

## CONSULTATION RESPONSE FORM

### THE PUBLIC SECTOR EQUALITY DUTY Promoting equality through transparency – A consultation

**The consultation closes on 10 November 2010.** Please let us have your response by that date.

When responding, it would be helpful if you could provide the following information.

Please fill in your name and address, or that of your organisation if relevant. You may withhold this information if you wish, but we will be unable to add your details to our database for future consultation exercises.

#### Contact details:

Please supply details of who has completed this response.

Response completed by (name):

Nicola Jacobs

Position in organisation (if appropriate):

Policy Officer

Name of organisation (if appropriate):

NAT (National AIDS Trust)

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Date:

08/11/2010

#### Confidentiality

Under the Code of Practice on Open Government, any response will be made available to the public on request, unless respondents indicate that they wish their views to remain confidential. If you wish your response to remain confidential, please tick the box below and say why. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

I would like my response to remain confidential  
(please put a cross in the box if appropriate):

Please say why

In what capacity are you responding (please put a cross in the appropriate box)?

As an individual

On behalf of a public sector organisation

On behalf of a private sector organisation

On behalf of a voluntary sector organisation

Other (please specify)

**Note:**

- In addition to the completed pro-forma, you can also send other supporting information if you so wish.

**Thank you for completing this response form.**

**Question 1: Do you have any comments on our proposals for data reporting? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraph 5.2 to 5.9?**

Does the drafting of regulation 2 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes  No  Not sure

Please explain:

NAT supports the proposals for data reporting. It is important that public bodies publish equality data related to their workforces and to the services they provide. Not only does this mean that they can be held accountable by the communities they serve, but also that through the process of collecting and publishing data awareness of equality issues within the organisation will be raised. However, it is essential that the data published is accessible and understandable; the data can only be used to hold public bodies to account in the way described if it meets these criteria.

NAT is concerned that there is no clear requirement around engagement. Clearly, doing impact assessments is valuable and important; however this is not a substitute for regular and thoughtful engagement with groups with protected characteristics. Within all the equality strands there are those which are less vocal. For example, HIV is a disability under the Equality Act 2010, yet many people do not realise this when thinking of disabled groups and equality obligations. Those with stigmatised conditions such as HIV may be less likely to raise their voice and become involved. If there is no duty on engagement, and the views of people living with HIV are not actively sought, it is even less likely that their needs will be taken into account.

It is essential that public bodies meet real need, as opposed to perceived need; this can only be done with the meaningful engagement of groups with a protected characteristic and that there is proactive engagement of those who are less likely to speak out as opposed to the 'usual suspects'. Engagement needs to happen from the beginning of the process, and groups with protected characteristics should be involved in setting equality objectives, rather than only being expected to challenge public bodies on the basis of published data once there is a problem or lack of progress.

**NAT recommends that in Regulation 3 there is a duty to engage people with protected characteristics in the determination and design of equality objectives and that there should also be a requirement to publish information on that engagement.**

**NAT recommends that there is additionally at Regulation 2 an annual requirement to publish information/data relating to progress towards the equality objectives of the public body.**

**NAT recommends that at section 2(c) of Regulation 2 the opening words should be amended to add information on relevant engagement to 'the information it took into account' in impact assessment.**

**Question 2: Do you have any comments on our proposals for employment reporting? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraphs 5.10 to 5.11?**

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Does the drafting of regulation 2 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes  No  Not sure

Please explain:

NAT welcome the GEO's proposals for employment reporting. It is essential that public bodies are transparent employers and that workplace inequalities can be identified. However, it is important to remember that those with 'unseen disabilities' and particularly those who have stigmatised conditions, such as HIV, may not feel comfortable disclosing this to their employers and the data may therefore not adequately reflect the reality.

To that end, **NAT recommend that relevant guidance on the Regulations from the EHRC and other relevant bodies ensures that employment related data is collected in a manner which maximises confidence in the process and thus disclosure. In particular, there need to be clear processes and assurances around confidentiality and anonymity, the use of the information, and how disclosure can support fairer policy and practice in the workplace.**

**Question 3: Do you have any comments on our proposals for transparency in public service provision? Does the drafting of regulation 2 accurately reflect the aims of the policy described in paragraphs 5.12 to 5.14?**

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Does the drafting of regulation 2 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes  No  Not sure

Please explain:

NAT think that transparency in public service provision is one of the most crucial elements of these regulations. We therefore welcome Government's requirement that this data is published at least annually. Our concerns regarding stigmatised conditions and people's reluctance to disclose them, which we have discussed in our responses to Questions 1 and 2 apply here as well. **We reiterate our recommendation on the importance of annual reporting on progress towards equality objectives which have a four-year timeframe.**

**Question 4: Do you have any comments on our proposals for setting equality objectives to achieve transparency about impact on equality? Does the drafting of regulation 3 accurately reflect the aims of the policy described in paragraphs 5.15 and 5.16?**

Does the drafting of regulation 3 accurately reflect the aims of the policy?

