

Response of the Equality and Human Rights Commission to the Consultation:

Consultation details

Title:	Equality Act 2010: The public sector Equality Duty: reducing bureaucracy
Source of consultation:	Government Equalities Office
Date:	22/04/11

Who we are and what we do

The Commission is the principal regulator of the public sector equality duty encompassing the provision of advice and guidance through to challenging public bodies over any failure to comply.

The Equality and Human Rights Commission (the Commission) is working to promote fairness, eliminate discrimination, reduce inequality, protect human rights and build good relations between people from different groups protected by the Equality Act 2010. The Commission is an independent statutory body established under the Equality Act 2006 and Britain's first UN accredited National Human Rights Institution. We have responsibility for regulating, and the powers to enforce, equality legislation on age, disability, gender, race, religion or belief, sexual orientation, transgender status, pregnancy and maternity and marriage and civil partnership in Great Britain. This includes a specific role in relation to the regulation of and, where necessary, the enforcement of the public sector equality duties.

Summary

The Commission submitted a formal response¹ to the government's earlier proposals for draft regulations for the specific duties (attached at Appendix A). Our position remains largely unchanged therefore we do not propose to repeat this in detail here, but to focus on the substantive changes to the draft regulations. In summary, it is our view that the new proposals:

- are likely to increase bureaucratic burdens on public bodies due to the even greater ambiguity of the legal requirements compared to the previous proposals;
- will not help drive better equality outcomes as the practical steps that support the delivery of this change have been weakened further; and,
- will reduce transparency and accountability to citizens, the primary drivers of change and intended beneficiaries.

There is also a significant risk that the lack of clarity will leave public bodies at risk of increased challenge, including through judicial review.

Purpose of the Specific Duties

¹ The Commission's response to [Consultation: Equality Act 2010 - The Public Sector Equality Duty - Promoting equality through transparency](#) is available on our website.

Like the government, the Commission's primary interest is in the delivery of equality, not the process by which it is achieved. We also support the aim of reducing unnecessary bureaucracy and wherever possible to reduce the burden of unnecessary regulation. However, we do not share the government's view that the proposed changes to specific duties will make public bodies more transparent and accountable. We believe there is a strong risk that this will make them less so.

There are two regulatory entities - the Courts and the Commission. The Commission certainly plays a role in reducing the requirements for compliance if the specific duties are sufficiently detailed. We have no control over the range of challenges that might be brought under the General Duty in the courts vis judicial review, which focuses on process rather than outcome. In the hope of reducing the risk of regulatory action by the EHRC, the proposed regulations have substantially increased the likelihood of regulatory action by the courts.

The specific duties are essential to the effectiveness of the public sector equality duty. They serve several purposes:

- **Transparency:** The specific duties provide transparency as to what public authorities have done to comply with the general duty and what has been achieved in relation to equality. This is essential if the Commission, as the statutory regulator, and interested citizens, as armchair regulators, are to be able to monitor compliance and drive improved results.
- **Results:** The specific duties allow regulators, both the Commission and interested citizens, to focus on what has been achieved under the duty, rather than whether there has been compliance with the general duty.
- **Clarity:** The specific duties provide public bodies with clarity as to what they must do to comply with the general duty. This makes compliance more-straightforward, less onerous, and therefore, more likely. Ultimately, this greater compliance will make the duty more effective in bringing about results.
- **Proportionality:** The specific duties allow the Commission to take a proportionate approach to regulation as it enables us to use powers that are most appropriate to the situation. For example, it can use its less intrusive powers first to regulate compliance with the specific duties, then more trenchant action to enforce the general duty only if needed.

Research on the cost and effectiveness of the specific duties under the previous duties² showed that the overwhelming majority of respondents felt that they were delivering equality improvements as a result of their work on the implementation of the specific duties, with only a minority feeling that the specific duties required them to take disproportionate action. A Commission study³ also found that the specific duties had provided an effective mechanism to focus action and had made a positive impact on the policy and service delivery of their organisations. We are not arguing for a return to the previous specific duties, but these studies demonstrate the value of specific duties, if they are sufficiently clear, in driving equality outcomes without necessarily creating burdens. A limited but structured process also enables public bodies to assess their own progress.

The Government itself has recognised the problems created by unclear regulatory requirements⁴. These changes further deprive public bodies and interested parties of any clarity of what compliance looks like. Some bodies are likely to 'overcomply' to safeguard their legal position, leading to an increase in burden and an undue focus on process at the expense of outcome. At a time when public bodies are under both financial constraints and intense scrutiny there is a risk of an increased level of challenge from their service users and employees, including an increased risk of litigation through the courts.

