



The Public Sector Equality Duty

Guidance for Surrey Schools as Employers
2015

One-Page Speed Brief

The **public sector equality duty** came into force on **5th April 2011** and applies to public bodies, including maintained schools and academies.

What is the public sector equality duty?

The equality duty is a statutory duty intended to support good decision-making by ensuring public bodies consider how different people will be affected by their activities, helping them to deliver policies and services which are efficient and effective, accessible and meet different people's needs. The **three aims** of the equality duty are to:

- **Eliminate unlawful discrimination**, harassment and victimisation and any other conduct prohibited by the Equality Act 2010;
- **Advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
- **Foster good relations** between people who share a protected characteristic and people who do not share it.

What are the 'Protected Characteristics'?

'Protected characteristics' are defined as the following:

Age, disability, gender reassignment, marriage and civil partnership (relevant to the first aim only), pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The 'specific' equality duties:

The general equality duty is supported by **specific equality duties** which came into force on 10th September 2011. These require public bodies, including schools, to:

- **publish relevant, proportionate information** demonstrating their compliance with the equality duty at least annually, including:
 - For schools with at least 150 staff: information relating to employees who share protected characteristics
 - For all schools: Information relating to people who are affected by the school's policies and practices who share protected characteristics (e.g. pupils).
- **set themselves specific, measurable equality objectives** at least every four years.

The deadline for the first publication of this information was **6th April 2012** for maintained schools and academies (31st January 2012 for other education establishments, such as sixth form colleges). It should be in a place and format that is easy to access both internally and by members of the public.

Quick Checklist:

- ✓ Are you required to publish employee information (schools/employers with 150+ staff)? If yes, have you done so? If yes, has it been updated annually since April 2012?
- ✓ Have you published equality objectives? If so, have you considered equality issues that might relate to the workforce or only those that might relate to pupils?

If you have not yet considered workforce issues or data in relation to the public sector equality duties then this guidance is intended to provide the information and resources you need.

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A: Introduction to the Public Sector Equality Duty

1. Introduction and Purpose of Guidance

The purpose of this guidance document is to provide information about the public sector equality duty ('PSED') – the general and specific duties, including to whom they apply – and the range of steps schools and colleges can take in order to comply with these duties from the perspective of their role as an 'employer'. The document is based on the range of guidance produced by the Equality and Human Rights Commission (EHRC) and available to download from their website at <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>. It is intended to assist schools and colleges to meet their legal duties under Section 149 of the Equality Act 2010 (the public sector equality duty) and the Equality Act 2010 (Specific Duties) Regulations 2011.

Please note that this guidance has been produced by the Education Personnel team at Babcock 4S and therefore focuses solely on the implications of the PSED for employers. It does not cover the responsibilities of schools/colleges in their capacity as education providers which is extensively covered elsewhere in guidance available via Babcock 4S, the EHRC and the DfE.

2. Application of Guidance

This guidance is relevant to all maintained schools (whether or not they are legally the employer), pupil referral units, academies and further and higher education institutions in England. Independent schools are not subject to the PSED in respect of their employment functions though they may be in respect of any functions of a public nature they may have. They are, of course, obliged to comply with the Equality Act 2010 in other areas, as all employers are.

For ease, reference is made throughout this guidance to 'schools' but it can be deemed to apply to all the establishments listed above. Where there is a need to make a distinction between different categories of institution this is made clear in the text.

3. The General and Specific Equality Duties

The PSED is made up of a general equality duty supported by specific equality duties which are intended to aid the performance of the general equality duty. The distinction is necessary partly because some public bodies are subject to the former but not the latter. Schools must comply with both. These arrangements replace the previous equality duties (which specifically related to three strands only: race, disability and gender).

3.1 The General Equality Duty: What Is It?

The general equality duty came into force on 5th April 2011 and requires schools, in the exercise of their functions, to have due regard to the need to:

- **Eliminate unlawful discrimination, harassment and victimisation** and other conduct prohibited by the Act.
- **Advance equality of opportunity** between people who share a protected characteristic and those who do not, involving in particular having due regard to the need to:
 - Remove or minimise disadvantages suffered by people due to their protected characteristics;
 - Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people;
 - Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.
- **Foster good relations** between people who share a protected characteristic and those who do not.

What are the 'Protected Characteristics'?

'Protected characteristics' are defined as the following:

Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

For the first general equality duty aim only (not the other two) it also includes marriage or civil partnership status.

3.2 The General Equality Duty: What Is Its Purpose?

The broad purpose of the general equality duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities, including schools. If schools do not consider how a function might affect different groups in different ways, it may not meet its own objectives. The general equality duty therefore requires organisations to consider how they could positively contribute to the advancement of equality and good relations. It requires equality to be considered in

- decision-making;
- the design of policies;
- the delivery of services;

and for these issues to be kept under review.

From the employment perspective, it makes good 'business' sense for a school to ensure that it engenders a supportive working environment and draws from the broadest range of talent when recruiting.

3.3 The Specific Equality Duties: What Are They?

To meet the requirements of the specific equality duties, a school has two ongoing tasks to perform:

Publish Equality Information	<p>Publish information at least annually* to demonstrate its compliance with the <u>general equality duty</u> relating to people who share a protected characteristic: however in relation to staff specifically, only schools with at least 150 employees are <u>required</u> to publish employee data (they may, of course, do so voluntarily).</p> <p>Where a trust employs staff across a number of schools (e.g. a multi-academy trust) staff numbers should be added together to establish if the threshold is met).</p> <p><i>* this information must be produced at least annually from the first date of publication, the deadline for which was 6th April 2012 for maintained schools, academies and PRUs and 31st January 2012 for other education institutions.</i></p>
Publish Equality Objectives	<p>Prepare and publish one or more <u>specific and measurable objectives</u> that it thinks it needs to achieve to further any of the aims of the general equality duty. This should have been achieved by no later than 6th April 2012 and published again at least every four years after that.</p>

Both the equality information and the equality objectives must be published **in a manner that is accessible to the public**. They can be published as a separate document, or within another document such as an annual report or a business plan.

3.4 The Specific Equality Duties: What Is Their Purpose?

The purpose of the specific duties is to help schools and other public authorities to enhance their performance of the general equality duty, by improving their focus and transparency. Compliance with the specific equality duties is not however, of itself, sufficient to demonstrate that the general equality duty has been met.

3.5 Meeting the Requirements of Equality Law

There is no prescribed approach that schools must take in order to comply with their legal obligations. Case law suggests that, in order to demonstrate due regard to the general equality duty aims, a school should ensure that:

- Those who exercise its functions must be aware of the general equality duty's requirements. Compliance with the general equality duty involves a conscious approach and state of mind. General regard to the issue of equality is not enough to comply.
 - The general equality duty is complied with before and at the time a particular policy is under consideration, as well as at the time a decision is taken. A school cannot satisfy the general equality duty by justifying a decision after it has been taken.
1. It consciously thinks about the need to do the things set out in the general equality duty as an integral part of the decision-making process. Having due regard is not a matter of box ticking. The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
 2. It has sufficient information: it should consider whether it has enough information about the effects of the policy, or the way a function is carried out, on the aims set out in the general equality duty.
 3. It takes responsibility for complying with the general equality duty in relation to all its functions to which the general equality duty applies. Responsibility for the general equality duty cannot be delegated to external organisations that are carrying out functions on its behalf.
 4. It consciously thinks about the need to do the things set out in the general equality duty, not only when a policy is developed and decided upon, but when it is being implemented. The general equality duty is a continuing one, so schools may need to review policies or decisions in light of the general equality duty, for example if the make-up of the staffing body changes.
 5. Although schools are not legally required to keep records of its consideration of the aims of the general equality duty in making decisions, it is good practice to do so and it encourages transparency. If a school is challenged it will be difficult to demonstrate that it has had due regard to the aims of the general equality duty if records are not kept.

4. Putting the General Equality Duty into Practice

All the key areas summarised below are covered in more detail in the remainder of this guidance:

Identifying the relevance of the general equality duty to functions	Schools are required to consider whether, and the extent to which, the general equality duty is relevant to the functions it carries out. In this document we are concerned specifically with employment: the general equality duty is highly relevant in relation to most or all of the protected characteristics.
Collecting and using equality information	Having due regard to the aims of the general equality duty requires schools to have an adequate evidence base for their decision-making which can be developed by collecting and using equality information. Data collection can help schools to identify equality priorities and understand the impact of proposals and decisions on people with protected characteristics. There is no prescription about what equality information should be collected, although schools will often hold a wide range of information about their employees already.
Policy and decision-making	The general equality duty requires schools to have due regard to the aims of the general equality duty when making decisions and setting policies. To do this, it is necessary for decision-makers to understand the potential impact of their decisions on people with different protected characteristics and to identify potential mitigating steps to reduce or remove adverse impacts. This should help to ensure that the policy is fully effective for different groups of people.

