



# Gender Equality Duty

## What is it?

The Gender Equality Duty was introduced into legislation in the Equality Act 2006, amending the Sex Discrimination Act, and came into force in April 2007. It requires public authorities, such as local authorities, the police and schools (see *Gender Equality Code of Practice England and Wales* for full list), to promote equality of opportunity between women and men and eliminate unlawful sex discrimination and harassment. The duty covers all the functions of a public authority, such as policy-making, public services, and employment. The Duty places the legal responsibility on public authorities to demonstrate that they treat men and women fairly, which means they need to identify and prevent discrimination rather than react to problems when they occur.

## How does it work?

The Gender Equality Duty represents a change from previous legislation in that it requires public bodies to be pro-active in promoting gender equality. The legislation introduced a '**general duty**' to pay **due regard** to the need to:

- eliminate unlawful sex discrimination and harassment, and
- promote equality of opportunity for women and men.

'**Due regard**' means that the weight given to gender equality needs to be **in proportion to its relevance**, this means prioritising the significant areas of gender inequality and focusing efforts on the areas where public bodies can have the most impact. For example, women and men in deprived areas experience poverty differently, what responses are proportionate and relevant that could make the most difference?

The following example of paying due regard is from the *Gender Equality Code of Practice England and Wales*, Equal Opportunities Commission, November 2006:

*Women make up the substantial majority of victims of domestic violence and rape. It would not be appropriate, therefore, for a local council to seek to fund refuge services on a numerically equal basis for men and for women. The promotion of equal opportunities between men and women requires public authorities to recognise that the two groups are not starting from an equal footing and identical treatment would not be appropriate.*

Public authorities are required to provide evidence that they have exercised due regard in all areas. This includes their core functions of policy development, service design and delivery, decision-making and employment, the exercise of statutory discretion, enforcement and any services and functions which have been contracted out (EOC, 2006). The legislation also introduced **specific duties** to assist in meeting the general duty which require that public bodies:

- Prepare and publish a **gender equality scheme (GES)** (by 30<sup>th</sup> April 2007) showing how it will meet its general and specific duties and setting out its gender equality objectives;
- In formulating its overall objectives, consider the need to include objectives to address the causes of any **gender pay gap**;
- **Gather and use information** on how the public authority's policies and practices affect gender equality in the workforce and in the delivery of services;
- **Consult** stakeholders (i.e. employees, service users and other key stakeholders, such as trade unions and women's organisations) and take account of relevant information in order to determine its gender equality objectives;
- **Assess the impact** of its current and proposed policies and practices on gender equality;
- **Implement** the actions set out in its scheme within three years, unless it is unreasonable or impracticable to do so;
- **Report** against the scheme every year and **review** the scheme at least every three years.

It is important to note that Local Strategic Partnerships (LSPs) are not statutory bodies in their own right; however the general duty applies to 'any person who has functions of a public nature':

*Where those partnerships do not have a separate legal identity in their own right, they will not be bound collectively by the gender equality duty. Nevertheless, public authorities that are involved in partnership work with other public authorities, or with private or voluntary sector organisations, are still responsible for meeting their gender duty and any specific duties.*

Page 49: 5.9 (EOC, 2006)

The Gender Equality Duty Code of Practice makes it clear that public sector LSP partners must *'secure agreement from its partners to arrangements for planning, funding and managing joint work that will allow it to meet its statutory gender duty'* (EOC, 2006).

## Why is it important?

The Gender Equality Duty was brought into being because existing legislation was insufficient to eradicate the persistent and systematic discrimination against women. Further, it acknowledges that many services and policies have been designed in a 'gender-neutral' way which fails to take account of the different needs of women and men. The aim of the GED is to address these issues by introducing both general and specific duties for achieving gender equality.

The new Equality Act received Royal Assent on 8 April 2010, just before the General Election. The Act brings together the nine **protected characteristics** of: age, disability, gender reassignment (with a wider definition), marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. As part of the Act, the Gender Equality Duty, along with the Race and Disability Equality Duties, will be replaced by a Single Public Sector Equality Duty. It will also cover all the protected characteristics mentioned above. It is proposed that the Duty will come into force in England and in Scotland from April 2011, and in Wales in Spring/Summer 2011. WRC will be following the development of the Public Sector Equality Duty closely as we are concerned that the specific duties contained within the GED may be altered when the new Duty comes in to force and potentially impact on its effectiveness as a tool to hold public bodies to account.

## What can I do?

- Ask to see your local public bodies' Gender Equality Scheme.
- If you are concerned about particular policies, ask to see their Gender Impact Assessment on this policy.
- Use the Gender Equality Duty to challenge gender-neutral approaches (e.g. funding cuts to women's services).
- Use proportionality – argue why an issue is a key gender equality issue locally.

## Where can I get more information/support?

The **Gender Equality Duty (GED)**

[http://www.equalityhumanrights.com/en/forbusinessesandorganisation/publicauthorities/Gender\\_equality\\_duty/Pages/Genderequalitydutydocuments.aspx](http://www.equalityhumanrights.com/en/forbusinessesandorganisation/publicauthorities/Gender_equality_duty/Pages/Genderequalitydutydocuments.aspx).

**Gender Equality Code of Practice England and Wales**, Equal Opportunities Commission, November 2006

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

The Equality and Human Rights Commission (EHRC) have produced **A practical guide to revising gender equality schemes**

[http://www.equalityhumanrights.com/uploaded\\_files/PSD/a\\_practical\\_guide\\_to\\_revising\\_gender\\_equality\\_schemes.pdf](http://www.equalityhumanrights.com/uploaded_files/PSD/a_practical_guide_to_revising_gender_equality_schemes.pdf)

The first part of the guide outlines what a gender (or single) equality scheme needs to contain to meet the legal requirements of the GED. Part two highlights how public authorities can develop SMART gender equality objectives and a robust action plan to deliver them. The third part highlights four long-standing areas where there is significant disadvantage or barriers to opportunity, which public authorities are expected to be taking action on based upon research and evidence, these are

1. Income and pay gaps
2. The gender power gap in public sector leadership positions and politics
3. The causes and consequences of violence against women and girls (VAWG)
4. Discrimination and harassment against transsexual and transgender people

WRC have developed a **Gender Equality Scheme template for local bodies**

[http://www.wrc.org.uk/includes/documents/cm\\_docs/2008/g/1\\_geslocaltemplate08.pdf](http://www.wrc.org.uk/includes/documents/cm_docs/2008/g/1_geslocaltemplate08.pdf), and **our why women? research**

[http://www.wrc.org.uk/what\\_we\\_do/campaigns/why\\_women/default.aspx](http://www.wrc.org.uk/what_we_do/campaigns/why_women/default.aspx)

provides evidence to back up arguments about the value of women's organisations.

The **End Violence Against Women coalition**

<http://www.endviolenceagainstwomen.org.uk/> have developed a **toolkit**

<http://www.endviolenceagainstwomen.org.uk/pages/resources.html> on challenging local bodies to work on violence against women, using the Gender Equality Duty.

EVAW's **'Map of Gaps'** 1 and 2 <http://www.endviolenceagainstwomen.org.uk/>

research shows the lack of services for women experiencing VAW. The EHRC has written letters to 100 local authorities which do not have adequate VAW services for women, because they are not meeting their obligations under the Gender Equality Duty. There are tips on how VAW can be tackled locally in EVAW's blueprint for an

**integrated strategy on VAW**

[http://www.endviolenceagainstwomen.org.uk/data/files/realising\\_rights.pdf](http://www.endviolenceagainstwomen.org.uk/data/files/realising_rights.pdf).