

Equality objectives in schools – smart and unsmart directions of travel

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Background and summary

This paper describes the responses by schools to the specific duties required by the Equality Act 2010, particularly the duty to prepare and publish measurable objectives. It suggests that most schools do not appear to understand what the legislation requires. Also, however, it gives examples of positive responses, and itemises the principal features of good practice. Also it commends documentation published by the inspectorates in England and Wales, and by the Office of the Children’s Commissioner in England.

The paper draws to an end by recalling there was speculation in the media in summer 2012 that the government may be planning to repeal or revise the public sector equality duty (PSED) introduced by the Equality Act 2010. The view expressed here is that the PSED should not be repealed, even though most schools have not yet understood what it requires, and that schools need guidance, advice and support.

A slightly shorter version of this paper was published in the summer 2012 issue of *Race Equality Teaching*, volume 30 number 3.

Introduction: Alice and the Cheshire Cat

‘Would you tell me, please,’ says Alice plaintively but politely in her famous encounter with the Cheshire Cat, ‘which way I ought to go from here?’

‘That depends a good deal,’ replies the cat, ‘on where you want to get to.’

‘I don’t much care where,’ says Alice. ‘Then it doesn’t matter which way you go,’ says the cat. ‘So long as I get somewhere,’ adds Alice by way of clarification. ‘Oh, you’re sure to do that,’ says the cat, ‘if you only walk long enough.’

The exchange is relevant to any and every consideration, for example this article, of aims and objectives. As it continues, the exchange is perhaps also relevant to many considerations of equalities. ‘What sort of people live about here?’ asks Alice. ‘In that direction,’ replies the cat, waving its right paw, ‘lives a Hatter: and in that direction,’ waving the other paw, ‘lives a March Hare. Visit either you like: they’re both mad.’

It would be prematurely defeatist and cynical to claim that madness lies in every which way of the equalities field. But finding and maintaining clarity and rationality in this field can be difficult and at times tiresome, for certainly there are confusions, tensions, paradoxes and apparent contradictions – madness. And there’s anger around too, and consequent anxiety. The field demands, to cite the two keywords in a succinct poem by Maya Angelou, both patience and passion:

Seek patience and passion
in equal amounts.

Patience alone
will not build the temple.

Passion alone
will destroy its walls.

Legal requirements

Since April 2012 all schools have been required by law to publish equality objectives, or – as the term might be, equality directions of travel. They are part and parcel of the public sector equality duty (PSED), which is stated briefly in section 149 of the Equality Act 2010. The PSED consists of a) a general duty and b) two specific duties. The purpose of the general duty, the government has said, is:

to ensure that consideration of equality issues forms part of the routine, day-to-day decision making and operational delivery of public authorities, and the purpose of the specific duties is to ensure better performance of the duty.¹

The relationship between the general duty and the specific duties was emphasised in Parliament on 11 July 2011 by the government spokesperson for equalities who explained that the purpose of the specific duties:

is to help public bodies in the better performance of the equality duty...The general duty is the key provision, which is in place and is broader than previous duties. The specific duties are designed simply to help public bodies to perform the general duty better.

Publishing objectives, she said, would:

ensure that public, voluntary and community sector organisations understand the key inequalities that public bodies are aspiring to tackle and to track progress against them.²

A government spokesperson provided additional clarity on the nature and purpose of equality objectives in the House of Lords on 6 September 2011:

'The objectives ... should clearly illustrate the real equality improvements that the public body intends to deliver over the course of the business cycle. They should focus on the key inequalities that the body is in a position to affect, as highlighted in its published information, and identify achievable, measurable improvements.'³

This article

The article is based on a study, impressionistic rather than systematic, of 40 documents from schools that were published on the internet between early April and early June 2012, focusing in particular on the specific duty to prepare and publish measurable objectives.