The role of regulations, Codes and guidance

The review document suggests that information to help public bodies to comply will be delivered through Codes of Practice and guidance. However, a Code of Practice can only elaborate on the requirements of the legislation, not add to them. If the law is unclear or if regulations fail to impose specific obligations then guidance cannot rectify this, whether statutory or non-statutory. The extent of the obligations to be placed on public bodies is a matter for Ministers and Parliament.

The Commission is the principal regulator of the public sector equality duty encompassing the provision of advice and guidance through to challenging

² Equality Duties: Assessing the Cost & Cost Effectiveness of the Specific Race, Disability & Gender Equality Duties (GEO 2009). Available at: <http://www.schneider-ross.com/resources/pubs.php>

³ Making practice happen: Practitioners' views on the most effective specific duties (EHRC 2009). Available at: http://www.equalityhumanrights.com/uploaded_files/PSD/research_doc_makingpracticehappen.doc

⁴ The National infrastructure plan 2010 (HM Treasury 2010).Page 16. Available at: http://www.hm-treasury.gov.uk/ppp_national_infrastructure_plan.htm

public bodies over any failure to comply. The Commission can illustrate ‘what good looks like’ through guidance, but it cannot address the question ‘what must I do?’ if this is not clear within regulations.

The Commission should not have to use its regulatory powers to clarify the law- clarity should be contained within the regulations. If the regulations were clear and unambiguous, the Commission could focus its regulatory activity on strategic areas, where we can have most impact.

It may be argued that the vagueness of the regulations provides public bodies with flexibility, but it is a mistake to confuse vagueness with flexibility. This is a recipe for poor regulation which will have a number of unintended consequences. Some public authorities may choose to follow best practice advice in guidance, but others will look for the minimum legal requirement as set out in the regulations. Such minimalistic compliance with the objectives and data specific duties, risks being at the expense of the requirements of the primary legislation as set out in the general duty. A number of public sector umbrella bodies including NHS Employers and the Equality Challenge Unit have also raised their concerns with us. These include concerns that the changes imply that there is no longer a requirement to assess the impact of policies and practices and a lack of clarity as to exactly what information needs to be published and have also questioned whether the proposals will improve transparency.

The policy review rightly emphasises the role that citizens play in holding public bodies to account and we agree that accountability is best achieved through the complementary roles of the Commission and others, including the voluntary sector, individuals and employees. However, without sufficient clarity within the regulations the ability of both citizens and employees to hold public bodies to account is compromised. The Commission’s stakeholders have also raised concerns that the removal of the explicit requirement to publish information in relation to engagement and equality analysis will make it more difficult for citizens to challenge public bodies in any meaningful way.

Lighter- touch transparency requirement – information publication

The new draft regulations propose a change in the wording from ‘publish sufficient information to demonstrate its compliance’ to ‘publish information to demonstrate its compliance’. It also removes the previous requirements to publish evidence of equality analysis and details of engagement.

Deleting the word ‘sufficient’ removes any sense that the information that public bodies publish needs to be of a commonly agreed standard to meet the requirements of the general duty, thereby further reducing the clarity of the

regulations. Democratic accountability depends upon the public and public sector employees being able to compare the equality performance of similar bodies. This will only be possible if bodies are publishing information relating to the same issues, measured in a standard way. There is a risk that public bodies wishing to avoid scrutiny either publish a very minimal level of data or conversely publish huge amounts of statistical information to obscure scrutiny. It is unlikely that as a regulator we will be able to challenge the quality of the information published without recourse to lengthy exchanges with public bodies, increasing the regulatory burden.

The removal of the requirement to publish information on the analysis a public body has carried out to assess the impact of their work, and the engagement they have undertaken, will make public bodies less transparent and compromises the government's central principle of democratic accountability. Citizens are the principal beneficiaries of transparency and the primary source of accountability. They will only be able to do this effectively if they have access to sufficient and accessible information and at the right time.

The removal of the requirement to publish information in relation to engagement is of particular concern, since it implies there is no value in engaging, or indeed a requirement to engage with affected groups. However, the policy review paper states that it is a requirement of the general duty. Progressive public authorities see the value of publishing this information to demonstrate how they have used engagement to inform their decision-making, but other public bodies may take this as an indicator that engagement is unnecessary.