	<p>The general equality duty does not set out a particular process for assessing the impact on equality. Having due regard to the aims of the general equality duty is about informed decision-making, not about carrying out particular processes or producing particular documents. This means that you do not need to produce a document called an equality impact assessment, but organisations may choose to do so if they have found it to be helpful. In practice, you can choose to extend an existing impact assessment approach to all of the protected characteristics; or you can develop a new approach for your organisation. If you decide to adapt your existing approach, ensure that it meets all the requirements of the general equality duty. Take a proportionate approach to assessing impact on equality. This means taking an approach that is suitable to the size, resources and functions of your school, and to the relevance of the decision or policy to equality and good relations.</p> <p>Assessing impact on equality involves using good equality information and analysis, and doing this at the right time, as part and parcel of your decision-making.</p> <p>Case law from previous equality duties states that it is good practice for bodies covered by the equality duties to keep records of their considerations of the aims of the general equality duty when making decisions. If a body is challenged it will be difficult to demonstrate that it has had due regard if no records have been kept. Schools must publish equality information to demonstrate compliance with the general equality duty. In practice, written assessments of impact on equality, or the relevant sections of decision documents are likely to be a key component of this information.</p> <p>Assessing the impact on equality is an ongoing process that does not end once a policy has been agreed or implemented. Your assessment will have helped you to anticipate and to address the policy's potential impact on different groups. However, the actual impact of the policy will only be known once it has been introduced.</p>
Engagement	<p>Engagement with people (in this case employees) with different protected characteristics is another part of gathering an evidence base for decision-making, to fulfil the aims of the general equality duty by understanding the impact of decisions on different people.</p> <p>Engagement should be proportionate to the size and resources of the school, as well as to the significance of the policy. This means that the greater the impact of your policy on equality of opportunity and good relations and the greater risk of it being discriminatory, the more likely you are to need significant employee engagement.</p>
Outsourcing services	<p>If the school has functions carried out by an external supplier, the school remains responsible for meeting the general equality duty.</p>

5. Putting the Specific Equality Duties into Practice

5.1 Publishing equality information

Schools must publish information to demonstrate compliance with the general equality duty. This must be done at least annually from the first date of publication. In relation to employees specifically, schools and colleges with fewer than 150 employees are exempt from the requirement to publish information on their employees.

Schools that are exempt (less than 150 employees): Although there is no requirement to publish information on employees, such schools may still need to collect workforce information to be able to understand the impact of their policies and practices on their workforce. They may also need to

publish some information about the impact of their employment functions on people with different protected characteristics in order to demonstrate compliance with the general equality duty.

Schools that must publish staffing information (at least 150 employees): The information must include information relating to people who share a protected characteristic who are its employees, or affected by its policies and practices. The information must be available in a manner that is accessible to the public. It can be published separately or within another document.

Publishing equality information (whether on a mandatory or voluntary basis) should enable service users, staff, the EHRC, regulators and other interested parties to assess the equality performance of your organisation. It will help you to explain how and why you have reached certain conclusions and made certain decisions. It will provide a clear picture of how you have complied with the general equality duty and it will make your decision-making more transparent.

Publishing information is not simply a matter of being transparent about what information you have (i.e. the breadth and quality of the information you hold), although this will be useful. More importantly, it is about demonstrating how you have used your information to have due regard to the aims of the general equality duty (i.e. how you have used it in making a particular decision or in the way you have delivered your work).

The information published will depend on the size of the school but will usually fall into two categories:

- a) Information to identify equality issues – such as equality monitoring information;
- b) Information about steps taken to demonstrate due regard to the aims of the general equality duty – such as records of decision-making or details of policies to address equality concerns.

The requirement to publish equality information at least annually does not mean that you need to wait until the end of the year to publish individual sets of information. It is good practice to publish information when it is available to keep it up-to-date.

The specific duties do not require equality information to be published in any particular document. It can be published on a dedicated page on the school's website or within a relevant document, such as a school improvement plan. If it is included in a larger document, this should be clearly signposted in the document and on your website. **It will be easier for you to demonstrate compliance with the specific duties if your information is clearly labelled, easy to find, and in one place on your website.** The specific duties require published equality information to be 'accessible to the public'. The EHRC also recommends that organisations consider making it available in accessible formats or in different languages, as appropriate.

5.2 Publishing Equality Objectives

A school (regardless of size or number of employees) must publish **one or more equality objectives** that it thinks it needs to achieve to further the aims of the general equality duty. This should have been done initially by 6 April 2012 and then at least every four years thereafter. The objectives must be specific and measurable. They must be published in an accessible format as a separate document, or in another document. More information about publishing equality objectives can be found in Part B.

6. The Role of Governing Bodies

Schools will be better equipped to manage compliance with the general and specific equality duties if they have internal checking systems in place. These can be proportionate to the school's size and resources, and will work best if supported at senior levels. Examples might include:

- Introducing a standing item for governing body meetings on the equality duty.
- Convening an internal working group with representation across departments, chaired by a member of the senior management team.
- Ensuring that relevant policies are only signed off when it is clear that the general equality duty has been complied with.
- Equality work being led by the headteacher/principal to ensure it is put at the heart of decision-making.
- Identifying a senior staff member to oversee work in this area, and provide them with specialist training which they can cascade throughout the school.

7. Training

Case law has established that compliance with the general equality duty requires public bodies to be conscious of their obligations and to take a planned approach to meeting their obligations. Taking steps to help staff, decision-makers and contractors understand the general equality duty, including their own obligations, will help the school to develop this conscious state of mind. Training for those with a governance role will help them to embed equality into their scrutiny and decision-making.

8. Monitoring and Enforcement

The EHRC is responsible for monitoring and enforcing the public sector equality duty and have a number of statutory powers to do so. These include undertaking assessments to determine whether a body has complied with the equality duty. They can issue compliance notices in respect of a failure to observe the general equality duty or the specific duties. These notices require public bodies to provide information about how they will comply, including what steps they will take. The EHRC can also intervene in legal proceedings related to the public sector equality duty by providing the Court with advice to help it reach its decision. The EHRC can enter into a formal agreement with an organisation if they believe that the organisation has breached the general equality duty. Such agreements usually include implementing an action plan to address any breach and prevent future breaches. If a public body doesn't comply with the general equality duty, its actions or failure to act can also 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, including the EHRC.

B: The Specific Equality Duties – Setting Objectives

1. Introduction

Under the specific equality duties, schools are required to prepare and publish **one or more specific and measurable objectives** that it thinks it needs to achieve to further any of the aims of the general equality duty. This should have been achieved initially no later than 6th April 2012 and the requirement is that objectives are published at least every four years thereafter. Objectives may relate to any aspect of the school's services or functions identified as priorities: there may not, therefore, necessarily always be an objective relating to employment or the workforce specifically.

This section of the guidance explains the purpose of equality objectives and how they can be used to improve performance of the general equality duty and provides advice on identifying, setting and publishing equality objectives that specifically relate to employees.

2. The Requirement to Publish Objectives

As noted above, schools are required to publish at least one objective, the achievement of which will further any of the aims of the general equality duty. The original deadline for this was 6th April 2012 with the requirement that objectives are published again at least every four years thereafter. Objectives must be specific and measurable and published in such a manner that they are accessible to the public. There is no set number of objectives required. Schools should take a proportionate approach and therefore the number of objectives they set and their level of ambition will be different, depending on their size and functions.

3. The Purpose of Setting Objectives

The purpose of setting equality objectives is to help public bodies to better perform the general equality duty. Equality objectives are intended to help focus attention on the priority equality issues within an organisation and to deliver improvements in policy-making, service delivery and employment, including resource allocation. Ideally, the development of equality objectives should be carried out as part of the normal planning processes of the school.

Objectives and the progress made towards them are likely to be an important piece of evidence to demonstrate compliance with the general equality duty and to help the public assess the school's equality performance. It is therefore good practice for the leadership team and governing body to be involved in the choice of equality objectives and to receive updates about the progress the school has made.

4. Preparing and Developing Objectives Relating to the Workforce

- Use information you have gathered in relation to employees (qualitative or quantitative) as a starting point to develop equality objectives. Does this evidence highlight a need to:
 - Eliminate discrimination, harassment and victimisation?
 - Foster good relations?
 - Advance equality of opportunity?
- Engage with staff groups and trade union representatives to help you identify priority areas for setting objectives in relation to staff.
- Think about the proportion of people with particular characteristics you employ and the quality of their experiences and practical outcomes for them.
- The purpose of setting objectives relating to employment is to achieve improvements in the way you employ staff.
- Senior management and the governing body should be involved at an early stage in the development of objectives.
- To help prioritise objectives consider questions such as:

- Does information at a local or national level highlight this as an important equality issue?
- Are these priorities for members of staff themselves?
- Would this objective stretch the school to perform better on equality issues?
- How would achieving this objective improve the experience for people with a relevant protected characteristic?
- How does this objective contribute to the aims of the general equality duty?
- What are the views of your staff and any other relevant stakeholders?
- How many people with relevant protected characteristics are affected by the issue, and what is the severity of the effect?

You might find it useful to publish information about who you engaged with, along with a summary of the evidence that came from this engagement, and an explanation of how it informed the formulation of your objectives.

