

GUIDANCE

Engagement and the Equality Duty: A Guide for Public Authorities

England (and non-devolved public
authorities in Scotland and Wales)

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1 | Introduction

Context for this guide

This guide is one of a series written by the Equality and Human Rights Commission (the Commission) to explain how public authorities can meet the requirements of the Equality Act 2010 (the Act). The Act brought together all previous equality legislation in England, Scotland and Wales. The Act includes a public sector equality duty (the equality duty), replacing the former duties relating to race, disability and gender equality. The equality duty came into force on 5 April 2011.

There are five England/ GB guides giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Equality objectives and the equality duty
3. Equality information and the equality duty
4. Meeting the equality duty in policy and decision-making
5. Engagement and the equality duty

The essential guide provides the main overview of the equality duty requirements. The other four documents provide more detailed guidance on key areas and they provide advice on good practice. Further information and resources are available at: www.equalityhumanrights.com

This is the third edition of this guide.

If you require this guide in an alternative format and/or language please contact us to discuss your needs. Contact details are available at the end of the publication.

Legal status of this guide

This guidance provides advice on how to meet the equality duty. It will assist public authorities to decide what they need to do to comply with their legal duties under:

- Section 149 of the Equality Act 2010 (the public sector equality duty), and
- The Equality Act 2010 (Specific Duties) Regulations 2011.

Who this guide is for

This guide is aimed at those responsible for implementing the equality duty in public authorities in England (and non-devolved public authorities in Scotland and Wales). It will be of interest to staff across public authorities, particularly those responsible for planning and undertaking engagement. It will also be of interest to staff involved in collecting and using equality information, business planning, policy making, analysis, human resources, grant making and governance and scrutiny. The guide will also assist those who have an interest in the work of public authorities such as service users, voluntary bodies, unions, and equality organisations.

Content of this guide

This guide:

- Explains the purpose of engagement.
- Explains how engagement can be used to help comply with the general equality duty.
- Provides advice about who public authorities should engage with and when they should do this.
- Outlines some of the methods that public authorities can use to engage with stakeholders.
- Sets out some success factors for engagement.

Terminology

In the guide we use the term 'policy' as shorthand for any relevant function or activity of your organisation on which you may wish to engage stakeholders in dialogue. Therefore 'policy' needs to be understood broadly to embrace the full range of your policies, practices, activities and decisions, including the delivery of services – essentially everything you do. It includes both current policies and new policies under development.

2 | Engagement and the equality duty

The public sector equality duty (the equality duty) is made up of a general equality duty, supported by specific duties. The public sector equality duty is the formal title of the legislation, the general equality duty is the overarching requirement or substance of the duty, and the specific duties are intended to improve performance on the general equality duty. An overview of the equality duty is set out in our *Essential guide*. This includes further information about the meaning of ‘due regard’.

The general equality duty requires public authorities, in the exercise of their functions, to have **due regard** to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it.
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

These are often referred to as the three aims of the general equality duty.

What the general equality duty requires on engagement

Engagement is a broad term, intended to cover the whole range of ways in which public authorities interact with their service users and their employees, over and above what they do in providing services, or within a formal employment relationship. Engagement may be one-off or repeated over a longer period of time. It may be formal or informal. It may be focused on a specific issue, or on service delivery, or workforce issues more broadly.

While there is no explicit legal requirement under the general equality duty to engage with people with different protected characteristics, the general equality duty requires

public authorities to have an adequate evidence base for their decision-making, and engagement can assist with developing that evidence base. Engaging with stakeholders and employees will help public authorities to base their policies on evidence, rather than on assumptions.

Case law states that engagement is important in ensuring public authorities understand the impact of their decisions on different people. Any public consultation must be meaningful which means that sufficient time should be allowed for people to respond. Responses should be considered with an open mind and taken into account in policy and decision-making.

