



The Scottish Women's Convention

Response to the Scottish Government Consultation on the Public Sector Equality Duty – Specific Duties

This paper contains the Scottish Women's Convention response to questions within the Consultation Document which have a particular relevance to women.

January 2010

Introduction

The purpose of the Scottish Women's Convention (SWC) is to communicate and consult with women in Scotland to influence public policy. Through the Convention's policy work, round table and celebratory events the SWC strives to have contact with women and relevant organisations. The SWC aims to provide an effective way of consulting with a diverse range of women in Scotland.

The Scottish Women's Convention has a network of over 300,000 women from relevant organisations throughout Scotland.

Background

The Scottish Government published a Consultation Document on 29th September 2009 seeking views on the duties that should be placed on the Scottish public authorities to assist them deliver on the general Equality Duty outlined in the UK Government's Equality Bill.

"The UK Government's Equality Bill, introduced to the Westminster Parliament in April 2009, is intended to simplify, strengthen and where possible harmonise current equality legislation.

The Bill includes a new general Equality Duty which will require public authorities to be active in promoting equality, eliminating unlawful conduct and fostering good relation. Scottish Ministers can place additional duties on Scottish public authorities to assist the delivery of the general duty and it is the scope of these additional, or 'specific', duties that is the subject of this consultation."

Yvonne Strachan
Head of Equality Unit
The Scottish Government

This document is a record of the Scottish Women's Convention response to this Consultation Paper.

Consultation Questions

The Scope of the Specific Duties

Question 1: Do you think that it would be helpful to have in place specific duties on public authorities to assist in the delivery of the Equality Duty?

YES NO DON'T KNOW

The SWC would welcome the development of specific duties to support the delivery of the equality duty.

The SWC believe it is important the specific duties are developed in such a way that they are a supportive tool assisting authorities in the delivery of the general equality duty.

Coverage

Question 2: Do you think the criteria set out at paragraph 4.4 are the right criteria for considering whether a public authority should be subject to the new specific duties?

YES NO DON'T KNOW

The SWC agree the criteria set out in paragraph 4.4 of the consultation document are reasonable to use in determining whether or not an authority is subject to the specific duties.

We feel the caveat, "provided it is reasonable and practical for them to do so", could weaken the framework of the specific duties and must be carefully considered.

Question 3: Do you think the new specific duties should be imposed on all Scottish public authorities which are subject to the general duty, provided it is reasonable and practical for them to fulfil the requirements?

YES NO DON'T KNOW

See answer to question 2 above re “reasonable and practical”.

The SWC also feel it is important to draw attention to concerns that public authorities not listed in the face of the Equality Bill will only be covered by the general duty in respect of their public functions.

Functions such as their role as an employer will not be covered. Development of the Bill must bear this in mind and ensure that the general duty applies as widely as possible.

Fitting with the electoral cycle

Question 4: Is it appropriate to link the new public sector equality duty specific duties to either the Scottish or local government electoral cycle? (For example, linking the setting, reviewing and reporting on equality objectives to electoral cycles)

YES NO DON'T KNOW

The SWC do not think there is any value in linking the public sector equality duty specific duties to the electoral cycle. Due consideration must be given to the number of public authorities which are not directly affected by elections in the same way as the Scottish Government or Local Authorities are.

It is also unclear to which electoral cycle the specific duties would be tied to, or how this would be decided. Elections for the UK Parliament, Scottish Parliament, local government or Health Boards for example all take place at different times.

For this reason the SWC can see no rationale linking the duties these different cycles.

Content of the specific duties – delivering on mainstreaming

Question 5: Should public authorities be encouraged to mainstream equality, with reference to all the proposed protected characteristics (see paragraph 2.8 for these), across their services and functions?

YES NO DON'T KNOW

The SWC fully supports efforts to encourage public authorities to mainstream equality across their services and functions.

Question 6: How might public authorities' best demonstrate they are mainstreaming equality in relation to all the proposed protected characteristics? For example, through reporting on progress.

The SWC feel unable to comment fully on this question except to say that public authorities should ensure their processes do not only report on outcomes but deliver regular information on their progress towards delivering equality.

Content of the specific duties – setting equality objectives

Question 7: With reference to the relevant evidence and to wider public authority general Equality Duty obligations, do you think that setting equality objectives would help public authorities to focus their response to the general duty? Should equality objective setting cover all protected characteristics, or not?

YES NO DON'T KNOW

N/A

Question 8: Do you think equality objective setting should be linked to the corporate and/or business planning mechanisms of public authorities?

YES NO DON'T KNOW

N/A

Question 9: How do you think public authority equality objectives should be publicised? Please provide your suggestions in the box below.

N/A

Question 10: Do you think that public authorities should be required to review their objectives every 4 years in order to fit with the electoral cycles of Scottish or local government?

