

“CONSULTATION RESPONSE FORM
THE PUBLIC SECTOR EQUALITY DUTY
Promoting equality through transparency – A consultation

The consultation closes on 10 November 2010. Please let us have your response by that date.

When responding, it would be helpful if you could provide the following information.

Please fill in your name and address, or that of your organisation if relevant. You may withhold this information if you wish, but we will be unable to add your details to our database for future consultation exercises.

Contact details:

Please supply details of who has completed this response.

Response completed by (name):

Position in organisation (if appropriate):

Name of organisation (if appropriate):

Address:

Contact phone number:

Contact e-mail address:

Date:

Confidentiality

Under the Code of Practice on Open Government, any response will be made available to the public on request, unless respondents indicate that they wish their views to remain confidential. If you wish your response to remain confidential, please tick the box below and say why. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

I would like my response to remain confidential
(please put a cross in the box if appropriate):

Please say why

In what capacity are you responding (please put a cross in the appropriate box)?

As an individual

On behalf of a public sector organisation

On behalf of a private sector organisation

On behalf of a voluntary sector organisation

Other (please specify)

Note:

- In addition to the completed pro-forma, you can also send other supporting information if you so wish.

Thank you for completing this response form.

Question 1: Do you have any comments on our proposals for data reporting? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraph 5.2 to 5.9?

Does the drafting of regulation 2 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes No Not sure

Please explain:

The Single Parent Action Network (SPAN) supports the publication of data as a tool to advance equality of opportunity between different groups. However, we are concerned that the general nature of the reporting requirements set out in the regulations will not encourage consistency. You state in your explanation that there is a need for standardised formats and consistency but there is nothing in the regulations that will require this. This will mean that what should be a rigorous process for collecting data will be called into question, and could invalidate outcomes.

SPAN is also concerned that public bodies will set objectives based on information that they have gathered and that they can choose not to publish data on particular areas of inequality. Although we appreciate that public bodies need to be proportionate we are concerned, from existing evidence, that this can mean that important data collection can be overlooked especially if equality issues are more complex or seen as harder to address. As an instance, this was highlighted in the assessment of Jobcentre Plus services in relation to their equality public sector duties for disability, race and gender¹. The report concluded that disability issues were more readily understood and more easily implemented by the agency (such as accessibility to services for people with sight difficulties). However, gender equality issues were less developed with an assumption that equal treatment for men and women was thought to satisfy equality of opportunity.

At the very least we would want a right to appeal included in the regulations which would mean that an individual or a group representing individuals from one of the protected groups would be able to appeal to a public body to review the exclusion of data collection to have that data made transparent.

SPAN agrees that it is important that data is readily available to individuals who receive services from public bodies or who wish to apply for a job or currently work within a public body. We note that there will be a requirement to publish data in a manner that is "reasonably accessible to the public" so that they will be able to use this data to drive change. The majority of the public will not know what an equality scheme is and how to access information. Different public bodies will have the freedom to produce their scheme in different ways or to set out their equality objectives within their business plan. Transparency and accessibility to information

will be key including a named individual who will be contactable about the promotion of equality and data requests.

In terms of data accessibility, it is important that public bodies see an individual's viewpoint when they are publishing data. For example, a single parent is offered a fortnightly appointment at Jobcentre at the time that she is dropping her child off at school. As a consequence she is often late for her appointment and has a benefit sanction imposed. She wants to know whether the public body, in this case Jobcentre Plus, has taken into account her needs as a single parent mother in how they have set up their appointments schedule. How will she know about the equality duty and whether it has been adhered to? How will she have access to the data or who to go to and find out?

The regulations need to give a clearer steer on the importance and accessibility of data for the public, as well as guidance for public bodies as to the requirement that they produce data that is understandable and accessible.

Question 2: Do you have any comments on our proposals for employment reporting? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraphs 5.10 to 5.11?

Does the drafting of regulation 2 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes No Not sure

Please explain:

SPAN is responding particularly in terms of gender inequality. As the Government is aware, employment gaps for women are stubborn and longstanding. In terms of the gender pay gap the difference in earnings between men in full-time employment compared to women part-times has increased to 36.3%ⁱⁱ. Over 40 % of women in employment work reduced hours to combine caring and working but there is a lack of “good quality” part-time roles. In addition an increasing number of single parents (90% of which are women) are now obliged to seek employment as part of their condition to receive benefits and flexible employment and “in work” progression opportunities are vital ways for them to flourish in employment and support their family.

