

**Darley & Summerbridge Primary Schools Federation**

**Public Sector Equality Duty 2025 - 2027**

**Introduction**

The Public Sector Equality Duty (PSED, or “the duty”), which applies in Great Britain (England, Scotland and Wales), requires public authorities to have due regard to certain equality considerations when exercising their functions, like making decisions.

This guidance replaces the Government Equalities Office’s 2011 guidance:

* Equality Act 2010: Public Sector Equality Duty: What Do I Need to Know? A Quick Start Guide for Public Sector Organisations
* Equality Act 2010: Specific Duties to Support the Equality Duty: What Do I Need To Know? A Quick Start Guide for Public Sector Organisations

It is intended to help decision-makers, including Government ministers, to comply with the duty. The guidance does not cover those elements of the duty that apply only to Scottish or Welsh public authorities under devolved powers. The guidance is not statutory.

**Overview**

The duty is a statutory duty on listed public authorities and other bodies carrying out public functions. It ensures that those organisations consider how their functions will affect people with different protected characteristics. These functions include their policies, programmes, and services. The duty supports good decision-making by helping decision-makers understand how their activities affect different people. It also requires public bodies to monitor the actual impact of the things they do. For example, to keep under review how different groups of pupils are performing at school and to identify and take action if some pupils with protected characteristics need more support than others.

The general duty of the duty can be found in [sections 149 to 157 of the Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/part/11/chapter/1) (‘the act’) and is supported by [specific duties](https://www.legislation.gov.uk/uksi/2017/353/contents) found in regulations.

The general duty requires decision-makers to have due regard to the need to eliminate conduct prohibited by the act, advance equality of opportunity, and foster good relations in relation to activities such as:

* recommending new or revised public policy to a minister
* publishing a consultation document
* designing and providing a public service

The specific duties help decision-makers to perform the general duty more effectively.

The duty does not dictate a particular outcome. The level of “due regard” considered sufficient in any particular context depends on the facts. The duty should always be applied in a proportionate way depending on the circumstances of the case and the seriousness of the potential equality impacts on those with protected characteristics. Overly bureaucratic and burdensome approaches without reference to the equality aims specified in the legislation should be avoided. Public authorities must not ‘gold-plate’ their compliance with the duty at the unjustified expense of the taxpayer and of private or voluntary sector contractors. Similarly, regulators should not try to impose the duty on private companies that would never be bound by it.

It is for the decision-maker to decide how much weight should be given to the various factors informing the decision. The duty does not mean that decisions cannot be taken which disadvantage some people (provided this does not constitute unlawful discrimination), but the decision-maker should be aware of the equality impacts of these decisions and consider how they could positively contribute to the advancement of equality and good relations. The decision-maker should consider ways of preventing, or balancing the effects that their decision may have on certain      groups. They should decide which mitigations, if any, they might want to put into place in reconsidering the decision. The mitigation should be proportionate to the problem at hand.

The duty requires decision-makers to understand and take account of the consequences of their choices, having due regard to the aim of eliminating conduct prohibited by the act, advancing equality of opportunity and fostering good relations. At the same time, the duty is not a rubber stamp. It is a legal requirement. Making decisions without having due regard to the duty can be unlawful.

Responsibility for complying with the general duty falls on the decision-maker. It is therefore essential that the decision-maker is made aware of any work that others have done to comply with the duty. For example, if you work in a ministerial government department, the decision-maker is often the minister. In these situations, the minister must see the assessments that officials have made to ensure compliance with the general duty.

**Background**

The act consolidated over 40 years of domestic equality law into a single act. The aim was to simplify, strengthen and harmonise legislation to support progress on equality. For the most part, the act restated existing legal protections from discrimination, harassment, and victimisation in the areas covered by the act. These areas include employment, and the provision of goods, services, and public functions.

However, the act did strengthen the law in some areas, for example by extending the duty across all protected characteristics.

