

Draft Regulations laid before the National Assembly for Wales under section 209(2), (3) and (6) of the Equality Act 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2011 No. (W.)

EQUALITY, WALES

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 149(1) of the Equality Act 2010 (“the Act”) provides that a public authority listed in Schedule 19 to the Act must in exercising its functions have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

For the purpose of enabling the better performance of the duty under section 149(1) of the Act (referred to in this note as “the general duty”), the Welsh Ministers make these Regulations under the power given to them by section 153(2) of the Act. These Regulations impose duties on relevant Welsh authorities who are specified in Part 2 of Schedule 19 to the Act (“authorities”).

Regulation 3 requires authorities to publish objectives, which are referred to as “equality objectives”, which must be designed so as to enable the authority to better perform the general duty. If an authority does not publish an equality objective in respect of one or more of the protected characteristics it must publish its reasons for its decision not to do so. An equality objective with the purpose referred to in

regulation 11(1) is to be ignored. Regulation 11(1) is in relation to equality objectives on gender pay difference. Therefore, for the purposes of regulation 3(3) an authority will, for example, have to give reasons if it does not publish an equality objective in respect of the protected characteristic of sex even if it has a gender pay objective in place.

Regulation 3(2) requires an authority to publish a statement which sets out the steps it has taken or intends to take in order to achieve each equality objective and the timescale for fulfilling each equality objective. An authority must also make appropriate arrangements to monitor its progress in order to fulfil each objective and to monitor the effectiveness of the steps it has taken in order to fulfil the equality objectives.

Regulation 4 requires an authority to comply with the engagement provisions in regulation 5 and have due regard to “relevant information” that it holds when considering and designing its equality objectives. “Relevant information” is defined in regulation 2 and means information that relates to compliance (or otherwise) by the authority with the general duty.

An authority must publish its equality objectives by no later than 2 April 2012. Thereafter an authority must review its equality objectives within four years from when they were first published and at least once every four years subsequently. Authorities may revise or remake equality objectives at any time. If an authority revises an objective without remaking it then it must publish the revision or the revised objective as soon as possible. If an authority revises or remakes an objective it must either amend the statement it is required to publish under regulation 3 or publish a new statement.

Regulation 5 requires that where an authority has to comply with engagement provisions under these Regulations it must involve those persons that the authority considers represent the interests of persons who share one or more of the protected characteristics and who have an interest in the way the authority carries out its functions. An authority may also involve or consult such other persons as it considers appropriate.

Engagement provisions apply to the following activities: considering and designing equality objectives (regulation 4(1)(a)); carrying out an assessment of whether there are things done or that could be done that contribute or would be likely to contribute to an authority complying with the general duty (regulation 7(5)(a)); carrying out an assessment of the likely impact of proposed policies and practices, of policies or practices that it has decided to review and any proposed revisions to those policies and practices

on compliance with the general duty (regulation 8(3)(a)) and preparing, publishing or reviewing a Strategic Equality Plan (regulation 15(1)(a)).

Regulation 6 requires an authority to take all reasonable steps to ensure that any documents or information that the authority is required by these Regulations to publish, are accessible by persons who share one or more protected characteristics. This means that an authority must take into account all of a person's protected characteristics, not just one. If there are a range of steps that it would be reasonable for the authority to take to make the information accessible then it must take all of those steps.

Regulation 7 imposes duties on authorities in relation to relevant information. An authority must put appropriate arrangements in place to ensure that it identifies the relevant information that it holds and identifies and collects relevant information that it does not hold. Further information as to what the arrangements must contain is set out in regulation 11(2), which states that there must also be arrangements for identifying and collecting information about any difference between pay of any person (or persons) who has (or share) one or more of the protected characteristics and those who do not and the causes of such differences.

An authority holds relevant information if it is held by an authority, otherwise than on behalf of another person, or held by another person on behalf of the authority. In addition, information which is held by an authority on behalf of another person can also be relevant information that an authority holds. However this can only be the case if the person on whose behalf the information is held by the authority consents to the authority using the information for the purpose of the authority complying with the general duty and the duties under these Regulations or if it is not contrary to law to use the information and that it is reasonable to do so having regard to all the circumstances..

An authority must carry out an assessment in order to identify relevant information. The assessment should identify whether there are things done by the authority that contribute to the authority complying (or otherwise) with the general duty and things that it could do that would be likely to contribute to compliance with the general duty. An authority must when carrying out such an assessment have due regard to any relevant information that it has already identified or collected and holds. An authority must also comply with the engagement provisions. An authority should look inside and outside of its organisation to find evidence (relevant information) that can be used, for example, in equality impact assessments.

