

Improving Equality and Diversity in Your Organisation:

A Guide for Third Sector CEOs



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Foreword



Sir Stephen Bubb,
CEO, ACEVO

This guide for chief executives on improving diversity is both timely and genuinely needed in order to mainstream diversity action within third sector organisations. The Coalition Government has brought the new Equality Act into force in 2010; this requires organisations to rethink and strengthen their work in equality and diversity.

Tight financial conditions should be viewed constructively as a time to evaluate the workplace and service delivery. We are presented with an opportunity to take the equality and diversity agenda forward.

I believe that it is vital to challenge organisational practices and procedures, to ensure that quality workplaces and services are provided. Achieving equality implies a re-examination of both working practices and service planning and delivery.

The diversity within the third sector is a strength. We know that third sector organisations may be at differing stages of development of how they tackle discrimination and promote equality and diversity.

This guide sets out to inform and guide third sector organisations – and especially their chief executives – on ways to implement equality and diversity. The guide does not present hard and fast recommendations. Rather, the information, guidance, suggested activities and resources in each themed section can be adapted to suit your own organisation's needs and circumstances.

The first step in any equality and diversity initiative or action is to understand the motivation for making it happen. For example, is that initiative being taken:

- to be legally compliant?
- to meet the specific needs of different service users?
- to bid for funding?
- to recruit new talent?
- to retain staff and volunteers?

I urge you all to use this guide as a valuable resource, and as a basis for developing policy and practice, so that the organisation you lead can live up to the values that already underpin the third sector: inclusiveness, fairness, respect and equality.

Introduction

What is this guide for?

This guide aims to help you develop practical steps to address inequality and improve diversity in your organisation; the advice it gives is applicable to all types of third sector organisations.

Who is this guide for?

This guide is particularly for chief executives of any small or medium-sized third sector organisation that wants or needs to improve equality and diversity practice.

It can also be useful to:

- trustees or members of boards;
- chairs of trustees of organisations;
- staff who work with boards and trustees.

How to use the guide

The guide is arranged in sections on different aspects of equality and diversity which are all designed to enable leaders to initiate mainstream action. It starts with identifying what the key drivers are and concludes with equality and procurement. It explains what is involved in each step and why it is needed. It provides practical guidance on how to respond. A number of resources are provided to help you act. Where appropriate, a case study has been included.

Third sector organisations represent a huge diversity in resources, organisational working practices and sizes. This guide has been designed to help you to tailor action on diversity to your particular organisation. For small organisations in particular we suggest you select one or two areas you want to improve to begin with. If you focus on these, you can add improvements as your resources allow.

When it comes to implementing equality and diversity, organisations often do not know where to start. A mainstreaming approach has been taken as it helps chief executives bring equality issues right into the core of an organisation's work, so that they are central to all activities. Mainstreaming should ensure that equality considerations are 'built in' from the beginning, rather than 'bolted on' at the end. This enables your organisation to have a comprehensive and consistent approach. Indeed, mainstreaming is designed to benefit all areas of your organisation's practice and should be integrated in your organisational strategy.

Keeping up to date

Equality law is ever-changing. Following the introduction of the new Equality Act in October 2010, many changes introduced by the Act will need to be tested out by the courts and tribunals before what is meant is made precisely clear.

If you are concerned that your organisation is not compliant with formal legal requirements,

you should always seek specific legal advice. It is best to continue taking specific advice as and when needed to ensure that your practices and procedures continue to comply with the law. This guide should not be relied upon as providing specific legal advice.

It is important that chief executives keep up to date with developments in the area of equality and diversity. The Equality and Human Rights Commission is an independent statutory body that has responsibility for the promotion and enforcement of equality and non-discrimination laws in England, Scotland and Wales. They provide guidance and good practice publications which will help chief executives keep up to date in this area.

Website: www.equalityhumanrights.com

Definitions of equality and diversity

You will have seen a wide range of definitions of equality and diversity. It is important to consider how equality and diversity is defined in order to fit with your organisation's specific aims, values and objectives.

The working definitions in this guide are:

Equality

Equality is associated broadly with the legislative framework. Its thrust is focused on rights and responsibilities and anti-discrimination. Equality involves the development of practices to ensure that groups which continue to be disadvantaged gain access to opportunities for full participation in society, with legal sanctions directed against those who violate this principle.

Diversity

Diversity adds an extra dimension to equality of opportunity. It encompasses all types of difference beyond those covered by the legislation, and focuses principally on the individual. Diversity includes every kind of difference that makes each person unique and distinct.

Diversity seeks to increase people's awareness, celebration and positive acceptance of individuals and their differences. Valuing diversity involves the demonstrable inclusion of diverse employees and service users by having policies, procedures and practices that take their diverse needs and preferences into account.

Chapter One

Drivers – the Case for Equality and Diversity



Drivers – the Case for Equality and Diversity

Information

You may have to sell the case to trustees and staff for investing time and resources in equality and diversity. Building an effective case for action on equality and diversity is about understanding the drivers - and thus benefits - of such action for your organisation. Then you have a platform from which to influence and educate as well as to design strategies and plans that have a real chance to work.

The government introduced a new Equality Act in 2010. It is still part of their agenda and therefore it needs to be part of your organisation's agenda too.

Chief executives need to understand the case for equality and diversity if they are to provide equality of opportunity and equality of access and treatment for staff, volunteers and service users. To help you communicate the case to trustees, staff and volunteers, you will need answers to some likely questions. For example:

- Why are equality and diversity important?
- Why should we engage with these principles?
- What are the benefits of being a diverse organisation?

Guidance

Here are just some of the key cases for putting equality and diversity into practice. Use these to help identify your organisational drivers.

The business case

Treating people fairly in recruitment, training and development and promotion helps organisations to build a reputation for being good places to work. This is an important motivator for staff and volunteers choosing to work and stay in the third sector.

Benefits to your organisation should include:

- increased employee satisfaction and productivity;
- a diverse range of applicants for job vacancies helps to draw on a wider pool of talent and experience;
- reduced staff and volunteer turnover;
- lower sickness absence rates.

Creating an environment where staff and volunteers are valued and supported will help realise their potential, thus adding to the human capital and capabilities of the organisation.

This in turn will enable your organisation to provide a better quality service to your service users. Action on equality and diversity is also important in initiating and developing informal collaborations and formal partnerships with other third sector organisations. The collaboration can lead to the sharing of good practice, more effective ways of working and the pooling of resources.

The moral case

Whatever the aims of your organisation, there will be a moral case for ensuring equality of opportunity for your staff and volunteers and equality of access for your service users. Equality of opportunity and equality of access to services is one of the fundamental building blocks for third sector organisations. Not only is it the right thing to do but it is also underpinned by the values and objectives of third sector organisations.

The Equality and Human Rights Commission stated:

'Discrimination, whether conscious or not, limits an organisation's ability to get the best from its workforce. A climate where unlawful discrimination is fostered, condoned or ignored cannot provide these benefits'.

The legal case

Legislation provides the basis for the ideas and practices of equal opportunities. Despite general acceptance of the principles of equality as a norm within our society, discrimination persists. Laws exist because discrimination has occurred and continues to occur. The elimination and prevention of discrimination is a necessary precursor to achieving equality.

Public sector organisations wishing to procure services from the third sector are likely to include a question in their tendering process on whether your organisation has had an employment tribunal decision made against you. This will be taken into consideration when awarding contracts.

There are clear equalities grounds on which cases of alleged discrimination may be brought to employment tribunals. Whatever the outcome of discrimination hearings, the process is stressful and is likely to be costly in time and money. Research by the Chartered Institute of Personnel and Development (CIPD) shows that the average cost to an employer associated with an employee successfully bringing a case to an employment tribunal is £7,484, not including a manager's time. An Employment Tribunal case takes an average of 16.4 days¹. Third sector organisations are also under a legal duty not to discriminate against service users. The costs associated with bad unfair practice far outweigh the costs of implementing good practice in equalities.

¹ ACAS 'Employment Tribunal: You'll wish you weren't here' (2006)

Activity: Identify drivers specific to your organisation

If your organisation is to reap the benefits of diversity, no single driver is sufficient. All drivers should underpin the strategy that will bring about the changes in organisational culture that will be required.

To identify the drivers:

- Think about how equality and diversity actions currently benefit your staff, volunteers and service users and help to address the challenges ahead.
- Brainstorm how the key drivers (identified above) impact on your organisation and its need for action on equality and diversity.
- Consult with staff and volunteers, inviting them to pinpoint specific drivers in your organisation for putting equality and diversity into practice.
- Discuss with your trustees and managers what they think are the specific drivers for action on equality and diversity action in your organisation.

An equality and diversity third sector story for today: challenges to cuts

In January 2011, the High Court allowed a judicial review of a major public sector cuts decision by London Councils affecting the third sector. The guidance on the public sector equality duty reminds public authorities to take equality considerations into account when decommissioning services and well as when commissioning them. London Councils' decision to cut £10 million from funding of pan-London third sector organisations led one of their funded groups to take London Councils to judicial review. They won the case. The judge, Mr Justice Calvert-Smith, quashed all the funding cut decisions and ordered London Councils to re-run the process, this time with full equality impact assessments.

To see the full press release go to:

www.pierceglynn.co.uk/news_docs/11-01-28%20London%20Councils%20press%20release%202.doc

Chapter Two

Legislation – An Overview for Chief Executives



2

Legislation – An Overview for Chief Executives

Information

A new Equality Act came into force on 1 October 2010. It demands attention from all third sector organisations. The Equality Act brings together separate pieces of legislation into one single Act. The change of government has meant only limited changes in the implementation of the Act so far. At the time of publication, this section is up to date.

The nine main pieces of legislation that have merged are:

- the Equal Pay Act 1970;
- the Sex Discrimination Act 1975;
- the Race Relations Act 1976;
- the Disability Discrimination Act 1995;
- the Employment Equality (Religion or Belief) Regulations 2003;
- the Employment Equality (Sexual Orientation) Regulations 2003;
- the Employment Equality (Age) Regulations 2006;
- the Equality Act 2006, Part 2;
- the Equality Act (Sexual Orientation) Regulations 2007.

Equality Act timeline

90% of the Act in force	1 October 2010
Remaining 10% of the Act	
Public Sector Equality Duties extended	April 2011
Ban on age discrimination in services and public functions	April 2012

Aims of the Equality Act

- **Harmonise** discrimination law.
It harmonises definitions and concepts across all strands of discrimination. Examples of concepts include 'discrimination by perception' and 'indirect discrimination'.
- **Strengthen** the law to support progress on equality.
It extends existing discrimination law, e.g. outlawing age discrimination in goods and service provision in 2012 and has extended the concept of discrimination by association to all nine protected characteristics.
- **Replace** all existing equality legislation, including the Equal Pay Act.
The Equality Act consolidates all existing law preventing discrimination on any one of the nine protected characteristics (as well as equal pay law) into one Act. The Act covers discrimination on the grounds of age, disability, gender reassignment, marriage

and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

- **Applies** to England, Scotland and Wales, but not to Northern Ireland. Northern Ireland is considered to be separate and will be considering changes to their own legislative framework.

Protected characteristics

UK Parliament introduced the concept of 'protected characteristics' as a fundamental linchpin of the single equality legislation. These characteristics are the same as those currently protected by equality law. There are nine protected characteristics that your employees and people who use your organisation's services might have. These are:

- Disability
- Gender reassignment
- Marriage or civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sexual orientation
- Sex (gender)
- Age*

*Discrimination on grounds of age (over 18s) is unlawful in the provision of goods, services and facilities, but the provisions are not coming into force until 2012.

Under the Equality Act people are not allowed to discriminate, harass or victimise another person because they have any of the protected characteristics. There is also protection against discrimination where someone is perceived to have one of the protected characteristics or where they are associated with someone who has a protected characteristic.

Acas has stated that the Equality Act is a mixture of rights and responsibilities that have:

- **Stayed the same** – for example, direct discrimination still occurs when "someone is treated less favourably than another person because of a protected characteristic" e.g. rejecting a job applicant because he has a same sex partner.
- **Changed** – for example, employees will now be able to complain of harassment even if it is not directed at them, if they can demonstrate that it creates an offensive environment for them.
- **Been extended** – for example, associative discrimination (direct discrimination against someone because they associate with another person who possesses a protected characteristic) will cover age, disability, gender reassignment and sex as well as race, religion and belief and sexual orientation.
- **Been introduced for the first time** – for example, the concept of discrimination arising from disability, which occurs if a disabled person is treated unfavourably because of something arising as a result of their disability.

