

5. Equality information and the equality duty: A guide for public authorities

Vol. 5 of 5

Equality Act 2010 guidance for English public bodies
(and non-devolved bodies in Scotland and Wales)



**Equality and
Human Rights
Commission**

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1. Introduction

Context for this guide

This guide is one of a series written by the Equality and Human Rights Commission (the Commission) to explain how public authorities can meet the requirements of the Equality Act 2010 (the Act). The Act brings together all previous equality legislation in England, Scotland and Wales. The Act includes a new public sector equality duty (the equality duty or the duty), replacing the separate duties relating to race, disability and gender equality. The duty comes into force on 6 April 2011.

There are five guides giving advice on the equality duty:

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

The essential guide provides the main overview of duty requirements. The other four documents provide additional practical advice and advice on best practice. Further information, including resources and a frequently asked questions section can be found on the equality duty section of the Commission's website: www.equalityhumanrights.com.

If you require this guide in an alternative format and/or language please contact our helpline to discuss your needs.

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Legal status of this guide

This guide is a practical explanation of what can be done to ensure authorities are meeting the equality duty. It does not have legal standing like the statutory Code of Practice on the public sector equality duty, which can be used as evidence in legal proceedings under the Act. This guide can of course be referred to, but Courts do not have to take it into account when making a decision. We therefore recommend that public authorities use the Code as their key point of reference when seeking to clarify any legal issues. The Code is due to be published later in 2011.

Where there is an explicit legal requirement under the duty, it is indicated in this guide by the terms 'you must' or 'you are required to'. Other advice in this guide is clearly labelled as 'good practice' or as a recommendation, and is therefore not a legal requirement. Case law, however, has established certain principles on meeting the previous equality duties, and we have also indicated these by a reference to case law precedent or by explaining how certain steps may help you to comply with the duty or demonstrate compliance.

This guide is for public authorities in England and for those with non-devolved functions in Scotland and Wales. Separate Codes and guidance on the equality duty will be available from the Commission for public authorities in Scotland and in Wales. These reflect the differences in the specific duties for Scotland and Wales.

This guide was last updated on 12 January 2011. Check our website www.equalityhumanrights.com to see if it has been replaced by a more recent version.

Aims of this guide

The aim of this guide is to help public authorities subject to the equality duty to prepare for its implementation. The guide provides more detailed advice to supplement the information set out in the *essential guide*.

Who this guide is for

This guide has been developed primarily for those responsible for implementing the equality duty in public authorities subject to the duty, in particular those responsible for collecting and using information. It should be read by relevant equality, business planning, procurement, statistics and human resources staff. It will also be helpful for staff involved in grant-making functions and for those who govern or scrutinise public authorities, like local councillors or board members.

The guide will also assist those who have an interest in the work of public authorities. This includes service users, voluntary sector bodies, trade unions, equality organisations and people with the protected characteristics (also referred to as 'protected groups'), as set out in the Act. We are planning to publish a guide for voluntary and community sector bodies in Spring/Summer 2011, as the duty has a

wide range of implications for their work, such as when providing services, applying for public funding or assessing the performance of public authorities on equality.

Content of this guide

This guide covers a number of areas. It sets out how you can use equality information to enable you to comply with the general equality duty. It also explains your obligations to publish equality information under the specific duties. It explains the purpose of equality information and makes suggestions about what information public authorities should collect. This includes using existing information, addressing gaps and benchmarking your information. It provides advice on equality monitoring and sets out what information should be published, in what format and by when.

You will also find advice about confidentiality issues, the Data Protection Act and your obligations under the Gender Recognition Act.

Terminology

Equality information refers to information about performance of the equality duty. This includes information about the protected characteristics of staff and service users and local or national research on equality issues. It includes both **quantitative** (numerical) and **qualitative** (descriptive) information. Qualitative information may focus more on factors which are more difficult to measure or represent in quantitative terms. It can help to deepen understanding as to why certain patterns are occurring and of the effects of your policies and practices.

