



Briefing for Public Authorities

Gender and the Public Sector Equality Duty under the Equality Act 2010

February 2011

Understanding and supporting women and their organisations

This document is available in other formats. Contact the Women's Resource Centre on 020 7324 3030 or info@wrc.org.uk

The Women's Resource Centre is supported by



Contents

About the Women’s Resource Centre	3
Introduction	3
Existing legislation: Gender Equality Duty (Equality Act 2006).....	4
The new legislation: Equality Act 2010	5
Public Sector Equality Duty - General Duty	6
Impact of the Public Sector Equality Duty - the General Duty	7
Summary.....	7
Public Sector Equality Duty - Specific Duties	8
Impact of the Specific Duties	9
Regression of existing specific duties in the GED	9
Process	9
Objectives	10
Outcomes.....	10
Procurement	10
Women’s Organisations: Evidence and Research	11
How to fulfil Equality Duties and incorporate Gender	13
Make use of Guidance	13
Suggested approach	14
Conclusion.....	18
Annex 1: Section 149 of the Equality Act 2010.....	19
Annex 2: Draft Statutory Instrument	20
Annex 3: Schedule 19	21

About the Women's Resource Centre

The Women's Resource Centre (WRC) is a charity which supports women's organisations to be more effective and sustainable. We provide training, information, resources and one-to-one support on a range of organisational development issues. We also lobby decision makers on behalf of the women's not-for-profit sector for improved representation and funding. Our members work in a wide range of fields including health, violence against women, employment, education, rights and equality, the criminal justice system and the environment. They deliver services to and campaign on behalf of some of the most marginalised communities of women. There are over ten thousand people working or volunteering for our members who support almost half a million individuals each year.

For more information about this briefing or the WRC, contact:

Helen Johnson

Policy Officer

Email: helen@wrc.org.uk

Tel: 020 7324 3030

Women's Resource Centre

Ground Floor East, 33-41 Dallington Street

London EC1V 0BB

www.wrc.org.uk

Introduction

As part of the forthcoming Public Sector Equality Duty¹, the Government Equalities Office (GEO) has published draft Specific Duties regulations, which are due to come into force on 6th April 2011, along with the General Duty under the Act. These Specific Duties impose obligations on certain public bodies, such as Local Authorities, Government Departments, the Police and the NHS². The purpose of the Specific Duties is to ensure better performance of the General Duty to:

- eliminate discrimination
- advance equality of opportunity, and
- foster good relations between individuals and communities.

The purpose of this briefing is to analyse the proposed Specific Duties. The briefing contains the following sections:

- Existing legislation: Gender Equality Duty (Equality Act 2006)
- The new legislation: Equality Act 2010
- Public Sector Equality Duty
- General Duty
- Specific Duties
- Women's Organisations: Evidence and Research
- How to fulfil Equality Duties and incorporate Gender
- Conclusion
- Annexes 1-3: Public Sector Equality Duty, Specific Duties and List of Public Bodies

¹ s149 Equality Act 2010, the General Duty

² see Annexes 1-3 for the General Duty, Specific Duties and list of public bodies under the Equality Act 2010

Existing legislation: Gender Equality Duty (Equality Act 2006)

The Gender Equality Duty came into force in April 2007 under the Equality Act (2006). The duty goes further than previous equalities legislation by requiring public authorities to be pro-active in promoting gender equality and by placing a legal responsibility on public authorities to demonstrate that they treat men and women fairly. It places a duty on public authorities with respect to all their public functions, such as providing public services, employment and policymaking.

Under the Act, there is a 'general duty' to pay due regard to the need to:

- eliminate unlawful sex discrimination and harassment, and
- promote equality of opportunity between 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, violence against women, women's poverty and economic disadvantage, and support for marginalised groups of women, such as disabled women, BAME women, LGBT, older women and refugee and asylum seeking women). Further, 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.

The legislation also introduced specific duties to assist in meeting the general duty which requires that public bodies:

- **Prepare and publish a Gender Equality Scheme (GES)** (by 30th 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.

The new legislation: Equality Act 2010

The new Equality Act brings together and simplifies equality law that has been developed in various Acts and Regulations between 1970 and 2008 relating to Race, Gender and Disability. The Act also covers a range of other characteristics that are now protected from discrimination and a wider range of circumstances in which people are protected.

