

## SOUTH STAFFORDSHIRE COUNCIL

### Equality for Men and Women The proposed new public sector duty to promote gender equality

#### 1.0 Introduction

- 1.1 It is 30 years since the Sex Discrimination Act first came into effect and whilst there has been considerable progress in ensuring equality of opportunity, access and treatment between men and women, many issues of concern still remain. The effects of these continuing differences in treatment can be seen in a number of key employment areas such as pay, where the gender pay gap still persists, career progression and the impact of career interruptions, and occupational segregation, with women still working predominately in lower paid jobs such as catering, cleaning, caring and clerical work.
- 1.2 Mindful of the important role that the public sector can play, as both an employer and service provider, in challenging the causes of discrimination and tackling its effects, the Government has recently published proposals to introduce a new public sector duty to promote equality between men and women. This would be similar, in many respects, to the current race equality duty and the forthcoming disability duty, the overall aim being to seek to achieve a fairer and more inclusive society.

#### 2.0 The Gender Equality Duty

- 2.1 The foundations for the new duty are set out in the Equality Bill, currently progressing through Parliament - this will also establish the new Commission for Equality and Human Rights and bring together all 6 current separate strands of discrimination legislation.
- 2.2 The Equality Bill will introduce the general gender duty, which is, in essence, a set of broad obligations, which will apply to all public authorities. This general duty will be accompanied by specific duties, the details of which will be enacted through further secondary legislation. The Bill will insert new provisions into the Sex Discrimination Act (SDA), although the obligations under the duty will also apply to harassment and to equal pay.
- 2.3 The general duty will require public authorities to:
- **Have due regard to the need to eliminate unlawful discrimination** - this will mean employers must be conscious of their obligations under the SDA and Equal Pay Act and take steps to ensure compliance, actively considering gender equality as an integral part of their planning processes and taking such actions as are necessary to deliver this; and
  - **Have due regard to the need to promote equality of opportunity between men and women** - this will mean actively considering whether men and women are being treated fairly and whether their different needs are being met. This will apply across all areas of employment, including pay - for example, whether there is fair promotion and development opportunities, measures to tackle

occupational segregation, the availability of flexible working practices and the fairness of pay structures.

It should be noted that the duty requires public bodies to have "due regard to", i.e. the new duty is not intended to override other obligations and responsibilities that those bodies may have.

2.4 The Specific Duties are intended to assist public bodies in complying with it, with the aim of providing a clear and specific framework that will enable the intended goals to be delivered. The consultation document states that the Government has sought to embed 3 key principles in the proposed specific duties, i.e. that they are:

- Outcome-focussed;
- Proportionate; and
- Relevant.

It is intended they should avoid a "tick-box" approach, lead to positive outcomes and enable a significant level of discretion for individual bodies in determining how best to ensure compliance, taking account of organisational size, resources and priorities.

The 3 main requirements will be to:

- Draw up and publish a gender equality scheme, identifying specific gender equality goals and the action to be taken to implement them;
- Develop and publish an equal pay policy statement;
- Conduct gender impact assessments to assess the impact of new policies and services on women and men and enable any negative effects to be mitigated.

### **3.0 Gender Equality Scheme and Goals**

3.1 Essentially, public bodies will need to: identify gender equality goals in consultation with employees and other stakeholders; draw up and publish a scheme setting out those goals and the planned outcomes; monitor progress against that plan and publish regular progress reports; review and, where necessary, revise, that plan every 3 years.

3.2 This will mean that public bodies will need to review their activities and identify a number of specific priorities where action is needed to ensure the particular needs of women and men are met. Schemes should contain a number of gender equality targets, setting out how those targets will be achieved - the targets should be designed to deliver specific, identifiable improvements in terms of fairness and opportunity for employees. Schemes will also need to set out how public bodies will ensure that new policies and procedures provide gender equality through a process of gender impact assessment.

3.3 Employees and other stakeholders must be consulted as part of drawing up a gender equality scheme - a range of mechanisms could be used for this, e.g. through staff consultative forums, staff surveys etc. This should ensure that equality targets are focussed on those areas which are most relevant and meaningful to staff and should also assist in the evaluation of their effectiveness.

- 3.4 The gender equality scheme must be published, although there is no prescribed format or method for this, and, similarly, public bodies will need to demonstrate what progress has been made to achieve the stated goals by monitoring performance and publishing the outcomes on an annual basis.
- 3.5 As with race and disability equality, gender equality schemes will need to be reviewed and revised every 3 years, with the aim of creating a cycle of continuous improvement and facilitating the type of culture change which is at the heart of the proposals.

