

Guidance for members of the University of Oxford on meeting the Public Sector Equality Duty

This guidance has been prepared by the Equality and Diversity Unit (EDU) to support those responsible for implementing the Public Sector Equality Duty (PSED) in relation to policy and decision-making. Additional guidance is available at: www.admin.ox.ac.uk/eop/policy/data/analysis. Those responsible for considering the PSED in decision and policy-making will need to record their outcomes at the end of this process. The University is considered to be a 'public authority' for the purposes of the Equality Act (2010).

Aims of the Public Sector Equality Duty

A public authority must, in the exercise of its functions, have due regard to the need to:

1. Eliminate discrimination, harassment, victimisation or any other prohibited conduct;
2. Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, by
 - a. Removing or minimising disadvantages suffered by people with various protected characteristics
 - b. Taking steps to meet the needs of persons with a relevant protected characteristic where they are different from the needs of other people
 - c. Encourage persons with a relevant protected characteristic to participate in public life or other activities where their participation is low
3. Foster good relations between persons who share a relevant protected characteristic and those who do not, by
 - a. Tackling prejudice and
 - b. Promoting understanding between different groups.

Protected Characteristics

1. Age
2. Disability
3. Gender reassignment
4. Marriage and civil partnership (only in relation to eliminating discrimination in employment)
5. Pregnancy and maternity
6. Race (including colour, nationality and ethnic or national origins)
7. Religion or belief (including lack of belief)
8. Sex
9. Sexual orientation

When do you need to use this guidance?

The words 'in the exercise of its functions' mean that the PSED applies in relation to every decision or action the University takes. This guidance therefore applies to any decisions or actions taken which are likely to affect staff, students or other users, and both to new decisions and to those being reviewed. This includes any policy / practice / decision / budget / function / regulation / new course etc implemented at all levels of the University. The process of paying 'due regard' to the PSED is known as 'equality analysis'.

Relevance

In theory, the PSED could apply to almost everything you do, so a proportionate approach is required. The first step is to make a preliminary judgement as to whether the PSED is relevant to the decision. You can do this by considering whether a **positive** or **negative** impact on equality is likely under the three aims, but also by assessing the likely risk and the level of scrutiny required from contextual factors, e.g.

- a) Does it involve significant financial resource or a major policy change?
- b) Will the decision have an impact on people? How many, and how significantly? Is it likely to affect people with particular 'protected characteristics' differently? A major impact on even a single individual could invoke consideration of the duty.
- c) Does it relate to an important or highly sensitive policy area (e.g. student admissions, harassment)?
- d) Does it relate to an area with known under-representation or differential outcomes (e.g. assessment, admissions, academic recruitment)?

For legal advice, please contact: lsoweb@admin.ox.ac.uk

For general advice on the PSED, please contact: equality@admin.ox.ac.uk

You should follow this preliminary judgment with more detailed analysis (which may require evidence) of which protected groups may be affected by either a **positive** or **negative** equality impact under each of the three aims. There may be several different impacts simultaneously. If you make a decision that the PSED is not relevant this should be recorded in high risk areas, particularly if it is not self-evident.

Evidence

In considering the decision's potential impact on equality and people with different protected characteristics, you may need to obtain additional evidence, which could be a combination of local, national, international and sectoral. Please see: www.admin.ox.ac.uk/eop/policy/data/sources for information on sources of data and advice.

Consultation

If the decision is likely to have a significant impact on staff and/or students and/or groups with protected characteristics, you may need to undertake targeted consultation. The EDU can provide support in this: contact equality@admin.ox.ac.uk.

Assessing equality impact

Considerations:

- a) Which protected groups might be affected – either positively or negatively – by the decision?
- b) Are there issues of 'intersectionality' between different protected characteristics – for example, could the impact be greater on older or younger people of different sexes and ethnicities?
- c) Could the decision have a **negative** impact on people with particular protected characteristics by creating or contributing to a risk of discrimination, harassment or victimisation?
- d) Are there any means of remedying or mitigating a potential negative impact?
- e) If there are no remedies, can the negative impact be justified?
- f) Could the decision have a **positive** impact on equality by eliminating discrimination/harassment/victimisation, advancing equality of opportunity or fostering good relations?
- g) Are there any additional steps you could take to achieve a (more) positive impact on equality?

Recording the outcome

You should retain a record of the steps you have taken where appropriate. This could include:

- a) Using the checklist at www.admin.ox.ac.uk/eop/policy/data/analysis to take you through the process step by step;
- b) Recording any evidence you consider and your assessment of potential equality impact;
- c) Recording in committee papers and minutes that this consideration has taken place. Sample text is available at: www.admin.ox.ac.uk/eop/policy/data/analysis

Guidance on the Meaning of 'Due Regard'

- 'Due regard' is taken to mean the level of consideration that is appropriate in all the circumstances.
- Decision-makers have personal responsibility for their actions under the PSED.
- Equality issues are at the centre of policy formulation, equally as important as financial and other considerations.
- Each of the three aims must be considered consciously, separately and equally.
- The duty must be complied with throughout the development of a policy as well as at the moment a decision is made or implemented. It cannot be justified retrospectively.
- The duty must be exercised in substance, with rigour and an open mind in such a way that it could have an influence on the outcome – not as a tick-box exercise.
- Decision-makers should have sufficient evidence to support their consideration of equality impact.
- The duty is a continuing one so policies and decisions should be subject to review.
- The duty cannot be delegated so the institution retains ultimate responsibility when appointing a third party to undertake functions relevant to the PSED.

- It is good practice for an institution to maintain records of its consideration of the aims of the general equality duty to inform decision-making, facilitate review and enable it to respond effectively to any challenge.

v.12 (18.9.15)