
Equality and Diversity

Specific Duties:

Guidance for meeting legal requirements to publish equality information and objectives
Revised edition Feb 2013



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This section provides an overview of the new public sector equality duty, and the two new specific duties. It explains:

- the purpose of this briefing
- who the briefing is for
- how the briefing will help you

All on just one side of A4.

Introduction - the duties in a nutshell and purpose of this briefing

Nine pages of essential reading on the duties.

If you don't read anything else, make sure you read this section.

Essential reading

This section provides more detailed information on publishing equality information, including good practice case studies and answers to frequently asked questions.

More detail on publishing equality information

LSIS specific duties briefing

Further resources and sources of advice

Key guides and websites for further resources and sources of advice.

More FAQ - frequently asked questions

This section provides the answers to further FAQs

More detail on developing equality objectives

This section provides more detailed information on publishing equality objectives, including good practice case studies and answers to frequently asked questions.

Introduction:

The duties in a nutshell and purpose of this briefing

In April 2011, a new public sector equality duty, known as the **general duty**, came into force. It applies to the nine protected characteristics of the Equality Act 2010, and replaces previous and separate duties to promote race, disability and gender equality. The general duty means that providers must have due regard to the need to:

- **Eliminate** unlawful discrimination, harassment and victimisation
- **Advance** equality of opportunity
- **Foster** good relations.

Two new **specific duties** came into force in September 2011:

New specific duty

Publish equality information by
31 January 2012 and then annually

New specific duty

Publish equality objectives by
6 April 2012 and then every 4 years

What is the purpose of this briefing and who is it for?

This briefing is a guide to help you to meet these duties. It will be of interest to managers and coordinators with responsibility for implementing the equality duty, and staff responsible for collecting and using equality information, strategic planning, data analysis, human resources and governance. It will also be useful for chief executives, senior managers and clerks.

What is in the different sections of this briefing and how will it help us?

There are six sections. Everyone is advised to read the 'essential reading' section. Other sections provide more detailed information on certain aspects such as developing robust equality objectives and tackling gaps in equality information.



The sections are colour coded to help you navigate your way around. The guide is designed to be used as an electronic resource, rather than a document that you print out. Read it online and you can use the hyperlinks to access additional information and LSIS and Ofsted examples of good practice.

The guide will help you to:

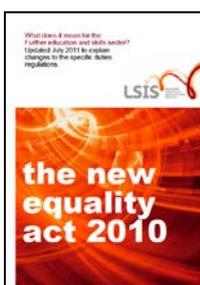
- Understand the specific duty requirements
- Be clear about the equality information you need to publish annually
- Identify, set and review appropriate and SMART equality objectives
- Understand how you should publish your equality information and objectives.

Essential reading

This section contains essential information on the duties. If you don't read anything else, make sure you read this section of the guide.

The Equality Act 2010

The Equality Act 2010 (the Act) streamlines, harmonises and strengthens equality legislation in the UK. The Act introduces the term 'protected characteristic' to refer to aspects of a person's identity explicitly protected from discrimination. Nine are identified (shown on the right). Much of the Act came into force in October 2010.



You can find further information on the Act in LSIS guidance, 'The new Equality Act 2010: what does it mean for the further education and skills sector?' 2nd edition, July 2011. Click [here](#) to read this guide.

Nine Protected Characteristics of the Act

1. Race
2. Disability
3. Sex
4. Gender reassignment
5. Age
6. Sexual orientation
7. Religion and belief
8. Pregnancy and maternity
9. Marriage and civil partnership

The general and specific duties

What is the general duty?

The Act introduced a new public sector equality duty, known as the general duty, which came into force in April 2011. This duty replaces previous public sector equality duties to promote race, disability and gender equality.

The new duty means that providers must have due regard of the need to:

1. **Eliminate** unlawful discrimination, harassment and victimisation
2. **Advance** equality of opportunity between people who share a protected characteristic and those who do not
3. **Foster good relations** between people who share a protected characteristic and those who do not.



These are often referred to as the three 'aims' of the general duty. They apply to eight of the nine protected characteristics of the Act. (Only the first aim of the duty – to 'eliminate' - applies to the protected characteristic of marriage and civil partnerships).

The general duty applies to all **functions** of the organisation. To see information in this briefing on what is meant by 'functions', click [here](#).

Why 'advance' rather than 'promote'?

'Advance' replaces previous requirements to 'promote' equality. This is intended to help organisations recognise their actions must result in improved outcomes.

Advance also includes the need to:

- Remove or minimise disadvantage experienced by people who share a protected characteristic
- Take steps to meet the needs of people who share a protected characteristic
- Take steps to take account of people's impairments
- Encourage people with a protected characteristic to participate in public life or other activities where participation is disproportionately low.

Foster involves tackling prejudice. It also includes promoting understanding between different groups, for example promoting understanding about faith, or about mental health difficulties.

Patsy Palmer, actress

'My most challenging role was hiding my depression from other people.'



What are the specific duties?

As with previous public sector equality duties, the general duty is underpinned by specific duties to assist organisations to meet the general duty.

Two new duties

Two new specific duties came into force in September 2011:

- To publish **equality information** by 31 January 2012 and then annually
- To publish **equality objectives** by 6 April 2012, and then every four years.

Not all providers are covered by the specific duties. However, since the purpose of the specific duties is to help organisations meet the general duty, even if you are not subject to the specific duties you may still choose to develop and publish equality objectives, and publish equality information each year.

If you are a **'listed'** organisation, then you are subject by the specific duties.

Are you a 'listed' organisation?
Click [here](#) to find out.

The first specific duty - Publishing Equality Information

The first of the two new specific duties is for organisations to publish their equality information. The purpose of this specific duty is to help you to meet the general duty and to bring greater transparency to your progress in equality and diversity. It brings clarity to the equality gaps you are trying to address and the outcomes you are working towards, enabling others to hold your organisation to account.

How transparent are you about your progress in equality and diversity?



What equality information do we need to publish?

This should include information relating to people that share a protected characteristic (except marriage and civil partnership) who are:

- staff (for [listed](#) providers with more than 150 staff)
- learners (including those on learner or employer-responsive provision, part-time and full-cost provision).

