

The Equality Act 2010 – The Public Sector Equality Duty

Section 149 in Chapter 1 of Part XI EA 2010 is the new public sector equality duty. It came into force on 5 April 2011. It replaces the existing public sector equality duties in sections 71 *Race Relations Act 1976* (introduced on 2 April 2001), 76A *Sex Discrimination Act 1975* (introduced on 4 December 2006) and 49A *Disability Discrimination Act 1995* (introduced on 2 April 2007). Broadly speaking, it extends the scope of the duty to all 'protected characteristics' (as defined in section 4 of the Act) except marriage and civil partnership. Section 149 provides as follows:

149 Public sector equality duty

1. A public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
2. A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
3. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - a. remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - b. take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - c. encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

4. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
5. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
 - a. tackle prejudice, and
 - b. promote understanding.
6. Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
7. The relevant protected characteristics are:
 - a. age
 - b. disability
 - c. gender reassignment
 - d. pregnancy and maternity
 - e. race
 - f. religion or belief
 - g. sex
 - h. sexual orientation.