What Are The Equality Duties – Race, Disability, Gender?

All public authorities have legal duties relating to race, gender and disability. The three equality duties are similar in spirit as they all place the onus on public authorities to actively tackle discrimination and promote equality.

North Bristol NHS Trust is a public authority and is legally bound to meet the general duty. We must uphold and promote human rights in everything we do.

However, the duties do have slightly different requirements, which the Trust needs to meet in order to satisfy our legal obligations. We must make equality a central part of our functions in relation to Race, Disability and Gender. The duty to promote equality is not optional!

The overall obligations for Race, Disability and Gender focus on:

- promoting equality of opportunity
- promoting good relations
- promoting positive attitudes
- eliminating harassment, and
- eliminating unlawful discrimination

Race Equality Duty

The Race Relations (Amendment) Act 2000 strengthened and amended the Race Relations Act 1976. The law was amended following the Stephen Lawrence inquiry led by Sir William Macpherson. This defined institutional discrimination and the new act states that discrimination must be dealt with.

The Race Equality Duty outlaws direct and indirect discrimination and victimisation in all public authority functions that are not covered by the Race Relations Act 1976. There are very few exceptions.

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1 Institutional Racism:

“..the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.”

Source: Stephen Lawrence Inquiry Report 1999
What Does The Race Equality Duty Mean?

The Race Equality Duty places a general duty on the Trust to take action to promote equality and eliminate unlawful discrimination. We have over 150 staff and must monitor for training, performance appraisals, grievances, disciplinary action and reasons for leaving employment. These monitoring findings must be published annually.

The general duty is supported by a specific duty. The Equality and Human Rights Commission (EHRC) has responsibility to enforce the law and has produced a Statutory Code of Practice to support public authorities to do this.

The government recognises that the duty to promote race equality is a long-term initiative. It requires the Trust to be proactive, this means that we must actively promote race equality and show progress. It is no longer enough for us to say that we are not unlawfully discriminating on racial grounds. The Trust must go further and actively demonstrate how we are promoting race equality in all that we do.

The General Duty – Race

In order to be to be proactive in promoting race equality the Trust must:

- Eliminate unlawful racial discrimination;
- Promote equality of opportunity between persons of different racial groups
- Promote good relations between persons of different racial groups

The general duty is a positive one, this means that the Trust must:

- Seek to avoid unlawful discrimination before it occurs
- Take steps to ensure that policies and services are fair and put things right when they are unfair or unlawful
- Ensure that procedures and practices are fair in relation to recruitment and employment of staff so that the staff body is more representative of the society that we are engaged with.

The Specific Duty - Race

Specific duties were also placed on all policies, practices, criteria and service delivery functions. These include:

- Preparation and publication of a Race Equality Scheme which shows how the Trust will meet the general and specific duties.
- Assessing which functions are relevant to the duty (with a review of that assessment at least every three years)
- Carrying out an Impact Assessment and consulting on the promotion of race equality in proposed policies
- Monitoring of policies for adverse impact on the promotion of race equality
- Publishing the results of assessments, consultations and monitoring
- Ensuring access to information and services
- Training staff on issues relevant to the duty
What Does the Disability Duty Mean?

The Disability Equality Duty (DED) came into force in December 2006. The duty covers all functions and activities, not just employment and service delivery, but budget setting, procurement, regulatory functions and setting the framework within which the organisation will deliver services. The Equality and Human Rights Commission produces a Statutory Code of Practice on the Disability Equality Duty, which aims to clarify what the duty means for the public sector.

The DED is made up of two parts, a general and a specific duty.

The General Duty - Disability

The first part, or general duty, requires the Trust to promote disability equality by:

- promoting equality of opportunity between disabled and other people
- eliminating discrimination that is unlawful under the Act
- eliminating harassment of disabled people that is related to their disabilities
- promoting positive attitudes towards disabled people
- encouraging participation by disabled people in public life; and
- taking steps to take account of disabled people’s disabilities, even where that involves treating disabled persons more favourably than other people (e.g. the provision of an accessible parking bay near a building, where parking is not available for other visitors or employees.)