Services includes services and other functions carried out by a public authority, including exercising powers (such as enforcement) as well as services that are contracted out to external organisations..

Protected characteristics are set out in sections 4–12 of the Equality Act 2010. They are the characteristics that are protected under this Act, as follows: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Protected group refers to people who share a protected characteristic under the Equality Act 2010.

Equality organisation refers to voluntary sector groups which are run by or on behalf of protected groups to campaign for and undertake work to advance equality.

General equality duty is set out in section 149 of the Equality Act. ‘Specific duties’ are the steps which listed public authorities are obliged to take to meet the general duty. These are set out in secondary legislation (‘the regulations’).

Listed body refers to those public authorities which are listed in schedule 1 to the regulations. Listed bodies are subject to both the general and specific duties.

Disaggregation refers to the process of breaking down your information according to protected characteristic. For example, disaggregating exam results for pupils by gender or by ethnic group.

Benchmarking refers to the comparison of your performance or satisfaction levels with others – either with the average for your sector or type of organisation, or with a set of good performers from your sector.

2. Equality information and the duty

An overview of the equality duty can be found in our *Essential guide to the equality duty*. The duty is made up of a general equality duty set out in the Equality Act 2010 supported by specific duties set out separately in the regulations. The purpose of the specific duties is to improve performance on the general equality duty.

The general equality duty

The general equality duty requires public authorities to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation.
- Advance equality of opportunity between people who share a characteristic and those who do not.
- Foster good relations between people who share a characteristic and those who do not.

This is very similar to the previous 'general duties' for race, disability and gender equality. It entails giving appropriate weight and priority to the need to:

- Remove or minimise disadvantages.
- Take steps to meet the needs of people with protected characteristics.
- Encourage people with protected characteristics to participate in public life.

Public authorities are also encouraged to take steps to take account of people's disabilities (for example, by making reasonable adjustments). Fostering good relations includes looking at how to tackle prejudice and promote understanding.

Compliance with the general equality duty means that in some circumstances it is lawful to treat some people more favourably than others, when this is allowed by the Equality Act 2010.

What the duty requires on information

Public authorities covered only by the general equality duty: Although there is no express requirement in the general equality duty to collect and use equality information across all protected groups, it is essential that all public authorities understand the effect of their policies and practices, to assist them to comply with the general equality duty. Public authorities can choose to publish equality information as a matter of best practice.

Public authorities also covered by the specific duties: Listed bodies must publish sufficient information to demonstrate that they have complied with the general equality duty. For all listed bodies except schools, this must be done by 31 July 2011, and at least annually after that. Schools must publish by 31 December 2011 and annually thereafter.

The information to be published must include:

- information on the effect that their policies and practices have had on employees, service users and others from the protected groups
- evidence of the analysis undertaken to establish whether their policies and practices will (or have) furthered the three equality aims in the general equality duty
- details of the information used in that analysis
- details of engagement with people with an interest in the aims of the duty.

Public authorities with fewer than 150 employees are not required to publish information on the effect of their policies and practices on their workforce. However, they will still need to have workforce information in order to meet their obligations to prepare and publish equality objectives and carry out equality analysis of workforce-related policies and practices, for example in relation to promotion or pay gaps. They will also have to publish that analysis and the information used in the analysis. The information must be available in a manner that is reasonably accessible to the public.

Further detail on what is meant by 'sufficient information to demonstrate compliance' is provided below, in the section on publication.

Advice on undertaking engagement is provided in a separate guidance document.

There is also a requirement under the specific duties to consider your published equality information when preparing and publishing objectives, and to set out how those objectives will be measured. Advice on meeting those obligations is provided in the guidance document on objectives.

3. Purpose of equality information

The specific duties require you to publish sufficient information to demonstrate you have complied with the general duty. The purpose of having and using such information is to embed equality-related, evidence-based policy-making into your work.

