

# **The Public Sector Equality Duty: Guidance for UNISON Branches**

## **Contents**

- 1. Introduction**
- 2. Section 1 - The General Equality Duty**
- 3. Section 2 - The Specific Equality Duties**
- 4. Section 3 – Negotiating and Organising**
- 5. Section 4 – Procurement**
- 6. Section 5 – Equality Impact Assessments**
- 7. Section 6 – Enforcement**
- 8. Section 7 – Links to further information**

## Introduction

In recent years there have been a number of important developments in legislation which have sought to tackle discrimination and promote equality in the workplace. For UNISON members it has been particularly significant that these changes have often focused on the public sector workplace and the delivery of public services. Over the last decade legislation has evolved in order to place “general” and “specific” duties onto public sector organisations. The key duties which have previously been in force are:

- the Race Equality Duty which came into force in May 2002
- the Disability Equality Duty which came into force in December 2006
- the Gender Equality Duty which came into force in April 2007.

Following the introduction of these duties public authorities became legally obliged to promote equality of opportunity and eliminate discrimination for service users and staff, rather than waiting for individuals to complain.

Although welcoming these changes UNISON has always taken the position that discrimination on any grounds is unacceptable and that the principles underpinning the race, disability and gender duties should also be applied to all areas of discrimination and inequality.

For that reason UNISON has given its qualified support to the Equality Act 2010, which has introduced a single equality duty. This Act combines previous equality legislation in England, Scotland and Wales and includes the introduction of a new Public Sector Equality Duty which replaces the separate duties covering race, disability and gender. One of the objectives of the Act is to simultaneously combine the public sector equality duties into one duty *and* extend the areas of discrimination covered.

To achieve this, the new duty covers a series of “protected characteristics”. People who share these characteristics are regarded as being members of certain “protected groups”. The protected characteristics are:

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

The duty also covers marriage and civil partnership, but only for certain parts of the duty.

The new duty requires public sector employers (and their contractors) to consider employees and service users in all the protected groups. The timescale for the introduction of the duty is set out in the table below:

### **Key dates for the implementation of the new single equality duty**

5 April 2011 - the general duty came into force (and the specific duties in Wales)

31<sup>st</sup> January 2012 - information demonstrating compliance with the duty must be published (except for schools)

6 April 2012 – school to publish information demonstrating compliance with the duty

6<sup>th</sup> April 2012 - equality objectives must be published (including schools)

In general, it is hoped that these changes will help public service trade unionists to reduce discrimination and inequality in the workplace and in the delivery of services. Our experience to date has shown that where UNISON branches and paid officials actively use the duties and the equality impact assessment/review process, we can make a real difference. Having an easy to understand single duty can support UNISON's work to represent members in a number of ways. For example, if your employer is proposing to contract a service out, you can use the duty to argue for an equality impact assessment. (see section 5)

Some private contractors and community and voluntary sector providers have shown that they lack a commitment to equality (or an ignorance of equality legislation) and you can use this to argue for the service to stay in-house. Where employers are proposing changes to working patterns, or pay and conditions, they must comply with the equality duty by consulting with staff and unions first. If the changes are likely have a detrimental impact on particular groups of staff, unions can argue for changes on equality grounds.

#### **How this guidance works**

This guidance is designed to help branches negotiate and organise around the Public Sector Equality Duty. Section 1 describes the general duty and sets out how public authorities should fulfil it. Section 2 covers the specific duties, although this section will only be completed in a revised version of this guidance once the specific duties for Scotland and England have been confirmed.

This guidance also offers advice on how branches can use the duty to organise, recruit and represent members.

#### **A note on devolution**

The general equality duty came into force on 5 April 2011 in England, Scotland and Wales. The Scottish Parliament and the Welsh Assembly have powers to vary the specific duties.

The Scottish Government has said it "expects to undertake further consultation and to make Regulations to impose new specific duties later in the year." The specific duties came into force in Wales on the 5th April 2011. Draft regulations for the specific duties were laid before the National Assembly for Wales on 8<sup>th</sup> March 2011. On the 29<sup>th</sup> March the National Assembly for Wales unanimously approved the new specific duties for Wales. Further information on this can be found [here](#).