5. Writing Objectives

Specific and measurable objectives are explicit about:

- the policy, function or practice they relate to;
- the people that are affected;
- the outcome they seek to achieve;
- why they have been selected; and
- how success will be measured (e.g. by how much or by how many; qualitative as well as quantitative evidence can be used to measure progress).

A recognised way to set effective objectives is to ensure that they are S.M.A.R.T. (Specific, Measurable, Achievable, Realistic and Time-bound).

Objectives which are ambitious and which focus on the biggest equality challenges that the school faces will have the greatest impact in furthering the aims of the general equality duty. Interim objectives can be used to contribute towards medium and longer term plans and strategies.

6. Publishing Objectives

The specific duties do not require equality objectives to be published in any particular document. Schools may choose to publish them within their school improvement plan or similar documents or on a dedicated equality page on their website. If they are included in a larger report, they should be clearly signposted on the website. The objectives should be presented clearly, and in a way that the general public will understand.

The specific duties require published equality objectives to be 'accessible to the public'. The EHRC recommends that public bodies consider publishing them in alternative accessible formats and in different languages, where proportionate and appropriate. All organisations are required to make reasonable adjustments for disabled people, so schools should consider whether they need to publish objectives in formats that are compatible with a computer's accessibility features, or that can be read by accessibility programmes that provide screen reading facilities for people with sight or physical mobility impairments.

Demonstrating compliance is easier if information is accessible. As well as thinking about the format of publication, clearly labelling it and keeping it together in one place on your website can help.

The minimum standard expected would be that your objectives are published in PDF (Portable Document Format), and accessible Word format* on your website. Take account of any feedback you receive about how accessible your objectives are, and act on it when it is reasonable to do so. Although the specific duties do not require you to provide background information, your objectives are likely to be more transparent and easy to understand if you publish a short narrative to introduce them, setting out what information (including engagement) you used to reach your decisions and what you hope to achieve through them.

* You can find out more about making Word documents accessible on <http://office.microsoft.com/en-gb/word-help/creating-accessible-word-documents-HA101999993.aspx>

7. Measuring Progress

Regularly reviewing progress against your objectives will help you to judge whether more effort or resources are required to achieve them. It will also help you to decide whether you need to revise the objectives, or change the actions you are taking to implement them. It is a good idea to update senior management and the governing body on progress made against agreed objectives, in the same way you would for other performance information, as well as to review risks to the achievement of your stated objectives as part of helping the school to deliver in the way it has set out to do.

Publishing information relating to the progress the school is making towards its objectives will help to demonstrate compliance with the general equality duty.

C: The Specific Equality Duties – Equality Information

1. Introduction

All schools, as public authorities, are expected to understand the impact of their policies and practices on people with protected characteristics in order to demonstrate due regard for the aims of the general equality duty. Collecting and analysing equality information is an important way to develop this understanding.

The specific equality duties, however, place an additional specific requirement on schools to publish information to demonstrate their compliance with the general equality duty. This information must be published initially no later than 6th April 2012 (for schools and pupil referral units; all others by 31st January 2012) and then at least annually thereafter. This must include information relating to people who share a relevant protected characteristic who are:

- People affected by its policies and practices e.g. service users (in all cases)
- Its employees (if the school has at least 150 employees)

As with equality objectives, this information must be accessible to the public.

In determining whether the threshold of 150 employees is met, bodies that run more than one school (e.g. multi-academy trusts) and employ all the staff in those schools should add those numbers together rather than consider numbers on a site-by-site basis. Many multi-academy trusts will therefore meet this threshold. Maintained schools with delegated powers should count only the number of staff employed within that school, even where the local authority is legally the employer.

2. Schools/Bodies Employing Less than 150 Employees

As noted in the introduction, there is no requirement under the specific equality duties to publish information relating to employees (though information about service users must still be published).

This does not mean, however, that data collection does not need to be undertaken at all. Such schools will need to ensure that enough workforce information is collected and used to effectively meet the general equality duty. They may also need to publish some information about the impact of their employment functions on people with the different protected characteristics in order to demonstrate compliance with the general equality duty. This might include, for example, an assessment of the impact of recruitment procedures on equality.

3. Benefits of Collecting and Using Information

Collecting and using equality information can help you to:

Identify key issues	<ul style="list-style-type: none"> • Understand the impact of your policies, practices and decisions on the workforce and people who might potentially join the workforce (e.g. potential job applicants), and thereby plan them more effectively. • Assess whether you are discriminating unlawfully when carrying out any of your functions as an employer. • Identify what the key equality issues are for your workforce.
Assess performance	<ul style="list-style-type: none"> • Benchmark your performance and processes against those of similar organisations, nationally or locally.
Take action	<ul style="list-style-type: none"> • Consider taking steps to meet the needs of staff and potential staff who share relevant protected characteristics. • Identify if there are any actions you can take to avoid discrimination and harassment, advance equality of opportunity or foster good relations. There may be a range of simple but effective things you could do to achieve this.

- Make informed decisions about staffing policies and practices which are based on evidence about the impact of your activities on equality.
- Develop workforce equality objectives to meet the specific duties.
- Have due regard to the aims of the general equality duty by ensuring that staff have appropriate information for decision-making.

4. What to Collect on Employment

It is likely that you will want to develop an equality profile of staff to help you to understand key equality issues in your workforce, including any evidence of pay gaps or occupational segregation (this is where staff with certain characteristics are over-represented in particular roles, e.g. women employed as cleaners). In addition, it is likely to be useful to collect and consider information, appropriately disaggregated, about:

- recruitment and promotion
- numbers of part-time and full-time staff
- pay and remuneration
- training
- return to work of women on maternity leave
- return to work of disabled employees following sick leave relating to their disability
- appraisals
- grievances (including about harassment)
- disciplinary action (including for harassment)
- dismissals and other reasons for leaving.

Wider information

You may wish to consider relevant national reports to get ideas about equality priorities for employment and service provision for your sector or organisation. For schools this might include data from the School Workforce Census and any other information or reports published by the Department for Education containing equality data.

There are also specialist equality organisations, such as the Runnymede Trust, Stonewall, the Fawcett Society, Press for Change, Age UK and RADAR (the disability network), which regularly produce studies and reports which can be of use.

5. Developing Your Information

5.1 Assess What Information You Already Have

- Establish what information you already have (both qualitative and quantitative)
- What format is it in?
- How accurate is it?
- To what extent is it disaggregated (i.e. separated out by protected characteristic)?
- How relevant is it to the aims of the general equality duty?

5.2 Addressing Gaps

- Have you got enough, and the right type, of information to enable you to give rigorous consideration to the aims of the general equality duty across all your functions?
- Where gaps are identified:
 - Prioritise efforts on those gaps that are most relevant to the aims of the general equality duty;
 - Consider the importance and relevance of the information.
- Remember that you can use qualitative information, such as consultation responses, feedback or equality impact assessments to fill in gaps or interpret quantitative information.

- If you have identified highly relevant information that is missing and which is not routinely collected you should consider what systems could be set up to do so or find other ways of gathering sufficient information.

5.3 Conducting Staff Surveys or Questionnaires

If you use, or are planning to use, staff questionnaires or surveys, ensure that these are relevant, proportionate and cost-effective. If there is any national/local data against which you intend to benchmark, make sure that questions are harmonised to facilitate comparisons.

Any such questionnaire/survey should be accompanied by information about why the information is collected, and how it will be used. It should also make clear how the information will be stored, and who can access it. Where information can be linked to an individual, it must only be stored with their written permission, so you will need to include a section for their consent. The Information Commissioner's Office website provides advice on data protection:

http://www.ico.gov.uk/for_organisations/data_protection.aspx

6. **Collecting and Monitoring Sensitive Information**

Collecting information in relation to some protected characteristics such as sexual orientation can be sensitive. Before deciding whether to put in place arrangements to gather relevant information through equality monitoring consider:

- Why you want the information. Only collect information that is relevant and that will actually be used.
- Whether the information you need is already available from other sources. Is there national data you could use, or are there are other measures that you could use instead?
- How easy or difficult it will be to get complete information.
- How its potential accuracy and completeness will affect its usefulness.
- The process you might use to gather information and how you will ensure the data remains confidential and anonymous.

Where response rates to questionnaires are routinely low, being clearer about why you are collecting the information, how you intend to use it, and how it is helping improve your performance may improve return rates. It is also important that you do not say, or imply, that monitoring questions are compulsory.