Guidance

Equality Act 2010 – what's new

Key

Characteristic covered in existing legislation – no changes	No change
Characteristic covered in existing legislation – but some changes	Changes
Characteristic not covered in existing legislation – now covered	New
Characteristic not covered in existing legislation – still not covered	No protection

	Disability	Gender reassignment	Pregnancy & maternity	Race	Religion or belief	Sex	Sexual orientation
Direct discrimination	Changes	No change	No change	No change	No change	No change	No change
Discrimination by association	New	New	No protection	No change	No change	New	No change
Discrimination by perception	New	New	No protection	No change	No change	New	No change
Indirect discrimination	New	New	No change	No change	No change	No change	No change
Harassment	Changes	Changes	No protection*	Changes	No protection*	Changes	No protection*
Victimisation	Changes	Changes	Changes	Changes	Changes	Changes	Changes
Positive action	Changes	Changes	Changes	Changes	Changes	Changes	Changes
Associations and private members' clubs	No change	New	New	No change	New	New	No change
Charities	Changes	Changes	Changes	Changes	Changes	Changes	Changes
Discrimination arising from disability	New						
Reasonable adjustments	Changes						

*Where there is no specific harassment protection, direct discrimination protection prohibits treatment such as bullying and harassment which results in a person being treated less favourably.

(Table adapted from Government Equalities Office 'Equality Act 2010: What do I need to know?').

Charities – changes

The changes for charities cannot be readily summarised in this guide. Please refer to the Government Equalities Office publications:

‘Equality Act 2010: What do I need to know?’

Website: www.equalities.gov.uk/equality_act_2010.aspx

There are a series of summary guides and ‘Quick Start’ guides to the key changes in the law to support implementation of the Act.

Genuine Occupational Requirement and the Equality Act

The previous legislation on race, religion or belief, age and sexual orientation sets out a genuine occupational requirement” (GOR) defence. This enables an employer to stipulate that, because of the nature of the job in question, only people with a particular characteristic are eligible.

However, in relation to sex, gender reassignment and nationality, there is no general GOR defence but there are specific “genuine occupational qualifications” (GOQs) serving a similar purpose. For example, the Sex Discrimination Act contained GOQs relating to, amongst other things, drama, entertainment and modelling or the need to preserve decency or privacy.

The Equality Act 2010 harmonises the law by introducing an “occupational requirement” (OR) defence across all protected characteristics and removes the job-specific GOQs in sex, gender reassignment and nationality cases. The requirement must be crucial to the post. In addition, an employer seeking to rely on the requirement must be able to show that it is a “proportionate means of achieving a legitimate aim”.

Liability

Where discrimination and/or harassment have taken place, liability for such acts rests at two levels within an organisation:

- Individual liability rests with every single employee in terms of their discriminatory acts.
- Vicarious liability rests with the organisation. If an organisation has failed to take ‘all reasonable steps’ to prevent an employee from discriminating in the first place then the organisation may be held vicariously liable for the actions of their employees.

If the organisation is able to show that it has taken all reasonable steps, then it will not be held vicariously liable. Below are examples of reasonable steps with regard to harassment that chief executives and managers can take in order to fulfill their duty of care towards employees.

An organisation has two basic responsibilities in preventing harassment. Firstly, prevention – through the implementation of policies and practices which establish a harassment-free environment; and secondly, handling complaints fairly in accordance with the procedures. The role of a chief executive is to ensure that these two basic responsibilities are met within their organisation.

The basic preventative steps are:

- have an effective and well-communicated policy;
- train all staff and managers on the policy and their responsibilities under it;
- make harassment a disciplinary offence;
- monitor the policy and its success regularly.

The basic steps for handling complaints fairly are:

- develop clear procedures for investigating complaints confidentially and compassionately without delay;
- train staff who will be investigating complaints to handle them sensitively and in accordance with the procedures;
- provide support as necessary for the complainant, the alleged harasser and managers handling the complaint.

Your organisation needs to have all of the above steps in place to ensure that it has taken reasonable steps to prevent harassment from occurring.

Activity: Review policies and raise awareness of Equality Act

As a result of the new Equality Act you may need to review your organisation's policies and practices to ensure that it is compliant. There will be specific changes for third sector organisations in terms of their equality and diversity policies and practices.

Voluntary and community organisations that already have good equality procedures in place will not need to take much further action. However, it will be wise to:

- Inform your staff and management committee of the new provisions, for example explaining what discrimination by association and perception means, that third party harassment has been extended to cover all nine protected characteristics and that there is a new section in the Act which prohibits asking pre-employment health-related questions unless under certain circumstances.
- Review your equality policies and make sure that they cover all relevant protected characteristics.
- Consider whether your staff need any further training. This training may focus on an update on the Equality Act 2010 providing the background to it, an overview of the key changes and what this will mean for your organisation in implementing the changes required.
- You may also wish to consider whether there are any groups that are not as well represented among your service users as they should be, and if so consider whether you could use positive action to encourage them to use your organisation more'.² Positive Action is lawful and voluntary. Positive action involves taking proportionate steps that will enable or encourage people who share a protected characteristic to overcome or minimise a disadvantage, to meet their needs, or to participate in an activity when there are disproportionately low numbers of such people. It is not the same as positive discrimination, which is unlawful.

² Adapted from Government Equalities Office 'Equality Act 2010: What do I need to know' p. 7

Resources

Acas

Acas has worked with the Government Equalities Office (GEO) and the Equality and Human Rights Commission (EHRC) to produce a quick start guide for employers. This guidance covers the changes coming into effect through the Equality Act 2010 and details how employers can reassess and align their practices to remain compliant.

Website: www.acas.org.uk

Government Equalities Office (GEO)

GEO has produced summary guides setting out what the new laws will mean for the voluntary sector. These guides have been prepared in partnership with the British Chambers of Commerce, Citizens Advice and the Equality and Diversity Forum, to support implementation of the Act.

Website: www.equalities.gov.uk/equality_act_2010.aspx

Equality and Human Rights Commission (EHRC)

The EHRC has produced guidance including an 'Equality Act Starter Kit' and draft Codes of Practice on the Equality Act

Website: www.equalityhumanrights.com/ea2010

Case Study One

Foundation



Introducing Foundation

Foundation exists to advance social inclusion. We work together with our customers and partners to provide opportunities for change, development and achievement for those affected by homelessness, offending, domestic abuse, mental health and substance misuse.

Foundation has 350 staff and around 30 volunteers. It has 13 Trustees, three of whom are customers. It has an HR strategy, a recruitment policy and an equality and diversity policy.

Foundation's action

1. **What happened? What were you trying to achieve? What inspired the action?**
'There was a recognition, particularly within senior management, that whilst Foundation Housing (as we then were) believed we had a good record around matters regarding diversity we had no framework or external accreditation around this. A small task group formed and worked with consultants to conduct an audit of the organisation. From this work it was decided to work towards an Investors in Diversity award. We had held Investors in People accreditation since 1996 and found the regular reviews useful in ensuring continuous improvement.'
2. **Who was involved?**
'A cross-grade working group was established to begin and implement an action plan with the purpose of reaching accreditation in Investors in Diversity.'
3. **What planning took place?**
'The Champions group took on the role of leading the organisation through the process, engaging staff at all levels. The group presented to management forums, team meetings and worked with an action plan to focus the work plan.'
4. **What went well?**
'The opportunity for workers across a wide geographical and specialisms to share good practice and enable teams and workers to become more confident in delivering their services. The fact we were working towards gaining an award raised awareness within the organisation of the diversity and equality issues and helped individual teams focus on developing their own particular equality and diversity plans.

There was a commitment to an annual Diversity Day where teams used their own initiatives to experience and learn about different cultures and experiences. This was also extended to our customer base and enabled issues to be explored in non-threatening and helpful ways.'
5. **What did not go so well?**
'Ensuring the profile was raised amongst wider team members than just the champions was sometimes difficult.'
6. **What would you do next time?**
'Try to use support from other organisations and centre for diversity more.'

7. How was it implemented?
'Used internal resources, and lead from a senior manager.'
8. What has been the overall impact?
'Has been wider recognition within the organisation of what and how we can improve our work around diversity and the need to ensure we have up-to-date and reliable statistics to base future plans and improvements on.

Sense of pride that we have achieved level 2 in Investors in Diversity.'
9. Are you planning any future developments to maximise the impact of this process/policy or plan?
'Further roll out of Equality Impact Assessments [now Equality Analysis] as a total for enhancing Diversity as opposed to a tick list necessity.'
10. What one piece of advice would you give organisations in a similar situation?
'Ensure there is adequate commitment from all levels of management within the organisation to put the time in to achieve kitemark.'

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Chapter Three

Leadership and Diversity



3

Leadership and Diversity

Information

Leaders must be active diversity champions. The Equality Act requires a proactive approach to equality and diversity and brings with it the challenge of actively demonstrating it in practice. Equality and diversity need your support so that they can be embraced throughout the organisation. Having the genuine support of senior leaders sends a powerful message to the rest of the organisation that diversity matters.

Promoting equality and diversity in the workplace need not be expensive or time-consuming but it does require a commitment from the top to trigger a change in culture and attitude. It will also help to sustain equality in partnerships and collaborations with other organisations. Whether you are an experienced chief executive or have recently come into post, as a leader you need to show that you value equality and diversity within your organisation:

- by the vision and goals that you set;
- by the actions taken to achieve these; and
- through daily interactions with trustees, staff, volunteers and service users.

Guidance

What type of leadership is required?

- **Leaders with a personal commitment to diversity**

Effective management of equality and diversity requires a continuing commitment from the chief executive, senior managers and trustees. This commitment can be demonstrated in many ways:

- setting a clear vision for equality and diversity, linked to the business case;
- making sure that others understand the business case in the context of their diverse organisations;
- being demonstrated in work with service users;
- modelling the behaviours needed to build a diverse workforce;
- making sure that the appropriate structure and policies are in place, and
- ensuring that all employees and volunteers are aware of their responsibilities and where they fit into the diversity agenda.

- **Leaders who listen to and communicate openly with their staff**

Open and honest communication is crucial if employees from diverse backgrounds, and with diverse needs, are to feel fully included.

- **Leaders who act as role models and who champion change**

The importance of senior leaders acting as role models during organisational change is well documented. Having a diversity of role models could help staff feel a greater sense of belonging, as well as helping to develop a sense of where they might aspire to.

- Leaders who are willing and able to change

Developing an organisational culture that is committed to diversity requires leaders who are willing and able to change³.

Activity: Provide appropriate leadership

The following checklist has been developed to support chief executives to provide the appropriate leadership on equality and diversity. It is by no means exhaustive but it will help start the discussion in this crucial area. Leaders and trustees should be encouraged to discuss and answer the following questions:

- Have you discussed with the Board and your managers what equality and diversity might mean for your organisation?
- How clear is your organisation about its role in promoting equality and diversity?
- Do trustees and staff see how achieving greater equality and diversity would contribute to the organisation's strategic objectives and delivering the strategy?
- What do you know about your organisation's performance in the area of equality and diversity? Have you conducted an equality and diversity audit?
- Have you identified where your organisation needs to improve on equality and diversity? And how would you know if your organisation was improving?
- What skills and capacity would help the organisation improve performance on equality and diversity?
- How do you present your personal commitment to improving performance on equality and diversity?
- How would staff and volunteers know that the leadership is fully committed to the equality and diversity agenda?
- Where are the diverse role models in your organisation?
- When will you know how successful you have been in acting on equality and diversity?