The change in the requirement to publish information on equality analysis will mean that citizens, including employees, will have to ask public bodies specifically for this information, probably through Freedom of Information requests. In our view, this is likely to increase burdens on public bodies, rather than reducing them. It therefore does not make good business sense.

Equality Objectives

The new proposed regulations change the requirement from 'public authorities must prepare and publish objectives' to 'public authorities must prepare and publish one or more objectives' and remove the requirement to set out how progress will be measured.

The Commission agrees that a proportionate approach to setting equality objectives is required to take account of the diversity in size and role of different public authorities. We re-state our view, however, that a public body

is unlikely to ever satisfy the general duty by working towards a single equality objective over a four year period.

Removing the requirements on public bodies to set out how they will measure progress against their objectives further undermines transparency and democratic accountability, since it leaves citizens and/or employees with no sense of what steps a public body may be taking to meet their objectives and when, leading potentially to a greater degree of challenge to public bodies.

Appendix A- Extended extract from Commission's earlier response dated 10 November 2010

Purpose of the Specific Duties

In analysing the Government's proposals for specific duties it is important not to lose sight of the purpose of specific duties. Their primary role is to support implementation of the general duty; that is, to guide public bodies on how to comply with the general duty, and ultimately, to further the aims of the general duty by advancing equality to further the public good. Conversely, failure to implement the specific duties should clearly indicate the probability of non-compliance with the general duty. If the specific duties are to fulfil this role they must:

- be unambiguous in their requirements, so that the regulated body understands clearly what it must do to comply with the law;
- embody a set of consistent, measurable standards by which non-compliance can be identified and addressed/challenged, and;
- drive improved outcomes.

The Government's consultation document sets out a fourth ambition for the specific duties: that they should facilitate greater democratic accountability. If this ambition is realised, intervention by the Commission, as regulator, could then become more profitably focused on the strategic areas, including sectors which are close to 'tipping point' in their compliance. If the specific duties are to fulfil this role, they must shift the balance of power between public bodies on the one hand, and citizens and users on the other - decisively in favour of the latter - by introducing a series of responsibility and accountability mechanisms.

From a regulatory perspective, experience demonstrates that legislation should be as clear and unambiguous as possible, to build the confidence and credibility of those subject to it that they know what is required of them. The absence of this clarity in the regulations undermines their ability to produce the desired results. They place burdens on public bodies to no good. Bodies either do work that fails to achieve the desired effect, or fail to do anything meaningful at all.

Government Proposals for Specific Duties

The Government sets out an ambitious vision for the specific duties, which we welcome. However, in the Commission's view the Government's policy intent, as described in the consultation document, is not adequately reflected in the draft regulations. The divide between the Government's aims for the specific duties and their likely impact is largely due to the regulations' lack of specificity, which leaves the nature and extent of the obligations unclear. We thus suggest ways in which the drafting of the regulations could be tightened to more closely reflect the Government's policy intent (1). In other respects, the regulations must go further than currently proposed if they are to effectively fulfil their primary function (2). We provide a summary of our key proposals (3) and make proposals for application of the duties (4).

Our proposals are not driven by a desire for greater influence over public bodies. On the contrary, we too wish public bodies to be able to comply with the duty without intervention by the Commission. But we think this will only be possible if the specific duties are unambiguous in their requirements, and effective in driving results.

1. Lack of Specificity in regulations 2 and 3

The regulations are insufficiently specific. They contain two central requirements – to publish information, and to set equality objectives. But the extent and nature of those obligations is unclear. The regulations do not specify what information must be published or how it must be measured. They do not provide any objective standard that a public body's objectives must meet. Neither public bodies, nor the public and the Commission, are able to say with any certainty what a public body must do to comply.

We make recommendations below as to how the duties could be tightened, but first it is important to underline why this lack of specificity is so problematic. Ultimately, it flies in the face of the purpose of the specific duties.

Unambiguous Standards for Compliance

If public bodies are to have a fair chance of meeting the duties, they must have a reasonable opportunity of knowing what the regulations require. The principle of legal certainty demands that a public body should be able to ascertain the requirements of the obligations by which they are bound. Yet the regulations provide no measurable standards of compliance. It is not possible to say when a public body has done enough to meet the specific duties. Nor do they reflect the requirements of the general duty, which require

bodies to analyse and use data in their decision making. The general duty cannot be satisfied by the publication of data and objectives alone. So compliance with the specific duties will not provide public bodies with any certainty that they have met the general duty.