The nine 'protected characteristics' covered by the Act are:

- age
- disability
- gender reassignment (with a wider definition than previously)
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

The new government now takes responsibility for bringing the Act into force, although the Act was written and approved prior to the General Election. The majority of the Act came into effect in October. However, there are certain sections of the Act that are still under discussion, including the Public Sector Equality Duty, the socio-economic duty, private and third sector gender pay reporting and political parties publishing diversity data.

The timetable for commencement that was published before the General Election was:

- October 2010 - main provisions
- April 2011 - Public Sector Equality Duty and combined discrimination protection
- 2012 – ban on age discrimination in provision of services and public functions
- 2013 - political parties publishing diversity data

The following provisions are still being considered:

- Dual discrimination
- Duty to make reasonable adjustments to common parts of leasehold and commonhold premises and common parts in Scotland
- Provisions relating to auxiliary aids in schools
- Diversity reporting by political parties
- Provisions about taxi accessibility
- Prohibition on age discrimination in services and public functions
- Family property
- Civil partnerships on religious premises

The government has decided not to implement:

- Gender pay gap reporting
- The socio-economic duty on public bodies

Many of the provisions came into force in October. For many of the subsequent provisions, their coming into force will depend on the outcomes of discussions relating to them. For further details, please see http://equalities.gov.uk/equality_bill.aspx.

Public Sector Equality Duty - General Duty

Potentially the most important part of the Equality Act is the new Public Sector Equality Duty, which is due to come into force in April 2011. The duty applies to 8 protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

The existing separate disability, gender and race equality duties remain in force until the new single duty begins.

The Duty applies to all public bodies that are listed in Schedule 19 of the Act³ and to other bodies, including voluntary sector organisations that carry out public functions. The list includes ministers and central government departments, local councils, police authorities, NHS trusts, primary care trusts, governing bodies of maintained schools and institutions of further and higher education.

Their duty is to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and other conduct that is unlawful under the Act
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between persons who share a protected characteristic and those who do not

The Act indicates that the 'need to advance equality of opportunity' includes the need to:

- remove or minimise disadvantage suffered by particular groups
- take steps to meet different needs of particular groups, and
- encourage participation by particular groups in areas of public life or other activity where they are under-represented.

The Act specifies that the 'need to foster good relations' includes the need to tackle prejudice and promote understanding.

³ See Aneex 4

Impact of the Public Sector Equality Duty - the General Duty

The introduction of a single duty is welcome because it is wider in scope, covering a range of equalities group, and serves to simplify equalities legislation. The general duty appears to be strengthened by the new provisions. In particular, it makes it clear that treating everyone the same, and therefore allowing inequalities to continue, is not acceptable under this Act. Further, the duty to 'foster good relations' is a welcome addition. Overall, there is greater clarity and stronger obligations due to the fact that the Act sets out what an authority needs to consider in order to fulfil the general duty.

The Act also serves to better highlight the interrelations between different characteristics and the way that individuals and communities can experience discrimination on multiple grounds, making it easier to address intersectional issues - cases of discrimination that are not based on one single characteristic but multiple characteristics. For example, a black woman may be passed over for promotion because of both her race and gender. Her employers may be able to prove that they do not discriminate against white women or black men but their behaviour may demonstrate that they treat black women unfairly. Under existing legislation she would not be able to claim discrimination; however, under the new legislation she will be able to argue discrimination on multiple grounds- the fact that she is both black and a woman.

However, although the general duty is stronger, the Government is proposing a set of Specific Duties (which are intended to ensure better performance of the general duty) that are weaker than the existing Specific Duties in the Gender Equality Duty. The draft Specific Duties support the publication of information but leave a large margin of discretion in relation to process. There is therefore a risk that effective and appropriate processes will not be followed and that the public will have fewer tools with which to hold public bodies to account (see below). However, the General and Specific Duties combined support suggest that meeting the requirements of the general duty necessarily entails following thorough and robust processes

Further, in relation to gender, there is a concern that gender equality issues will become obscured and not prioritised in relation to the Act. The existence of a duty that was specific to gender ensured that public authorities were held accountable on this specific issue; public authorities must take steps to ensure that gender equality is adequately addressed.