The Equality and Human Rights Commission is planning to publish its non-statutory guidance relating to Scotland and Wales later in 2011.

This Public Sector Equality Duty does not apply to Northern Ireland. For guidance on equality issues in Northern Ireland visit the regional website here: <http://www.unison.org.uk/northernireland/> or contact your regional officer.

## **Section 1 - The General Equality Duty**

So far we have referred to an “equality duty”, but in reality the single duty is broken down into two separate parts. That is the “general” equality duty and the “specific” equality duties. This section of the guidance will explain how the general equality duty works.

The general equality duty means that public sector employers must give “due regard” to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation
2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
3. Foster good relations between people who share a protected characteristic and those who do not.

The third of these three aspects of the general equality duty is new and could have important implications in the workplace. It’s important for UNISON reps to highlight the introduction of the duty for employers to foster good relations in this way

Public authorities also need to have due regard to the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership status. Public Authorities are not required to promote equal opportunities or foster good relations for this characteristic.

### **What does “due regard” mean?**

In order to comply with the general duty a public sector employer must give due regard to these objectives. But what does that mean? Essentially it means that they have to give consideration (and show that they have given consideration) to the impact that a decision or change in policy has on groups that share a protected characteristics. For example, if an employer were to introduce a new pay structure at a local level they have an obligation to mitigate any disproportionately negative impact that this would have on one of the protected groups. In order to proceed with any change in policy which leads to an adverse affect for a protected group, they would need to have a solid, objective and reasonable justification for going ahead.

One of the ways in which an organisation can show that it has given due regard to these issues is to carry out an equality impact assessment (EIA). For more information on EQIs turn to section 5.

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| <b>Guidance from the Government Office for Equalities</b> |
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“... consideration of equality issues must influence the decisions reached by public bodies – in how they act as employers; how they develop, evaluate and review policy; how they design, deliver and evaluate services, and how they commission and procure from others.”<sup>1</sup>

### **Equality schemes**

One of the disappointing aspects of the new legislation is that public sector organisations will no longer be required to publish an equality scheme. Previously, they were required to publish a document which showed how they were planning to promote equality on the grounds of race, disability and gender.

### **The General Duty as a positive duty**

It's important for UNISON reps to impress upon employers that the general duty is not asking the employer to avoid being “caught out” in failing to carry out certain tasks. Instead the general duty requires organisations to think about how they can make a positive contribution to equality. That could mean offering training to employees to promote better relations in the workplace or ensuring management procedures are sensitive to the needs of protected groups.

It's important to understand that the general duty should always be the primary objective for the employer. The specific duties, which we will come to in a moment, are only there to contribute towards complying with the general duty.

### **Example of how a University is seeking to comply with the General Duty**

A University has a disabled staff network. The network meets 3-4 times a year. All new starters are informed of the network in a letter prior to starting employment. The network has an active role in policy development, and has formal links to the University equality steering group. It has a representative on the new build working group to give advice on accessibility and buildings. The University is currently working to develop a mentoring scheme whereby disabled staff in the network receive mentoring training and then mentor managers, support managers to better support disabled staff. The network is not a replacement for trade union self organisation but is complementary to this and helps to embed disability equality as a central organisational objective.

### **Who does the general duty apply to?**

Under the new act the general equality duty applies to named organisations listed in the Equality Act itself. This includes most public sector employers such as healthcare trusts, local councils, schools, and government departments. It is important to understand that these bodies cannot outsource their responsibilities to meet the general duty. For example an NHS Trust which has outsourced its hospital cleaning services to a private company is still responsible for ensuring that the general duty is complied with. If the duty is breached, either in relation to its staff or service users, then the NHS Trust could be subject to enforcement action.