3 What type of leadership adapted from The Royal Academy Of Engineering 'Implementing Diversity Policies: Guiding Policies' (2007)

Case Study Two

ecd p



Introducing ecd p

ecd p is an organisation run by and for disabled and older people. Established in 1995 its origins are firmly rooted in a belief that the voice of disabled and older people, both as individuals and collectively, is vital if the lives of disabled and older people are to be enhanced. It has approximately 1,700 members of all ages and impairment groups. ecd p has 43 members of staff (38.1 ftes) – of these, 26 are full time, 17 are part time, nine are home workers; 72% are female, 28% are male; and 96% are white British and 4% are from a BME background. It has a turnover of approx £1.7 million. ecd p has 126 volunteers, of which 52% are disabled and 48% are non-disabled; and has seven trustees, all of whom have an impairment. It has an HR strategy, a recruitment policy and an equality and diversity policy.

ecd p's vision

Its vision is to enhance the everyday lives of disabled and older people in Essex and beyond by:

- actively involving and engaging with disabled and older people;
- delivering a range of high quality services, projects and programmes;
- working in partnership with a range of stakeholders in the public, private and voluntary sectors;
- shaping and influencing strategy, policy and practice;
- creating a professional, effective and efficient organisation that can and does deliver.

ecd p provides a wide range of support, information, advice and guidance services, primarily in the field of social care. As of December 2010, it provided Direct Payment / Personal Budget support services to approximately 3,800 clients in three services across four local authority areas. It has been closely involved in the design and delivery of the Right to Control Trailblazer in Essex.

ecd p's action

1. What happened? What were you trying to achieve? What inspired the action?

'As an organisation run by and for disabled people, ecd p is keen to ensure that disabled people are involved and engaged at every level of the organisation. This vitally includes ensuring our staff reflects how disabled people are represented across Essex.

As such, we wanted to ensure that the majority of our staff were disabled. What's more, we wanted to make sure that our own employment practices didn't create barriers for disabled people in considering working for ecd p. Not only would this help us when it came to employed members of staff, but would also have a positive impact on how we engaged volunteers in the work we do.'

2. Who was involved?

'This whole area of work was driven by our Strategic Plan 2008-12. With responsibility for this ultimately lying with our Management Board and Chief Executive, it ensured that we had sponsorship at the very top of the organisation.

Delivery for this area of work lay with our then Director of Operations, working closely with our Office Manager, who is responsible for all day-to-day HR issues. Both the Director and Office Manager worked with an external HR consultant, who was a leading expert on HR and equality issues in Great Britain, which gave an incredibly valuable and expert perspective on the work we were doing.'

3. What planning took place?

'Importantly, we didn't think of this work as 'separate' to the work we were doing around our HR policies and procedures – we embedded equality and diversity issues, particularly ensuring disabled people didn't perceive or experience barriers, in everything we did. As such, our planning was around how we would review and update our HR policies and procedures and by when.'

4. What went well?

'Although we have always been good as an organisation in promoting equality and diversity, it was good that we were so explicit in recognising what we were working towards and why. It ensured that all managers in the organisation, and not just those responsible for HR, were aware of the practical things that can be done to reduce barriers for disabled people. The whole process also allowed us to codify how we do this, so that if one or two people leave, the processes and thinking behind it has been captured.'

5. What did not go so well?

'For us, it took time to realise that the work and effort that had gone into formal recruitment procedures could also be hugely beneficial to the recruitment of volunteers and ensure the linkages across the organisation could happen.'

6. What would you do next time?

'Though it was the best approach at the time to not create a specific, dedicated plan for increasing the proportion of disabled staff at ecdp, having something as explicit as a 'target' or 'aim' would have helped additionally drive the process.'

7. How was it implemented?

- 'New recruitment policy with practical guidance and support for managers on how recruitment works.
- Named individual to support managers in the recruitment process.
- Engage members and service users in the recruitment process by inviting them to be on interview panels and contribute equally to the decision-making process.
- Ensure explicit questions – around reflecting and putting into practice our organisation values – were in place.
- One thing we deliberately chose not to do was reserve particular posts for disabled people. Instead, we focused on ensuring people either have lived experience – direct or indirect – of disability, and that people have the same values as the organisation (including being inclusive and non-discriminatory).
- This work was supported by an external HR consultant who had expertise in the area of equality and diversity.'

8. What has been the overall impact?

'In April 2008, some 47% of our staff declared an impairment. At that time 50% of our Senior Management Team were disabled people. As of September 2010, some 53% of our staff have declared an impairment. Of these, 100% of our Senior Management Team declared an impairment. Thus, alongside 100% of our Management having an impairment, disability is suitably represented at every level of the organisation.'

9. What one piece of advice would you give organisations in a similar situation?

'Ensuring you have a good proportion of disabled people as members of staff in your organisation isn't just about ticking a box. Disabled members of staff can help ensure a different perspective is represented internally that will invariably help your business operate externally.'

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Chapter Four

Your Role in Implementing Diversity



4

Your Role in Implementing Diversity

Information

Among third sector organisations, when it comes to equality and diversity, there is no shortage of stated commitments. However, recent research has highlighted the distinction between commitment and the actual practice of equality and diversity in the third sector. When CIPD published its recruitment and retention survey last year it reported that just under three quarters of voluntary groups had a formal diversity policy, against 55 per cent in the private sector.

Similarly, a survey⁴ of over 170 third sector organisations in June 2008 by community foundation Olmec found that 80 per cent said equality and diversity were explicit in their organisation's goals. As Tanzeem Ahmed, the foundation's director, puts it: 'There's a high level of commitment among voluntary organisations, but that isn't always embedded in their practices.'⁵ However, only one in five had formal systems for measuring the outcomes of their work in this area.

This section gives details of the four practical steps initially required to embed equality and diversity practice in your organisation:

1. Create or review your equality and diversity policy;
2. Conduct an equality and diversity audit;
3. Develop an action plan;
4. Take steps to create a more diverse workforce.

Your organisation may already have auctioned some of these steps. If so, you can take the lead in reviewing them using this section as a framework for further development.

Taking these four important steps helps to develop key staff and managers. It gives them a better understanding of the organisation, the needs it addresses and their own skills at putting equality and diversity at the heart of the organisation.

Step 1: Create and review an equality and diversity policy

Why have an equality and diversity policy?

Chief executives need to ensure that there is an equality and diversity policy in place. By having one your organisation has made a commitment to act in ways that tackle discrimination and promote equality and diversity. Through the policy you are committing to changing your organisational practice. This has implications far beyond producing a paper-based policy.

The policy will spell out the organisation's understanding of the issues, how they affect your organisation, and what commitments you intend to make. Although not specifically required by law, it is recognised good practice for organisations to have a statement or policy that clearly shows their commitment to equality and diversity.

4 Olmec Foundation 'Total Equalities System Research Report' (Lloyd & Ahmed, 2008)

5 NCVO Engage Magazine article 'Is your house in order?' P. Davy (May 2009)

A good policy will show:

- staff that your organisation expects them to be serious about tackling discrimination and promoting equality and diversity;
- existing and potential service users, external partners and the wider community that your organisation is committed to;
- funders that you meet one of the conditions of their grants. This is often a requirement for funding.

Equality and diversity are also essential when considering your service users. You may prepare a separate policy or statement for service provision, or include this area within your main policy.

Guidance

- Start small.
- Plan how to do it.
- Give yourself enough time.
- Don't set yourself and the organisation up to fail.

Your organisation needs a policy that will reflect its own ways of working and size.

This is succinctly expressed in one set of guidelines to the third sector in Wales:

'Think about making the policy appropriate to the aims and aspirations of your organisation, in line with legislation to guard against discrimination. A smaller organisation that aims to make its service accessible to as wide a range of the public as possible might pledge to achieve these aims wherever possible by:

- Taking reasonable measures to provide all communication in formats that enable people with different abilities and languages to access the information.
- Taking steps to remove barriers which prevent staff, volunteers and service users from having equal access to the organisation's activities'⁶.

Communicate the policy

Writing a policy is the first step. If people don't know about the policy then it will have little impact. Any policy that is written should be formally approved through the organisation's decision-making process.

You as chief executive have a critical role in ensuring that the policy is communicated to everyone else involved in your organisation and publicised as widely as possible.

Use the policy

The policy should cover all aspects of your organisation and its work. Any equality and diversity policy that is approved must be used to inform every aspect of work:

- Staff need to be trained to integrate the policy into their activities.
- Recruitment and selection should be guided by the policy.
- the policy should be linked to the complaints or grievance and disciplinary procedures.
- the policy should be used to write an action plan.

⁶ Pavo 'Creating and Reviewing your Equal Opportunities Policy: Guidelines for Voluntary and Community Organisations in Powys' (2009)

Activity: Writing the policy

Any policy you write has a better chance of being owned and implemented if it is clear, easy to follow and unambiguous. Consulting the relevant equality organisations for advice on terminology and phrasing is good practice.

A good policy will be split into these sections:

A statement of intent	This spells out organisational commitment to equality and diversity in terms of opportunity and access, and your commitment to tackle discrimination.
A purpose	This explains why your organisation is writing and adopting the policy. Your organisation may wish to refer to and recognise issues of specific discrimination or refer to any specific research related to your organisation.
A commitment to action	Your organisation needs to list what steps it will take to ensure that its intentions and purpose are reflected in the way the organisation plans action, makes decisions, recruits staff and volunteers, delivers services and supports staff and volunteers and service users. There should be a statement about positive action to tackle under-representation in this section.
A review of the legal requirements	All third sector organisations are affected by the Equality Act (2010). Your organisation needs to describe how this legislation relates to your work and what steps you intend to take to ensure you meet the appropriate legal requirements.
Discrimination, harassment and victimisation	The policy needs to define direct and indirect discrimination (including discrimination by association and by perception), harassment and victimisation, all of which need to be tackled in the policy through statements committing the organisation to action. These statements should refer unambiguously to sanctions in the organisation's complaints or grievance and disciplinary procedure.
Implementation and communication	Your organisation needs to explain how the policy will be put into practice and how it will be communicated to all staff, volunteers and service users.
Monitoring and evaluation	Your organisation needs to describe how the policy will be monitored and evaluated and who will be responsible for that work. Your organisation needs to state how long the policy will be in existence and when it will be subject to review.
Complaints or grievance and disciplinary procedures	This section will draw together elements of other sections, relating them directly to the organisation's complaints and disciplinary procedures. Your organisation needs to make clear how complaints and disciplinary action can be triggered by actions contrary to the policy, how appeals can be made, who is responsible, and how matters are resolved.

An action plan

Finally, you need to write an action plan. This will include objectives with clear outcomes, stating who is responsible for each objective, what resources are in place, when each target will be met and what evidence the organisation can provide to show the outcomes have been met.

Step 2: Conduct an equality and diversity audit

Guidance

Why conduct an audit?

An equality and diversity audit helps to assess whether your organisation is mainstreaming equality and diversity. It can identify which areas you are good at and which you need to improve on. It provides a benchmark for measuring progress on a continuing basis. The findings of an audit can also help you to develop a realistic, evidence based action plan. As chief executive, you need to champion the equality and diversity audit, enabling key staff to execute most of the tasks.

What does the audit need to cover?

The audit can be wide ranging (e.g. recruitment of staff, volunteers and trustees) or very specific (e.g. assessing how well you are meeting the diverse needs of service users).

Activity: Take steps to conduct the audit

What methods should be used to conduct the audit?

Depending on what you wish the audit to cover, you (and the staff whom you ask to work on implementing equality and diversity) can use the following methods to gather, analyse and report on your organisation's audit:

- **Collate** all the information your organisation collects and produces.
This will include monitoring information, publicity and communication materials about your services, information on the organisation's employees, volunteers, service users, partners, and external bodies that your organisation is engaged in.
- **Bring together** all the information about your organisation.
This will include your organisation's statement of purpose, business plan, strategy documents, operational plans, policies and procedures.
- **Collect information** on the population from which your organisation draws your employees, volunteers and service users. This may be geographically defined or defined by a particular equalities group.
- **Conduct interviews** with key people you have identified for your audit to gather opinions, experiences and qualitative data. These people would typically include board, management, staff, volunteers, service users and stakeholders. If part of your audit is focused on the experiences of staff and volunteers with regard to equality, interview questions may include the:

- equality and fairness of treatment;
 - consistent and fair application of policies and procedures;
 - perceived organisational commitment to equality and diversity; and
 - experience of bullying, harassment or discrimination.
 - **Analyse and assess** the information you have gathered.
- It is important that the information you collect is analysed to give your organisation data that you can use to develop an action plan⁷. Depending on what the audit will cover, here are some key questions that will help with the analysis of information:
- Do your organisation's recruitment and selection criteria disadvantage or discriminate against certain groups?
 - Are certain groups under-represented because of how and where your organisation advertises your vacancies?
 - Are your organisation's premises fully accessible?
 - Is your organisation's information accessible to service users and customers?
 - Do your publicity materials reflect the diversity of the population your organisation serves?
 - Does your organisation's staff discourage applications from certain groups of people?
 - Why are some people promoted and others not?
 - Is your team of staff and volunteers representative of your local communities or communities of interest?
 - Do the people who use your organisation's services come from all the diverse communities who could benefit from your organisation's services?
 - Have employees, volunteers and service users identified any barriers preventing them from getting equality of access and equality of treatment?
 - **This will help you to produce a report** with findings for areas of development to help you develop an action plan and ensure that the Board signs up to the conclusions of the report.