Disability	Disaggregating information simply in terms of whether people are disabled or not is unlikely to give a very complete picture of the disabled people within your workforce. It may be more useful (in larger schools/multi-academy trusts) to gather information about different impairment types. It is usually unlawful to ask any job applicant about their disability or health until after they have been offered a job. However, for the purposes of equality monitoring, you can still ask questions about disability and health that is stored in an anonymous way which is not linked to their application form. Remember that it is important to explain clearly how this information will be processed, as disclosing certain impairments (such as mental health conditions) can be difficult for many people.
Sexual Orientation	Monitoring of sexual orientation is new for many organisations. Some staff may feel uncomfortable declaring their sexual orientation. Evidence shows that as organisations improve their systems and create a culture of trust, response rates increase over time. Further information about sexual orientation monitoring is available in the Office of National Statistics (ONS) guidance for the National Statistics harmonised question relating to sexual identity: http://www.ons.gov.uk/ons/rel/ethnicity/measuring-sexual-identity---evaluation-report/2010/index.html

	<p>However, some organisations consider that the approach set out here can lead to under-reporting, particularly among older people. ‘Improving sexual orientation monitoring’ published by the EHRC explores the case for asking people about sexual orientation, the issues it raises, how questions might be framed more effectively, and the importance of anonymity and confidentiality. It suggests appropriate questions to ask and how the information you collect can be used:</p> <p>http://www.equalityhumanrights.com/uploaded_files/research/improving_sexual_orientation_monitoring_v6_22-12-10.pdf.</p>
<p>Gender Reassignment</p>	<p>Gender reassignment is a process of transitioning from one gender to another, and it is a protected characteristic in the Equality Act 2010. The Act refers to someone who intends to undergo, is undergoing or has undergone gender reassignment. A person is not required to undergo medical treatment in order to be protected by the Act.</p> <p>Monitoring the numbers of transsexual people is a very sensitive area and opinion is divided on this matter. Many transsexual people have been bullied, harassed and marginalised, and may fear that disclosure of their status could negatively affect them. Using national reports and engaging with equality organisations may be more appropriate than monitoring in some cases, particularly in smaller organisations like schools.</p> <p>Further information about monitoring transsexual people and example questions is available on the EHRC’s website:</p> <p>http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/collecting_info_gender_id.pdf</p> <p>The Gender Recognition Act 2004 requires that people who hold a gender recognition certificate must be treated according to their acquired gender. It is a criminal offence to disclose their status. A transsexual person may consent to you disclosing the information if they decide it is in their interests to do so, but the consent must be explicit. It must not be assumed. Transsexual staff or should not be routinely asked to produce a gender recognition certificate as evidence of their legal gender.</p>
<p>Religion or Belief</p>	<p>Monitoring religion or belief can also be a sensitive issue. Varying levels of commitment to particular religions or beliefs can also make it difficult to interpret any information gathered. For example, there may be significant differences between someone who loosely identifies themselves as a Christian but who does not practice the religion, and a person for whom Christianity influences most or all aspects of their lives. Remember also that the Equality Act 2010 applies equally to people with no religious belief, like atheists, and people with non-religious philosophical beliefs, like humanists.</p>
<p>Equal Pay</p>	<p>The Equality Act 2010 gives women and men the right to equal pay for equal work. To comply with the Act, public authorities’ pay systems and employment terms should be designed and implemented without sex discrimination or bias. An effective way to identify gender pay gaps, for example, is by undertaking an equal pay audit for gender. Equal pay audits can also be used to assess discriminatory pay gaps for other protected characteristics, such as race or disability.</p> <p>An equal pay toolkit is available on the EHRC’s website with advice on conducting pay audits and a series of practical checklists to help address the more common causes of unequal pay in the workplace, such as starting pay and pay progression. For many schools, pay and conditions are established at local authority level and therefore equal pay audits are not usually likely to be appropriate at a school-level where pay merely reflects the scheme in place.</p>

However to the extent that schools retain discretion over setting pay and over pay progression, some level of monitoring of those discretionary decisions and their impact will continue to be appropriate.

For the Equal Pay Toolkit, see:

<http://www.equalityhumanrights.com/private-and-public-sector-guidance/employing-people/managing-workers/equal-pay/equal-pay-audit-toolkit>

7. Publishing Information

7.1 General

Publishing equality information should enable service users, staff, the EHRC, regulators and other interested parties to assess the equality performance of your school. It will help you to explain how and why you have reached certain conclusions and made certain decisions. It will provide a clear picture of how you have complied with the general equality duty and it will make your decision-making more transparent.

Publishing information is not simply a matter of demonstrating the sufficiency of your equality evidence base. More importantly, it is about demonstrating **how you have used your evidence base to have due regard** to the aims of the general equality duty (i.e. how you have used it in making a particular decision or in the way you have delivered your work).

7.2 What to Publish

The EHRC would normally expect to see the following information for schools/bodies with 150 staff or more:

- the race, disability, gender and age distribution of your workforce at different grades, and whether they are full or part time;
- an indication of the likely representation on sexual orientation and religion and belief, provided that no-one can be identified as a result;
- an indication of any issues for transsexual staff, based on engagement with transsexual staff or equality organisations;
- gender pay gap information;
- information about occupational segregation;
- grievance and dismissal information for people with relevant protected characteristics;
- complaints about discrimination and other prohibited conduct from staff;
- details and feedback of engagement with staff and trade unions;
- quantitative and qualitative research with employees e.g. staff surveys;
- records of how you have had due regard to the aims of the duty in decision-making with regard to your employment, including any assessments of impact on equality and any evidence used;
- details of policies and programmes that have been put into place to address equality concerns raised by staff and trade unions.

The EHRC also suggests that it is useful for bodies to also publish disaggregated information on:

- return to work rates after maternity leave;
- success rates of job applicants;
- take-up of training opportunities;
- applications for promotion and success rates;
- applications for flexible working and success rates;
- other reasons for termination, like redundancy and retirement;
- length of service/time on pay grade;
- pay gap for other protected groups.

Your information will usually fall into two main categories:

- 1) **information to identify equality issues** such as equality monitoring information about employees.
- 2) **information about steps taken to have due regard** to the aims of the general equality duty, e.g. any records about how you had due regard in making certain decisions, information that was considered in that decision-making (including engagement), consideration of steps to mitigate adverse impacts, or details of policies to address equality concerns.

Asking yourself the following questions may be useful when deciding what information is most useful to publish:

- What was the evidence on which you relied in decision-making about a policy which is likely to have a significant impact on staff with any of the protected characteristics?
- Is it clear how the information contributed to decision-making about a policy which is likely to have a significant impact on staff with any of the protected characteristics?
- Can the information be used to benchmark a key issue?
- Can the information be used to identify a trend relating to a key function of your organisation?
- Does the information highlight a key equality issue for your organisation?
- Will the information be useful for external stakeholders to enable them to assess your performance on equality across key functions for all protected characteristics?

Although the specific duties do not require you to provide contextual information, your information will be more accessible if you point out any key trends, or if you provide a short narrative to introduce the information that you publish.

A Note on Proportionality

It is understood and expected that large organisations, such as government departments, will need to publish a much more detailed account of its equality considerations and performance than small schools. Primary schools, for example, may only need simple methods for publishing information, such as by publishing a short evidenced account of its equality priorities and work, with an indication of key trends and issues. A large, multi-academy trust, on the other hand, would be expected to reflect its wider responsibilities and range of functions within its information.

7.3 When and Where to Publish

As previously noted, the initial deadline for publishing equality information (where the school has at least 150 employees) was 6th April 2012 for maintained schools, academies and PRUs, and 31st January 2012 for other education institutions.

The equality information does not have to be in any particular format or document. It could be in an annual report or on a dedicated page on the school's website, for example. If it can be found within a larger report, it should be clearly signposted on the website so that the general public can easily see where to find it.

7.4 Format of Information

Published equality information must be 'accessible to the public'. The EHRC recommends that information is made available in accessible formats or in different languages, as appropriate.

The Public Sector Transparency Board's Public Data Principles suggest that information should be published in open, standardised and re-useable formats. This usually means publishing it in PDF, accessible Word, or open document formats. Take account of any feedback you receive about how accessible your information is, and act on it when it is reasonable to do so.

7.5 The Data Protection Act

When processing and publishing equality information you must consider the privacy and compliance implications of the Data Protection Act 1998.

Sometimes, it might be possible to identify individuals directly from monitoring information. This may be particularly the case for information that relates to small numbers of people. Where the number of staff with a particular protected characteristic is fewer than 10, and the information is 'sensitive personal information' that might lead to individuals being identified, it is good practice to replace the number with an asterisk. Where you do this, check that it is not possible to work out this missing data from the other information that you publish. Other ways to prevent individuals from being identified include, for example, using ranges or bands, or by disaggregating your published information less.

D: The General Equality Duty – Policy & Decision-Making

1. Introduction

All public authorities, including schools, are required to have due regard to the aims of the general equality duty when making decisions and when setting policies. **Understanding the effect of your policies and practices on people with different protected characteristics is an important part of complying with the general equality duty.** This can help you to consider whether the policy will be effective for all sorts of different people and to identify any negative impacts or potential unlawful discrimination, as well as any positive opportunities to advance equality. Identifying these areas may help you to develop practical courses of action to mitigate negative consequences or to promote positive ones.

The general equality duty does not set out a particular process that public authorities are expected to follow. It is up to each authority to choose the most effective approach for them, which will vary depending on the size of the organisation, the functions they carry out, and the nature of the particular decision.

Whilst this requirement to have due regard to the aims of the general equality duty in relation to decision-making and policies applies across a school's functions and areas of responsibility, for the purposes of this guidance the focus is on employment policies and decision-making.