Summary

- The General Duty is wider in approach and better highlights the interrelations between different characteristics
- The General Duty appears to be stronger – particularly the duty to 'foster good relations' and greater clarity in what an authority needs to consider to meet the general duty
- Although the general duty is stronger, the regression of the specific duties is of concern
- There is a legitimate concern that gender equality issues will become obscured and not prioritised

Public Sector Equality Duty - Specific Duties

The Specific Duties set out obligations that public authorities will be expected to meet in order to meet their general duty. The draft specific duties relating to the Public Sector Equality Duty differ significantly from the previous legislation and will require public authorities to:

- **Set one or more Equality Objectives** that are specific and measurable. There is **no requirement for public bodies to set objectives on each of the protected characteristics nor for each of the three aims** of the Equality Duty; objectives can be set according to the priority issues for that organisation and where need is identified.
- **Publish information to demonstrate its compliance with the General Duty, including information relating to persons who share a relevant protected characteristic** (including on employees for public authorities with greater than 150 employees) to demonstrate how the public body has furthered the aims of the general duty.
- **Ensure that the information published is accessible.**
- There is a large amount of discretion in relation to how to meet obligations under the General Duty and there are no prescribed processes. The emphasis is on outcomes as opposed to process. However, **there is no duty for public authorities to fulfil their objectives** after they have been set (despite the duty to review every 4 years).
- **The primary obligation is to meet the general duty.** The purpose of the specific duties is to ensure better performance of the general duty.
- Under the existing Gender Equality Duty, public authorities must prepare a Gender Equality Scheme, gather and use information, consult stakeholders, assess impact, implement the actions set out, report and review the scheme – these **measures have been removed under the new Specific Duties.**
- **It is unclear how the General and Specific Duties will be implemented and interpreted in practice.** The stronger General Duty suggests that fulfilling the duty will require public authorities to follow robust processes (despite there being no explicit legal requirement) and the voluntary and community sector has a role to play in arguing this.

Impact of the Specific Duties

Regression of existing specific duties in the GED

The government wishes to empower the public to hold public authorities to account and scrutinise their equalities data. However, the proposed Specific Duties are regressive and many of the tools that could be used to hold public authorities to account under the Gender Equality Duty have been lost (such as the requirement to produce Gender Equality Schemes). In addition, the fact that there is no longer a stand alone requirement to address gender equality, means that there is a risk that gender issues will be ignored or obscured.

WRC is particularly concerned that if there is no obligation to set objectives for each equality strand, there will no longer be obligations to set objectives relating to gender. This could have a potentially devastating impact on the ability to achieve gender equality goals meaning that important issues won't be addressed, such as violence against women and girls, women and girls access to services that meet their needs, and women's representation in decision making.

There is an existing lack of awareness and understanding of the importance of women's only services⁴, which has resulted in the women's organisations being expected to provide services to men. Public authorities must ensure that they support women's organisations and liaise with these organisations on equalities issues.

The Equality Act 2010 makes it clear that women's services are legal and appropriate in certain contexts; the Equality Duty should not be interpreted to mean that both sexes should be treated the same⁵.

Process

The processes that were required under the Gender Equality Duty, such as assessing impact and producing a Gender Equality Scheme, have been removed. However, the General Duty is stronger and, combined with the Specific Duties to publish data, this indicates that robust procedures must still be followed in order to meet the General Duty (despite there being no specific legal requirement to do so). **In order to meet your duties in the most effective way, public authorities are advised to prepare a Single Equality Scheme, gather and use information, consult stakeholders, assess impact, implement the actions set out, report and review the scheme.**

Public Authorities must ensure that all employees understand their Public Sector Equality Duty obligations, their importance and the positive impact that promoting equalities makes on their own organisations.

Public bodies should engage with experts on women's equality such as women's voluntary and community organisations; this will ensure that your policies and procedures address the most important issues and are designed to be efficient and effective.

⁴ 'Power and Prejudice: combating gender inequality through women's organisations', WRC (2010) http://www.wrc.org.uk/includes/documents/cm_docs/2010/w/wrc_power_and_prejudice_final.pdf

'Why Women Only?', WRC (2007) http://www.wrc.org.uk/resources/wrcs_research_and_reports/why_women_only.aspx

⁵ For further information see WRC's briefing on the Equality Act 2010 http://www.wrc.org.uk/includes/documents/cm_docs/2010/e/equality_act_2010_briefing.pdf

Objectives

In order to identify need and set objectives, public authorities must ensure that they are well informed. This means that there should be scrutiny of the data public authorities rely on and public authorities must identify gaps and collect data, which is disaggregated by each of the equality groups, rather than rely on the data that is already available, which may be limited or unreliable.

