WELSH STATUTORY INSTRUMENTS

2011 No. 1064 (W.155)

EQUALITY, WALES

The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

Made - - - - 3 April 2011

Coming into force in accordance with regulation 1(2)

These Regulations are made in exercise of the powers conferred on the Welsh Ministers by sections 153(2) and 207(4) of the Equality Act 2010(**1**).

The Welsh Ministers have consulted the Commission for Equality and Human Rights in accordance with section 153(4) of that Act.

A draft of these Regulations was laid before and approved by a resolution of the National Assembly for Wales in accordance with section 209(6) of that Act.

The Welsh Ministers, in exercise of these powers, make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.

(2) These Regulations come into force on 6 April 2011.

Interpretation

2. In these Regulations—

"authority" ("*awdurdod*") means an authority specified in Part 2 of Schedule 19 to the Equality Act 2010 and "authorities" ("awdurdodau") is to be construed accordingly;

"employment" ("*cyflogaeth*"), "employees" ("*cyflogeion*") and "persons employed" ("*personau a gyflogir*") are to be construed in accordance with section 83 of the Equality Act 2010;

"gender pay difference" ("*gwahaniaeth cyflog rhwng y rhywiau*") means any difference between the pay of—

(a) a woman and a man; or

(b) women and men,

(**1**) 2010 c. 15.

who are employed by an authority and where either the first or second condition is met.

The first condition is that the difference is for a reason that is related to the protected characteristic of sex.

The second condition is that it appears to the authority to be reasonably likely that the difference is for a reason that is related to the protected characteristic of sex;

"the general duty" ("*y ddyletswydd gyffredinol*") means the duty in section 149(1) of the Equality Act 2010;

"gender pay equality objective" ("amcan cyflog cyfartal rhwng y rhywiau") means an equality objective—

(i) that relates to the need to address the causes of any gender pay difference; and

(ii) which the authority has published;

"relevant date" ("*dyddiad perthnasol*") means 31 March;

"relevant information" ("*gwybodaeth berthnasol*") means information that relates to compliance (or otherwise) by the authority with the general duty; and

"reporting period" ("*cyfnod adrodd*") means the period 1 April to 31 March except in relation to the reporting period ending 31 March 2012 in which case "reporting period" means the period 6 April 2011 to 31 March 2012.

Equality objectives

3.—(1) An authority must publish objectives that are designed to enable it to better perform the general duty.

(2) The authority must also—

(a) publish a statement setting out—

(i) the steps that it has taken or intends to take in order to fulfil each objective; and

(ii) how long the authority expects it will take in order to fulfil each objective;

(b) make such arrangements as it considers appropriate for monitoring the progress that it makes and the effectiveness of the steps that it takes in order to fulfil its equality objectives.

In these Regulations such objectives are referred to as "equality objectives".

(3) If an authority does not publish an equality objective in respect of one or more of the protected characteristics it must publish reasons for its decision not to do so.

(4) Paragraph (3) applies even if an authority publishes an equality objective for the purpose referred to in regulation 11(1) (and for that reason such an objective is to be ignored for the purpose of paragraph (3)).

Preparation and review etc. of equality objectives

4.—(1) When considering what its equality objectives should be and when designing any equality objective (or any revision to such an objective) the authority must—

(a) comply with the engagement provisions (*see* regulation 5); and

(b) have due regard to relevant information that it holds.

(2) An authority must comply with regulation 3(1) by publishing equality objectives—

(a) not later than 2 April 2012; and

(b) subsequently as it considers appropriate.

(3) An authority must review each of its equality objectives—

(a) not later than the end of the period of four years beginning with the date that the objective was first published; and

(b) subsequently at intervals not later than the end of the period of four years beginning with the date of the last review of the objective.

(4) An authority may carry out a review of any of its equality objectives at any other time.

(5) An authority may revise or remake an equality objective at any time.

(6) If an authority revises an objective without remaking it then the authority must, as soon as possible after making the revision, publish the revision or the objective as revised (as it considers appropriate).

(7) If an authority does any of the things referred to in paragraph (5) it must either amend the statement published by it under regulation 3(2) or publish a new statement.

Engagement provisions

5.—(1) The provisions in paragraph (2) are referred to in these Regulations as "the engagement provisions".

(2) Where any provision of these Regulations requires an authority to comply with the engagement provisions in carrying out any activity (see for example regulation 4(1)(a)), compliance with those provisions means that in carrying out that activity the authority—

(a) must involve such persons as the authority considers—

(i) represent the interests of persons who share one or more of the protected characteristics; and

(ii) have an interest in the way that the authority carries out its functions;

(b) may involve such other persons as the authority considers appropriate;

(c) may consult such persons as the authority considers appropriate.

