



Women. Men. Different. Equal.
Equal Opportunities Commission

**Guidance on the gender equality duty
for the voluntary and community sector
(England)**

gender
equality duty

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INTRODUCTION

Who is this guidance for?

This guidance is for voluntary and community sector professionals or volunteers in England who need to improve their understanding of the gender equality duty (the duty).

This guidance is aimed at several groups:

- Voluntary and community organisations that are responsible for delivering public services on behalf of public authorities and voluntary sector service providers
- Bodies making grant applications to public authorities
- Lobbyists and campaigners who would like to help the duty make a real difference to women and men, girls and boys across Britain.

What is this guidance for?

The guidance is intended to make you aware of the questions that you can ask a public authority about how they are meeting the duty. It will also help you to decide whether you need to make any changes to your own service or employment practices in order to meet the duty. Other guidance is available from the Equal Opportunities Commission - (EOC) with detailed information on key aspects of the duty (www.eoc.org.uk/genderduty).

The guidance is divided into two sections. The first sets out what the duty is, why it was introduced and to whom it applies. The second section sets out how the duty affects the voluntary sector.

TAKING ACTION ON THE DUTY

How might the duty affect you?

This guidance should help you to establish how you will be affected by the duty. Then you should start to ask yourself:

- Do I have new obligations as a provider of public services?
- Do I have new obligations as a supplier to the public sector?
- As a funding body, should I take steps to amend my funding guidelines?
- How will the duty affect my grant applications?
- How can I promote awareness of the duty among colleagues and contacts in my sector?
- What can I do to encourage public authorities to take action on gender equality?
- What should I do if I know of a public body that is not complying with the duty?
- How can I promote action on the duty in the partnerships I am involved in?

BACKGROUND TO THE DUTY

What is gender equality?

The term 'sex' refers to the biological differences between women and men which are universal. 'Gender' refers to the wider social roles and relationships that structure men's and women's lives. These change over time and vary between cultures. Although much has been achieved over the last 30 years, there is still a long way to go to achieve gender equality for all in terms of employment, access to services, political representation, care, leisure and personal safety.

Why do we need a duty?

Widespread and persistent inequality

Existing economic, social, cultural and institutional practices mean that women's inequality is persistent and widespread.

Inequality in employment:

- A 17% pay gap between the average hourly earnings of full-time women and men
- Part-time women earn 38% less than full time men, hour for hour
- Discrimination against pregnant employees is still widespread – almost half of pregnant workers experience unfair treatment
- Sexual harassment is still evident in many workplaces
- Pensions are designed for a traditionally male career path, and parents and carers lose out as a result. Women's average income in retirement is only 57% that of men's.
- 38% of mothers have left a job, or been unable to take a job, due to inflexible working policies, or lack of access to childcare
- Harassment of transsexual staff is common in the workplace
- Women are badly under-represented in senior roles across the economy

Inequality in services

Many services are designed in a gender-blind way. For example, The National Service Framework for Coronary Heart Disease sets out a strategy to improve prevention, diagnosis, treatment and rehabilitation of heart disease. The framework doesn't recognise the different needs of women and men with regards to prevention and treatment, and without this the NHS is unlikely to prevent and treat heart disease in the most effective way. Heart disease is usually seen as a "male disease", but heart disease remains a greater risk to women's health than breast cancer.

There are issues for men and boys too. Men are sometimes reluctant to use public services that they see as irrelevant to their needs. They are much less likely to visit their doctors or be involved in their children's education. When they do want to be involved as fathers, services that have been designed for women can make men feel unwelcome.

Although some authorities have taken action to tackle gender inequality, it is not yet common practice. The gender equality duty has been introduced to address this reality. It is intended to be a powerful tool for tackling systematic discrimination against women and men.

Previous legislation

Previous legislation such as the Sex Discrimination Act (which has been updated to include the duty) relied heavily on individuals taking action to challenge discrimination. However, many people find the idea of taking legal action on their own very daunting, expensive and time-consuming. Also, individual cases have a limited impact on systematic causes of discrimination. For example, one employee could win an equal pay or sexual harassment case, but this would not necessarily protect the person at the next desk from unequal pay or sexual harassment. The duty places a responsibility on public bodies to identify and prevent discrimination rather than react to problems when they occur. It is a proactive, rather than a reactive, approach to gender equality.