The general duty came into force on 5 April 2011. It replaced the previous, single equality duties for race, disability and sex contained in previous discrimination legislation, with a combined equality duty covering the protected characteristics in the act.

The government brought the specific duties into force on 10 September 2011. The specific duties apply to certain English bodies, and cross-border bodies such as parts of the armed forces.. The specific duties are devolved, and there are Scottish and Welsh equivalents set by the devolved administrations.

**Are you bound by the duty?**

**General duty**

As a public authority, you are bound by the general duty if your organisation is listed in [schedule 19 of the act](https://www.legislation.gov.uk/ukpga/2010/15/schedule/19). Schedule 19 lists almost 200 public authorities and categories of public authorities in Great Britain, including state schools, police forces, and local councils.

If listed in schedule 19, the general duty applies not only to your organisation’s public-facing decisions, like providing services to members of the public. It also applies to all its functions (unless otherwise specified in schedule 19), like human resources.

Even if your organisation is not listed in schedule 19, you are also bound by the general duty in the exercise of any public functions (‘a function of a public nature for the purposes of the Human Rights Act 1998’). A number of factors could be relevant in deciding whether something is a public function, including whether the body:

* is publicly funded
* exercises statutory powers
* takes the place of government or a local authority

For example, this could include receiving someone into a privately-run prison or immigration detention facility, and the exercise by a private company of statutory powers under mental health legislation.

[Schedule 18 of the act](https://www.legislation.gov.uk/ukpga/2010/15/schedule/18) sets out specific exceptions from the duty relating to age, Parliament, judicial functions, immigration functions, and the security services. These mean that some public authorities are excepted from some aspects of the duty when carrying out certain public functions.

For example, the exceptions mean that immigration officers do not have to think about the need to advance equality of opportunity in relation to age, religion or belief, ethnicity, or ethnic or national origin. But given the specific and limited nature of the exceptions, they do need to think about the need to advance equality of opportunity in relation to the colour element of race, as well as the other protected characteristics.

Public authorities should consider the application of any exceptions that are relevant to their functions carefully. Annex C of the Equality and Human Rights Commission (EHRC) [technical guidance on the Public Sector Equality Duty](https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/technical-guidance-public-sector-equality-duty-england-0) is dedicated to understanding the exceptions in detail.

**Specific duties**

Unlike the general duty, the specific duties are devolved in Scotland and Wales. This guidance covers the specific duties only for English and cross-border bodies. The EHRC has guidance about [the specific duties in Scotland](https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/public-sector-equality-duty-specific-duties-scotland) and [the specific duties in Wales](https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/public-sector-equality-duty-specific-duties-wales).

You are bound by the specific duties for English and cross-border bodies if your organisation is listed in [schedule 2 of the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017](https://www.legislation.gov.uk/uksi/2017/353/schedule/2).

The rest of this guidance is for organisations that are bound by the duty.

**What is the duty?**

**General duty**

The general duty requires public authorities, in the exercise of their functions, to have due regard to the need to:

* eliminate unlawful discrimination, harassment, victimisation and any other unlawful conduct prohibited by the act
* advance equality of opportunity between people who share and people who do not share a relevant protected characteristic
* foster good relations between people who share and people who do not share a relevant protected characteristic

These are sometimes called the 3 aims of the duty.

The relevant protected characteristics are:

* age
* disability
* gender reassignment
* pregnancy and maternity
* race
* religion or belief
* sex
* sexual orientation

Someone has the protected characteristic of gender reassignment if they are proposing to undergo, are undergoing or have undergone a process or part of a process to reassign their sex by changing physiological or other attributes of sex. Authorities should take care to undertake their assessment by reference to the protected characteristics set out in the act. They should not use  concepts such as gender or gender identity, which are not encoded in the act and can be understood in different ways.

Marriage and civil partnership is a protected characteristic but not a ‘relevant’ one. This means you have to consider it only in relation to the first aim of the duty. Discrimination because of marriage and civil partnership is only prohibited in relation to the work provisions of the act. This is because the parts of the act covering services and public functions, premises and education do not apply to that protected characteristic. See sections 28(1)(a), 32(1)(b), 84(1)(b), and 90 of the act.