Collecting, using and publishing equality information will help you to:

- understand the effect of your policies, practices and decisions on different groups and plan them more effectively
- identify if you are at risk of discriminating in the exercise of any of your functions. If you are, you will need to take immediate action to remedy this
- identify if there are any steps you can take to further advance equality or foster good relations. There may be a range of simple but effective things you could do easily to achieve this
- identify what the key equality issues are for your organisation
- develop your equality objectives and measure progress
- meet your obligation to analyse the effect of your policies and practices
- demonstrate compliance and progress on outcomes to the Commission
- demonstrate to the public how you are performing and what you are achieving on equality
- demonstrate to public sector regulators and inspectorates that you understand your communities and service users and can monitor performance
- benchmark your performance against that of similar organisations nationally or locally.

Publishing this information will make your decision-making more transparent and help you to explain how and why you made decisions. This is important because it will enable the Commission to assess how you have complied with the duty and enable interested parties to assess the equality performance of your organisation.

4. Information to be collected

The information that different authorities will need to collect to inform their decisions under the duty will vary widely between different sectors and organisations. Whilst the regulations provide a general indication of the information you should collect, it is within your discretion to decide exactly what information will help you meet the general duty. In many instances, this will depend on a number of factors, which may be particular to your organisation or the field in which you operate.

The following broad suggestions may be of assistance.

Workforce

If you employ 150 people or more

You are required to report at least annually on how your policies and practices are affecting staff with different protected characteristics. It is likely that you will want to develop an equality profile of staff, at different grades or levels, to help you to understand key equality issues in your workforce. This will include any evidence of pay gaps or 'occupational segregation'. (This means any information which indicates that staff from protected groups tend to be employed in particular roles (for example, women as cleaners), or at certain grades.) In addition, it will be useful to collect information about:

- the number of part-time/full-time staff by protected group (given that women usually make up the majority of part-time staff)
- recruitment, training, performance assessment, promotion, redundancy, and leavers
- grievances, including reported incidences of harassment
- the results of staff satisfaction surveys by protected group
- the rates of return to work of women on maternity leave (allowing you to check how your rates compare with those of other similar organisations)
- contract workers
- public office holders such as the members of your Board or committees.

As a starting point, focus on the data you hold currently, and consider what more you need to give a full picture of the impact of your policies and practices on your staff. Look for the key gaps.

If you employ fewer than 150 people

You are not required to publish this information but you will need to collect the information in order to meet the legal requirement to conduct equality analysis on employment policies and practices. Listed bodies are required to publish the details of any analysis which takes place and any information used in that analysis.

Services

Public authorities already collect and hold a vast array of information, so it is likely that you already have some relevant information on equality in service provision, such as attainment levels or patient satisfaction surveys. This includes information about who is using your services, how satisfied they are with them, and what outcomes are achieved. For example, schools will know how well different ethnic groups do at different key stages; hospitals will know about the cancer survival rates for different age groups; and police forces will know how many women and girls have been convicted of different offences.

Some issues will be more important for public authorities to monitor than others. For example, within a school, equality information will be of particular importance with regard to exam results, exclusions and reports of bullying. For a police force, equality information will be critical regarding fear of crime, satisfaction levels with the police, and regarding the perpetrators and victims of crime, particularly on issues such as hate crime, rape conviction rates and violence against women and girls. For health bodies, information on who is not accessing your preventative services may be as important as the breakdown of those who are using them.

You will probably already have some of this information, broken down by some characteristics. It is unlikely, however, that you will have information about every protected characteristic or on all relevant issues. You may know less about religion or belief, sexual orientation and gender reassignment, than about the other protected groups. You should therefore start to think about what gaps there are in your existing information and how you can go about filling them. For example:

- A school will want to collect its key stage results broken down by protected groups, and to ensure that its evidence on bullying includes homophobic and transphobic bullying.
- A university or further education college may want to understand drop-out rates and satisfaction levels, and the availability of and demand for childcare support.
- A hospital may want to collect recovery rates, including for particularly vulnerable groups such as learning disabled patients; usage of its ante-natal services by women of Bangladeshi or Pakistani origin.
- A Strategic Health Authority, and any future commissioning body for health services, will want to gather evidence on men's usage of primary and preventative services, and evidence on the demand for gender reassignment services and users' experience of those services.
- A local authority will want to have evidence on: usage of and satisfaction with its social care services; use of its leisure services; incidences of disability-related harassment; the availability of and demand for services on violence against women; and on community tensions.
- A police service will want to have evidence on: hate crime and its own response to it, particularly on disability, race, religion, sexual orientation and

gender reassignment; 'no-crime' rates on rape cases; repeat offending rates on domestic violence; and the ethnic breakdown of people subject to its 'Stop and Search' powers.