Although there is no requirement to publish details of engagement with interested parties, engagement and consultation is essential to ensure that public authorities are making appropriate decisions and to ensure that these decisions are not be made in isolation of the people these decisions affect. In order to ensure that the issue of gender is adequately addressed and that relevant gender objectives are set, women and women's organisations must be included in processes of meaningful and effective engagement.

Outcomes

The duty to set objectives under the draft legislation is vague and there is no duty to take a proportionate approach to the number and nature of objectives. There is a risk that organisations will set too few and too limited objectives. Engagement with women and women's organisations is therefore of the utmost importance.

There is no requirement to take measures to actually achieve equality objectives and equality outcomes more generally (in comparison the the Gender Equality Specific Duties, which set out measures for requiring action and the achievement of outcomes). However, taking action to achieve objectives is necessary to fulfil the General Duty and as such, following procedures such as publishing an Equalities Scheme and action planning is advisable.

Procurement

Many services are contracted out, and this is likely to increase under the Big Society, it is therefore of great concern that procurement has not been included in the draft Specific Duties. However, the General Duty applies to all procurement and commissioning activities and, as such, it is advisable to follow best practice in this area (see below).

Women's Organisations: Evidence and Research

Power and Prejudice: combating gender inequality through women's organisations WRC (2010)

http://www.wrc.org.uk/includes/documents/cm_docs/2010/w/wrc_power_and_prejudice_final.pdf

WRC's groundbreaking new report examines what helps - and what hinders - women's organisations in creating change at a local level. The research identifies the barriers facing women's organisations in being able to create these changes, presents learnings on what factors and what useful tools can help with local engagement and offers clear, practical solutions to both public bodies and women's organisations to improve this local engagement.

The project used a participatory action model, a social justice model of research that aims to empower those taking part in the research to act on improving conditions in their lives. In addition, the project was complemented by a literature review of existing research on the issue and a gender equality audit of local public bodies' policies

Not just bread, but roses, too: Funding to the women's voluntary and community sector in England 2004-07 WRC (2009)

http://www.wrc.org.uk/resources/wrcs_research_and_reports/not_just_bread_but_roses_too.aspx

This report maps women's organisations across all of the English regions. WRC have looked at areas organisations work in, equalities strands focused on and tracked income and expenditure data for 2004 to 2007. The report is divided into an England-wide overview and a comparison of the regions as well as appendices for each of the nine Government Office Regions in England.

The Impact of Commissioning and Procurement on the Women's Voluntary and Community Sector WRC (2008)

http://www.wrc.org.uk/includes/documents/cm_docs/2008/i/impact_of_commissioning_on_wvcs.pdf

This briefing discusses the impact on women's organisations of the current trend towards commissioning services. A special focus on the National Offender Management Service (NOMS) shows how commissioning can fail women and children by failing to account for their differing needs.

Why Women Only? WRC

(2007)http://www.wrc.org.uk/resources/wrcs_research_and_reports/why_women_only.aspx

This report aims to answer the question asked increasingly of many women's organisations by funders and the public: "Why are you women-only?" This timely report sets out why women-only services are still relevant and much in demand. The research also explores the far-reaching benefits of women-only services, the need for minority women to run their own specific services, the misunderstandings and undervaluation of women-only service provision, and the risks to the future survival of such services.

Where are women in LSPs? Oxfam, Urban Forum and WRC (2008)

http://www.wrc.org.uk/includes/documents/cm_docs/2008/w/womenlsp.pdf

Local Strategic Partnerships are key decision-making bodies at local level, controlling significant resources, and all public bodies now have legal obligations under the Gender Duty to actively promote gender equality. But this report, published by Urban Forum, Oxfam and the Women's Resource Centre, reveals that only a quarter of chairs of LSP Boards are women. The report also found that the voice of women's voluntary and community organisations is hardly heard at all. Fewer than 2 per cent of voluntary and community sector representatives on LSPs are women's organisations, despite making up 7 per cent of the voluntary and community sector.

How to fulfil Equality Duties and incorporate Gender

Make use of Guidance

In relation to gender, a number of useful documents are available on the WRC website. These include guides on gender equality schemes, including a template for local public bodies, and a template for an integrated strategy on Violence Against Women in the UK. The advice in these guides and templates are examples of best practice and can still be used today to ensure that gender is adequately addressed in the policies and practices of your organisation.

