



**Equality Bill: Making it work
Policy proposals for specific duties**

UNITE – the Union Response

September 2009

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Introduction

This response is submitted by Unite, the union. Unite is Britain and Ireland's largest trade union with 2 million members across the private and public sectors. As the union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport, local government, education, health and not for profit sectors, we have extensive experience of representing men and women workers who are faced with discrimination on all grounds. We believe that the specific duties are an important opportunity to ensure action to prevent and tackle this discrimination in employment and in the provision of public services in the wider community.

Unite plays a significant role in the public sector with more than 250,000 members employed in a wide range of occupations across the NHS, Education, local government, central government departments and government agencies, and including prisons, Royal Mail and British Waterways. Unite sits on the Cabinet Office's Public Services Forum (PSF), and the Equality and Diversity Sub-Group of the PSF. In the public sector Unite also represent many workers who provide public services through public procurement in the private and not for profit sectors, and is represented on the Senior Stakeholder Group on the Equality Bill.

Key points

1. Unite welcomes the extension of the public sector duties to other areas of equality placing a duty on all public sector employers and service providers to promote gender, race, disability, LGBT, religion/belief, and age equality, including recognition of caring responsibilities.
2. Unite supports the integration and extension of the public sector duties on the principal of harmonisation and not regression. **We strongly believe that any measure other than strengthening the current duties is regression.**
3. Unite is very concerned to ensure that the move to extend the public sector duties to cover all areas of equality is not done on the basis of "one size fits all". It should instead recognise the need to act on specific forms of discrimination
4. Unite emphasises the important role of trade unions including the new role of the union equality reps in implementing the public sector duties and calls for trade union involvement to be recognised in the new duty as it currently is in the Gender Equality Duty.
5. Unite believes that the positive case for Public sector duties needs to

be made much more strongly than suggested in the consultation. Promotion of equality as stated in the Equality bill is a move to eliminate all forms of discrimination, advance equality of opportunity and foster good relations. Unite would highlight the following:

- Public sector duties have been vital in raising the importance of equality for workers and service users.
- Looking at public sector policies and practices through the equality lens will identify under-representation of women or black workers and find remedies for recruitment and training; or gaps in services. For examples Job Centres can put in measures to eradicate discrimination in accessing the labour market.
- Specific duties helping public bodies meet the general Duty are a benefit to the whole community and should not be identified as a “burden”. This was clearly stated in the Schneider Ross¹ report which concluded that specific duties were widely seen to be effective. Positive examples of which Unite has experienced include the MoD where there are staff/union networks in all equality areas which identified lack of training available to the lower grades was identified. As a result the Department is now reviewing its New Horizons program with a view to encompassing all areas of equality and covering the lowest grades. It is union participation at all levels that ensures MoD policies are followed safeguarding our members’ interests. A further good example is the work carried out by the Health and Safety Executive (HSE) on disability sensitive health and safety which shows the equality duty working for disabled people.

6. Unite also believes there is a strong case for and support the requirement of the public sector duties to be extended to the private sector so that there is effective protection from discrimination across workplaces and communities.

1. Do you think the criteria set out above are the right ones? Please give your reasons.

2. Are there any other criteria we should use? If so, what do you suggest?

We support that the duty should apply to all public bodies and the TUC response on this point. As the employer of one in five of the employees in Britain the public sector should be an exemplar employer. Tackling inequality in the public sector has a massive impact on society. We are concerned, on the other hand that four out of five public sector employees work in places where public sector duties will not apply. We do not believe there are any reasons or argument for not applying the specific duties to all public authorities. We disagree with the suggested exclusion of smaller organisations such as schools, charities or small NHS trusts. This reduced scope would seriously dilute the impact of the duty. Small public authorities

¹ Equality Duties - Assessing the Cost & Cost Effectiveness of the Specific Race, Disability & Gender Equality Duties - 2009 – Government Equalities Office & Schneider Ross Not for Profit organisation

can have a big impact on equality in the community in which they operate. For instance, schools should be supported in their role in tackling inequalities, such as homophobic and racist bullying of their employees as well as pupils. Many Public sector employers provide information on gender, BAEM and disabled workers and many have already started providing data on other areas of equality in advance of the Equality Bill. Unite recognises that there could be practical issues regarding the size and the make up of an organisation which can be addressed by providing support. However, we believe there should be a general requirement at least as good as the existing duties covering all areas of equality and applying to all bodies. For those organisations with more than 150 employees more detailed and extended duties can be applied. However Unite recommends differences in requirements between smaller and larger organisations is monitored in order to avoid 'two tier' compliance with equality measures.

