



# The Gender Equality Duty

## What is the Gender Equality Duty?

The Gender Equality Duty came into force in England, Scotland and Wales in April 2007 and requires public authorities to:

- promote equality of opportunity between men and women and
- eliminate unlawful harassment and sex discrimination, including against transsexual people.

The duty requires public authorities to identify and take action on the most important gender equality issues. Public authorities include all government departments and other 'core' authorities such as: local government, police authorities and National Health Service Trusts. The duty also applies to other organisations, including within the private and voluntary sectors, which are exercising public functions. This could include, for example, organisations that run private prisons, however, the duty would not apply to any of the organisation's work not connected with the public function of running the prison.

The Gender Equality Duty is underpinned by a number of specific duties, which can help public authorities to better perform the duty. For England these include:

- preparing and publishing a gender equality scheme no later than every three years from April 2007.
- reporting progress against these schemes annually.
- completing the first review of the gender equality scheme by May 2010 for most English public authorities.

Other specific duties include:

- considering how to address the causes of the gender pay gap.
- assessing the impact of current and proposed policies and practices on gender equality.
- gathering information on how policies and practices affect gender equality in the workforce and in service delivery.
- consulting stakeholders on gender equality objectives.

Details of the different approaches to specific duties in the devolved administrations are set out in the statutory Code of Practice for England and Wales and the separate Code for Scotland, which are available on the Equality and Human Rights Commission's website, [www.equalityhumanrights.com](http://www.equalityhumanrights.com).



### Why do we need a duty?




The Government is determined to tear down the barriers holding women back and give them real choice and control over their lives. Equality of opportunity for women underpins our ambition to build a fairer Britain. It is not only what is fair, and what is right, it is absolutely imperative to the future growth and prosperity of this country.

Since coming into Government, we have already set out an ambitious programme of work which will improve the position of women and their families in every sphere of life.

Key measures include:

- Implementing the Equality Act 2010 which streamlines and strengthens anti-discrimination legislation in Great Britain.
- A commitment to extend the right to request flexible working to all employees and promote a new system of flexible parental leave.
- 4,200 extra Sure Start health visitors paid for by refocusing funding from Sure Start peripatetic outreach services and from the Department for Health budget.
- Asking Lord Davies to drive forward work to ensure women are better represented on the boards of our major companies.
- A new aspiration that by the end of this Parliament at least half of all new appointees being made to the boards of public bodies will be women.
- And a promise to introduce a new cross-cutting Government strategy to tackle violence against women – including a commitment to ensure crucial services like rape crisis centres are given the funding they need to ensure their sustainability.

There are still challenges to be overcome. Outcomes and experiences for men and women differ in many key ways:

- Women are still the primary carers of children and make up around 90% of all lone parents<sup>1</sup>. 
- Many of us struggle to balance work and family life: 62% of fathers surveyed thought that fathers should spend more time caring for their children<sup>2</sup>. 
- The gap between full-time men and women's hourly rates of pay is 12.2%. The gap when part-time employees are included is 22.0%<sup>3</sup>.
- In 2009/10, women were the victims of nearly three quarters (73%) of incidents of domestic violence. In four out of five (81%) incidents, the offender was male<sup>4</sup>. 



- Men and women are not homogenous groups; experiences also differ according to factors such as age, disability, sexual orientation or race. For example, the employment rate for ethnic minority females is at 49.8%, significantly lower than white females at 67.5%. Pakistani and Bangladeshi women have the lowest employment rate of all ethnic groups at 26.5%<sup>5</sup>.

The Gender Equality Duty provides all public authorities with a unique mechanism to put gender equality at the heart of strategic decision making and service delivery. The duty ensures that public sector employment and public services are part of the solution to gender inequality. The Equality Duty will continue the requirements currently set out by the Gender Equality Duty, and introduces a requirement for public authorities to have due regard, when exercising their functions, to the need to foster good relations between men and women. See page 5 for further details.

## What does this mean for public authorities?

The duty provides public authorities with the opportunity to mainstream gender equality into the design and delivery of services, as well as in the employment of staff. Applying the duty can help public authorities to deliver value for money by providing services which are more accessible and appropriate to both women and men. There are particular circumstances in which public authorities can also provide single-sex services.

The Gender Equality Duty may be used to support many different initiatives:

- Provision of women-only refuges, single-sex rape counselling services or men-only perpetrator programmes.
- Promoting boys' educational achievement, for example by purchasing books to cater for boys' interests or holding a dads' assembly.
- Improving availability of local childcare places to enable primary child-carers, who are mainly women, to better balance work and family life.
- Targeted support to improve men's access to local GPs or other essential healthcare services to address the lower uptake of these services by men.
- Promoting high quality part-time and flexible working to ensure that female staff are better able to work to their full potential and also that male staff are more able to engage with family commitments.



## Frequently Asked Questions:

### ● **Does the Gender Equality Duty mean we have to treat men and women the same?**

The Gender Equality Duty is not about providing the same service for men and women in all cases. Public authorities should recognise that men and women are not always starting from the same place and at times have different needs. Identical treatment may not always be appropriate and can even reinforce disadvantage.

