

Briefing Paper

The Equality Duties – Race, Disability, Gender

All public authorities have legal duties relating to race, gender and disability. The three equality duties are similar in spirit as they all place the onus on public authorities to actively tackle discrimination and promote equality. However, the duties do have slightly different requirements, which will need to be met in order to satisfy legal obligations.

Public authorities must uphold and promote human rights in everything they do. The University is a public authority and is legally bound to meet the general duty therefore we must make equality a central part of our functions in relation to Race, Disability and Gender. The duty to promote equality is not optional.

Our obligations within each area focus on:

- promoting equality of opportunity
- promoting good relations
- promoting positive attitudes
- eliminating harassment, and
- eliminating unlawful discrimination

Race Equality Duty

The Race Relations (Amendment) Act 2000 strengthened and amended the Race Relations Act 1976. The law was amended following the Stephen Lawrence enquiry which found and defined institutional discrimination¹ this states that discrimination must be dealt with. The Race Equality Duty outlaws direct and indirect discrimination and victimisation in all public authority functions, that are not covered by the Race Relations Act 1976. There are very few exceptions.

What Does The Race Equality Duty Do

The Race Equality Duty places a general duty on public authorities to take an active position to promote equality and eliminate unlawful discrimination. The general duty is supported by a specific duty, both are enforceable by the Equality and Human Rights Commission, (EHRC).

¹ Institutional Racism:

“..the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.”

Source: Stephen Lawrence Inquiry Report

The government recognises that the duty to promote race equality is a long-term initiative. It requires public bodies to be proactive, that is to actively promote race equality, rather than making a requirement to avoid doing something i.e. unlawfully discriminating on racial grounds.

The General Duty – Race

In order to be to be proactive in promoting race equality the University must :

- Eliminate unlawful racial discrimination
- Promote equality of opportunity between persons of different racial groups; and
- Promote good relations between persons of different racial groups

The general duty is a positive one, this means that the University must:

- Seek to avoid unlawful discrimination before it occurs.
- Take steps to ensure that policies and services are fair and put things right when they are unfair or unlawful.
- Ensure that procedures and practices are fair in relation to recruitment and employing staff so that the staff body is more representative of the society that we are engaged with.

The Specific Duty - Race

Specific duties were also placed on policy, practice, criteria and service delivery functions. These include:

- Preparation and publication of a **Race Equality Scheme**
- Assessing which functions are relevant to the duty (with a review of that assessment at least every three years)
- Carrying out an **Impact Assessment** on the promotion of race equality of proposed new policies
- Monitoring of policies for adverse impact on the promotion of race equality
- Publishing the results of assessments, consultations and monitoring
- Ensuring access to information and services
- Training staff on issues relevant to the duty

What is the Disability Duty?

The Disability Equality Duty (DED) came into force in December 2006. The Equality and Human Rights Commission produces a Statutory Code of Practice on the Disability Equality Duty, which aims to clarify what the duty means for the public sector. The DED is made up of two parts, a general and a specific duty.

The General Duty - Disability

The first part, or general duty requires all public sector bodies to promote disability equality by:

- Eliminating unlawful disability discrimination and disability related harassment

- Promoting equality of opportunity for disabled people, taking steps to take account of disabled people's disabilities
- Promoting positive attitudes towards disabled people
- Encouraging the participation of disabled people in public life

The Specific Duty - Disability

The second part or specific duty says when carrying out day-to-day work, the University should:

- Publish a Disability Equality Scheme (including within it an Action Plan)
- Consult and involve disabled people in producing the Scheme and Action Plan
- Demonstrate that actions in the Scheme have been taken and appropriate outcomes have been achieved
- Report on progress
- Review and revise the Scheme

What is the Gender Duty?

The Equality Act 2006 introduced the biggest change to sex discrimination law in the UK for 30 years as it brought in a new duty, to promote gender equality. This came into force in April 2007 across the public sector. A legally binding Code of Practice on Gender Equality has also been published.

The University must now take steps to proactively promote equality between women and men, by taking account of their different needs when making policies and providing services and not just reacting to complaints when things go wrong.

The General Duty - Gender

The duty to promote gender equality is made up of two parts. The first part, or General Duty, requires the University to promote gender equality by:

- Eliminating unlawful discrimination for women and men
- Eliminating harassment for women and men
- Promoting equality of opportunity between women and men in all functions

The second part or specific duty requires the University to:

- Prepare and publish a gender equality scheme
- Consider the need to include objectives to address the causes of any gender pay gap
- Gather and use information on how policies and practices affect gender equality in the workforce and in the delivery of services
- Consult stakeholders (i.e. employees, service users and others, including trade unions) to determine our gender equality objectives.
- Assess the impact of current and proposed policies and practices
- Implement the actions set out in the scheme within three years
- Report against the scheme every year and review the scheme at least every three years

How are the Equality Duties Enforced?

The General Duty

If a public authority does not comply with the general duty, its actions, or failure to act, can be challenged by means of a claim to the High Court for judicial review.

A claim for judicial review could be made by a person or a group of people with an interest in the matter, or by the EHRC.

The Specific Duty

If a public authority does not comply with its specific duties, it could face enforcement action by the EHRC. The EHRC is empowered to serve a compliance notice on that authority.

The notice will state that the authority must meet its duties and tell the EHRC, within 28 days, what it has done or is doing, to comply.

What is Loughborough University Doing to Meet the Duties?

The University has compiled action plans on Race, Disability and Gender and in line with legislation published reports on the latter two. We have carried out Race Equality Impact Assessments in a number of key areas.

A new Group was set up in Summer 2008 to bring together the three duties into one document. This Group will also bring together the impact assessment process in the three areas of Race, Disability and Gender.

Equality and Diversity Co-ordinators are appointed by departments, they are involved in raising and promoting equality issues. There are 5 Staff Group for Race, Disability, LGBT, Religion or Belief and Women and they are consulted on our policies and practices. Throughout the year equality issues are promoted in a variety of ways across the organisation, the University Diversity newsletter details some of these activities.

More information is available and training has been set up to clarify the duties. If you would like to find out more please contact:

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