2. What Should be Assessed?

2.1 Policy/Practice Areas

To fulfil the duty, schools need to understand the impact of their employment policies, practices and decisions on equality. Take a proportionate approach to what you need to consider that is suitable bearing in mind the size, resources and functions of the school. Policy areas can be formal or informal and those to consider will usually include:

- Employment policies and procedures (e.g. recruitment procedures, pay policy);
- Key decisions (e.g. decision to reduce staffing numbers);
- Staffing-related policies that set criteria or guidelines for others to use (e.g. guidelines for appraisers)

2.2 New Policies

For **new** policies, consider their potential impact on equality throughout the process of developing the policy, starting early on. You should not wait for information to be available on the actual impact when it is implemented as this will prevent your assessment from influencing your policy development and decision-making. When data on the actual impact of your final policy does become available, consider it to see if your earlier assessment was correct, and whether refinements to the policy are necessary in light of this information.

2.3 Existing Policies

Existing policies should be assessed when they come up for review, or at any other time when it may be appropriate (such as following a critical audit or Ofsted inspection).

2.4 Policies Developed By Outside Parties

Model HR policies provided by Babcock 4S will have been developed with equality considerations in mind, however the responsibility for considering the potential impact ultimately falls to each individual school where the policy is adopted, as the staff profile, and thus the equality considerations, will not be the same in every establishment.

Policies/procedures that you are required to implement (e.g. because of school staffing regulations or statutory codes of practice) are ultimately the responsibility of the government department that has developed it. You may, however, have choices in how you implement it (for example, there may be certain parameters the school is expected to operate within but the exact

operation of a policy may be determined locally). Consider whether any mitigating measures or alternative ways of delivering your policies are required in order to minimise any negative impacts on people with different protected characteristics.

2.5 Who Should Undertake Assessments?

Assessing the impact on equality is most effective when it is integrated into day-to-day policy-making, business planning and other decision-making arrangements. It should not be an administrative task, but a core part of policy making, in the same way that resources and risk are considered. If you have a designated equality lead, they can provide useful expertise, but it is good practice for people across the organisation to take ownership of this work as an integral part of policy development. Staff will therefore benefit from clear advice and information about the approach they should take when assessing impact on equality in their day-to-day work.

If an assessment of a policy, or elements of it (such as information gathering) are outsourced, it is important to remember that the school is legally accountable for any decisions that are made as a result.

2.6 How Should Assessments Be Undertaken and the Findings Used?

There is no prescribed methodology for assessing the impact on equality. Developing your own method can help you to take a consistent and proportionate approach. The important thing is that the method works for you and enables you to meet your legal obligations.

In practice, you can choose whether to extend an existing approach or method to all of the protected characteristics, or develop a new approach for your school. If you decide to adapt your existing approach, consider reviewing it to ensure that it is effective and proportionate, and that it meets all the requirements of the general equality duty. You no longer need to produce a document called an 'equality impact assessment', but schools may choose to do so where they have found it to be helpful. If challenged, you need to be able to demonstrate how you have had due regard to the aims of the general equality duty.

A good method:

- Is integrated into mainstream policy development and decision-making.
- Has the backing and buy-in of senior staff (including sign-off).
- Draws on relevant equality information and the results of any engagement activity.
- Ensures timely and informed consideration of the aims of the general equality duty, and keeps a record of this.
- Records the reason for any decision that a policy has no relevance to the aims of the general equality duty.
- Requires decision-makers to consider taking steps to mitigate adverse impacts where they have been identified.
- Documents how information about the actual impact of the policy will be used to review the policy in future, if necessary.
- Is regularly reviewed to ensure that it is effective and up-to-date.

The steps on the following pages are a suggested approach rather than a prescribed requirement under the general equality duty. They are based on the legal principles for compliance established by case law under the previous equality duties.

<p>Prioritise Your Policies</p>	<p>Check all of your employment policies to establish their relevance to equality. Employment policies that are likely to be particularly important for advancing equality or fostering good relations would include recruitment policies and pay policies.</p> <p>Equally, some employment policies may not be particularly relevant to equality. The following questions can help you to determine relevance to equality, but this is not an exhaustive list:</p> <ul style="list-style-type: none"> • Who is affected by the policy and how significant is the impact on them? • Is it likely to affect people with particular protected characteristics differently? • Is it a major policy, significantly affecting the treatment of employees or impacting on major decisions which might affect employment? • Does the policy relate to areas of employment or prospective employment that engagement has identified as being important to people with particular protected characteristics? • Does the policy relate to an area with known inequalities? • Does the policy relate to any equality objectives that have been set? <p>If you decide that a policy is not relevant to equality, you should be confident of your reasons for this. The fact that 'no information is available' would not be adequate. Recording your reasons for why a policy is not relevant will help you to increase transparency, encourage engagement and may assist in demonstrating compliance with the general equality duty.</p>
<p>Gather Relevant Information</p>	<p>For policies that are relevant to equality, take steps to gather any basic equality information to help you undertake your assessment. At this time it is useful to bring together the key people who are likely to be involved in developing and implementing the policy.</p> <ul style="list-style-type: none"> • Establish how the aims of the policy relate to equality. • Consider which aspects of the policy are most relevant to equality. This will help you to focus your attention on the most important areas, including the inter-relationship between policies. • Think about which aims of the general equality duty and which protected characteristics your policy is most relevant to. • If you do not have equality information about people with particular protected characteristics, consider whether you need to fill these information gaps. This could mean undertaking some research or engagement work. If it is not possible to collect this in time to inform your assessment, consider how you can increase your understanding in the short term before undertaking more robust research at a later date.
<p>Analyse Your Equality Information</p>	<p>Bringing together your equality information and analysing it will enable you to make a judgement about what the likely impact of the policy will be on equality. Consider what questions will help you to understand the potential impact of the policy on equality. For some policies, the relevant questions will be obvious. For example, when reviewing a recruitment policy for disability equality, it would be useful to establish how many disabled people have applied for posts, how many were appointed, and at what grades. Other information may also be useful, such as how long people stay in an organisation and why they leave.</p> <p>For other policies, the questions will be less obvious, but you may find it useful to ask yourself the following:</p>

	<ul style="list-style-type: none"> • Do policy outcomes and service take-up differ between people with different protected characteristics? • What are the key findings of your engagement? • If there is a greater impact on one group, is that consistent with the policy aims? • If the policy has a negative impact on people with particular characteristics, what steps can be taken to mitigate these effects? • Does any part of the policy discriminate unlawfully? • Will the policy deliver practical benefits for certain groups? • Does the policy miss opportunities to advance equality of opportunity and foster good relations? • Do other policies need to change to enable this policy to be effective? <p>In identifying whether a proposed policy may discriminate unlawfully, consider the scope of discrimination as set out in the Equality Act 2010. As well as direct and indirect discrimination, prohibited acts include (but are not limited to) harassment, victimisation and failure to make a reasonable adjustment.</p> <p>Remember that assessing impact on equality is not simply about identifying, and mitigating or removing, negative effects or discrimination. It is also an opportunity to identify ways to advance equality of opportunity and foster good relations. This may involve using positive action measures within your services or employment, as permitted under the Equality Act 2010.</p> <p>Understanding the impact on equality will be easier for existing policies. In this case you can evaluate the policy in light of existing evidence about actual impact, and make a reasonable and informed judgement about whether the policy is having positive or negative consequences for particular protected characteristics. This will enable you to decide whether you need to amend your policy or introduce measures to mitigate an adverse impact on certain groups.</p>
<p>Make Your Decision</p>	<p>The consideration given to equality in your decision-making should be proportionate to the importance of the policy to advancing equality and fostering good relations. In some cases, the policy will be critical to those aims. In other cases it will be less so. In all decisions, financial and other considerations will inevitably also be important. You should ensure that appropriate weight is given to equality, alongside other considerations. The weight given to different factors can be challenged in court if a decision is deemed to be irrational or based on irrelevant considerations or facts.</p> <p>Your decision-making may mean that your policies will benefit certain groups of people. A strong evidence base and transparency about how you reached your decision should help you to explain and justify your decisions internally and externally. Having your decisions and rationale easily accessible should also help to counter any misconceptions.</p>
<p>Choose a Course of Action</p>	<p>As a result of your assessment, your findings may lead you to take one of the following courses of action:</p> <ul style="list-style-type: none"> • Continue the policy – Your assessment demonstrates that the policy shows no potential for discrimination and you have taken all appropriate opportunities to advance equality of opportunity and foster good relations between people with different protected characteristics. Document the reasons for this and the information you used to make this decision.