The schools were in 28 different local authority areas, of which 11 were shires and 17 metropolitan, and their equality documents were found through Google alerts and searches. Twenty-three were primary and 17 (including a sixth form college, a middle school and an all-through school) were secondary. Documents from seven of them, four secondary and three primary, are to be quoted here verbatim. Between them, these illustrate the variety of ways in which schools have responded to the specific duty to prepare and publish objectives. Some show substantial understanding, seriousness and commitment. Others are flimsy, perfunctory and superficial. Although equality documentation is in the public domain, as required by law, schools are described here anonymously, in order to avoid possible unfairness or embarrassment.

The study is inconclusive. On the one hand, it reports that there are schools which show few if any signs of understanding what the new legislation requires of them, and few if any signs of trying to find out. At the same time, however, there is sufficient good

practice in the world of education to show that the Equality Act specific duties are likely to be of great benefit when and where they are understood and taken seriously.⁴

Historical context

Over the last two years certain newspapers have adopted the habit of referring to the Equality Act 2010 as if it is no more than the pet project or private property of a former government minister, Harriet Harman. The effect is to imply there was and is no widespread support for the legislation, no thoughtful rationale for it, and no lengthy historical context of debate and deliberation about it. The legislation is portrayed as arising merely from the whims and hobby-horses of the individual politician who had responsibility for introducing it in 2008 in the House of Commons. The further implication is that the legislation can therefore be ignored with impunity and repealed without protest.

However, the public sector equality duty was not and is not the private property of a single individual, and did not arrive from nowhere in 2010. On the contrary, it is the product of more than 40 years of campaigning and arguing, and has involved many thousands of people.⁵ Over the decades, legal landmarks have included the following:

- anti-discrimination legislation in the 1960s, followed by the Sex Discrimination Act 1975 and the Race Relations Act 1976, and the struggles, campaigns and negotiations which led to them
- the strengthening of the Race Relations Act in 2000, partly inspired and influenced by the Macpherson Report of 1999, and taking into account recent legal developments in Northern Ireland, through the addition of the race equality duty (RED) to the Act, so that public authorities now had a positive duty not just to avoid discrimination but to actively eliminate it, and proactively to advance equality of opportunity and foster good relations
- adaptation of the race equality duty in ensuing years to disability and gender, and the beginnings of legislation, following key European Community directives flowing from the Treaty of Amsterdam 1997, on age, religion and sexual identity
- the bringing together of all previous anti-discrimination law into the Equality Act 2010, and the formulation within it of the public sector equality duty (PSED)
- the definition and explanation, also in the Equality Act 2010, of the key concepts of advancing equality of opportunity and fostering good relations, and widening the circumstances in which positive action is allowed
- a new duty on public authorities to have due regard for socio-economic matters in strategic decisions (though this has not been strenuously implemented and is almost certainly due to be repealed)
- the fact that the vast majority of the Equality Act received all-party and cross-bench support throughout its passage during 2008–10 in the House of Commons and the House of Lords
- practical support and guidance for implementing the PSED provided by the specific duties to publish information and to set measurable objectives
- a growing body of case law clarifying what exactly public authorities can reasonably be expected to do, and to avoid doing, to show they have due regard for equality.⁶

Case studies from schools

School A is a secondary school in London. Its equality objectives come at the end of a substantial 24-page document which sets out in great detail what the school has done to promote equality in relation to each of the nine protected characteristics named in legislation, and which indicates the principal challenges the school continues to face. In relation to disability, ethnicity and gender the document asks five questions and answers each at length: what are we doing to eliminate discrimination? what we doing to advance equality of opportunity? what are we doing to foster good relations? what has been the impact of our policies? what do we plan to do next? In the light of these explanations and discussions, the school selects five objectives requiring special attention, as follows:

- to achieve a 40% reduction in the number of fixed termed exclusions of Somali and African Caribbean pupils over 2012-13 and 2013-14.
- to demonstrate through a survey of Somali and African Caribbean pupils and parents at the end of 2012-13, at least 75 per cent satisfaction with the way in which their aspirations and learning needs are met.
- to double the percentage of Yr 8 girls expressing interest in pursuing a career in physics, technology or engineering by the end of 2012-13.
- to achieve an increase of 10 per cent in Yr 9 girls choosing ICT as a GCSE option for 2013-14.
- to achieve a 40 per cent reduction in prejudice-related behaviour, in relation to homophobia, racism and religious stereotyping over 2012-13 and 2013-14.