- The Ministry of Justice will want to understand prisons information on complaints by religious and ethnic groups; the services prisons provide to disabled and elderly prisoners; and suicide and self-harm rates for women, people with mental health conditions and other vulnerable groups.

You may wish to consider relevant national reports to get ideas about the issues you should be collecting information on. These might include the Commission's *Triennial Review* and other research reports or statistics on its website, relevant national studies produced by central government departments or statistics bodies, or your sector's inspectorate or ombudsman. There are also specialist equality organisations, such as the Runnymede Trust, Stonewall, the Fawcett Society, Press for Change, Age UK and RADAR (the disability network), which regularly produce studies and reports which you may find useful. Local authorities may also have helpful information. You may also find that you can pool information with other public authorities in your sector.

Other functions

You should also consider what information you will need in order to give a full picture of your equality impact in regard to your other functions, for example enforcement, statutory discretion, planning or conferring qualifications. Again, we recommend that you start by considering what information you currently hold, and what the key gaps are.

5. Developing your information

Existing information

The first suggested step to take in developing your information is to assess all the information that you hold, across all functions relevant to the equality duty, before the duty comes into force. This includes functions that are contracted out. Find out to what extent your information is broken down (i.e. disaggregated) by different protected groups. You may find that you already have a good level of disaggregation for some protected groups but not for others. Likewise, you may find that you already collect a lot of information on some functions but little or none on others.

Your next step should be to determine from your existing information what is relevant to the aims of the general equality duty. This will depend on the sort of functions you carry out. Your employment of staff will always be relevant to the aims of the duty because of the diversity of your workforce. Generally speaking, the provision of services to members of the public will also be highly relevant, whether you are supplying them directly or if they have been contracted out.

To get as comprehensive a picture as possible, it will be helpful to gather together any relevant qualitative information in addition to your quantitative information. Qualitative information may help you to fill in gaps or to interpret quantitative information. This will help you to build up a full picture, as required. Sources of this information could include: previous engagement exercises, equality analysis, consultation responses or feedback from representative groups and trade unions. You may also want to carry out some specific engagement in the lead up to the legal publication deadline, to help you develop your information base.

Addressing gaps

In the process of assessing your information, you are likely to identify things that you do, or protected groups that access your services, for which you do not have equality information. This could be because you have good information but it is not disaggregated for all protected characteristics or because you do not routinely collect information in relation to particular functions.

If you find that the gaps mean you do not have sufficient information, you will need to address those gaps so that you will be able to demonstrate that you have sufficient information to have due regard to the aims of the general duty. You will need to do this within a reasonable timeframe. 'Sufficient' and 'reasonable' are not terms which can be given a strict legal definition and their application is likely to differ depending on your particular circumstances. However, in practice, you will need to publish enough information so that an interested person can make a robust assessment of whether you are fulfilling the three equality aims in exercising your functions. You will not be able to do everything at once, and it may take some time to develop comprehensive information, so you should prioritise those gaps which are most relevant to your performance of the general equality duty. There are a variety of

steps that you might want to take to address information gaps, depending on where they are, how significant they are, the nature of your services and the size of your organisation.

If you have functions that are highly relevant to the aims of the general equality duty and you do not routinely collect data disaggregated by protected group, then it is likely that you will need to set up the systems necessary to do so, or find other ways of collecting sufficient information, in order to comply, such as engaging with protected groups to gather qualitative information. For further advice on this, please refer to the Commission's guidance on engagement.

