

EQUALITY DUTY: PUTTING IT INTO PRACTICE

CONSULTATION ON PUBLIC SECTOR EQUALITY DUTY SPECIFIC DUTIES

RESPONSE PROFORMA

The response proforma has 2 parts – a respondent information form and the list of consultation questions. **Both** should be completed.

Response Proforma – Respondent Information Form



Please Note That This Form **Must** Be Returned With Your Response To Ensure That We Handle Your Response Appropriately

1. Name/Organisation

Organisation Name

Children in Scotland

Title Mr Ms Mrs Miss Dr

Please tick as

Surname

Allen

Forename

Katrina

2. Postal Address

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3. Permissions

I am responding as...

Individual

Please tick as appropriate

Group/Organisation

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

yes no

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Yes, make my response, name and address all available

Yes, make my response available, but not my name and address

Yes, make my response and name available, but not my address

(c) The name and address of your organisation will be made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

Are you content for your **response** to be made available?

Please tick as appropriate

yes no

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate yes no

Response Proforma – Consultation Questions

Question 1: Do you think that it would be helpful to have in place specific duties on public authorities to assist in the delivery of the Equality Duty?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think it would be helpful or, why you think it would not be helpful?

Coverage

Question 2: Do you think the criteria set out at paragraph 4.4 are the right criteria for considering whether a public authority should be subject to the new specific duties?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think the criteria are right or why you think the criteria are not right?

Question 3: Do you think the new specific duties should be imposed on all Scottish public authorities which are subject to the general duty, provided it is reasonable and practical for them to fulfil the requirements?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why do you think they should not be imposed?

Fitting with the electoral cycle

Question 4: Is it appropriate to link the new public sector equality duty specific duties to either the Scottish or local government electoral cycle? (For example, linking the setting, reviewing and reporting on equality objectives to electoral cycles)

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think the new specific duties should be linked to national or local government electoral cycles?

Content of the specific duties – delivering on mainstreaming

Question 5: Should public authorities be encouraged to mainstream equality, with reference to all the proposed protected characteristics (see paragraph 2.8 for these), across their services and functions?

YES NO DON'T KNOW

Please provide any additional comments

Question 6: How might public authorities best demonstrate they are mainstreaming equality in relation to all the proposed protected characteristics? For example, through reporting on progress.

Please provide additional comments – for example, on whether public authorities should report on progress on mainstreaming.

Yes, public authorities should report on mainstreaming progress

Content of the specific duties – setting equality objectives

Question 7: With reference to the relevant evidence and to wider public authority general Equality Duty obligations, do you think that setting equality objectives would help public authorities to focus their response to the general duty? Should equality objective setting cover all protected characteristics, or not?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think equality objective setting would help public authorities? Or, why you think equality objective setting would not help? You may also want to comment on whether objective setting should cover all protected characteristics or not.

National guidance on objective setting would be useful, but not too prescriptive or target obsessed to the detriment of hard to quantify objectives/impacts.

Question 8: Do you think equality objective setting should be linked to the corporate and/or business planning mechanisms of public authorities?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think equality objectives should be linked to either corporate or business planning (or both planning mechanisms)? Or, why you think equality objectives should not be linked to these planning mechanisms?

Equality objectives need to be part of overall **performance** management and assessment - regulators have a role here

Question 9: How do you think public authority equality objectives should be publicised? Please provide your suggestions in the box below.

Needs to be integrated with other planning objectives and widely accessible – manifesto type document perhaps?

Question 10: Do you think that public authorities should be required to review their objectives every 4 years in order to fit with the electoral cycles of Scottish or local government?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you agree with reviewing objectives every 4 years? Or, if you disagree, what time-period do you suggest instead?

Mainstreaming equalities is a longer term process – less than 2 years does not allow adequate time to see impacts of working towards a set of objectives

Content of the specific duties – reporting on progress

Question 11 : Do you think public authorities should be required to report on progress?

YES NO DON'T KNOW

Please provide any additional comments. You may wish to comment on what reports should cover - for example, progress on equality objectives, or other relevant issues.

Needs to cover progress on meeting objectives but should also provide space for reflection on what has worked well and not so well and reasons. The learning would be useful to the authority itself but could also contribute to collective learning that could potentially be of real benefit to practitioners.

Current reporting, for instance on the Gender Equality Duty, appears to be largely a paper exercise that produces little useful or interesting information – even when we know from other sources that interesting and useful work is being done that addresses gender inequality issues.

We have evidence from our own work on the Gender Equality Duty that many professionals delivering frontline services have a strong interest in learning about the approaches being taken in different areas and their outcomes. This is particularly the case in relation to lesser known aspects of gender equality around access to (and engagement with) children and family services by female and male parents/carers. Although this is an area that has received less national level emphasis to date, it is an increasingly important area of activity for frontline public service providers and users that is currently failing to be captured in Gender Equality Duty reporting.

