

The Equality Act 2010: specific duties for schools

Summary

This paper is about the two specific duties which schools have to undertake in relation to the Equality Act 2010:

- a) to publish information which shows they have due regard for equalities, as defined by the Act
- b) to publish at least one equality objective.

The information and objectives have to be published by 6 April 2012 at the latest.

In later years the information has to be updated annually and this annual updating should include an indication of progress on achieving the objectives.

Objectives have to be prepared and published every four years.

Part One of this paper is concerned with publishing information.

Part Two is concerned with publishing objectives.

Sources and further information

This paper is not official. It does, however, aim to reflect accurately the guidance and intentions in statements by government ministers in the [House of Commons \(11 July 2011\)](#) and the [House of Lords \(6 September 2011\)](#), and in publications issued during 2011 by the Government Equalities Office (GEO), particularly the [Explanatory Memorandum](#) about the new regulations that the GEO issued on 10 September 2011.

Further, the paper is wholly consistent with the quick-start guide issued by the Government Equalities Office on 21 October 2011 ([Equality Act 2010: the specific duties – what do I need to know?](#)); with non-statutory advice updated by the Department for Education on 21 December 2011 ([Equality Act 2010: advice for school leaders, school staff, governing bodies and local authorities](#)); and with updated guidance published by the Equality and Human Rights Commission (EHRC) on 19 December 2011 ([Guidance on the Equality Duty](#), a set of five booklets).

The regulations concerning the specific duties came into force on 10 September 2011 and are known as [The Equality Act 2010 \(Specific Duties\) Regulations 2011](#).

For a fuller explanation of the duties in general terms, and of the principles and case law underlying them, it is worth consulting a succinct and clear document issued in October 2011 by the TUC: http://www.tuc.org.uk/extras/EQUALITY_TOOLKIT.pdf

Two guiding principles

An important principle underlying how schools respond to the specific duties is **proportionality**. This means that, for example, more is expected from a large secondary school than from a small primary.

A second important principle is **flexibility**. This means that each individual school is permitted, and indeed expected, to interpret the legislation in ways which are appropriate to its own context, neighbourhood, history and circumstances.

Part One: Information showing a school has due regard for equalities

What is the purpose of publishing equality information?

Each school has to publish information showing it is complying with the requirement (section 149 of the Equality Act 2010) to have due regard for equalities. On the basis of this information each school also has to set itself at least one equality objective (see Part Two of this paper).

It is also on the basis of the information which a school publishes that parents, carers, local communities, trade unions and equality organisations will hold the governing body to account.

How and where should the information be published?

The information which a school publishes must be accessible, in both senses: a) easy to find and b) easy for a non-specialist to understand.

It is up to each school to decide this for itself. Suffice to say in a paper such as this, a school should probably use the same means of publishing that it uses for other important information. For many schools this means the document will be on the school website and that a brief summary of it will be posted on notice-boards, and included in newsletters to parents and in the staff handbook.

Other things being equal, it would be appropriate and valuable to publish equality information within, or alongside, the school's self-evaluation documentation.

What about confidentiality?

Is it necessary to publish *all* relevant information, regardless of how sensitive it is or may be? The answer is that the requirements of the Data Protection Act 1998 will apply, and that normal conventions and rules relating to confidentiality will need to be observed. It follows that not all the relevant information that a school gathers has to be placed in the public domain.

For example, it would not be appropriate to publish information which enables individual pupils or members of staff to be identified. Nor, as a general rule, would it be appropriate to publish information that might be misunderstood by people outside the school. Particularly, in this latter respect, it would be inappropriate to publish information which might be maliciously used to harm a school's reputation.

What sort of information?

What sort of information will count as showing that a school has due regard for equalities, and that it is willing for others to hold it to account?

By and large, each school is permitted and encouraged to answer this question in its own way, according to its own circumstances. However, the government has indicated that minimally every public body must provide demographic information about its service users, and must show it is aware of different outcomes and inequalities amongst them.

In the case of schools, therefore, information must be given about the pupil population broken down by ethnicity and gender, and about significant differences in attainment between girls and boys, and between pupils of different ethnic backgrounds.