The bullet-pointed list above is quoted verbatim from School A's document. Similarly all further quotations from school documents in this article are made verbatim – in every instance they show the school's own published words.

School B is an infants school in northern England. It sets out its equality objectives in a tabulation which indicates, in relation to each, the specific actions which will be undertaken; the principal member of staff responsible; the timescale; the resources, training and costs that will be involved; and the success and evaluation criteria. There is also a column in the tabulation for the hoped-for outcomes, but as yet this column is blank. There are three objectives, respectively entitled racist incidents, Olympics and equality analysis:

- remain committed to being vigilant about recording and reporting racist incidents
- use the Olympics and Paralympics to highlight ways of promoting equality
- equality analysis carried out when policies change, new projects start or new strategies are introduced.

School C is also an infants school and it too has stated three equality objectives. However, it gives no information about what in practice will be done to achieve them. It is situated in London. Its objectives are:

- to improve accessibility throughout the school for children with mobility difficulties.
- to work in partnership with parents and carers to make clear and underline the negative effects of pupil absence on progress and achievement.
- to ensure that all, but particularly vulnerable groups of children, have access to a wide range of clubs throughout the school year.

School D is a secondary school in southern England. It introduces its equality objectives by stating that they are intended to be specific, measurable, achievable, relevant and time-limited (SMART) and states that they are based on the following sources:

- feedback from the annual parent questionnaire, parents' evening, parent-school forum meetings and governors' parent-consultation meeting
- input from staff surveys and through staff meetings / INSET
- feedback from the School Council and PSHE lessons
- issues raised in annual reviews or reviews of progress on individual education plans, personalised provision maps, mentoring and support
- feedback at governor meetings.

There are four objectives and for each there is an action plan. The plan indicates the success criteria that will be used but provides no information about what the school intends to actually do in practice to achieve the objective. The objectives are entitled disability, ethnicity, gender and religion and are as follows:

- to ensure pupils with a disability have access to an appropriate curriculum in order to achieve to their highest potential.
- to ensure all pupils regardless of ethnicity or race make good progress and achieve to their highest potential.
- to ensure all pupils regardless of gender are able to make good progress and achieve in all areas of the curriculum and are represented in all aspects of school life.
- to ensure that all pupils are encouraged to celebrate diversity and develop a greater awareness and understanding of different communities.

School E is a secondary school in the south east of England. It has published 19 separate equality objectives, of which the first is 'identify equality objectives and monitor progress against them'. Others include:

- mainstream the Equality Duty into the everyday business of the Academy
- increase direct engagement with student and staff on equality issues
- raise awareness of equality issues and the visibility of equality initiatives
- increase support for lesbian, gay and bisexual sexual minority students and staff, where these are identified
- promote greater diversity in employment
- provide a welcoming and supportive workplace for sexual minority staff

For each objective there is a tabulated action plan. The titles of the columns are rationale ('Why we have identified this objective'); actions (What we will do during 2012/2013 academic year to achieve the objective); success measure (the metrics we will use to measure the success of the action against the objective); and responsibility (the budget centre, committee/group responsible for the action – accountability, it is said, rests with the head of the budget centre or chair of the committee or group. Also in relation to each objective there is an indication of which of nine protected characteristics it is connected with, and which of the Act's three principal aims.

School F is a secondary school in South Wales. It has four equality objectives:

- reduce gaps in attainment and attendance between pupils from protected groups
- reduce identity based incidents and bullying in school
- develop the quality and use of our equality monitoring and data collection
- raise awareness of equality and diversity issues among pupils, staff and governors.