For further information see:

A practical guide to revising gender equality schemes

http://www.equalityhumanrights.com/uploaded_files/PSD/a_practical_guide_to_revising_gender_equality_schemes.pdf

Gender Equality Scheme: A Template for local public bodies

http://www.wrc.org.uk/includes/documents/cm_docs/2008/g/1_geslocaltemplate08.pdf

Realising Rights, Fulfilling Obligations:

A Template for an Integrated Strategy on Violence Against Women for the UK

http://www.wrc.org.uk/includes/documents/cm_docs/2008/r/realising_rights.pdf

The Equality and Human Rights Commission and the GEO have produced Guidance on the Equality Act 2010 and Public Sector Equality Duties more generally.

GEO Guides:

Equality Duty

<http://www.equalities.gov.uk/pdf/110117%20Public%20sector%20Equality%20Duty%20Guide%20-%20FINAL%20ACCESSIBLE.pdf>

Positive Action

<http://www.equalities.gov.uk/pdf/Positive%20Action%20in%20Recruitment%20and%20Promotion%20Guide.pdf>

<http://www.equalities.gov.uk/pdf/Positive%20Action%20Step%20By%20Step%20Guide.pdf>

EHRC Guides:

<http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/>

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/>

Including detailed guidance on best practice:

http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/essential_guide_guidance.pdf

Suggested approach

Identifying relevant issues

In order to fulfil the duties it is necessary to consider all of your functions, powers and duties and identify areas where gender equality is a relevant issue and which of the aims under the Public Sector Equality Duty apply. You should take a proportionate approach to addressing these issues and assessing relevance. However, taking a proportionate approach does not mean only addressing the needs of the majority. A small number of people may be affected but the issue may be very important or the impact for that small number very large.

When mapping out areas to address, it is advisable to consult with equalities groups, particularly with women's organisations to engage with them and enable them to communicate their needs. Engaging with the voluntary and community sector is an efficient way of getting a clear picture of where and in what ways equality issues are relevant to your organisation.

Collecting evidence and information

It must be ensured that adequate evidence and information is collected to enable you to address equalities issues. As such, you should ensure that you collect data, which should be disaggregated by gender and other equality groups, when developing an evidence base upon which to make equalities decisions.

Engagement

Women and women's organisations have specialist knowledge of women's needs and how these can be met. Engagement with all equalities groups is an essential part of ensuring that the General Duty is met and that equalities outcomes are pursued in the most effective way. Engagement with equalities groups will improve the design and delivery of services.

As women's organisations and services are particularly marginalised, care must be taken to ensure that these groups are able to participate in engagement activities. WRC's report, 'Power and Prejudice'⁶ sets out both the barriers and what works in engaging with women and women's services. These should be considered when planning how best to engage with these groups.

Learnings from Power and Prejudice:

The main barriers to women's local participation and influence are:

- Lack of knowledge and confidence about how to engage locally
- Hitting a 'brick wall' with public bodies
- The contested issue of evidence and expertise
- Gender equality not on the local agenda
- Invisibility of the women's sector
- Funding problems
- Survival and sustainability

⁶http://www.wrc.org.uk/includes/documents/cm_docs/2010/w/1_wrc_power_and_prejudice_final.pdf

What works:

- Reflection / peer support
- Increased knowledge and confidence
- Creativity and resourcefulness
- Using policy frameworks e.g. clear framework for gender equality is mainstreamed
- Using expertise and evidence
- The power of women service users' voices
- Persistence
- Building relationships e.g. senior management supports gender equality

Building relationships with women's organisations can be mutually beneficial, ensuring that these groups have their voices heard and providing knowledge and expertise that public authorities can benefit from, and also fosters good relations.

Engagement should be ensured at each of these stages:

- Developing an understanding of gender equality issues and building awareness
- Identifying and mapping needs
- Identifying and mapping where gender is relevant to your organisation
- Gathering and analysing information
- Developing outcomes and setting priorities
- Action planning
- Commissioning and procurement of services
- Analysing potential and actual impact of policies and practice
- Monitoring and evaluation of policies and practice

Equality Analysis

According to research⁷ commissioned to identify which of the Specific Duties within the current Race, Gender and Disability Equality Duties were most effective in achieving change, Equality Impact Assessments were seen as vital to embedding 'sound evidence-based policy development, project management and improved service delivery.' **EIAs were found to be most effective when linked to the performance management framework of the organisation and business and strategic planning.** In other words, when used not simply as a tick-box exercise, EIAs can be an extremely effective tool.

