

LGIU Local Government Information Unit

Independent Intelligent Information

Gender Equality Duty: EOC Publish Code of Practice (LGIUandSTEER)

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Author: Hilary Kitchin

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Overview

A general duty that requires public bodies to address the need to eliminate unlawful discrimination and harassment, and to promote equality of opportunity between men and women, comes into force on 6 April 2007. Many public bodies, including local authorities, are also subject to specific duties, intended to give effect to the general duty.

The specific duties concentrate on the preparation, publication and implementation of a Gender Equality Scheme. Schemes must be published no later than 30 April 2007. Schemes will need to show how the general and specific duties will be fulfilled, and set out gender equality objectives.

The specific duties have changed to a significant extent since first published for consultation. They also differ in some significant ways from the specific duties within the disability and race equality duties. The gender duties are outcome focused, and the changes made reflect this approach.

The Equal Opportunities Commission (EOC) advises that, where schemes have already been drafted, public bodies must make sure they are using the correct specific duties: in particular, checks should be made on compliance with gender pay requirements.

The EOC will support implementation of the duties, but will also have an enforcement role. The Commission for Equalities and Human Rights will take over EOC responsibilities in late 2007.

The duties will have an impact on all local authority services and responsibilities, and on workforce matters. It will be necessary to consider the implications for external relations too, through procurement and partnership relationships.

The Code covers England and Wales, and can be found on the EOC website through the accompanying link. The briefing also contains details on a LGiU seminar on **18 January** that will provide practical examples of how policies can be made more gender sensitive.

Briefing in full

FINAL VERSION OF THE CODE OF PRACTICE

Introduction

The gender duties were introduced by the Equalities Act 2006, and their implementation has been the subject of consultation over the last year. Regulations containing the final formulation of the specific duties have now been passed, and the final text of the Code of Practice on the Gender Equality Duty has been laid before Parliament.

The General Duty

The Code provides an overview of the duty, and an explanation of what will be required to meet the general duty in different circumstances. It gives some assistance by illustrating some possible outcomes, but it will be for individual authorities to decide the problems to be tackled and identify potential outcomes.

It is important to remain aware that the specific duties are intended to facilitate compliance with the general duty, and to continually cross-refer within the Code.

The Code deals with issues which councils often find tricky, such as gender mainstreaming, and single-sex activities.

The Specific Duties

The Code deals with each aspect of the specific duties. The focus of the specific duties is the Gender Equality Scheme, which shows how the authority will meet its general and specific duties, and sets out its gender equality objectives. Requirements to consult, to gather information, and to consider the need to include objectives to address the causes of any gender pay gap, form the basis of preparing the Scheme.

Distinctions between the draft and final specific duties appear to be:

- a more rigorous formulation of the need to address the gender pay gap
- an additional requirement to gather and use information on how the authority's policies and practices affect gender equality in the workforce and in the delivery of services
- the requirement for consultation to be extended to include service users and trade unions, and to take account of the outcomes in determining the objectives
- the requirement for gender impact assessments of current as well as proposed policies and practices
- a requirement that the actions set out in the scheme be implemented within three years, unless unreasonable or impracticable
- a requirement for an annual report, as well as a review at least every three years.

Checking draft schemes

It will be necessary for councils to work through the implications of the Code, but the EOC has drawn particular attention to some important checks that need to be made by those that have already drafted a gender equality scheme or a generic equality scheme:

- to ensure that the Scheme meets the requirements of the new specific gender duties. If it does not, it will need to be amended before **30 April 2007**.
- to ensure the Scheme meets the specific duty requirement to consider having pay objectives that address all the causes of any gender pay gap. The Code explains that if you do not have pay objectives, your scheme should give the reasons why you have decided not to include any.

External relationships

The gender duty will be relevant in councils' external relationships, but there will be different considerations according to the nature of the agreement, and the status of the external organisation.

There can be no complete list of public bodies: the true test is whether the authority is carrying out functions of a public nature. Appendix A includes some illustrations of public bodies, and also explains the circumstances in which certain organisations can be treated this way, because they are carrying out public functions.

It is useful to note that there is a list of those bodies subject to the specific duties in the regulations (included in the Code in Appendix D). This includes such bodies as RDAs, Primary Care Trusts, governing bodies of schools, further education colleges and universities and many quangos.

The Code makes clear that councils will have to be prepared to deal with a range of different circumstances. Not all of these circumstances are fully understood in this context as yet, and this is an aspect of the code where further guidance can be expected. The issues raised by external arrangements are beyond the scope of this briefing, but they will plainly be of considerable importance.

Initially, it can be expected that councils will need to pay most attention to:

- **Procurement contracts:** The EOC is intending to produce supporting guidance on procurement. The main framework is set out in the Code. This makes it clear that the responsibility for ensuring compliance with the gender duty remains with the authority, and that it is necessary to build relevant gender equality considerations into the procurement process. A number of steps are recommended to assist compliance with the duty.
- **Joint service provision:** Where partner organisations are public bodies jointly planning services, but have not set up a separate legal identity, different considerations will apply. The public bodies involved in these partnerships are each responsible for meeting the gender duty and any specific duties. Each will need to make sure that the arrangements that are made allow it to meet its statutory duty. This will apply equally where the partnership includes private and voluntary sector organisations.

Commentary

The consultation period has resulted in a set of specific duties that are more flexible and comprehensive, and a Code that should assist councils to mainstream gender issues.

It will be necessary over time to judge how the differences between the responsibilities in relation to gender, race, and disability impact upon councils' ability to develop and implement effective strategies. The Commission for Equalities and Human Rights (CEHR) will have an important role to play in investigating and assessing the issues that are raised by these distinctions.

The EOC, and later the CEHR, will have an important role to play in supporting the introduction of the new duty. Materials are being set up on the EOC website for this purpose.

Local authorities and other public authorities will be aware that the gender pay gap raises

significant financial issues that will need to be addressed.

Additional Information

The LGiU is advertising a seminar being run jointly with Oxfam UK, on 18 January, titled Gender Analysis: the key to better services and tackling social inclusion? To find out more about this seminar contact georgina.roudette@lgiu.org.uk

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