

## Twelve key figures

---

### 1. ONE

There is one act of parliament, the Equality Act 2010, replacing a range of earlier acts, and one overall duty, known as the public sector equality duty (PSED). The PSED has one requirement – that schools and other public bodies should have 'due regard' for equalities. The meaning of due regard is explained at points three and six below.

### 2. TWO

There are two kinds of duty, general and specific. And there are two specific duties, respectively a) to publish information which shows compliance with the general duty and b) to publish at least one equality objective.

### 3. THREE

There are three needs towards which schools and other public bodies must have due regard – a) eliminate discrimination b) advance equality of opportunity and c) foster good relations.

### 4. FOUR

Ofsted is bound by the PSED, as are all public bodies. It has indicated, with the explicit approval and endorsement of the government, that it will be in accordance with the PSED that, amongst other things, it will inspect four kinds of personal development amongst pupils – spiritual, moral, social and cultural.

### 5. FIVE

As a matter of good practice, objectives should have five features – they should be **s**pecific, **m**easurable, **a**chievable, **r**elevant and **t**ime-limited ('SMART'). The first two of these, specific and measurable, are explicitly mentioned in legislation.

### 6. SIX

There are six principles established by case law underlying due regard – awareness, timeliness, rigour, non-delegation, continuous, and record-keeping:

- **awareness** – all staff should know and understand what the law requires
- **timeliness** – the implications for equalities of new policies and practices should be considered before they are introduced
- **rigour** – there should be rigorous and open-minded analysis of statistical evidence, and careful attention to the views of staff, and the views of pupils and their parents and carers
- **non-delegation** – compliance with the PSED cannot be delegated
- **continuous** – due regard for equalities should be happening all the time
- **record-keeping** – it is good practice to keep documentary records, for example in the minutes of staff meetings and governor meetings.

### 7. SEVEN

The seven letters in the word OPERATE can be used as a convenient memorising device to summarise important concepts – i) **o**utcome-focused ii) **p**roportionality and **p**ermissiveness iii) **e**vidence-based iv) **r**easonable and **r**igorous v) **a**ccountability vi) **t**ransparency and vii) **e**ngagement:

- **outcome-focused** – objectives should be to do with closing or narrowing gaps (most notably in attainment, but also in other kinds of success at school, and in the use of sanctions and punishments), and in fostering and maintaining good relations
- **proportionality and permissiveness** – the expectations of legislation are different for small schools than for large schools (proportionality) and all schools are permitted to interpret legislation according to their own context and circumstances, as distinct from obeying one-size-fits-all requirements
- **evidence-based decisions and policies** – there should be sound evidence for decisions that are made
- **rigorous but reasonable** – not just ticking boxes, but no more than *good-enough*: it is not reasonable to expect measures and decisions to be perfect
- **accountability** – schools must make themselves accountable for their progress on equalities to parents and other carers, and to local groups and organisations
- **transparency** – information must be published which enables schools to be held to account, and such information should be readily accessible, in both senses (easy to find and easy to understand)
- **engagement** – it is good practice to consult and involve people with a legitimate interest.

(Please note: the OPERATE memorising device is not official. However, the seven points listed here are derived from ministerial statements in the [House of Commons](#) (11 July 2011) and the [House of Lords](#) (6 September), and from publications issued during 2011 by the Government Equalities Office (GEO), particularly the [Explanatory Memorandum](#) which accompanies [The Equality Act 2010 \(Specific Duties\) Regulations 2011](#))

## 8. EIGHT

The Equality Act 2010 belongs to a long history of struggles to change the laws of the United Kingdom, and the figure 8 appears in the story from time to time.

The Equal Franchise Act 1928, for example, enabled women to vote for the first time on the same terms as men.

Six decades later, Section 28 of the Local Government Act 1988 stated that local authorities should not promote 'the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship'. Section 28 was repealed in 2003.