The key thing to remember is that you will need to be able to show that you have a sound evidence base when carrying out your equality analysis to look at the effect of your policies on different groups. If the information you have available is not sufficient for that purpose, you should take action to fill the gaps. What you do should be proportionate to the size and significance of your information gaps and to the size of your organisation.

Routine monitoring

Collecting information by routine monitoring through questionnaires or surveys may be the most effective way in which you can gather sufficient evidence on your services and your employees to enable you to meet your obligations. This is particularly the case for larger organisations. In many instances, you can use either 2011 Census questions or National Statistics harmonised questions.

You should accompany any questionnaire or survey with information about how the data will be stored, and who can access it. If information can be linked to an individual, it may only be stored with their written permission, which can be given on a monitoring form. Further information on data protection can be found on the Information Commissioner's Office's website:
http://www.ico.gov.uk/for_organisations/data_protection.aspx.

Monitoring sensitive information

For some protected groups, however, equality monitoring is not yet commonplace or it raises particular issues that you need to bear in mind. You will find further, more detailed, information about workforce monitoring in Appendix 2 to the Equality Act 2010 employment Code, which also has relevance for service monitoring:
http://www.equalityhumanrights.com/uploaded_files/EqualityAct/employment_code_05.10.10.pdf.

You will have to decide what level and detail of monitoring you need to put in place to meet the duty. This means taking account of four factors:

- how important the service, policy or workforce issue you want to monitor is

- whether the information you need is already available from other sources or is monitored nationally
- what kind of monitoring you need
- how easy or difficult it will be to get complete information.

If your response rates to questionnaires and surveys are routinely low, take steps to try and improve them. One way of doing this is to make sure that people are clear about why you are collecting the information. If you are able to demonstrate to your staff and service users that you use this information to improve your performance then they will be more likely to respond.

Disability

As mentioned earlier, the extent to which you disaggregate information will depend on the relevance of the issue to equality and good relations, and the size of your organisation. You need to bear in mind, however, that simply disaggregating information in terms of whether people are disabled or not is not likely to give you a very complete picture of your disabled workforce or service users, since it will not be sensitive to different impairment types. Although it is usually unlawful to ask any job applicant about their disability or health until the applicant has been offered a job, you can still ask questions about disability and health for the purposes of equality monitoring in an anonymous monitoring form that is not linked to their application form. You will find more details about the definition of disability in Appendix 1 of both the Equality Act 2010 services and employment Codes of Practice:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/>.

Sexual orientation

Monitoring in relation to sexual orientation is often a new and sensitive issue for staff and for service users, so you should not say, or imply, that the sexual orientation questions are compulsory. Evidence from public authorities suggests that disclosure of sexual orientation increases over time, as organisations improve their systems and create a culture of trust.

For further advice on sexual orientation monitoring, please see Office of National Statistics guidance for the National Statistics harmonised question which relates to sexual identity:

<http://www.ons.gov.uk/about-statistics/measuring-equality/equality/sexual-identity-project/measuring-sexual-identity--an-evaluation-report.pdf>.

Some organisations think, however, that the way ONS asked the question may lead to under-reporting, particularly amongst older people.

You may also find the following document published by the Commission helpful. It explores the case for asking people about sexual orientation and the issues it raises, including how it might be framed more effectively, the importance of anonymity and confidentiality, the questions that work and how the information collected can be

used:

http://www.equalityhumanrights.com/uploaded_files/research/improving_sexual_orientation_monitoring_v6_22-12-10.pdf.

Gender reassignment

The term 'gender reassignment' applies to the process of transitioning from one gender to another. The term used in the Equality Act to describe people who intend to transition, are transitioning or have transitioned is 'transsexual'. So, a person who intends to undergo, is undergoing or has undergone a process of gender reassignment (which may or may not involve hormone therapy or surgery) is a transsexual person. For a fuller explanation, please see the glossary to the *essential guide*.

Monitoring numbers of transsexual people is a very sensitive area and opinion continues to be divided on this issue. Many transsexual people have been bullied, harassed and marginalised, and could be very negatively affected by disclosure of their status. As an employer or service provider, public authorities have a duty to protect an individual's right to privacy. Without gathering some form of evidence, however, it may be difficult to monitor the impact of policies and procedures on transsexual people or employment patterns such as recruitment, training, promotion or leaving rates.

