

## **What are the public sector duties?**

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The race, disability and gender duties are known as public sector duties. They are statutory duties, meaning that they are legally enforceable. All public bodies (like councils and hospitals) that are subject to the duties are legally obliged to pay 'due regard' to the need to take action on race, disability and gender equality.

### **What does due regard mean?**

The duties require public bodies to pay due regard - this means that the weight given to race, disability, gender equality needs to be in proportion to its relevance. In practice this means that in order to meet the duties, public bodies will need to prioritise action to address the most significant areas of race, disability, gender inequality in their remit and focus their efforts where they can have most impact.

### **General and specific duties**

The legislative framework has two main components: the general duty and the specific duties. The general duty sets out the main objectives of each of the duties, whilst the specific duties are the steps that public bodies have to take to help them to meet the general duty. Although the specific and general duties vary for race, disability and gender, all three duties share a common vision: for public services to mainstream equality to ensure that all individuals are able to benefit equally from public services, regardless of their race or gender, or whether or not they are disabled.

### **Differences between the duties**

Where differences between the duties exist they reflect the different nature of discrimination faced by different groups, the varied communities involved and the lessons learned from the introduction of earlier duties. It is important that public bodies take account of these differences when they are considering what action they need to take to meet the duties.

### **The single equality duty**

In July 2008 the Government announced plans to introduce a new equality duty. This will cover all seven equality strands, namely race, disability, gender, gender identity, religion/belief, age, and sexual orientation. The duty will not come into force until 2011 so it is important that public bodies continue to meet their legal obligations under the race, disability and gender duties until this time.

### **Who is covered by the duties?**

Under the race equality duty only public bodies that are specifically listed are covered by the duty. There are separate lists in relation to the general, specific and employment duties. The original lists can be found in the relevant Codes of Practice, although it is important to note that some bodies have been added to this original list. An updated list of all the public bodies that are covered by the duties will be published soon.

Under the **disability** and **gender equality duties** the general duties apply to all functions of every public authority. The definition of a public authority, is 'any person who has functions of a public nature', so there is no list of those public authorities covered by the general duties. You can find more information on this within the relevant code of practice. There are some public authorities that are exempt and details of these bodies can be found in the relevant code of practice.

Under both the disability and gender equality duties only those bodies specifically listed are covered by the specific duties which can be found in the relevant code of practice. The original lists contained within the gender equality duty code of practice have not been added to. There have been additional public bodies added to the listing for the specific duties under the disability duty.

### **How the duties affect the private and voluntary sector and partnerships**

Whilst the public sector duties apply primarily to public bodies they also have implications for private and voluntary sector organisations who deliver services on behalf of public bodies.

In order to meet their own obligations under the public sector duties public bodies need to ensure:

- that public money is not spent on practices that lead to unlawful race, disability or sex discrimination, but is used to actively promote equality of opportunity and good relations
- that any works, goods or services they procure are provided in such a way as to enable them to meet the requirements of the duties

For example, a Primary Care Trust may when commissioning sexual health services for young people might want contractors to demonstrate their experience and ability to identify and meet the needs that are unique to boys and girls. This could include targeting particular groups of girls and boys from different ethnic groups and also teenagers with learning disabilities who are less likely to access services.

So if you provide goods or services to public authorities they may ask you to:

- Demonstrate how you meet existing race, disability and gender equality legislation
- Ensure relevant and proportionate equality issues are built into service design (e.g. providing for a range of dietary requirements in a meals on wheels service or accessible buses for disabled people or people travelling with push chairs)
- Provide evidence of progress after an employment tribunal loss (and remove you from their list of suppliers if you refuse or have not taken sufficient remedial action).

There are some instances under both the disability and gender equality duties (but not the race equality duty) where private or voluntary sector organisations may, if they are exercising functions of a public nature, be subject to the

general duties in their own right. For example, if a prison is run by a private firm.

### **Partnerships**

Whilst partnerships are not subject to the public sector duties in their own right (because they are not legal entities in their own right), most of their members will be. Members of any partnership such as councils, police forces or primary care trusts need to ensure they also apply the duty in all of their functions that are delivered via the partnership. If you are a member or observer of a partnership you can help make this a reality by asking what systems are in place to ensure this happens, and by drawing their attention to the key race, disability and gender equality issues.