

Cohesion and equality: guidance for funders



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within the Equality and Human Rights
Commission

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The Commission's website contains all the information you need about the duties including more details on the specific requirements of each. You can find a range of guidance documents, including the statutory guidance contained within the Codes of Practice, and a number of other resources at:

[www.equalityhumanrights.com/
publicsectorduties](http://www.equalityhumanrights.com/publicsectorduties)

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Introduction

The purpose of this guidance is to help public bodies, especially those providing funding at a local level, to discharge their equality duties. There is evidence that local authorities are implementing the drive to promote community cohesion and integration **(1)** in breach of their positive legal obligations concerning equality and diversity **(2)**.

Equality legislation contains legal obligations not to discriminate due to race, gender, disability, age, sexual orientation and religion and belief. For race, gender and disability dimensions there are also positive legal obligations on public authorities to give due regard to, among other things, eliminating discrimination and promoting equality of opportunity when carrying out relevant functions and activities. These positive duties came into existence after the Government legislated to implement the recommendations of the Macpherson inquiry into the Metropolitan Police's investigation of the murder of Stephen Lawrence. They recommended positive obligations should be created in the form of a strong, clear, effective and enforceable legal duty which placed race equality at the heart of public authorities' policy considerations.

Many local authorities have decided the drive to promote cohesion and integration means funding should be withdrawn from community-based organisations delivering services targeted to particular groups (often referred to as single-issue groups), and replaced with funding generic services available to everyone (commonly called mainstream services).

In the context of this guidance, cohesion means different groups of people getting on well together. Integration refers to the way in which new and existing residents in communities adapt to one another.

Equality, for the purposes of this guidance, is defined as tackling discrimination – experienced particularly by people from ethnic minority communities, women and disabled people, and the disadvantages this causes – in order to achieve equality of opportunity, equal treatment and equal participation in society.

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- 1 Following on from the 'Our Shared Future' report of the Commission on Integration and Cohesion.
 - 2 See the High Court judgement of Moses LJ in the case of R (on the application of) Kaur & Shah v-London Borough of Ealing [2008] EWHC 2062 (Admin) for a prime example of this trend.

Summary

The equality duties must be understood and discharged in the context of relevant local strategies and legal obligations – such as sustainable community strategies, local area agreements, local strategic partnerships and neighbourhood renewal strategies.

To comply with equality legislation, funders need to begin with a very good understanding of the local communities they serve, especially the patterns of disadvantage local groups of people experience connected to race, gender and disability, before using this local knowledge to make informed decisions on the purpose of funding, funding criteria and which organisations will receive funding from them.

Funders also need to recognise and appreciate the shared aspirations of the equality duties and cohesion agenda; they complement each other. Both aim to remove disadvantages experienced by groups; both promote participation in society and positive engagement between groups, with the broader purpose of fostering greater understanding and mutual respect between individuals and groups, and a shared sense of community identity.

Ultimately, what matters is that funding goes to the organisation best placed to deliver the services that are required. A good understanding of local circumstances combined with a better understanding of the common aims of the equality duties and cohesion agenda will assist public authorities to find the flexibility to achieve the right balance in terms of funding single-issue and mainstream groups. Having an inflexible approach that assumes it is better to fund mainstream services rather than single-issue groups isn't the right approach to begin with.

Consulting/involving concerned groups and proportionate assessment of the equality impact of proposed relevant functions and activities are both critical to comply with the positive obligations of equality legislation. The aim is to equip policymakers with the means to fully think through and appreciate the equality consequences of what they propose to do, and to recognise the impact of current functions and activities, so that functions are carried out more effectively and service delivery improves.

Women experience domestic violence in far greater numbers than men. In the vast majority of cases this type of violence is committed by men.

Recognising this, and factors such as the need for victims to have safety, privacy, dignity and respect to enable them to address and overcome their experiences, legitimises the provision of female only domestic violence services (separate from similar services for men). Some ethnic minority women also have distinct requirements that must be met in order to access and use domestic violence services. Equality law permits the targeting of services to particular groups based on gender and/or race for reasons connected to welfare, dignity and privacy. **(3)**

Some public authorities mistakenly assume the Gender Equality Duty requires targeted domestic violence service providers to broaden their services to both men and women in order to receive public funding, or avoid the removal of or reduction in funding. In reality, decisions to commission and fund only domestic violence services provided by the same organisation to both men and women are likely to be counterproductive in the drive to promote equality. This is because the take-up, use of and effectiveness of the non-targeted

mainstream services towards those previously targeted won't be as good as targeted services. In the end, the effects of such flawed decision-making only serve to bolster the barriers to well-being, participation and equality experienced by disadvantaged women who experience domestic violence and particularly hard to reach groups, such as ethnic minority women.