Engagement and the specific duties

Public authorities covered by the specific duties need to publish information to demonstrate their compliance with the general equality duty. Consider whether it would be useful to publish information about who you have engaged with (being mindful of any privacy concerns), and what the outcomes were. This will help you to be transparent and clear to stakeholders about how their contribution has informed your work. It may also help you to demonstrate that you have complied with the general equality duty. This could include a summary of the key points made; an explanation as to how these have been incorporated into the policy in question; or an explanation of why it has not been possible to do so. Publishing such information need not be onerous. For example, if the engagement is via a regular review group, you could simply publish the minutes of the meeting. Consider also how you will make the information accessible when you publish it. You can find guidance on how to publish accessible information on your website from the website of the Web Accessibility Initiative.

3 | Purpose of engagement

Improving what you do

The key reason public authorities engage is to help them to understand how their policies affect (or will affect) people who use their services. Engagement enables public authorities, and people with an interest in their work, to pool their knowledge and experience of eliminating discrimination, advancing equality of opportunity and fostering good relations. This evidence can then be used to improve decision-making, for example, in policy and service development, and in identifying priorities for action. Examples of this include:

- Identifying particular needs, patterns of disadvantage, and poor relations between groups, and the reasons for these.
- Designing initiatives to meet needs and to overcome barriers.
- Identifying opportunities to eliminate discrimination, advance equality of opportunity and foster good relations.
- Understanding the relevance of functions to equality.
- Assessing the impact on equality of particular policies or proposals.
- Monitoring and evaluating initiatives, policies and programmes.
- Identifying ways to mitigate adverse impacts on certain groups.

When you engage, think about how you will demonstrate to those involved how you have used the information gathered to improve the services you deliver.

Engagement should be proportionate to the size and resources of your organisation, as well as to the significance of the policy to equality and good relations. This means that for some policies, formal meetings or written consultations are not always required and that informal approaches could be used. An example of this would be an employer asking staff for their views on a home-working policy via a poll on an intranet site.

It is a good idea to keep a record of how you have engaged, and to reflect back on whether the engagement was successful and whether it gave you what you needed.

Consider how you would improve it, including how successful you were in reaching groups that are rarely heard. Are there any lessons that you can share with others?

Improving your equality information

Robust equality information is necessary to enable public authorities to design and deliver effective and efficient policies. Where you have gaps in your information base, engagement can help you to fill them. This may be particularly helpful for areas which are most sensitive, like gender reassignment and sexual orientation, where you are less likely to have quantitative information. Engagement can also help you to interpret existing information. For example, you may find that reported incidences of hate crime on the grounds of sexual orientation, race, disability and religion or belief are increasing, but that this is due to an increase in the willingness of certain protected groups to report it, rather than due to growing instances of hate crime.

Assessing the impact on equality

Engagement can help you to assess the impact of your policies on people with different protected characteristics. It can help you gather the views, experiences and ideas of those who are, or will be, affected by your decisions. It can be useful for finding solutions, overcoming barriers and identifying ways to mitigate adverse impacts on certain groups. Stakeholder engagement can also be a valuable way of monitoring and evaluating the success of your initiatives, and of understanding where improvements may be necessary. Engagement can also help you to design more appropriate services, which in turn are more likely to be effective, and to make better use of resources. You can avoid the costs of remedying and adapting services after their implementation and pre-empt complaints which can be costly and time-consuming.

Setting objectives

Public authorities covered by the specific duties must, at least every four years, publish one or more objectives to meet any of the aims of the general equality duty.

Engagement can help you determine and prioritise your objectives, by helping to make clearer which are most likely to make the biggest difference to tackling inequality. People with particular protected characteristics are well-placed to help identify needs, patterns of disadvantage and poor relations between groups, and the reasons for them. They can also provide useful information regarding objectives where quantitative information, such as on sexual orientation, may not yet be available.

Engagement is also valuable when monitoring performance on your equality objectives. You will be able to gain an understanding of how your policy is being implemented on the ground and whether there are any unexpected consequences which are limiting its success.

Fostering good relations

Engagement with people with protected characteristics and other stakeholders can be useful for fostering good relations as it gives you the opportunity to explain what you are doing with regard to equality and why you are doing it. This will make it less likely that myths develop about favouritism or positive discrimination towards certain groups, which can result from a lack of information.

4 | Who should you engage with?