The gender equality duty **does not mean that individuals are no longer able to take legal cases if they experience discrimination** (such as taking their employer to an employment tribunal if they were being sexually harassed). The duty is an extra tool that can be used for tackling discrimination and promoting equality in the public sector.

OVERVIEW OF THE DUTY

What is the gender equality duty?

The gender equality duty came into force across Great Britain on the 6th April 2007. It is a new legal requirement on public authorities, when carrying out their functions, to pay due regard to the need to:

- eliminate unlawful discrimination and harassment on the grounds of sex
- promote equality of opportunity between women and men

It applies to all functions including policy-making, service provision, employment matters and statutory discretion and decision-making. 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 that gender "neutral" policies and practices can lead to unequal outcomes.

Authorities have an obligation under the gender duty to eliminate discrimination and harassment towards current and potential transsexual staff. From December 2007 this will also apply to trans people accessing goods and services, and it is a matter of good practice for organisations to take steps to address this area in the meantime.

What is the general duty?

The gender equality duty is divided into two areas, the 'general' duty and the 'specific' duties. The general duty is the overall duty to eliminate discrimination and harassment and to promote equality. Most major public authorities are also subject to a set of 'specific duties'. These are not an end in themselves: they are steps to meet the general duty.

The gender equality duty is a legal requirement so public bodies cannot ignore it or claim a lack of capacity. Resources must be set aside in their budgetary processes to meet this end, but in reality the duty should lead to services being more cost effective.

Who is covered by the general duty?

The general duty applies to 'any person who has functions of a public nature'. This means it applies to all typical public bodies as well as to private and voluntary organisations carrying out public functions. This could include private organisations running prisons or privatised utilities, for example. Further information on this issue is set out in the next section on the duty and the voluntary sector.

What are the specific duties?

There are different specific duties for England, Scotland and Wales. This guide sets out the duties for public organisations in England, which require them to:

- Prepare and publish a **gender equality scheme**, showing how they will meet their general and specific duties and setting out their gender equality objectives.
- In formulating their 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 others, including trade unions) and take account of relevant information in order to determine their gender equality objectives.
- **Assess the impact** of their current and proposed policies and practices on gender equality.
- **Implement** the actions set out in their 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 duty has been designed with a focus on real outcomes and it is intended that action by public authorities should lead to tangible improvements in the daily lives of women and men.

Public authorities in England that are subject to the specific duties had to publish their gender equality schemes by 30th April 2007. These duties and this date also apply to bodies in Scotland and Wales that have reserved functions, ie non-devolved bodies. For information on the Scottish and Welsh duties please go to the EOC website.

Who is covered by the specific duties?

Organisations covered by the specific duties are identified in a list in the statutory Code of Practice published by the EOC which is available on the EOC website. This Code gives practical guidance to public authorities on what they must do to comply with their obligations under the duty. Because it is a statutory Code, any failure to follow its provisions could be taken into account by a court.

Most major public sector organisations will have to meet the specific duties. The bodies listed include:

- All central government departments and regional development agencies
- Health organisations like the NHS, Hospital Trusts, Primary Care Trusts and the Healthcare Commission

- All maintained schools, universities, the Learning and Skills Council, and the governing bodies of further and higher education institutions
- All local authorities apart from parish and town councils
- In criminal justice, police authorities, Chief Constables of police forces, local probation boards, the Prison Service and the Probation Service
- Housing bodies like Housing Action Trusts and the Housing Corporation
- Transport bodies such as Passenger Transport Executives, the Strategic Rail Authority and Transport for London
- The three equality commissions
- Media bodies like the BBC and Channel 4

Each of these organisations must set gender equality objectives and publish them within a scheme as well as conduct gender impact assessments on all existing and new policies. Public bodies which are not listed are still subject to the general duty, and will still have to show evidence that they are meeting the duty.

What impact will the duty have?

The duty will be a key tool for public sector managers to make the public sector more efficient, effective and responsive to the realities of how we live our lives. It should be a catalyst for change in the way that public sector organisations think about their work, and in the way that policy and services are designed and delivered. The duty will help them to tackle gender inequality, to understand and address the different needs of women and men and to make the most of their skills in the workforce. The following examples illustrate the kind of effect that mainstreaming gender equality under the duty can have.