⁷ Adapted from Olmec Foundation 'A Guide to Equality and Diversity in the Third Sector' (June 2008) p. 24

Step 3: Develop an action plan

Guidance

Once you have an Equality and Diversity Policy and have identified areas of development from the audit you need to ensure that they are put into practice and monitored. A policy is only a public commitment to act in a certain way, a set of principles to which the organisation expects people involved in the organisation to adhere. As chief executive, you need to ensure that the policy and audit are used to draw up an action plan with clear objectives and targets based on the principles laid out in the policy and the findings from your audit. Work with your SMT and/or plan the pace of this work. Below is a list of things to think about to help you consider in developing an action plan.

10 things to think about

1. Does your organisation have a mission statement? If so, is it committed to promoting equality and respecting diversity in all areas of your work? If not, then writing a new mission statement should be your top priority.
2. List the areas of equality and diversity you are good at, even if there are aspects which you could improve. Put those areas for improvement lower down on your list of priorities.
3. Then list the things you are not so good at or what you are not doing at all. Make these your top priorities.
4. Decide what you can reasonably achieve in a given period of time – say, the next six to twelve months. Use this knowledge to decide which areas of work you will tackle first.
5. Decide what data and information you need to work through these tasks. What information do you need from inside your organisation? What information do you need from other people?
6. Identify what advice you need and where to get it.
7. Make sure that you have enough resources to complete this plan in the way you want to. If not, then revise the plan to make it less ambitious.
8. Decide who will be assigned each piece of work. See this as a staff development opportunity.
9. Set up an equality and diversity working group to share information and monitor progress. One or two members of your board of trustees should be on this group.
10. Remember: an action plan describes what you want to do and how you want to do it. But things may not work out quite as you expect - keep the plan under review and adapt it.⁸

In addressing these ten points, make sure that your action plan considers responsibilities and methods for delivery:

- chief executive's role (see below);

⁸ Adapted from Equality and Diversity Guidelines issued by Winchester Community Action and the National Association for Voluntary and Community Action

- senior management's role;
- responsibilities and resources;
- desired outcomes and targets;
- timetables and timescales;
- methods for measuring progress;
- review mechanisms for the action plan;
- methods of consultation/involvement of staff and service users;
- methods of communication and publicity of the action plan.

Chief executive's role

- Guide the decision making so that the equality and diversity issues you choose to work on are central to your organisation's objectives.
- Link your action plan to your organisation's overall strategy so that sufficient resources – including time – will be committed to it.
- Do not try to tackle the whole equality and diversity agenda in one go. There is a long list of issues to address. You will be more effective if you set yourself clear priorities and a realistic timetable for tackling them.
- Consider the financial implications of these activities and devise an action plan that includes actions that can be taken without extra expenditure and actions that require additional resources. You could link these to plans for future funding applications or for collaboration with a partner.
- Do not expect to achieve full impact immediately. It is better to action what can be met realistically within your organisation's current resources than to over-estimate what needs to be achieved.
- Identify the key people and other resources to take this work forward.
- Ensure that the action plan is on the agenda at board meetings and set a date for reviewing the action plan.
- Consider the use of positive action to increase the diversity of your workforce and service users (see below).

Take steps to create a more diverse workforce

The best way for an organisation to demonstrate that it values and practices diversity is by being diverse itself. Many organisations recognise the value of a diverse workforce that reflects the community it serves. Employing a diverse range of people allows an organisation to:

- draw on the full range of talent in the community;
- possess a wider understanding of its service users;
- make more effective decisions and avoid groupthink;
- cultivate its reputation as a good employer.

Chief executives need to ensure that, where there is an under-representation in their workforce or in their service users, that positive action initiatives are considered by the board of trustees and staff in order to implement the equality and diversity action plan.

Information

What is positive action?

Positive action is a tool available in law to help achieve greater diversity, allowing employers to target training and encouragement at under-represented groups.

Wherever the term 'positive action' covers a range of measures which organisations can use those with a "protected characteristic" (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation):

- experience some sort of disadvantage because of that characteristic;
- have particular needs linked to that characteristic; or
- are disproportionately under-represented in a particular activity.

Where any of these conditions apply, positive action can be taken to overcome that disadvantage, meet that need or encourage participation in that activity. Positive action can be taken in relation to a wide range of activities, such as employment, education, training and service delivery.

Why do we need positive action?

Positive action measures can be used to counteract the effects of past discrimination so that people in such groups have equal opportunities to achieve their potential. Positive action is intended to provide equality of opportunities, not outcomes. The law permits training and encouragement because they provide access to job opportunities.

Positive action provisions are voluntary

All forms of positive action are entirely voluntary, whether those measures relate to employment or the provision of services. There is no compulsory requirement for any organisation to use any of the positive action provisions.

What is positive discrimination?

Positive discrimination means favouring a person from a particular under-represented or otherwise disadvantaged group solely because they have a particular protected characteristic. The law disallows selection for a job or promotion on grounds of race, gender, age, sexual orientation, religion or belief. The Equality Act 2010 does not allow the use of positive discrimination and does not permit the use of quotas, which would represent a form of positive discrimination and, as such, would be inconsistent with EU law and would go against the merit principle.

Guidance

Examples of positive action

Such action could include your organisation identifying through monitoring, consultation or a review of policies and practices any possible causes of the disadvantage and then:

- targeting advertising at specific disadvantaged groups, for example advertising jobs in media outlets which are likely to be accessed by the target group;
- making a statement in recruitment advertisements that your organisation welcomes applications from the target group, for example 'older people are welcome to apply';
- providing opportunities exclusively to the target group to learn more about particular types of work opportunities with your organisation, for example internships or open days;
- providing training opportunities in work areas or sectors for the target group, for example work placements⁹.

Equality Act 2010 and positive action

The provision on positive action and service provision has already come into effect in October 2010.

On 2 December 2010, the Government announced that in April 2011 it would bring into force section 159 of the Equality Act on positive action in recruitment and promotion. This allows an employer, faced with making a choice between two or more candidates who are of equal merit to fill a particular vacancy, to take into consideration whether either is from a disproportionately under-represented or otherwise disadvantaged group within the workforce.

This will help you achieve a more diverse workforce by giving them the option, when faced with candidates of equal merit, to choose a candidate from an under-represented group. It is, however, a concept that is not likely to have a hugely significant impact as this situation will only arise in very limited circumstances. It should also be noted that employers are not obliged to take positive action; it is simply an option available to them.

Planning for a diverse workforce

Key questions:

- Does the diversity of your trustees, staff and volunteers reflect the diversity of the people you work with?
- What are the particular barriers for your organisation in recruiting a diverse workforce?
- Are you ready to welcome and support people from under-represented groups or do you need to improve diversity practice first?

The National Council for Voluntary Organisations (NCVO) has produced the following table¹⁰ to enable the third sector to plan for diversity at trustee level. It can be applied similarly to increasing the diversity of your staff and volunteers.

It helps to understand what is preventing people from joining your organisation and then to consider what can be done about it. The table below gives examples of some of the obstacles and what can be done. These include positive action steps that your organisation can take to overcome barriers.

⁹ Adapted from Equality and Human Rights Commission 'Draft Code of Practice on Employment' (2010)

¹⁰ NCVO 'Trustee Recruitment Toolkit' (2006) p.20 and 21

Activity: Test this out with your team: develop your own answers for the right-hand column

What prevents a broader range of people from joining our board?	What can we do to overcome these obstacles?
Lack of awareness of the organisation and its relevance	<ul style="list-style-type: none"> • Go on a publicity drive specifically with this group of people. • Organise events or attend events held by black and minority ethnic groups, young people, disabled people (depending on who it is you are trying to recruit).
Lack of interest in our organisation	<ul style="list-style-type: none"> • Build relationships with the under-represented group to demonstrate that your organisation is relevant to them. • Consider partnerships with organisations that do have good links already.
Time and place of meeting (inconvenient and inaccessible)	<ul style="list-style-type: none"> • Review the time and place of meetings and be willing to change.
Use of jargon	<ul style="list-style-type: none"> • Adopt a plain English approach.
Lack of confidence among potential candidates	<ul style="list-style-type: none"> • Offer training, getting to know us sessions. • Invite people to get involved in other activities first. • Offer to provide a mentor.
Lack of appropriate support (e.g. information in large print, availability of interpretation, lack of plain English in our documents)	<ul style="list-style-type: none"> • Seek advice from organisations like RNID, RNIB and People First on the services available. • Remember however not to make assumptions about what any individual needs – ask them.
We don't know what prevents people	<ul style="list-style-type: none"> • Ask them. • A well-considered consultation exercise with a community can be an excellent way to build relationships, provided you are committed to following through on the results (see more ideas below).

Here are a few more ideas on consultation where you, as chief executive, are particularly well placed to act:

- Set up face-to-face meetings with members of groups you want to know better.
- Set up interview sessions for each of the trustees to run with representatives of hard to attract communities.
- Invite group leaders of these groups or communities to a brainstorm session on inclusion.
- Ask if some of your trustees could attend one of their meetings and give a presentation about your charity.
- Invite these groups to tell you more about their work.
- Invite members of these groups to events that you have already planned and ask them for feedback afterwards.
- Contact organisations that work with diverse groups of people for advice, introductions or even training.

Diversity actions for a particular group – addressing inequality for women in the workplace

Guidance

It is important to recognise and have specific actions that are tailored to meet the needs of particular groups. If any interventions or policies are to be successful, they must have senior commitment and backing to drive them through. As chief executive, your behaviour is particularly important and can send very powerful messages; it's about walking the talk as much as it is about talking the talk.

Activity: Take steps to address inequality

Below are examples of diversity actions your organisation can take to address inequality for women in the workplace.

- Check your organisation's workforce data to see where women are under-represented. This could be in particular functions or levels in the hierarchy. Employers should look to see if there are differences in the rates of recruitment, retention, promotion, pay or satisfaction between men and women.
- Consult with the women in your organisation. As an employer do you really understand how women experience working in your organisation and what their issues and concerns are? Are there any areas of your organisational culture that are off-putting? What would encourage women to stay?
- Establish and promote flexible working practices and work to reduce presenteeism; outputs should be rewarded not the amount of time spent in the office. Encourage male participation in flexible working. Many of your organisation's most talented people may not want to work long hours. Isn't it time to explore working patterns other than the 9-5, 5-day-week working norm?
- Review both your organisation's internal and external recruiting methods. Sometimes organisations focus too much on getting new women into the

organisation and overlook those women already there who could be up-skilled to work in a new area.

- Use open-recruitment tools, such as advertising and employment agencies, rather than relying on informal social networks and referrals to fill positions. Promotion from within an organisation should also be transparent, with postings of open positions in appropriate venues.
- Ensure a critical mass of women in senior and board positions - not just one or two women. When women are not a small minority, their identities as women become less salient, and colleagues are more likely to react to them in terms of their individual competencies.
- Take action on equal pay. Conducting an audit is just the first step towards equal pay. It should be followed by a planned set of actions to address any issues which

What are the different types of flexible working that I need to consider?

Flexible working represents the ability for an organisation to change the working arrangements in respect of time, location or pattern. There are no hard and fast rules as to what will work for any individual and here are some examples: •

Part-time working: Work is generally considered part-time when employers are contracted to work anything less than full-time hours. •

Term-time working: A worker remains on a permanent contract but can take paid/unpaid leave during school holidays. •

Job-sharing: A form of part-time working where two (or occasionally more) people share the responsibility for a job between them. •

Flexitime: Allows employees to choose, within certain set limits, when to begin and end work.

Compressed hours: Compressed working weeks (or fortnights) don't necessarily involve a reduction in total hours or any extension in individual choice over which hours are worked. The central feature is reallocation of work into fewer and longer blocks during the week.

Annual hours: The period within which full-time employees must work is defined over a whole year.