It's relevant also to remember the international context. In 1948 the Universal Declaration of Human Rights set the global legislative context for anti-discrimination legislation, and in 1998 the Human Rights Act in Britain, reflecting European legislation, added a further significant underpinning.

It was also in 1998 that the Fair Employment and Treatment (Northern Ireland) Order came into force, making it unlawful to discriminate on grounds of religious belief (FETO) and/or political opinion. FETO was later amended to include other strands of equality too, and in this way paved the way for the Equality Act 2010.

## 9. NINE

The legislation deals with nine strands or aspects of human diversity, known as nine protected characteristics – in alphabetical order (but in some instances using terms different from those which appear in the Act itself) these are 1) age 2) disability 3) ethnicity 4) gender 5) gender identity and transgender

6) marriage or civil partnership 7) pregnancy and maternity 8) religion and belief 9) sexual identity and orientation. Two of the nine – age and marriage or civil partnership – are not applicable in the provision of services to children and young people.

## **10. TEN**

There are ten protected characteristics if what many people consider to be the most significant aspect of human diversity is added, social class.

Although not required by equalities legislation, it is frequently good practice for schools to integrate their work in relation to the Equality Act with their work on narrowing and closing achievement gaps related to socio-economic circumstances (SEC), for example their use of the pupil premium.

## **11. ELEVEN**

On 5 April 2011 the general duty (point one above) came into effect. On 10 September 2011 the specific duties (point two above) came into effect.

## **12. TWELVE**

By 6 April 2012 the specific duties require schools to have published information showing compliance with the public sector equality duty, plus also at least one equality objective. For local authorities, information showing compliance must be published by 31 January 2012.

---

### **For further information, advice and guidance**

The concept of due regard (point 1 in this paper) is explained in an excellent brief document issued by the TUC: [http://www.tuc.org.uk/extras/EQUALITY\\_TOOLKIT.pdf](http://www.tuc.org.uk/extras/EQUALITY_TOOLKIT.pdf) .

The requirements for schools of the specific duties (point 2 in this paper) are explained and illustrated in a document published by the Insted consultancy:  
<http://www.insted.co.uk/information-objectives.pdf>

In more general terms (namely, not specifically in relation to schools), updated guidance on the specific duties was published by the Equality and Human Rights Commission (EHRC) in December 2011 in *Equality Information and the Equality Duty: a guide for public authorities*,  
[http://www.equalityhumanrights.com/uploaded\\_files/EqualityAct/PSED/information\\_guidance\\_rev.doc](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/information_guidance_rev.doc)

and *Equality Objectives and the Equality Duty: a guide for public authorities*,  
[http://www.equalityhumanrights.com/uploaded\\_files/EqualityAct/PSED/objectives\\_guide\\_rev.doc](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/objectives_guide_rev.doc)

The concept of smart objectives (point 5 in this paper) is well explained in *Equality Objectives and Public Authorities: tips, hints, and bright ideas*, published in October 2011 by BRAP, a community organisation based in Birmingham:  
[http://www.eren.org.uk/content/wp-content/uploads/2011/10/Equality\\_Objectives\\_Guide-BRAP.pdf](http://www.eren.org.uk/content/wp-content/uploads/2011/10/Equality_Objectives_Guide-BRAP.pdf)

There are also useful ideas and suggestions for schools in a document published by Northamptonshire County Council:  
<http://www.northamptonshire.gov.uk/en/councilservices/EducationandLearning/services/equalities/Pages/default.aspx>

There is guidance about the minimal legal requirements for schools in a document issued by the Department for Education (DfE):  
<http://www.education.gov.uk/aboutdfe/policiesandprocedures/equalityanddiversity/a0064570/the-equality-act-2010>

The DfE has also published useful guidance on matters relating to disability equality:  
<http://education.gov.uk/childrenandyoungpeople/sen/a0065985/disability-toolkit>

---

Insted Consultancy, last updated February 2012