It is helpful to engage generally with people who have an interest in how you carry out your work. But in many cases it will be best to focus your engagement around particular policies and people likely to be interested in them. This may include former, current and potential service users, staff, staff equality groups, Trade Unions, equality organisations and the wider community. In deciding who to engage with, consider the nature of the policy and the groups who are most likely to be affected by it.

Consider the extent of the impact the policy decision may have on different groups of people, and the size of those groups. Be careful not to make assumptions when deciding who to engage with. For example, lesbian, gay and bisexual people may wish to contribute as much to questions on education or regeneration as they will to issues on health or homophobic crime. Try to identify the employees, service users and other people and groups who may want to be involved. Once you have identified relevant groups of people, prioritise who is most likely to be affected and the impact in terms of equality and good relations that each group is likely to experience.

Preparation

It is useful to be aware of any previous history and patterns of community engagement. For example, have there been positive or negative experiences that may impact on your work or are there any controversial issues in the area, such as service cuts or changes that may be raised? It is helpful to recognise that prospective participants will have different levels of knowledge and understanding of your decision-making processes and may not be familiar with formal meetings or decision-making. Consider whether participants have clear and sufficient information to meaningfully participate. Some groups may not think their views will be taken seriously, or are not confident in participating. You may want to think of communication strategies, which will make it clear that you want their participation. Consider how you will ensure that their engagement will make a difference, and how you can show that consideration has been given to their suggestions.

As well as your resources, be conscious of the effort it will take for people to respond or to attend events. Consider how you can encourage participation, which may include timing or access issues. We deal with these issues in further detail in the section on 'how should you engage'.

Less visible groups

There are certain people whose views are rarely heard. This can be because they find it difficult to participate, because they are less visible, or because they tend to be excluded. Relying solely on representative or community groups can also mean that the perspectives of 'seldom heard' people are not always adequately captured.

Examples of those who commonly experience barriers to participation include:

- people with mental health conditions
- people with learning difficulties and disabilities
- Gypsies and Travellers
- people undergoing, considering or who have undergone gender reassignment
- older and young people
- pregnant and breastfeeding women
- asylum seekers
- refugees
- people with caring responsibilities
- people on low incomes or benefits.

Some people may not want to participate because sharing their experiences could compromise their privacy. For example, some gay, lesbian, bisexual and transgender people may not want to openly share information about themselves and their experiences. Some people face barriers due to their location, like people in rural settings or areas of high deprivation, as well as those living in residential settings, like people in care homes and some 'looked-after' children.

Barriers to engagement need not be insurmountable. You can encourage a broad range of people to participate if you are committed, and if you take the time and effort to plan. Representative groups may be able to advise you about how to engage with certain groups, or you could commission them to undertake engagement on your behalf. Creating opportunities for people to participate in

supportive and safe environments, where they feel their privacy will be protected, or via technology such as the internet, may also be useful solutions.

Publicity

Don't forget to think about how different groups will become aware of your engagement activities. This includes thinking about how, and where, information about the activity is presented. For example, could people find out about it through health centres, places of worship, the internet, or by email? Does it need to be in different formats? Will outreach work be required to make contact with groups, who you may not be able to reach through normal communication methods? It is also important to think about how you will continue to engage with these groups through the decision-making cycle, in order to make the activity meaningful, and to instil trust.

5 | How should you engage?

You will not be able to engage with everyone on every decision. As stated above, **engagement should be proportionate to the size and resources of your organisation and to the significance of the policy to the aims of the general equality duty.** This means that the greater the impact of your policy on equality and good relations, the more likely you are to need significant public or tailored engagement.

Remember that there are ways to engage with stakeholders that do not require significant resources. For example, a small public authority like a school might use a scheduled parent–teachers meeting to engage on a particular issue. A larger organisation like a local authority might run an online questionnaire on their website, together with some focus groups with local residents.

As a starting point, think about how relevant the policy is to the aims of the general equality duty and for people with different protected characteristics. It is helpful to consider how you would be able to explain how you came to this decision. Some policies will be relevant to almost everyone, such as changes to local healthcare.

Other policies may be more relevant to one aim of the duty than to others, for example programmes which aim to improve community relations between different ethnic or religious groups are more relevant to fostering good relations. Some policies are aimed at the needs of people with certain characteristics, but not to other groups. An example of this would be translation services. Whether you engage, the methods you use, and the degree of engagement will depend on the size and resources of your organisation, and to the significance of the policy and its impact on equality of opportunity and good relations.

