

EQUALITY BILL CONSULTATION

Consultation Questions

Response

Q1: Do you think the criteria set out above are the right ones? Please give your reasons.

Yes. When identifying those organisations which should be subject to specific duties it is important to achieve a balance between a desire to achieve improvement and the capacity of individual organisations to deliver significant outcomes. We believe that the correct application of the four set criteria is likely to identify those organisations who are most likely to have a significant impact upon improving equalities without causing undue burden.

Q2: Are there any other criteria we should use? If so, what do you suggest?

We do not wish to suggest any other criteria.

Q3: Do you agree that public bodies should have a specific duty to publish equality objectives with reference to the relevant evidence and their wider general Equality Duty obligations?

Yes. In doing so, public bodies should also be required to have due regard to relevant national strategies and guidance documents. For the fire & rescue service this would include the FRS Equality & Diversity Strategy, the FRS Equality Framework and Integrated Risk Management Planning.

Q4: Do you agree that public bodies should set out the steps they intend to take to achieve their equality objectives?

Yes, there is little value in setting equality objectives without indicating the steps that will be taken to achieve them.

Q5: Do you agree that public bodies should be required to implement the steps they have set out for themselves within the business cycle period unless it would be unreasonable or impractical to do so?

Public bodies should be required to set timescales for the delivery of equality objectives and to ensure that they are integrated within normal business planning processes.

Q6: Do you agree that public bodies should be required to review their objectives every three years? If not, what time-period do you suggest instead?

Yes, public bodies should be required to review their equality objectives every three years; which would be compatible with the three yearly requirement to review equality schemes. A requirement to review objectives more frequently would be too onerous.

Q7: Do you agree that public bodies should set equality objectives taking into account priority areas set by the relevant Secretary of State?

Yes, it is important to take national priorities into account though this should not be interpreted as an absolute requirement since public bodies will also need to take local needs/issues into account. It may therefore assist with clarity by requiring public bodies to take both national and local priorities into account when setting equality objectives.

Q8: Do you agree that public bodies should not be required to set equality objectives in respect of each protected characteristic?

Yes, though public bodies should be required to show evidence of having considered setting objectives for each protected characteristic and determined specific appropriate objectives based upon a needs analysis.

Q9: Do you agree that public bodies should be required to report annually on progress against their equality objectives, but that the means by which they do so should not be prescribed in legislation?

Yes, what matters most is achieving significant outcomes not setting overly prescriptive legislation. Public bodies should have ample opportunity to report annually on progress through their normal mechanisms. For the fire & rescue service, Communities & Local Government (CLG) provide an overview of national performance via their Annual Report.

Q10: Do you agree that public bodies with 150 or more employees should be required to publish their gender pay gap, their ethnic minority employment rate and their disability employment rate? We would welcome views on the benefits of these proposals in encouraging public authorities to be more transparent.

The gender pay gap is not a significant issue for the fire & rescue service. Matters relating to gender pay would be more appropriately addressed through equal pay planning/reporting rather than a requirement to publish a gender pay gap.

A requirement to publish ethnic minority and disability employment rates would also add little value.

For the fire & rescue service, it would be more relevant to require that reporting should focus on race, gender and disability employment rates taking into account performance against specific local/national targets. The fire & rescue service has, for instance, adopted national and local recruitment targets for female firefighters and all BME employees; any requirement to simply report against employment rates would overlook such specific priorities. For the fire & rescue service, it also needs to be recognised, and taken into account when reporting/ benchmarking, that figures can be skewed by the differences between operational and non-operational roles.

Q11: Do you agree with the proposal to use the overall median gender pay gap figure? Please give your reasons. If not, what other method would you suggest and why?

We do not agree with a requirement for public bodies to publish their gender pay gap as this is very complex, confusing and potentially misleading. It would be more appropriate to require public bodies to report the extent of their compliance with equal pay legislation.

Q12: Do you have any evidence of how much it would cost to produce and publish this information, and of what the benefits of producing and publishing this information might be?

We do not have detailed evidence of the costs associated with producing and publishing such information. Similarly we do not have detailed evidence of the benefits of producing and publishing such information.

Q13: Do you agree with the proposal not to require public bodies to report employment data in relation to the other characteristics protected under the Equality Duty? If not, what other data do you think should be reported on?

Yes, it is still very difficult to collate accurate data regarding matters such as faith/religious belief and sexual orientation due to privacy issues. Such data is therefore likely to be incomplete and not wholly reliable.

This should not be seen as a reason for public bodies to not collect and monitor employment data in relation to all characteristics. Our view is simply that it would be inappropriate at this time to require public bodies to report such information.