It may be argued that the vagueness of the regulations provides public bodies with necessary flexibility. But such arguments are based on a false premise. It is a mistake to confuse vagueness with flexibility. Public bodies would remain bound by the general and specific duties, but would be deprived of clarity as to how to comply with them. This will have a number of unintended consequences.

Unless the regulations impose specific obligations, there will be varying levels of compliance. Some public bodies will over-comply in order to be sure that they are acting lawfully. Even such attempts to comply are unlikely to bring about the desired outcome, since the regulations do not set out this in detail. The regulations should thus be tightened in order to lighten the regulatory burden which results from over-compliance. Conversely, the absence of a level playing field will discourage other bodies from striving for maximum disclosure. Those who publish most data will be exposed to the most rigorous scrutiny. Thus a failure to apply clear standards across the board will undermine the Government's objective of maximum transparency.

Far from leaving public bodies free to get on with their core function as the Government intends, the lack of clarity will expose public bodies to avoidable challenge, as interested parties seek to establish the extent of the specific duties. Public bodies should be spared uncertainty, unnecessary burden and, ultimately, the litigation and concomitant expense that inevitably results from vague legislation.

Consistent and Measurable Standards

The Commission is the principal regulator charged with ensuring compliance with the public sector equality duty. The consultation document also emphasises the role of citizens in holding public bodies to account. We agree that accountability in this area is best achieved through the complementary roles of the Commission and others. If we are to effectively regulate compliance with the specific and general duties, and if citizens are to be able to challenge public bodies, the specific duties must impose clear and measurable obligations. The vague requirements of the regulations are accompanied by no indication of standards by which to assess potential breaches. The ability of the Commission and interested citizens to challenge a public body for a failure to comply with the regulations will be seriously compromised unless there is clarity as to what compliance looks like.

Outcomes

The lack of consistent and measurable standards detracts from the ability of the regulations to produce their intended benefit – the advancement of equality. The consultation document rightly argues that the specific duties need to focus on outcomes. If the vision at the heart of the specific duties is improved outcomes, there must be agreement as to what is being measured and what the units of measurement might be. They must ensure that the right outcomes come to the fore. As currently drafted, there is no clarity that a public body must publish the key information, such as, for example, its gender pay gap, nor as to how data should be calculated. The regulations should allow the public, the Commission and public bodies themselves to concentrate on the outcomes which matter by specifying the information that a public body must publish.

Responsibility and Accountability

If the nature and means of measuring outcomes remains undefined and unregulated the performance of similar bodies cannot be compared. As the Government has recognised elsewhere, democratic accountability depends on the ability of the public to identify and challenge underperformance, by comparing the results of similarly placed bodies. This will only be possible if bodies are publishing information relating to the same issues, measured in standard way.

On a number of occasions the consultation document states that the Commission's Codes of Practice will delineate the obligations contained in the Regulations. We think this is inappropriate. The extent of the obligations to be imposed on public bodies should be a matter for Ministers and Parliament. Nor is it accurate to suggest that the lack of specificity can be remedied in the Codes of Practice. Where the regulations fail to impose specific obligations, the Codes of Practice cannot do so. The Codes must elaborate on the requirements of the legislation, not add to those requirements. The regulations themselves must be amended to specify the extent of the obligations imposed by the general duty.

1. Need for Increased Specificity in regulation 2 and 3

Question 1: Do you have any comments on our proposals for data reporting? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraph 5.2 to 5.9?

Question 2: Do you have any comments on our proposals for employment reporting? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraphs 5.10 to 5.11?

Question 3: Do you have any comments on our proposals for transparency in public service provision? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraphs 5.12 to 5.14?

Data Sets

The vagueness of the specific duties is most apparent in the requirement to publish information set out in regulation 2. The regulations do not specify in detail what data must be published. The consultation document expresses the Government's *expectation* that the information public bodies will "be broad enough to give the public a full picture of equality in the workplace and in public service provision. If a public body does not have the data which is needed to give the full picture then we would expect them to take reasonable steps to fill that gap". This accords with the Commission's view of what is required by the general duty. But the regulations would not clearly *require* public bodies to *collect* data where it has insufficient information. Nor do they guide public bodies as to what sufficient information might be. Thus the regulations fail to provide public bodies with legal certainty as to the extent of the obligations to which they are subject, they fail to provide clear standards according to which non-compliance can be judged by citizens and the regulator, and they fail to identify the outcomes by which progress can be assessed.