“Having due regard” means properly considering the 3 aims identified in the act, and how they relate to the function you are exercising, and then deciding what weight to give them. It is not a duty to achieve a particular outcome. The level of “due regard” considered sufficient in any particular context depends on the facts. A proportionate approach should be taken to the resources spent on duty compliance, depending on the circumstances of the case and the seriousness of the potential equality impacts on those with protected characteristics.

For example, if you were reforming a personal tax or benefit, you would likely have to assess the 3 aims in some depth. But if you were buying office equipment, your assessment may be brief and limited to the affect on disabled people. You may exercise functions that have no equality impact, but it may then be useful to note that you took the duty into account and did not consider it relevant.

When assessing the equality impacts of a decision, organisations should consider the positive and negative impacts, not just the negative. For example, policies designed to support integration and community cohesion may have a positive impact across a population, even if not targeted at any one group in particular.

“Eliminating unlawful conduct prohibited by the act” means eliminating discrimination, harassment, victimisation, failure to make reasonable adjustments and any other conduct that is prohibited by or under the act.

“Advancing equality of opportunity” means having due regard, in particular, to the need to:

* remove or minimise disadvantages suffered by people due to their relevant protected characteristics
* take steps to meet the different needs of people who share a relevant protected characteristic
* encourage participation in public life or any other activity by underrepresented groups
* take steps to meet the different needs of disabled persons

Considering people’s different needs and taking steps to meet those needs can be relevant to avoiding indirect discrimination. There are specific provisions in the act about making reasonable adjustments for people with disabilities. You can read guidance on the [duty to make reasonable adjustments for staff (PDF)](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/138118/Equality_Act_2010_-_Duty_on_employers_to_make_reasonable_adjustments_for....pdf).

It is important to note here that the duty to have due regard to the need to advance equality of opportunity is not a duty to put in place positive action measures. Positive action means measures permitted under the act that aim to alleviate disadvantage or under-representation, or to meet the particular needs of those who share a protected characteristic. It may be appropriate to consider positive action as part of the second aim of the duty, where adverse impacts have been identified. However, the duty is not a positive action programme and the use of positive action is voluntary. Positive action must balance the seriousness of the disadvantage suffered, or the extent to which people with a protected characteristic are under-represented, against the impact that the proposed action may have on other people. Further information on positive action can be found in  [guidance on positive action in the workplace](https://www.gov.uk/government/publications/positive-action-in-the-workplace-guidance-for-employers).

“Fostering good relations” means having regard to the need to deal with prejudice and support understanding. For example, some decisions have the power to bring divided groups together and to support their mutual understanding. Other decisions may inadvertently cause people with one protected characteristic to blame people with another for a social problem.

**Specific duties**

The specific duties are intended to enable more effective performance of the general duty, and to standardise some of the work of general duty holders. The specific duties complement the general duty but do not replace it.

For English public authorities and those with cross-border responsibilities, the specific duties are shown in the table below. An authority’s duties depend on how many people it employs.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Number of employees | Publish one or more equality objectives at least every 4 years | Publish information on general duty compliance with regard to people affected by your policies and practices every year | Publish information on general duty compliance with regard to your employees every year | Publish gender pay gap data by 31 March every year |
| 149 or fewer | ✓ | ✓ |  |  |
| 150 to 249 | ✓ | ✓ | ✓ |  |
| 250 or more | ✓ | ✓ | ✓ | ✓ |

**How to comply with the general duty**

When making a decision, try taking it through the following steps.

**1. Does the duty apply to this decision?**

Read [Are you bound by the duty](https://www.gov.uk/government/publications/public-sector-equality-duty-guidance-for-public-authorities/public-sector-equality-duty-guidance-for-public-authorities#are-you-bound-by-the-duty)? If you are still not sure, ask for legal advice. Your assessment must be before and at the time a particular decision is being considered, and not after the decision has been made.