3 The duty to promote race equality – a guide for public authorities; The duty to promote race equality – a guide for public authorities in Scotland; Gender Equality Duty: Code of Practice for England & Wales; Gender Equality Duty: Code of Practice for Scotland; The duty to promote disability equality: statutory code of practice – England & Wales; The duty to promote disability equality: statutory code of practice – Scotland. See also, the Commission's website for non-statutory guidance: www.equalityhumanrights.com

Why equality and cohesion complement each other

The Commission on Integration and Cohesion (COIC) highlights the interaction between cohesion and equality by stating:

‘If the discrimination experienced by some groups within our society continues, we will not be able to achieve the goals we set out in this report for building integration and cohesion.’ **(4)**

The tension between the equality and cohesion agendas arises due to a mistaken understanding, especially among some local authority funders, that the drive to promote cohesion equates to funding mainstream in place of single-issue organisations.

When delivering the final report Darra Singh, the Chair of the COIC, warned against this when he said:

“So today marks the completion of the work of the Commission on Integration and Cohesion. But I hope will also mark the start of a pioneering new approach. One that avoids a one size fits all mentality. And one that responds to local distinctiveness.” **(5)**

The Commission on Integration and Cohesion (COIC) promotes a flexible and rounded approach when it states that:

‘Improving cohesion is about addressing multiple issues at the same time – taking action on a single issue will only make a small difference, so there needs to be both mainstreaming work and targeted policy interventions.’ **(6)**

If barriers disadvantaging certain groups and communities are maintained by funding only mainstream service provision, this will not only promote inequality but will serve to act against the drive to promote cohesion and integration. Similarly, an assumption that targeted funding for single-issue groups is always warranted could result in the same consequences. A more balanced approach based on hard evidence is required.

4 The Commission on Integration and Cohesion – Our Shared Future (June 2007).

5 Speech of Darra Singh, Chair of the COIC, on ‘Our Shared Future’ report delivered on 14 June 2007.

6 The Commission on Integration and Cohesion – Our Shared Future (June 2007).

The public sector equality duties

What do the general duties require?

When carrying out functions and activities, public authorities are required to give 'due regard' to each individual and complementary limb of the general race equality duty (RED), namely:

- the elimination of unlawful discrimination and harassment;
- the promotion of equality of opportunity; and
- the promotion of good race relations.

Similar duties exist in relation to gender (known as the Gender Equality Duties), and additional duties exist in relation to disability (known as the Disability Equality Duties) concerning more favourable treatment of disabled people, promoting participation and positive attitudes.

What do the specific duties require?

The general duties are supplemented by more specific duties aimed at helping public bodies better discharge their general equality duties. The specific duties require the construction of race, gender and disability equality schemes and action plans. The schemes and plans are based on the requirements to carry out evidence gathering, assessment, consultation or involvement, prioritisation, publication, monitoring and periodic review.

What is the purpose of these duties?

The underlying purpose of the equality duties is to require public authorities, when they carry out relevant functions and activities, to take proactive steps to generate positive equality outcomes, instead of reacting to discrimination after it occurs. Therefore, the equality duties are constructed to identify and improve organisational attitudes and practices that result in inequality and discrimination based on race, gender and disability.

Compliance with these duties requires a different way of thinking than the traditional approach to carrying out public functions and activities. In essence, public authorities must seriously reflect upon the relevant equality dimensions of what the organisation currently does and what it proposes to do.

Some of this reflection is focused upon collecting data and carrying out research, to better understand the local equality dimensions, appreciate where the problems arise, what needs to improve and then to prioritise action. However, public authorities are unlikely to have the complete picture in terms of equality, so consulting with and involving disadvantaged groups and assessing the equality impact of activities and functions from their perspective is also an important feature of these duties.

Openness and confidence-building measures are necessary to identify what otherwise would not have been known, especially in relation to disadvantages experienced by ‘hard to reach’ groups and communities. In turn, this information will assist in better policy formulation and policy development. It will also assist to improve decision-making, the exercise of public functions and service delivery.

In order to achieve all of this in practice, good awareness, positive engagement and real commitment are required on the part of those who have duties, and their employees.

These duties should not be seen as simply a bolt-on to existing practices, or a bureaucratic paper box-ticking exercise. Paper practices and processes must be seen as being a means to an end. The real proof as to whether these duties are being discharged lies in delivering improved equality outcomes.

What are the underlying principles behind these duties?