From April 6<sup>th</sup> the General Duty applies to staff working for police authorities. However, reforms to the structures of policing in the UK mean that this situation may change in the future. When Police Authorities are abolished in 2012, staff working for them will lawfully be employed by Chief

<sup>1</sup>Equality Act 2010: Public Sector Equality Duty. A Quick Start Guide for public Sector Organisations  
<http://www.homeoffice.gov.uk/publications/equalities/equality-act-publications/equality-act-guidance/equality-duty?view=Binary>

Constables. UNISON is campaigning for changes to the Police Reform Bill to ensure that Chief Constables are covered by the Equality Act, but it remains to be seen if these changes will be made.

The general duty applies to contractors who are in the process of “exercising public functions.” That means private companies, charities, social enterprises and other voluntary organisations delivering public services must also give due regard to the three objectives of the general duty when delivering services. For example, if a private company is managing staff in the revenue and benefits office of a local authority, that private company must also comply with the general duty in relation to that activity.

So when a service is contracted out *both* the contractor *and* the public authority that commissioned the service have to give due regard to the three principles of the General Duty.

#### **The Essential Guide to the Public Sector Equality Duty, (EHRC, 2011)**

“Whenever one of your functions is carried out by an external supplier, you remain responsible for meeting the equality duty. This means building equality considerations into the appropriate stages of your commissioning and procurement processes, where relevant and proportionate. This is also the case for contracts let under private finance initiatives. Staff involved in commissioning will need to have a good understanding of the equality duty.”

A small number of public authorities are listed as being covered by the general equality duty only in relation to certain functions.

## **Section 2 - The Specific Equality Duties**

The specific duties are, as the name suggests, a more detailed set of actions which are intended to help public authorities comply with the general equality duty. The coalition government had announced in March 2011 that they would revise the original draft regulations on the *specific* duties for England. In July 2011 Ministers announced the details of the new specific duties for England.

The specific duties will require public authorities to publish:

- equality objectives (at least every four years)
- information to demonstrate their compliance with the equality duty (at least annually)

The information to demonstrate compliance must specifically include information relating to the employees of public authorities (unless they have less than 150 staff). However, public sector employers will have the freedom to decide what information they publish. Information demonstrating compliance with the duty must be published by 31<sup>st</sup> January 2012 (except for schools, who have until April 2012) The first equality objectives have to be published by 6<sup>th</sup> April 2012, including schools.

It is very disappointing that the specific duties do not *require* public authorities to carry out an Equality Impact Assessment (EIA) prior to making changes to procedures, policies and practices. EIAs have enabled the public, trade unions and under-represented groups, to scrutinise and influence public authorities. EIAs have become simple to operate, widely accepted and defined by the courts and have helped drive improvements in public policy. UNISON argues that EIAs are still the best way

of complying with the General Duty when changes are made. See the section on EIAs for more information on this.

The Government has said that the intention of the revised specific duties is to move from a “process driven approach to a focus on transparency” and “a shift in approach – a focus on performance not process”. It certainly worth noting that the new specific duties in England also remove from public authorities the need to:

- Publish details of engagement when determining policies
- Carry out engagement when determining equality objectives
- Undertake equality analysis when reaching decisions
- Provide information considered when undertaking such analysis.

Neither the Government Equalities Office nor the Equality and Human Rights Commission (EHRC) have yet published updated guidance on new specific duties. This guidance will be updated as soon as this happens.

Nevertheless, Branch reps should ensure that they are involved in and consulted on the drafting of an employer’s equality objectives. Branch reps may know of particular equality issues in the workforce which should be prioritised by the employer. Getting this issue included in the equality objectives is a good way of ensuring that this issue remains in the forefront of senior managers’ minds. For example, if there is a particular problem with female workers not getting access to training and development opportunities, the branch could ask for this to be included in the equality objectives.

It is also important to ensure that the employer collects and publishes appropriate information to demonstrate that they are complying with their objectives. This must not become a tick box exercise in which the employer publishes information about protected groups but does not seek to integrate this information with their objectives. If an objective is to increase access to training and development for female workers, then information which allows this to be monitored should be collected. Has the number of training courses taken by women workers increased? Are female workers taking up development opportunities? Has the gender distribution across pay grades changed? Monitoring this information can, in the end, be crucial to holding an employer to account on their stated objectives.