YES NO DON'T KNOW

N/A

Content of the specific duties – reporting on progress

Question 11: Do you think public authorities should be required to report on progress?

YES NO DON'T KNOW

See question 14 response.

Question 12: How frequently should public authorities be required to report on progress? Please provide your suggestion in the box below.

See question 14 response.

Question 13: Should reporting on progress be linked to existing processes such as business planning?

YES NO DON'T KNOW

See question 14 response.

Question 14: Do you think the Government should prescribe in legislation how Scottish public authorities should report?

YES NO DON'T KNOW

The SWC agrees that public authorities should be required to report on progress.

Reporting should arguably be linked to existing reporting systems such as annual reports. This would ensure regularity and would mean that information was easily accessible.

Employment reporting

Question 15: The current gender specific duties require public authorities, with 150 or more employees, to publish an equal pay statement and report on that statement. Do you think this requirement should continue in the new specific duties?

YES NO DON'T KNOW

The consultations we have undertaken with women throughout Scotland confirm the gender pay gap is a significant and continuing issue which contributes to economic and employment inequalities faced by women in the workplace.

For this reason the SWC wholeheartedly agree that the requirement on public authorities to publish an equal pay statement and report on that statement should continue in the new specific duties.

The SWC has concerns that the 150+ employees threshold applying to a number of proposals in this Bill is too high. This should be set much lower to ensure that as many public authorities as possible address the equalities pay gap, irrespective of their size.

The SWC would like to stress that publishing an equal pay statement and reporting on that statement should be seen as a minimum requirement under the specific duties. As well as this, it is essential that public authorities are set the core objective of reporting and monitoring steps they will take to rectify any identified inequalities.

Question 16: Do you think that there would be value in public authorities with 150 or more employees reporting on their gender pay gap?

YES NO DON'T KNOW

See question 15 response.

Question 17: If the gender pay gap is to be reported on, what method do you think should be used to calculate the gender pay gap? Please give your suggestion in the box below.

The SWC understands that the median is the preferred earnings measure of the Office of National Statistics. To use a measure because it is less affected by a relatively small number of very high earners is ignoring one of the fundamental contributors to the gender pay gap.

The SWC would therefore prefer the mean measure of calculation.

Public authorities must ensure they have sufficient information to identify the causes of the gender pay gap within their organisation and take the necessary steps to remedy this.

Question 18: Do you think public authorities with 150 or more employees should be required to include information on the concentration of women and men in particular grades and in particular occupations (occupational segregation)?

YES NO DON'T KNOW

Our consultations with women in Scotland have established concerns about gender streaming. Given the priority of their concerns the SWC strongly support the need for public authorities to include information on the concentration of women and men in particular grades and in particular occupations.

Again we have concerns that the 150+ employees threshold is set too high.

Question 19: Do you think it would help public authorities to monitor progress on equality and be more transparent if they were required to publish their ethnic minority employment rate and disability employment rate?

YES NO DON'T KNOW

The SWC agree that authorities should be required to publish their ethnic minority employment rate and disability employment rate.

It is also the opinion of the SWC that ethnic minority and disabled women are subject to multiple levels of discrimination. With this in mind an additional requirement to provide a gender breakdown of ethnic minority and disability employment rates would be appropriate.

Employment reporting – other characteristics

Question 20: Should public authorities be asked to outline how they intend to gather information on employment rates for the other characteristics protected under the new Equality Duty?

YES NO DON'T KNOW

Evidence gathering is an essential part of the specific duties that establish the achievement of outcomes the SWC consider the need for authorities to outline how they intend to gather information crucial to the process.

As stated previously a duty to gather information should also embed a requirement to act on that information.

Question 21: How frequently should public authorities be required to publish information on the gender pay gap, their ethnic minority employment rate and their disability employment rate?

See Question 22 response.

Question 22: Should reporting on employment information be linked to other aspects of reporting on progress on equality, such as reporting on equality objectives?

YES NO DON'T KNOW

The SWC believe that publishing this information together with wider aspects of equality reporting within an authorities' annual reporting mechanisms would be an appropriate option.

Demonstrating the impact on equality of policies and services

Question 23: Do you think public authorities should be required to demonstrate how they have considered the impact of equality on their policies and services?

YES NO DON'T KNOW

The SWC strongly support the inclusion of a duty on public authorities to demonstrate how they have considered the impact of equality on their policies and services.

Processes and procedures are not an end in themselves in the delivery of equality. They must be continually assessed and monitored to ensure real change and the delivery of the general equality duty.

Question 24: Do you think a public authority should only be required to demonstrate equality impact assessment of key policies and services?

YES NO DON'T KNOW

The SWC believe that a public authority should be required to demonstrate equality impact assessment of all policies and services.

