

**Equality and  
Human Rights  
Commission**

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# **The EHRC and the Equality Act 2010**

## **Codes and Guidance**

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**September 2010**

# The EHRC and the Equality Act 2010

- The role of the EHRC in producing Codes and guidance
- Codes: employment, services and public functions
- Codes: the public sector equality duty

# Goals of the Act

The Act seeks to:

- Create a fairer society without discrimination and prejudice
- Ensure that all are treated with dignity and respect in every aspect of their lives
- Enable everyone to maximise their potential in all aspects of their lives
- Provide mechanisms to eliminate systemic discrimination and promote equality of opportunity

# The Commission

- The Equality and Human Rights Commission was created by the Equality Act 2006 and opened on 1 Oct 2007
- Three mandates: to promote equality, human rights, and to foster good relations
- Accredited United Nations National Human Rights Institution (NHRI) since January 2009

# The Commission

Duties relating to equality are to:

- Promote understanding of the importance of equality and diversity
- Encouraging good practice
- Promoting equality of opportunity
- Promote awareness and understanding of rights under the Equality Act
- Enforce the Equality Act
- Work towards the elimination of unlawful discrimination and harassment

# Codes of Practice

- Have legal effect in courts and tribunals
- For use by courts, HR professionals, advisors
- Approved by the government
- Set out law and good practice
- Use practical examples to explain the law
- Phases of work:
  - October 2010: Employment, equal pay and services, public functions and associations
  - April 2011: public sector equality duty and FE/HE education
  - September 2011: Schools
  - TBC: housing, transport, GQB and QB

## **Non-statutory guidance**

- Intended to be practical and user-friendly
- Drafted to be used by everyone
- No formal legal effect
- Phases of work:
  - July 2010: employment, and services, public functions and associations published
  - September/ October 2010: Housing
  - September 2010: education published
  - January 2011: public sector equality duty

# How EHRC will publish guidance

- Web and hard copy
- Accessible versions
- Tailored versions of each set
  - employer/employee
  - service provider/service user
- Scotland and Wales, including in Welsh
- Promotion and partnerships
- Ongoing updating





# **Codes: employment, services and public functions**

## **Employment**

Relates to Part 5 of the Act: employment and related work

Does not refer to any of the provisions that do not come into force in October 2010 (dual discrimination, positive action tie-break provisions, gender pay publication)

# **Codes: employment, services and public functions**

## **Employment**

Contains both guidance on the law and good practice

Good practice chapters vital to help employers avoid discrimination and promote equality:

Recruitment process

During employment

Developing equality policies

Termination of employment



# **Codes: employment, services and public functions**

## **Services and Public functions**

Relates to Part 3 (Services and Public Functions) and Part 7 (discrimination by associations) of the Act

Principle of non-discrimination in all public and private provision of services

Public authorities must also not discriminate in carrying out public functions (eg policing, immigration functions and licensing)

# **Codes: employment, services and public functions**

## **Services and Public functions**

Will need to be amended when age provisions regarding goods facilities and services come into force in 2012

Does not refer to any of the provisions that do not come into force in October 2010 (dual discrimination, socio-economic duty)

# **Codes: the public sector equality duty**

## Phases of work:

- Duty intended to come into force April 2011 but no requirement to publish ADD
- Respond to specific duties consultation: by early November 2010
- Produce non-statutory guidance on the obligations under the duty: January 2011
- Produce Codes on the duty by April 2011 (England Scotland and Wales)

# **Codes: the public sector equality duty**

## **General duty**

Similar terms to existing general duties relating to race, disability and gender but extended to all protected characteristics

Public authorities must have due regard to the need to:  
eliminate unlawful discrimination, harassment and victimisation;  
advance equality of opportunity; and  
foster good relations between persons with protected characteristics and others.

# **Codes: the public sector equality duty**

## **Proposed specific duties**

Significantly different from previous specific duties and reflect different approach of coalition government

Key aspects of the proposals are:

Transparency: requiring PAs to publish equality data so public can hold them to account

Devolution of power: duties less prescriptive and gives individual PAs more autonomy to set priorities

Role for the EHRC in determining transparency requirements regarding publishing data

# **Codes: the public sector equality duty**

## **Proposed specific duties**

Requirement for public authorities (150 or more employees) to publish data on equality in workforces (eg number of ethnic minorities, disabled persons and gender pay gap)

Must set equality objectives by April 2012 and review at least every four years



# **Codes: the public sector equality duty**

## **Proposed specific duties**

No requirement to refer to national priorities set by SoS when setting equality objectives

No requirement to have action plans (steps to achieve equality objectives)

No separate disability duty to report on progress every three years

No proposal for specific duties regarding procurement

# **Codes: the public sector equality duty**

## **Proposed specific duties**

Role of the Commission:

Will set the requirements for equality data to be published by different public authorities

This will be set out in the guidance and Code on the PSED

Continued role in monitoring compliance with the PSED and enforcing the PSED.

‘Building a society built on fairness and respect where people are confident in all aspects of their diversity.’