WRC recommends the use of Equality Impact Assessment as a tool to ensure that your organisation is carrying out an analysis of the effect policy and practice has on equalities groups and to ensure that this analysis is robust and effective, providing a solid framework of analysis.

There is a risk that when organisations address all equalities strands in one document, the issue of gender will be marginalised. In order to ensure that does not happen, WRC recommends making use of our current research and evidence, making use of gender equality toolkits, and engaging with women and women's organisations.

⁷ Sclater, E. (2009) *Making Practice Happen: Practitioners' views on the most effective specific equality duties*. EHRC
Sclater, E. (2009) *Making Practice Happen: Practitioners' views on the most effective specific equality duties*. EHRC

Setting objectives and priorities

When setting objectives and priorities, it is advisable to engage with people from protected groups. It is also advisable to set up a process for regularly reviewing objectives and measuring change and to engage with equalities groups at this stage too.

Some tips for setting objectives:

- Look for areas that most require action – do not just focus on the easiest or most obvious issues
- Do not limit objectives to the easiest to measure outcomes, consider change that is harder to measure but has a large impact
- Be creative in the way changes are measured
- Focus on substantive equality (as opposed to treating everyone the same) – how are you making things fairer and trying to level the playing field?
- Be sure to include gender in your objectives

Commissioning and Procurement

Although procurement has not been included in the Specific Duties, these functions are subject to the General Duty it is best practice to ensure that equalities considerations are embedded in commissioning and procurement processes.

Investing in women's organisations saves money in the short and long term. The women's voluntary and community sector is value for money. As stated by Theresa May, 'the women's sector is a model of the Big Society we wish to build.' Evidence has shown that the services we provide deliver better outcomes for women, are cost-effective and make great savings to the State. Below we have outlined some key areas of our work which show how the women's voluntary and community sector is 'doing more for less' whilst ensuring that we are still able to carry out our vital work of supporting some of the most marginalised and vulnerable communities of women in the country.

- Women's organisations have been around for over 30 years and have amassed a wealth of specialist expertise and experience in meeting the needs of women and in dealing with the root causes of some of the most challenging and complex social problems that our society faces.
- The average annual income for one Rape Crisis centre which provides support to hundreds of survivors of sexual violence was £81,598, only marginally more than the cost, to the state, of one rape. Investing in Rape Crisis centres is investing in safe, women-centred, long-term support for women who have experienced sexual violence.⁸
- Research by the New Economics Foundation has found that for every pound invested in support-focused alternatives to prison, £14 worth of social value is generated to women and their children, victims and society generally over ten years.⁹

⁸ Womens Resource Centre and Rape Crisis (England & Wales) (2008) The Crisis in Rape Crisis. WRC. London

⁹ New Economics Foundation (2008) Unlocking Value – How we all benefit from investing in alternatives to prison for women offenders. nef. London

The majority of women's organisations are small; half have an annual income of less than £100,000¹⁰ and provide specialist services to women locally. Many have been forced to compete with large generic service providers for local contracts and are unable to compete in the commissioning and procurement agenda. Commissioning and procurement by public bodies often disadvantages small organisations¹¹ and those working with marginalised groups and although many women's organisations do currently deliver public services, the procurement process is making their funding less stable. Many WRC members have expressed concern about the move to commissioning/procurement because they are often small specialist organisations providing 'politically unattractive' services. Generic providers are often not able to provide an adequate service for women as they do not have the historic understanding or expertise that women's organisations do and may not meet the needs of local women, for example by not providing a women-only service.

Intelligent commissioning, which includes engagement with equalities groups and a focus on the additional benefits of a service (as opposed to opting for the 'cheapest' or 'largest' provider), is needed to ensure that the expertise of smaller voluntary sector organisations is not lost and that the most effective and quality services are being commissioned.

Action Planning, Monitoring and Evaluation

Meeting the General duty means putting measures into place to actually achieve equalities objectives. It is therefore best practice to ensure that you have a detailed plan of action and continually monitor progress towards objectives. In order to ensure that gender is embedded in this process it is advisable to use existing guidance, to gather and use data on gender equality and the most effective ways of addressing this, and to engage with women and women's organisations.