Because many transsexual people have had negative experiences in the workplace and services, many may be reluctant to disclose or may not trust their employers or service providers fully. If possible, monitoring can be conducted through a neutral organisation with expertise in this field under a guarantee of anonymity. If this is not possible, monitoring should take place within your usual monitoring arrangements, though it is essential that public authorities ensure that individual transsexual people are not identifiable.

At the time of writing, the Commission does not recommend a particular form of question to monitor gender reassignment, but is actively considering this complex issue. It intends to publish recommendations in April 2011. Please check the Commission's website for details.

Gender Recognition Act

As an employer, public authorities have a duty to protect an individual's right to privacy. In particular you need to remember that the Gender Recognition Act 2004 provides that, where a person holds a gender recognition certificate, they must be treated according to their acquired gender and it is a criminal offence to disclose their status. A transsexual person may consent to you disclosing the information if they decide it is in their interests to do so. However, such consent must be explicit. It may not be assumed. Also, you should not routinely ask transsexual staff or service users to produce their certificate as evidence of their legal gender.

Children and young people

It is not always suitable for monitoring on sensitive issues to be undertaken in relation to young people, particularly in relation to sexual orientation or gender reassignment. In this situation, remember that you can make use of national information or engagement to identify priority issues for this group. National trends may also be directly applicable to your context.

Religion and belief

Monitoring religion and belief can be a sensitive issue and you should not say or imply that answering questions on religion and belief is compulsory. There may also be an issue in interpreting information about someone's religion or belief because of the varying levels of commitment that people who identify themselves as belonging to a particular religion have. For instance, there may be significant differences between someone who may identify themselves as a Christian and a person for whom Christianity influences every aspect of their lives. Remember that the duty also applies to those who have no belief, like atheists, and those who have non-religious philosophical beliefs, like humanists. For more information, see the Equality Act 2010 employment Code: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/>.

Equal pay

As an employer you need to ensure that your pay system is designed to achieve equality between men and women where the work of an employee and his or her comparator – a person of the opposite sex – is equal. This will enable you to meet the general equality duty to have due regard to the elimination of discrimination. The most effective way in which you can address this in relation to gender pay gaps is by undertaking an equal pay audit for gender. Whilst not mandatory, it demonstrates appropriate action to identify and eliminate gender pay discrimination. Well over 40 per cent of public bodies are already auditing their pay systems for sex bias.¹ An equal pay audit can also be used to assess pay gaps due to other protected characteristics.

The Commission is currently working with the GEO and others to develop ways of measuring the gender pay gap for both the public and private sectors. Further guidance is likely to become available once this work has completed, although this will not be before Autumn 2011. In the meantime, public bodies should refer to the range of information available for employers on equal pay on the Commission website. This includes the Code of Practice on equal pay. An additional equal pay toolkit also contains information about conducting a pay audit and includes a series of practical checklists to help public sector employers deal with the more common causes of unequal pay in the workplace, such as starting pay and pay progression:

¹ *Equal Pay Reviews Survey 2008*, Lorna Adams, Peter Hall and Stefan Schafer, Equality and Human Rights Commission Research Report,

<http://www.equalityhumanrights.com/advice-and-guidance/information-for-employers/equal-pay-resources-and-audit-toolkit/>.

Also see the Equality Act 2010 Code of Practice on equal pay:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/>.

Benchmarking and checking your information

Benchmarking is the process by which you compare your performance against a standard to understand how well you are doing. Benchmarking can involve a comparison with other similar organisations, national standards or targets, or your own organisation over time, comparing where you were to where you are now. It will be useful for your organisation to identify appropriate 'benchmarks' to monitor your progress against, although it is not a requirement.

As well as helping to identify and fill information gaps, engaging with people from protected groups will also give you an idea of how accurate your information is. It will help you to establish if there are any differences between how you think you are performing and the experience of protected groups. See our guide *Engagement and the equality duty*.