SPAN is concerned about the general requirement of reporting set out in the regulations concerning the gender pay gap. The headline figures will be insufficient to highlight the potential inequalities within an organisation. Much more detailed information is needed to give a fuller understanding of the issues. We do not agree with the stated assumption that (page 68) “this will be mitigated by requiring public bodies to publish information on equality in their workplace at least annually and this is likely to include information on the pay gap”.

We also think the employment requirements are too narrowly focused on employees in the regulations to the exclusion of potential employees (which does not reflect your wish to include applicants as you state in your guidance). We know from our work the difficulties many single parents experience in trying to secure quality employment with part-time hours. The recruitment practice of public bodies may exclude many women from applying for a job in the first place if full-time hours are a condition of a post. Yet producing such information would not be a requirement of the regulations. We know that the current gender specific duties require public bodies to consider the need to have objectives that address the causes of any differences between the pay of men and women related to their sex. We are concerned that the removal of this duty will have a detrimental impact on women. This will not be addressed by guidance within the codes of practice but rather should be more explicitly stated within the regulations.

Fuller information is needed not as a bureaucratic exercise but to show public bodies where they are doing well and where they need to change practice and to show to

the public that as employers they genuinely promote equality of opportunity in employment between men and women.

In view of the longstanding gender pay gap we disagree that the requirements should be limited to larger public bodies. We think that public bodies with more than 50 employees should be included in the requirements.

Question 3: Do you have any comments on our proposals for transparency in public service provision? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraphs 5.12 to 5.14?

Does the drafting of regulation 2 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes No Not sure

Please explain:

In the explanation (Para 5.12-15) reference is made to decision makers being open with citizens. Yearly publication of data is seen as sufficient to demonstrate this commitment. The regulations state that this information can be in another published document (we assume that this means a business plan) and not just an equality scheme. This seems to contradict the public data principles of “a single point where people can find data”. The publication of data may give citizens access to information but will not in itself facilitate challenge. It would be helpful to include a right to challenge and the mechanisms for challenge within the regulations including public bodies setting out a single point of contact on equality challenges. This information should be stated on all literature produced by public bodies on service delivery, policy documents and employment (including for people wanting to apply for a job with a public body).

Question 4: Do you have any comments on our proposals for setting equality objectives to achieve transparency about impact on equality? Does the drafting of regulation 3 accurately reflect the aims of the policy described in paragraphs 5.15 and 5.16?

Does the drafting of regulation 3 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes No Not sure

Please explain:

The emphasis on the explanation (5.15-16) is about giving scrutiny to citizens and other interested groups of the equality outcomes that public bodies are working towards. We think that the regulations miss out a vital link in these people having an influence on the objectives before the public body selects them. The regulations should refer to objectives being set after consultation with the public. As well as being measurable, objectives need to address areas of greatest equality need. There is a danger otherwise that public bodies will select objectives that are the easiest to achieve. (This is discussed in more detail at the response to question1).

The regulations are not clear about where the public will find the information. Will it be a business plan or an equality scheme? Without some uniformity it will be difficult for citizens to know where to access information.

Question 5: Do you have any comments on the changes proposed in Chapter 5 under the section ‘Reducing the burdens on public organisations’?

Please place a cross in the appropriate box

Yes No

Comments:

SPAN thinks that there are circumstances where the Secretary of State should set national priorities for public bodies. We do not think that every public body should only be responding to a local need. There are national objectives which may be contradicted by this local autonomy.

For example the Coalition Government through welfare policy has the requirement that single parents seek employment with the expectation that this will lift children out of poverty. However, the Government recognise that due to their caring responsibilities, single parents can limit the hours that they work and that those with younger children are able to restrict their hours to within the school day. As an illustration, a local Jobcentre Plus is in an area where there is high unemployment where employers have a wide choice of applicants for posts. The local responsiveness of Jobcentre Plus might mean that they choose not to make single mothers a priority in their equality objectives. They give all clients access to the same advice and support and do not work with employers to advertise jobs on a part-time basis. Although this public body is working with local conditions it will do nothing towards the broader goals of Government in increasing the use of skills of women in the workforce or addressing the pay gap or their objectives of increasing the participation of single parents in the workforce.