Working from home on a regular basis: Workers regularly spend time working from home.

Mobile working/teleworking: This permits employees to work all or part of their working week at a location remote from the employer's workplace.

Career breaks: Career breaks, or sabbaticals, are extended periods of leave – normally unpaid – of up to five years or more¹¹.

11 Adapted from 'Opportunity Now' www.opportunitynow.org.uk/best_practice/index.html

Step 4: Diversity in practice – service users

The practical steps described earlier in this section to embed equality and diversity will also need to apply to service provision. This will enable your organisation to provide equality of access and equality of treatment for your service users.

- **Create and review an equality and diversity policy**
Ensure that you have an equality and diversity policy that applies to service provision and not just employment. This can be a separate policy or a joint policy.
- **Conduct an equality and diversity audit**
Consider the needs of service users within the audit, how accessible is your organisation for service users? What are the experiences of service users from different groups in using your services? Are there are barriers that service users are experiencing?
- **Develop an action plan**
Your organisation's action plan should include specific actions that apply to service provision and how you will meet the needs of service users from a diversity of backgrounds.
- **Take steps to create a more diverse workforce**
Consider ways of reaching under- represented service users and make sure your services meet their needs and set targets to increase the representation of the under-represented groups.

Guidance

Staff behaviour and service users

How staff and volunteers behave towards service users will be at the heart of whether your organisation delivers services without unlawful discrimination, harassment or victimisation and whether it makes reasonable adjustments for disabled people. You and everyone who works for you should know how equality law applies to what you and they are doing. As chief executive, you need to ensure that there are procedures and practices in place that covers staff behaviour in the area of equality and service users.

There are several ways in which you can advise staff and volunteers so that they do not discriminate against people because of a protected characteristic. Clear communication on equality and diversity is critical to your role as chief executive, for several reasons. It reduces the risk of the chief executive being held responsible for inappropriate behaviour of staff and volunteers. It is also part of the organisation's work to enhance its reputation and manage risk effectively.

Equality law does not set out exactly how an organisation should tell staff how to behave to avoid unlawful discrimination, harassment and victimisation. What follows is not a legal requirement, but a suggestion for good practice. These guidelines for action may help you to avoid being held responsible by a court for what the people working for you have done. An organisation that does not go through this exercise risks being held legally responsible by a court for unlawful discrimination, harassment or victimisation carried out by its staff. This is known as vicarious liability.

Activity: Make sure your staff and volunteers know what equality law means for them

Possible ways to make sure your organisation's staff know what equality law means for them are by:

- telling them when they start working for your organisation – and checking from time to time that they remember what you told them, for example, by seeing if/how it has made a difference to how they behave. This could be a very simple checklist their manager talks them through, or gives them a guide¹², or arranges for them to have equality training
- writing down the standards of behaviour your organisation expects in an equality policy
- making sure that staff understand that they may need to be flexible about some of your organisation's policies or the way you do things if this would be a reasonable adjustment
- including a requirement about behaving in line with equality law in every worker's terms of employment or other contract, and making it clear that breaches of equality law will be treated as disciplinary matters or breaches of contract.

Duty to make reasonable adjustments

Information

Equality law recognises that bringing about equality for disabled people may mean changing the way in which services are delivered, providing extra equipment and/or the removal of physical barriers. This is the duty to make reasonable adjustments. The aim is to make sure that a disabled person can use a service as close as is reasonably possible to the standard usually offered to non-disabled people.

When the duty arises, organisations are under a positive and proactive duty to take steps to remove or prevent these obstacles. Such duty is 'anticipatory'. This means an organisation cannot wait until a disabled person wants to use their services, but must think in advance (and continuously) about what disabled people with a range of impairments might reasonably need. Such disabilities might be visual, hearing, mobility or learning difficulties – or a combination.

Many of the adjustments your organisation can make will not be particularly expensive. An organisation is not required to do more than it is reasonable for it to do. What is reasonable depends, among other factors, on the size, financial resources and nature of your organisation and the nature of the goods, facilities or services that are being provided.

Examples of reasonable adjustments

- A charity provides a telephone helpline service to its clients. It installs a textphone so that people with hearing impairments can communicate with it and receive advice. It also offers the alternative of instant messaging via the internet which also removes barriers to accessing the service for people who cannot, for a variety of reasons such as visual impairment or dyslexia, make notes during a phone call.

¹² Adapted from Equality and Human Rights Commission 'Guidance for Service Providers: What equality law means for your voluntary and community sector organisation' (2010)

- A voluntary sector organisation provides services to support parents, including advice leaflets. It makes sure its leaflets are simply written, with pictures to illustrate what the leaflets say. This is likely to make them more accessible to people with a learning disability.
- A community association holds a public meeting to discuss what additional leisure facilities are needed for the public in the local community. It ensures that the meeting is held in a venue that is accessible to people with mobility impairments and it arranges for there to be a palantypist at the meeting to transcribe what is said onto a computer. The organisation has thought about who might use its services by attending the meeting, and has made a range of adjustments which it has decided are reasonable for it to make.

You should consider every aspect of the way in which you provide a service including your building or other premises:

- how people enter;
- how they find their way around;
- what signs are provided;
- how people communicate with staff;
- information you provide;
- queuing systems, if they exist;
- counters and checkouts, if they exist ;
- accessible toilet facilities.

The way your organisation's staff and volunteers behave and assist your disabled service users can make a big difference to how accessible disabled people rate your building and service.

Guidance

Good practice tips for working out whether disabled people face a substantial disadvantage in using your services:

- Local disabled people's groups may be happy to help you work this out. First, contact groups representing people with a range of impairments. Explain that you want to make reasonable adjustments, and ask if they can help.
- National organisations of disabled people may also have information available about the impact of different impairments.
- If your organisation is part of a group such as a local chamber of commerce, community and voluntary sector umbrella group or group of local clubs, then you could organise a joint approach and ask them to help you survey several organisations together and share good practice.
- If your organisation belongs to a national association they may produce specialist advice on the sorts of barriers disabled people face in your sector, as well as the changes made by organisations similar to your own.
- You could commission an access audit of premises which the general public have access to¹³.

¹³ Equality and Human Rights Commission 'Guidance for Service Providers: What equality law means for your voluntary and community sector organisation' (2010)

Resources

- Olmec Foundation 'A Guide to Equality and Diversity in the Third Sector' (June 2008)
Website: www.wrc.org.uk/includes/documents/cm.../olmec_guide_updated_2010.pdf
- Equality and Human Rights Commission 'Draft Code of Practice on Employment' (2010)
Website:
www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/
- Equality and Human Rights Commission 'Guidance for Service Providers: What equality law means for your voluntary and community sector organisation' (2010)
Website:
www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/equality-act-2010-guidance
- Disability Access Checklist

This has been produced by 'Inclusion'. Inclusion is a disability consultation and service provider. The checklist is meant as a free tool to assist a smaller organisation in reviewing their accessibility. It is designed to provide guiding questions for service providers to ask themselves in relation to their accessibility. It is meant to prompt thought in regards to some of the more obvious obstacles disabled people often face and which can be easily altered or avoided.

Website:
www.inclusion.me.uk/downloads/DDA%20guide%20form.pdf

Chapter Five

Integrating Equality into Policy Development



5

Integrating Equality into Policy Development

Information

Integrating equality into policy development is an effective tool for chief executives to mainstream equality. Mainstreaming equality is the systematic consideration of the particular effects of all policies, at the point of planning, implementation and evaluation, on disadvantaged groups. Equality is the goal. Mainstreaming is a process that aims to achieve the goal.

Your work in mainstreaming should bring consideration of equality issues right into the core of all policy work, so that they are central to all activities including policy development¹⁴. Mainstreaming should ensure that equality considerations are 'built in' from the beginning, rather than 'bolted on' at the end. With careful and considered implementation, you can make it a strategy to achieve sustainable positive equality and diversity change.

The word 'policy', in this context, includes the different things that your organisation does. It includes any policy, procedure or practice - both in employment and service delivery.

Equality Analysis

Following the Equality Act 2010, there has been a change in terminology from 'equality impact assessment' to 'analysis of the effects on equality.' This is intended to focus more attention on the quality of the analysis and how it is used in decision making, and less on the production of a document, which some may have seen as an end in itself.

An equality analysis (EA) is a tool that you can use to integrate equality into policy development. It is a thorough and systematic analysis of a policy or procedure. The analysis looks at one or more equality groups. An equality group is a group protected by legislation and/or is being targeted by an organisation that requires special consideration because of historical disadvantage or discrimination or because there is evidence that it is doing less well than other groups. An equality group may be based on age, disability, ethnicity, faith, gender or sexual orientation or other characteristics.

In essence, an analysis examines the impact of an organisation's policies and practices and asks whether equality groups are being fairly treated. The analysis will include looking for opportunities to promote equality that have previously been missed or which could be used better, as well as negative or adverse impacts that can be removed or mitigated.

Benefits of EAs

Conducting EAs is a legal requirement for public authorities. They are part of the public sector equality duties. Third sector organisations are not legally obliged to conduct EAs, however the principles and methods give your organisation a strong basis to avoid any kind of discrimination.

¹⁴ Drawn from SCVO 'Equalities Briefing' (August 2002)

EAs are a good method of analysing what your organisation is doing with the end user as the main focus, whether they are service users, staff or volunteers. The benefits of EAs include helping you to:

- target resources more effectively;
- better understand the needs and aspirations of the diverse communities an organisation serves;
- identify whether different groups in employment and service provision are being excluded from, for example, access to training, workplace benefits or equal access to services;
- identify direct or indirect discrimination;
- consider alternative policies or measures that might address any adverse impact;
- mainstream equality in policies and practices;
- reality check policies and services with the people affected by them.

Guidance

When should an EA take place?

There are two key stages at which an equality analysis should take place:

- when a new policy is being considered;
- when an existing policy is being reviewed.

Who should carry out EAs?

You should make sure that the person conducting an EA must have a detailed understanding of the policy and policy area and must be in a position to ensure changes are made when they are needed. Providing training on conducting EAs is a useful pre-requisite for carrying out EAs.

EA templates

There are many EA templates available that enable an organisation to collate information in a systematic way. The template needs to fit the needs of your organisation. Shelter has produced a template and their advice is: 'Keep it simple. The equality impact assessment form originally had 20 questions. It was simplified in 2009 to focus on broader themes. This made it easier to complete and take appropriate action'¹⁵.

Stages in conducting an EA

There is no prescribed method for carrying out EAs; however the Equality and Human Rights Commission guidance on EAs stresses the importance of a formal, structured and documented process. For EAs to be effective, it is necessary to take a step-by-step approach. This should be done in a way that is proportionate to the size and resources of your organisation. For a small organisation, it may be necessary to prioritise one or two key policy areas that you will work on initially.¹⁶ The following gives a brief overview of the process:

¹⁵ www.ncvo-vol.org.uk/hr-case-studies#equality

¹⁶ Equality and Human Rights Commission 'Equality analysis and the Equality Duty' (2011)

Stage 1: Pre-assessment steps

- Set up a mechanism to manage the analysis.
- Agree the scale and scope of the analysis, including the timescale.
- Identify who will conduct the analysis.
- Organise publicity to ensure the trustees, staff, volunteers and service users are aware of the analysis and its purpose.

Stage 2: Implementation steps

- Carry out the initial screening, this is the process of identifying all your policies, looking at each policy and making an initial decision about whether or not it has an adverse effect on different people or groups. If there is no adverse impact, there is no need to conduct a full EA.
- Conduct the full EAs, if necessary where the initial screening raises any adverse impact.
- Analyse the data collected and evaluate performance.

Stage 3: Post-assessment steps

- Develop an action plan based on the analysis findings.
- Present and publicise the results of the analysis.
- Implement the action plan and review progress at regular intervals.