National research on equality issues will help you to understand your own information and it can provide a useful steer on the key areas you want to collect information on. Many inspectorates publish national surveys or thematic reviews that can also assist you. Many individual inspection reports identify issues affecting protected groups and make recommendations about how to address these challenges.

6. Publication

What and when to publish

The specific duties require listed bodies to publish sufficient information to demonstrate that they have complied with the general equality duty across their functions. The question of what is sufficient will differ depending on your circumstances. As stated earlier, you will need to publish enough information so that the Commission can make a robust assessment of whether you are fulfilling the three equality aims in exercising your functions. The information will also enable members of the public to assess your organisation's performance on equality.

In particular, all listed bodies must publish sufficient information to show what impact their policies and practices have had on service users. Listed bodies with 150 staff or more also need to publish that information in relation to its employees.

Listed bodies with fewer than 150 staff do not have to publish information on the effect their policies and practices have had on its staff. If you employ fewer than 150 staff, however, you are still under an obligation to publish analysis of your employment policies and practices setting out how they further the aims of the duty. Any information you used in that analysis also has to be published.

So, depending on how the duty applies to your organisation's employment function, your aim should be to provide as complete a picture as possible across all three aims of the duty, covering as many of your relevant functions as possible and in relation to all of the protected characteristics.

The Commission would normally expect to see the following:

- For bodies with 150 staff or more:
 - the race, disability, gender and age distribution of your workforce
 - an indication of likely representation on sexual orientation and religion and belief, provided that no-one can be identified as a result
 - an indication of any issues for transsexual staff, based on your engagement with transsexual staff or voluntary groups
 - gender pay gap information
 - grievance and dismissal

It would also be useful if you publish disaggregated information on:

- return to work rates after maternity leave

- success rates of job applicants
- take-up of training opportunities
- applications for promotion and success rates
- applications for flexible working and success rates
- other reasons for termination like redundancy and retirement
- length of service/time on pay grade
- pay gap for other protected groups.

In relation to services, the Commission would normally expect to see the information that you routinely publish broken down by protected group. This will obviously depend on what services you deliver but would usually include:

- performance information relating to functions relevant to furthering the aims of the duty, especially around outcomes (for example, attainment, recovery rates)
- access to service
- satisfaction with service
- complaints (broken down by protected group, with an indication of reasons for complaints).

There is no need to wait until the legal deadline if you have relevant information available for publication. You may also find it helpful to publish the action you are taking to address any information gaps, to ensure that your stakeholders are clear about what you are trying to achieve. This includes how gaps will be filled and who is responsible for doing this.

Remember that after you have set your equality objectives you will be expected to publish information that enables both you and the public to measure how successful you have been. You need to do this at least annually.

In addition, remember that you must also publish:

- analysis to establish whether your policies and practices further the aims of the equality duty
- any information you considered when undertaking that analysis
- details of engagement with interested parties concerning fulfilling the equality duty
- your equality objectives (no later than 6 April 2012) along with the results of any engagement undertaken in developing them.

The obligations on analysis, engagement and objectives are explored in more detail in accompanying guidance in this series.

Whatever you decide to publish you need to ensure that you are meeting the requirements of the Data Protection Act and protecting your employees' and service users' rights to confidentiality.

Where to publish

The regulations do not specify where you should publish your data. However, there are clearly a number of places where you can do so. This includes your annual report or on your website. You could publish it in a special report dedicated to equality data. In addition, information can be published on data.gov.uk. We recommend that you consult the Cabinet Office Transparency Board Principles and any guidance that they may produce when considering how and where to publish. If you use a website you will want to make sure that it is easy to find and consider if the data can be put in a format that is compatible with the system's accessibility features and which can be read by special accessible programmes (for example, Jaws and Dragon) which provide screen reading facilities for people with sight or physical mobility impairments.