The equality duties apply and operate according to the principles of relevance and proportionality, so they require greater and deeper consideration where equality is of more significance to functions and activities. Resource allocation decisions are almost always likely to have significant equality implications. Assessment and consultation are key to identifying and tackling adverse equality impacts that proposals could have. Since these are ongoing duties, the functions, activities, action plans and equality schemes of public authorities should be monitored and reviewed, so that they can evolve and be appropriately adapted to changing circumstances.

Where can I find further information regarding these duties?

Statutory codes of practice and non-statutory guidance have been issued which explain these duties in greater detail ⁽⁷⁾. Public authorities are required to adhere to the contents of such statutory and non-statutory guidance ⁽⁸⁾.

What could happen if these duties are breached?

Failure to comply with the equality duties can result in legal action brought by concerned or affected individuals, and/or result in legal enforcement action brought by the Equality and Human Rights Commission.

⁷ As footnote 3

⁸ Moses LJ judgement at paragraph 22 in the case of R (on the application of) Kaur & Shah-v-London Borough of Ealing [2008] EWHC 2062 (Admin).

Common mistakes: when public authorities get it wrong

- Assuming good intentions are enough, or that traditional working practices don't need to be adapted or changed, thereby missing the broader purpose of these duties.
- Failing to carry out an appropriate equality impact assessment (EIA), and failing to consult or involve before making relevant decisions.
- Carrying out an EIA (and consulting) as a rearguard action to support a flawed decision.
- Failing to identify the adverse impact proposals could have upon men or women, racial groups and disabled people.
- Failing to identify and consider alternative options that don't have the adverse impact(s) before making decisions.
- Only attempting to tackle the consequences (i.e. once adverse effects have materialised) instead of taking preventative action.
- Taking a process-driven, rather than outcomes-focused, approach towards the equality duties.
- Failing to look beyond eliminating discrimination and harassment, at the other limbs of the equality duties – promoting equality, good relations, taking more favourable steps for disabled people, encouraging participation and positive attitudes.

What is required to get it right?

The need to have a good understanding of what equality means

A one-size-fits-all approach to equality could actually run counter to promoting equality. Fundamentally, equality means more than simply treating people in the same way in the same or similar circumstances. An informed understanding of substantive equality, aimed at reducing disadvantage and thereby promoting participation in society, recognises that people have different needs and that equality can be achieved sometimes by treating people differently. This could be done by taking a different approach to service delivery for groups who have different needs. Equality legislation recognises this, and makes allowances which permit those who have duties to treat different situations differently.

Understanding the local equality dimension

Local authorities are expected to have a good understanding of their local circumstances. No two regions are completely the same. The demographics of one area could be radically different from another, ranging from the racial composition of communities to the extent of particular disabilities among residents. Effective prioritisation and delivery of important equality outcomes has to be based on evidence-gathering. Consultation and involvement with concerned and affected groups regarding their needs, priorities and the impact of proposals will be especially important in this regard. Local authorities must engage with local people and communities in order to identify and tailor equality priorities to local needs when carrying out their functions and activities. Seeing value in having and sustaining effective local, grassroots community organisations is also part of understanding the local equality dimension.

Ensuring equality is a core consideration

The principles of relevance and proportionality shape the priorities and types of action required to give 'due regard' to overcoming barriers to achieve equality. Where relevant and proportionate, equality has to be at the heart of what public bodies do, especially policy formulation and decision-making. Relevance in this context means identifying the importance in terms of race, gender and disability equality of carrying out some functions and activities over others. Proportionality means finding the weight to be given to priorities and actions after taking account of relevance.

The need to identify and deliver positive equality outcomes

Many public authorities spend too much effort upon process and bureaucracy, and not enough upon delivering equality outcomes. Discharging the equality duties is ultimately demonstrated not by the processes and practices public authorities devise – which should be seen as a means to an end – but by the real equality outcomes actually delivered. Delivery of equality outcomes is, therefore, the key litmus test that should be used to determine whether the equality duties are being discharged.

Applying the equality duties to the funding context

What kinds of problems are occurring?

The Commission is aware of voluntary organisations losing funding because of their perceived single-issue focus, for example, in seeking to improve educational attainment levels among pupils from ethnic minority communities, or through providing targeted services required by women who have experienced domestic violence **(9)**.

Instead of being central to decision-making on allocating scarce resources, consultation upon and equality impact assessment of funding criteria, processes and decision-making is sometimes completely ignored, misunderstood or belatedly placed at the periphery of relevant considerations, often after funding decisions have already been made.