For each of these there is an action plan. The plan for the first objective focuses in particular on gaps between girls and boys and refers to two targets, three success criteria and four 'strategically planned tasks'. The targets are:

- to use our own and other local, regional and national data and research to build a full picture of differences in achievement between different characteristics as defined in the Equality Act 2010.
- to use this full data to track and set proactive interventions based on national or regional trends or priorities in order to offset any potential inequalities in attainment and attendance that are not currently identified.

The success criteria are:

- There is a reduction in the gap between boys' and girls' performance at Key Stage 3 (achieving expected level) and Key Stage 4 (achieving level 2) threshold.
- There is evidence that we have analysed and identified any other attainment gaps for other groups of pupils who share protected characteristics as defined by the Equality Act 2010.
- If any girl is pregnant, provision is put in place to enable her education to continue as undisrupted as possible.

The strategically planned tasks are stated to be:

- review teaching strategies in light of Estyn report *Closing the Gap between Boys' and Girls' Attainment in Schools*
- liaise with link advisor/EMTAS to establish a standard way to gather and record attainment information for groups of pupils who share protected characteristics
- establish a regular monitoring review and evaluation by the governors' sub-committee for personnel and pupil welfare
- liaise with the LEA Equality Officer in order to support the development of managers, governors and staff in the development of knowledge around implementing these duties.

School G is a primary school in eastern England. It has three equality objectives for the period 2012-15, but provides no information about why they have been chosen and how they will be pursued:

- educate all about discrimination and prejudice and ensure a harmonious environment is maintained (social cohesion), including training for staff and governors regarding equality and diversity

- strive for all pupils regardless of gender, ethnicity, disability, religious beliefs and faith tradition, age or any other of the protected characteristics to achieve the highest possible standards in their learning and make good progress
- develop further opportunities for pupils to learn about different faiths including visits and visitors to the school.

Features of good practice

In the light of consideration of an admittedly random sample of 40 school documents, it can be said that the best statements of equality objectives by schools have the following features. They:

- are outcome-focused as distinct from focused on processes, systems and procedures – they are concerned with reducing or removing inequalities in pupils' achievements, for example, rather than on monitoring, auditing or impact analysis
- contain objectives which are clearly specific and measurable
- make explicit links and references to the equality information which the school has published
- are based on the gathering and analysis of data
- indicate how progress and success will be measured and evaluated
- name the staff who are responsible for ensuring the objectives are pursued
- indicate the exact time by which each objective will have been partly or wholly achieved
- include information about engagement and consultation with stakeholders
- indicate exactly where and how interested members of the public may obtain further information
- describe, at least in broad outline, what is going to be done to achieve each objective
- mention any financial implications, and any requirements for staff training
- name, in relation to each objective, the protected characteristic(s) with which it is concerned
- are closely integrated with the school improvement plan as a whole
- are clearly relevant to the groups and communities named in the Equality Act, but may refer also to groups disadvantaged by social and economic factors.

Few if any schools appear to have produced documents with all these features. A high proportion, it would seem, have not even yet understood that they are expected to produce more equal outcomes amongst pupils as distinct from changes in school organisation. This is copiously illustrated in the quotations given above. Most of the quotations are about what schools will do, not what pupils will do – they are about teaching not learning, vague hopes and aspirations not results, delivery not reception.

Systems and procedures are important, of course, but they are means to an end, not ends in themselves. Also, it is relevant to recall the old adage that you can take a horse to water but cannot make it drink – however well a school plans, deliberates, delivers

and monitors it cannot be sure of success, so to concentrate on methodology rather than end results is to an extent justifiable. Further, it is relevant to recall a famous saying attributed to Gandhi – ‘there is no way to peace, peace is the way’. It is often appropriate to concentrate on the journey, the point is, rather than the destination. Another formulation of the same point comes in a famous nineteenth century poem: ‘I do not ask to see/ The distant scene; one step enough for me.’⁷ That all said, it is disappointing that so few schools seem to understand what an outcome-focused objective looks like. Even when they do refer to outcomes rather than processes they seldom provide enough information for the public to hold them to account.

Public sector laws to be scrapped?