You may also choose to publish information on customers, for example information about people using your hairdressing salon or training restaurant. The information you publish will depend, in part, on the size of your organisation. Larger organisations will be expected to publish more information than smaller organisations.

Publishing information: employees

If you are a **listed** organisations with more than 150 staff, the Equality and Human Rights Commission (EHRC) has said it would **expect to see** the following information

- Workforce race, disability, gender and age distribution at different grades
- An indication of the likely representation on sexual orientation and religion /belief
- An indication of any issues or barriers experienced by transsexual staff
- Gender pay gap information
- Information about occupational segregation
- Grievance and dismissal information for people with protected characteristics
- Complaints about discrimination
- Details and feedback of engagement with staff and trade unions
- Records of how the organisation has had due regard to the aims of the duty in decision- making with regard to their employment
- Details of policies and programmes that have been put into place to address concerns.

The EHRC has also said that it would be useful for organisations to publish information on:

- Return to work rates after maternity leave
- Success rates of job applicants
- Take-up of training
- Applications for promotion and success rates
- Applications for flexible working
- Reasons for termination (e.g. retirement)
- Length of service or time on pay grade
- Pay gap for other protected groups.



If you are not a listed organisation or you are a **listed** organisation with fewer than 150 staff, you are not required to publish information relating to your employees, although it would be good practice to do so. You will, however, need to collect and use workforce information to demonstrate that you are meeting the general duty across your employment functions. For example, you may want to assess the impact on equality for recruitment and selection processes. Click [here](#) to find out if you are a listed organisation.

Questions to ponder:

Considering the above lists, what's 'missing' from your published staff equality information?

Have you considered all protected characteristics (with the exception of marriage / civil partnership)?



Publishing information: students

You will already collect a significant array of information about student recruitment and outcomes and it is likely that much of this information is already disaggregated by some protected characteristics.

Disaggregated data simply means looking at outcomes by specific subgroups, for example comparing success rates for learners from different minority ethnic backgrounds. You may already collect and use recruitment, success, progression, disciplinary, and complaints data in this manner.

When deciding what information to publish, you need to consider how this information has been used to demonstrate that you are meeting all three aims of the general duty.



Publishing information: engagement activities



Your published information should contain both quantitative and qualitative data. In addition to monitoring information you will therefore want to report on engagement activities. For example, the protected characteristics that people share, who has been involved, what they said and how the organisation has made positive changes as a result.

Published information may include feedback from student representatives, student councils, focus groups or forums, which detail the views of students with a particular protected characteristic. Your published equality information should also include information on the outcomes of staff engagement activities.

Question to ponder:

If a member of the public who does not work or learn in your organisation, reads your published equality information, would they have a good idea of the equality gaps you are trying to tackle? Would they have a good understanding of your progress in equality and diversity?



Three pitfalls to avoid

First, make sure you consider data **within each protected characteristic**, as well as considering data for each protected characteristic. Disaggregating information simply by whether people are from a minority ethnic background or not, is unlikely to give you a complete picture. People from different ethnic backgrounds or disabled people with different disabilities can experience fundamentally different barriers.

Mind the gap

If you have 'gaps' in your equality information, for example sexual orientation, you need to consider plans to address these. Gathering information on sexual orientation is discussed in more detail in a later section - click [here](#) to jump to this section.

Second, **focus on what matters**, rather than on information that is readily available. For example, in addition to considering disaggregated recruitment and success data, you may wish to consider disaggregated data for attendance and punctuality, or participation in work experience, trips or visits. You may want to look at cross-cutting issues, for example disaggregating success rates by race and gender, or gender and disability.

You may also want to consider other equality information based on, for example, destination data, financial support applications and success rates for learners who are pregnant or who recently give birth.

Ofsted good practice case study

Kendal College was recognised by Ofsted as having 'exceptionally detailed analysis and monitoring of the performance of different groups of learners'.

Click [here](#) to read the case study.



Equality and quality - divorce or partnership?

The issue of 'divorce' or 'partnership' of quality and equality was first highlighted in an action research project funded by the Learning and Skills Council. The project supported providers to embed E&D within self-assessment and other quality improvement activities.

Click [here](#) to read the report.

Third, embed the **collection and use of equality information within your self-assessment** processes so this activity becomes integral to all quality improvement practice rather than a 'bolt on extra'.

Publishing your equality information and objectives: the why, when, where and how?

| | |
|---|---|
| <p style="text-align: center;">Why publish?</p> <p>Publishing enables you to be transparent about your progress in equality. It allows other people and organisations such as Ofsted and the EHRC to obtain a clear picture about how you are meeting your equality duties.</p> | <p style="text-align: center;">Where should we publish?</p> <p>Equality information and objectives should be published in a manner that is accessible to the general public. One way to do this is to place these documents on your website. Ensure documents are easy to find, by providing a clear link from your home page.</p> |
| <p style="text-align: center;">When should we publish?</p> <p>You should have published your equality information by 31 Jan 2012, and thereafter every year. Subsequently, you can choose a date to suit you, for example one that fits within your quality improvement cycle, providing you publish your equality information every year. Your second equality report should have been published by 31 Jan 2013.</p> <p>You should have published your equality objectives by 6 April 2012, and thereafter every four years. There is nothing to stop you updating your equality objectives before then, as long as you update them at least every four years thereafter. You also have the flexibility to publish the objectives in a month in the year other than April, providing you publish your second set of objectives by 6 April 2016.</p> | <p style="text-align: center;">How should we publish?</p> <p>You are required to publish in a way that is accessible to the public. Ensure information and objectives are presented in a manner the general public will understand. Consider making documents available in alternative formats.</p> <p>Remember! You are required to make reasonable adjustments for disabled people, so when publishing your information check, for example, that it will be accessible to people using assistive technology. Guidance on website accessibility standards can be found at: www.w3.org/WAI</p> <p>You may want to consider making your report available in alternative languages.</p> |

What about the Data Protection Act?

Information about protected characteristics should be collected and stored securely. Be careful not to publish in a way that individuals can be identified. For example, you may choose to replace sensitive data with an asterisk where the number is below ten. Alternatively, you may choose to use different ranges or bands to protect individuals from being identified.



