

Implementing equality duties: the case of Great Britain

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The PSED in Great Britain (1)

- The **Public Sector Equality Duty** requires public authorities and others carrying out a public function to consider equality and good relations in their day to day work (e.g. in shaping policies, in delivering services and in their employment practices).
- **Protected characteristics:** age, disability, gender reassignment, race; religion or belief; sex; sexual orientation, pregnancy and maternity; marriage and civil partnership.

The PSED in Great Britain (2)

- It operates in **two parts**: the **general equality duty** and the **specific duties**.
- **The general equality duty** requires public authorities and those who exercise public functions **across Great Britain** to have **'due regard'** to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations
- The **specific duties are processes** that aim to help public authorities deliver the general duty in a **focused and transparent way**.

The PSED in Great Britain (3)

- The specific duties are **different in England, Scotland and Wales:** more **explicit, numerous** and **prescriptive** in Wales and Scotland than in England. [GB Table](#)
- The specific duties **may evolve**... E.g. new duty introduced in March 2017 for public bodies in England with 250 or more employees to publish gender pay gap data every year.

The PSED in Great Britain (4)

	England	Scotland	Wales
Information relating to employees who share protected characteristics	√ - For public authorities with 150 or more employees.	√	√
Information relating to people who are affected by the public authority's policies and practices who share protected characteristics (for example, service users)	√		√
Information on pay differences	√ - Gender pay gap for public authorities with 250 or more employees.	√ - Gender pay gap.	√
Statements on equal pay (gender, race, disability)		√	
Equality objectives/equality outcomes	√ - At least one objective is required.	√ - Consider all relevant protected characteristics within a set of outcomes or explain why not.	√ - Consider having at least one objective for each protected characteristic or explain why not. Must consider objectives to address pay differences/gender pay gaps or explain why not.
Strategic Equality Plan			√
Report progress on mainstreaming the equality duty		√	
Progress reports		√	√
Review/revision of objectives			√
Documents relevant to PSED are accessible to the general public	√	√	√
Impact assessment of policies and practices	*	√	√
Engagement/Involvement		√ - In preparing a set of equality outcomes.	√
Public procurement		√	√
Staff training			√
Ministers' duty		√ - Ministers report on activity to assist bodies to meet their duties.	√ - Report on progress and proposal for further areas public authorities should focus on.

* Assessing equality impact of policies/practice = implicit requirement of the general duty in England and explicit specific duty in Wales and Scotland.

EHRC role as PSED regulator

Commission's regulatory role has several interlinked elements:

- **Informing** - providing information/guidance on the PSED.
- **Monitoring** implementation and compliance, including through research.
- **Promoting** best practice in complying with the PSED.
- **Enforcing** - where appropriate, taking pre-enforcement/enforcement action.
- **Assessing** the effectiveness of the legislation.

Awareness & understanding of the PSED (1)

Qualitative research conducted in 2014/15 including on awareness and understanding of the PSED and of our guidance among staff working in public authorities in Great Britain (see research report 100).

KEY FINDINGS

- **Awareness** appeared **good overall** although:
 - respondents in **Wales and Scotland** were **more aware than in England**;
 - ‘equality specialists/leads’ were more aware than ‘non-specialists’ suggesting that many public authorities see the **role of understanding the details of the law and PSED guidance to be for one person or a small team.**

Awareness & understanding of the PSED (2)

KEY FINDINGS

- Evidence of **significant changes in ‘equality lead’ roles** within public authorities. Several respondents were **newly appointed** equality leads with **no previous PSED expertise** and **little time to develop it**.
- Issue with **‘subjective’ language**:
 - Meaning of **‘due regard’** for the **general duty**
 - A **larger number of specific duties** (like in Scotland and Wales) **does not automatically equate to more clarity** on how to achieve compliance with the PSED. E.g. meaning of **‘substantial’ impact**; **‘reasonable’ steps**.
- Preference for **shorter and practical guidance** that explains what the PSED means in **specific sector, context and circumstances**.

Awareness & understanding of the PSED (3)

IMPLICATIONS

- Different approaches are needed in England, Scotland and Wales :
 - Evidence shows that respondents in **England are less aware.**
 - **Scale issue:** A few hundreds of public authorities are covered by the PSED in Wales and Scotland compared to 10,000s in England.
- Our **audiences are changing** - to facilitate **the mainstreaming and use** of the PSED across public authorities, our guidance needs to **better cater for the needs** of equality specialists with no PSED expertise but also of non-specialists.

Awareness & understanding of the PSED (4)

ACTIONS

In **Wales and Scotland**, direct engagement as well as monitoring activities continue:

- In **Wales** – Equality and Human Rights Exchange Network & programme to increase capacity amongst the third sector to scrutinise the performance of the public sector in relation to the PSED. For more info on this, contact Kerry.Wakefield@equalityhumanrights.com
- In **Scotland** – direct support and advice provided to public authorities to help them improve the way they set equality outcomes [objectives] so they are clear and measurable as required by the law. For more info on this, contact Martin.Hayward@equalityhumanrights.com



Awareness & understanding of the PSED (5)

ACTIONS

In **England**, we are focusing on:

- **reviewing our existing PSED guidance** to ensure it is **accessible, simple and easy to use.**

- **producing shorter and practical guidance, accessible to non-specialist audiences** to explain what the PSED means for a **specific sector, context and circumstances.** E.g.
 - Guidance published in February 2017 to help staff in universities comply with the PSED when designing policies to prevent extremism on campus.
 - Forthcoming guidance to:
 - ✓ help non-specialist policy-makers think about equality and good relations throughout the policy-cycle.
 - ✓ empower the general public to challenge decisions by public bodies that do not give regard to equality issues.



Use and Effectiveness of the PSED

- **No comprehensive picture yet** but we have **examples of effective use** of the PSED across Great Britain.
- Government has committed to undertake a review of the operation of the PSED in 2017; the Commission will provide expert advice to feed into this review. For more info on this, contact Jacqui.thomson@equalityhumanrights.com
- **Potential research questions** may include:
 - To what extent public authorities have set themselves **equality objectives**?
 - What **actions** if any they have taken to progress their objectives?
 - Whether and how **progress** in delivering objectives was **measured**?
 - What **impact** this has had **on the lives of people** who share a protected characteristic?
 - How **effective** are the specific duties in England **compared to similar duties in other countries** (Wales, Scotland and beyond... **SO KEEP IN TOUCH!!**)? [GB Table](#)

Some food for thought - how to develop an effective duty (1)

- **Proactive** duty which relies on collecting **good quality baseline data** to:
 - **set clear, specific and measurable objectives**
 - **measure progress** and,
 - **evaluate impact.**
- **Language** of duty requirements is key: **avoid 'subjective' language** and be prepared to **set-out clear expectations** for different sectors/contexts that non-experts can understand and relate to (**mainstreaming**).

Some food for thought - how to develop an effective duty (2)

- Consider carefully the **balance** your equality duty [and your guidance!] needs to strike **between**:
 - providing organisations with **detailed enough requirements** to help them **think through equality issues effectively**

WHILST

- leaving them with **sufficient autonomy to tailor their approach to their context** and to address equality and good relations issues the way they see fit (**leadership**).
- Consider **whether and to what extent** your equality duty should **require organisations to take actions** to reduce disadvantage, progress equality and foster good relations.