	<ul style="list-style-type: none"> • Justify and continue the policy – Ultimately, there may be other factors (such as other policy aims or financial constraints) which make it reasonable for you to decide to adopt the policy despite its adverse equality impact. This is an option where your policy does not unlawfully discriminate, or where the discrimination can be objectively justified. If your decision is challenged, you will need to be able to satisfy a court that you had due regard to the aims of the general equality duty when you reached your decision. It is therefore particularly important that you document your reasons and the information you used to reach them. You may find it helpful to seek legal advice before adopting this approach. • Change the policy – This involves making changes to the policy to ensure it does not adversely affect certain groups of people, or miss opportunities to affect them positively. This can involve taking steps to mitigate adverse impacts, or to bolster or tailor positive ones. It is lawful under the Act to treat people differently in some circumstances, such as putting in place single-sex provision where there is a need for it. Document the reasons for this and the information you used to make this decision. • Stop the policy – If a policy shows unlawful discrimination that cannot be changed or objectively justified, consider stopping it in order to avoid being sued for breach of the Equality Act 2010. Document the reasons for this and the information you used to make this decision. <p>When decisions have been made, the governing body should agree them.</p>
<p>Document Your Findings and Decisions</p>	<p>Documenting the impact of your policy on equality and the decisions you take will enable you to show that the general equality duty is being met. It was held in <i>R (Kaur and Shah) v. London Borough of Ealing</i> that:</p> <p>‘The process of assessments should be recorded... records contribute to transparency. They serve to demonstrate that a genuine assessment has been carried out at a formative stage. They further tend to have the beneficial effect of disciplining the policy-maker to undertake the conscientious assessment of the future impact of [his/her] proposed policy.’</p> <p>In order to meet your obligations under the specific duties it is advisable to keep records of your findings and decisions, which you may wish to publish. These records need not take any particular format. For example, the minutes of a meeting where the issues were discussed and the data presented to attendees might be sufficient.</p> <p>You might like to keep a note of key pieces of information, such as:</p> <ul style="list-style-type: none"> • Your assessment of the relevance of the policy to the different aims of the general equality duty. • Your assessment of the actual or potential impact of the policy, with regard to the aims of the general equality duty. • What equality information you drew on, including from engagement work, in developing the policy and assessing its likely impact on equality. • How this information informed your decision-making, and whether changes were made to your proposals as a result of your assessment of their impact. • How you will review the actual impact after implementation of the policy.

<p>Publish Your Findings and Decisions</p>	<p>Schools need to publish equality information to demonstrate compliance with the general equality duty. In practice, documentation about your assessments of impact on equality is likely to be a key component of this information. You may find it easier to have a structured way of publishing both the findings of impact on equality, and the decisions you made as a result of them, that links with your wider publication of policies and equality information.</p> <p>The EHRC recommends that you publish some records of your equality considerations alongside the relevant policy.</p>
<p>Monitor Actual Impact & Review Policies</p>	<p>Assessing the impact on equality is an ongoing process that does not end once a policy has been agreed or implemented. Your assessment will have helped you to anticipate and address the policy's potential impact on different groups. However, the actual impact of the policy will only be known once it has been introduced. You may find that you need to revise the policy if an unexpected negative impact occurs. You may find it helpful to set out when the policy will be reviewed. Reviewing a policy will involve using the experience gained through implementation to consider any possible adjustments. Issues to be considered include:</p> <ul style="list-style-type: none"> • How and when you will measure the impact of the policy. • When the policy will be reviewed and what could trigger an early revision. • Who will be responsible for monitoring and review. • What type of information is needed for monitoring and when it will be analysed. • How to engage stakeholders in implementation, monitoring and review.

E: The General & Specific Duties – Engagement

1. Introduction

Engagement is a broad term, intended to cover the whole range of ways in which public authorities interact with their service users and their employees, over and above what they do in providing services or within a formal employment relationship. Engagement may be one-off or repeated over a longer period of time. It may be formal or informal and can be focused on a specific issue or on service delivery or workforce issues more broadly.

Engagement in the context of the equality duty should initially be used to support equality information gathering, equality analysis, and objective setting. After this, engagement with stakeholders and service users is valuable for reviewing progress against objectives.

2. What the PSED Requires on Engagement in Relation to the Workforce

There is no specific requirement under the general duty to engage with employees although the general duty to pay due regard to the need to advance equality requires public authorities to have an adequate evidence base for decision-making and therefore engagement can assist with the development of that evidence base.

The specific duties assume the need to undertake engagement by saying that bodies must publish information about the engagement they have undertaken with persons with an interest in furthering the aims of the duty, including while developing their objectives. There is no stipulation with regards to how or when engagement should be undertaken.

3. The Purpose of Engagement

In terms of the workforce, the purpose of engagement is partly to ensure compliance with the duty (by monitoring and evaluating the equality impact of policies or proposals, understanding the particular needs of different sections of the workforce and determining priorities for future objectives) but also to improve the equality information you hold which allows for more effective and efficient policy-making in the first place and ultimately to understand what changes will improve the school to allow it to become a fairer and more attractive employer, less likely to fall foul of employee relations disputes or employment tribunals as a result of unfair or discriminatory practices.

Engagement should be proportionate to the size and resources of your school as well as to the significance of the policy, practice or proposal under consideration. This means that the greater the impact of your policy on equality and good relations, the more likely you are to need significant engagement. Conversely, policies of limited impact may only need limited engagement.

4. How to Engage with Staff

Remember that engagement should be undertaken with those people who have an interest in how the school carries out its activities or who have an interest in a particular policy. In respect of its education and community activities a school is likely to need to engage with a wide and varying group of stakeholders, including staff.

Considering more narrowly the workforce in particular, where issues affecting the workforce are concerned, engagement will consider the views of the workforce and the recognised trade unions, but could include wider groups as appropriate to the issues being considered, such as ex-staff or potential staff (e.g. job applicants, others in the wider community, and/or representative equality groups). Note that, in many cases, you will already have an obligation to consult with staff, either as a legal duty or because it is an area in which consultation is part of a union recognition agreement, or simply because it is good practice to do so. In such cases, equality considerations can form a part of this wider consultation as and where this is appropriate. In other cases, such as determining priorities for equality objectives, there will not be an obligation to consult with staff but it is clearly advisable to do so and to publish the nature of this engagement to demonstrate compliance with the specific duties.

Consider what you want to achieve

For example, do you want to:

- determine what the school's equality objectives in relation to the workforce should be?
- seek views on how equality and good relations might be affected by a specific issue, to help you improve a workforce policy?
- seek specific information, perhaps to close information gaps or to understand why some groups face particular barriers (e.g. because they seem to be underrepresented in the workforce)?
- seek help in preparing a strategy or report on an issue?

It is vital to be clear about the aims of engagement and to share those with the people you are approaching to engage with. You should identify what information you already have and therefore what additional information you require: this will help to focus your engagement activities.

Consider the appropriate method depending on your aims:

Examples of approaches suitable for a school setting might include:

A focus group: a small group of representatives from staff and outside bodies if appropriate (perhaps 6-12 people) to discuss a topic and collect information on preferences and beliefs of the participants. A focus group can meet throughout a decision-making process as necessary.

Staff panel/council: you might already have a representative staff group which can be used to gather information and views, though you need to ensure that the membership of the group is relevant to the matter being reviewed (i.e. that there is adequate participation of affected people).

Staff surveys: you can use written or online surveys to assess views on a wide range of topics or on specific policy areas or proposals. Information gleaned from exit surveys/interviews and from job applicants (on their experiences) are also a useful source of data to inform practices and policies.

Use the information you gather:

The information you gain from engagement is a tool to assist you to make better decisions relevant to the staffing body you have and the job applicants you might want to attract to the school in the future. It is important, therefore that the information is appropriately reflected upon using questions such as:

- How will information from your engagement activity inform your decisions?
- Are any options now off the table?
- What alternatives are there?
- What mitigating action may you have to consider?
- Did the engagement identify any opportunities to promote equality, foster good relations and eliminate any discriminatory practices?

Where views have not been taken on board, it is helpful to explain why, to increase transparency. Remember to review the lessons learned from your engagement work from time to time to establish what has worked well and what could be done better next time.

5. Publication of Engagement Information

You are required to publish the results of any engagement that you conduct related to the public sector equality duty and, in particular, you must publish the results of engagement undertaken when developing your equality objectives. When engagement is carried out in the context of equality analysis, the results of that engagement can usefully be published alongside the assessment documentation.

To be transparent and clear to stakeholders on how their contribution has informed your work, it is good practice to include those you engaged with (being mindful of any privacy concerns), a summary of the key points and how these have been incorporated or why it has not been possible to do so. If the engagement is via a regular review group, you may want to publish the results via your usual methods, for example, minutes of the meeting.

Your aim in publishing information should be to provide as complete and clear a picture as possible of how your organisation has had due regard to the need to eliminate discrimination and harassment, advance equality and foster good relations, and what you have achieved as a result.

F: Developing & Using an Equality Policy for Staff

1. Introduction

There is no specific requirement for schools to have in place an equality policy though clearly, in support of the general equality duties it is advisable to do so to demonstrate an appropriate regard to the three main aims. This policy could encompass workforce matters as well as the school's service provision or it could be separate. There are of course other considerations than just the public sector equality duties in respect of staff: the Equality Act 2010 confers liability on employers for acts of unlawful discrimination committed by employees, either against other employees or against service users in the course of their employment, unless the employer can demonstrate that reasonable steps were taken to prevent those acts. There is also no limit on compensation for unlawful discrimination. The provision of a staff equality policy, combined with appropriate equality considerations when other workforce policies are drafted, therefore encourages staff to understand what their responsibilities are but also helps to demonstrate that the employer gives a high priority to such considerations and will take action, accordingly, where discrimination is identified. The information in this section is adapted from that provided by the Equality and Human Rights Commission's Employment Statutory Code of Practice.