The second specific duty – publishing Equality Objectives

The purpose of this specific duty is to help you to meet the general duty and to bring clarity and transparency to the outcomes your organisation is working towards.

What exactly is an ‘equality objective’?



The Equality Act 2010 (Specific Duties) Regulations 2011 state ‘An objective published by a public authority in compliance with paragraph (1) must be **specific and measurable**’. Specific, measurable objectives are **ambitious**, and **explicit about the outcome** that they are trying to achieve and how success will be measured. Click [here](#) to read the regulations.

Guidance from the Equality and Human Rights Commission (EHRC) clarifies that these objectives should be ‘**outcome-focused**’ rather than ‘process-focused’ or ‘output’ focussed. Providers should avoid vague, overarching aims and objectives. Instead, they should produce SMART (specific, measurable, achievable, realistic and time-bound) objectives. Click [here](#) to read the guidance.

| Process-focused equality objectives | SMART equality objectives |
|---|---|
| <ul style="list-style-type: none"> ☒ We will deliver top level commitment which will be demonstrated through visible and active leadership ☒ We will set up systems within Human Resources to permit more robust monitoring of equality data ☒ We are committed to equal pay and eliminating any gender pay gap ☒ We will carry out an annual E&D staff survey ☒ We will continue to train staff on equality | <ul style="list-style-type: none"> ☑ Increase by 5% per cent the success rates for males from African and Caribbean backgrounds on service industry courses over two years ☑ Improve satisfaction ratings for staff from black and minority ethnic backgrounds by 10% in four years ☑ Increase the recruitment of females on engineering and construction courses by 6% over four years ☑ Increase the participation of disabled learners in student forums and as course reps by 12% over the next three years |

What is the difference between outcomes and outputs?

'Outputs' describe what 'gets done', for example establishing a new HR database, or identifying the number of people completing a survey or attending a training event.

'Outcomes' are the changes that result for individuals or communities, for example a reduction in complaints of discrimination or the improvement in success rates for a specific group of learners. Outcomes should result in an organisation 'advancing' or 'moving forward' in equality and diversity. Equality objectives should aim for outcomes that achieve one or more of the aims of the general duty.



Thinking point

- **Are your objectives output or outcome-focussed?**
- **Are your objectives specific and measurable?**
- **Will achievement of your objectives genuinely eliminate discrimination, advance equality and foster good relations for the 8 protected characteristics of the Act?**

More detail on publishing equality information

This section contains further information on the specific duty to publish information. Make sure you have read the 'essential reading' section before you read this section

How much information do we need to publish?

The information you publish will depend, in part, on organisation size. For example, the information published by a small private training company is unlikely to be as extensive as the information that a large college with four campus sites will need to publish. See below for more information.

How can we check our report meets the duties?

Once you have produced a draft report, you may want to check you have met your duties by asking the following questions:

- Does this information give a full picture of our equality performance to someone who does not work or learn in our organisation?
- Have we considered all of our functions?

'Functions' includes all the activities of a provider, including, for example:

- marketing, staff recruitment and student admissions
- self-assessment and other quality improvement activities
- budget management, and allocation of resources
- employment practice
- enrichment, trips and visits
- information, advice and guidance
- teaching, learning and assessment
- procurement, and contracted out services
- additional learning support
- student services
- partnerships
- estates management

- Does our report demonstrate how we have used our information to give due regard to all three aims of the general duty?
- Is it evident that we have considered all protected characteristics (with the exception of marriage and civil partnership)?

Thinking point – which 'function' has been 'missed' in your drive to advance equality in the organisation?



How does your equality report measure up?

In December 2012, the Equality and Human Rights Commission (EHRC) published a report on how public authorities in England have met their transparency obligations on equality.

A significant number of authorities were sampled, including 130 universities and 115 colleges.

Colleges performed relatively poorly.

- It was the sector with the lowest proportion of organisations publishing information on staff (57%), except for national organisations. A third of the colleges assessed did not publish equality information on either their staff or service users. A very low proportion published information on the newer characteristics, other than age. Furthermore, the sector is less likely to make equality information available in alternative formats than any other sector. Very few colleges (along with universities) made the equality information available in different languages.
- Colleges were the least likely to identify an approach for using equality information in assessing the impact of their work on equality. They are the least likely to provide examples of where they are actually using this information (only one in 10 of those assessed in each case). Click [here](#) to jump to the section in this guidance about assessing impact of equality.

- Despite the very poor coverage of the newer characteristics, only 16% recognised gaps in staff equality information (the lowest of any sector) and only 14% recognised equality information gaps for service users (though of the small number recognising this, two-thirds indicated plans to do something about them).

The Commission recommends that all colleges review the findings in the report and take steps to publish their equality information in line with best practice criteria. They will be writing to all colleges who have not published equality information, asking them to provide information about their published information or their plans to publish it.

To read the EHRC report: 'Publishing equality information: Commitment, engagement and transparency', including recommendations for organisations, Click [here](#).



Is there a framework we can use for our equality information report?

The Act does not prescribe a framework for reporting your information. You should use a format that meets your needs. However, the outline below identifies the information you might consider including:

Section 1 Introduction

This might include an introductory paragraph or two from the Principal, Chief Executive and/or one of the governors or trustees. This helps confirm the status of the document as a strategic, whole-organisation report endorsed by senior leaders.

Section 2 Information to identify equality issues

This might include facts and figures about equality monitoring information for staff, for students and the outcomes of engagement activities with staff and students. It should make clear the key equality gaps that the organisation wants to address.

Section 3 Information about steps taken to have due regard to the general duty

Here you might outline how you have shown due regard during decision-making or policy review and development. For example, you may want to include a summary of outcomes from equality impact assessments (EIAs) or outcomes from other approaches you have used to assess the impact of your work on equality. You may also want to include details of policies, or actions that have been put in place to address equality concerns. Click on the links below to see some good practice examples of how organisations have addressed their equality concerns.

Click [here](#) to jump forward to information in this guide about assessing impact.

