

Video 4 'What is the Public Sector Equality Duty? | Equality law: discrimination explained', Comisiwn Cydraddoldeb a Hawliau Dynol

Irene: Hi, I'm Irene, and in this video, I'm going to talk about the Public Sector Equality Duty. The other videos in this series have focused on individual rights and have explained the various protected characteristics and the forms of unlawful conduct. The public sector equality duty is different, as it's a duty on public bodies when exercising their public functions.

So, the aim of the duty is to get public authorities to consider equality in their day-to-day business. The focus is on getting organisations to change, to get the right decision made first time round, to avoid discrimination and disadvantage. So the idea is that equality becomes an integral part of the way that the public sector delivers its services and sets its policies.

The duty covers all public authorities listed in the Equality Act and all bodies carrying out a public function in relation to that function. So, what is the duty? The duty means that in its day-to-day work, and how it sets its policies and how it provides services, organisations must have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations, so to tackle prejudice and to promote understanding.

It's important to note that the duty is to have due regard to these different needs. For example, the need to eliminate discrimination. So, it's not a duty to eliminate discrimination itself.

The duty covers eight of the protected characteristics and covers marriage and civil partnership as well, but only in relation to the non-discrimination duty. The duty requires more than just thinking about equality. There needs to be an assessment of impact of a new policy and active steps taken to lessen any potential adverse impact. It needs to be based on evidence.

And it's important that because the duty is to have due regard to the three different needs—to eliminate discrimination, advance equality of opportunity, and foster good relations—what is required depends on what's relevant and on what is proportionate.

In addition to that general duty, some public bodies also have specific duties placed on them. These specific duties are steps which help public bodies to implement the general duty, to show how they're meeting the general duty. The specific duties are different in Scotland, Wales, and in England.

In Scotland, the specific duties, for example, include a duty to set equality outcomes, show how equality is being mainstreamed into the work of the organisation, and a duty to carry out assessment of the impact of policies and practices. In Wales, for example, the duties include objectives, strategic equality plans, again assessing impact, and consideration of pay differences. In England, there are only two duties: to set out one or more objectives, and to publish information to demonstrate compliance with the general duty.

The public sector equality duty doesn't confer individual rights in the same way that discrimination claims covered in the other parts of this series do. But you can challenge actions of a public authority by judicial review if you consider the authority has failed to consider the duty before making a decision or adopting a policy which affects you.

If you have a discrimination complaint against a public authority based on the prohibited conduct covered in the other parts of this series, you may also be able to use this equality duty to support that claim. Judicial review can't be used to enforce the specific duties, although the Equality and Human Rights Commission has enforcement powers. But failures to comply with the specific duties could provide evidence of failures in relation to the general duty.

Thank you for watching.

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