Regulation 8 requires an authority to make arrangements in order to assess the likely impact of proposed policies and practices on its ability to comply with the general duty, as well as the impact of any policy or practice that an authority has decided to review or any proposed revision to a policy or practice. There must be arrangements for publishing reports regarding these assessments where the assessment shows that there is likely to be a substantial impact on an authority's ability to comply with the general duty. When assessing such matters under regulation 8(1)(a) or (b) an authority must comply with the engagement provisions and have due regard to the relevant information. Also an authority must monitor the impact of its policies and practices on its ability to comply with the general duty.

Regulation 9 imposes duties in relation to training and the collection of employment information. It sets out what information an authority must collect each year and requires an authority to publish information it has collected. Such information may be set out in an authority's annual report. Regulation 9(5) and (6) make it clear that an authority cannot rely on the effect of regulation 9 to compel its employees or persons who may apply to the authority for employment to disclose, for example, that they are gay, straight or bisexual.

Regulation 10 requires an authority to make such arrangements as it considers appropriate for promoting amongst its employees knowledge and understanding of the general duty and of the duties in these Regulations. An authority should also identify and address any training needs of its employees in relation to those duties.

Regulation 11 requires that when an authority is considering what its equality objectives should be, it must have due regard to the need, in respect of its employees, to have equality objectives that address the causes of any pay differences. Those pay differences are between the pay of any person or persons who have or share a protected characteristic and those who do not where the reason for the difference is or is reasonably likely to be for a reason that is related to the fact that the person (or persons) has (or share) a protected characteristic. "Gender pay difference" means any difference between the pay of a person or persons where the difference is or is reasonably likely to be for a reason that is related to the difference in gender. Where an authority has identified a "gender pay difference" and has not published an equality objective to address it, then the authority must publish reasons for its decisions not to publish such an objective.

Regulation 12 requires an authority to publish an action plan which sets out any policy it has relating to

the need to address the causes of any gender pay difference and any gender pay equality objective published by the authority. The action plan must also set out, for example, any revisions to a gender pay equality objective and information in respect of gender pay objectives that it is required to publish by virtue of regulation 3(2)(a) such as how long the authority expects it will take to achieve in order to fulfil a gender pay objective.

Regulation 13 provides for all arrangements made under these Regulations to be kept under review.

Regulation 14 requires an authority to make a Strategic Equality Plan (SEP) no later than 2 April 2012. The SEP is intended to be a central vehicle to carry the various things these Regulations require so there can be a single point of access to the public. The SEP must contain a statement setting out a description of the authority, the authority's equality objectives, details of the steps the authority has taken or intends to take in order to fulfil its objectives, how long it will take in order to fulfil its objectives, and details of arrangements it has made or intends to make to comply with these Regulations. The SEP can be revised or remade at any time.

Regulation 15 sets out provisions concerning the preparation, publication and review of a SEP. An authority must publish its SEP as soon as possible after it had been made or remade. If it has been revised without being remade, then the authority must publish the revisions. The SEP may be part of another published document. An authority must keep its SEP under review.

Regulation 16 requires an authority to publish a report in respect of each "reporting period". "Reporting period" 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. The report must be published not later than the "relevant date" in the year following the year in which that reporting period ends. "The relevant date" means 31 March. The regulation sets out what the report must contain. The report may be part of another published document.

Regulation 17 requires the Welsh Ministers to publish reports that set out an overview of the progress made by authorities towards compliance with the general duty. The reports must also set out Welsh Ministers' proposals for the coordination of action by authorities so as to bring about further progress towards compliance by those authorities with the general duty.

Regulation 18 makes provision about public procurement in instances where an authority is a

contracting authority. Such authorities should have regard to whether award criteria should include considerations relevant to performance of the general duty. Also a contracting authority must have due regard as to whether any conditions imposed by them should include considerations relevant to performance of the general duty.

Regulation 19 states that where the Welsh Ministers, First Minister and Counsel General to the Welsh Assembly Government are subject to duties under these Regulations they may act jointly, for example, they may produce a single SEP for the Welsh Assembly Government.

Regulation 20 states that nothing in these Regulations should be taken as to require an authority to publish information if doing so would constitute a breach of confidence actionable by a person or a breach of the Data Protection Act 1998. An authority is not required to publish any information that it would be entitled to refuse to produce in a court or tribunal in England or Wales, e.g. information subject to legal professional privilege. Apart from the above there are no other available exemptions from disclosure of the information.

Draft Regulations laid before the National Assembly for Wales under section 209(2), (3) and (6) of the Equality Act 2010, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2011 No. (W.)