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| Ofsted good practice | Click here to see how Stoke Newington School and Sixth Form Centre tackled homophobic language, attitudes and bullying. |
| LSIS good practice | Click here to see how South Leicestershire College encouraged staff and students who experienced barriers to inclusion to share their experiences on film. |
| LSIS good practice | Click here to see how CG partnerships worked with the local police and football club to raise understanding and tolerance, and tackle prejudice among young people. |
| Ofsted good practice | Click here to see how Oaklands College took a college approach to embedding equality and diversity in the curriculum. |

Section 4 Progress on achieving equality objectives

This could include information on the equality objectives that you have achieved to date, the resultant impact and interim measures of progress for remaining equality objectives yet to be fully realised. This section will be relevant for annual reports published on or after 31 Jan 2013.

What should we do with our information?

Once you have published your equality information report, think about how you use this information to drive forward equality and diversity improvement. For example, this information will be invaluable in helping you to set appropriate equality objectives. You may use the information to agree equality targets with curriculum and business support teams as part of your self-assessment and quality improvement processes.

‘Publishing information is not simply a matter of demonstrating the sufficiency of your equality evidence base. More importantly, it is about demonstrating how you have used your evidence base to have due regard to the aims of the general equality duty (i.e. how you have used it in making a particular decision or in the way you have delivered your work).’

‘Equality information and the equality duty: a guide for public authorities’, 2nd edition, Dec 2011. Equality and Human Rights Commission. Click [here](#) to read this guide.



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| Ofsted good practice | Click here to see how staff at Kendal College evaluate data to identify gaps, investigate causes and implement action to address these gaps |
| Ofsted good practice | Click here to see how Wakefield College uses a comprehensive equality and diversity monitoring framework, acting swiftly when issues are identified. |

What about gaps in our information?

Once you have assessed the equality information you already collect, you may find that there are 'gaps' in your information. For example you may have gaps in information related to specific functions, or gaps in information relating to specific protected characteristics.

Although there is no explicit requirement to gather and use equality information for each of the protected characteristics, it may be difficult to demonstrate how you are giving due regard to the three aims of the general duty in the long term if you do not collect and use this information. For example, you may find it difficult to consider the impact of recruitment, training or promotion policies and practices on gay, lesbian and bisexual people without gathering some information about the people who apply for jobs and staff employed in your organisation. The same is true for people who hold a faith or a non-religious philosophical belief.

In the first instance, you may want to seek advice from gay and lesbian staff and learners, and staff and learners of different faiths, about whether they feel the organisation is ready to collect this information, and if not, what actions the organisation should take to enable your culture to become one where people feel safe to disclose information of this nature.

Finally, you may want to consider commenting on the reliability and validity of your information, for example issues around ethnicity 'unknowns' or low rates of staff disability disclosure.

Knowledge of these 'gaps' in information will help inform the setting of your equality objectives and development of your equality action plan.

The EHRC report 'Improving sexual orientation monitoring' explores the case for monitoring in relation to sexual orientation.

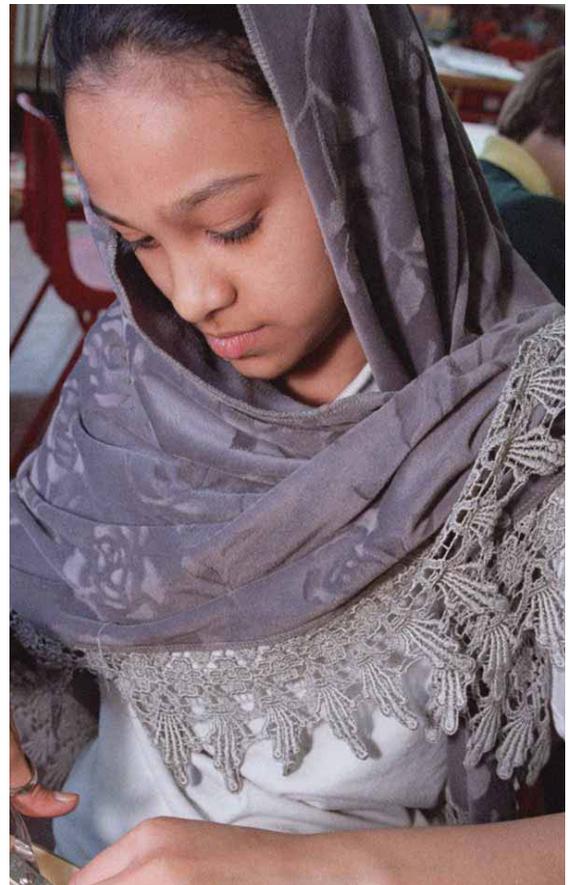
Click [here](#) to see this report.

The EHRC report 'Equality information and the equality duty' provides helpful information about monitoring of gender reassignment.

Click [here](#) to see this report.

You may also find the EHRC advice on how to ask questions helpful.

Click [here](#) to see this report.



More detail on developing equality objectives

This section contains further information on the specific duty to publish equality objectives. Make sure you have read the 'essential reading' section before you read this section.

How do we develop our equality objectives?

There is no blueprint for establishing equality objectives. However, you might find the following steps useful:

Step 1 - Establish an evidence base

Use information from key documents such as your self-assessment report and published equality information report. Engage with staff, students and others to help you decide what your equality objectives should be. While there is no explicit specific duty to engage with people with different protected characteristics, the duty requires you to have an adequate evidence base, and engagement activities will help to ensure this is the case.

Some people rarely have a voice in improving practice because they are under-represented, find it difficult to participate in engagement activities, or are excluded. When there is reliance on representatives or forums some people's views are rarely captured. These are commonly:

- people with mental health difficulties
- people with learning difficulties
- people with neurodiverse conditions such as Asperger syndrome
- gypsies and travellers
- asylum seekers and refugees
- people on low incomes or benefits.



Whose 'voice' is missing in your organisation?

To help ensure engagement activities are inclusive, and involve people who may be previously unseen or unheard, you may want to consider

- using a wide variety of different ways for people to participate
- creating safe and supportive environments for people to give their views
- empowering people to have a voice, for example training disabled students to participate as course representatives and in forums
- undertaking activities to take account of the needs that different people might have
- rewarding people who attend events with payment or vouchers
- monitoring participation to ensure that everyone, including those who commonly do not engage, has a voice.