**1.1 If the duty does not apply**

Make a note of the reason that the duty does not apply to your decision (for example, because you are relying on a statutory exception), especially if your decision is a public function.

**2. Consider the general duty**

You may have to find and use public statistics to understand the impact of your decision on particular groups and consider mitigations against any adverse equality impacts you have identified. Create a record of your thinking. Make time for this in your work plan and make sure the time allocated is prior to the decision maker making the decision. Remember that the general duty is a continuing duty, so build in time for review and dates to reconsider how a decision is working once it is operational. Your organisation may have a template and other materials to support this process.

**3. Are you clear about the decision’s impacts by reference to the equality aims?**

Decision-makers must consider what information they have and what further information may be needed to give proper consideration. The duty asks decision-makers to stop and check the evidence. In equality terms, can you confidently describe the people affected by your decision? Do you know what they think about the subject? Is there data on the demographics of people impacted by your policies or practices? If not, do you know how to get it? Do not forget to assess the equality impact on the people who may have to implement your decision, such as staff or suppliers. Consider all the relevant protected characteristics. It is good practice to make a record that “due regard” was had against the statutory criteria, which will be useful in the event of any legal challenge or regulatory scrutiny.

Example:

In considering reducing Sunday services, a public transport operator identified that there would be an adverse impact on black and Christian people who attend religious services. The company considered what mitigation could be put in place to reduce the impact on people.

**3.1. If you are not clear about the decision’s impacts**

You need to consider what information you have and what further information may be needed to give proper consideration. In deciding whether to gather more information, consider proportion and relevance. It is not sufficient to say “we do not have the evidence”, you should identify gaps in the evidence and fill them in a proportionate and balanced manner. You should avoid indiscriminate and resource-intensive approaches to collecting diversity data, especially if the data is unlikely to help in your analysis. If it is self-evident that your decision has no equality impact on a group sharing a particular protected characteristic, then you do not need to elaborate, other than to note this has been considered.

It is good practice to include a question about equality impacts in any public consultations. If you are not already consulting the general public, think about other ways you can speak to people with different protected characteristics. Anecdotal evidence can help to flag gaps in your knowledge. For example, you could run a survey or speak to employees or service users. There may be customer representatives or stakeholder networks waiting to talk to you. Remember to ask them about positive equality impacts as well as negative ones.

Example:

A local council is considering closing a care home. To properly understand consequences like distress, loss of friends, and loss of home for older and disabled residents, the council consults with affected residents, families, staff and the local community to understand the potential impact. They also assess nearby available alternative accommodation to understand if it would meet the needs of residents and gain insight into the potential impact on other older and disabled residents in the area. They are then able to arrive at an assessment and have due regard to the protected characteristics of age and disability when making their decision.

Once you have identified a gap, there are lots of ways to fill it. For example, twice a year, the Office for National Statistics lists hundreds of surveys, registries, and indexes in its Equalities Data Audit. Consider asking your analysts for help navigating the numbers.

However, try not to spend so long searching for evidence that you have no time left to use it. Take a proportionate approach depending on the circumstances of the case. Some information may only become available once the policy is in the implementation phase. You should therefore keep your policy under review and fill any data gaps later.

How much evidence is enough?

A local council is closing libraries. Users challenge this decision on the basis that the council has not appreciated the impact on Asian residents. The council is able to demonstrate that it had assessed responses to a survey of users of the library in question, comparing the reported ethnicity of respondents to those of the wider population of library users in the council area and to the local population more broadly. While the council had found a difference in the percentage of Asian users of the library when compared to users of their library services more widely and the local population, the council had reached the decision that it was the best course of action after considering all factors in the round. A court rejects the complaint as unrealistic because, on the facts of the case, the council had due regard to the impact of the closure on Asian library users. There was no need for the council to investigate further.