We wholly support the intention stated in the consultation document to "require public bodies to publish data that will enable people to judge how effectively they are eliminating discrimination, advancing equality and fostering good relations through the services they provide, commission and procure", but the regulations do not clearly require this. We believe that the Government's intention is to require public bodies to generate useable performance data. However, the requirement to publish "information relating to the performance of the section 149(1) duty" could be interpreted as a requirement to publish details of what the organisation has done to comply with the duty, rather than what it has achieved. We believe that the regulations must set out clearly what standards of data are required, in what level of detail, and when this must be published. This information should, for

example, specify what information is required in relation to the protected characteristics of employees at different levels in the organisation, the pay of its employees and the experiences of its service users. There will be many situations in which it is appropriate to collect information relating to sexual orientation and religion and belief. This information should be set out in a format to be advised from time to time by the Commission and would be better published at the point at which it is gathered, rather than annually.

Engagement

The consultation document makes a number of ambitious statements about the role of the citizen in holding public bodies to account for progress on equality. For example:

“Our focus on transparency means that citizens themselves will be able to judge, challenge, applaud and hold to account public bodies in their performance of both the general duty and the specific duties. This new emphasis means that public bodies will be democratically accountable, and that citizens and representative groups will engage with public bodies in ensuring that they fulfil the aims of the Equality Duty.”

We fully support this vision. We believe that citizens should be the principal beneficiaries of transparency and a major source of accountability. But we are not convinced that the regulations give citizens the tools they need to be effective in this role. As drafted the regulations offer no active role for citizens users or voluntary organisations other than as victims and complainants.

While we strongly support moves to arm the citizen with data, access to data alone does not allow citizens to “apply public pressure to drive a faster pace of change”. To bring about change transparency must be accompanied by mechanisms which allow citizens to exploit that information. If the Government is serious about putting the citizen at the forefront in driving improvement, they must have meaningful influence over the decision making of public bodies.

The approach set out in the regulations relies almost entirely on the Commission and the courts to provide accountability and sanction, with no defined role for civil society beyond vague references to ‘engagement’, deprived of any content or obligation. Regulation 2 purports to require a public body to publish details of ‘any engagement’ it has undertaken. But the term ‘engagement’ is undefined, and the use of the word “any” misleadingly suggests that engagement is optional, rather than a requirement of the general duty. In the Commission’s view, public bodies should be required to

take reasonable steps to enter into a dialogue with all parties who have an interest in:

- identifying the equality issues that require addressing and its consequent choice of objectives and the development and monitoring of its action plan;
- assessing impact and developing a mitigation plan to address adverse impact of significant policies and practices.

The specific duties should make clear that this must take place in advance of a decision having been made, if it is to be meaningful.

Understanding Impact

Similarly, regulation 2 purports to require public bodies to publish assessments of the impact of their policies and practices. But nowhere in the specific duties is there an obligation to carry out such an assessment. The consultation document echoes the Commission's position, that a public body must understand the equality impact of its current and proposed policies and practices in order to comply with the general duty. If the specific duties are to guide public bodies in complying with the general duty and to provide meaningful standards against which to judge compliance they should make clear that public bodies must assess the impact of what they do in order to comply with the general duty.

And the duties should go further if they are to drive the outcomes that lie behind the general duty. The duty is intended to advance equality. The norm should be for compliance with the general duty to result in improved practice. It makes sense for this presumption to be reflected in the specific duties. The specific duties should provide that where a public body exposes adverse impact as a result of having examined the impact of a significant policy or practice, it must either set out its plan to mitigate that impact or its justification for continuing with the policy or practice. The plan must include targets and involvement of affected groups. The regulations should require a public body's impact assessment to be published at the time it is carried out, when it can be most effective, rather than once a year.

Question 4: Do you have any comments on our proposals for setting equality objectives to achieve transparency about impact on equality? Does the drafting of regulation 3 accurately reflect the aims of the policy described in paragraphs 5.15 and 5.16?

We welcome the Government's proposal that public bodies should identify equality gaps and work towards closing these. However, the regulations fail to

specify objective standards against which these objectives can be judged. This is necessary if public bodies are to be certain that their objectives are rigorous enough to comply with the general duty, if the Commission and public are to be able to hold public bodies to account and if the objectives are to result in meaningful outcomes.