‘Harriet Harman’s public sector equality laws are to be scrapped,’ announced a headline in the *Daily Telegraph* on 16 May 2012. The headline was followed by an explanatory summary of the news story as a whole: ‘Anti-race and sex discrimination laws brought in under Labour are set to be scrapped because the “unnecessary” rules are damaging businesses, Theresa May [the Home Secretary] has said.’ The complete item is reproduced in the box below.

Harriet Harman’s public sector equality laws to be scrapped

Anti-race and sex discrimination laws brought in under Labour are set to be scrapped because the “unnecessary” rules are damaging businesses, Theresa May has said.

By Rowena Mason and John Bingham, *Daily Telegraph*, 16 May 2012

The Home Secretary is planning to get rid of powers that allow companies to be sued if their staff are harassed by customers or clients. This currently leaves businesses open to lawsuits if they have not stopped members of the public making racist, sexist or “ageist” remarks to their employees. Mrs May is also hoping to scrap rules that allow people who win discrimination cases to force their employers to change their practices. The measures were brought in during the last days of the previous Labour government under the Equality Act championed by Harriet Harman, the former minister and deputy leader.

Yesterday, Mrs May also said she would speed up a review of whether public bodies should be forced to promote diversity as a legal requirement. She revealed in November 2010 that the Home Office would seek to remove this “ridiculous” burden. Dominic Raab, the Conservative MP for Esher and Walton, who has been critical of aspects of the equality agenda, said the Government is “right to take a second look at these ludicrous measures”. “They add costs to business, and far from promoting equality they are socially divisive,” he said.

“In particular, the proposal that 25,000 hard-pressed schools, councils and other public bodies have to fill in forms explaining how they are promoting diversity – at a cost of over £20 million per year to the taxpayer – should be scrapped without delay.”

The Home Office will also “shrink” the Equality and Human Rights Commission (EHRC) to make sure the quango is “using taxpayers’ money wisely”. Mark Hammond, chief executive of the EHRC, said the body has “worked hard to put right management and accounting issues”, as well as cutting down travel costs and expenses.

The Home Office is currently “consulting” on the changes before deciding whether to press ahead.

If true, the report was devastating news for many millions of people. But was it true? There was little or nothing in the actual news story to explain or support the headline. Similarly, incidentally, there was little in the written ministerial statement (WMS) about which the news item claimed to be reporting.⁸

If indeed the story was wrong or misleading, how had this happened? Had the two reporters who wrote it simply got their facts wrong? Or had the sub-editor who devised the headline not actually read the item the reporters had written? Were the errors of these journalists perhaps fuelled by wishful thinking? Or had something significant happened in the background? For example, had there been an off-the-record briefing, or a nudge and a wink from someone in or close to government?

If so, what had motivated this? A desire, perhaps, to prevent *Telegraph*-reading supporters of the government from getting restless about some of the coalition's policies, or more restless than they already were? Or was this a kite-flying exercise, and if so by whom? Was the *Telegraph* giving its support, knowingly or otherwise, to a lobby or faction within the Home Office, maybe connected with rivalries at Whitehall between the Home Office and the former Government Equalities Office, or with political tensions within the coalition? Was the government firing a shot across the bows of the Equality and Human Rights Commission? Was the story simply (as it were) the outcome of mischief-making and malicious enjoyment of confusion and anxiety?

All these possible explanations are plausible. Speculations about them are in the background of this article. They are a salutary reminder that, even if there is no serious intention to scrap the public sector equality duty, there are uncertainties about whether it is going to be seriously implemented. The uncertainties have been exacerbated by cuts in the infrastructure for implementation of the Equality Act as a whole, and by proposals to repeal some its requirements for employers.⁹

Looking ahead

One sign of hope, looking ahead, is that the education inspectorates in England and Wales, Ofsted and Estyn, have published excellent statements of equality objectives.¹⁰ So has the Office of the Children's Commissioner for England.¹¹ These three bodies provide leadership by example to schools, and authoritative advice to their respective governments. Ofsted, in addition, has issued detailed and practical guidance to inspectors on how equalities should be inspected.¹² It is disappointing that the Department for Education, by contrast, has published objectives that are by and large not outcome-focused, and not specific and measurable.¹³ Also it is disappointing that the Equality and Human Rights Commission has so far not provided guidance and clarification for schools on the themes covered in this article, and appears unlikely to.

