



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

---

## **WRITTEN STATEMENT BY THE WELSH ASSEMBLY GOVERNMENT**

---

**Title:**            **The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 & The Equality Act 2010 (Specification of Relevant Welsh Authorities) Order 2011**

**Date:**            **9 March 2011**

**By:**               **Carl Sargeant, Minister for Social Justice and Local Government**

The consultation on the draft Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 was undertaken to help inform the draft proposals and draft regulations for the specific public sector equality duties in Wales that began on 21 September 2010 and ended on 17 December 2010.

The outcome report is published on the Welsh Assembly Government website at:

[www.wales.gov.uk/consultations/equality/equalityact2010/?lang=en](http://www.wales.gov.uk/consultations/equality/equalityact2010/?lang=en)

### **Background**

In February 2005, the United Kingdom Government set up the Discrimination Law Review to look at inconsistencies in the discrimination law framework and to consider how best to achieve a clearer and more streamlined equality legislation that results in better outcomes for those who experience disadvantage.

*A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain* was published in June 2007. This was quickly followed by *A Framework for a Fairer Future – the Equality Bill* and the *Equality Bill – Government Response to the Consultation*, both published by the Government Equalities Office.

Subsequently, the Equality Bill was announced in the Queen's speech on 3 December 2008. The Bill was introduced to Parliament in April 2009 and

following successful passage through the House of Commons and the House of Lords received Royal Assent in April 2010.

## **The Equality Act 2010**

Implementation of the majority of the Equality Act began on 1 October 2010.

As currently presented, the Act strengthens the law in a number of areas. The Act:

- Extends the circumstances in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic.
- Extends the circumstances in which a person is protected against discrimination by allowing people to make a claim if they are directly discriminated against because of a combination of two relevant protected characteristics.
- Creates a duty on listed public bodies when carrying out their functions and on other persons when carrying out public functions to have due regard when carrying out their functions to:
  - Eliminate conduct which the Act prohibits;
  - To advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and
  - To foster good relations between people who share a relevant protected characteristics and people who do not. The practical effect is that listed public bodies will have to consider how their policies, programmes and service delivery will affect people with the protected characteristics.
- Allows an employer or service provider or other organisation to take positive action so as to enable existing or potential employees or customers to overcome or minimise a disadvantage arising from a protected characteristic.
- Extends the permission for political parties to use women-only shortlists for election candidates to 2030.
- Enables an employment tribunal to make a recommendation to a respondent who has lost a discrimination claim to take certain steps to remedy matters not just for the benefit of the individual claimant (who may have already left the organisation concerned) but also the wider workforce.
- Amends family property law to remove discriminatory provisions and provides additional statutory property rights for civil partners in England and Wales.

- Amends the Civil Partnership Act 2004 to remove the prohibition on civil partnerships being registered in religious premises.

## **Wales**

The Act also confers powers on the Welsh Ministers in relation to the public sector equality duty. Sections 153 and 154 gives Welsh Ministers power to impose specific duties on relevant Welsh bodies and section 151 gives them power by order and with the consent of the Minister of the Crown to amend Part 2 of Schedule 19 which specifies relevant Welsh bodies subject to the general public sector equality duty.

A procedure is specified in relation to the imposition of specific duties on cross-border Welsh bodies added to Schedule 19 by a Minister of the Crown. The procedure enables the Welsh Ministers to impose specific duties in relation to the devolved Welsh functions of the cross-border bodies or provide for specific duties to be imposed by a Minister of the Crown only after consultation with the Welsh Ministers.

## **The Listening Exercise**

In order to inform these duties, the then Minister for Social Justice and Local Government announced a 'Listening Exercise' on 27 July 2009 to help people consider how the new duties could work. Some initial thoughts were set out in *Advancing equality across the public sector in Wales* about what these new specific duties developed by the Welsh Assembly Government should look like.

In considering the framing and scope of any specific equality duties that should be developed in Wales, some key areas of activity were suggested where there is potential to better advance equality of opportunity in Wales:

- Setting equality objectives
- Consultation and Involvement
- Assessing impact
- Reporting progress against objectives
- Gender pay and job segregation
- Public Sector Procurement
- How inspection supports the equality agenda; and
- Reporting by the Welsh Ministers

## **Activity during the Exercise**

The Listening Exercise was circulated to equality groups and networks across Wales. During the listening exercise, officials of the Welsh Assembly Government attended a series of organised workshops, forums and other events to raise awareness and discuss the development and opportunities that could result from these new duties. Equality organisations received funding from the Welsh Assembly Government and the Equality and Human

Rights Commission in Wales to capture views from organisations representing equality groups in Wales.