2. Why Have an Equality Policy for Staff?

Apart from furthering the aims of the general public sector equality duties, it has been pointed out above that schools have additional duties as employers. An equality policy, for example:

- can give job applicants and workers confidence that they will be treated with dignity and respect;
- can set the minimum standards of behaviour expected of all workers and outline what workers and job applicants can expect from the employer;
- can be key to helping employers and others comply with their legal obligations;
- can minimise the risk of legal action being taken against employers and workers; and/or
- if legal action is taken, it can be used by employers to demonstrate to an employment tribunal that they take discrimination seriously and have taken all reasonable steps to prevent discrimination.

Equality policies and practices are often drivers of good recruitment and retention practice. Information on these policies on the organisation's website and/or in induction packs, send a very positive and inclusive signal encouraging people to apply to work for the organisation. This can indicate that the organisation seeks to encourage a diverse workforce and that, for example, applicants of any religion or belief and/or sexual orientation would be welcome in the organisation.

3. The Content of an Equality Policy

A basic model equality policy for staff is available from Babcock 4S for adaptation as appropriate by individual schools.

The content and details of equality policies and practices will vary according to the size, resources and needs of the employer. Some schools will require less formal structures and a less comprehensive policy but all employers should identify a time scale against which they aim to review progress and the achievement of their objectives.

A written equality policy should set out the employer's general approach to equality and diversity issues in the workplace. The policy should make clear that the employer intends to develop and apply procedures which do not discriminate because of any of the protected characteristics, and which provide equality of opportunity for all job applicants and workers.

Most policies will include the following:

- a statement of the employer's commitment to equal opportunity for all job applicants and workers;

- what is and is not acceptable behaviour at work (also referring to conduct near the workplace and at work-related social functions where relevant);
- the rights and responsibilities of everyone to whom the policy applies, and procedures for dealing with any concerns and complaints;
- how the policy may apply to the employer's other policies and procedures;
- how the employer will deal with any breaches of policy;
- who is responsible for the policy; and
- how the policy will be implemented and details of monitoring and review procedures.

It is recommended that adopting one equality policy covering all protected characteristics is the most practical approach. Where separate policies are developed, such as a separate race equality or sex equality policy, they should be consistent with each other and with an overall commitment to promoting equality of opportunity in employment.

4. Implementing an Equality Policy

An equality policy should be more than a statement of good intentions; there should also be plans for its implementation. The policy should be in writing and drawn up in consultation with workers and any recognised trade unions or other workplace representatives, including any equality representatives within the workforce.

Employers will be of different sizes and have different structures but it is advisable for all employers to take the following steps to implement an equality policy:

- audit existing policies and procedures;
- ensure the policy is promoted and communicated to all job applicants and workers and agents of the employer; and
- monitor and review the policy.

Employers should promote and publicise their equality policy widely and there are a number of ways in which this can be done, such as in staff handbooks, induction materials, Inset day training sessions and on staff noticeboards. Promoting the policy is part of the process of effective implementation and will help an employer demonstrate that they have taken all reasonable steps to prevent discrimination.

Promoting and communicating an equality policy should not be a one-off event. It is recommended that employers provide periodic reminders and updates to workers and others such as contractors and suppliers. Employers should also periodically review their advertising, recruitment and application materials and processes.

5. Responsibility for the Equality Policy

The policy should have the explicit backing of the governing body and senior leaders. The headteacher/principal is ultimately responsible on a day-to-day basis for ensuring that the policy is implemented, resourced, monitored and reviewed, and that there is regular reporting on its effectiveness to the governing body.

Employers should ensure that all workers and agents understand the equality policy, how it affects them and the plans for putting it into practice. The best way to achieve this is by providing regular training, e.g. for recruiters on how to undertake a fair selection process, with appropriate consideration of equality issues.

6. Monitoring and Reviewing the Equality Policy

Equality monitoring enables an employer to find out whether their equality policy is working. For example, monitoring may reveal that:

- applicants within a particular age group are not selected for promotion;
- women are concentrated in certain jobs or departments;

- people from a particular ethnic group do not apply for employment or fewer apply than expected;
- employees with disabilities are not selected for training and development opportunities.

Equality information has already been considered in Part C of this guidance as it forms part of the general equality duty (and for schools with at least 150 employees, the specific equality duties too). Schools should aim to develop an equality profile of staff which can be used as part of equality monitoring to:

- establish whether an equality policy is effective in practice;
- analyse the effect of other policies and practices on different groups;
- highlight possible inequalities and investigate their underlying causes;
- set targets and timetables for reducing disparities; and
- send a clear message to job applicants and workers that equality and diversity issues are taken seriously within the organisation.

Taking action based on any findings revealed by the monitoring exercise is vital to ensure that an employer's equality policy is practically implemented. There are a number of steps employers can take, including:

- examine decision-making processes, for example recruitment and promotion;
- consider whether training or further guidelines are required on how to avoid discrimination;
- consider whether any positive action measures may be appropriate;
- work with network groups and trade union equality representatives to share information and advice;
- set targets on the basis of benchmarking data and develop an action plan.

7. Reviewing an Equality Policy and Other Employment Policies

It is good practice for employers to keep both their equality policy and all other policies and procedures (such as those listed below) under regular review at least annually and to consider workers' needs as part of the process.

Policies which should be reviewed in light of an employer's equality policy might include:

- recruitment policies
- leave and flexible working arrangements
- health and safety, for example, emergency evacuation procedures
- procurement of equipment, IT systems, software and websites
- pay and remuneration
- grievance policies, including harassment and bullying
- disciplinary procedure
- appraisal and performance-related pay systems
- sickness absence policies
- redundancy and redeployment policies
- training and development policies
- employee assistance schemes offering financial or emotional support

Part of the review process may entail employers taking positive action measures to alleviate disadvantage experienced by workers who share a protected characteristic, meet their particular needs, or increase their participation in relation to particular activities. Employers must also ensure they make reasonable adjustments where these are required by individual disabled workers. The review process can help employers to consider and anticipate the needs of disabled workers.

Appendix: Examples

(For consistency, the format of this appendix is taken from the 2011 Babcock 4S / Surrey County Council document: 'Implementing the Equality Act (2010) and Developing the Single Equality Scheme in Surrey Schools'. In practice schools can choose to adopt whatever format they wish.)

The Specific Duties – a) Information Showing the School has complied with the General Duty

Duty	Actions Taken (<i>examples focussing on workforce issues</i>)
<p>Eliminate conduct that is prohibited by the Act</p>	<ul style="list-style-type: none"> • Evidence from teacher appraisals suggested that there had been an increase in incidents of cyber-bullying of teachers by pupils: as a result, the school behaviour and IT policies have been reviewed and guidance has been produced on how teachers should respond if they become aware of any future incidents. • The school has recently updated the staff equality policy and this now forms part of induction for new members of staff so that expectations of behaviour are clear from the outset.
<p>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</p>	<ul style="list-style-type: none"> • The school's equality profile suggests that teachers from ethnic minorities are underrepresented amongst staff when compared to the profile of the local area: the school has now added a statement to job adverts encouraging applications from ethnic minority groups and has advertised in a broader range of press. The ethnicity of job applicants will be more closely monitored over the next year. • The recruitment and selection policy has been assessed for its impact on potential applicants with protected characteristics and a revised version approved by the governing body.
<p>Foster good relations across all characteristics – between people who share a protected characteristic and people who do not share it.</p>	<ul style="list-style-type: none"> • The school currently has no record of complaints about discrimination and other prohibited conduct made by staff. The school business manager has now started a log to record any future incidents in order to monitor the frequency and type of complaint raised. • Line managers attended a briefing session covering how to respond to allegations of bullying and harassment, including identifying discriminatory conduct. Posters advertising the school's EAP service have been placed on noticeboards and all staff reminded that it is available and confidential.

The Specific Duties – b) Publish Evidence of Equality Analysis Undertaken

Schools should consider how their policies and practices have furthered, or would further the aims of the General Duty. This should include details of the information they considered in conducting that analysis. ***Examples focussing specifically on workforce issues can be found below.***

Policy / Practice Considered	Outline how the policy / practice was evaluated	Outcome of analysis
Recruitment and selection policy	The deputy headteacher reviewed the current recruitment policy taking into account equality considerations; this was discussed with governors on [date] and a revised draft put out for consultation with staff and representatives on [date].	It was noted during the review that the recruitment policy was not fully compliant with the Equality Act 2010; amendments have now been made and a revised policy adopted by governors. The policy now also specifically requires those who undertake recruitment activities to undergo recruitment training first, including consideration of equality issues.
Data collection	The headteacher and school business manager reviewed what staffing data was currently routinely collated and analysed what potentially useful data was missing.	It was established that, although job applicant data was routinely collected, it was not being regularly collated and analysed. A process has now been put in place to ensure that this information is put into a spreadsheet on a termly basis to be reviewed annually by the governors' pay committee.
Equality group	Staff were consulted by line managers on opportunities for equality considerations to be discussed more regularly.	It was established that there was no group of staff or union representatives meeting regularly to discuss equality issues. As a result, a consultative group has been set up to meet termly to discuss staffing-related issues, including equality considerations relating to practices or policies.