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| LSIS good practice | Click here to read case studies on the learner voice section of the excellence gateway that show how providers have empowered disabled learners to have a voice in improving practice. |
| Ofsted good practice | Click here to see how City Gateway established a young leaders group to engage with young people identified as not in education, employment or training (NEET). |
| Ofsted good practice | Click here to see how City Lit uses an extensive range of methods to gather learner feedback. |

'Objectives should be based on robust information and evidence of need, rather than merely being a collection of ideas from colleagues across your organisation.'

EHRC, 'Objectives and the equality duty: a guide for public authorities', 2nd edition, Dec 2011.



Step 2 - Identify relevant equality objectives

Use your information to identify equality objectives. These should be achievable within 4 years, and include a mix of short-term and longer-term objectives.



Step 3 - Status check

There is no set number of objectives that organisations are required to publish. However, ensure you have considered all **three 'aims'** of the general duty, **all protected characteristics** and **all functions** of the organisation. Check objectives are SMART and predominantly outcome-focused. Establish how your equality objectives tie into your organisation's overall business objectives and quality improvement plans.



Step 4 - Prioritise

The previous steps may result in a significant number of equality objectives. Prioritise the extent to which your objectives affect issues of discrimination, equality of opportunity and good relations, taking into account significance of the function being addressed. For example learner recruitment is likely to be more significant than purchasing utilities.



Step 5 - Check back with stakeholders

Engage with staff, students and other key stakeholders who have protected characteristics, to check that your draft equality objectives are the right ones with the right priority. This helps move from consultation to genuine involvement. You can find information on the difference between consultation and involvement in the FAQ section of this guidance. Click [here](#) to jump forward to this section.



Step 6 - Publish your equality objectives

Consider using a narrative or short explanation to introduce your objectives, together with the evidence base that you have used to reach your decisions. Click [here](#) to jump back to this section in this guide on publishing objectives.



Step 7 - Communicate

Equality objectives now established, communicate your objectives to others, for example staff, managers, governors, students, employers. Use a variety of methods, for example newsletters, intranets, short presentations, specific agenda items, and progress reports



Step 8 - Take action

Develop a SMART action plan to achieve your objectives. Unlike previous equality duties, there is no legal requirement to publish your action plan, but you may publish it should you so wish. Set up robust and regular monitoring processes to evaluate progress in implementing the impact of actions in your action plan. Inform senior managers, and governors or trustees about your progress, and publish information about this annually, as part of your published equality information report.



What does effective practice look like for equality objectives?

Research conducted by Dr Christine Rose on behalf of the Equality and Human Rights Commission identified a number of critical success factors for organisations to set and meet equality objectives successfully. **Three are cited below.**

Staff training and development

Equality and diversity training should not be a 'one-off' activity; instead, you should have a rolling programme of continuous professional development so that staff can respond positively to the duty and build the knowledge, skills and confidence to embed equality and diversity within their job role and responsibility.

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| LSIS good practice | Click here to see how Telford College of Arts and Technology undertook a range of activities to raise staff awareness of lesbian, gay, bisexual and transgender (LGB&T) equality. |
| Ofsted good practice | Click here to see how performing arts students at North East Worcestershire College used drama to raise awareness of equality and diversity issues among staff. |
| Ofsted good practice | Click here to see read the inspection report for Davidson Training UK Ltd, which notes that in relation to equality and diversity, 'frequent training for staff is excellent and based around innovative and thought-provoking exercises developed by DTUK'. |

Active leadership from the top

Leaders shape culture and ethos of an organisation, so visible and active senior leadership is probably the most important critical success factor in moving forward in equality. Senior leaders should give a clear and consistent message about the importance of the new general duty, ensure there is management 'buy in' at all levels and in all areas of the organisation, and make certain that sufficient resources are in place to meet the new duties.

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| Ofsted good practice | Click here to see how Senior staff at Wakefield College have developed an inclusive culture. |
| Ofsted good practice | Click here to see how Davidson Training UK Ltd takes a participative and inclusive approach to leadership. |

Regular scrutiny of E&D progress and performance

Monitoring and reporting on progress in implementing actions to achieve equality objectives is as important as, if not more important than, developing your objectives. Focus on reporting on specific tangible improvements and the impact of activities.

**Ofsted
good
practice**

Click [here](#) to see how Kendel College addressed male under-achievement on construction and motor vehicle programmes.

Thinking point

**Do you have all three critical success factors in place?
If not, what action can you take to address this issue?**

**What has been the impact of your actions this year, in
eliminating discrimination, advancing equality and
fostering good relations?**



Is there a 'checklist' we can use for developing our objectives?

Research conducted on behalf of the EHRC¹ identified key messages that have been adapted to become questions for providers to use as a 'checklist' when developing equality objectives:

- Have you developed a sound evidence base before identifying, devising and prioritising equality objectives? This ensures that an organisation focuses on genuine issues within its own context.
- Does evidence includes qualitative and quantitative information? Have you considered both workforce and service delivery?
- Have you provided transparency and clarity about the outcomes of information gathering activities to demonstrate publicly the reasons for choosing your objectives?
- Have you captured the voice of people whose opinions are rarely identified, for example people with mental health difficulties, gypsies and travellers, and people with learning difficulties or caring responsibilities and those on a low income?
- Have you avoided equality objectives that are little more than overarching aims, top-level commitments or maintenance of current practice?
- Are your objectives specific and do they clearly demonstrate how successful implementation might lead to tangible and measurable improvements in equality?
- Have you prioritised objectives to focus on the most significant issues for the organisation's remit? Have people who participated in consultation activities had an opportunity to refine equality objectives and influence the prioritisation process?
- Have you cross-referenced each equality objective with the relevant aim of the general duty that the objective is attempting to meet, and the relevant protected characteristic? This helps ensure that all aspects of the duty and all eight protected characteristics have been considered.
- Have you linked each equality objective with the organisation's strategic or corporate objectives?

¹ Dr Christine Rose, 'Report to the Equality and Human Rights Commission', 2009.

More FAQ – frequently asked questions

How will meeting the specific duties improve our provision?