EQUALITY, WALES

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

Made ***

*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—

(1) 2010 c. 15.

“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,

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.

(4) The authority must publish the information it has collected in accordance with paragraphs (1), (2) and (3).

(5) Nothing in this regulation is to be relied upon by an authority so as to require any person to whom this paragraph applies to provide information to the authority.

(6) Paragraph (5) applies to—

- (a) any employee of the authority; and
- (b) any person who applies for employment with the authority.

10. An authority must make such arrangements as it considers appropriate for—

- (a) promoting amongst its employees knowledge and understanding of the general duty and the duties in these Regulations; and
- (b) for using its performance assessment procedures (if any) to identify and address the training needs of its employees in relation to those duties.

Pay and action plans

11.—(1) An authority must, when considering what its equality objectives should be, have due regard to the need to have equality objectives that address the causes of any differences between the pay of any person or persons employed by the authority (“P”) who (as the case may be)—

- (a) has a protected characteristic;
- (b) share a protected characteristic,

and those who do not 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 fact that P has or share that protected characteristic (as the case may be).

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 fact that P has or share that protected characteristic (as the case may be).

(2) The arrangements referred to in regulation 7(1) must also contain arrangements for identifying and collecting information about—

- (a) any differences between the pay of persons referred to in paragraph (1); and
- (b) the causes of any such differences.

(3) Where an authority—

- (a) has, in accordance with paragraph (1), identified any gender pay difference; and

(b) has not published an equality objective to address the causes of that difference,
the authority must publish reasons for its decision not to publish such an objective.

12.—(1) An authority must publish an action plan setting out—

- (a) any policy of the authority that relates to the need to address the causes of any gender pay difference;
- (b) any gender pay equality objective published by it;
- (c) any revision to a gender pay equality objective or any revised gender pay equality objective it is required to publish in accordance with regulation 4(6);
- (d) information it is required to publish in accordance with regulation 3(2)(a) in respect of any gender pay equality objective;
- (e) any reasons it is required to publish in accordance with regulation 11(3).

(2) If, in respect of a gender pay equality objective, an authority does any of the things referred to in regulation 4(5) it must either amend the action plan published by it or publish a new action plan.

Review etc. of arrangements

13.—(1) An authority must keep the arrangements to which this regulation applies under review.

(2) An authority may, at any time, revise or remake the arrangements to which this regulation applies.

(3) This regulation applies to arrangements that the authority has made to comply with—

- (i) regulation 3(2)(b);
- (ii) regulation 7(1);
- (iii) regulation 8(1); and
- (iv) regulation 10.

Strategic Equality Plans

14.—(1) Not later than 2 April 2012, an authority must make a Strategic Equality Plan (SEP).

(2) The SEP must contain a statement setting out—

- (a) a description of the authority;
- (b) the authority's equality objectives;
- (c) in respect of each of those objectives—
 - (i) the steps that the authority has taken or intends to take in order to fulfil the objective; and

- (ii) how long the authority expects it will take in order to fulfil the objective;
- (d) the arrangements that it has made or intends to make to comply with—
 - (i) regulation 3(2)(b);
 - (ii) regulation 7(1);
 - (iii) regulation 8(1);
 - (iv) regulation 10, and
- (e) the authority’s action plan referred to in regulation 12.

(3) The SEP may contain such other matters that are relevant to compliance with the general duty as the authority considers appropriate.

(4) The authority may revise or remake its SEP at any time.

Preparation, publication and review of SEPs

15.—(1) In making, remaking or revising a SEP the authority must—

- (a) comply with the engagement provisions; and
- (b) have due regard to relevant information that it holds.

(2) An authority must publish its SEP as soon as possible after the SEP is made or remade.

(3) If an authority revises its SEP without remaking it then the authority must, as soon as possible after making the revisions, publish the revisions or the SEP as revised (as it considers appropriate).

(4) An authority may comply with the duty to publish its SEP by setting out the SEP as part of another published document or within a number of other published documents.

For the purpose of this paragraph “SEP” includes any revisions to the SEP.

(5) The authority must keep under review—

- (a) its SEP; and
- (b) any revisions made to the SEP.

(6) In complying with the duty in paragraph (5) the authority must have due regard to—

- (i) relevant information that it holds; and
- (ii) any other information that the authority considers would be likely to assist it in the review.

Reports by authorities on compliance with the general duty

16.—(1) An authority must, in respect of each reporting period, publish a report not later than the

relevant date in the year following the year in which that reporting period ends.