Public bodies are best placed to know their own business and, in principle, to select those equality issues on which to concentrate. But we think that regulation 3 makes it possible for a public body to ignore the most serious inequalities in selecting its objectives. In the Commission's view this would indicate a failure to meet the general duty.

Regulation 3 would require public bodies to prioritise working towards 'one or more' equality outcome. A public body is unlikely to ever satisfy the general duty by working towards a single equality objective over a four year period. The regulations should require a public body to select objectives which are a proportionate response to evidence across the full scope of the duty.

As drafted the regulations suggest that while a public authority must say how their objectives "should be measured", there is no obligation on them to actually do so. The regulations appear to require public bodies to describe a process for measurement, but not to implement that process. They should be amended to make clear that public bodies should set out a plan of action for meeting their objectives; be required to take action and report annually on progress.

2. Possible alternative duties

We have explained that, in our view, the lack of specificity in the publication and objective setting regulations undermines their ability to fulfil the central role of implementing the general duty. Here we identify alternative duties which would, we think, enhance the ability of the duties to fulfil that role.

Question 5: Do you have any comments on the changes proposed in Chapter 5 under the section 'Reducing the burdens on public organisations'?

Question 9: Do you have any other comments on the drafting of the Statutory Instrument? If yes, please explain.

Procurement

Public bodies will be required to comply with the general duty when procuring goods, works and services. Evidence suggests that, in spite of a wealth of

guidance on this issue, public bodies remain confused as to the extent to which EU law allows them to incorporate equality considerations into the procurement process and how to do so in practice. If the role of the specific duties is to help public bodies to comply with the general duty, the regulations should put beyond doubt the requirements of the general duty, by requiring public bodies, when procuring goods, works and services, to consider including within award criteria and contract conditions considerations relevant to equality, where relevant and proportionate.

Need for Action

Whilst we welcome the moves towards greater transparency the general duties cannot be satisfied by the publication of data and objectives alone.

We support the Government's proposal that public bodies should identify and publish the gaps in outcomes which they will work to close, but believe that they also should set out a plan of action for doing so; be required to take action and report back on what they have done to address gaps and meet their objectives.

The specific duties should provide that where a public body's data indicates that they may be at risk of unlawful discrimination, including pay discrimination, a public body must take action to address this.

Central Government's Role

Central Government is uniquely placed to be able to encourage joined-up action across a sector. In the Commission's view, it is essential that a mechanism is developed to encourage government departments to exploit this potential and to guarantee central government accountability for progress on equality. Whilst we agree that the Secretary of State disability duty may be burdensome we consider it essential that there is an alternative mechanism to ensure transparency around the actions of central Government itself.

Dissemination of Information

Transparency will be most effective in driving improvement if information is accessible and widely disseminated. For example, if each public body were to supply a summary of its essential equality data, as it relates to employment to prospective employees, it would substantially change the balance of power between the individual and the organisation, providing greater choice to prospective employees and therefore increasing the accountability of the public body.

Summary

In summary, we think that in order for the regulations to be unambiguous, set out consistent and measurable standards and drive improved outcomes they need to be clarified and strengthened by:

- Specifying in detail the data which a public body is required to publish, in what level of detail, and when this should be published, with explicit reference to publishing data on gender pay and service users' experiences;
- Clarifying the nature, extent and timing of the obligation to engage people by defining the term "engagement"; specifically requiring public bodies to engage interested parties in assessing impact and developing any necessary mitigation plan; and in setting their objectives and developing and monitoring their action plans;
- Clarifying that there is an obligation to assess impact, to either mitigate any adverse impact or justify a failure to do so, and to involve affected groups in the development of mitigation plans. Specifically requiring impact assessments to be published at the time they are carried out;
- Clarifying that the objectives a public body selects must be a proportionate response to the evidence across the full scope of the duty and not limited to a minimum of one objective;
- Creating additional mechanisms of accountability by providing a means by which public bodies that fail to address persistent equality gaps can be challenged;
- Requiring public bodies to take action to meet their objectives;
- Specifying the obligation to publish progress against objectives on an annual basis;
- Clarifying that action should be taken to address discrimination and close any gender pay gap;
- Requiring public bodies, when procuring goods, works and services, to consider including within award criteria and contract conditions considerations relevant to equality, where proportionate and relevant;

- Creating a mechanism to ensure transparency around the action of central Government;
- Requiring public bodies to make information, such as equality data relating to employment, accessible and widely disseminated.