It is reasonable to assume that demonstrating due regard will involve schools making statements such as those listed below, and illustrating them with examples and further information. The first four, as mentioned above, are essential.

Data about the school population and differences of outcome

1. The school has data on its composition broken down by year group, ethnicity and gender, and by proficiency in English.
2. The school has data on its composition broken down by types of impairment and special educational need.
3. The school has data on inequalities of outcome and participation connected with ethnicity, gender and disability, and with proficiency in English.
4. The school uses data on inequalities of outcome and involvement when setting itself objectives for achievable and measurable improvements.

Documentation and record-keeping

5. There are statements of the school's responsibilities under the Equality Act in various school documents. For example, there is a statement of overarching policy, and there may be significant references in the school improvement plan, self-evaluation papers, the prospectus, routine bulletins and newsletters, and occasional letters to parents.
6. There are references to the school's responsibilities under the Equality Act in the minutes of governors' meetings, staff meetings and senior leadership team meetings, and in the minutes of the School Council.
7. Before introducing important new policies or measures, the school carefully assesses their potential impact on equalities, positive or negative, and keeps a record of the analysis and judgements which it makes.

Responsibilities

8. A senior member of staff has special responsibility for equalities matters.
9. A member of the governing body has a watching brief for equalities matters.

Staffing

10. The school's programme for continuing professional development (CPD) includes reference to equalities matters, both directly and incidentally.
11. There is good equal opportunities practice in the recruitment and promotion of staff, both teaching and administrative.

Behaviour and safety

12. There are clear procedures for dealing with prejudice-related bullying and incidents.
13. Surveys and focus groups show that most pupils feel safe from all kinds of bullying.

Curriculum

14. Focused attention is paid to the needs of specific groups of pupils, for example those who are learning English as an additional language, and there is extra or special provision for certain groups, as appropriate
15. There is coverage in the curriculum of equalities issues, particularly with regard to tackling prejudice and promoting community cohesion and mutual understanding.

16. There are activities across the curriculum that promote pupils' spiritual, moral, social and cultural development.
17. The school takes part in certain national projects and award schemes, for example the Accord Coalition Inclusivity Award; Black History Month; Bullying Intervention Group; Disability History Month; EQualities Award; Gypsy, Roma and Traveller History Month; LGBT History Month; Refugee Week; Rights Respecting Schools Award; Stephen Lawrence Education Standard; and Stonewall School Champions.
18. In curriculum materials in all subjects there are positive images of disabled people; of gay and lesbian people; of both women and men in non-stereotypical gender roles; and of people from a wide range of ethnic, religious and cultural backgrounds.

Consultation and involvement

19. The school has procedures for consulting and involving parents and carers, and for engaging with local groups and organisations, and has regard in these for the concerns and requirements of the Equality Act.
 20. The school has procedures for finding out how pupils think and feel about the school, and has regard in these for the concerns of the Equality Act.
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Part Two: setting objectives

Outcome-focused, and specific and measurable

Equality objectives have to be specific and measurable, and to be outcome-focused, as distinct from being focused primarily on making improvements in provision, crucially important though such improvements are.

Narrowing gaps and fostering good relations

The vast majority of equality objectives adopted by a school are likely to be about the closing and narrowing of gaps in attainment and take-up, or else about fostering good relations. Some examples of such objectives are cited below.

Linking with published information

Equality objectives have to be related to matters highlighted in the information which a school publishes to demonstrate compliance with the general duty to have due regard for equalities, as outlined in Part One of this paper.

Integration with a school's overall improvement plan

Other things being equal, equality objectives should be part of, or aligned with, the school improvement plan.

How many objectives should a school prepare and publish?

The legal requirement is to publish at least one objective. A single objective might be sufficient in a very small primary school. In the case of most primary schools, however, and in all secondary schools, it would be difficult or impossible to claim that a single objective shows a school is taking its equality duties seriously.

Most schools should probably aim to set between five and ten objectives. However, the actual number of objectives which a school adopts is less important than the seriousness and rigour with which it undertakes them. Later in this paper, there is a set of ten questions which schools arguably need to consider.

How should objectives be phrased?

One possible format is shown in the examples below.