Example: Better services

Building an understanding of gender equality into service planning will improve service standards. Women make multiple trips on public transport, bringing children to school or care, shopping, visiting older or sick relatives, as well as travelling to work. For men, the main journey is commuting to the workplace. Factors like income and caring responsibilities limit women's transport choices. This in turn limits their entry into the labour market, leisure activities, and education and training opportunities. This not only affects women's individual lives but it also has a negative impact on the economy and on the effectiveness of public policy.

For example, a bus provider in Ireland surveyed non-users as well as users in order to identify unmet needs. New pilot services were introduced which extended bus routes, provided cheaper multi-trip fares and targeted women and older people. There was a 35% increase in usage, particularly by older women. There was a 13% increase in city centre economic activity in 2002, which was believed to be directly linked to the increasing numbers of people coming into the city centre during the day.

Example: Better use of resources

Gender budgeting is a powerful tool for assessing whether services are effective and equitable for male and female users. It traces the money that an organisation spends and finds out the respective extent to which men or women benefit from it. It can work at many levels from central government to a small voluntary organisation. Gender budgeting can reveal that a programme or service isn't reaching men and women appropriately and it can demonstrate how addressing this will result in more effective programmes.

A project by Oxfam assessed how resources were allocated by an employment support service. Service users thought the service was a high quality and essential service but considerably more men than women benefited from it (3:1). The ratios for clients supported into training or receiving financial support were skewed even further in favour of men (roughly 9:1 and 8:2). This bias was not intended but the evidence resulting from the exercise enabled the authority to recognise the problem and start to take action to support more women to access the service.

Example: Legitimacy and representation

Women are under-represented in decision-making roles in many public organisations, including public appointments. This has negative implications for the legitimacy, perception, experience and effectiveness of an organisation. In order to encourage and support more women into senior roles, changes may need to be made to selection processes, working practices, working cultures, support for caring responsibilities and training in order to make this a reality. Public authorities may also need to rethink what experience is relevant to the post.

How does the duty affect single sex services?

The gender equality duty does not change the law about when single sex activities or service provision are lawful. Single sex services can meet a variety of needs that would be difficult or impossible to deliver in a mixed-sex setting. For example, these are lawful where there is a clear need to preserve decency or privacy, such as a women's refuge or a rape crisis centre. However, this is a complex area of law with a number of exemptions, and further details are set out in Chapter 6 of the Code of Practice.

The law in this area does not change because of the gender duty: if something was lawful before the duty was introduced, it remains lawful. The gender duty cannot be used as grounds to cut or refuse funding to single sex services. It would equally be inappropriate to interpret the gender duty as meaning that services should be provided on the same scale for both men and women. For example, because the majority of victims of domestic violence and rape are women, it would not be appropriate for a local council to fund or provide refuge services on an equal numbers basis for men and for women. More information on this issue is available in the EOC's Code of Practice on our website. If you hear about changes being made to single sex services as a result of an apparent misunderstanding of the duty, please contact the EOC at genderduty@eoc.org.uk.

Legislation concerning positive action also remains unchanged under the duty. Positive action is encouraging people from an under-represented group to apply for jobs, training or promotion. This could mean placing an advert in a magazine read specifically by men or women to encourage them to apply for a job or jobs in certain sectors. However, all candidates would be subject to the same short-listing procedures and candidates could not be selected on the basis of their sex. Positive discrimination is unlawful in the UK. This would mean *only* short listing people from the under-represented group, and preventing others from applying or being considered. This is not allowed under the duty or under the Sex Discrimination Act.

How is the duty enforced?

The duty is enforced by the EOC, then by the Commission for Equality and Human Rights (CEHR) from October 2007. Inspection bodies will also play a role by requesting evidence about compliance with the general and specific duties.

The EOC will be looking to see real outcomes for gender equality from public organisations. This includes looking at whether public authorities have collected information to allow them to understand the impact of their work on women and on men. It includes establishing whether an authority has put its efforts where they will have the biggest impact on gender equality. It will check whether sufficient consultation has taken place and whether information about the gender equality scheme been widely available through appropriate channels and in a variety of formats. The EOC will check whether steps have been taken to implement the actions within the scheme.