¹⁰ Women's Resource Centre. Not Just Bread, But Roses, Too: Funding to the women's voluntary and community sector in England 2004-2007 (2009)

¹¹http://www.wrc.org.uk/includes/documents/cm_docs/2008/i/impact_of_commissioning_on_wvcs.pdf

Conclusion

Under the new Equality Act, the General Duty to pay 'due regard' has been strengthened and the Specific Duties weakened. In addition, there is a risk that the issue of gender will be obscured as there is no stand alone duty relating to gender and there is no longer a requirement to set gender equality objectives.

If equalities issues are to be taken seriously and if inequalities are to be adequately addressed, the following are required:

- accountability
- robust and thorough processes, to be undertaken insofar as is reasonable
- tools with which the public can challenge public authorities
- a proportionate approach to setting objectives
- measures to ensure that adequate data is collected
- measures to engage with equalities groups
- measures taken to actually achieve results

Public authorities are encouraged to learn the value of women's organisations, work with these organisations towards achieving gender equality outcomes, and support these organisations to thrive. Working with, and investing in, women's organisations saves public authorities time and money and ensures that services, policy and practice are designed in the most efficient and effective way.

Public authorities are invited to contact WRC for information and advice on women's organisations, the issues affecting women, and on anything contained within this briefing.

Annex 1: Section 149 of the Equality Act 2010

Public sector equality duty 149 Public sector equality duty

(1) – A public authority must, in the exercise of its functions, have due regard to the need to –

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) – A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) – Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) – The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

Annex 2: Draft Statutory Instrument

DRAFT STATUTORY INSTRUMENTS
2010 No. xxx EQUALITY

The Equality Act 2010 (Specific Duties) Regulations 2011

These Regulations are made in exercise of the powers conferred by sections 153(1), 154(2) and 207(4) of the Equality Act 2010(3).

The Secretary of State has consulted the Commission for Equality and Human Rights in accordance with sections 153(4) and 154(4) of that Act.

The Secretary of State has consulted the Welsh Ministers in accordance with section 154(3) of that Act so far as these Regulations apply to cross-border Welsh authorities.

A draft of these Regulations was laid before and approved by a resolution of each House of Parliament in accordance with section 208(8) of that Act.

The Secretary of State, in exercise of those powers, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Equality Act 2010 (Specific Duties) Regulations 2011.

(2) These Regulations come into force on [***] 2011.

(3) In these Regulations—

“the Act” means the Equality Act 2010; and

“public authority” means a public authority listed in the Schedule to these Regulations.

Equality objectives

2.—(1) Each public authority must prepare and publish one or more objectives it thinks it should achieve to do any of the things mentioned in paragraphs (a) to (c) of subsection (1) of section 149 of the Act—

(a) not later than 6th April 2012; and

(b) subsequently at intervals of not greater than four years beginning with the date of last publication.

(2) An objective published by a public authority in compliance with paragraph (1) must be specific and measurable.

Publication of information

3.—(1) Each public authority must publish information to demonstrate its compliance with the duty imposed by section 149(1) of the Act—

(a) not later than 31st December 2011; and

(b) subsequently at intervals of not greater than one year beginning with the date of last publication.

(2) In complying with paragraph (1) a public authority’s published information must include, in particular, information relating to persons who share a relevant protected characteristic who are—

- (a) its employees,
- (b) other persons affected by its policies and practices.
- (3) Paragraph (2)(a) does not apply to a public authority with fewer than 150 employees.

Publication

4.—(1) Each public authority must publish the information referred to in regulations 2 and 3 in such a manner that the information is accessible to the public.

(2) A public authority may comply with a duty to publish imposed by regulations 2 or 3 by publishing the information within another published document.

Annex 3: Schedule 19

SCHEDULE 1 Regulation 2(2)

PUBLIC AUTHORITIES REQUIRED TO PUBLISH INFORMATION BY 31ST JULY 2011

Ministers of the Crown and government departments

A Minister of the Crown.

A government department other than the Security Service, the Secret Intelligence Service or the Government Communications Headquarters.

Armed forces

Any of the armed forces other than any part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

Broadcasting

The British Broadcasting Corporation ("BBC"), except in respect of the function of providing a content service (within the meaning given by section 32(7) of the Communications Act 2003(2)) and any related functions; and the reference to the BBC includes a reference to a body corporate which—

(a) is a wholly owned subsidiary of the BBC,

(b) is not operated with a view to generating a profit, and

(c) undertakes activities primarily in order to promote the BBC's public purposes.

