

Legal Updates & News

Legal Updates

Public Sector Bodies and the UK Equality Bill 2009

July 2009

by [Amina Adam](#), [Alistair Maughan](#)

Trainee solicitor Elizabeth Foskett provided valuable assistance on this article.

The Equality Bill 2009

UK public sector bodies should be mindful of the greater obligations to promote equality to which they will be subject under the proposed provisions of the Equality Bill 2009, which is expected to be implemented in the UK by October 2010.

Related Practices:

- ▶ [Employment and Labor](#)
- ▶ [Sourcing](#)

What is the development?

On 27 April 2009, the proposed Equality Bill (the "Bill") was published. The Bill represents the UK government's attempt to consolidate nine existing pieces of discrimination legislation and approximately one hundred statutory instruments into a single piece of legislation. It also includes new provisions aimed at tackling the inequality and discrimination that persist in employment and in the provision of services. The purpose of the Bill is therefore to harmonise discrimination law and strengthen it to support equality. It is intended that the Bill will ultimately provide public bodies, private sector employers and service providers with clear and practical guidance on how to do this.

Why is this development important?

The implementation of the Equality Bill will result in a comprehensive overhaul of the equality duties owed by public sector bodies, private sector employers and service providers. More particularly, the Bill contains several provisions specific to public sector bodies.

Which public sector bodies are affected by the Bill?

The Bill makes it clear that the public sector duties will apply to NHS bodies, local authorities and government departments. However, the precise extent of the public sector bodies subject to the Bill's public sector-specific provisions is yet to be finalised. There may therefore be a limited number of public sector bodies that will not be covered by the public sector-specific duties of the Bill.

What are the public sector-specific provisions?

A. New duty to consider socio-economic inequalities

Under the Bill, government ministers, departments and other key public bodies, such as local authorities and the NHS, are subject to the duty to consider what action they can take to reduce unequal outcomes resulting from socio-economic disadvantages. This duty will impact how public bodies make strategic decisions about spending and decisions on the provision of services. However, an individual will not be entitled to bring a claim for damages against a public authority for its failure to perform this duty in a manner favourable to them.

B. New equality duty

The current race, disability and gender equality duties will be replaced with a new single public sector duty, which is extended to cover gender re-assignment, age, sexual orientation and religion or belief. The new duty will require the applicable public authorities to have regard to the following when exercising their public functions:

- eliminating discrimination, harassment, victimisation and any other conduct prohibited by the Bill;
- advancing equality of opportunity between people who share a protected characteristic and people who do not share it; and
- fostering good relations between people who share a protected characteristic and people who do not share it.

The “protected characteristics” referred to and protected by the Bill are age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender and sexual orientation.

C. Public procurement

The Bill confirms that public sector bodies can use procurement to support the aim of greater equality. The Bill enables ministers to set out how public bodies should go about using procurement to support equality. The government is set to consult on the specific issues that underpin the new equality duty during the course of the summer.

D. Equality reports

In addition to the proposed outlawing of secrecy clauses, which prevent employees from discussing their pay, the Bill also includes the power for ministers to require public authorities to report on equality issues. While the precise details are not yet available, it is expected that public sector bodies with more than 150 employees will be required to publish annual details of their gender pay gap, their disability employment rate and their ethnic minority employment rate.

Next steps

Over the summer, the government will consult on the new public sector equality duty and non-public sector specific provisions of the Bill. It is anticipated that the majority of the Bill will come into effect in October 2010, while the socio-economic and equality duty provisions are expected to come into force in 2011.

Although there may be some time before the proposed Bill becomes law, public sector bodies should nevertheless begin to consider how they will respond to the proposed provisions of the Bill. In light of the anticipated changes, it would be prudent for public sector employers to undertake a review of comparative pay of employees and recruitment policies and to seek to adopt a more proactive approach to the promotion of equality in employment.