Please place a cross in the appropriate box

Yes  No  Not sure

Please explain:

Again, NAT welcome the emphasis on transparency, and the setting of equality objectives which are measurable outcomes. It is important that communities are able to determine how much progress public bodies are making in terms of equality. However, we are concerned that it is entirely at the discretion of the public body which equality objectives they decide to set. Public bodies could choose to set one objective across all their functions and all equality groups in a four-year period. Currently with the Disability Equality Duty it is still very difficult to get public bodies to think about HIV in their approach to disability equality; with this new approach, there is an even greater risk that the needs of people living with HIV will be completely ignored.

Clearly, it is not helpful to have a raft of bureaucratic requirements that public bodies have to meet, but there is a considerable danger that public bodies will choose to ignore elements of equality in favour of one particular objective that may be more achievable or popular. This will not enable people to judge how successful the body has been in advancing equality and will mean that some equality strands are neglected. Instead, public bodies should be required to state a range of objectives which will help them meet the General Duty.

**NAT believes that all public bodies should have at any time at least one equality objective related to disability. NAT recommends that Regulation 3 be amended to require public bodies to set sufficient objectives to help them meet their general duty and to set out the actions they intend to take to meet those objectives.**

Again, NAT are concerned with the failure to require the engagement of groups with protected characteristics in the setting of equality objectives. It is important that these groups are involved in this process, and that proactive work is done to seek the views of those with stigmatised conditions and 'unseen disabilities' such as those living with HIV. Without engagement at this stage, the process is undermined and the eventual objectives are unlikely to adequately address equality. **We reiterate our recommendation that there be an engagement requirement linked to the determination and design of the equality objectives and that there be annual reporting of information on progress towards objectives.**

**Question 5: Do you have any comments on the changes proposed in Chapter 5 under the section 'Reducing the burdens on public organisations'?**

Please place a cross in the appropriate box

Yes  No

Comments:

We are concerned at the proposal that the Secretary of State will no longer have to report on progress towards disability equality. This duty to report makes an important contribution to central government's understanding of disability equality. We appreciate the move towards more local decision-making and less top-down direction from central government, but this should not be at the expense of central government's understanding and action on disability equality. The Secretary of State report importantly discloses the perspective of national Government on its performance in this important area and should usefully sum up information otherwise dispersed and hard to sort through for many individuals and smaller organisations. **NAT recommends that the Secretary of State retain a reporting duty on disability.**

**Question 6: Do you have any comments on our proposals for transition from the existing duties relating to race, disability and gender to the new public sector Equality Duty, as described in paragraphs 6.1 and 6.2?**

Please place a cross in the appropriate box

Yes

No

Comments:

NAT think that it is practical to give public bodies a year to familiarise themselves with the new system before they are required to fully meet all the requirements. Since they have already had existing duties relating to race, disability and gender, it would be feasible to expect them to transition fairly quickly in these areas. If public bodies are already complying with the existing duties, then transition to the new duties should not be too difficult.

**Question 7: We would welcome your views on the proposed list of public bodies for Part 1 and Part 4 of Schedule 19, as described in paragraphs 7.7 to 7.12?**

And

**Question 8: We would welcome your views on the bodies that we do and do not think should be subject to the specific duties, as described in paragraphs 7.13 and 7.14**

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Comments:

NAT would draw the Government's attention to the Disability Charities Consortium's suggestions as to which organisations should be added to the list because of their strategic roles or because of the significant role that they play in disabled people's lives.

- Arts Council
- General Medical Council
- Nursing and Midwifery Council
- GP Consortia
- Ofsted
- Schools, including 'free schools' and 'academies'
- Skills Funding Agency
- The National Apprenticeships Service.
- Adult Advancement and Careers Service
- The Learner Skills Service
- The National Employer Skills Service
- Quality Assurance Agency
- Learning and Skills Improvement Service
- Officer of the Rail Regulator

NAT would welcome reassurance that this list will be reviewed and updated regularly and as appropriate

**Question 9: Do you have any other comments on the drafting of the Statutory Instrument? If yes, please explain.**

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Please place a cross in the appropriate box

Yes

No

Comments:

**Question 10: Do you have any evidence or data that you can provide or direct us to which would help us to develop our regulatory impact assessment?**

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Please place a cross in the appropriate box

Yes

No

Comments:

**Question 11: Are you aware of any other benefits resulting from the proposal that have not already been described in the consultation document or the regulatory impact assessment?**

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Please place a cross in the appropriate box

Yes  No

If yes, please explain:

**Question 12: Are there any other comments you would like to make in relation to this consultation that have not already been covered by this form? If yes, please explain.**

Please place a cross in the appropriate box

Yes

No

Comments:

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**THANK YOU FOR YOUR COMMENTS.**