3. Do you agree that public bodies should have a specific duty to publish equality objectives with reference to the relevant evidence and their wider general Equality Duty obligations?

We welcome the extension of the requirement for organisations to set equality objectives as currently exists in the Gender Equality Duty but developing these objectives should be a **requirement** and not only an "intention". The current proposals will give too much discretion to public authorities to act in a limited number of areas. The duty should require goals to be identified and action to be taken to progress towards these goals. This can only be achieved fully by gathering evidence to address inequalities for workers and service users. Unite supports the TUC in asking for a specific duty on public bodies to gather evidence prior to setting their objectives. Without this evidence objectives can be too general or at worst irrelevant to the needs of workers and the community they serve.

Additionally, Equality training is a key component in developing understanding of the practical implication and meaning of equality law and part of the necessary processes that need to be in place in a workplace to ensure understanding at all levels of an organisation. This was evident in our joint training on Sexual Orientation & Religion or Belief Regulations in London Buses and Newham local government. Management and our members gave us a very positive feedback. This also helped with reaching agreements due a better understanding of the issues. Unite supports the need for equality training and is concerned that this will not be required of public bodies. At the very minimum it should be encouraged as part of this process rather than left to institutions to decide. Anything less is a regression from the current Race Equality Duty. If an institution decides not to provide any training this will leave employees, particularly middle management, in an extremely vulnerable position where they can be held accountable but the employer has not been required to provide training so that they understand their responsibilities.

4. Do you agree that public bodies should set out the steps they intend to take to achieve their equality objectives?

Yes we believe this is important and we support the current requirements for authorities to publish an Equality Scheme. These Schemes have not been a

“bureaucratic” exercise but a plan to ensure action is taken on equality. Currently Equality Schemes strongly support authorities’ promotion of equality to come to fruition. These Schemes should be easy to access and also simple to read and understand.

5. Do you agree that public bodies should be required to implement steps they have set out for themselves within the business cycle periods unless it would be unreasonable or impractical to do so?

It is important that public bodies implement their set out actions within the business cycle as it is in the gender and disability duties but they should not be able to pick and choose areas of equality that are “unreasonable or impractical”.

In our experience assessments of “reasonableness” on equalities do not fully count the cost of not acting to prevent discrimination or to promote equality.

6. Do you agree that public bodies should be required to review their objectives every three years? If not what time-period do you suggest?

We agree with this timescale to review not only the objectives but also the action taken and future remedies.

7. Do you agree that public bodies should set equality objectives taking into account priority areas set by the relevant Secretary of State?

We believe public bodies’ objectives should be based on their local needs by having Secretary of State’s priorities in mind. Evidence gathered at local level should serve to ensure that a balance can be struck between national and local equality objectives.

The union agrees that the Duty would be more effective if public authorities are required to prioritise equality outcomes, that action should be proportionate to its size and the impact of the inequality identified. However, we are concerned that the priority equality objective approach will weaken the current position and give public bodies the scope to limit in a way that effectively ignores action needed for areas of equality not identified as a priority.. For example, although lack of progression of black, Asian and ethnic minority (BAEM) workers may be identified as the major equalities issue requiring action this should not mean no action on disabled or women workers. This can be made clear in a statutory Code of Practice and guidance.

8. Do you agree that public bodies should not be required to set equality objectives in respect of each protected characteristic?

No. The government should continue with its aim to “build on the success of the existing duties and for the first time extend to cover the protected characteristics of age, religion or belief, sexual orientation and gender reassignment in full in the new Equality Duty”. Not setting equality objectives for all areas of equality will negate the purpose of this extension.

9. Do you agree that public bodies should be required to report annually on progress against their equality objectives, but that the means by which they do so should not be prescribed in legislation?

We agree with the TUC that there should be a requirement on public bodies to

provide an annual report of progress on their equality objectives. This should be done through a statutory EHRC Code of Practice similar to the DRC Code of Practice.

10. Do you agree that public bodies with more than 150 or more employees should be required to publish their gender pay gap, their ethnic minority employment rate and their disability employment rate? We would welcome views on the benefits of these proposals in encouraging public authorities to be more transparent.