The Specific Duties – c) Publish Details of Engagement Undertaken

Examples focussing specifically on workforce issues can be found below.

Individual / Group engaged or consulted with	Outline the nature of the engagement	Summarise outcomes from consultation
All staff	Section on work-life balance and general wellbeing added to appraisal documentation to record individuals' views and experiences as a member of staff.	<p>Whilst no specific equality issues were raised there was some other useful feedback on work-life balance issues generally on which the headteacher will report to governors.</p> <p>Appraisers reported that it was generally a useful discussion to have during the appraisal and the section will remain in place for next year and for mid-year reviews.</p>
Staff survey	The school conducts an anonymous staff survey on an annual basis to record views on a range of topics, including those relating to equality issues.	<p>Access for disabled people in a certain area of the building was raised as an issue; specific feedback on this has been reported to the governors' premises committee to consider possible next steps.</p> <p>No other significant issues were raised this year.</p>
Staff / Union Consultative Group	Termly meetings to discuss staffing-related matters, including those relating to equality issues.	The consultative group is new and has met on one occasion to date; the group was involved in reviewing the revised recruitment and selection policy, resulting in some changes to address the accessibility of the recruitment process for disabled people.

The Specific Duties – d) Set and Publish Equality Objectives

Examples focussing specifically on workforce issues can be found below. In practice, schools will also have equality objectives focussing on their role as education providers so may not have more than one workforce objective amongst their set of objectives. The below are therefore intended as examples covering different workforce equality issues, rather than as an indicator of the number of objectives a school should have.

Characteristic	Objective (Examples shown below)	Success criteria (Examples shown below)	Date for review (Examples shown below)	Responsibility (Examples shown below)
All	To ensure that all staff have access to internal and external CPD opportunities in a fair way to develop their professional skills	<ol style="list-style-type: none"> 1. Appraisal data will show that 100% of appraisees have had a discussion with their appraiser about appropriate CPD. 2. All CPD requests for the start of the [20XX-20XX] appraisal year will have been collated into one report, so that budget implications can be considered by the governors' resources committee. 3. Staff will be surveyed about their views on access to CPD opportunities at the end of the appraisal year with the aim of achieving at least an 80% satisfaction rate. 	End of next appraisal year (October [20XX])	Appraisers, headteacher, governors' resources committee
All	To improve the quality of workforce data from existing staff and ensure there are appropriate mechanisms for collating and reviewing data in future.	<ol style="list-style-type: none"> 1. New monitoring forms to be produced with clearer explanation to staff on why data is collected and how it will be used to try to encourage greater response rates on disability and ethnicity (success criteria: 20% increase in declaration rates on both). 2. Specific member of staff identified and trained to take responsibility for workforce data collection and reporting; first report based on new monitoring forms to be available by [date] 	[Date]	Deputy headteacher, school business manager

Characteristic	Objective (Examples shown below)	Success criteria (Examples shown below)	Date for review (Examples shown below)	Responsibility (Examples shown below)
Disability	<p>To improve website information for job applicants to encourage applications from disabled people who are currently underrepresented in the workforce. Actions identified:</p> <ol style="list-style-type: none"> 1. Information about building accessibility and a contact number for access queries to be available by [date]. 2. Statements declaring commitment to equal opportunities and particularly welcoming applications from disabled people – to be online and in downloadable recruitment resources by [date]. 3. Website administrator to review and produce action plan to address current website's accessibility by [date]. 	<p>5% increase in job applicants with a declared disability within 12 months; Aim: at least 1 job applicant successful in obtaining a post within 12 months.</p>	[Date]	School business manager, website administrator
Race	<p>To redress the underrepresentation of ethnic minority teachers when compared to the proportion of pupils from a minority ethnic background. Actions identified:</p> <ol style="list-style-type: none"> 1. Advertising in media that has the widest community coverage. 2. Recruitment open day to take place by [date], advertised to minority ethnic groups in the local community and beyond. 3. Statement encouraging applications from ethnic minority teachers in adverts. 	<p>Aim: at least one teacher from an ethnic minority group to be successful in obtaining a post by [date].</p>	End of next academic year on [date]	Headteacher, school business manager

The Specific Duties – e) Publication of Employee Data

As noted in the guidance, employee data has to be published for schools with a staff headcount of at least 150. It does not, therefore have to be published for smaller schools, although such schools may still choose to publish data as part of demonstrating compliance with the general equality duty.

The below is an example report format for presenting workforce data. The precise level of content is ultimately for each school to determine: there is no prescription on exactly what staffing information needs to be provided, but it must include information relating to employees who share a protected characteristic or those who are affected by its policies and practices (such as job applicants). The depth of information will depend partly on what data the school currently collates and the size of the school (the smaller the school the greater the aggregation of data is likely to be to avoid identifying individuals). The data provided should reflect any equality priorities but may be proportionate to the size and resources of the school. If workforce data is not routinely collected it is better for a school (which has at least 150 staff) to publish something with the aim of improving the quality of data over future years than not to publish anything at all.

Whilst commentaries on the data are not a specified requirement, providing some commentary on any notable issues or trends identified from the data will show engagement with the data and that it is being actively analysed rather than simply reproduced for compliance purposes.

School Workforce Data

As a school employing at least 150 staff, we are obliged to publish employee data at least annually to demonstrate our compliance with the general public sector equality duties.

To avoid identification of individuals, the school does not publish data which relates to fewer than [3] members of staff. Where information is being withheld for this reason, an 'X' will be shown in the relevant data.

[NB Make sure that, if you need to suppress data for confidentiality reasons, the excluded data cannot be deduced by other information you have made available, e.g. totals. One mechanism to avoid the need to suppress data is to aggregate the data into broader ranges and remove sub-totals.]

Staff Statistical Breakdown

The information in this section is accurate as of [date].

Total Number of Employees

	Total Headcount
Number of employees at the school	

Gender Distribution

	Male		Female	
	Number	%	Number	%
Teaching Staff				
Non-Teaching Staff				

Commentary:

[e.g. The gender distribution of staff at the school reflects the school workforce generally in England. Of the economically active workforce in Surrey, only 46% are female. The school therefore employs a greater proportion of women than are generally active in the wider workforce.]

Distribution of Annual Salary by Gender (FTE)

	<£15k		£16k-25k		£26k-35k		£36k-45k		£46k-55k		>55K	
	M	F	M	F	M	F	M	F	M	F	M	F
Number												
%												

Commentary:

[e.g. At present, the data does not highlight any particular concerns about the distribution of pay amongst male and female employees.]

Ethnic Origin Distribution

The ethnicity of teachers and support staff is shown below:

	White-British		Ethnic Minority Groups	
	Number	%	Number	%
Teaching Staff				
Non-Teaching Staff				

Commentary:

[e.g. The overall proportion of White-British staff is reflective of the local community and other schools in Surrey. However the proportion of teachers from an ethnic minority group is lower than for support staff and the comparative data. The school has reviewed its recruitment strategy for the next academic year with a view to taking positive action to increase this proportion over the next 2 years.]

Age Distribution

	Teachers		Support Staff	
	Number	%	Number	%
16-24 years				
25-34 years				
35-44 years				
45-54 years				
55-64 years				
65+ years				

The number of teachers over 50 currently employed by the school is [X].

Commentary:

[e.g. The age distribution of the workforce when compared to the local population is similar for support staff. However a greater proportion of teachers are aged 45 and over when compared to the local population and the school currently employs more teachers over 50 than is the case across Surrey schools as a whole. Average tenure for those over 50 is 15 years. As a result, the governing body is aiming to create at least 3 School Direct (Salaried) posts over the next 3 years to bring some trainee teachers into the workforce.]

Declared Disabilities

	Declared		Not Declared (Unknown)	
	Number	%	Number	%
Teaching Staff				
Non-Teaching Staff				

Commentary:

[e.g. The number of staff with declared disabilities remains low and below the proportion of the economically active Surrey population with a disability. The proportion of non-declarations (i.e. 'prefer not to say') remains high and therefore the quality of the data currently precludes any meaningful conclusion. The school continues to work to encourage individuals to declare disabilities.]

Religion / Sexual Orientation

This data is not currently collected.

Transsexual Staff

We currently have no formal mechanisms in place for engagement with transsexual staff. We are not aware of any issues on an informal level.

Recruitment Analysis

Applications and appointments for posts between [date] and [date]:

EXAMPLE:

	Applications Received		Appointments	
	Number	%	Number	%
By Gender				
Male				
Female				
Data not held				
By Ethnicity				
White-British				
Non White-British (Ethnic Minority Groups)				
Data not held				
By Disability				
Declared disability				
Data not held				

Commentary:

[The data suggests that the number of people with a declared disability applying for jobs at the school is low. As a result, the School Business Manager has put in place an action plan to fulfil the commitments required in order to use the 'positive about disabled people' logo.]