

What does 'due regard' mean?

2.19 Bodies subject to the duty must have due regard to each of the three aims set out in the general equality duty in exercising their functions.

To 'have due regard' means that in making decisions and in its other day-to-day activities a body subject to the duty must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations.

How much regard is 'due regard'?

2.20 How much regard is 'due' will depend on the circumstances and in particular on the relevance of the aims in the general equality duty to the decision or function in question.¹ The greater the relevance and potential impact, the higher the regard required by the duty.

For example, compared to the purchase of stationery, the decisions a local authority makes about the provision of social care for older people will have greater potential impact and more relevance to the aims of the duty and so will need a higher degree of regard.

The three aims of the duty may be more relevant to some functions than others; or they may be more relevant to some protected characteristics than others. For example:

- one or more of the aims of the duty are likely to be relevant to a Government department's policy on home working because of its direct impact on staff with different protected characteristics, for example disabled people, but it is unlikely that any of the aims will be relevant to its policy on office waste recycling
- the provision of burial and cremation services is likely to be highly relevant in relation to race and religion or belief and may have a smaller degree of relevance to the other protected characteristics.

¹ In *R. (Baker) v. Secretary of State for Communities and Local Government* [2008] EWCA Civ 141 at para 31 Dyson LJ said due regard meant 'the regard that is appropriate in all the particular circumstances'.