While strongly supporting action to tackle the gender pay gap and to monitor ethnic minority and disability employment rate Unite does not agree that the proposed measures are sufficient to identify and ensure action needed to tackle pay inequalities. Additionally, Unite is concerned that proposed transparency methods and data collection are too general and hide other forms of discrimination for example importantly part-time workers; or are not appropriate for example in removing the extremes of earnings. We believe that the requirement to publish the gender pay gap should be extended to BAEM workers and not just be limited to data on their employment rate. This should be in addition to the monitoring requirement in the Race Equality Duty and not a replacement.

We are concerned that the 150 limit would exclude important areas of monitoring in many communities which would be necessary for a true picture of the inequalities faced by women, BAEM and disabled workers.

Unite has and continues to be extensively involved with public sector bodies who are in the process of addressing significant equal pay issues. We would however point out that the proposal for public authorities with less than 150 employees to be excluded from the requirement to publish their gender pay gap figures will have significant impact within smaller but significant organisations such as schools. Significant numbers of schools will fall outside of this scope and with more schools moving outside of local authority scope, this will damage transparency or evidence concerning equal pay impacts in the future. Unite would suggest that this proposal is reviewed in the light of the experience of the removal of the small employers exemption of the Disability Discrimination Act.

11. Do you agree with the proposal to use the overall median gender pay gap figure? Please give your reasons. If not, what other method would you suggest and why.

Unite believes that the gender pay gap needs to be broken down in a manner that looks at employees who may be segregated by pay grade and that can look at additional payments such as bonuses. This is critical information to make sense of a gender pay gap and also more importantly to develop strategies to tackle such gaps. The proposal to use a single figure - the overall median gender pay gap - will not provide a sensible use of the evidence, nor the transparency outlined in the four key principles of the paper and needs to be more comprehensive to be meaningful.

In addition, Unite would reinforce our point made earlier as well as the TUC's about the need to remove the 150 employees break off point. This is vital since those organisations subject to a gender pay gap will be more likely to

continue in that way if the transparency of information about such a gap is not made public.

12. Do you have any evidence of how much it would cost to produce and publish this information, and of what benefits of producing and publishing this information might be?

We agree with the TUC response that although it might be more costly to provide more detailed evidence gathering and monitoring, the benefits are worth the initial setting up of the system. Also as we said earlier, some public authorities have already set up a system and have extended it to other areas of equality. We believe that it is clear that inaction on equal pay is ultimately far more costly to organisations than swift action to tackle any gender pay gap.

13. Do you agree with the proposal not to require public bodies to report employment data in relation to the other characteristics protected under the Equality Duty? If not, what other data do you think should be reported on?

We do not agree. As stated before any exclusion counteracts the spirit of the duty to be extended to all areas of equality.

14. Do you agree with the move away from an emphasis on describing process, to requiring public bodies to demonstrate how they have taken evidence into account in the design of their key policy and service delivery initiatives and the difference this has made?

We do not agree. In Chapter 4, you note that there is widespread acceptance that equality impact assessment is in principle valuable. However, the reference to some respondents reporting that it had become an inflexible “tick box” approach would suggest to Unite that these organisations are not undertaking the equality impact assessment in a data led, robust way. We are concerned that, despite the value of equality impact assessments, the conclusions are to move away from requiring public bodies to demonstrate outcomes and impacts.

We support the strengthening of the equality duty for implementation, including monitoring action holding the authority to account, and requiring a written equality scheme and the measurement of outcomes through equality impact assessments as the way forward. We also share the TUC’s concern that changing the nature of equality impact assessments makes them an after-the-event procedure instead of a preventative measure. We strongly oppose the proposals on equality impact assessments as it is often only when they are carried out that the equality dimensions are made clearer. In local government, there is a joint union/employer commitment/agreement on how to carry out equality impact assessment which illustrates the importance of this area. A good example is the initiatives of the Scottish government around equalities. For example to highlight the needs of transgender men and women in the provision of services, the Scottish government is working with the public sector and supports the Inclusion Project as part of its work to improve NHS Scotland.

We would suggest that given the clear recognition of the value of the equality impact assessments and monitoring as in the current Race Equality Duty should result in a requirement to produce these as part of this process. We believe any measures other than strengthening the current monitoring process are regression.

15. Do you agree that public bodies should have a specific duty, when setting their equality objectives, deciding on the steps towards their achievement and reviewing their progress in achieving them to take reasonable steps to involve and consult employees, service users, and other relevant groups who have an interest in how the body carries out its functions – or where appropriate their representatives; and in particular take reasonable steps to consult and involve protected groups for whom the duty is designed to deliver benefits?