You can see the written ministerial statement on the revised specific duties here:

<http://www.homeoffice.gov.uk/publications/about-us/parliamentary-business/written-ministerial-statement/equality-duties-regs-wms/?view=Standard&pubID=904605>

You can see the Equality Act 2010 (Specific Duties) Regulations 2011 here:

[http://www.equalities.gov.uk/pdf/Equality%20Act%202010%20\(Specific%20Duties\)%20Regulations%202011.pdf](http://www.equalities.gov.uk/pdf/Equality%20Act%202010%20(Specific%20Duties)%20Regulations%202011.pdf)

The Welsh Assembly has different specific duties for devolved public authorities in Wales and the Scottish Parliament will do the same for Scottish authorities. The Welsh duties are more prescriptive and like the specific duties that applied under the race, disability and gender duties (the Scottish ones are likely to be similar). If you are dealing with a devolved public body, check the websites for EHRC Wales and EHRC Scotland for more information and guidance on these specific duties.

### **Section 3 – Negotiating and Organising**

UNISON is at the forefront of campaigning for equality in the workplace and in local communities. Supporting equality is not only showing solidarity with people facing discrimination, but should also be used to demonstrate the collective strength of the union, helping it to grow.

The new duty requires significant changes from employers, meaning branches must be involved. There is an opportunity for lead branch officers, branch equality officers, self-organised groups, activists and members to work together to strengthen branch organisation. Employers also need to be held to account to show they are delivering equality for our members.

### **Branch Organising**

The introduction of a new, single Public Sector Equality Duty is an ideal opportunity to recruit and organise new members. An organising approach should be used to involve a whole new group of members in the mainstream of the branch. At this time of deep cuts to public spending, the introduction of this new Public Sector Equality Duty is a welcome reminder of the importance of equality in the workplace and in the delivery of public services. UNISON reps will play a crucial role ensuring that managers and policy makers in the public sector do not see measures which promote equality as an easy area to cut.

There are different ways of organising and getting involved in creating a more equal and fair workplace. Different roles mean there are different opportunities for engagement:

### **Members**

The branch should encourage members to participate and use the union to express their collective view. Members are also service users and part of the local community. Their experiences and contacts can be used to build alliances between UNISON and the local community. Branches might consider carrying out a branch audit to find out more about the affiliations and activities of their members outside of the workplace.

### **Stewards**

Stewards are at the front line in using the duty an opportunity to recruit, gain new activists, and promote UNISON as leading the fight for equality. They need to give members a helping hand to become involved and encourage them to think how the duty might improve their working lives and service delivery. Branches should ensure that they recruit stewards from all sections of the workforce, particularly shifts and worksites where members might have difficulties making their views known.

### **Branch Equality Coordinators**

The equality duty means the Branch Equality Coordinator role is as important as ever. They can to make sure branches take up the duty as a bargaining and organising issue, and should encourage members to go on UNISON's equality training courses. They can help set up self-organised groups and be key advisors in negotiations. As unions are crucial to effective engagement in agreeing equality objectives, employers should be encouraged to make facility time available to branch Equality Coordinators. Think about setting up working groups of members to monitor the implementation of the equality duty around particular issues.

“Example: An employer introduces sexual orientation monitoring for all employees. Very few staff complete the information and some – both gay and straight - complain about being asked, saying it is a private matter. Branch Equality Coordinators could use this as evidence that there is lack of understanding amongst non-LGB staff of why sexual orientation equality matters in the workplace

and a lack of confidence from LGB staff. Equality Coordinators may wish to encourage the employer to raise awareness in the workplace about their commitment to LGB equality, including engaging with LGB staff.”

### **Branch Self-Organised Groups**

Authorities have to consult staff, which means this is an ideal time to launch branch self organised groups (SOGs). Wherever possible SOG reps and equality reps should negotiate for paid leave to meet and discuss equality objectives and review the progress of the employer in promoting equality. SOGs should also help the branch to publicise the duty, and campaign and organise around equality and other issues, and recruit to new members. The experiences and understanding of members is a key resource for negotiations good agreements. Experience shows that if more people are involved in drawing up collective agreements, more people will understand them and the greater impact they will have.

