



Equality and  
Diversity Forum

**Workplace equality:  
turning policy into practice**

A report for the Equality and Diversity Forum

November 2010

Frances McAndrew, McAndrew Management

## **About the Equality and Diversity Forum**

The Equality and Diversity Forum (EDF) is a network of national organisations committed to equal opportunities, social justice, good community relations, respect for human rights and an end to discrimination based on age, disability, gender and gender identity, race, religion or belief, and sexual orientation.

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This paper was commissioned by the Equality and Diversity Forum in 2010. The views expressed in the paper are those of the author and are not necessarily those of the Equality and Diversity Forum or its members.

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## Foreword by the Equality and Diversity Forum

The Equality and Diversity Forum (EDF) is proud of the work we have done to strengthen Britain's anti-discrimination legislation: recent years have seen many welcome changes including better protection from discrimination on grounds of age, religion or belief and sexual orientation; rights to request flexible working; family friendly policies; and, most recently, the Equality Act 2010. Yet the potential gains from these measures will only be achieved if they are reflected in what actually happens in workplaces. That is not yet happening to the extent that many of us would wish, with the result that neither employers nor employees are gaining the full benefits of improved national equality laws and policies.

In a climate of substantial cuts in public spending and slow recovery from a deep recession the danger is that employment equality will take a back seat. It is this concern that led us to launch 'Workplace equality: turning policy into practice', the project on which this report is based. With the support of the European Commission, we held a series of expert regional roundtables in the summer of 2010, bringing together employers, employees and equality experts to explore why equality law is not always a workplace reality and to generate practical ideas for narrowing that gap.

This report by Frances McAndrew draws together insights from the roundtables with additional material to show that, in many cases, what is needed is not new legislation or even new guidance. Frances' report demonstrates that some of the reasons why discrimination persists can be relatively easily addressed: problems include seeing equal opportunities entirely as a Human Resources matter, fear of 'getting it wrong' on the part of employers and advisors, poor communications and difficulties accessing guidance about the law and how to implement it. Although greater awareness is important, the answer is often not more guidance or new tools but better dissemination and use of what already exists.

Now that the Equality Act 2010 has come into effect, and in challenging economic times, both employers and employees need support to ensure we can keep moving towards workplaces in which everyone can flourish and fulfill their potential. The recommendations in this report provide an excellent starting place for the next stage of that journey.

Amanda Ariss  
Chief Executive, Equality and Diversity Forum



## Executive Summary

Despite having some of the most far-reaching equality legislation in the world, the reality of day-to-day employment experiences in England is that these legislative rights are not being fully translated into practice.

This report presents the views of a selection of employers, employees, employer organisations, trade unions, user-led organisations, advocacy groups, social housing providers, skills councils, equality consultants, citizen's advice, and national, regional and local public sector organisations on this issue as gathered at a series of regional round table consultation events. It also highlights participants' perspectives on the barriers to full realisation of workplace equality rights and possible new solutions to bridge the gap. This challenging issue is also considered in the context of wider research.

The reasons for this gap are many and complex and in some ways mirror the gap between a great deal of policy rhetoric and reality. Bridging the gap will require policy makers, advice providers, unions, employers and employees to invest time and energy in acquiring new knowledge and skills. Applied well, this investment will reap rewards and may even be able to play some part in helping businesses to weather the current economic storm.

Based on the input from consultees, this report suggests some specific measures for those concerned to help change the reality of workplace practice.

The report recommends that policy makers and public bodies:

- increase the availability, accessibility and relevance of equality guidance;
- build the capacity of third sector equality advice providers to respond to the industry specific needs of employers;
- harness public sector buying powers to influence the private sector to focus their attention on equality;
- 'name and shame' persistently non-compliant employers;
- develop the equality competencies of middle managers.

It recommends that third party organisations:

- improve their knowledge of different business sectors and their unique diversity challenges in order to better provide tailored equality guidance;
- work in partnership to offer employers and employees a 'no wrong door' service;
- offer additional direct support to the victims of discrimination.

It recommends that employers:

- establish a clear picture of their existing diversity strengths and weaknesses and unique workplace culture;

- build customised equality action plans that respond to any problems identified;
- establish how they will check progress on these action plans from the start;
- create their own bespoke business case setting out their commitment to diversity and the specific benefits of this commitment;
- develop their diversity management skills so that they are better equipped to harness the benefits and manage the challenges of diversity;
- work in partnership with unions to explore the mutual benefits of allowing union officials dedicated time to promote workplace equality rights;
- with sufficient resources and will, work with schools and further education providers to challenge stereotypes and occupational segregation.

Finally, the report recommends that employees:

- invest some time in finding out what their equality rights are;
- take up any opportunities offered to influence workplace equality practices;
- seek specialist support when they are experiencing direct discrimination, prejudice, harassment or victimisation.

## 1.0 Introduction and background

The last ten years have seen a considerable expansion of the rights people have to protection against discrimination in the workplace. Partly in response to European directives, we have seen new anti-discrimination rights for employees on the grounds of age, religion or belief and sexual orientation. New legislation and case law developments have also enhanced existing anti-discrimination rights relating to disability, gender, gender identity and race.

Alongside these explicitly discrimination-based rights, employees have new or enhanced rights in relation to maternity, paternity and parental leave and the right to request flexible working to care for children or support older or disabled people.

