

TLRP Report May 2010

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The Equality Act 2010

On the 26th June 2008, following representation by equality communities, and reports by official committees over several years, Harriet Harman, Leader of the House of Commons, announced the Single Equality Bill. 27th April 2009 the Bill was published. On the 9th of February 2010 it included it's committee stage in the House of Lords. The report stage was booked for 2nd March.

The new legislation will come into force from October 2010 onwards.

The Equality and Human Rights Commission (EHRC) has information on its website. www.equalityhumanrights.com/uploadedfiles/Equality%20Bill/equalitybilllordssecondreadingbriefing.doc

Equality Bill: making it work – policy proposals for specific duties, a consultation, London Government equalities office.

www.equalities.gov.uk/pdf/specific%20Duties%20consultation%20DocumentWEB.pdf

Government Equalities Office (2010) Equality Bill: making it work – policy proposals for specific duties, a policy statement, London: Government Equalities Office.

www.equalities.gov.uk/pdf/psdrespGEOmakingITwork.acc.pdf

The aim of the Act is to harmonise and in some instances extend existing discrimination laws. It replaces about 116 different acts of parliament, regulations, codes of practice and guidance. It covers eight strands, to be known in legal parlance as protected characteristics. These are age; disability; ethnicity; gender; gender identity; faith religion and belief; marriage and civil partnership; and sexual identity.

Key features include the following:

- Creates a unified public sector duty, intended to provide equality in public policy and decision-making.
- A new public sector duty related to socio-economic inequalities.
- Provides powers to extend age discrimination protection outside the workplace
- Clarifies protection against discrimination by association.
- Extends protection from discrimination on the grounds of gender reassignment to school pupils
- Extends discrimination protection on the grounds of membership and benefits of private clubs and associations
- Provides for legislation requiring that employers review gender pay differences within their organisation and publish the results
- Provides for changes to the way individual claims are enforced, And gives employment tribunals wider powers to make recommendations for the collective benefit of employees
- Allows a minister to amend UK equality legislation to comply with European Law without the need for primary legislation.
- Extends the period for which all-women shortlists may be used for

parliamentary and other elections until 2030 and allows parties to reserve places on shortlists of candidates for people on the grounds of race or disability.

Public Sector Equality Duty

The unified public sector duty (clause) is modelled on a clause in the Race Relations Act: “A public authority must, in the exercise of its functions, have due regard to the need to...

1. Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The EHRC is producing guidance to help people understand the Equality Act and how it will affect them.

There will be guidance in the areas of:

- Employment
- Services, public functions and associations
- Education

There will be statutory codes of practice in: employment; equal pay; services, public functions and associations.

- Notes on Specific Duties// SEE Equality Bill: making it work – policy proposals for specific duties a policy statement, London: Government Equalities Office, 25th January 2010
- OFSTED grade descriptions// SEE: The evaluation schedule for schools: guidance and grade descriptions for inspecting schools in England under section 5 of the Education Act 2005 from September 2009, revised and re-issued on 7th January 2010.

Local Authorities, schools and other settings will be expected to take account of principle priorities for equalities when deciding their own local and specific objectives for a given period beginning 2011-2014.

Every public body should publish equality objections in the light of relevant evidence, and taking account of priorities identified by the relevant government department. The duties should take effect from April 2011, and they will be accompanied by a statutory code of practice.

Election Time

The NUT's website has a table showing the policy differences in relation to Education between the main parties. www.teachers.org.uk

On 15th March 2010 the Department for children, schools and families launched a Consultation on the future distribution of school funding. (Responses due June 2010). The consultation seeks views on the future distribution of school funding 2011-12.

The intention is to return to a formula based approach to distributing Dedicated School Grants (DSG) to local authorities. The consultation sets out the principles of a new formula and seeks views on the options

for distributing funding for the formula factors.

The aim of the new formula is to distribute resources in line with defined relative need, recognising the different costs of educating particular groups of pupils and of providing education in different areas.

There is a proposal to mainstream the following specific grants into the DSG:

Dedicated schools grant: School development grant (devolved) excluding specialist schools grant (personalisation); school lunch grant; Ethnic minority achievement grant; extension of the early years free entitlement; and extended schools – sustainability and subsidy.

Local authorities should pass on to schools funds made available nationally that are aimed at tackling deprivation.

Traveller Education Services are affected by the inclusion in mainstreaming into DSG and already being funded within general grants or local authorities. There will be a move to a single needs based formula. The intention is to give further control to schools and local authorities, inline with the principles of the White Paper, Smarter Government.

It is schools which will have funding to target narrowing achievement gaps. Local authorities will still have the option of retaining some funding to run centralised services.

The consultation: www.dcsf.gov.uk/consultations

The White Paper 21st Century Schools sets out entitlement for all children and their families: excellent teaching; effective discipline; support for health; safety and well being; extra help each pupil needs to

enjoy and succeed.

Parents/ others are entitled to ask for the evidence from the Equality Impact Assessments that any changes in delivery of services resulting from the re-organisation of TESS are not to the detriment of Traveller children.

For information contact: info@travellerslaw.org.uk

Equality Impact Assessment

EQUIAs must be completed whenever new policies are proposed and developed, and whenever existing policies are reviewed.

Consider:

- a) Could or does this policy have a negative impact on (dimensions of equality) Traveller children and young people's access and participation in education? If so, how can this be changed or modified, or how can impact be minimised and how can the policy/ practice be justified?
- b) Could or does this policy have the potential to have a positive impact on equality for Travellers, by reducing and removing inequalities and barriers that already exist? If so, how can the potential be maximised?

Quantitative and qualitative evidence is required when policies are being reviewed.

Consider: Facts about the wider social context

Facts relating to schools and other settings.

In the light of principles and criteria for assessment that are used, and the evidence reviewed, the following need to be expanded and explained as appropriate.

- a) A positive impact is explicitly intended and very likely.
- b) An adverse impact is unlikely, and on the contrary the policy has the clear potential to have a positive impact by reducing and removing barriers and inequalities that currently exist.
- c) An adverse impact is unlikely. On the contrary there is potential to reduce barriers and inequalities that currently exist. There is insufficient evidence, however for this assessment to be made with as much confidence as is desirable.
- d) Adverse impact is unlikely, but positive impact is also unlikely.
- e) Adverse impact is probable or certain since certain groups (Travellers) will be disadvantaged, either proportionately or absolutely, or both. Remedial action is therefore necessary.
- f) Adverse impact is probable or certain for certain groups (Travellers) but the policy as a whole can nevertheless be justified.

Note

The sixth assessment will necessitate obtaining legal advice.

An EQUIA must be revised and updated as appropriate and in the light of further evidence, discussions and representation.

References:

- Consultation on the future distribution of school funding DCSF
- Ofsted framework on equalities www.ofsted.gov.uk
- National strategies –
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- DCSF – Equality Impact Assessments
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- Equalities Review Panel (2007) Fairness and Freedom; The final report of the Equalities Review, Cabinet Office//
www.archive.cabinetoffice.gov.uk/equalitiesreview/
- Other: LIST A.O.R.