Yes. However, we are seriously concerned that proposal in 2.3 is a step backwards in the involvement of trade unions which must be addressed. The role of trade unions in supporting the implementation of the Single Equality Duty, which is currently included in the gender equality duty needs to be part of the new Duty for all areas of equality. Trade union shop stewards, safety reps, union learning reps and union equality representatives can all put to use their experience of tackling discrimination and promoting equality and involvement of under-represented sections of the workforce, which is essential if the duty is to be effective, is to make a difference, and is to win support across all in the workplace. We stress the vital role of union equality reps which is now strongly encouraged by ACAS in its revised code of practice on time off for trade union duties. We would also refer to the important recommendation of the Women and Work Commission (WWC) that “public sector employers be accountable on the establishment of time-off and facilities for a network of union equality reps”.

Unite supports the four key principals outlined in this consultation: the use of evidence, consultation and involvement, transparency and capability, and the reference to public authorities taking reasonable and proportionate steps to consult and involve representatives of employees, but we would like to see a specific reference to trade unions who are the prime representative of employees across public authorities. Whilst there is reference to trade unions later in the text Unite believes that the integral role of unions should be included at the outset with a view to consult to reach an agreement.

16. Do you think that imposing specific equality duties on contracting authorities in relation to their public procurement activities are needed or are the best way to help deliver equality objectives? Do you think such an approach should be pursued at this time?

We strongly support the use of public sector procurement to achieve equality outcomes as recognised under 5.34. We believe that procurement is key to ensuring that poor practice in the private sector cannot be used to undermine good practice introduced in the public sector in response to the Equality Duty, and that equality should be taken into account in all public functions. For this reason we are concerned that equality impact assessment of procurement policies is missing from the proposals and believe it should be embedded in

the procurement process.

The importance of addressing the equalities responsibilities in the private sector is clearly stated in the government's pamphlet "Buy and make a difference". This includes the opportunity to ensure private and voluntary sector organisations adhere to and promote equality when they are carrying out public functions, as well as to award a contract specifically to for example a women's project or black business in a way that is not in conflict with the requirements of EU law.

We have experience of the impact of privatisation when equalities considerations were specifically excluded from the tendering process under compulsory competitive tendering. This showed that disproportionately it was low paid women, black women and disabled workers (formerly) "green card holders" that were affected, leading in our experience to the creation of the current equal pay cases and serious decline in the employment of disabled workers. This showed that serious problems occur when the impact of policies on equality is not taken into account. Also when procurement does not consider for example race equality, social cohesion can be undermined. TfL's procurement practices are a good example of how early engagement and communication with all stakeholders, clear presentation of business case and reporting of successes and benefits provides positive outcomes for BAEM, women and other under-represented groups in its supply base.

Additionally, it is very important not to underestimate the financial cost of discrimination to individual employers and to the whole economy, as well as the savings from promoting equality. The Women and Work Commission calculated the cost to the economy of the women's work being undervalued and Boots plc calculated major savings to recruitment and training following the introduction of family friendly and maternity policies which better retained staff after giving birth.

We have been consistently calling for the duty on the public sector to be extended to the private sector. The government should recognise the importance of using the Equality Bill as an opportunity to extend to the private sector the requirement to promote equality and prevent discrimination. We have a great deal of experience promoting equality in the private sector with employers of a range of sizes, including British Airways, Ford Motor Company, J Sainsbury, BAA, London Buses, English Church Housing Group, Ineos, TNT, Happy Computers, Associated British Ports, Cadbury, Stagecoach. Our experience is that a clear commitment to promoting equality and to establishing procedures for implementing this commitment is beneficial to all aspects of the workplace. The specific example of win-win-win agreements on equality and flexible working that meet workers' caring and other commitments outside work, as well as the employers' need for flexibility in order to meet varying customer demand demonstrates this.

For the same reasons the single equality duty should also apply to the private, not-for-profit and voluntary sectors. 80% of workers are employed in the

private sector² and equality cannot be achieved without more effective legislation that will compel employers to take action in this area. The positive duties are important because they require employers to take proactive action on equality in contrast to discrimination legislation which confers the right to take an employment tribunal claim after the discrimination has taken place. We are concerned that the interface between the public and private has not ensured that accountability has been a requirement for private companies who benefit from public contracts. We therefore welcome the inclusion in the Equality Bill of a clause allowing specific equality duties in relation to procurement activities as asked under Q16. There is also a blurring between the public and the private/voluntary sectors with the contracting out of public sector jobs which has had a disproportionate impact on women and black and ethnic minorities.³

It is important that public sector procurement is used as a lever to promote equality in the private, not-for-profit and voluntary sectors as recommended in the Equalities Review. Public authorities spend £176 billion annually on contracts for goods, facilities and services from organisations which employ many workers in this country. It cannot be right that public money should be spent on organisations which have discriminatory policies and practices. Embedding equality in public procurement would have the advantage of ensuring high quality services, allow all businesses to compete on an equal footing, spread best practice on equality and avoid the race to the bottom.