Question 12 : How frequently should public authorities be required to report on progress? Please provide your suggestion in the box below.

The requirement to report 2 yearly in greater depth would be preferable to a rushed annual form filling exercise and would leave more time to properly set up systems and track progress. However, we should expect a more meaningful output from a 2 year report.

Question 13: Should reporting on progress be linked to existing processes such as business planning?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think existing processes are the best mechanisms for reporting or, why you think they are not the best? Please provide suggestions of other reporting mechanisms you think would be better.

Question 14: Do you think the Government should prescribe in legislation how Scottish public authorities should report?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think reporting should or should not be prescribed in legislation?

There certainly needs to be clear guidance with key elements set out. However, there's a danger with too detailed prescription of simply creating another minimalist tick box exercise rather than a process/output which is engaging and useful to the authority concerned. There's also a danger that areas of local importance are left out altogether and only SG priorities are covered – whereas both are important.

Employment reporting

Question 15: The current gender specific duties require public authorities, with 150 or more employees, to publish an equal pay statement and report on that statement. Do you think this requirement should continue in the new specific duties?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think this current requirement should or should not continue in the new specific duties?

Question 16: Do you think that there would be value in public authorities with 150 or more employees reporting on their gender pay gap?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think there would be value or why you think there would not be value?

Question 17: If the gender pay gap is to be reported on, what method do you think should be used to calculate the gender pay gap? Please give your suggestion in the box below.

D/K

Question 18: Do you think public authorities with 150 or more employees should be required to include information on the concentration of women and men in particular grades and in particular occupations (occupational segregation)?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think public authorities should be required to publish information on occupational segregation or, why you think public authorities should not be required to do so?

Question 19: Do you think it would help public authorities to monitor progress on equality and be more transparent if they were required to publish their ethnic minority employment rate and disability employment rate?

YES NO DON'T KNOW

Please provide any additional comments. Why you think it would help public authorities or, why you think it would not help?

Employment reporting – other characteristics

Question 20: Should public authorities be asked to outline how they intend to gather information on employment rates for the other characteristics protected under the new Equality Duty?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think public authorities should outline their intention to gather information. Whether you think, and explaining why, information should be gathered on all or only some of the other protected characteristics?

Question 21: How frequently should public authorities be required to publish information on the gender pay gap, their ethnic minority employment rate and their disability employment rate?

Please provide any additional comments. For example, should gender pay gap reporting and ethnic minority and disability employment rates be reported at the same time (or not at the same time)? Why?

Probably 2 yearly. Employment information should all be published together

Question 22: Should reporting on employment information be linked to other aspects of reporting on progress on equality, such as reporting on equality objectives?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think reporting should be linked to equality objective reporting or another reporting mechanism?

These areas are linked and need to be presented as such. However, it needs to be clear that equalities progress requires wider action in terms of service provision – a lot of the focus to date has been on internal employment issues, which are relatively straightforward to measure and monitor. While these are important, from a public perspective, they are a small part of the overall public sector equalities agenda.

Demonstrating the impact on equality of policies and services

Question 23: Do you think public authorities should be required to demonstrate how they have considered the impact of equality on their policies and services?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think public authorities should be required to demonstrate or, why you think they should not be?

Question 24: Do you think a public authority should only be required to demonstrate equality impact assessment of key policies and services?

YES NO DON'T KNOW

Please provide any additional comments. For example, why you think impact assessment should only be on key policies/services?

There may be an argument for focusing on key policies and services in formal reporting requirements on equality impact assessment. However, equality impact assessment ought to be mainstreamed - contributing to the design of policies and services across the board. Cherry-picking of key services and policies is less conducive to cultural change (which is clearly required) and could be perceived as contrary to the spirit of the equality duties.

Question 25: What information should a public body be asked to provide or publish to demonstrate that consideration has been given to the impact on equality of key proposals, policies or services? Please provide your suggestions in the box below.

Needs to be clear about the evidence base and collection methods. Equally, needs a clear account of the decision-making process and rationale behind key decisions.

Question 26: Should public authorities be required to take action in response to issues identified through impact assessment?

YES NO DON'T KNOW

Please provide any additional comments.

We need to view equalities less in terms of the impact of assessment etc. on services, and more in terms of the public **right** to equal access to services and support

Involvement and consultation

Question 27: Do you think public authorities should have a specific duty, when setting their equality objectives, to take reasonable steps to involve and consult employees, service users and other relevant groups – or where appropriate their representatives – who have an interest in how the authority carries out its functions?

YES NO DON'T KNOW

Please provide any additional comments. For example, who do you think public authorities should consult and why? Why you do not agree with a specific duty on involvement and consultation?

Procurement

Question 28: Do you think that imposing specific equality duties on contracting authorities in relation to their public procurement activities are needed, or are the best way to help deliver equality objectives? Do you think such an approach should be pursued at this time?

YES NO DON'T KNOW

Please provide any additional comments.