The Specific Duty - Disability

The second part or specific duty says when carrying out day-to-day work, the Trust should:

- Publish a Disability Equality Scheme (including within it an Action Plan) that shows how the Trust intends to fulfil the general and specific duties and how it will undertake impact assessments
- Consult and involve disabled people in producing the Scheme and Action Plan
- Demonstrate that actions in the Scheme have been taken and appropriate outcomes have been achieved
- Report on progress
- Review and revise the Scheme every three years

What Does the Gender Duty Mean?

The Equality Act 2006 introduced the biggest change to sex discrimination law in the UK for 30 years as it brought in the new duty to promote gender equality. This came into force in April 2007 for all public authorities. A legally binding Code of Practice on Gender Equality has also been published by the EHRC.
The Trust must now take steps to proactively promote equality between women and men, by taking account of their different needs when making policies and providing services and not just reacting to complaints when things go wrong.

**The General Duty - Gender**

The duty to promote gender equality is made up of two parts. The first part, or General Duty, requires the Trust to promote gender equality by:

- Eliminating unlawful discrimination for women and men
- Eliminating harassment for women and men
- Promoting equality of opportunity between women and men in all functions

The second part or specific duty requires the Trust to:

- Prepare and publish a gender equality scheme to include how information will be gathered on gender equality in employment, services and performance of its functions and objectives to address the causes of any gender pay gap
- Gather and use information on how policies and practices affect gender equality in the workforce and in the delivery of services
- Consult stakeholders (i.e. employees, service users and others, including trade unions) to determine gender equality objectives
- Assess the impact of current and proposed policies and practices
- Implement the actions set out in the scheme within three years
- Report against the scheme every year and review the scheme at least every three years

**How are the Equality Duties Enforced?**

**The General Duty**

If a public authority does not comply with the general duty, its actions, or failure to act, can be challenged by means of a claim to the High Court for judicial review.

A claim for judicial review could be made by a person or a group of people with an interest in the matter, or by the EHRC.

**The Specific Duty**

If a public authority does not comply with its specific duties, it could face enforcement action by the EHRC. The EHRC is empowered to serve a compliance notice on that authority.

The notice will state that the authority must meet its duties and tell the EHRC, within 28 days, what it has done or is doing, to comply.
What is North Bristol Trust Doing to Meet the Duties?

The Trust has compiled action plans on Race, Disability and Gender and published annual reports of the outcomes of its work. We have carried out Equality Impact Assessments in a number of key areas and these are published on the Trust’s website.

A new Group was set up in Summer 2008 to bring together the three duties into one document. Consequently the Trust agreed that all impact assessments would be extended to include Sexual Orientation, Religion or Belief, Age and Gender Identity, as this is one step towards meeting our responsibilities under the exiting legislation.

Following consultation with patients groups, voluntary organisations, staff and representatives from all Directorates a single equality scheme was written and presented to the Trust Board in 2010. The Trust has taken the positive step to amalgamate the schemes for Race, Disability and Gender and once again included Sexual Orientation, Religion or Belief, Age and Gender Identity. This is in anticipation of the new duties which will come into force in 2011.

More information is available and training has been set up to clarify the duties and the Equality Impact Assessments and capacity build relevant skills with key managers, to enable them to meet the legislative requirement and the commitment of North Bristol NHS Trust.

A Staff Equality Group has been established and is one way that the Trust consults with people from diverse groups, to find out their opinions on how effectively we are delivering the equality duties. This group helps us to shape our future work and adds to the work undertaken on involving and consulting patients.

Throughout the year equality issues are promoted in a variety of ways across the organisation, like celebrating International Day for Disabled people, or for Lesbian and Gay, Bisexual and Trans History month. More activities of this type are also planned.

If you would like to find out more about the Equality Duties and how we are meeting them please contact:

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