We believe that there should be an explicit requirement for public authorities to deal with supplier's breaches of discrimination law, rather than doing this through best practice guidance as some authorities have already done.⁴ Public authorities must ensure that those who supply services are not discriminating and this is consistent with the whole Equality Duty ethos. Minimum equality standards are necessary which should be properly enforced and organisations should be banned from tendering for public contracts if they are in serious breach of discrimination law.

17. Do you agree that contracting authorities should be required to state how they will ensure equality factors are considered as part of their procurement activities to help contribute to the delivery of those objectives?

Yes, equality for workers and service users should be taken into account at each stage of procurement process through equality impact assessment and monitoring the performance of contractors.

18. Do you agree that contracting authorities should be required to consider incorporating equality-related award criteria where they relate to the subject matter of the contract and are proportionate?

Equality awarding criteria have been used for many years by a number of local authorities and need to be clear, transparent and part of every stage of

² ONS Statistics website on Public and Private Sector employment

³ Poor Returns: Winners and Losers in the Job Market, 2007, Warwick Institute for Employment Research and Procurement and Fair Employment Report 2003, Mayor of London

⁴ Local Government Information Unit Briefing, Discrimination Law Review, 2007

the procurement process. Equality criteria need to be clearly drawn up and objective so that all those bidding for work are clear about the requirements and about the monitoring of the outcomes of any commitments or undertakings given as part of the procurement process. There should be two separate awards for achieving or promoting equality in employment and for service users.

19. Do you agree that contracting authorities should be required to consider incorporating equality-related contract conditions where they relate to the performance of the contract?

In our experience equality-related contract conditions that relate to performance are a major obstacle exploited by employers. We believe that equality should be included in the specifications of a contract at the start of the process which enables public authorities to hold contractors to account by using equality-related contract conditions. These conditions should apply to both workers and service users and be monitored for effectiveness.

20. What would be the impact of a regulatory proposal aimed at dealing with suppliers who have breached discrimination law? What might be the benefits, costs and risks?

We agree with the TUC that organisations who have breached discrimination law and have not put in measures to address it, should not receive public money. For this reason a duty should be placed on public authorities to ask suppliers about breaches of discrimination law. Additionally they should ask for information on steps taken by suppliers to change their policies and practices. .

21. Do you support the proposal to establish a national equality standard which could be used in the procurement process? If so, do you believe this is achievable through a specific duty or is this better tackled through a non-legislative approach? Are there any practical issues that would need to be considered?

Unite supports the proposal to establish a national equality standard for procurement process achieved by a specific duty on public bodies to meet the standard. It would however be important to ensure that the standard was robust and sufficiently distinct to apply to the wide range of differing organisations within the public sector and contracts regularly monitored.

22. Which of the above four models do you consider achieves the best balance between joined-up working and senior accountability for equality outcomes, while avoiding unnecessary burdens? Please explain why.

We believe the first model is the most appropriate. However, we would be concerned that reporting every 3 years should not lead into inaction in the intervening years. We would therefore suggest interim reports are helpful.

23. Do you have any other suggestions how this duty could be remodelled to retain the valuable features of senior accountability and joined-up working, whilst avoiding unnecessary burdens?

24. Are there any other specific requirements, other than those that we have proposed, which you think are essential to ensure that public bodies deliver equality outcomes in an effective and proportionate manner?