**4. Are any of the outcomes potentially unlawful?**

Would the decision constitute conduct prohibited by the act? This would include discrimination, harassment, victimisation, failure to make reasonable adjustments and any other conduct that is prohibited by or under the act. There is more information about the provisions in the Equality Act in the [EHRC’s statutory codes of practice](https://www.equalityhumanrights.com/equality/equality-act-2010/codes-practice). If you are unsure, ask for legal advice. Remember that something which is potentially indirectly discriminatory can still be objectively justified (that is, a proportionate means of achieving a legitimate aim) or otherwise be lawful because of an exception in the act. Failure to comply with the Duty could make it more difficult to justify a potentially discriminatory measure. Ensure that your assessment records any negative impacts and relevant mitigations or justifications.

**5. Are any of the impacts unequal?**

Would the decision help or hurt people with one protected characteristic more than it would people with another? Consider categorising the equality outcomes as ‘positive’, ‘negative’, and ‘neutral’. It is also helpful to record the extent of any consequences, for example how substantial an impact and on how many people.

**5.1 If any of the impacts are unequal**

Try to mitigate them. Consider ways of preventing, or balancing, the effects that your decision may have on certain groups. Decide which of these mitigations, if any, you might want to take into account in reconsidering the decision. Be proportionate to the problem at hand.

**6. Make your decision or recommendation**

The decision-maker must give real consideration to the duty as part of the decision-making process. It must also be exercised fully, rigorously, and with an open mind. Decision-makers should be aware of the potential impacts of a decision.

It is for the decision-maker to decide how much weight should be given to the various factors informing the decision. The duty does not mean that decisions cannot be taken which disadvantage some people (provided this does not constitute unlawful discrimination), but the decision-maker should be aware of the equality impacts of these decisions and consider mitigating them.

It may be that you are not the final decision-maker. If you are presenting an option or recommendation to someone else, make sure that person sees an accurate summary of the equality information, impacts and potential mitigations, as well as any possibility of committing unlawful acts where relevant, to comply with the general duty. The duty cannot be delegated and it is on the decision-maker personally. For example, if you are presenting a recommendation to the cabinet of a local council, the councillors may not be able to research, consider, and record the equality outcomes in as much detail as you, so it is imperative that you show your work to the cabinet. Think about visualising your data and summarising your findings.

Example

The EHRC publicly criticised a government department for deciding to roll out a manifesto commitment before evaluating the equality impact of the local pilot scheme.

**7. Record your work**

Keep a record of your assessment, as this provides valuable evidence of what has been done to have due regard to equality, what evidence has been considered, what decisions have been made and why. This can help the decision maker assure themselves that they have carried out their duty properly. It is important for duty holders as it enables them to demonstrate their compliance to regulators, or in the event of a legal challenge. There is more about records in the section [How to demonstrate compliance with the general duty](https://www.gov.uk/government/publications/public-sector-equality-duty-guidance-for-public-authorities/public-sector-equality-duty-guidance-for-public-authorities#how-to-demonstrate-compliance-with-the-general-duty).

**8. Monitor the actual outcomes**

Evaluate the outcomes of your decision and whether your assessment of the equality impact was correct. The duty is a continuing duty and you should take account of new evidence as it arises. If you cannot monitor the consequences yourself, speak to somebody who can, and make sure someone does.

**How to demonstrate compliance with the general duty**

Compliance with the general duty involves consciously thinking about the equality aims while making decisions. There is no prescribed process for doing or recording this.

In a judicial review challenging non-compliance with the duty, the decision-maker would be expected to demonstrate compliance. The easiest way to demonstrate compliance is using written records from the time of the decision. The records should show that either:

* the decision-maker had due regard to the statutory criteria
* there was a good reason why the duty, or particular parts of it, did not apply to that decision

The general duty does not come with templates or a style guide, although your organisation may have made one. You do not have to refer to the duty in your records. You do not have to make a new record if you can preserve the same information by, for example, saving an existing email or minute. However, referring to the duty in your records may help you to prove compliance.