The SWC recognise the need for balance and proportionate assessment by authorities. We have concerns that the inclusion of the term "key services and provisions" could be used as a loophole by some authorities to avoid impact assessment in areas they do not consider "key". This may provide a loophole that could weaken the intention of the duties overall.

Question 25: What information should a public body be asked to provide or publish to demonstrate that consideration has been given to the impact on equality of key proposals, policies or services? Please provide your suggestions in the box below.

Women have reported to the SWC that grassroots evidence gathering directly with stakeholders about any potential impact of a proposed action increases positive outcomes.

This should be backed up with continued channels of reference, consultation and reporting.

Question 26: Should public authorities be required to take action in response to issues identified through impact assessment?

YES NO DON'T KNOW

The SWC fully supports the need for action to be taken in response to issues identified through impact assessment and for these actions to be recorded, monitored and reported on.

Involvement and consultation

Question 27: Do you think public authorities should have a specific duty, when setting their equality objectives, to take reasonable steps to involve and consult employees, service users and other relevant groups – or where appropriate their representatives – who have an interest in how the authority carries out its functions?

YES NO DON'T KNOW

The SWC strongly support the need to involve and consult with all those who have an interest in how the authority carries out its functions.

Evidence provided from feedback by women confirmed qualitative rather than quantitative research is more valuable. Continued involvement by stakeholders in the process is considered equally as important as initial consultation.

Procurement

Question 28: 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 NO DON'T KNOW

The SWC supports a specific duty in respect of procurement and consider it timely given the forthcoming Commonwealth Games to be held in Glasgow in 2014.

We believe encouraging positive action in wider employer attitudes is an important factor in promoting equality practice.

Question 29: Do you think that contracting authorities should be required to state how they will ensure equality factors are considered as part of their procurement activities to help contribute to the delivery of those objectives?

YES NO DON'T KNOW

N/A

Question 30: Do you think that contracting authorities should be required to consider using proportionate equality-related award criteria where they relate to the subject matter AND performance of the contract?

YES NO DON'T KNOW

N/A

Question 31: 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?

YES NO DON'T KNOW

N/A

Leadership by Scottish Ministers

Question 32: What do you consider to be the role of Scottish Ministers in providing leadership on equality?

The SWC believe that Scottish Ministers have a crucial role to play in providing leadership that demonstrates not only discharge of specific ministerial equality duties but commitment to equality when considering priorities such as domestic abuse or employment segregation.

Question 33: Should Scottish Ministers set equality priorities for the public sector in Scotland, determined jointly with local government in the spirit of the Concordat?

YES NO DON'T KNOW

N/A

Question 34: Do you think Scottish Ministers' equality priorities should be based on evidence and informed by reasonable and proportionate involvement of stakeholders and equality interests??

YES NO DON'T KNOW

N/A

Question 35: Should Scottish Ministers set their equality priorities at the end of the year in which the Government is elected and report on these within the electoral cycle?

YES NO DON'T KNOW

Earlier in the consultation response (see Question 4) the SWC disagreed with linking elements of the public sector duties to electoral cycles.

The SWC do however see value in linking Scottish Ministers equality priorities to their electoral cycle to strengthen objective setting and accountability.

We further recognise that the practical operation of this may not fit with public authority planning cycles therefore we believe more thought should be given to how this would fit in with the Concordat between central and local government and the National Performance Framework.

Documentation

Question 36: What documentation do you think should be required of public authorities to publicise their equality objectives? Please provide your response in the box below.

N/A

Question 37: Do you think that the mechanism(s) – whether through a Scheme or otherwise - for public authorities to publicise their equality objectives and report on progress should be left to each individual authority?

YES NO DON'T KNOW

N/A

Enforcement

Question 38: What role should bodies with a scrutiny and improvement function in Scotland play in monitoring and improving the extent to which Scottish public authorities advance and promote equality, foster good relations between different communities and groups, and take steps to prevent unlawful discrimination?

YES NO DON'T KNOW

The SWC cannot expand on what role bodies with a scrutiny and improvement function in Scotland should play.

However, as audit and inspection bodies are themselves subject to the existing equality duties we believe there would be value in placing a specific equality duty on audit and inspection bodies.

Question 39: Should that role be set out in specific duties placed on bodies with a scrutiny and improvement function? If so, which bodies? What would you see as the costs and benefits of such an approach? Are there any risks associated?

YES NO DON'T KNOW

N/A

If you require further information or additional copies of this report please contact
Isabelle Lannon, SWC Policy Officer on 0141 248 8186 or email
isabelle.lannon@scottishwomensconvention.org

All SWC reports and consultation responses can be accessed on our website
<http://www.scottishwomensconvention.org/what-we-do.asp>



Scottish Women's Convention
Blythswood House
200 West Regent Street
Glasgow G2 4DG

0141 248 8186