The findings of your analysis

Having considered the potential or actual effect of your policy on equality you should be in a position to make an informed judgement about what should be done with your policy. There are four main steps that you can take. More than one may apply to a single policy:

1. **No major change:** Your analysis demonstrates the policy is robust and there is no potential for discrimination. If this conclusion is reached, remember to document the reasons for this and the information you used to make this decision. It is also useful to have your analysis quality checked by staff trained or experienced in equality matters.
2. **Adjust the policy:** This involves taking steps to remove the barriers or better advance equality. It can mean introducing measures to mitigate the potential effect. Remember that it is lawful under the Equality Act to treat people differently in some circumstances, for example taking positive action or putting in place single-sex provision where there is a need for it. It is both lawful and a requirement of the general equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary.
3. **Continue the policy:** This means adopting your proposals, despite any adverse effect or missed opportunities to promote equality, provided you have satisfied yourself that it does not unlawfully discriminate. In cases where you believe discrimination is not unlawful because it is objectively justified, it is particularly important that you record what the objective justification is for continuing the policy and how you reached this decision.
4. **Stop and remove the policy:** If there are adverse effects that are not justified and cannot be mitigated, you will want to consider stopping the policy altogether. If a policy shows unlawful discrimination, it must be removed or changed. For guidance on what is unlawful discrimination, refer to the Equality and Human Rights Commission's guidance

and Code of Practice on the employment, goods and services, and equal pay elements of the Equality Act, which are available on its website.

You may find it helpful to develop an action plan to implement your decisions.

Identifying adverse impact

You may identify adverse impact by looking for:

- a lower participation rate of equality target groups compared to others;
- certain groups having lower success rates in particular processes;
- whether eligibility criteria appear to disadvantage certain groups;
- whether access to services and benefits is reduced or denied in comparison with other groups;
- whether a group faces increased difficulty or indignity as a result of a policy;
- whether a policy reduces benefits disproportionately for one group.

Before undertaking a full equality analysis

- Conduct an equality analysis. This task requires a level of awareness of discrimination and prejudice and its impact. Staff undertaking this will require further guidance and/or training.
- Use further sources of information to build your understanding and knowledge base, including statutory codes of practice, EA toolkits in the area of equality and diversity and any other relevant sources of information and guidance.
- Allocate time and resources to undertake the equality analysis. It is important to keep in mind that it could take several months to complete a full analysis.
- Consider sharing resources – organisations could share resources where appropriate and with other agencies. For example a third sector organisation in your geographical area may have already collected quantitative data on the diversity of the local population.
- You might not work through the steps in the order shown – you may particularly on complex policies need to move back and forth. In some equality analyses, the action required at one stage may be minimal, while the same stage may be a major part in another.
- It is important to stress that an EA template is a mechanism to help structure and report on equality analyses, and certainly does not constitute the analysis itself. What is of great importance are any identified actions you will take as a result of the EA.
- The focus of equality analyses should be on outcomes and improvements, not the process per se. The process should be whatever is required to identify impacts, actual or potential, positive or negative, and to plan for and implement any changes required.

Some do's and don'ts for the equality analysis process

Do involve the right people – it is too much to do on your own.

Don't treat it as a form-filling exercise: think of it as the final 'audit trail' of an exercise in improving your organisation's services and ensuring good practice in employment.

Do build contacts and relationships with colleagues in other third sector organisations to provide mutual support and challenge in the process.

Don't use the process as a 'last minute check': develop plans that include the time to make changes to strategy, plans or projects as highlighted by the equality analysis.

Do focus on the needs of staff, volunteers and service users, their engagement in the process, the barriers they face and the drivers that can help overcome these obstacles.

Don't be daunted by the time or resource equality analysis might require: you will find relevant data, information or research within your organisation, through websearch or through engaging with representatives of equalities groups or specialist organisations.

Activity: Conducting equality analyses

Take a step-by-step approach to equality analysis:

1. Identify who will be responsible for the equality analysis.
2. Establish relevance to equality.
3. Scope your equality analysis.
4. Analyse your equality information.
5. Monitor and review.
6. Decision making and publication¹⁷.

Although these six stages show the measures required for conducting a full EA, the four key activities you need to focus on are:

- data collection and analysis;
- engagement;
- introducing the changes that arise from the analysis and engagement;
- monitoring to keep under review the impact of the policy.

¹⁷ Adapted from Equality and Human Rights Commission 'Equality Analysis and the Equality Duty: A Guide for Public Authorities'

Resources

The Equality and Human Rights Commission (EHRC) is the statutory agency with a leading responsibility to help eliminate discrimination and reduce inequality. It has produced the following five guides providing practical advice on how public bodies can conduct their equality analyses (this advice is also relevant to third sector organisations):

1. The essential guide to the public sector equality duty.
2. Equality analysis and the equality duty: A guide for public authorities.
3. Engagement and the equality duty: A guide for public authorities.
4. Equality objectives and the equality duty: A guide for public authorities.
5. Equality information and the equality duty: A guide for public authorities.

The guides can be accessed at www.equalityhumanrights.com or by phoning 0845 604 6610.

Case Study Three

Solihull Community Housing



Introducing Solihull Community Housing

Solihull Community Housing was set up in 2004 as an Arms Length Management Organisation and is responsible for managing over 10,000 homes on behalf of Solihull Metropolitan Borough Council. It has 400 employees (including trainees).

Solihull Community Housing's action

1. What happened? What were you trying to achieve? What inspired the action?

'Over the last three years we have collected the profile of our tenants, joint tenants and leaseholders in order to provide a more responsive service to customers.

Knowing more about individual customers helps us to recognise the differences in the way that customers wish to use our services.

At March 2011 we have 100% information about tenants' gender and disability status, 99% for age and over 92% for ethnicity. We also know that:

- Over 9% of tenants have literacy problems.
- 8% of tenants require information in alternative formats and minority languages.'

2. Who was involved?

'Our Board Members were 100% behind the initiative to collect as much information as possible from tenants and leaseholders. We consulted a number of residents, and in particular disadvantaged groups such as disabled and black and minority ethnic customers.

Relevant staff were trained and briefed to handle queries arising from the data collection exercise and to be able to assist customers to complete the forms.

Changes were made to our computer system so that staff can easily see what information we held about the customer and use it appropriately to tailor services.'

3. What went well?

'Ensuring that staff were well briefed and trained in handling customers' queries on why we wanted the information, how we would use it, data protection issues and updating information.'

4. What did not go so well?

'Many tenants were unhappy about giving information on religion/belief and sexual orientation as they felt that we were asking for personal and sensitive information. As a result the survey form was redesigned, Questions about Religion/Belief and Sexuality were included at the end of the questionnaire and made 'optional' in order to encourage people to give as much information as they felt comfortable.'

5. What would you do next time?

'Give residents examples of how we will use their profile in order to encourage them to give relevant and maximum levels of information. We now do this via newsletter articles and presentations to the various customer panels and forums.'

6. What has been the overall impact?

'Where necessary, alerts are placed to ensure that individual needs are met. A significant amount of work has been done to use the information in a meaningful way. Examples include:

- The IT system now automatically generates letters in appropriate font sizes where residents have requested this, so that they get information in the correct format.
- Property repairs operatives and contractors are alerted to give longer time for disabled tenants to answer the door and vulnerable tenants are referred to the Safe and Sound Service (Floating Support service) and Solihull Independent Living (Property Adaptations service) when appropriate.
- Tenants who have dyslexia are given 'coloured transparencies' to assist them.
- Our IT system can generate customer profiles for specific geographical locations or housing estates so that we can take into account people's religious, cultural, disability or communications needs when organising events.
- The Black and Minority Ethnic Focus Group has worked with another local organisation and successfully celebrated the Black History Month event for the last two years.
- The Disabled Residents' Group has influenced the way that the local Magistrates Service deals with disabled people when they appear in court as visitors, witnesses or alleged perpetrators.
- The Disabled Residents' Group was involved in the design of our new office and helped to ensure that offices are readily accessible for people with physical disabilities and offer appropriate facilities such as nappy changing for babies, chairs that are suitable for older people and play facilities for our younger customers.'

7. Are you planning any future developments to maximise the impact of this process/policy or plan?

'The data will be used when completing Equality Impact Assessments. We are also developing written information in 'easy read' formats, which make use of pictures due to the high levels of illiteracy amongst our residents, and make arrangements to use audio communication facilities.

The information will help us to identify future needs for our older and disabled tenants.'

8. What one piece of advice would you give organisations in a similar situation?

' 'Road-test' your questionnaire with residents.'

Contact

Carole Hodson, Director of Policy and Corporate Services
0121 779 8816

or

Niku Mawby, Diversity Adviser
07966 439408

Chapter Six

What and How to Monitor



6

What and How to Monitor

Information

Monitoring, in essence, means regularly collecting equality data and information about your staff, volunteers and service users. The next steps are to analyse this data and information, identify areas for improvement and take action. The Equality and Human Rights Commission (EHRC) advises that all organisations should undertake equalities monitoring in order to comply with current equalities legislation and to promote equality and diversity.

Why is monitoring important?

Equalities monitoring data can be used to check if an organisation is delivering fair employment and effective services to all eligible people. Equality monitoring can indicate whether you are offering equality of opportunity to all groups and can help you make changes based on facts rather than assumptions.

Monitoring is an effective way of:

- checking your organisation's progress against the original plans and aims;
- Identifying groups of people who are under-represented within your organisation;
- identifying whether or not there may be deliberate or unconscious discrimination within employment and volunteering practices or in relation to service delivery;
- identifying whether or not there may be deliberate or unconscious discrimination in relation to service delivery;
- being accountable to existing funders. They will usually make it compulsory for an organisation to report back on monitoring data;
- securing future funding. Ongoing monitoring will provide concrete evidence to funding bodies and help meet their criteria;
- learning from experience. Proper monitoring of your organisation means you can see what has worked well and what hasn't. You can then use this information to improve future employment or service delivery practices or funding applications.

Guidance

Preparing for monitoring

Many organisations will have an equalities monitoring questionnaire for staff, volunteers and/or service users. Four things are essential to doing effective equalities monitoring. All people engaged in a paid or unpaid voluntary capacity must:

- understand why your organisation is doing equalities monitoring;
- get yourself and others up to speed in appropriate ways of asking service users and others for their personal and sensitive information;
- understand how to comply with the confidentiality requirements including those of the Data Protection Act 1998;

- be trained in how to analyse and/or use monitoring information.

And in more detail:

1. Understand why your organisation is doing equalities monitoring.

Most equality monitoring forms contain an explanation of why the data is being collected, and how the data will be used. To encourage response, this message must explain the reasons for monitoring.

Stonewall has produced a 10-point plain English guide to help your organisation explain to their staff and service users why monitoring information is being collected. 'What's it got to do with you?'¹⁸ explains why a range of data – such as age, gender, sexual orientation and religion and belief may now be requested, and how this benefits the organisation. It makes the case for monitoring across all equality characteristics.

2. Get yourself and others up to speed in appropriate ways of asking service users and others for their personal and sensitive information.

Some people may have concerns about why your organisation is collecting this information and what the organisation will do with it. To address these concerns, it is important that you establish and maintain an environment of trust which acknowledges that the collection of personal data is a highly sensitive issue and that it will be managed in a sensitive and secure way.

- Make it clear to people that the information they provide is given voluntarily.
- Openly explain your organisation's reasons for monitoring.
- That the data will remain strictly confidential.
- Tell them what your organisation will do with the information.
- Establish and maintain data protection safeguards.

If these steps are not taken, service users and others may not want to complete your organisation's monitoring forms. It is good practice for organisations to highlight the existence of their data protection safeguards. This may encourage individuals to answer equality monitoring questionnaires.

It is also important to be aware that there are particular sensitivities associated with several of the monitoring categories and these can hinder the effective monitoring of those characteristics. Monitoring sexual orientation probably raises issues of confidentiality more than some of the other equality characteristics. The EHRC advises that sexual orientation, along with the other equality strands, should be monitored but that organisations need to be clear why they are doing it and how they will use the information to promote equality for gay men, lesbians and bisexual people and tackle discrimination.

3. Understand how to comply with the confidentiality requirements including those of the Data Protection Act 1998.

Under no circumstances should a person's identity be revealed in monitoring data. It is essential that monitoring information (e.g. on application forms) is detached from the application form and stored anonymously. No equalities monitoring forms should be

¹⁸ This guide can be found at www.stonewall.org.uk/at_home/3460.asp

stored on employee or volunteer personnel files, or on service user case records. Equality monitoring forms should emphasise confidentiality. For example:

Your identity will be kept anonymous and your answers will be treated with the strictest confidence. We assure you that your answers will not be used by us to make any unfair decisions affecting you. To protect your privacy, you should not write your name on this questionnaire. The form will carry a unique identification number and only our Monitoring Officer will be able to match this to your name.