(3) In reaching a decision under paragraph (2)(b) or (c) the authority must have regard to the need to involve or consult (as the case may be), so far as is reasonably practicable to do so, persons who—

(a) share one or more of the protected characteristics; and

(b) have an interest in the way that the authority carries out its functions.

Accessibility of published information

6.—(1) This regulation applies to any document or information that an authority is required by these Regulations to publish.

(2) The authority must take all reasonable steps to ensure that the document or information is accessible by persons who share one or more protected characteristics.

Arrangements for collection etc. of information about compliance with the general duty

7.—(1) An authority must make such arrangements as it considers appropriate to ensure that, from time to time, it—

(a) identifies relevant information that it holds;

(b) identifies and collects relevant information that it does not hold; and

(c) publishes relevant information that it holds and which it considers appropriate to publish.

For further provision about what the arrangements must contain see also regulation 11(2).

(2) For the purposes of these Regulations an authority holds relevant information if—

(a) it is held by the authority, otherwise than on behalf of another person;

(b) it is held by another person on behalf of the authority; or

(c) it is held by the authority on behalf of another person and—

(i) that person has consented to the authority using the information for the purpose of compliance by the authority with the general duty and the duties under these Regulations; or

(ii) use of the information by the authority for the purpose of compliance by it with those duties meets the conditions in paragraph (3).

(3) The conditions referred to in paragraph (2)(c)(ii) are that the use of the information by the authority—

(a) is not contrary to law; and

(b) is reasonable, having regard to all the circumstances including, in particular, the nature of the information and the circumstances in which it was obtained by the authority.

(4) The identification of relevant information includes identifying such information by means of carrying out an assessment of whether there are—

(a) things done by the authority that contribute to the authority complying (or otherwise) with the general duty; and

(b) things that it could do that would be likely to contribute to compliance by the authority with that duty.

(5) When carrying out an assessment referred to in paragraph (4), the authority must—

(a) comply with the engagement provisions; and

(b) have due regard to relevant information that it holds.

(6) The arrangements referred to in paragraph (1) must ensure that, not later than 2 April 2012, the authority—

(a) carries out an assessment referred to in paragraph (4); and

(b) publishes relevant information that it holds and which it considers appropriate to publish.

Impact and monitoring of policies and practices

8.—(1) An authority must make such arrangements as it considers appropriate for—

(a) assessing the likely impact of its proposed policies and practices on its ability to comply with the general duty;

(b) assessing the impact of any—

(i) policy or practice that the authority has decided to review,

(ii) revision that the authority proposes to make to a policy or practice,

on its ability to comply with that duty;

(c) monitoring the impact of its policies and practices on its ability to comply with that duty; and

(d) publishing reports in respect of any assessment that—

(i) is referred to in sub-paragraph (a) or (b); and

(ii) shows that the impact or likely impact (as the case may be) on the authority's ability to comply with that duty is substantial.

(2) Reports under paragraph (1)(d) must set out, in particular—

(a) the purpose of—

(i) the proposed policy or practice;

(ii) the policy or practice; or

(iii) the proposed revision to a policy or practice,

that has been assessed;

(b) a summary of the steps that the authority has taken to carry out the assessment;

(c) a summary of the information that the authority has taken into account in the assessment;

(d) the results of the assessment; and

(e) any decisions taken by the authority in relation to those results.

(3) When carrying out an assessment referred to in paragraph (1)(a) or (b) the authority must—

(a) comply with the engagement provisions; and

(b) have due regard to relevant information that it holds.

Training and collection of employment information

9.—(1) An authority must, in each year, collect the following information—

(a) the number of persons employed by the authority at the relevant date in that year;

(b) the number of persons employed by the authority at that date broken down by—

(i) job;

(ii) grade but only where an authority operates a grade system in respect of its employees;

(iii) pay;

(iv) contract type (including, but not limited to permanent and fixed-term contracts); and

(v) working pattern (including, but not limited to full-time, part-time and other flexible working arrangements).

(c) the number, during the reporting period ending with the relevant date in that year, of—

(i) persons who have applied for employment with the authority (excluding persons already employed by the authority);

(ii) the authority's employees who have changed position within the authority including the number who applied to change position and the number who were successful (or otherwise) in their application;

(iii) the authority's employees who have applied for training and the number who were successful (or otherwise) in their application;

(iv) the authority's employees who completed the training;

(v) the authority's employees who were or are involved in grievance procedures by reason of either being the person who made an accusation against another or being the person against whom an accusation was made;

(vi) the authority's employees who were or are the subject of disciplinary proceedings; and

(vii) the authority's employees who left the employment of the authority.

(2) In paragraph (1) (other than paragraph (1)(b)) any reference to the number of persons or employees includes, in respect of each protected characteristic, the numbers who share the protected characteristic.

(3) In paragraph (1)(b) the reference to the number of persons employed includes, in respect of the protected characteristic of sex, the number who are women and the number who are men.