### **Union Learning Reps**

Many inequalities stem from a lack of access to training or education. Union Learning Representatives have an important part to play by identifying training needs to create a level playing field.

### **Senior branch officers**

Senior officers should lead the branch in negotiating collective agreements on the duty (see below) but there are also other opportunities. The requirement for authorities to engage with community groups means the branch can make contact with service users – these can become useful connections in later campaigns to defend jobs and services against cuts.

Branch equality co-ordinators, equality reps and new self-organised groups may also need support from more experienced officers to get up and running.

### **Branch Negotiating**

There are a number of key areas for collective bargaining. Branches should be specifically involved in:

- Drawing up equality objectives
- Ensuring Equality Impact Assessments remain a key tool in showing that equality issues have been given “due regard”
- Determining the criteria for Equality Impact Assessments
- Jointly assessing existing policies and functions
- Jointly assessing new policies and functions
- Receiving equality monitoring information on an annual basis
- Jointly reviewing progress towards achieving equality objectives

## **Section 4 – Procurement**

### **The essential guide to the public sector equality duty (EHRC)**

“Bodies carrying out public functions: The general equality duty also applies to other organisations who exercise public functions. This will include private bodies or voluntary organisations which are carrying out public functions on behalf of a public authority...The company would, however, only be covered by the general equality duty with regard to its public functions, but not for other work, like providing security services for a supermarket.”

Public authorities must ensure that their procurement policies and practices comply with the general and specific equality duties. A public authority cannot abdicate responsibility for meeting the duty by 'contracting out' its functions. Where a public authority's functions will be carried out by an external supplier, both the authority and the contractor have individual responsibility for meeting the duty.

Public authorities enter into large numbers of contracts with private and voluntary sector organisations for goods, works, services and staff. With the intensification of out-sourcing public authority functions in recent years the damage that poor procurement processes can do to equality in the work-place has become huge.

As a result of the Equality Duty, Public Authorities must build the promotion of equality into the procurement process, regardless of who is carrying them out. UNISON branch officers and stewards need to get involved with the details of these processes to ensure public sector employers and private contractors exercising public functions comply the Equality Duty.

Generally speaking, UNISON officers and stewards should be putting pressure on employers to develop procurement processes which:

- At the 'options appraisal' stage (before even going out to tender), favour the service delivery option which most fully complies with meeting the equality duty, specifically including the option to keep services "in house".
- A comprehensive impact analysis should be carried out at each stage of the options appraisal process. For example, each option appraisal should be analysed to assess its impact for each group of members covered by the protected characteristics. In addition, an analysis should also be carried out in respect of services and impact for service users covered by the protected characteristics. Branches should challenge disproportionate adverse impact for each of the protected group covering employees and service users.
- ask contractors detailed questions about equality policies and practices in the tender documentation. Employers should be obtaining tangible evidence that the contractor supports and promotes equality in their employment and service delivery practices.
- include equality criteria when contract compliance indicators are being drafted.
- make it clear that the contractor is responsible for meeting the Equality Duty in the delivery of the services being contracted out.
- Include ongoing monitoring of outcomes from the contract, including evidence that equality is being improved.
- Monitor evidence of cases taken to Employment Tribunals and evidence of employers and contractors employment and health and safety practices.

Branches should encourage their employer to adopt UNISON's model procurement policy ([www.unison.org.uk/acrobat/MPA\\_FV.doc](http://www.unison.org.uk/acrobat/MPA_FV.doc)).

Branch Officers and Stewards can also take advantage of the UNISON Bargaining Information System (BIS) and other resources available to UNISON Bargaining Support. Knowing the background of a contractor can be crucial when it comes to trade union involvement in the procurement process. To get access to this information e-mail [bsg@unison.co.uk](mailto:bsg@unison.co.uk) or call 0207 551 1402.

## Section 5 – Equality Impact Assessments

Equality Impact Assessments (EIAs) played a key role in implementing the old equality duties. They are a basic procedure and were a legal requirement for authorities covered by specific duties – the Race duty had required them since 2002.