The Data Protection Act places a responsibility on organisations that collect sensitive personal information, to ensure that the information is:

- fairly and securely processed;
- relevant and used for limited purposes;
- accurate and up to date; and
- not kept for longer than is absolutely necessary.

4. Be trained in how to analyse and/or use monitoring information.

Through monitoring your organisation may discover that currently it does not employ any disabled people or older people. Alternatively, your organisation may find that there are people living and working in your area that are not using your services. The next step is to analyse why this is the case and take action to address it.

Remember that collecting information is not an end in itself. Your organisation must regularly analyse and question the data. Monitoring will only bring about positive change if it is used to identify gaps in service provision or identify barriers that people face or where they do less well¹⁹.

Activity: Take the following steps before introducing equality monitoring

You and your organisation should identify and agree the following:

- What will you be monitoring and why?
- Who will be the Monitoring Officer?
- Where will the information be stored?
- How will the information be collected and used?
- When and how will the data be reviewed?

¹⁹ Adapted from ECVS 'Ealing Equality and Diversity Toolkit: Guidance for Voluntary and Community Groups in Ealing' (date unknown), and Olmec Foundation 'A Guide to Equality and Diversity in the Third Sector' (June 2008) p.39 and 40

Guidance

Ways to collect information

1. Equalities monitoring form

Many third sector organisations will have some form of equalities monitoring questionnaire for their staff, volunteers and/or service users. The EHRC has produced a comprehensive monitoring form²⁰ which can be used or adapted to meet the needs of your organisation. This may need to be used when gathering information for funders but may not be needed in all monitoring activities.

Make sure your organisation only ask questions that explore whether your organisation's practices work across the protected characteristics. Any unnecessary questions could turn the monitoring process into an invasion of privacy. Examples include asking about HIV status, marital status etc – think about how these questions can lead to improvements in your services. Make sure people are informed as to why you are asking for the information²¹.

2. Questionnaire or staff/service user survey

These can be especially useful for monitoring attitudes, behaviour change or getting feedback from staff, volunteers and service users. These are quite straight forward to put together and distribute and a lot of people can be reached quickly and easily. They can be as simple or as detailed as you think fit depending on the aims and purpose of the questionnaire or survey. The questionnaire can be anonymous if you think this will encourage a better response.

The organisation will need to analyse the data and information to get an overall picture of what people think. So the questions need to be driven by the information you want to get. Having got the information and identified areas for improvement, you can then decide on the course of actions needed.

3. Interviews

Though time consuming, interviews carried out face-to-face or on the phone are a useful way to get detailed information on what staff, volunteers or service users think of your organisation.

4. Focus groups

Getting a group of people together to discuss your equality and diversity practice is an easy way to gather information. Bringing a group together, rather than just interviewing individuals, means people can spark new ideas in each other, and you often get more productive responses. For the best possible results, think carefully about the information you want to collect from your focus group. Your choice of facilitator for the focus group will be important.

Monitoring and employment

Effective employment equality monitoring occurs at different stages: pre-employment, during employment and when people are about to leave the organisation.

Pre-employment

With regard to job applicants, advice from the EHRC states: 'Giving job applicants a monitoring form will help you to see who has applied for the job and who has been

²⁰ This form can be found at www.equalityhumanrights.com/.../equality-monitor-form.doc

²¹ Adapted from ECVS 'Ealing Equality and Diversity Toolkit: Guidance for Voluntary and Community Groups in Ealing' (Date unknown)

selected, in terms of their protected characteristics. You could then compare who has applied for jobs against the profile of jobseekers in the local community, nationally, in your sector and the profile of employees already in the organisation. This highlights any groups who are not applying or not getting further on in the recruitment. If this is happening, then look again at your assessment processes: are you excluding good applicants unnecessarily?

Equality law does not say that your organisation has to use a monitoring form to find out individual personal information about your job applicants and their protected characteristics as part of the recruitment process. However, the EHRC advise: 'if you do use a monitoring form and this tells you about a person's protected characteristics, then you must not use this information to discriminate against them. You must not base decisions about who to take further into the application process on the information people give on the monitoring form'²².

During employment

The fundamental purpose of monitoring during employment across all stages and grades is to provide a mechanism for evaluating whether all staff are treated fairly in the workplace. Once the information has been collated, look for differences between groups, identify trends over periods of time, investigate the reasons for these differences and put suitable actions in place.

Monitoring can be used to analyse staff in terms of:

- recruitment;
- training;
- appraisals;
- promotions;
- grievances;
- disciplinary action;
- resignation, redundancy and dismissal.

Monitoring and services

Equality monitoring of service delivery is essential for effective planning, delivery and analysis of the services that you provide. Monitoring can tell you which groups are using your services and how satisfied they are with them. This data can then be used to:

- Highlight possible imbalances in who is using your services and who is not;
- Investigate their underlying causes;
- Remove any unfairness or disadvantage.

There could be many reasons why certain people don't use your services:

- They do not know it exists;
- They do not think it is a service that they want;
- They want the service but do not like the way it is provided;
- They have tried the service but did not like it.

²² www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/recruitment/using-monitoring-forms/

Your organisation's commitment to equality in services becomes real through understanding who its service users are and what particular needs they have. Providing services to the people who already know about them and use them is not enough. If you are to put equalities into action, you have to make sure that everyone who wants to access your service is able to do so. It is important that your organisation finds out who is and is not using services and then looks into the reasons why and whether you can take action to address non-usage. This will help tackle inequality of access for your service users.

The monitoring information can be used to:

- Review your service delivery by comparing your performance over time.
- Develop services and assist with making changes.
- See who is using your services and how satisfied they are with them.
- Consider ways of reaching under-represented groups and make sure your services meet their needs.
- Set targets to increase the representation of the under-represented groups.
- Make sure you provide services fairly. For example, if the information you give shows that a group of people is not accessing one of our services then you could find out why and remove any barriers.
- Assess how your equality and diversity policy and action plan is being put into practice.

Resources

Stonewall 'What's it got to do with you?' Guidance for people concerned with completing monitoring information:

Website: www.stonewall.org.uk/at_home/3460.asp

Equality and Human Rights Commission Monitoring Form:

Website: www.equalityhumanrights.com/.../equality-monitor-form.doc

Chapter Seven

Equality and Procurement



7

Equality and Procurement

Information

Procurement is the process whereby public organisations contract out services. Public sector bodies like the UK government and the devolved governments, local government and health authorities procure billions of pounds worth of goods and services from third sector or private organisations each year. Whether it is called procurement, purchasing, tendering, contracting or buying, the public sector is a major purchaser of goods and services. As a chief executive, tendering for public sector contracts is probably a major activity for you.

Why does equality in procurement matter?

Promoting equality through procurement makes a difference. All groups in our communities have a right to expect that public money is spent on local services which suit their needs – and that it is spent in a way which promotes equality of opportunity and delivers high quality goods and services.

Public authorities have a legal duty to proactively promote equality in carrying out all of their functions, including the procurement function. This legal duty comes from the public sector equality duties. These equality duties apply directly to third sector and private organisations under contract to a public body. Where one or more of a public authority's functions is carried out by a third sector organisation, the public authority still remains responsible for meeting the duty. Third sector organisations acting as contractors must not discriminate, but they do not have the same legal obligation to promote equality of opportunity. So a public authority builds in relevant equality criteria into the tendering process which third sector organisations will need to meet with evidence when they are bidding for contracts.

Public sector equality duties

Public authorities have been legally obliged to promote equality of opportunity and eliminate discrimination for service users and staff, rather than waiting for individuals to complain. They have to go beyond ticking boxes and to review progress to ensure they're delivering results. If there are no positive outcomes, public authorities will be failing in their legal duties. Public authorities' actions are seen as a step towards a society where equality is the norm and diversity is seen as a benefit to everyone.

Timeline of Public Sector Duties

Race Equality Duty	In force from 2000
Disability Equality Duty	In force from 2006
Gender Equality Duty	In force from 2007

The Equality Act 2010 included a new public sector Equality Duty, replacing the separate duties on public bodies relating to race, disability and gender equality, and also covering:

- age;
- sexual orientation;
- religion or belief;
- pregnancy and maternity;
- gender reassignment more fully.

The Government consulted on these new aspects of the public sector equality duty between August 2010 and November 2010. The Government intends to publish a summary of the results of this consultation on the Government Equalities Office website within three months of the end of the consultation period.

Theresa May, the Home Secretary and Minister for Women and Equalities, announced on 17 November 2010 that the Government will not be taking forward the socio-economic duty for public bodies, one of the outstanding provisions in the Equality Act 2010.

Public sector Equality Duty

The new public sector Equality Duty came into force on 5 April 2011. The duty presses public bodies to consider the needs of all individuals in their day to day work, in developing policy, in delivering services, and in relation to their own employees.

The new Equality Duty requires public bodies to have:

- due regard to the need to eliminate discrimination;
- advance equality of opportunity;
- foster good relations in the course of developing policies and delivering services.

The Equality Duty replaces the three previous duties on race, disability and gender, bringing them together into a single duty, and extends it to cover:

- age;
- sexual orientation;
- religion or belief;
- pregnancy and maternity;
- gender reassignment (in full).

In addition to the general Equality Duty, set out above, Section 153 of the Equality Act gives the Government a power to impose specific duties on certain public bodies to enable them to perform the Equality Duty more effectively.

On 18 March 2011 the Government Equalities Office (GEO) has announced that the government's draft regulations on the specific duties for England (and non-devolved bodies in Scotland and Wales) are to be revised and therefore will not become law on 6 April, as originally envisaged. The specific duties – which are different for all three nations – are intended to help public authorities meet the general equality duty.

What this means for third sector organisations

Although the Public Sector Equality Duty is aimed at the public sector, third sector organisations need to be aware that where public functions are contracted out, the external

contractor may themselves be subject to the general equality duty in carrying out a public function. Where the duty does not directly apply to the external contractor, the commissioning public authority may need to include obligations relating to equality in the contract relating to that service in order to comply with its obligations under the duty.

The Equality and Human Rights Commission is planning to produce a guide for third sector organisations in spring/summer 2011 as the duty has wide range of implications for their work, such as when providing services, applying for public funding or assessing the performance of public authorities on equality. In the meantime they have produced five guides (aimed at the public sector but still useful reading) which are available on their website:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/the-new-public-sector-equality-duty/>

One of these guides: 'The Essential Guide to the Public Sector Equality Duty' provides an overview of the equality duty and contains a section on commissioning and procurement.

Benefits of third sector providing services

The third sector is well placed to deliver services that promote equality and diversity.

Doing business with public authorities is beneficial to the sector, financially and in terms of reputation, status and access to further contracts. Benefits will depend on the circumstances of each particular procurement, but Government accepts that the third sector offers benefits in the following key areas:

- **Established links with the community**
Third sector organisations, especially locally based ones, although not necessarily large national providers, are often deeply embedded in local communities with a thorough understanding of the political and social environment in which they operate. They can be especially skilled at drawing on resources in the community and gaining local support for new projects.
- **Understanding the needs of specific service user groups**
Third sector organisations bring real passion, focus and commitment to action on a specific issue. Greater capacity to reach and earn the trust of excluded or disadvantaged groups. This is often facilitated by recruiting those with direct experience of the user perspective.
- **Independence and freedom from institutional pressures**
Third sector organisations are generally not constrained by complex structures and rules. They are independent and driven by their charitable aims rather than the search for improved profit margins. This can make them enthusiastic, committed, and especially flexible and responsive to service users' needs.
- **Innovation**
Third sector organisations are well placed to offer fresh and innovative solutions. They may be less risk averse and have a stronger motivation, through their charitable aims and objectives, to identify better ways of doing things'.
- **Responsiveness**
Third sector organisations may be highly focused on particular services or sectors of the community making them alert and responsive to changes in those markets.

- **Economies of scale**
Because some third sector organisations are often specialists in a particular field, they can provide services in a way which benefit from economies of scale.
- **Niche markets**
Many third sector organisations survive by supplying highly specialist services which private sector suppliers find unattractive or outside their competence²³.

Do you make grant applications to public authorities?

Public authorities cannot overlook their obligations under the equality duty when they are allocating funds to the third sector. This means that public bodies like government departments, councils or health authorities need to build equality into their funding guidelines. This also includes the National Lottery as they are covered by the specific duties. Although the majority of grant providers in the third sector (such as the Joseph Rowntree Foundation) will not be covered by the duty in this way, it would be good practice for them to act as though they are. A number of charitable Trusts and Foundations have given increasing attention to equality in their funding decisions.