Narrowing gaps

- To narrow the gaps in English at KS3 and KS4 between girls and boys, and between pupils for whom English is an additional language and pupils for whom English is the first language.
- To narrow the gap in attendance rates between Gypsy Roma Traveller children and other children throughout the school.
- To narrow the gaps in mathematics and science between children of certain specific minority ethnic backgrounds and other children at key stage 2.
- To narrow the gap in the experience of punishments and sanctions between pupils from low-income households and other pupils.

NOTE: This not an equality objective within the meaning of the Equality Act 2010, since low household income is not one of the protected characteristics listed in the Act. A school might well, however, wish to adopt an objective such as this, along with objectives which do count as equality objectives within the meaning of the Act.

- To narrow the gap in participation in the public life of the school between disabled pupils (including learning-disabled pupils) and other pupils.
- To narrow the gap in mathematics between boys and girls at the end of Key Stage 1.

Fostering good relations

- To reduce the incidence of prejudice-related bullying, hostility and suspicion throughout the school, particularly in relation to homophobia and sexism, and hostile attitudes and behaviour towards people who are disabled.
- To promote and enhance community cohesion and a sense of shared belonging in the school, and in the school's neighbourhood.
- To promote spiritual, moral, social and cultural development through the teaching of English and literacy, with particular reference to issues of equality and diversity.

Questions about each objective which a school adopts

With regard to each objective which a school selects, it will need to consider questions such as the following.

1. Background evidence

Why have we chosen this objective? For example, and particularly, what relevant data do we have? Is the rationale for the objective clearly indicated in the information which we have published in accordance with the specific duties required by the Equality Act, as outlined in Part One of this paper?

2. Responsibility

Who will be responsible for ensuring the objective is pursued and achieved?

3. Measurable success indicators

What will count as relevant and measurable evidence that we are succeeding, or have succeeded?

4. Timings

By when do we expect to see signs of progress or success?

5. Expense

How much are we budgeting, and on what items of expenditure in particular?

6. Resistance

Who may oppose or be lukewarm? How shall we respond to them?

7. Problems

What problems or difficulties may arise, and how shall we deal with them?

8. Learning from others

What plans do we have for finding out what has worked well elsewhere?

9. Training and professional development

Do some or all staff need extra training?

10. Engagement

Who have we consulted when deciding on this objective? What arrangements do we have in place for keeping them informed?

Further information about the new legal landscape

There is further information for schools in a paper entitled *The changing legal framework* at <http://www.insted.co.uk/legal-frameworks.pdf>. It contains links to several official documents published by the Department for Education (DfE), the Government Equalities Office (GEO) and the Equality and Human Rights Commission (EHRC).

More briefly and succinctly, but not focusing primarily on schools, there is an excellent document issued in October 2011 by the TUC:

http://www.tuc.org.uk/extras/EQUALITY_TOOLKIT.pdf

With particular regard to preparing and publishing smart objectives (point 5 in this paper), though similarly not referring specifically to schools, there is clear and helpful guidance in *Equality Objectives and Public Authorities: tips, hints, and bright ideas*, published in October 2011 by BRAP, a community organisation based in Birmingham: http://www.eren.org.uk/content/wp-content/uploads/2011/10/Equality_Objectives_Guide-BRAP.pdf

Also, general guidance on the specific duties was published by the Equality and Human Rights Commission (EHRC) in December 2011 in *Equality Information and the Equality Duty: a guide for public authorities*, http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/information_guide_ance_rev.doc and *Equality Objectives and the Equality Duty: a guide for public authorities*, http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/objectives_guide_rev.doc

Additionally, there are useful ideas and suggestions for schools in a document published by Northamptonshire County Council: <http://www.northamptonshire.gov.uk/en/councilservices/EducationandLearning/services/equalities/Pages/default.aspx>

There is guidance about the minimal legal requirements for schools in a document issued by the Department for Education (DfE): <http://www.education.gov.uk/aboutdfe/policiesandprocedures/equalityanddiversity/a0064570/the-equality-act-2010>

The DfE has also published useful guidance on matters relating to disability equality:
<http://education.gov.uk/childrenandyoungpeople/sen/a0065985/disability-toolkit>

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