- a) We stress that all areas of equality should be as strong as the current gender, race and disability duties and be improved upon. There should also be a requirement to carry out an equal pay audit as recommended by WWC. We believe that it is fundamental to stress the importance of promotion of equality, rather than just addressing discrimination after it has occurred through evidence gathering, taking action and monitoring. It is for this reason that a clear statutory duty to promote equality and a right to bargaining will be a way forward.
- b) We also believe discrimination, harassment and victimisation stems from prejudice towards people and their effects have a human cost. Therefore workplace homophobic discrimination is not because of the person's "characteristic" but because that worker is Gay, lesbian or bisexual. Just as a disabled service user facing barriers to access public services is not due to his/her "characteristic" it is because of his/her disability. There's inequality as a result of discrimination in all **areas of equality** and not because people belong to a "strand" or "characteristic" but because they are women, black, Asian, disabled, LGBT, young, old, believe or do not believe in a religion, ex-offender or working class. For this reason we believe that areas of equality should be used instead of characteristic or strand.
- c) Unite supports the emphasis on promotion of equality as stated in 3.1 but we have major concerns about the "light touch" approach and "reasonable and proportionate" steps in the proposals that can lead to a more limited duty. We also support the aim in 3.3 but believe the mechanisms proposed will not bring about this culture change since public bodies are being asked to do less and will be subject to less requirements at a time when they will be budget constraints. **This would be a regressive measure** – all elements of the existing duties must be maintained and we oppose any reduction in their scope. They are a means of tackling institutional racism for example, as identified in the MacPherson Report following the inquiry into the murder of Stephen Lawrence which led to the introduction of the race equality duty. Action needs to be taken and lessons should be learned from the Race Equality Duty which has been criticised for its focus on process instead of outcomes. In our experience the voluntary approach does not work for example, age discrimination legislation made employers take action, whereas the previous guidance did not; the tragedy at Morecambe Bay showed that employers will not voluntarily treat agency workers fairly and so the Gangmasters Licensing legislation needed to be introduced.
- d) Specific duties have been effective for the majority of public sector employees and so has producing and publicising Equality Schemes as stated

in the findings of Schneider Ross⁵. Therefore a requirement to publish equality schemes and involve those affected by the inequality and trade unions when developing Equality Schemes in employment issues is necessary.

- e) The monitoring requirement in the Race Equality Duty, the consultation with disabled workers and service users in the Disability Equality Duty and the equality schemes and consultation with trade unions in the Gender Equality Duty linked with gathering evidence has been essential in forwarding equality on these grounds. We strongly oppose the proposal to remove this requirement and would instead, expect this to be extended to cover all equality areas.

There should be a requirement to carry out Equality Impact Assessments as a vital tool in ensuring measured public sector policies and decisions prior to implementation. For example the well reported case of services provided by Southall Black Sisters shows that equality impact assessments at an early stage could indeed protect service users from disproportionate impact. On a positive note the London Equalities Commission's equality impact assessment⁶ helped identify equality indicators. They then assessed whether there has been measurable progress to improve equality in London and reported on their findings.

- f) There should be a requirement for equality training at all levels. This will ensure a fairer environment and helps with understanding of issues leading to better industrial relations.
- g) There should also be a much greater emphasis on employment and trade unions particularly union equality reps as in WWC recommendations. They state that public sector employers should account to a Ministerial Committee and report to a Cabinet Office Steering Group, with representatives from UK-wide public service employers and trade unions, on how they have put the recommendations in this report into practice, in particular on the results arising from their establishment of:
- equal pay reviews;
 - time off and facilities for a network of equality reps;
 - job share registers for high-quality occupations and e-networks for senior and professional women;
 - a network of senior part-time role models to champion quality part-time work;
 - career development pathways for low paid part-time workers;
 - continuous training for all line managers on flexible working and diversity issues;
 - a coherent approach to schools' World of Work Programme, offering work experience and taster days and encouraging girls and boys to experience non-traditional occupations.

⁵ Equality Duties - Assessing the Cost & Cost Effectiveness of the Specific Race, Disability & Gender Equality Duties - 2009 – Government Equalities Office & Schneider Ross Not for Profit organisation

⁶ The State of Equality in London Report - January 2007

25. What role do you think the guidance from EHRC should play in helping public bodies implement the specific duties in a sensible and proportionate manner? What do you think it would be helpful for such guidance to cover?

Most importantly, as our experience shows, without real enforcement, the single duty can amount to yet another “paper tick box exercise”. Therefore, in addition to ensuring trade unions are included the EHRC should be provided with sufficient resources to ensure effective enforcement. It is necessary to have proper enforcement mechanisms if the single equality duty is to be carried out properly by authorities in practice. The suggestion that the EHRC should be the sole body responsible for enforcement is unworkable, as it simply will not have the resources to carry out this role efficiently and effectively. Multiple enforcement mechanisms are required with trade unions and individuals able to enforce both the general and specific equality duties by taking judicial review action. Public sector inspectorates should also be required to monitor compliance as part of their routine performance assessments. There should be at least two discrete means of enforcement available. We believe the current proposal, which would leave no alternative means of enforcement whatsoever in the event that the EHRC are unable or unwilling to enforce in a particular situation, is too limited and narrow.