The Channel 4 Television Corporation, except in respect of—

(a) the function of providing a content service (within the meaning given by section 32(7) of the Communications Act 2003) and any related functions, and

(b) the function of carrying on the activities referred to in section 199 of that Act.

The Welsh Authority (as defined by section 56(1) of the Broadcasting Act 1990(3)), except in respect of the function of providing a content service (within the meaning given by section 32(7) of the Communications Act 2003) and any related functions.

Civil Liberties

The Commission for Equality and Human Rights.

The Information Commissioner's Office.

Court services and legal services

The Children and Family Court Advisory and Support Service.

The Judicial Appointments Commission.

The Legal Services Board.

The Legal Services Commission.

Criminal Justice

Her Majesty's Chief Inspector of Constabulary.

Her Majesty's Chief Inspector of the Crown Prosecution Service.

Her Majesty's Chief Inspector of Prisons.

Her Majesty's Chief Inspector of Probation for England and Wales.

The National DNA Database.

The Parole Board.

A probation trust established under an order made under section 5(1) of the Offender Management Act 2007(4).

The Youth Justice Board for England and Wales.

Environment, housing and development

The Environment Agency.

The Homes and Communities Agency.

Natural England.

The Olympic Delivery Authority.

The Tenant Services Authority.

Health, social care and social security

The Care Quality Commission.

The Child Maintenance and Enforcement Commission.
The Independent Regulator of NHS Foundation Trusts.
NHS Business Services Authority.
NHS Blood and Transplant.
An NHS foundation trust within the meaning given by section 30 of the National Health Service Act 2006(5).
An NHS trust established under section 25 of the National Health Service Act 2006.
NHS Patient Safety Agency.
A Primary Care Trust established under section 18 of the National Health Service Act 2006, or continued in existence by virtue of that section.
A Special Health Authority established under section 28 of the National Health Service Act 2006 other than NHS Blood and Transplant and the NHS Business Services Authority.
A Strategic Health Authority established under section 13 of the National Health Service Act

Industry, business, finance etc.

The Advisory Conciliation and Arbitration Service.
The Bank of England, in respect of its public functions.
The Civil Aviation Authority.
The Financial Services Authority.
The National Audit Office.
The Office of Communications.

Local government

The Audit Commission for Local Authorities and the National Health Service in England and Wales.
A body corporate established pursuant to an order under section 67 of the Local Government Act 1985(6).
The Common Council of the City of London in its capacity as a local authority or port health authority.
The Council of the Isles of Scilly.
A county council, district council or parish council in England.
A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(7), or a scheme to which section 4 of that Act applies, for an area in England.
The Greater London Authority.
A joint committee constituted in accordance with section 102(1)(b) of the Local Government Act 1974(8) for an area in England.
A London borough council.
The London Development Agency.
The London Fire and Emergency Planning Authority.
A regional development agency established by the Regional Development Agencies Act 1998(9) (other than the London Development Agency).
The Standards Board for England.

Other educational bodies

The governing body of an institution in England within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992(10)).
The governing body of an institution in England within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992).
The Higher Education Funding Council for England.
The Student Loans Company.

Parliamentary and devolved Bodies

The National Assembly for Wales Commission/Comisiwn Cynullid Cenedlaethol Cymru.
The Scottish Parliamentary Corporate Body.”

Police

The British Transport Police.

A Chief Constable of a police force maintained under section 2 of the Police Act 1996(11).

The Chief Inspector of the UK Border Agency.

The Civil Nuclear Police Authority.

The Commissioner of Police of the Metropolis.

The Independent Police Complaints Commission.

The Metropolitan Police Authority established under section 5B of the Police Act 1996(12).

The Serious Organised Crime Agency.

Regulators of professional bodies

The General Council of the Bar, in respect of its public functions.

The Solicitors Regulation Authority, in respect of its public functions.

SCHEDULE 2 Regulation 2(3)

PUBLIC AUTHORITIES REQUIRED TO PUBLISH INFORMATION BY 31ST DECEMBER 2011

Educational institutions

The governing body of an educational establishment maintained by an English local authority (within the meaning of section 162 of the Education and Inspections Act 2006(13)).

A local authority with respect to the pupil referral units it establishes and maintains by virtue of section 19 of the Education Act 1996(14).

The proprietor of a City Technology College, City College for Technology or the Arts, or an Academy.