You do not normally have to publish records about the general duty, other than to comply with the specific duties. You may have to disclose your records in the context of litigation like a judicial review or in response to a Freedom of Information request. You may choose to publish your records for other reasons (for example, as part of a consultation exercise), but the act of publishing should not influence your decision-making.

**How to comply with the specific duties**

Unlike the general duty, one team can ensure compliance with the specific duties on behalf of their entire organisation. Depending on the size of the organisation, the team may have to publish:

* one or more equality objectives at least every 4 years
* gender pay gap data every year
* information on the organisation’s compliance with the general duty every year

There is more information about these duties in the section [What is the duty](https://www.gov.uk/government/publications/public-sector-equality-duty-guidance-for-public-authorities/public-sector-equality-duty-guidance-for-public-authorities#what-is-the-duty)?

Once you have determined which of the specific duties apply to you, decide which team is responsible for each. Large authorities might choose to have more than one person carrying out the specific duties but to make one person accountable for them.

**Publishing one or more equality objectives**

If you are required to publish equality objectives, consider the most significant disparities in your field. Try not to rely on basic, internal goals like diversity training instead of ambitious, customer-facing goals like closing the educational disadvantage gap in schools or fixing big imbalances in participation in technical industries. See what objectives similar organisations have published. Equality objectives are required to be specific and measurable. The EHRC’s Measurement Framework may  help you guide your priorities. Its statutory report, the [Equality and Human Rights Monitor](https://www.equalityhumanrights.com/our-work/equality-and-human-rights-monitor), contains specific findings and recommendations for where public authorities should target their equality objectives to deal with the most significant equality issues shown by the evidence. You can set your own deadlines as long as you never go more than 4 years without publishing a new objective. Authorities with wide remits should consider publishing several objectives at a time. They can be published on their own or as part of a strategic or planning document.

**Publishing information on general duty compliance**

If you have to publish information about your compliance with the general duty, help the public to hold you to account for your decision-making and your equality objectives. You may wish to publish:

* survey results
* copies of your workplace policies
* updates on any positive action programmes
* records weighing the equality outcomes of important decisions
* statistics on the representation of people with different protected characteristics among your workers and customers

You can set your own deadlines as long as you never go more than 12 months without publishing new information.

**Publishing gender pay gap data**

You can read [guidance for employers on gender pay gap reporting](https://www.gov.uk/government/publications/gender-pay-gap-reporting-guidance-for-employers)..

**What happens if you do not comply with the duty?**

Failure to meet your legal duties and best practice under the duty means opportunities to further your equality objectives may be missed. Disadvantaged people may be further disadvantaged, and your organisation may be open to legal action.

The duty is a legal obligation. The EHRC can:

* assess your organisation’s compliance with the duty
* require your organisation to remedy the failure to comply within 28 days
* apply for a court order if you still fail to comply

The general duty can also be enforced by judicial review. Cases can be brought by the EHRC or by a person or group dissatisfied with your decision.

If a breach of the duty is established, the court will decide on the appropriate action. It may quash the decision, which means you would have to make the decision again from scratch, taking into account equality considerations. Such an outcome would inevitably have cost implications, could delay the implementation of the policy and may cause reputational damage.

Alternatively, the court may consider it appropriate to make a declaration that the duty has been breached, if a quashing order would serve no useful purpose.

**Myth buster**

**Myth 1: “The general duty does not apply to my routine operational decision.”**

There are no exceptions in the act for routine decisions. Even if you are applying a tried and tested policy, nobody but you can account for the ways and situations in which you are applying it. Similarly, the owner of the policy is under a continuing duty to monitor its equality impacts and may look to you for advice.

Example:

In an application for accommodation, a homeless man told a local council that he had a mental health condition. The man’s GP told the council the same. The council did not ask any further questions about the man’s condition, but his condition could have affected the result of his application. The council should have made further enquiries.