Equality information

Remember that to make the best use of everyone's time and resources, it is important to identify what information you may already have from previous research and stakeholder engagement. You can then determine where the gaps in evidence are, what you are seeking to find out, and from whom. This will help focus your engagement activities. You may have gathered this through previous engagement exercises on similar issues; staff and stakeholder surveys; or other research findings. So long as the information isn't too old to be relevant, this will avoid duplication of work and time for both you and your stakeholders. It can also provide you with an understanding of where the gaps in your information are. Consider working with other public authorities to carry out engagement activity. This can save resources and may help individuals or organisations that would otherwise need to participate in too many engagement exercises.

When to engage

Engagement is particularly effective when it is built into the whole decision-making process, as this gives participants a chance to feed in at relevant stages. As stated above, you should remember that people need to be given enough time to respond in order for the engagement to be meaningful. Consider whether and how to engage at each main stage of the process (where it is appropriate and proportionate to do so), such as:

- At the beginning of the decision-making process: to gather opinions, evidence and ideas on the policy.
- At the point of developing options and making your decision: to better understand the perceptions, views and preferences of stakeholders, and to use this information to develop and weigh up different options and come to a final decision.
- When implementing your decision: to develop action plans and implementation strategies.
- Following implementation: to evaluate performance.

Knowing the timeframes and cost limitations at an early stage will help inform the scale and type of engagement you will conduct. It is worth thinking about what decision-making processes you will need to follow within your organisation to ensure

that the results of engagement are actively considered. For example, do you need to comply with internal policies on public participation? Will you need to factor in time to deliver reports or presentations to internal boards so that they have an opportunity to properly consider the information before decisions are made?

Participation

People will be more likely to participate if they can see the relevance of the policy, and its direct impact on their lives. It may be better to focus engagement activity on specific decisions with a direct impact on service users, than on more general policy discussions. For example, seeking views on a specific proposal to build new houses in a certain location may be more profitable than a general discussion about housing and regeneration policy. If you plan a more wide-ranging discussion, be very clear with the participants about what you are looking to get out of the exercise.

From the outset, it is vital to be clear about what you want to get out of your engagement. For example, do you want to:

- Determine what your organisation's equality objectives should be (if you are a listed authority)?
- Seek views on how equality of opportunity and good relations might be affected by a specific issue in order to help you improve a policy?
- Seek specific information, perhaps to close information gaps or to understand why some groups face particular barriers?
- Seek help in preparing a strategy or report on an issue?

This is not a definitive list, and often you will want to achieve more than one thing. But it is vital to be clear about your aims and to share those with the people you engage with. For example, if you have limited scope to change a particular service, it's important to make that clear from the outset.

Choose the right approach

Engagement is most effective when it is well-planned. You may well be able to draw on methods and techniques that you or others in the authority have already used.

Learning the lessons from previous exercises of what has worked well, or not so well, will be important.

Both individuals and organisations have limited resources and many calls on their time and expertise. This means that giving good notice of events makes it more likely that they will be able to participate. Another consideration is the timing of events in order to ensure that as many people can attend as possible. You may want to consider paying for their travel, or providing training or administrative support to help them to help you. Consider whether payment for their participation would be appropriate. If you make payments, remember that it can have implications on tax, benefit, and national insurance matters for participants.

Public authorities should ensure that their engagement methods take into account the needs of people with all the different protected characteristics, and enable them to fully participate. Under the Equality Act 2010, public authorities are obliged to make reasonable adjustments for disabled people, including during engagement. Check that you are complying with the other legal obligations on public authorities with regard to consultation.

Engagement methods

There are a number of common engagement methods that public authorities regularly use. You may already use a range of different methods that work well for you, but if you find that you struggle to reach people with some particular protected characteristics, or you want to think about new ways of doing things, you may want to consider some of the following examples of engagement methods. This list is not intended to be exhaustive.