#### **4.0 Equal Pay**

- 4.1 Public bodies will be required to develop and publish a policy on developing equal pay arrangements between women and men, including measures to promote equal pay, ensure fair promotion and development opportunities and tackle occupational segregation. As with the gender equality scheme, this must be reviewed at regular intervals, for example, every 3 years. Again, public bodies will be free to determine how best to meet this requirement but an effective policy would be likely to include:
- a commitment to the principle of equal pay;
  - arrangements for reviewing pay, such as a formal pay review;
  - a commitment to act on the results.
- 4.2 Helpfully, the proposals provide for some flexibility in the precise methodology for undertaking a pay review, confirming that the arrangements should be proportionate to the size of the organisation and the composition of the workforce. The policy should not be restricted simply to "pay" but cover other employment aspects such as career development, flexible working and recruitment arrangements.

#### **5.0 Gender Impact Assessments (GIA)**

- 5.1 The third main strand of the specific duties will require public bodies to conduct and publish gender impact assessments, consulting appropriate stakeholders. These will need to cover all primary legislation and significant secondary legislation (where the organisation is the responsible body) and all proposed major policy developments.
- 5.2 There will also be a need to develop and publish arrangements for identifying developments that will justify conducting a formal gender impact assessment. They are likely to be used in a wide variety of policy and service development scenarios, including new and changed employment practices and procedures, for example, the design and development of competency frameworks, performance management processes, arrangements for pay progression and the introduction of flexible benefits. They should be seen, not only in the context of ensuring there is no adverse impact on either women or men, but as an opportunity to better promote equality of opportunity.
- 5.3 Impact assessments are a familiar tool to many public bodies and are already integrated within policy making processes, enabling consideration at an early stage of the potential effect of changes or new developments and the identification of corrective actions needed to address any adverse impact.

- 5.4 As with the other 2 main strands of the specific duties, consultation is an integral component of the impact assessment process, and there is flexibility to allow organisations to determine a proportionate and reasonable means of achieving this.
- 5.5 Public bodies will also need to develop and publish a policy on how they intend to assess the impact of future policy changes and make clear the circumstances in which it will conduct a GIA. The consultation suggests that a full impact assessment could be limited to "major" policy changes, with all proposed developments undergoing an initial screening to assess the effect on women and men. Where no adverse effect was identified the proposed development could proceed but where such an impact was identified a fuller GIA would be required.

## **6.0 Procurement**

- 6.1 Many areas of public service are now delivered through private providers - as the new duty will cover all the functions of a public authority there will also be a need to ensure that procurement policies and procedures reflect its requirements and that relevant staff are appropriately trained. This may include incorporating terms in contract conditions to provide for gender equality, whilst at the same time observing normal procurement rules. It is intended that further guidance in this area will be made available in due course.

## **7.0 Implications for public sector employers**

- 7.1 Much of the above will be familiar territory for those who have already implemented Race Equality Schemes and will be in the process of developing Disability Equality Schemes. It will, however, require an assessment and determination of the gender priorities within an organisation's employment and pay policies and the development of an action plan designed to achieve specific and measurable outcomes, drawn up in consultation with staff and trade unions. It will provide an opportunity for organisations to address some of the key areas impeding gender equality in the workplace, including:

- The gender pay gap;
- Occupational segregation; and
- Leadership.

- 7.2 The public sector also has an important community leadership role and, in actively demonstrating that it is sensitive and responsive to the different needs of women and men, it can provide an important stimulus to other employers in ensuring equity and fairness.

## **8.0 Conclusions**

- 8.1 The Government has stated that the focus of the new duty should be on outcomes, not process, and that it does not want its introduction to result in further bureaucracy and paperwork for the public sector. If that were the case, it would divert energies away from the real goals. Not only is sex

discrimination illegal, its effects have a significant impact on both individuals and organisations in many ways. At a time when there is a critical need for employers to fully utilise the skills and talents of the entire workforce, achieving gender equality simply makes business sense.

- 8.2 With legislation now requiring equality schemes for gender as well as disability and race a co-ordinated comprehensive approach is required. The development of an Equalities Action Plan that covers, as a minimum, gender, disability, race and age equality objectives is essential to ensure service and corporate equality objectives are met.

## **9.0 Agreed Action**

- 9.1 Undertake a Gender Equality Scheme following publication of Government guidelines.
- 9.2 That the Head of Human Resources develop a Corporate Equality Plan incorporating the existing Equal Opportunities Policy and Race Equality Scheme. The CEP to cover all relevant equality areas, including as a minimum gender, disability, and race, and that it addresses multiple discriminations, gives fairness at work, commits to undertaking an equal pay review and involves consultation with relevant groups from the community in its development.
- 9.3 That impact needs assessments be consolidated within an Equality Impact Assessment covering gender, disability and race as a minimum and they be implemented throughout the authority.
- 9.4 That the commitment by all services areas within the RES to consult with designated community, staff and stakeholder groups regarding service delivery be widened to include all equality matters.
- 9.5 To support the work on equalities there has to be a commitment to consult Portfolio and Service Managers and in turn for these to contribute to the consultation and scrutiny process.
- 9.6 That each service area be committed to incorporating race, gender and disability equality objectives into service plans.