### **Listening Exercise – Main Findings**

The Welsh Assembly Government received more than 60 responses and contributions from a range of organisations and individuals during the listening exercise. A consensus opinion was that:

- The principles about the duties were appropriate and their application should be proportionate to the size and function of the public authority and its function.
- The duties should allow public authorities a degree of flexibility to determine local priorities as long as they contribute to national objectives.
- The setting of equality objectives were broadly supported.
- The positive attitude towards involvement within current disability regulations should be extended to the other protected characteristics.
- Equality Impact Assessment has been a positive approach for most organisations and that any duty should continue to require assessments to be undertaken and published.
- Public authorities must be required to collect data about people sharing the protected characteristics to inform the development of meaningful objectives.
- There was no consensus about the size of organisation on which these requirements should be placed.
- Most agreed that gender pay gap reporting should be included.
- There was support for the need to include procurement in the specific duties.
- Inspectorates should play a more significant role in advancing equality.
- Annual reporting by Welsh Ministers was preferential and that reporting should focus on outcomes both positive and negative to improve transparency.

### **Consultation on Specific Public Sector Equality Duties for Wales**

On 29 July 2010, I approved the drafting of regulations and orders required to impose specific public sector equality duties on listed devolved public authorities in Wales.

On 21 September 2010, I announced a twelve week public consultation on the draft Regulations being proposed that will introduce the new duties.

Since the work to develop specific public sector equality duties was started, the Welsh Assembly Government has said that the specific duties should be:

- Flexible - so public authorities only take action which is necessary and productive; and
- Proportionate - depending on the function and size of the public authority.

The development of the specific equality duties should be guided by four principles. These were:

- **Use of evidence:** good robust evidence to understand the communities served and shape future actions;
- **Consultation and involvement:** so that the needs of the citizen can help shape the design and delivery of services that are fit for purpose, meet needs and deliver a positive outcome;
- **Transparency:** about how objectives have been set and reporting progress takes place against objectives; and
- **Leadership:** strong leadership which sets a positive culture and climate within the public sector to use resources effectively to help successfully discharge their equality duties. The Welsh Assembly Government is keen to support public authorities in their delivery of better services to the citizens of Wales.

### **Activities during the Consultation**

Following the announcement of the consultation during a plenary debate on 21 September 2010, the consultation document and regulations were made available on the Welsh Assembly Government website entitled 'Equality Act 2010: Performance of the Public Sector Equality Duties in Wales'.

[www.wales.gov.uk/consultations/equality/equalityact2010/?lang=en](http://www.wales.gov.uk/consultations/equality/equalityact2010/?lang=en)

An online discussion forum was also made available to encourage debate and provide a means for people to publish their views on the consultation. The consultation document was also sent electronically to third and public sector groups and organisations across Wales. It is also available in Welsh and Audio Format.

Officials of the Welsh Assembly Government attended a series of organised workshops, forums and other events to raise awareness and to discuss the consultation in greater detail. These events included:

- Equality and Human Rights Commission Equality Exchange regional events in Swansea, Rhyl and Cardiff.
- Equality and Human Rights Commission Third Sector events in Rhyl and Cardiff.
- Joint Welsh Local Government Association / NHS Centre for Equality and Human Rights events in North / Mid and South Wales.
- Mid Wales Equality Network Group in Aberystwyth
- Presentations were given to the Stonewall Workplace Conference and to the Faith Communities Forum; and
- Meetings were held with the Public Service Ombudsman for Wales, the Children's Commissioner for Wales and the Older Peoples Commissioner for Wales.

The consultation process closed on Friday 17 December 2010.

## **Responses to the Consultation**

The Welsh Assembly Government has received 80 responses and contributions from a range of organisations and individuals during the consultation exercise. The outcome report has been published on the Welsh Assembly Government website.

Following the consultation, revised policy proposals and revised regulations have been drafted and presented to the National Assembly for Wales on 8 March 2011. The regulations and order will be considered by the Assembly on 29 March 2011. Subject to the view of the Assembly, it is expected that the new specific public sector equality duties will come into force on 6 April 2011.