The purpose of equality impact assessment then becomes skewed towards justifying the decision that has been made. Evidence is marshalled to defend the funding decision, regardless of its real equality impact, which often relies heavily on general statistics concerning changing local demographics to justify a departure from funding single-issue groups towards mainstream provision. In turn, this generates the dangerous perception that money is being taken from some communities and given to others, which actually hinders the promotion of equality, cohesion and integration. In the end, this approach tends to result in conflict, costly and protracted litigation and legal resolution of problems that should not have got to that stage.

9 Page 15 of Map of Gaps 2 – The postcode lottery of Violence Against Women support services in Britain (Maddy Coy, Liz Kelly and Jo Foord) published in January 2009 by EVAW and EHRC.

Do the equality duties always require funding to be provided to single-issue organisations?

The task that public bodies providing funding have is to identify the best group to deliver the most effective service, which includes achieving the desired equality and cohesion outcomes. As a starting point there should not be a presumption against single-issue groups, or in favour of mainstream groups, or vice versa.

The equality duties do not require funding to continue, which is contrary to the drive to promote equality as well as cohesion/integration where, for example, there are legitimate concerns that funding is given to some single-issue organisations, which itself promotes division between communities and disengagement from wider society.

Instead of simply removing funding and doing nothing more, which could adversely impact upon the drive to promote equality, investigation of alternative or additional courses of action that don't have such adverse effects is necessary.

Where there are false perceptions about some communities getting more resources than others, the equality duties (note especially the good race relations obligations in this regard) and cohesion responsibilities require action by funders to confront and address inaccurate perceptions which hinder the drive to promote equality, cohesion and integration. Local authorities, therefore, have positive legal obligations to take effective steps to tackle false perceptions that could damage good relations and community cohesion and integration.

What about other relevant considerations?

Appreciating the value, expertise and broader benefits of the voluntary and community sector also forms an important part in determining where funding can be used to best effect to deliver desired equality and cohesion outcomes. The agreement (and associated codes of practice) between the Government and the voluntary and community sector to improve their relationship, commonly known as the Compact and supplemented by local Compacts, will be relevant to devising funding processes, commissioning criteria and decision-making by public authorities. Therefore, the values, principles, commitments and guidelines for joint-working within national and local Compacts should be taken into consideration to inform the balanced approach to funding to be taken in a given locality.

Applying these duties to the context of services tackling violence against women

Violence against women is defined as gender-based violence which occurs because the victim is a woman, or which affects women disproportionately. This includes domestic/intimate partner violence, rape and sexual assault, sexual abuse of girls, trafficking and sexual exploitation, stalking, sexual harassment, female genital mutilation, forced marriages and crimes in the name of honour.

What is the purpose of funding domestic violence services?

In the context of domestic violence service delivery, the aim of both the equality duties and the cohesion agenda is to empower those experiencing domestic violence (especially women) to find effective ways to tackle and overcome it, and thereby participate in wider society, free from the distinct barriers they experience.

What is the case for separate domestic violence service provision based on gender?

Research shows that almost half of all women will experience violence connected to gender at some point during their lifetime **(10)**. Local and national evidence discloses that women and children have a greater need for domestic violence services than men because they experience domestic violence in much greater numbers than men **(11)**. Given that the majority of perpetrators of domestic violence are men, it follows that women have a legitimate basis for separate service provision in this regard.

10 Walby, S and Allen, J (2004) Domestic Violence, Sexual Assault and Stalking: Findings from the British Crime Survey, London, Home Office.

11 For example, between April 2007 and March 2008 only 2 per cent of calls to the Wales Domestic Abuse Helpline were from male victims – Welsh Women’s Aid (2008), National Assembly for Wales Communities and Culture Committee Inquiry into Domestic Abuse.

What evidence is there to show ethnic minority women have distinct domestic violence service needs?

Women from ethnic minority communities are known to be hard to reach, and are known to significantly under-report incidences of domestic violence **(12)**. They have distinct domestic violence service needs based on factors such as language, culture, immigration status/access to public funds, forced marriages, honour-based violence and female genital mutilation. The interaction between gender and race in this context should be self-evident, and the interaction with disability should also be apparent given the effects of violence against women often result in mental health issues and self-harming behaviour, among other conditions.

What are the problems in terms of violence against women?