SPAN also believes strongly that public body procurement policies and processes are a vital way of promoting equality and should not be excluded from public body equality duties. Again there is a very real danger that if tendering bodies are excluded from having to respond to equality duties, then an organisation contracted to undertake a service may contravene the equality objectives of the public body. For instance, in Bristol SPAN works with many single parents who do not have English as their first language. As an illustration Bristol Council might have a race equality objective which might include support in its service provision for people who do not have English as their first language (such as an interpreter or a translation service). They then tender for childcare provision which is undertaken by a private provider. The private provider does not make provision in their service delivery for children or their parents who have English as a second language. It is important that services paid for by a public body (funded by the taxes of citizens) reflect their public sector equality duties and that this commitment is evidenced in procurement processes.

In terms of the explanation concerning action planning we would reiterate that there needs to be consistency of approach by public bodies or citizens will not know where they can access information or judge the results.

Question 6: Do you have any comments on our proposals for transition from the existing duties relating to race, disability and gender to the new public sector Equality Duty, as described in paragraphs 6.1 and 6.2?

Please place a cross in the appropriate box

Yes No

Comments:

SPAN remains concerned about the Gender Duty during the transition period. The Gender Duty was the last public sector duty to be implemented and has had the least amount of time to bed in. We think that the first year after implementation in April 2011 should not become an excuse for inertia. The existing protected characteristics should have clear objectives from April and the public should have the opportunity to feed into the priorities for the new protected areas from this time.

Question 7: We would welcome your views on the proposed list of public bodies for Part 1 and Part 4 of Schedule 19, as described in paragraphs 7.7 to 7.12?

Comments:

Question 8: We would welcome your views on the bodies that we do and do not think should be subject to the specific duties, as described in paragraphs 7.13 and 7.14

Comments:

Question 9: Do you have any other comments on the drafting of the Statutory Instrument? If yes, please explain.

Please place a cross in the appropriate box

Yes

No

Comments:

Question 10: Do you have any evidence or data that you can provide or direct us to which would help us to develop our regulatory impact assessment?

Please place a cross in the appropriate box

Yes No

Comments:

SPAN is not in a position to collect data of this nature but would ask for data to be published on the level of Equality Impact Assessments, the extent to which members of civil society have asked for these to be undertaken and the extent to which they change outcomes. At present we believe that very few EIAs are requested, particularly by the community sector, as there is so little awareness of how these can be initiated and to what end.

Question 11: Are you aware of any other benefits resulting from the proposal that have not already been described in the consultation document or the regulatory impact assessment?

Please place a cross in the appropriate box

Yes No

If yes, please explain:

Question 12: Are there any other comments you would like to make in relation to this consultation that have not already been covered by this form? If yes, please explain.

Please place a cross in the appropriate box

Yes No

Comments:

In terms of limited resources SPAN think that the emphasis on local objective setting may prove a false economy. It is also important that public bodies have access to national information and support in order that they can tailor their services and employment practices to address the needs of protected groups in the Equality Act.

In looking at the evidence to inform public bodies we think it is important that account is taken and evidence is sought from voluntary organisations that are in a position to reflect the needs of vulnerable groups. For example, a quarter of children in the UK live in a family headed by a single parent. There are over 2 million people (90% of who are women) bringing up 3 million children on their own, 52% of whom live in relative poverty. In 2007 the Single Parent Action Network undertook participatory research to identify how policy, service provision and employment practice could address the specific needs of single parents. A participatory One Parent Proofing toolkit was produced, which would be useful for showing how public bodies could tailor their work to promote gender equality. We will send a hard copy of the Toolkit together with the research report.

THANK YOU FOR YOUR COMMENTS.

ⁱ Equality and Human Rights Commission Jobcentre Plus Assessment Report August 2009

ⁱⁱ Office for National Statistics (November 2008) Annual Survey of Hours and Earnings Gender Pay Gap.