Successfully meeting the duties will help you to:

- ✓ **Deliver a first class service** - Ofsted report a common characteristic of the highest performing providers is that they have an inclusive ethos where Equality and Diversity has a strong focus
- ✓ **Improve planning** – recognise the impact of policies on different people
- ✓ **Identify key equality issues to address** - develop appropriate objectives to drive forward improvements in equality, diversity and inclusion
- ✓ **Improve the quality of provision** – e.g. improving success rates of learners from black and minority ethnic backgrounds will improve the success rates overall
- ✓ **Increase employee satisfaction and motivation** - helps attract and retain staff
- ✓ **Create a positive atmosphere** - a shared commitment to valuing diversity and respecting difference
- ✓ **Tackle inequalities and promote social justice** - contributing positively to local communities and local and national social and economic strategies.

How does the equality duties tie in with the 2012 common inspection framework?

Equality and Diversity continues to feature highly during inspection. It explicitly informs the three key headline grades.

Inspectors will focus even more closely on the impact of Equality and Diversity on learners and whether providers are effectively identifying and narrowing gaps in achievement between different groups of learners.

Take a look at paragraphs 175 and 176 for example:

‘Inspectors will evaluate the extent to which the impact of a provider’s work in relation to equality and diversity is thoroughly assessed and appropriate actions are taken in response...Where relevant, inspectors should take into account...where the provider is a public body, how well it has taken action to fulfil its responsibilities under legislation.

Download the [2012 Inspection Framework](#).



I am a small private work-based learning provider. Do the duties apply to me?

The text below gives information on who the duties apply to. You can see that it is highly likely that the general duty applies to you. It is unlikely that the specific duties apply to you. However, since the purpose of the specific duties is to help providers meet the general duty, you may choose to act as if the specific duties apply. Also, Ofsted will be very interested in the equality information you collect and use, and your plans for driving forward improvement and narrowing any equality gaps. So even if, as a private training company, you do not legally have to abide by the specific duties, you would be well-advised to do so.

| The general duty | The specific duties |
|---|--|
| <ul style="list-style-type: none"> • Applies to public authorities listed in Schedule 19 of the Equality Act. This includes local authorities, schools, general further education and sixth form colleges, independent specialist colleges, county councils and universities. It also applies to private training companies and voluntary organisations who exercise public functions. Click here to see schedule 19 • Covers organisations when carrying out their public functions as service providers, as policy makers and as employers. It also covers services and functions which are contracted out • The general duty is almost certain to apply to any organisation that relies on public funding, for example from the Skills Funding Agency. | <ul style="list-style-type: none"> • Applies to all organisations that are listed in Schedule 1 to the specific duty regulations. This includes schools, colleges, local authorities, county councils and universities. Click here to see schedule 1. • Work-based learning providers that are private companies are unlikely to be subject to the specific duties. This is also true of charities and voluntary organisations carrying out public functions on behalf of a public authority. However, work-based learning providers, charities and voluntary organisations are likely to be subject to the general duty if they rely on public funding, for example funding from the Skills Funding Agency. Since the purpose of the specific duties is to help organisations meet the general duty, providers who are not subject to the specific duties may choose to follow some or all of the guidance in this briefing. |

Click [here](#) to see more information from guidance produced by the EHRC **guidance**.

Do we still need a single equality scheme?

There is no specific duty to publish an equality scheme because research has shown that some organisations developed unwieldy documents that did not deliver many improvements. Research has also shown that the best equality schemes are powerful strategic documents for driving forward change, providing useful evidence of strategic planning and action on equality.

Think carefully about abandoning your equality scheme completely; instead take full advantage of the freedom to streamline your scheme to focus on achieving meaningful outcomes for your organisation. You can use your scheme to publish your equality objectives plus evidence of engagement. You can stay with the title of a single equality scheme or choose another name for this document. Whatever you decide, ensure the material is readily accessible and can be made available in a range of accessible formats.

We want to engage with disabled staff and students. What is the difference between consultation and involvement?

| Consultation | Involvement |
|---|--|
| <p>Consultation involves asking disabled people their opinions – for example via the use of surveys, or focus groups. However, this may only allow choice between limited, predetermined options, or canvas opinion, but participants may have few or no opportunities to propose alternatives, or to take part in putting plans into action.</p> <p>People have a voice, but no power to ensure their voice has influence.</p> | <p>True ‘involvement’ empowers and enables participants to create a vision of their future and to become actively involved in achieving this vision. Participants establish a partnership to share decision-making, are given genuine opportunities and are actively engaged in exploring options and shaping outcomes.</p>  |

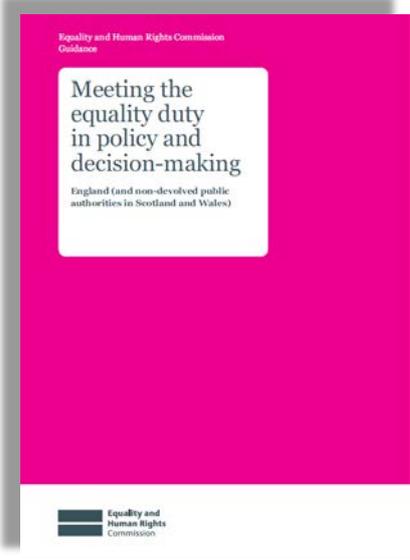
Do we need to still carry out equality impact assessments (EIAs)?

The general equality duty requirement to have 'due regard' means that you need to regularly assess the impact of your policies and practice on equality and diversity. This involves looking at your equality information and the results of any engagement to understand the impact (or potential impact) of your policies, practices or decisions on people with different protected characteristics. 'Policies and practices' includes the full range of policies, procedures, processes, practices and decision-making.

Equality impact assessments (EIAs) are one approach that organisations use to assess impact. Whatever approach you take, make sure that your process is robust, transparent and well-documented.

Is there a process we can follow?

Take a look at EHRC guidance 'Meeting the equality duty in policy and decision-making' for a suggested approach to the EIA process. You can download this publication [here](#).



LSIS has published a short **briefing paper** that helps clarify truth from fiction in relation to EIAs. This paper explores the legal requirements for assessing impact, implications for inspection outcomes, and reflects on the Prime Minister's comments during a speech to a CBI conference in 2012.