(2) The report must set out—

- (a) the steps that the authority has taken to identify and collect relevant information;
- (b) in respect of relevant information that it holds, how the authority has used that information for the purpose of complying with the general duty and the duties in these Regulations;
- (c) the authority's reasons for not collecting any relevant information that it has identified but does not hold;
- (d) the progress that the authority has made in order to fulfil each of its equality objectives;
- (e) a statement by the authority of the effectiveness of—
 - (i) its arrangements for identifying and collecting relevant information; and
 - (ii) the steps it has taken in order to fulfil each of its equality objectives; and
- (f) the information that the authority is required to publish by regulation 9(4) unless the authority has already published that information.

(3) The authority may, if it considers it appropriate to do so, include in a report any other matter that is relevant to compliance by the authority with the general duty and the duties in these Regulations.

(4) The authority may comply with the duty to publish a report under paragraph (1) by setting out its report (including any matter referred to in paragraph (3)) as part of another published document or within a number of other published documents.

Reports by Welsh Ministers on compliance with the general duty etc. by authorities

17.—(1) The Welsh Ministers must, in accordance with paragraph (2), publish reports that set out an overview of the progress made by authorities towards compliance by those authorities with the general duty.

(2) Reports under paragraph (1) must—

- (a) be published—
 - (i) not later than 31 December 2014; and
 - (ii) subsequently at intervals not later than the end of each successive period of four years beginning with the date that the last report was published in accordance with this sub-paragraph; and
- (b) be published—
 - (i) not later than 31 December 2016; and

(ii) subsequently at intervals not later than the end of each successive period of four years beginning with the date that the last report was published in accordance with this sub-paragraph.

(3) Reports under paragraph (1), other than the first reports in accordance with paragraph (2)(a)(i) and (b)(i), must cover the period since the date that the last report under paragraph (2)(b) was published.

(4) The Welsh Ministers must publish a report, not later than 31 December 2011, setting out—

(a) an overview of the progress made by authorities towards compliance by them with the general duty so far as it relates to persons who share the protected characteristic of disability; and

(b) information relating to the period 2 December 2008 to 5 April 2011 that the Welsh Ministers would have been required to include in a report under regulation 5 of the Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005(1) by virtue of regulation 5(2)(a) of those regulations if those regulations were in force.

(5) Reports under this regulation must also set out the Welsh Ministers' proposals for the coordination of action by authorities so as to bring about further progress towards compliance by those authorities with the general duty.

Public procurement

18.—(1) Where an authority that is a contracting authority proposes to enter into a relevant agreement on the basis of an offer which is the most economically advantageous it must have due regard to whether the award criteria should include considerations relevant to its performance of the general duty.

(2) Where an authority that is a contracting authority proposes to stipulate conditions relating to the performance of a relevant agreement it must have due regard to whether the conditions should include considerations relevant to its performance of the general duty.

(3) In this regulation—

(1) S.I. 2005/2966. By virtue of regulation 5(1) and (3) of and Schedule 2 to those Regulations the National Assembly for Wales constituted by the Government of Wales Act 1998 (c. 38) was a reporting authority for the purposes of regulation 5. That function was transferred, immediately after the end of the initial period, to the Welsh Ministers by virtue of the operation of paragraph 30(1) of Schedule 11 to the Government of Wales Act 2006 (c. 32). The "initial period" is defined in section 161(5) of the 2006 Act and "function" is defined in section 158(1) of that Act.

“contracting authority” (*“awdurdod contractio”*),
“framework agreement” (*“cytundeb fframwaith”*)
and “public contracts” (*“contractau cyhoeddus”*)
have the same meaning as in the Public Sector
Directive⁽¹⁾; and

“relevant agreement” (*“cytundeb perthnasol”*)
means the award of a public contract or the
conclusion of a framework agreement that is
regulated by the Public Sector Directive.

Compliance with duties by Welsh Ministers etc.

19. Where the Welsh Ministers, the First Minister for Wales and the Counsel General to the Welsh Assembly Government are required by these Regulations to prepare a SEP, publish a report or do any other thing, they may comply with the duty by acting jointly.

Disclosure of information

20. Nothing in these Regulations is to be taken to require an authority to publish information if—

- (a) to do so would constitute a breach—
 - (i) of confidence actionable by any person;
or
 - (ii) of the Data Protection Act 1998⁽²⁾; or
- (b) the authority would be entitled to refuse to produce the information in or for the purposes of proceedings in a court or tribunal in England and Wales.

Minister for Social Justice and Local Government, one
of the Welsh Ministers

Date

(1) The term “Public Sector Directive” is defined in section 155(3) of the Equality Act 2010 (c. 15).

(2) 1998 c. 29.