The EOC, then the CEHR, can issue compliance notices when it thinks a public body has not complied with the duty. These notices are enforceable by the courts. For further information on enforcement of the duty, please see the EOC Code of Practice on the EOC website.

THE DUTY AND THE VOLUNTARY SECTOR

How does the gender duty affect the voluntary sector?

If you are involved in, or work for the voluntary and community sector, you could be affected by the gender duty in four main ways:

- 1 If you are interested in campaigning or lobbying for gender equality you can use the gender duty to encourage action by public authorities.
- 2 Under certain circumstances, if you deliver public services on behalf of public authorities you may be subject to the gender duty in your own right.
- 3 If you are providing other services to public authorities, the authority may ask you to demonstrate how you are helping them to meet their obligations under the gender duty.
- 4 If you make grant applications to public authorities they can ask you to provide evidence in your funding application of how you will build gender equality into your work.

Are you involved in lobbying or campaign work?

The duty will work best if people outside public authorities (in different organisations, sectors and at different levels i.e. national, regional or neighbourhood) use it as a lever for action. The voluntary and community sector can play a vital role in making the duty effective by promoting awareness, taking part in consultation processes, contributing to partnerships, and gathering information to share with public authorities to help them prioritise and take action on the most significant gender equality issues in their remit. The voluntary and community sector can also improve the accountability of public authorities, and share information with the EOC/CEHR to help with their monitoring and enforcement work.

Promoting awareness

Increasing awareness of the duty among the voluntary sector is a critical process. If you are keen to take action in this area you could start by looking at the information on the EOC's website, and by circulating this guide to your colleagues and external contacts.

Consultation

All public authorities who have to meet the specific duties will need to produce a gender equality scheme. Public authorities should already have consulted with stakeholders on the gender equality objectives they have set for the three-year duration of their scheme. They should also be consulting about how they implement their scheme and on the impact of their policies and practices on gender equality.

Voluntary and community organisations have many valuable insights into gender equality issues as a result of their work in service delivery, advocacy and challenging discrimination. For example, rape crisis centres can advise on challenging violence against women, men's health groups can contribute to the planning of GP services, and parents groups and older women's organisations can give insights into transport design. We expect the voluntary sector to be critical contributors to consultation processes. If you feel you have something to offer, find out about consultations taking place in your area and volunteer to take part.

Partnerships

More and more public services are being delivered by partnerships such as Local Strategic Partnerships and Community Safety Partnerships. While partnerships themselves are not usually subject to the duty (because they are not public bodies in their own right), most of the members will be. Members of the partnership such as councils, police forces or primary care trusts need to ensure they apply the duty in all of their functions that are delivered via the partnership. If you are a member or observer of a partnership you can help make this a reality by asking what systems are in place to ensure this happens, and by drawing their attention to the top priority gender equality issues.

Monitoring and enforcement

The voluntary and community sector can take action to promote gender equality by asking public bodies for evidence of how they are meeting the gender duty. This would include asking for copies of gender equality schemes and equality impact assessments for those who are covered by the specific duties. This can be done at the local or national level, e.g. your local council, school, PCT or a government department. If there is evidence that an authority is not meeting the duty, you can raise this directly with the authority themselves, with the relevant inspectorate, or with the EOC/CEHR.

If you are interested in taking action, start by asking public authorities any of the following questions. Standard letters will be available on the EOC website to help you do this.

<i>Gender equality objectives</i>	<ul style="list-style-type: none">- Can I see a copy of your gender equality scheme?- What are your gender equality objectives and how did you select them?- What evidence did you use to decide on your gender equality objectives?- What action have you taken to implement your objectives?
<i>Consultation</i>	<ul style="list-style-type: none">- Who are your key stakeholders?- Who did you consult?

<i>Services and policies</i>	- Can I see copies of gender impact assessments of current and future policies? (for the specific policy which interests you)
<i>Employment</i>	- What are your plans for tackling the three causes of unequal pay? (occupational segregation, discrimination, caring responsibilities) - What action are you taking to eliminate discrimination and promote gender equality in employment?
<i>Transsexual community</i>	- What are your plans for tackling discrimination and harassment towards trans people? - How do you propose to address issues affecting trans service users after the introduction of new legislation in this area in December 2007?

