**Equality Act 2010**

**Summary.**

The new Equality Act 2010 supports good decision making – it encourages public bodies to understand how different people may be affected by their activities so that policies and services are appropriate and accessible to all and meet people’s different needs. It replaces 3 previous public sector duties for race, disability and gender. The new Equality Duty(ED) (set out in section 149 of the Act) covers the following protected characteristics:

*Age*

*Disability*

*Gender reassignment*

*Race (including ethnic/national origins, colour or nationality)*

*Religion or belief (including lack of belief)*

*Sex*

*Sexual orientation*

*Marriage and civil partnership (where requirement is to have due regard to the need to eliminate discrimination)*

*Pregnancy and Maternity*

The **Equality Duty** requires public bodies to have ‘due regard’ to the need to:

* EIiminate unlawful discrimination, harassment, victimisation**;**
* Advance equality of opportunity between those who share protected characteristics and those who do not (by removing/minimising disadvantages suffered due to protected characteristic, meeting needs, and encouraging participation in public life where participation is low)**;**
* Foster good relations between those who share the characteristic and those who do not (by tackling prejudice and promoting understanding between the groups)**.**

**‘Having due regard’** – means consciously thinking about the 3 aims above as part of the process of decision making so that equality issues influence decision making e.g. how they design, deliver and evaluate services and how they commission and procure from others. It means using good quality information and analysis at the right time, as part of the decision making. Note that the law also protects people at risk of discrimination by association or perception e.g. a carer who looks after a disabled person.

**Compliance** -Complying with ED may mean treating some people/groups better than others e.g. an exception or positive action provision to provide a service appropriate for people with a protected characteristic such as computer training for older people so that they can access information and services.

ThePublic body must**:**

1. publish information to demonstrate compliance with ED at least annually;
2. set equality objectives at least every 4 years which focus on what is appropriate in their circumstances;
3. take responsibility for performance, and be held accountable to the public.

The Equality and Human Rights commission assesses compliance and enforces ED; EDcan also be enforced by judicial review.

**Taking account of disabilities.**

ED explicitly recognises the different needs of those with disabilities and therefore public bodies should take account of people’s impairments when making decisions about policies or services e.g. make reasonable adjustments/treat them better to meet their needs.

**Application:** Public bodies must consciously think about the 3 aims of ED as part of their decision making process, in balance with other factors. To do this they must ensure:

* Knowledge: decision makers are aware of and apply ED**;**
* Timelines: ED should be complied with before and at the time of policy decision making, not used to justifya decision already made;
* Real consideration: - an integral part of decision making, not just box ticking**;**
* Sufficient information: does the decision maker have enough information? What other information might he need to properly consider ED?**;**
* No delegation: it is the duty of the public body to ensure that any 3rdparty complies with ED;
* Review: must continue to have regard to ED when implementing and reviewing policy;
* Demonstrating compliance with ED: there is no explicit requirement to record the process of consideration but it is good practice to do so.

**Who needs to be aware of ED?**

Board members, service managers, equality and diversity staff, HR staff, policy makers, communications staff, analysts, frontline staff, procurement and commissioning staff.

ED is not to be applied in a bureaucratic way; the focus is on performance, not process. Where it is not relevant, don’t apply it!

Equality Impact Assessments (sometimes known as Equality Risk Assessments) are a useful tool to understand how a particular policy or function may affect certain groups in a negative or positive way and enable organisations to put in place remedial action plans.

**ED does:**

* require public bodies to take disproportionate action e.g. give greater consideration to ED where the issue would have greater effect on discrimination or equality of opportunity, and vice versa.

**ED does not:**

* require that everyone is treated the same, but that public bodies think about different needs and how they can be met
* require public bodies to treat religions as equal or treat religious festivals equally
* require public bodies to make services homogenous or remove/ignore differences between people e.g. no longer able to commission services from faith groups as they may be the best placed people to reach into certain communities**.**