Q14: Do you agree with the move away from an emphasis on describing process, to requiring public bodies to demonstrate how they have taken evidence of the impact on equality into account in the design of their key policy and service delivery initiatives and the difference this has made?

Yes, providing appropriate guidance is available we welcome a move away from a process driven approach to a focus upon outcomes. This is in the best interests of improving equalities and also reflects similar changes in public sector performance assessments, eg Equality Frameworks and Comprehensive Area Assessments.

Q15: Do you agree that public bodies should have a specific duty – when setting their equality objectives, deciding on the steps towards their achievement and reviewing their progress in achieving them to take reasonable steps to involve and consult employees, service users and other relevant groups who have an interest in how it carries out its functions – or where appropriate their representatives; and in particular take reasonable steps to consult and involve the protected groups for whom the duty is designed to deliver benefits?

Yes, this is the best way of ensuring that public bodies develop effective services that meet community needs. However, such a duty must be supported by clear guidance on the expected scope and depth of effective involvement and consultation. Such guidance should recognise the broad range of public bodies and the different contexts within which they operate.

Q16: Do you think that imposing specific equality duties on contracting authorities in relation to their public procurement activities are needed, or are the best way to help deliver equality objectives? Do you think such an approach should be pursued at this time?

Yes, public sector procurement has the potential to exert a significant impact on improving equalities, providing any specific equality duties are relevant and proportionate. It is timely to introduce such duties supported by clear, concise guidance. It should be noted, however, that fire & rescue services do not commonly contract services to the same extent as local authorities. Such differences should be recognised when drafting any specific duties.

Q17: Do you agree that contracting authorities should be required to state how they will ensure equality factors are considered as part of their procurement activities?

Yes.

Q18: Do you agree that contracting authorities should be required to consider using equality-related award criteria where they relate to the subject matter of the contract and are proportionate?

Yes.

Q19: Do you agree that contracting authorities should be required to consider incorporating equality-related contract conditions where they relate to the performance of the contract?

Yes.

Q20: What would be the impact of a regulatory proposal aimed at dealing with suppliers who have breached discrimination law? What might be the benefits, costs and risks?

We support the proposal but are unable to comment on the detailed implications.

Q21: Do you support the proposal to establish a national equality standard which could be used in the procurement process? If so, do you believe this is achievable through a specific duty or is this better tackled through a non-legislative approach? Are there any practical issues that would need to be considered?

No, we do not support the proposal. We believe that improvement can best be achieved through a non-legislative approach.

Separate Equality Frameworks (standards) are being developed for different public bodies, i.e. local authorities, fire & rescue service, police and NHS. These all use the same principles and include procurement as a key element but are tailored to reflect different organisational roles/structures/needs etc.

Public bodies should be required to work in accordance with their relevant Equality Framework, see response to question 24.

Q22: Which of the four models (set out below) do you consider achieves the best balance between joined-up working and senior accountability for equality outcomes, while avoiding unnecessary burdens? Please explain why.

- (1) A requirement for relevant Secretaries of State to report every three years against the national equality priorities that they have set for their policy areas.
- (2) A requirement for relevant Secretaries of State to include, in the third year of their department's annual reporting cycle, an expanded report covering the policy area for which they have the overview.

We believe that Option (1) should be the preferred choice as it presents a meaningful, proportionate approach. Public bodies should be gathering relevant performance information/data as part of their normal performance management/reporting mechanisms; this would therefore not represent a new burden. The other options have limited scope or would be an additional burden.

- (3) To rely on reporting procedures attached to the Public Service Agreements covering equality.
- (4) To require relevant Secretaries of State to report on how equality data is gathered and used across their relevant policy sectors.

Q23: Do you have any other suggestions how this duty could be remodelled to retain the valuable features of senior accountability and joined-up working, whilst avoiding unnecessary burdens?

No

Q24: Are there any specific requirements, other than those that we have proposed, which you think are essential to ensure that public bodies deliver equality outcomes in an effective and proportionate manner?

Equality Frameworks are currently being developed for a wide range of public bodies, i.e. local authorities, fire & rescue service, police and NHS. These are all outcome focused and attainment of the highest performance levels of those frameworks will inevitably cause public bodies to deliver significant equality outcomes.

Public bodies should therefore be required to develop and report the progress of equality improvement plans in accordance with their relevant Equality Framework.

Q25: What role do you think the guidance from EHRC should play in helping public bodies implement the specific duties in a sensible and proportionate manner? What do you think it would be helpful for such guidance to cover?

Guidance should provide examples of desired outcomes. It should pose questions of public bodies rather than provide a prescriptive list of required actions/processes. There should be clear, strong links with relevant Equality Frameworks.