Click [here](#) to download the LSIS briefing paper 'Is this the end of Equality Impact Assessments (EIAs)?'



The Trades Union Council (TUC) has advised its members to challenge organisations that do not appear to be carrying out EIAs. The sample letter below is taken from their equality toolkit. Click [here](#) to see the toolkit

Draft letter to public body that is not intending to do an EIA

The letter should be sent to the person responsible for the particular decision, policy or proposal you are concerned with and copied to any equality officers at the public authority.

Dear

Re: [Insert particular issue] and compliance with the s.149 duty in the Equality Act 2010

I am writing to request further information on how [public authority] intends to discharge the duty in s.149 of the Equality Act 2010 with regard to [decision, policy, proposed policy or on-going practice]. S.149 requires a public authority in the carrying out of all of its functions to have due regard to the need to eliminate discrimination, to advance equality of opportunity and to foster good relations across the protected characteristics of age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation.

We believe [the decision, policy, proposed policy or ongoing practice] [could/will] have a negative impact on equality and/or good relations [and may result in discrimination that is prohibited by the Equality Act 2010]. [Say why]. Therefore, the s.149 is duty clearly engaged.

We would expect that you will be carrying out an EIA and we look forward to co-operating with you in ensuring that you have access to all the relevant information. If you are not proposing to carry out an EIA could you explain the reasons why and how you intend to have due regard to the requirements listed in s.149. In particular, in the absence of an EIA, could you explain how you intend to:

- gather and consider information about the people affected, what protected characteristics they have and the extent to which they are affected differently from people who do not have those characteristics;
- ensure that the information gathered is sufficient to enable a proper, informed view to be taken about the impact on equality and good relations generally and the risks of prohibited discrimination;
- and, if there is a particular impact on people who share a protected characteristic, give proper consideration to the extent, nature and duration of that impact;
- and, if there is a negative impact, give consideration to how that could be eliminated or at least mitigated?

We look forward to hearing from you.
Yours sincerely,

What about socio-economic disadvantage?

Socio-economic disadvantage is one of the many complex structural and persistent causes of discrimination and inequality in the UK. A person's socio-economic background, status or class can impact on their ability to get a job or be promoted, or to access education, housing or health.

The Equality Act 2010 did not carry forward this aspect of proposed legislation. Nevertheless, there is nothing to stop providers improving practice to help tackle socio-economic disadvantage. In fact, the 2012 Common Inspection Framework lists many groups that providers may be assessing the needs of, such as learners with low income backgrounds, looked after children, young carers, and ex-offenders. See, for example, pages 37-38 of the handbook for the 2012 Common Inspection framework.

| | |
|-----------------------------|--|
| Ofsted good practice | Click here to see how City Gateway, a charity, successfully connects with, and engages, disaffected young learners. |
| LSIS good practice | Click here to see how Boston College improves partnership working with local agencies to positively impact on young learners from socially deprived areas. |
| Ofsted good practice | Click here to see how Fareham College, develops a partnership with the local authority and others, offering job-related training opportunities in the local area to reduce the number of young people not in education, employment or training (NEET). |
| Ofsted good practice | Click here to see how Highbury College developed a wide range of additional curriculum provision and support for vulnerable students. |

You may also be able to take advantage of new positive action provisions, if you can link disadvantage or equality gaps to a protected characteristic. For example, you may be able to use positive action in relation to gender and/or ethnicity to help tackle lower success rates for white young men from working class backgrounds.

What positive action strategies have you taken to address equality gaps? How successful have these been?

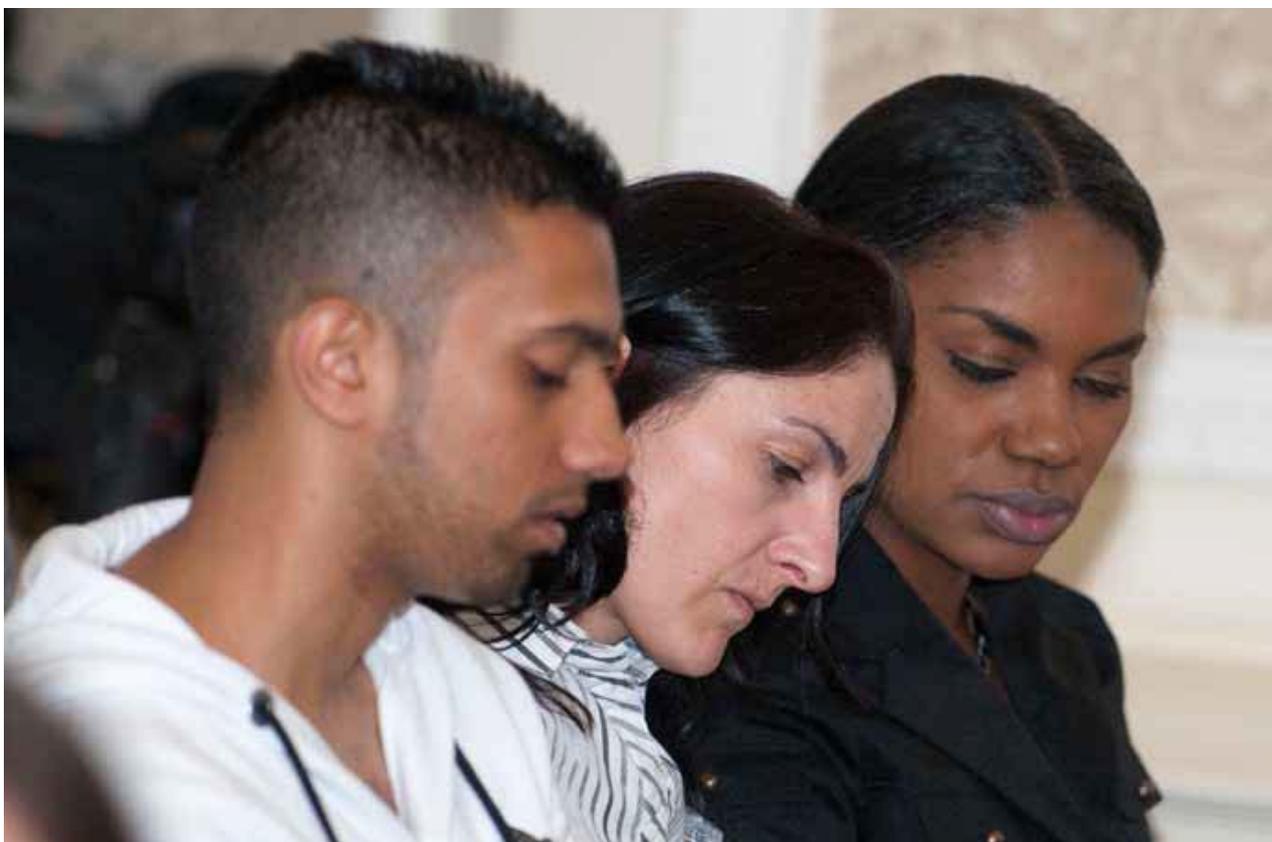
What happens if we don't publish our equality information or objectives?