**Myth 2: “I’m working on a high-level strategy, so I’m above the level of the general duty.”**

There are no exceptions from the general duty in relation to high-level strategic decisions. However, it may be that it is practically difficult to assess the impact in detail at the strategic phase. If that is the case, you should take a pragmatic approach and acknowledge the known impacts, even if you are unable to provide more detailed consideration. Return to those known impacts when you review your plans and put them in place, and consider appropriate mitigations for any potentially negative impacts at that stage. If you are grouping or planning a number of lower-level decisions, co-ordinate with the other decision-makers to avoid everyone assuming that someone else is considering the equality impacts.

**Myth 3: “I’m treating everyone the same, so I’ve met the general duty.”**

Like other anti-discrimination laws, the general duty does not require you to treat everyone the same. In fact, sometimes, you should treat protected characteristics differently. For example, some authorities treat disabled users more favourably than non-disabled users, or provide women-only services for victims of sexual or domestic violence.

**Myth 4: “I have to weigh the equality outcomes of every option.”**

It would take forever to assess the outcomes of options you are not considering. Stick to the decision at hand.

**Myth 5: “I know that my decision has no equality outcomes but I have to investigate anyway.”**

If you already understand the consequences of your decision, you do not have to gather any more information. Sometimes it is obvious that a decision has no implications for equality. It is good practice to record this in case your decision is challenged.

**Myth 6: “I must publish an equality impact assessment.”**

Decision-makers’ supporting records are sometimes known as equality impact assessments. As with government legal compliance documents in general, there is no requirement to publish these assessments. The anticipation of publication could even have a “chilling effect” on decision-makers’ consideration and records. Many documents including equality impact assessments can be requested as part of court proceedings or a Freedom of Information request. But there may be circumstances where you decide that it would be helpful to publish the assessment, like a consultation process.

**Myth 7: “The duty requires me to take positive action.”**

Positive action means measures permitted under the act that aim to either:

* alleviate disadvantage or under-representation
* meet the particular needs of those who share a protected characteristic

It may be appropriate to consider positive action as part of the second aim of the duty, where adverse impacts have been identified, or to consider whether positive action could help you to achieve your equality objectives under the specific duties. However, the duty is not a positive action programme and the use of positive action is voluntary. Positive action must balance the seriousness of the disadvantage suffered, or the extent to which people with a particular protected characteristic are underrepresented, against the impact that the proposed action may have on other people. Further information on positive action can be found in the government’s [guidance on positive action in the workplace](https://www.gov.uk/government/publications/positive-action-in-the-workplace-guidance-for-employers).

**Myth 8: “I must consider other demographics beyond the protected characteristics.”**

Unless there is a clear correlation with a protected characteristic, considering demographics that are not protected characteristics will not help you to comply with the duty. In fact, it could obscure compliance in your supporting records. Examples of demographics that are not protected characteristics include:

* class
* gender
* gender identity
* caring responsibilities
* single parenthood

Depending on context, some of them may be linked to race, sex, or gender reassignment.

**More resources**

The EHRC is the independent equality regulator for Great Britain. There is more information about the duty in their [technical guidance](https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/technical-guidance-public-sector-equality-duty-england-0?return-url=https%3A%2F%2Fwww.equalityhumanrights.com%2Fsearch%3Fkeys%3Dtechnical%2Bguidance) and [statutory code of practice](https://www.equalityhumanrights.com/equality/equality-act-2010/codes-practice?return-url=https%3A%2F%2Fwww.equalityhumanrights.com%2Fsearch%3Fkeys%3Dcode%2Bof%2Bpractice%2BPSED).

[The Judge Over Your Shoulder](https://www.gov.uk/government/publications/the-judge-over-your-shoulder) is a guide to administrative law published by the Government Legal Department. Chapter 4 covers the duty.

In [this letter to ministers on PSED assessments](https://www.gov.uk/government/publications/letter-to-ministers-on-public-sector-equality-duty-assessments), the then Minister for Equalities and Levelling Up Communities advised her colleagues on completing and publishing assessments under the duty.