In theory yes, but in practice there's a danger of having overly prescriptive requirements that tend to favour large commercial contractors over smaller, local operators with less resources to tick the right boxes, and often too small a staff base to demonstrate equality in the way a larger operator should be able to.

Question 29: Do you think that contracting authorities should be required to state how they will ensure equality factors are considered as part of their procurement activities to help contribute to the delivery of those objectives?

YES

NO

DON'T KNOW

Please provide any additional comments.

Question 30: Do you think that contracting authorities should be required to consider using proportionate equality-related award criteria where they relate to the subject matter AND performance of the contract?

YES

NO

DON'T KNOW

Please provide any additional comment

Question 31: What would be the impact of a regulatory proposal aimed at dealing with suppliers who have breached discrimination law? What might be the benefits, costs and risks?

YES NO DON'T KNOW

Please provide any additional comments.

Leadership by Scottish Ministers

Question 32: What do you consider to be the role of Scottish Ministers in providing leadership on equality?

Please add additional information on the role of Scottish Ministers in providing leadership on equality

1) To set out the broad equalities agenda and the different strands (gender, disability, race etc) and then to situate current SG priorities within this bigger picture. Public information campaigns could play a key role in challenging stereotypes and influencing attitudes to equalities issues.

2) To monitor and report on progress across Scotland.

3) To facilitate learning and information flow about different approaches, successes and barriers, across public authority boundaries.

4) To lead by example – clearly demonstrating own national level actions and progress to tackle inequalities.

Question 33: Should Scottish Ministers set equality priorities for the public sector in Scotland, determined jointly with local government in the spirit of the Concordat?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think equality priorities should be determined jointly or, why you think they should not be?

Yes but need for more emphasis on how these current priorities fit within the broader equalities agenda. Cherry picking priorities can hamper broader cultural change that is required and add to confusion around equalities. From the public perspective its difficult to understand – if these are all enforceable duties, why are some chosen as priorities over others? Who decides which are currently most important and on what basis? All legitimate questions.

It will be important to have a body with a clear remit to monitor the process of choosing priorities itself – EHRC Scotland is the obvious candidate if able to play a neutral role in this respect (EHRC also has to contend with issues around setting their own priorities). Otherwise, with so many equalities strands brought together and the inherent difficulties of reaching joint agreement between local and national government, there's a danger that the harder areas and issues will be by-passed in priority setting and public confidence will be lost.

Question 34: Do you think Scottish Ministers' equality priorities should be based on evidence and informed by reasonable and proportionate involvement of stakeholders and equality interests??

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think relevant stakeholders and equality interests should be involved or, should not be involved?

Transparency in this decision making is very important (see comments above, Q33).

However, stakeholders need to know that their contributions are genuinely informing this decision-making process – otherwise it will be difficult to get proper representation. Also, ideally there needs to be an appropriate forum/framework for discussion – otherwise the result is likely to be a predictable series of competing priorities from different interest groups which cannot be reconciled.

Question 35: Should Scottish Ministers set their equality priorities at the end of the year in which the Government is elected and report on these within the electoral cycle?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think Ministers priorities should be set and reported on within the electoral cycle? Or, if you disagree, please suggest alternative timeframes for priority setting and reporting.

Documentation

Question 36: What documentation do you think should be required of public authorities to publicise their equality objectives? Please provide your response in the box below.

Clear plans situated within wider strategic planning. Should include rationale and decision-making process as well as intended outcomes.

Question 37: Do you think that the mechanism(s) – whether through a Scheme or otherwise - for public authorities to publicise their equality objectives and report on progress should be left to each individual authority?

YES

NO

DON'T KNOW

Please provide any additional comments. For example, why you think this should be left to each individual authority or, why not?

To an extent – flexibility and allowing space for creative local responses is in the spirit of the Concordat and may help to increase ownership and engagement with the issues at authority level. However, the requirement to publicise authorities' equality objectives and to report on progress in some – accessible – form should remain. Authorities could be given some flexibility, for instance, around whether they choose to publish their equality objectives separately or to incorporate them in broader strategic planning documents. Authorities would probably welcome some guidance about appropriate options and formats.

Enforcement

Question 38: What role should bodies with a scrutiny and improvement function in Scotland play in monitoring and improving the extent to which Scottish public authorities advance and promote equality, foster good relations between different communities and groups, and take steps to prevent unlawful discrimination?

YES

NO

DON'T KNOW

Please provide any additional comments.

Scrutiny and improvement bodies could play a stronger role in advancing equality – particularly through issuing guidance and sharing good practice examples and learning.

Question 39: Should that role be set out in specific duties placed on bodies with a scrutiny and improvement function? If so, which bodies? What would you see as the costs and benefits of such an approach? Are there any risks associated?

YES

NO

DON'T KNOW

Please provide any additional comments.

This could meet a demand from Authorities that is not currently being met. Guidance needs to come from a trusted and respected source – rather than mainly from interest groups with their own agendas.