

# **PUBLIC SECTOR EQUALITY DUTY**

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# Introduction

- > The Equality Act 2010 introduces a public sector equality duty
- > Replaces the race, disability and gender duties
- > Purpose – to deliver better outcomes
- > A pro-active, anticipatory duty to prevent discrimination happening in the first place
- > Came into force in April 2011

# Structure of the Duty

- > **General Duty** – in the Act; applies widely to public authorities and public functions (April 2011)
- > **Specific Duties** – set out in Regulations; Scottish Ministers; to enable the better performance of the general duty (expect April 2012)

# Public Sector Equality Duty

## General Duty

.....to have due regard to the need to:

- > Eliminate discrimination which is unlawful under the Equality Act 2010
- > Advance equality of opportunity
- > Foster good relations

# Specific Duties

- > Additional duties placed on listed authorities to enable the better performance of the general duty
- > Responsibility of Scottish Ministers
- > Want the specific duties to deliver better outcomes for people



# Specific Duties : process

## > Consultation:

- > Sep 2009 - Jan 2010 on general principles
- > Sep – Nov 2010 on draft regulations
- > Sep – Nov 2011 on revised draft regulations

## > Parliamentary Process:

- > Affirmative procedure
- > Committee consideration

# Initial framework for specific duties

- > Publish equality outcomes, based on evidence and involvement
- > Report on mainstreaming equality
- > Impact assessment
- > Gather and publish employment information
- > Scottish Ministers' duty
- > Report through existing systems

# Specific Duties : consideration

- > Framework broadly right, but need more detail.
  - > Equality outcomes
  - > Impact assessment
  - > Employment information
  - > Procurement



## More detail.....

- > Improved transparency and accountability
- > Clearer for public authorities what they need to do
- > Challenge authorities
  
- > Balance – focus on outcomes, not process
- > Go with the grain
- > Flexibility – need to work for broad range of authorities

# What's new

- > Equality outcomes
  - > **give reasons** if they don't cover all characteristics
- > Impact assessment
  - > **publish**
  - > consider evidence **including from equality groups**
  - > new and changes but must make **arrangements to review** existing
  - > not required where a policy has **no bearing** on the duty

# What's new

- > Gather and publish employment information
  - > **all** authorities
  - > **all** characteristics
  - > **recruitment, development and retention** of employees
  - > gather and **use** information
  - > **publish** information and **report** on progress made
  - > publish and report within the mainstreaming report
- > 'take reasonable steps'

# What's new

- > Equal Pay (authorities with more than 150 employees)
  - > Equal pay statement (equal pay policy and occupational segregation)
    - > The first – gender only
    - > Second and subsequent – **gender, race and disability**

# What's new

- > Procurement
  - > Due regard to equality in award criteria
  - > Due regard to equality in contract conditions
- > Report through existing systems
  - > Publish in an accessible manner

# Expected timescales

April 2012	Regulations into force impact assessment duty in force procurement duty in force
Dec 2012	publish equality outcomes publish mainstreaming report publish employment information pay gap and equal pay statement (150+)

# Guidance and Review

- > EHRC guidance

- > impact assessment, evidence, involvement, employment information etc

- > Scottish Government review

- > can make further regulations

- > can require authorities to consider particular matters