Where inequalities are identified, public authorities should consider action that can be taken to address them. This may include designing and delivery gender specific services or taking positive action where proportionate and legally permitted. There are a range of specific circumstances which allow single-sex or separate-sex services under the Sex Discrimination Act 1975. These can include:

- services which are single-sex for reasons of privacy and decency, or which would cause 'serious embarrassment' if members of the opposite sex were present
- single-sex services for people which require special care, supervision or attention
- provision of services for one sex where only persons of that sex require the service
- provision of separate services where a joint service would be less effective

There are other exceptions, but all exceptions will need to be legally justified.

### ● **Is this all about women?**

The duty is designed to address inequalities for women and men. There is substantial evidence of unequal outcomes for both sexes and the duty should lead to better treatment and outcomes for both women and men.

For example we know that men are far less likely to visit their GPs early on in a condition or illness which can lead to lower rates of diagnosis and treatment. We also know that men are far less likely than women to take up flexible working opportunities or their entitlement to parental and family leave. The duty provides opportunities for public authorities to address these kinds of inequalities.

The duty also requires public authorities to consider the need to prevent discrimination and harassment against transsexual people, which is often severe. This can start to be addressed through initiatives such as raising staff awareness through training and education programmes in liaison with local transgender stakeholder groups.

### ● **Is this going to cost more money, time and resources?**

Planning to meet the different needs of women and men, and girls and boys can lead to better service delivery and better value for money, ensuring that services are accessible to all and preventing problems down the line. Getting things right first time avoids unnecessary wasting of resources, for example, designing health services to enable men's access can lead to the earlier detection of health problems, saving treatment costs in the longer term.



- **Is the duty just about ticking the boxes?**

The aim of the duty is not to establish processes but to make real and faster progress towards gender equality. Making a success of the duty is not just about producing an excellent scheme or action plan, but about delivering change which demonstrates how the gaps between men and women are being closed.

- **Shouldn't we be preparing for the new Equality Duty?**

We want to encourage all public authorities to prepare for the new Equality Duty. However, the Equality Duty will continue the requirements currently set out by the Gender Equality Duty, and introduces a requirement for public authorities to have due regard, when exercising their functions, to the need to foster good relations between men and women.

## Where next?

The Equality Act 2010 includes a new integrated Equality Duty which brings together the existing race, disability and gender equality duties, and for the first time extends to cover age, religion or belief, sexual orientation, and pregnancy and maternity and gender reassignment in full.

As far as gender is concerned, the requirement remains for public authorities to consider:

- the need to eliminate unlawful discrimination.
- the need to eliminate harassment on the basis of gender.
- to advance equality of opportunity between men and women.

**The new Equality Duty will also for the first time put an onus on public authorities to consider the need to foster good relations between men and women.**

Single-sex or separate-sex services will be able to continue under the Act and some exceptions which only applied to public authorities have been extended to cover all services, whether privately or publicly provided. The Equality Act makes clear to public authorities that complying with the Equality Duty may involve treating some people more favourably than others, where that is lawful. The Act also makes clear that the need to advance equality of opportunity for a particular group involves considering the need to take steps to meet that group's particular needs.

So not only will it remain lawful for public authorities to provide or fund single-sex or separate-sex services in some circumstances; the new Equality Duty sets out that considering providing or funding such services (as a means of meeting the different needs of different groups) is part and parcel of considering how to advance equality of opportunity for men and women. An example of where this could be appropriate would be the provision of women-only services to support those who have experienced sexual abuse or are trying to escape domestic violence.



The Act also introduces new positive action provisions that extend UK legislation as to what is permissible under European legislation and case-law. These provisions will assist public authorities in being able to target their services to meet the particular needs of those groups of society that are facing any form of disadvantage.

The new Equality Duty will follow the same structure as the current equality duties and will be underpinned by a number of specific duties which will help public bodies in better performance of the Duty. The Government Equalities Office is consulting on draft regulations for new specific duties and welcomes your views. For more information on how to respond, please see the Government Equalities Office website: [http://www.equalities.gov.uk/news/specific\\_duties\\_consultation.aspx](http://www.equalities.gov.uk/news/specific_duties_consultation.aspx)

The closing date for consultation responses is 10 November 2010. The Government intends to implement the new Equality Duty from April 2011.

## More information

Please note that this fact sheet is not designed to provide legal advice. Details of the legal requirements of the Gender Equality Duty are set out in the relevant statutory Code of Practice for England and Wales and the separate Code for Scotland. Further information is available on the Equality and Human Rights Commission website, [www.equalityhumanrights.com](http://www.equalityhumanrights.com):

[http://www.equalityhumanrights.com/uploaded\\_files/gender\\_equality\\_duty\\_code\\_of\\_practice\\_england\\_and\\_wales.pdf](http://www.equalityhumanrights.com/uploaded_files/gender_equality_duty_code_of_practice_england_and_wales.pdf)

[http://www.equalityhumanrights.com/uploaded\\_files/gender\\_equality\\_duty\\_code\\_of\\_practice\\_scotland.pdf](http://www.equalityhumanrights.com/uploaded_files/gender_equality_duty_code_of_practice_scotland.pdf)

The Equality and Human Rights Commission's helpline also provides information and guidance on discrimination and human rights issues:

England – 0845 604 6610

Scotland – 0845 604 5510

Wales – 0845 604 8810

### End notes

1. Household Labour Force Survey, 2010.
2. Working Better: Fathers, family and work-contemporary perspectives, 2009
3. ONS Annual Survey for Hours and Earnings, November 2009.
4. British Crime Survey 2009/10.
5. Labour Force Survey April 2009 – March 2010, UK.