Under the public sector equality duty, funding bodies can ask you to provide evidence in your application of how you will build equality into your work. For example in terms of gender equality, 'since men are more likely to fear vehicle theft and women are more likely to fear rape and physical attack, a bid for a community safety initiative should set out how men's and women's different priorities will be taken into account within your project'²⁴.

Examples of equality in procurement

- Wirral Borough Council's Corporate Procurement Strategy (2010) states:
'Equality issues are included in our procurement process. We seek assurances from suppliers about their commitment to equality through our standard Pre-Qualification Questionnaire/Tender documentation. This requires applicants to answer equalities questions to ensure that they abide by the law and that they are working to best practice in this area'.
- Greenwich Council's guidance on equality and procurement stated:
'The specification should outline key equality requirements and challenges for the work/ goods/ service in question, e.g.
 - requirement to take proactive steps to improve the representativeness of the contractor's workforce;
 - requirement to take proactive steps to increase service uptake by under-represented groups;
 - requirement for the goods supplied to be designed to meet the needs of disabled people;
 - requirement for contractor's staff to attend diversity training'²⁵.

23 Adapted from Office of Government Commerce 'Good Practice Guide on Procurement of Services from the Voluntary and Community Sector (June 2004) p.6 and 16

24 Former Equal Opportunities Commission 'Guidance on the gender equality duty for the voluntary and community sector' (April 2007) p. 12

25 Greenwich Council 'Equality in Procurement: Guidance and Action Plan' (October 2007)

- Training and monitoring criteria

'A contract to supply vehicles, drivers, and provide transport to day centres for elderly and disabled people from different ethnic groups requires the contractor to provide suitable training to all staff who will have contact with their passengers, and to take other reasonable measures to ensure that all service users are treated with dignity and respect, taking account of cultural differences. A questionnaire is used to measure user satisfaction with the service, with an associated target that there should be no difference in satisfaction rates according to ethnicity²⁶.

Activity: Prepare for the equality considerations in bids

Public authorities create a framework within which many third sector organisations can prepare bids and demonstrate their competence. Before tendering for contracts with public bodies:

- Make sure you have the relevant equality information easily available for all members of the bid team.
- Your organisation should respond positively to equality aspects of any procurement.
- By implementing the actions in this guide you are more likely to be able to demonstrate that you can fulfill the relevant equality requirements of procurement.

26 Greenwich Council 'Equality in Procurement: Guidance and Action Plan' (October 2007) adapted from guidance issued by the former Commission for Racial Equality

Case Study Four

NACRO



Introducing NACRO

Nacro's mission is 'to reduce crime by changing lives.' Its vision is to secure recognition 'as the leading crime reduction charity, delivering high quality preventive and resettlement services and working in partnership with others to persuade the public that changing lives is the most effective way of reducing crime. Currently, it prioritises work in three areas – prevention and early intervention, offender management and resettlement.

Nacro has 1500 staff and volunteers. It has an established HR strategy, recruitment policy and equality and diversity policy. It has a Board of 24 members.

Nacro highlights three key values in its work:

- 'inclusion and diversity. 'We work with the most disadvantaged people, offenders and those at risk of offending, to create opportunities to make positive changes to their lives;
- personal development and empowerment of our service users to enable them to achieve their full potential in our society;
- using its expertise and influence to secure changes in public policy which promote socially inclusive ways of reducing crime.'

Nacro's action

1. What happened and what inspired the action?

'Equality and valuing diversity has always been an integral value in everything that we do at Nacro which has allowed us to be proactive in looking at all parts of our organisation.

With a review of our equality scheme and changes to the equality act we included a strategic objective on our procurement activities – which is to: ensure E&D is integrated adequately into tenders, ensure we are able to demonstrate our equality credentials to funders/commissioners.

As a consequence we have moved to be more consistent and coordinated in our approach and have developed a template of Equality related documents that are requested from prospective suppliers but also from us as a provider of services.'

What were you trying to achieve?

'As a socially aware organisation operating in a community sensitive sphere, it was necessary in ensuring that our procurement activities, practice and procedures contributed to local sustainability and regeneration, and local citizens/service users have a right to expect that the money spent on goods and services will promote and protect equality and does not lead to unfair discrimination or social exclusion.

We want to ensure that suppliers and funders can see that Nacro:

- Secures good overall value for money in terms of the goods, works and services we purchase.
- Improves the quality, responsiveness and appropriateness of our services.

- Ensures that public money is not spent on practices that lead to unfair discrimination.
- Contributes toward a diverse and integrated workforce.
- Delivers more responsive and flexible services in combating social exclusion and building stronger and cohesive communities.
- Encourages other organisations to promote and practice Nacro's policies on equality.'

2. Who was involved?

'The board of trustees provided the leadership to ensure that this became a strategic objective to be reported upon. Our procurement team led in the development of a template for all users with the support of the Head of Equality.'

3. What went well?

'The development of the toolkit and guidance for prospective suppliers and its inclusion into the procurement process went well, along with the buy in from the business as to the benefit it would have.'

4. What did not go so well?

- 'The development of a matrix that could weigh submissions is not fully developed. Although we can be satisfied that each of our suppliers have the appropriate policies and procedures in place, we need to have clearer understanding of their value to individual contracts as well as to Nacro's objectives.'

5. What would you do next time?

'Spend the time to ensure a weighing mechanism can be applied and presented with each tender either received to submitted.'

6. How was it implemented?

'Current implementation is through the procurement team supported by specialist knowledge from the Head of Equality. Similarly all tender and/or contractual submissions we pursue as a supplier also goes through equality quality assurance before submission.'

7. What has been the overall impact?

'We have seen improvements in the monitoring data that we collect and/or submit, a clearer set of expectations from our suppliers and third party agents on their contractual responsibilities on equalities as well as a confidence in the quality of tenders that we submit – particularly as we now have an evidence base of our activities in promoting equality.'

8. Are you planning any future developments to maximise the impact of this process/policy or plan?

'Key improvement planned is a generic weighing tool that we can apply to all prospective tenders.'

9. What one piece of advice would you give organisations in a similar situation?

'Keep your equality requirements in tenders proportionate and use it wisely. Remember promoting inclusion is everyone's responsibility and sometimes organisations (large or small) need guidance and support in what to do – not to be disadvantaged by it.'

Contact

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Definitions

Detriment arising from disability

This is a new type of disability discrimination that has been introduced by the Equality Act 2010. It is when an employer treats an employee unfavourably because of something arising in consequence of the employee's disability, and it cannot be justified in relation to the job. For example, dismissing someone because of their poor attendance record when their absence was (a) as a consequence of a disability and (b) without the employer being able to show that the dismissal was a proportionate means of achieving a legitimate aim.

Direct discrimination

When someone is treated less favourably than others because of a protected characteristic, whether or not the person possesses that protected characteristic. For example not employing someone because they are a woman or they are a particular race or because they are a carer of a disabled person. Only direct age discrimination is capable of justification.

Discrimination by association

This arises from a person's association with someone who has a protected characteristic whether it is disability, or is of a particular age, sex, sexual orientation, racial origin or religion or belief. For example, if someone is caring for a disabled family member and is then discriminated against because of this association.

Discrimination by perception

When someone is perceived to possess a protected characteristic. For example, where someone is wrongly regarded as gay, or where they are treated less favourably because they are wrongly thought to have particular religious views, or to be of a particular age.

Duty to make reasonable adjustments

Where an employer or service provider's provision, criterion or practice puts a disabled person at a substantial disadvantage in relation to others who are not disabled, the employer or service provider has a duty to take reasonable steps to avoid the disadvantage, including changes to physical features, providing auxiliary aids and providing information in accessible formats.

Diversity

Diversity adds an extra dimension to equality of opportunity. It encompasses all types of difference beyond those covered by the legislation, and focuses principally on the individual. Diversity includes every kind of difference that makes each person unique and distinct. Diversity seeks to increase people's awareness, celebration and positive acceptance of individuals and their differences. Valuing diversity involves the demonstrable inclusion of diverse employees and service users by having policies, procedures and practices that take their diverse needs and preferences into account.

Equality

Equality is associated broadly with the legislative framework. Its thrust is focused on rights and responsibilities and anti-discrimination. Equality involves the development of practices to ensure that groups which continue to be disadvantaged gain access to opportunities for full

participation in society, with legal sanctions directed against those who violate this principle.

Equality Impact Assessment

An assessment that examines the impact of an organisation's policies and practices and asks whether equality groups are being fairly treated. The assessment will include looking for opportunities to promote equality that have previously been missed or which could be better used, as well as negative or adverse impacts that can be removed or mitigated.

Genuine occupational requirement

If an employer can show that possessing a particular protected characteristic is a crucial requirement for a job and is a proportionate means of achieving a legitimate aim, then the employer will not be acting unlawfully to refuse to employ someone who does not possess that characteristic. For example, an organisation for deaf people might legitimately employ a deaf person who uses British Sign Language to work as a counsellor to other deaf people whose first or preferred language is BSL.

Harassment

Unwanted conduct related to a relevant protected characteristic that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive working environment. This also includes protection against third-party harassment i.e. from service users, sub-contractors etc, where the employer has failed to take reasonable practicable steps to prevent the harassment.

Indirect discrimination

When a policy, practice or procedure that applies to everyone has an effect which particularly disadvantages people who share a protected characteristic, and which cannot be justified in relation to the job. This includes practices which might look fair but which have discriminatory side effects.

Mainstreaming

Mainstreaming should bring consideration of equality issues right into the core of an organisation's work, so that they are central to all activities. Mainstreaming should ensure that equality considerations are "built in" from the beginning, rather than "bolted on" at the end. With careful and considered implementation, it can be a strategy for transformation, with the potential to achieve sustainable change.

Outcomes

These are changes that happen as a result of your organisation's activities in the area of equality and diversity. Examples include: increased use of your services by people from all people who could benefit from them, increased satisfaction with your services from users from older people or equality of training opportunities across staff from different groups.

Positive action

This is when proportionate steps are taken to enable or encourage people who share a protected characteristic to overcome or minimise a disadvantage, to meet their needs or to participate in an activity when there are disproportionately low number of such people. Examples would include setting equality targets (but not quotas which are unlawful); encouraging people from particular groups to apply where they are under-represented; training for promotion or skill training for employees from under-represented groups who show potential.

Positive discrimination

Positive discrimination refers to the preferential treatment of people with a protected characteristic and it is unlawful. There is, however, lawful exception which allows for positive action.

Prejudice

The act of judging someone or something based on stereotypes.

Procurement

The process by which a public authority enters into a contract with an external supplier to carry out works or provide goods and services. The term encompasses the full range of public authority contracts, including private finance initiatives (PFI) projects and public private partnerships (PPP). It does not include the decision to 'buy' from an external supplier.

Protected characteristics

The protected characteristics as listed in the Equality Act 2010 are sex, sexual orientation, marriage or civil partnership, gender reassignment, race, religion or belief, age, disability, pregnancy and maternity.

Reasonable adjustment

Where a disabled person is at a substantial disadvantage in comparison with people who are not disabled, there is a duty to take reasonable steps to remove that disadvantage by (a) changing provisions, criteria or practices, (b) altering, removing or providing a reasonable alternative means of avoiding physical features and (c) providing auxiliary aids.

Sexual orientation

An attraction towards persons of the same sex, the opposite sex or both sexes.

Stereotype

A fixed notion or conception of people based on their group identity. Stereotyping often leads to prejudice and discrimination.

Transgender

Umbrella term for a person who believes their biological sex does not match their assigned gender.

Vicarious liability

This is an employer's legal responsibility for discrimination and harassment which occurs in the workplace or in connection with a person's employment. The employer is legally responsible unless it can be shown that 'reasonable steps' have been made to reduce this liability.

Victimisation

When a person is treated less favourably because they have made a complaint about discrimination or have given evidence in a discrimination case. Examples of victimisation can include being ostracised by colleagues, being labeled as a 'troublemaker' or being denied promotion.

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ACEVO is the professional body for third sector chief executives. We connect, develop, support and represent our members, to increase the sector's impact and efficiency.

We promote a modern, enterprising third sector, and call upon organisations to be:

- **Professional and passionate** in achieving change and delivering results
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