There is a perception among some public sector employers that, they will now be able to “get away” with avoiding EIAs in the future. This is not the case. It is true that the revised Government Equalities Office guidance states that the general duty does not impose a legal requirement to conduct equality impact assessments. However, assessing the equality impacts of any policies, procedures and proposals remains the most reliable way of demonstrating that equality issues relating to people with protected characteristics have been given due regard prior to a change. Case law from the previous duties indicates impact assessments should be done before decisions are made and that a written record is useful for demonstrating compliance. Case law also suggests that decision makers must be explicitly made aware of the Equality Duty before the decision is made.

### Case Study: Birmingham City Council

In a recent case *R (Rahman) v Birmingham City Council* the judge found that the manner in which funding was terminated for legal advice services, run by three voluntary sector organisations, was unlawful. In the decision making process the Council failed to adequately consider their Public Sector Equality Duty.

Importantly the case demonstrated that the preparation of an Equality Impact Assessment cannot be taken on its own be a mark of whether the decision is lawful or not. The results of an EIA, if done, must be brought to the minds of the decision makers who should evidence how they have considered its conclusions. The requirement of the Public Sector Equality Duty is to “have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in the course of developing policies and delivering services.” One way of having due regard is to prepare and consider an EIA, but as this case demonstrated, decision makers have to demonstrate how they take into account this wide duty and not focus solely on the EIA.

Equality Impact Assessments aim to:

- Ensure no groups are disadvantaged on equality grounds by an authority's decisions and activities
- Identify where public authorities can promote equality of opportunity

Where a negative impact or a missed opportunity to promote equal opportunities is identified, the public authority must consider mitigation of the policy or practice.

EIAs do not have to be an onerous process, and will depend on the size of the authority. Smaller authorities like schools can use small-scale, flexible processes. However they all need good information; consultation with staff, service users and trade unions; and having staff in relevant posts with the skills to be able to analyse the implications for equality.

### **Preliminary and full assessments.**

A preliminary 'screening' is useful to decide if a full impact assessment is needed. This should look at the aims of the policy or practice (this should be straightforward) and existing evidence. Even if there is little data - action may still be required.

The screening should consider if:

- The policy is a major one in terms of scale or significance for the authority's activities;
- or even if the policy has a minor one, it is likely to have a major impact upon equalities. A policy which has an extremely negative impact on a small number of people is more important than one with a minor impact on more people.

A full impact assessment should involve the public authority:

- Considering available data and research; consulting on the policy; assessing its impact
- Considering measures which might mitigate any adverse impact, and alternative policies
- Arriving at a decision
- Publishing the results of the impact assessment
- Arranging for future monitoring.

#### **Tips for branch involvement in Equality Impact Assessments:**

- Branches will be in a stronger position to influence the process if they are represented on the steering group overseeing impact assessment but we should not sign off impact assessments – that's the employers legal responsibility
- Our role is to check the employer carries out a robust assessment which is evidence based and has a proper analysis of the impact and an action plan
- Branches should press for cuts proposals to be a high priority for impact assessment and to be fully impact assessed (as opposed to screening only)
- Many aspects of the impact assessment process should not be contentious. Differences are most likely to arise over the depth and adequacy of the employers analysis – whether the statistical data shows adverse impact and if so – where there is objective justification.
- If branches have doubts about the data - or the employers action based on it – its best to reserve your position and seek advice from the union. For example we need to make sure we do not introduce or extend inequality as a result of a cuts package.

The authority should look at the different needs, experiences, concerns or priorities of different protected groups, and involve people from protected groups in conducting the assessment. Unintended consequences of a policy should also be considered.

It is particularly important that EIAs are carried out ahead mergers, shared services reorganisations , redundancies or other restructuring

**Example – Employment:** An NHS Trust reviews its employment of disabled people and finds visually impaired people are under-represented. Following consultation with staff, unions and with groups

representing blind and partially sighted people the authority sets itself a target of doubling the number of visually impaired people applying for posts within the next five years. It targets people by advertising on radio and in other media which the local organisation of blind and partially sighted people has recommended. Regular monitoring and applicant feedback to assess the effectiveness of these plans is undertaken.

