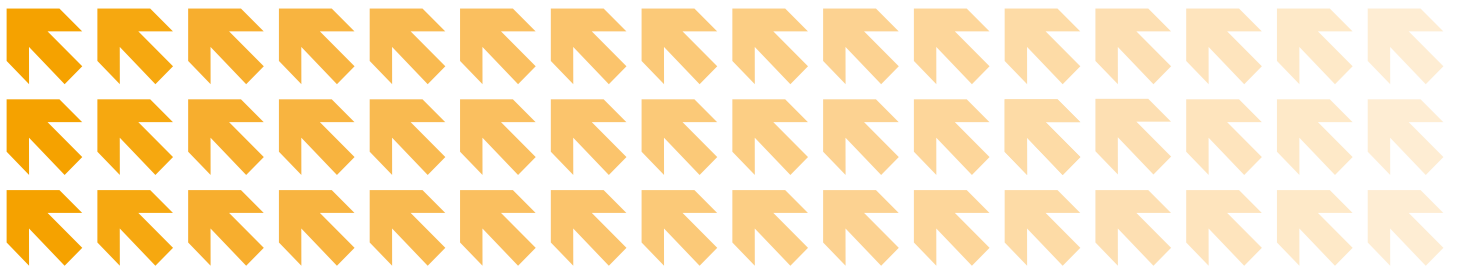
It also produces a factsheet for local residents containing information about all its service-related equality objectives and the information and engagement which influenced them. Taking into account the findings of the research and engagement, the local authority decides to place more park benches in areas away from play and sports areas, so that older people will feel more comfortable using the park. It also reviews its contract with the company running the café and negotiates a variation which requires the provision of a quiet area of the café and a “daily special” hot meal on weekday lunchtimes. These improvements are publicised to the local community to encourage greater use of the park by older people.

Example

A further education college with 180 employees is implementing the new Equality Duty and considering how this will affect it as an employer. As part of this, it reviews the information it has on the protected characteristics of its staff. It realises that while it has good information about the age and sex of employees, the information it holds on their ethnicity and on disability is patchy and it holds no information about religion or belief, gender reassignment or sexual orientation. The college realises that it needs better information if it is going to be able to analyse the effect of its employment policies and practices on staff with different protected characteristics.

Having engaged staff groups and trade unions and considered available guidance on workforce equality monitoring, the human resources (HR) department decides to send a voluntary diversity monitoring form covering ethnicity, disability, religion or belief, gender reassignment and sexual orientation to all staff, with a covering letter explaining why it wants to collect this information, how the information will be used and how privacy will be protected.

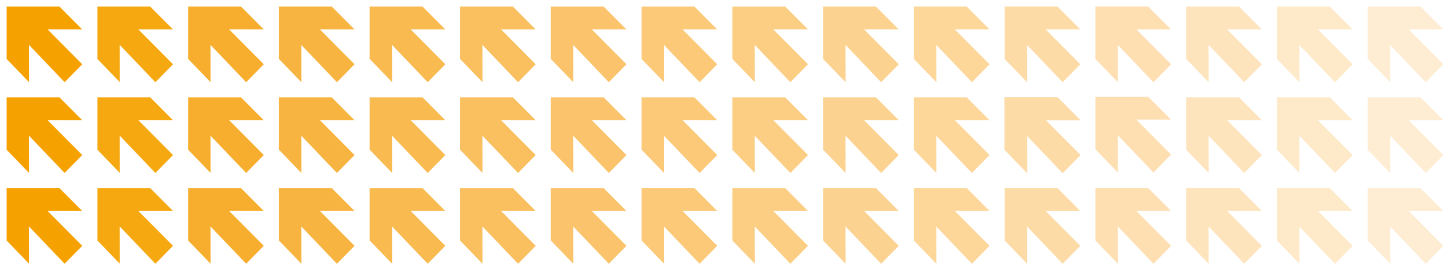
This results in much more complete data on the ethnicity, disability and religion or belief of staff, but there is a very low response rate to the questions about gender reassignment and sexual orientation. The college publishes the data showing the protected characteristics of staff at all grades (except where there are fewer than ten people in any group, to protect individuals' confidentiality). It publishes this information on 31 December 2011 on its website.



Because this exercise suggests that staff are not comfortable disclosing their sexual orientation or gender reassignment, the college holds discussions with staff and trade union representatives, other employers who have a good record on lesbian, gay, bisexual and transgender (LGB&T) issues and organisations representing LBG&T people. As a result, the college decides to set an equality objective to deliver a measurable improvement in the employment experiences of its lesbian, gay, bisexual and transgender staff over the next four years. It decides to measure this by looking at the percentage of staff who disclose sexual orientation or gender reassignment and by comparing the results of staff satisfaction surveys for these groups against the results for other staff.

The college publishes this equality objective on 6 April 2012 along with how it will measure progress towards it and details of the discussions it held with staff. It decides to publish this information in a short web-based leaflet which also sets out the other equality objectives it has chosen.

The college decides to do some work to improve the experiences of LGB&T staff, to help it achieve its objective. Following further discussions with staff and others, it joins with other educational bodies in the local area to establish a staff support network for LGB&T staff, it ensures that HR policies and communications include clear messages about the value it places on being an inclusive organisation and it organises staff seminars and events to raise awareness of diversity issues.



Enforcement

The Equality and Human Rights Commission is responsible for assessing compliance with and enforcing the general and the specific duties. It has powers to issue compliance notices to public bodies that have failed to comply and can apply to the courts for an order requiring compliance. The general duty can also be enforced by judicial review. This can be done by the Commission or any individual or group of people with an interest.

Further sources of information

The Equality and Human Rights Commission is the statutory body established to help eliminate discrimination and reduce inequality. It will produce a statutory Code of Practice on the public sector Equality Duty later in 2011, explaining the law in more detail. It has also produced the following five guides providing practical guidance on how public bodies can comply with the Equality Duty and achieve good practice:

1. The essential guide to the public sector equality duty.
2. Equality analysis and the equality duty. A guide for public authorities.
3. Engagement and the equality duty. A guide for public authorities.
4. Equality objectives and the equality duty. A guide for public authorities.
5. Equality information and the equality duty. A guide for public authorities.

These are available from:

www.equalityhumanrights.com
0845 604 6610

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

www.equalities.gov.uk
0303 444 1204

Information on Government guidelines for releasing data is available at:

www.data.gov.uk

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