

Gender Equality Scheme – The Legal Background

Gender Equality has its roots in the Sex Discrimination Act 1975 (SDA) which prohibits discrimination against individuals in terms of their gender in employment, education and the provision of goods, facilities and services and in the disposal or management of premises. These must ordinarily be open to both sexes and provide equal opportunities. It also prohibits discrimination in employment against married people. This applies to all women and men of any age, including children.

However, despite 30 years of legal rights to sex equality, there is still widespread discrimination and persistent gender inequality, and individual legal rights have not been enough by themselves to change this. Policies and practices that seem neutral can have a significantly different effect on women and men, often contributing to greater gender inequality.

Thus the Equality Act 2006 was set up to address the rights of people in relation to gender and to improve this situation, both for men and for women. The Act introduces Gender Equality. This, like the Disability Equality Duty, brings general and specific duties with regard to rights and provisions in terms of gender, including different needs and the right not to be discriminated against in employment or services.

The General Duty; The act provided the duty to promote gender equality (known as the general duty). Applicable to Public Authorities from April 6, 2007, this brings enhanced statutory duties for demonstrating due regard for eliminating unlawful discrimination and harassment and for promoting equality of opportunity between men and women in all functions including the need to:

- Eliminate unlawful discrimination and harassment that is related to a person's gender.
- Promote equality of opportunity between men and women and other people
- Promote good relations between men and women
- Promote positive attitudes towards women, encouragement of participation by women in public life and the taking of steps to meet women's needs.
- Meet expectations and responsibilities around employment, goods, services and facilities provisions.

Policies and services will have to be designed from the start with gender equality needs in mind. The weight given to this will be dependant on how relevant it is to a particular function e.g. services are designed with full recognition of gender diversity and the men and women who may wish to use them, with flexibility to ensure satisfactory access and outcomes for all groups.

Gender Re-assignment under the Gender Equality Duty – There are special discrimination provisions applicable for any person who intends to, is undergoing, or has undergone gender reassignment. A transsexual is an individual whose gender identity does not match the sex that was assigned to them at birth and has sought hormonal and/or surgical treatment in order to bring their body into alignment with their gender identity.

Transsexual people are protected from discrimination and harassment on the grounds of gender reassignment in employment and vocational training under the

existing sex legislation. Public Authorities are legally required to take this into account when addressing parts of the gender duty which requires the elimination of unlawful discrimination and harassment.

The Specific Duties – The Gender Equality Duty

The Equality Act 2006 amends the Sex Discrimination Act to place a statutory duty on all public authorities, when carrying out their functions, to have due regard to the need to eliminate unlawful discrimination and harassment, and to promote equality of opportunity between men and women (including transgender men and women). The new statutory duty applies to employment and the provision of goods, facilities and services for men and women¹.

Those who have to comply are; Public authorities of all kinds. According to the Human Rights Act, this is 'any person who has functions of a public nature' and; Private sector organisations or voluntary bodies when they are carrying out public functions.

The Specific Duties are intended to support progress in delivering the general duty and a key obligation is to prepare and publish a Gender Equality Scheme (GES) by April 30, 2007. This involves; devising and publishing a 3 year plan showing how the organisation intends to fulfil its general duty and its specific duties; proper and proactive involvement of stakeholders e.g. service users / employees (men and women and transgender men and women) in the development of this scheme and that the scheme is reviewed at least every 3 years. (See more details in section 1.3 which follows)

The Equal Opportunities Commission (EOC) have worked with the Government in ensuring the implementation of standards and produced a Code of Practice for implementation of Gender Equality in December 2006. The Commission (EOC) also advise, educate and have the power to enforce civil rights in relation to Gender Equality.

The General and Specific Duties with regard to Gender and Pay

The GES must specifically consider the need to include objectives to address the causes of any gender pay gap. Under Equal Pay legislation discrimination is unlawful. Thus the general duty includes a requirement to have due regard to the need to eliminate such discrimination and the specific duties require listed public authorities to consider the need to have objectives that address the causes of any pay differentials between men and women that are related to their sex. Added to this is the specific duty to collect and make use of information on gender equality in the workforce and the duty to assess the impact of policies and practices.

Thus to be compliant with this requirement, listed Public Authorities have to demonstrate that they have adequately undertaken a process of determining whether

¹ The gender equality duty is currently limited by existing UK law which protects transsexual people from discrimination in work and vocational training but not in regards to goods, facilities and services. In December 2007 the European Goods and Services Directive extends the duty to the provision of goods, facilities and service, and in the disposal and management of premises to transgender people - although the EOC recommends public authorities implement them right away as a matter of good practice.

their policies and practices are contributing to the causes of the gender pay gap. This should be done in consultation with employees and others, including trade unions.

1.1 Gender Equality Scheme – The Purpose

Under this Scheme Public Authorities will be moving towards having all their policies and services designed from the start with the needs of men and women and transgender men and women in mind and also with a view to valuing the experiences of and enabling the contributions people of different gender bring to society e.g. that services are designed with full recognition of diversity of gender, of the people who might wish to make use of them and the need for flexibility to ensure satisfactory access and outcomes for all groups and that employment policies recognise and incorporate the diverse needs of the gender population recognising the variety of needs that exist.

The gender equality duty also places the focus on assessing the possible social exclusions and disadvantages experienced by people of different gender and looks to challenge any barriers, stigmas and other forms of discrimination that prevent people of different gender from participating fully within society. This means consideration must be given to assessing any attitudinal, structural and environmental barriers within the implementation of this duty.

For the British Library and other public authorities, this has meant going beyond existing gender rights legislation to challenge any institutional discrimination and be active in promoting gender equality by having due regard to the need to:

- prepare and publish a gender equality scheme, in consultation with employees, service users and other stakeholders, showing how it will meet its general and specific duties and setting out its gender equality objectives
- consider the need to include objectives to address the causes of any gender pay gap in formulating its overall objectives
- 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 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 first scheme must be published by 30 April 2007.

The Library has explained how these areas have and will be included within the scheme in their statement of intention (section 1.4), which also directs you to links within the main document.