Tackling violence against women should be seen as a gender equality duty priority by all local, regional and national authorities in respect of relevant functions and activities. This guidance is set against a backdrop where approximately a quarter of local authorities do not have specialist violence against women support services, and nearly one in three local authorities have no specialised domestic violence service **(13)**. The overwhelming majority of local authorities (ninety per cent) do not provide or fund any domestic violence services targeted towards ethnic minority women **(14)**. In England and Wales holistic domestic violence service provision from prevention to prosecution is the exception not the norm. The limited funding for domestic violence services delivered by the voluntary and community sector at grassroots level is being reduced through commissioning that favours mainstream (and statutory) services. This occurs despite the fact that only a minority of victims/survivors report violence to statutory agencies **(15)**.

12 See 'A Matter of Life and Death: the loss of specialist services for BAMER women and children experiencing violence', (2008) IMKAAN.

13 See Executive Summary of Map of Gaps 2 – The postcode lottery of Violence Against Women support services in Britain (Maddy Coy, Liz Kelly and Jo Foord) published in January 2009 by EAW and EHRC.

14 As footnote 13.

15 As footnote 13.

What needs to be done to improve this situation?

In order to properly discharge their multiple legal obligations in this context, funders need to have an informed understanding of the interaction between equality issues across contexts and equality strands. This requires a move away from one-dimensional thinking that tags-on equality considerations as a poor afterthought. Due regard must be given to the holistic approach (tackling the causes as well as the consequences of violence against women) set out in the 'Realising Rights, Fulfilling Obligations' report of End Violence Against Women (EVAW) **(16)**.

Very few public authorities have a co-ordinated violence-against-women strategy that complies with equality and human rights legal obligations. Such strategies are necessary across the many contexts covered by public bodies – such as education, housing, health, public space and transport.

If properly discharged, the race, gender and disability equality duties should drive a consistently effective approach by public authorities to tackling violence against women. This should occur from prevention through to prosecution, by constructing necessary strategies, allocating funding and policy implementation.

To be most effective co-ordination is required between national, regional and local government, statutory agencies and the voluntary and community sector.

An informed approach towards cohesion and integration would see tackling violence against women as being complementary to cohesion and equality aspirations and objectives.

The Commission and EVAW have publicly stated **(17)** that:

A vibrant and accessible women's NGO sector is an essential component of co-ordinated community responses for a plethora of reasons. It provides access for women who will not, or are uncertain whether to, make an official report – currently the majority.

- It offers support and signposting into statutory services.
- It builds knowledge and awareness of the diversity and complexity of violence against women and responses to it.
- It develops and tests innovative approaches.
- It emphasises safety, security, autonomy and empowerment.
- It provides long-term support.
- It offers support whenever the woman is ready to access it.
- It can be flexible and dynamic in meeting diverse and complex needs.

16 Published by End Violence Against Women (Coy, Lovett and Kelly) 2008.

17 Map of Gaps – The postcode lottery of Violence Against Women support services in Britain issued jointly by EVAW and EHRC (Coy, Lovett and Kelly) 2008.

Summary of required practice for funders

There are several conclusions that flow from this guidance to help funders comply with their equality duties and to deliver noticeable improvements under the drive to promote cohesion and integration. These are as summarised as follows:

- Do not automatically equate single-issue groups as being divisive and against the drive to promote cohesion and integration. This requires an open-minded approach uncontaminated by unwarranted assumptions, stereotypes or political pressure.
- Raise internal awareness of the important purpose of the equality duties that results in improved understanding, engagement and a commitment to delivering positive equality outcomes in a changing environment.
- Ensure equality is central, and not a bolt-on, to organisational practices and decision-making.
- Have an informed understanding of the key equality and cohesion/integration issues at a local level, relying on a good local evidence base.
- Use the good local evidence base to carry out equality impact assessments and consultation/involvement before decisions relevant to equality are taken.
- Identify and explore ways of tackling potential adverse equality impact using the assessment and consultation process. This requires meaningful engagement with communities and stakeholders at the right point in time.
- Recognise that the equality duties are designed to promote innovation and creativity rather than stifling bureaucracy, so funders find ways to encourage innovation and creativity that drives forward positive approaches to equality as part of the organisational culture.
- Decision-makers must be equipped with the information concerning equality impact and options that they require to discharge the equality duties when making funding decisions.
- Understand what Compact responsibilities are placed on funders and the weight to be attached to these in each context.
- Appreciate the value of the voluntary and community sector in terms of fostering grassroots community initiatives, and a real sense of engagement and empowerment this could generate among marginalised groups and communities.
- Recognise that transforming mainstream service delivery to remove barriers experienced by some groups is necessary, but it will take time and effort.
- Consider with great care the transition to mainstream service delivery. Targeted and mainstream services should be brought together – neither can exist in isolation from one another, and each can improve from learning from the other. A multi-agency partnership approach is, therefore, to be encouraged.

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