In the *Daily Telegraph* news item cited above, an MP was quoted as referring to 'the proposal that ... hard-pressed schools, councils and other public bodies have to fill in forms explaining how they are promoting diversity'. There is no such proposal and never has been. Alarmism and disinformation along such lines are profoundly unhelpful. It is true, though, that schools are hard-pressed. They need accurate information, therefore, and sympathetic guidance and advice. There are clear moral and legal responsibilities in this respect for, amongst others, the Department for Education.

The direction of travel must be to have more regard for equalities, not less. That there is substantial public support for this direction was dramatically shown in the Olympics and Paralympics in summer 2012. There are paradoxes, contradictions and tensions – they're both mad, said the Cheshire Cat to Alice, referring to the possible directions for Alice to move in – but the movement surely has to be forwards not backwards. And undertaken, as Maya Angelou has said, with patience and passion in equal amounts.

References

¹ Paragraph 7.1 of the explanatory memorandum accompanying the Equality Act regulations on specific duties,
http://www.legislation.gov.uk/uksi/2011/2260/pdfs/uksiem_20112260_en.pdf

² Lynn Featherstone MP,
<http://www.publications.parliament.uk/pa/cm/cmtoday/cmstand/output/deleg/dg02110711-01.htm>

³ Baroness Verma,
<http://www.publications.parliament.uk/pa/ld201011/ldhansrd/text/110906-0001.htm>

⁴ For a detailed and very helpful and practical article about equality objectives in the world of education, see 'Being SMART – developing and writing equality objectives' by Bill Bolloten, *Race Equality Teaching* vol 30 no 2, spring 2012, pp 38-41.

⁵ For an academic and authoritative account of legal history since the 1960s, see 'The New Single Equality Act in Britain' by Bob Hepple, *The Equality Rights Review*, volume 5, 2010.

⁶ There is a full list of significant case law in the period 2008–12, with hyperlinks to the texts of the actual court judgements, on the website of the Equality and Diversity Forum at <http://www.edf.org.uk/blog/?p=17719>. Case law up to 2011 is well summarised in *Equality Duty Toolkit*, published by the Trades Union Congress in autumn 2011.

⁷ John Henry Newman, 'Lead, kindly light'.

⁸ The written ministerial statement is at <http://www.homeoffice.gov.uk/equalities/equality-act/equality-duty/equality-duty-review/>). The pressure for review appeared to come from employers, including in particular employers in the private sector, as indicated at (<http://www.pinsentmasons.com/en/employmentlawplus/hr-network-tv/news-library/june-2012/15-june-2012/public-sector-equality-duty--review/>).

⁹ There is a detailed account in *Two steps forward, one step back: how the Coalition is dismantling our equality infrastructure*, published by the Trades Union Congress in September 2012.
<http://www.edf.org.uk/blog/wp-content/uploads/2012/09/Two-steps-forward-one-step-back.pdf>

¹⁰ Ofsted's equality objectives are within its equality scheme at <http://www.ofsted.gov.uk/resources/single-equality-scheme-2010-13>. Estyn's are within its strategic equality plan, which can be readily found by using internet search facilities.

¹¹ *Children and Equality- equality evidence relating to children and young people in England* by Lisa Davis,
http://www.childrenscommissioner.gov.uk/content/publications/content_566

¹² Ofsted's briefing on inspecting equalities can be found through <http://www.ofsted.gov.uk/resources/briefings-and-information-for-use-during-inspections-of-maintained-schools-and-academies-january-201>

¹³ The DfE's equality objectives were published in late May at <http://www.education.gov.uk/schools/leadership/typesofschools/freeschools/b00202789/equality-commitments/equality-objectives-2012>