



The Equality Act 2010

What does it mean for the public sector?

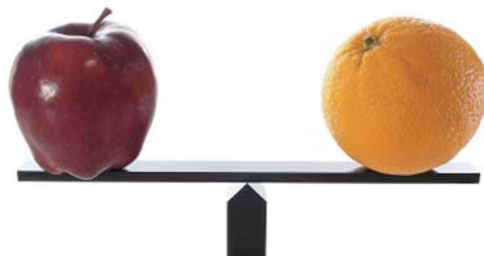
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The Equality Act has now become law. The Act will impose a single equality duty on the public sector.

In a nutshell the Act will...

- harmonise the core provisions of the different types of discrimination law;
- extend the current legal obligations on the public sector in relation to race, disability and gender to the protected characteristics:
 - age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy

- race
 - religion or belief
 - sex and sexual orientation
- in a single equality duty.



The single equality duty

What does the single equality duty consist of?

The principle of equality is intended to promote and protect the dignity of all persons in society. In the exercise of its functions a public authority must have due regard to the need to:

- eliminate discrimination, harassment and

victimisation or any other conduct prohibited by the Act in relation to the protected characteristics;

- advance equality of opportunity between all persons; and
- foster good relations between groups of people sharing a protected characteristic and those that do not.

Specific duties

Further regulations may be made under the Act to impose specific duties on public authorities for the purpose of enabling better performance of the single equality duty.

Various proposals for further regulation have already

been put forward for consultation such as a requirement that all public bodies publish their equality objectives and the progress they have made towards them.

Who must comply

Who is subject to the duty?

■ Public bodies:

Schedule 19 to the Act provides a list of public bodies covered by the Act. Amongst others, the list includes:

- Ministers of the Crown
- government departments
- the Armed Forces
- local authorities
- educational establishments
- health bodies

- Passenger Transport Executives
- the police
- fire and rescue services

More may be added to this list following consultation.

■ Others exercising public functions:

The single equality duty also extends to those who are performing public functions regardless of whether they are in the Schedule 19 list. "Public function" is given the same meaning as it has in the Human Rights Act 1998.

Implementation

When is the duty coming in to force?

- The single equality duty is expected to come into force in April 2011.
- Guidelines for public sector bodies are expected to be published towards the end of 2010

Enforcement

How will the duty be enforced?

- The Act does not give a cause of action to private individuals to bring an action for damages for a breach of the duty.
- Enforcement will be by means of a claim for judicial review or via the Equality and Human Rights Commission through a formal investigation of a public body or the issuing of an enforcement notice.

Public procurement

How will this affect public procurement?

- The current race, gender and disability duties require public authorities to promote equality through all their functions, including procurement. The Act clarifies and strengthens these existing requirements.
- Contracting authorities will need to be clear how they are going to use procurement processes to help deliver and promote equality objectives. We can expect the use of equality related award criteria and contract conditions (where relevant and proportionate) to increase.

What to do next

What do public bodies need to do now?

- Brief employees about the changes and consider whether existing procurement policies require updating.
- Consider responding to any further consultations on the introduction of specific duties and on the content of any relevant new statutory codes of practice issued by the EHRC.

More information

If you would like further information on the other aspects of the Equality Act 2010, we also have specific briefings for:

- Employers
- Landlords and property managers
- Service providers (private and public sector)
- Pension schemes

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