Remember that you are also required to publish the information you have used during your equality analysis as well as details of the engagement you have conducted. We recommend that all your equality information is published in one place, where it is easily accessible for both internal and external use. This includes making reasonable adjustments for disabled people where relevant. The information should be presented clearly and in a way the general public will understand. If it is included in a larger report, it should be clearly identified and made available on your website. It might be helpful to consider publishing hard copies for those who do not have access to the internet..

Format

You should give the usual consideration to publishing it in accessible formats and in different languages. You will find useful guidance on website accessibility and a BSI standard for website commissioners, at the online Website Accessibility Initiative: <http://www.w3.org/WAI/>.

Generally, if you begin by publishing it in pdf and accessible Word (as well as in a spreadsheet, to comply with the data.gov.uk requirements), you will have made a good start. You should take account, however, of any feedback you receive about how accessible your information products are, and act on it when it is reasonable to do so, bearing in mind your legal obligation to make reasonable adjustments for disabled people.

Context for your information

Whilst it is not required for the specific duties, you may find it useful to point out any key trends and provide some context to the data that you publish in an introduction, to make it more accessible to your stakeholders. You should also draw the data to the attention of staff who have the task of meeting the legal requirement to analyse the equality and good relations effect of your organisation's work.

The Data Protection Act

Under the Data Protection Act, some of the protected characteristics of your employees and service users would constitute 'sensitive data', and they must be processed as such. You can get more information on the Data Protection Act on the Information Commissioner's website: <http://www.ico.gov.uk/>.

Sometimes, it may be possible to identify individuals from monitoring analysis, or your information may point to a small group of people. Remember that this could affect their rights under the Data Protection Act. Sometimes, it may be possible to identify individuals from monitoring analysis, or your information may point to a small group of people. Remember that this could affect their rights under the Data Protection Act. If a particular group of staff or service users is fewer than 10, and this might lead to individuals being identified, we recommend that when you publish your information, you replace the number with an asterisk. This would be the case, for example, if you found you had three lesbian staff in a department of 20 people. You should also check that it is not possible to work out the missing number from those figures that you are publishing.

7. Step-by-step guide

Taking the following steps will help public authorities covered by the specific duties to meet their equality information obligations:

Up until 31 July 2011 (31 December 2011 for schools):

- Look at what relevant information you already have that demonstrates how you are complying with the general equality duty, including what you already publish. Schools, hospitals, police forces, local authorities, etc already publish huge amounts of relevant data – start from this.
- Think about what relevant qualitative data you hold that you could also usefully publish to provide a more complete picture. This could be information gained from engagement with protected groups or others.
- Put your information into a format that enables you to publish it in an accessible way.
- Read and consider the Government's Public Data Principles.
- Publish this information by 31 July 2011 (31 December 2011 for schools). Government transparency principles state that you should aim to publish data when it is available rather than just once a year.

After 31 July 2011 (31 December 2011 for schools):

- Identify where you have gaps in your information. These could be in relation to particular services or to particular protected groups.
- Decide what you want to be in a position to publish in the future.
- Decide at what intervals you will publish your information.
- Draw on your information (and national information) to identify your most significant equality challenges.
- Consider how you will use your information to develop and monitor your objectives. These need to be published by 6 April 2012.
- Consider benchmarking your performance against other relevant public authorities or national information as your basic data improves.
- Decide what steps you are going to take to fill in information gaps, including any engagement that you will undertake to do this.

Contact us

The Equality and Human Rights Commission aims to reduce inequality, eliminate discrimination and harassment, strengthen good relations between people, and promote and protect human rights.

You can find out more or get in touch with us via our website at www.equalityhumanrights.com or by contacting our helpline below. If you require this publication in an alternative format and/or language please contact our helpline to discuss your needs.

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This guide is one of a series written by the Equality and Human Rights Commission to explain your responsibilities under the public sector equality duty in England (and non-devolved bodies in Scotland and Wales).

The five guides in this series are:

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

If you would like a copy of any of these guides or require this guide in an alternative format, please call our helpline on **0845 604 6610**, textphone **0845 604 6620** Monday to Friday 8am to 6pm or see our website **www.equalityhumanrights.com**.