Review group

This is a formal group of representatives, with expertise in key areas, for example, on the needs of disabled people, or the experiences of different groups. A review group can provide expertise on an ongoing basis. This will allow it to input information and highlight risks, opportunities and options for action. Group members are often recruited via a formal recruitment process, and participation is often paid. A review group will be most suitable for medium-sized to large organisations that have the capacity to devote the necessary time and resources to establishing and

managing a group. Once established, a review group can be engaged on an ongoing basis, and at all stages throughout a decision-making process.

Focus groups

This is a small number of people brought together with a moderator to discuss a specific topic in depth. It is usually between 6 and 12 people, with the aim of generating a discussion on a topic, and collecting information on the preferences and beliefs of the participants. Using discussion rather than formal questions and answers allows for greater probing of views. Focus groups can be held throughout your decision-making process. For example, you can set up a focus group to identify key themes and priorities at the start of your decision-making process then reconvene the group at later stages to consider options for action, and to evaluate implementation. You can use focus groups to engage with specific groups of people who may not respond to other, more general, engagement methods. For example, to examine a particular policy in detail, you might establish a focus group made up of older people with a mental health condition, or a group of disabled parents.

Representative groups

This is a body of people which represents the interests of a particular group. These vary in form and size from small, locally based and informally structured self-advocacy or support groups to large regional and national organisations, with formal structures and paid staff. Working with representative groups will help you to obtain both evidence and their views. These groups can also advise you on how to engage with people in your community. Representative groups can also help you deliver engagement activity. For example, you could commission a representative group to hold meetings or to run focus groups. They could be commissioned to collect information and write reports on relevant issues to help you in your decision-making. Any engagement of this type should be seen as a professional partnership, and payment may be appropriate.

Existing structures

Some common existing structures include school councils, service user forums, staff networks, Trade Unions and local area networks. Existing structures can be useful where time is short, but only if their membership includes a suitable range of people who may be affected by the issue in question.

Online engagement

There are a range of online methods, such as online forums, social networks and live discussions with a facilitator. Online engagement can be useful because it is easy and relatively inexpensive to engage with a wide range of participants. It is also a good way to engage those who may prefer a greater degree of privacy. You can invite particular groups, or individuals, to participate. Consider how to make people aware of your online engagement. It may be best used as one of several engagement methods on a particular policy, rather than in isolation, because not everyone has access to technology or the capacity to use it effectively.

Future search conference

This is an event for stakeholders to come together to consider a decision or policy in the context of their priorities and aspirations for the future. To use this method effectively, you should aim to engage people who are interested in or affected by your work, as well as people who have influence in your community. Stakeholders participate in a moderated discussion of their priorities, views, goals and aspirations as they relate to the relevant policy. A key aim is for participants to develop a shared vision for the future, through discussion and deliberation. This approach is useful if you want to collect and use information on the perspectives and priorities of your main stakeholders.

Conversation café

This technique recognises that some people prefer participating in a less formal way. In a conversation café, a mediator runs the event and participants are encouraged to divide into smaller groups for informal discussions on a range of topics. Participants can drop in or out of groups as it suits them. These events normally take place in familiar places where participants feel comfortable, for example, libraries, bookshops or cafés.

Appreciative inquiry

This method uses questions designed to encourage people to talk about their experiences of a particular issue. It aims to encourage participants to focus on finding solutions to issues, and to share their experiences of 'what works'. It can help to build relationships and to improve understanding. It can also be useful in encouraging motivation, particularly if participants feel resistant to change, or that they are being criticised.

Citizens' juries

A citizens' jury is a way of structuring an event that is modelled on the idea of a criminal jury. Around 10 to 20 people are selected to participate and they are presented with information by expert 'witnesses'. This could be information on a policy or a range of options for action. This process can take a few days, depending on the resources available, and the complexity of the issues. The jury then considers the information and makes recommendations on key points. For example, the jury might recommend priorities for an action plan, or call for further background work on particular areas. Citizens' juries do not involve large numbers of people, and will not be suitable for every organisation and every policy. They may require significant resources, such as external experts and specialists to attend and present information. They are best used by organisations with sufficient time and financial resources to 'test' awareness and to examine different options on contentious and high-impact issues.

