

Public sector Equality Duty

The public sector Equality Duty (PSED), part of the Equality Act, came into force in April 2011. It requires NHS organisations to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations.

About the public sector Equality Duty

The duty has a key role to play in making sure that fairness is at the heart of public bodies' work and that public services meet the needs of different groups. It covers a range of public bodies, including NHS organisations, government departments, local authorities, schools and police authorities.

The duty replaces the three former duties that required government departments, local authorities and other public bodies to take into account gender, race and disability equality both as employers and when making policy decisions and delivering services. The duty standardises this requirement and also extends it to cover age, marriage and civil partnership, religion or belief, sexual orientation, pregnancy and maternity and gender reassignment.

The general equality duty

Section 149(1) of the Equality Act 2010 puts various requirements on NHS organisations when exercising their functions. The general duty requires NHS organisations to have due regard to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having *due regard* means consciously thinking about the three aims of the PSED as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by NHS trusts, such as:

- how they act as employers
- how they develop, evaluate and review policy
- how they design, deliver and evaluate services

- how they commission and procure from others.

The specific equality duties

In addition to the PSED, Section 153 of the Act gives the government powers to impose specific duties on certain public bodies to help them perform the PSED more effectively.

To help public bodies perform the public sector Equality Duty (PSED) more effectively, regulations were approved in Parliament on the 6 September 2011 that introduce two specific duties.

The duties mean that NHS organisations are required to:

- publish information to demonstrate compliance with the PSED at least annually starting from 31 January 2012
- prepare and publish equality objectives at least every four years starting from 6 April 2012.

Advice, guidance and useful documents

- The Equality Delivery System (EDS) was rolled out to the NHS in July 2011 to help it meet the PSED and the two specific duties. NHS trusts will need to respond to the specific duties in good time, and should consider using the EDS to help them do so.
- The Government's Equalities Office (GEO) has published new draft regulations setting out new specific duties which will promote better performance of the equality duty. See the [GEOs website](#) for more details.
- The Equality and Human Rights Commission (EHRC) has published guidance on the duty, explaining the responsibilities of public sector bodies. See the [EHRCs website](#) to download the guidance.