## **Section 6 – Enforcement**

Tackling equality is designed to bring about change in organisations. Even though it may not be possible to address and resolve all issues public authorities should begin to tackle the most significant problems.

Resource implications will come into this, because a major deep-seated inequality may take a lot of staff time and money to correct. But if a major issue is ignored it could lay the public authority open to enforcement action.

Appropriate weight must be given to all the elements of the duty, and they must also include services and functions that are contracted out.

### **Monitoring and enforcement**

The Equality and Human Rights Commission is responsible for enforcing the equality duty. The main purpose of this work is to “promote compliance, improve standards, and collate and promote best practice.”

The EHRC say that to promote compliance with the duty they will “use a range of strategies to promote compliance. This may include: working with organisations to ensure that remedial or preventative action is taken; giving specific advice or guidance to an organisation; meeting with senior managers and other staff...We will work to promote compliance as the preferred option and we will usually only take formal enforcement action where efforts to encourage compliance have failed.”

However, the EHRC does have a number of statutory powers to enforce the general and the specific duties.

EHRC statutory powers to enforce the duties:

- undertaking assessments under section 31 of the Equality Act 2006, to assess to what extent a body has complied with the equality duty.
- They can issue compliance notices in respect of a failure to comply with the general equality duty or the specific duties. These notices require public authorities to provide information about how they will comply with the general or specific duties, including what steps they will take.
- They can intervene in legal proceedings related to the duty by providing the Court with expert advice to help the Court reach its decision.
- They can enter into a formal agreement with an organisation under section 23 of the Equality Act 2006 if we believe that they have breached an equality duty. A section 23 agreement usually includes developing and implementing an action plan to address any breach and prevent future breaches and will require reports on progress on the action plan to the Commission.

Also, if a public authority doesn't comply with the general equality duty, its actions or failure to act can be challenged through an application to the High Court for judicial review. An application could be made by a person or group of people with an interest in the matter, or by the Commission. If branches are concerned that employers are not meeting their obligations under the Public Sector Equality Duty they should refer to UNISON's *Equality Duties Protocol*. This protocol is being urgently updated to reflect the new situation and will be re-issued imminently.

## **Section 7: Links to further information**

### **Government Office for Equalities Guidance on the Equality Act 2010**

[http://www.equalities.gov.uk/equality\\_act\\_2010.aspx](http://www.equalities.gov.uk/equality_act_2010.aspx)

### **Equality and Human Rights Commission Guidance on the Public Sector Equality Duty:**

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

### **UNISON's Equality web pages:**

<http://www.unison.org.uk/equality/index.asp>

### **Equality and Human Rights Commission Guidance: Using the equality duties to make fair financial decisions**

<http://www.equalityhumanrights.com/guidance-and-codes-of-practice/using-the-equality-duties-to-make-fair-financial-decisions/>

### **UNISON's Equality Bargaining Advice**

<http://www.unison.org.uk/bargaining/equalities.asp>

### **Full text of the Equality Act 2010:**

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

### **Specific Duties Draft Regulations, Wales:**

<http://wales.gov.uk/consultations/equality/equalityact2010/;jsessionid=R6pgMbbRYctsTVQQBvpZGWNqnC8GJsMgzSzbYQjD2bkmLbhN6XTn!-42672990?lang=en>

### **The NHS equal pay toolkit**

<http://www.nhsemployers.org/EmploymentPolicyAndPractice/EqualityAndDiversity/EqualityAct/NHSEqualPayToolkit/Pages/TheNHSEqualPayToolkit.aspx>

### **Equality and Diversity Forum, Evaluation of the Equality Act 2010: Evidence Dossier**

(Includes a helpful summary of all research and key cases on each element of the Equality Act)

[http://www.edf.org.uk/blog/wp-content/uploads/2011/08/EDF\\_Dossier\\_250711.pdf](http://www.edf.org.uk/blog/wp-content/uploads/2011/08/EDF_Dossier_250711.pdf)