Open Space

Open Space is a method for convening people on a specific question or task and giving them responsibility for the agenda. A facilitator identifies the question that brings people together, and offers a simple process for participants to start the discussions. It works best when the work is complicated, the ideas are diverse and the participants are keen to find a solution. It usually takes place over half a day to two days.

Citizens' summit

This is a large-scale meeting where participants spend time working in small groups and a facilitator collates participants' ideas and votes on a computer. The information from different groups is sent to a central point and distilled into themes, which all participants can comment or vote on. It is useful as it combines small-scale discussions with large group decision-making. This approach is resource intensive and will be most suited to larger organisations considering decisions on issues that have a wide and deep impact on their communities. It can be used to consider policy options and help set priorities for action.

User panels

These are regular meetings of service users to consider and discuss the quality of a service or another topic. They can help you to identify the concerns and priorities of

service users and can lead to the early identification of problems, or ideas for improvements. They are a way of getting the views of users on their experiences and expectations of services. You can also use them to test the reaction of users to changes and proposals, and to find, and generate, ideas for improvements. This method can be particularly useful for monitoring and evaluating your work.

Case studies

The equality duty section of the Commission's website includes a range of case studies about how public authorities have effectively implemented the duty. This includes examples of public authorities engaging with people with different protected characteristics and the benefits this has brought. These can be viewed at: www.equalityhumanrights.com.

6 | Summary

The following actions can help public authorities undertake successful engagement and give proper consideration to the aims of the general equality duty:

- **Leadership:** Engagement should be built on genuine commitment from all participants to the values and principles of citizen engagement. Leadership plays an important role in ensuring that engagement is a success and leaders, senior managers and staff with a scrutiny role need to commit the necessary time, effort and financial resources to deliver it effectively. This may include providing support and training for participants, and staff, so everyone can participate effectively.
- **Proportionality:** Engagement should be proportionate to the size and resources of your organisation, as well as to the significance of the policy. This means that the greater the impact of your policy on equality of opportunity and good relations, the more likely you are to need significant public or tailored engagement.
- **Evidence base:** Consider how engagement can help you to fill information gaps, interpret qualitative data, assess the impact on equality of your policies, and evaluate how successful your initiatives are.
- **Decision-making:** It is important to integrate engagement procedures and outcomes into your decision-making and service design. This will ensure that engagement becomes part of evidenced-based policy making across your organisation. It also demonstrates to stakeholders that their contribution has a real value and purpose. Consider the responses from stakeholders with an open mind and take their views into account in your policy and decision-making.
- **Timing:** Engagement is most successful when people are engaged at an early stage, prior to key decisions being made. Aim to incorporate engagement through the different stages of developing or reviewing a policy and allow people sufficient time to respond. Respond to the stakeholders that you have engaged with.
- **Partnerships:** Drawing on the skills and networks of voluntary and community organisations and Trade Unions can help you to plan and carry out your engagement activity. They often have positive relationships with the groups of people that they serve, so working with them can lead to higher participation and better outcomes. Engagement can be undertaken with other public authorities to make better use of resources and reduce the burden on participants.

- **Accessible engagement:** Public authorities should ensure that their engagement methods take into account the needs of people with all the protected characteristics, and enable them to fully participate. Take steps to capture the views of people with protected characteristics who are rarely or never heard. Ensure that participants have clear and sufficient information in order to be able to participate effectively. Under the Equality Act 2010, public authorities are obliged to make reasonable adjustments for disabled people, including during engagement.
- **Transparency:** If you are covered by the specific duties, consider what engagement information (e.g. your methods, participants and findings) would be useful for you to publish as part of your equality information. Build engagement with key stakeholders into the development and prioritisation of your equality objectives.

Contacts

This publication and related equality and human rights resources are available from the Commission's website: www.equalityhumanrights.com

For advice, information or guidance on equality, discrimination or human rights issues, please contact the Equality Advisory and Support Service, a free and independent service.

Website www.equalityadvisoryservice.com

Telephone 0808 800 0082

Textphone 0808 800 0084

Hours 09:00 to 20:00 (Monday to Friday)
10:00 to 14:00 (Saturday)

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Questions and comments regarding this publication may be addressed to: correspondence@equalityhumanrights.com. The Commission welcomes your feedback

Alternative formats

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