For **listed** organisations, there is a legal duty to publish your equality information and objectives. The EHRC has statutory powers to enforce the general and specific duties. It can issue **compliance notices**, which require public authorities to provide information about how they will address a failure to comply with the general or specific duties. Click [here](#) to see if you are a listed organisation.

A failure to comply with the duties can also be challenged through an application to the High Court for **judicial review**. An application can be made by a person or group of people with an interest in the matter, including the EHRC.

Inspectors, under the new inspection framework, will take into account 'how well a provider has taken action to fulfil its responsibilities under legislation'.

Finally, **public and external stakeholders** have the right to scrutinise equality information published by organisations, and challenge decisions they are unhappy with.



Further resources and sources of information

Five guides published by the Equality and Human Rights Commission (EHRC).

This briefing summarises information from a series of five guides published by the Equality and Human Rights Commission (EHRC). If you are leading on the implementation of the specific duties in your organisation, you are advised to familiarise yourself with them. Click on the relevant links to download the guide.

- [EHRC, 'The essential guide to the public sector equality duty', 2nd edition, Jan 2012](#)
- [EHRC, 'Equality information and the equality duty: a guide for public authorities', 2nd edition, Dec 2011](#)
- [EHRC, 'Objectives and the equality duty: a guide for public authorities', 2nd edition, Dec 2011](#)
- [EHRC, 'Meeting the equality duty in policy and decision-making' \(formerly published as 'Equality analysis \(equality impact assessments\) and the equality duty: a guide for public authorities\)', 2nd edition Jan 2012](#)
- [EHRC, 'Engagement and the equality duty: a guide for public authorities', 2nd edition, Dec 2011.](#)

Further information is also available at the following websites:

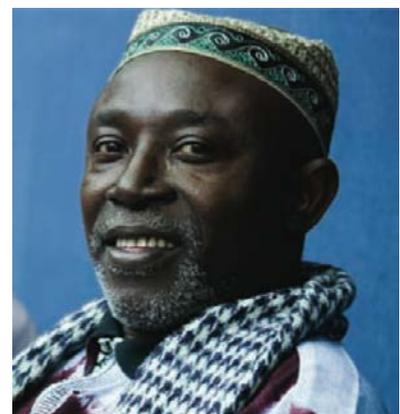
[The Equality and Human Rights Commission](#)

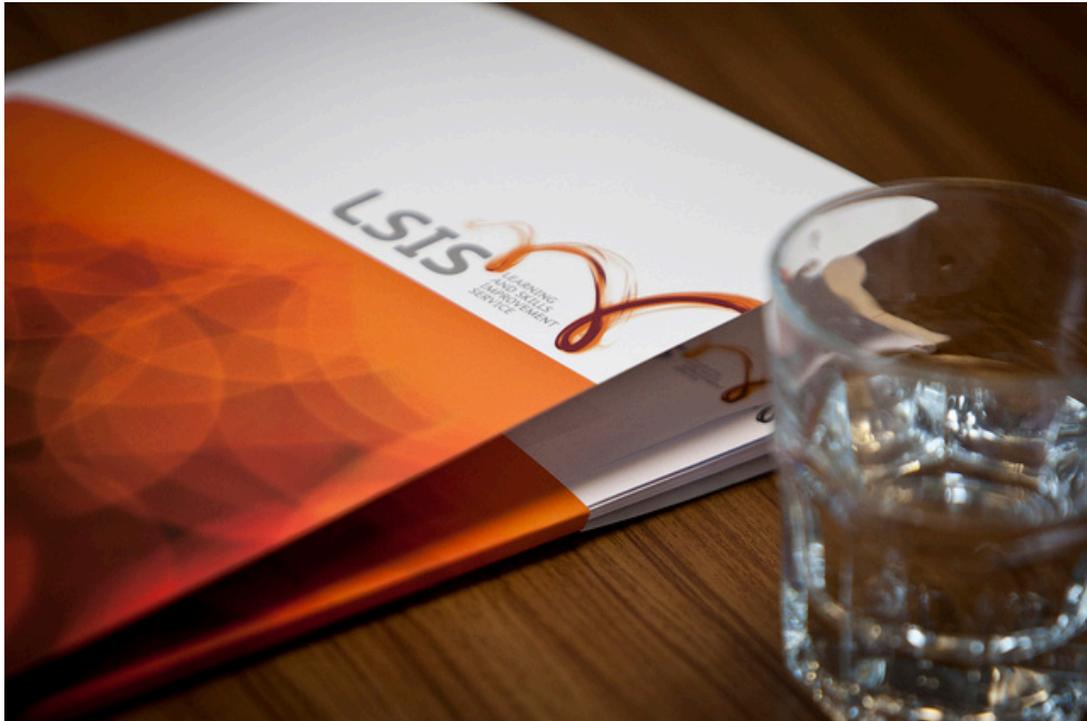
[Government Equalities Office](#)

[Equality and Diversity Forum](#)

[Equality section of the ACAS website](#)

Plus, more case studies, guidance and other resources are available on the [equality, diversity and inclusion](#) section of the [Excellence Gateway website](#)





This guide is available to download at: www.lsis.org.uk
Disability equality

LSIS is committed to promoting disability equality. We strive to ensure that all our communication and learning materials are available in various formats and accessible for people using assistive technologies.

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