Do you deliver public functions on behalf of a public authority?

The duty applies to any organisation that delivers public functions. It recognises that many public functions are now delivered by private or voluntary organisations. In the context of the gender duty, public functions are services that would otherwise be carried out by the state and where individuals have to rely upon a specific body in that role. The organisation will be covered by the duty in respect of that role, not for every service it delivers. For example, a private company providing secure transport to prisoners would be covered by the duty in that role but not in its role of providing security services to high street retailers.

Whether or not an organisation is exercising a public function is ultimately a matter for the courts but it would be helpful to ask yourself the following questions:

- Are you wholly or partly funded by public funds?
- Are you exercising powers assigned to you by law?
- Are you taking the place of central or local government in regard to that function?
- Are you providing a public service?
- Are your structures and work closely linked with the contracting-out body?
- Have you got a close relationship with any public authority?
- Are you closely supervised by a government regulatory body?

If you think you might be undertaking public functions, we would advise you to protect yourself legally by making sure that you meet the general duty (i.e. pay due regard to eliminating unlawful discrimination and harassment and promoting equality of opportunity between women and men) with regards to those areas. If you are not sure, we would also recommend that you seek legal advice on the matter and pending this, behave as if you are covered by the general duty.

Are you under contract to provide other services to public authorities?

Procurement is the process whereby public organisations contract out services. Public sector bodies like central government, local government and health authorities procure billions of pounds worth of goods and services from private or voluntary organisations each year. This includes goods like vehicles, stationery, foodstuffs and medical supplies as well as internal services like payroll, cleaning, recruitment, training or IT support. Services to the public include school transport, taking elderly or disabled people to daycare centres, school meals, home care, residential care, parking enforcement and refuse collection.

The gender duty means that public authorities remain responsible for ensuring gender equality in services that they contract out to voluntary or private organisations. If you provide goods or services to the public sector, authorities can ask you to:

- Demonstrate how you meet sex equality legislation like the Equal Pay Act and the Sex Discrimination Act (e.g. have you carried out an equal pay review, what are your policies on sexual harassment?)
- Ensure gender equality issues are built into service design (e.g. accessible buses or accounting for men's and women's needs in training provision)
- Provide evidence of progress after an employment tribunal loss (and remove you from their list of suppliers if you refuse or have not taken sufficient remedial action)

The voluntary sector is well placed to deliver services that promote equality of opportunity. Doing business with public authorities is beneficial to the sector, both financially and in terms of reputation, status and access to further contracts, so before tendering for contracts with public bodies you should make sure you have all this information easily available.

Do you make grant applications to public authorities?

Public authorities cannot overlook their obligations under the duty when they are allocating funds to the voluntary and community sector. This means that public bodies like government departments, councils or PCTs need to build gender equality into their funding guidelines. This also includes the National Lottery as they are covered by the specific duties. Although the majority of grant providers in the voluntary sector (such as the Joseph Rowntree Foundation) will not be covered by the duty in this way, it would be good practice for them to act as though they are.

Under the duty, funding bodies can ask you to provide evidence in your application of how you will build gender equality into your work. For example, since men are more likely to fear vehicle theft and women are more likely to fear rape and physical attack, a bid for a community safety initiative should set out how men's and women's different priorities will be taken into account within your project. You may also need to provide evidence of how you meet equal pay and sex discrimination legislation (see section on procurement above).

Even if you are not covered by the duty, remember that tackling discrimination, and taking into account the different needs of women and men, is good practice. It will help you to meet your objectives more effectively and ensure that your services reach the groups they are designed for.

FURTHER RESOURCES ON THE DUTY

Where can I get further information about the duty?

The Code of Practice sets out what public bodies need to do to meet their obligations under the duty. To supplement the Code, the EOC has published a range of guidance on the duty. You can find information on many aspects of the duty at: www.eoc.org.uk/genderduty

There are also many voluntary organisations with expertise in different areas of gender equality and you may have groups in your area who can give you further advice.