Since 2001, the public sector has been acquiring new legal duties to promote equality on the grounds of race, then disability and then gender, as employers and when delivering services. This unprecedented period of change culminated in the 2010 Equality Act designed to transform the legislative landscape on equality by strengthening, harmonising and streamlining over 116 pieces of existing legislation.

Given the misleading media coverage, the confusing array of advice sources and the ongoing economic crisis, it would be easy for the aim of the Equality Act to be misunderstood, misrepresented or even neglected. According to the Equality and Human Rights Commission (EHRC) 'the message (or purpose) of the Equality Act is that everyone has the right to be treated fairly at work or when using services'.<sup>1</sup>

Further, the EHRC goes on to say that the Act is 'based on the common values of decency and fairness – an ethos which all but the minority of employers are already signed up to – so we hope that you will find the law to be a useful framework for treating your employees as fairly as possible'. Undoubtedly some of this simplicity had disappeared before the ink had dried on the statute books, which is why employers need to keep the spirit of the legislation central. An approach based solely on trying to comply with legislation will do little to create results, maintain momentum or keep people on board.

Despite some of the most far-reaching workplace equality rights in Europe, the reality of day-to-day employment experiences falls short for many. There is of course a wide variety of practices across different workplaces: at one end of the spectrum are the leading employers who understand the link between a diverse and engaged workforce and gaining and retaining competitive advantage particularly during tough economic times. At the other end of the spectrum are those who knowingly ignore or flout discrimination laws. The majority of companies sit somewhere in the middle.

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<sup>1</sup> Equality and Human Rights Commission (2010) *Equality Act Starter Kit*.

The 80,000 discrimination cases that were taken forward to employment tribunal in 2009 are likely to represent only the tip of a discrimination iceberg, suggesting that a gap clearly exists between what equality laws state should happen and what often happens in practice.<sup>2</sup> This gap exists despite the availability of a wealth of guidance and toolkits to support new rights, advice being available from ACAS and others, and numerous awareness-raising campaigns.

It is important to consider that any successes translating equality law into practice in the last decade have largely been achieved during a period of sustained economic growth. The economic context changed in August 2007 when over £45 billion was pumped into financial markets by the US Federal Reserve and the European Central Bank marking ‘the cut-off point between “an Edwardian summer” of prosperity and tranquility and the trench warfare of the credit crunch - the failed banks, the petrified markets, the property markets blown to pieces by a shortage of credit’.<sup>3</sup> The ongoing economic crisis could lead to the deprioritisation of equality work by many organisations and disproportionately negative impacts on individuals from minority groups.<sup>4</sup>

This ‘Turning policy into practice’ report highlights some of the day-to-day experiences of employers and employees of trying to translate their legal duties or rights into practice. It does not set out to provide another step-by-step ‘How to do diversity at work’ guide or a comprehensive picture of workplace equality. Rather it aims to provide qualitative insights as to why existing guides, toolkits and advice may not be having their intended impact. In addition, the consultation process underpinning this report generated some practical new solutions and innovative ideas that could help to overcome these barriers and narrow the gaps between rights and realities.

Although law enforcement and access to justice once discrimination has occurred are important, the focus of this project is a preventive one: how can employers and employees reduce the likelihood that discrimination, prejudice or harassment will occur in the first place.

In considering practical solutions and recommendations it is important to keep them as relevant and useful for small to medium-sized enterprises (SMEs) as for larger employers given that over two thirds of UK employees are employed in SMEs.<sup>5</sup> It is also crucial to consider the economic realities facing employers and the cost benefit analyses that must influence all business decisions and priorities.

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<sup>2</sup> Ministry of Justice Tribunals Service (2010) *Employment Tribunal and EAT statistics 2009-10 (GB) 1 April 2009 to 31 March 2010*.

<sup>3</sup> Elliot, R. (2008) ‘Credit Crisis: How it All Began’, *The Guardian*. Available at [www.guardian.co.uk/business/2008/aug/05/northernrock.banking](http://www.guardian.co.uk/business/2008/aug/05/northernrock.banking).

<sup>4</sup> For examples, see Equality and Human Rights Commission and Government Equalities Office (2009) *Monitoring update on the impact of the recession on various demographic groups*. Available at [http://www.equalityhumanrights.com/uploaded\\_files/research/impact\\_of\\_the\\_recession.pdf](http://www.equalityhumanrights.com/uploaded_files/research/impact_of_the_recession.pdf).

<sup>5</sup> European Commission (2008) *Continuing the Diversity Journey: Business Practices, Perspectives and Benefits*, p. 8.

## 2.0 Methodology

In the summer of 2010, the Equality and Diversity Forum (EDF) with the English Regions Equality and Human Rights Network (EREN) and Equality South West, held a series of expert roundtables to consider why gaps exist between equality laws and the translation of these into practice.

The roundtable consultations were facilitated by members of EREN, Equality South West and EDF and took place in Taunton, Newcastle upon Tyne, Cambridge and Birmingham. Regional speakers stimulated discussions with short, thought provoking presentations from the perspective of employers, employees, regulatory bodies, advisory organisations and unions, after which delegates provided feedback on key questions.

Those attending represented a wide range of views and included employer organisations and trade unions, user-led organisations, advocacy groups, social housing providers, skills councils, equality consultants, citizen's advice, and national, regional and local public sector organisations. Quotes from a range of individual consultees who attended the round table events are provided in boxes throughout the report, along with some bespoke solutions shared at the consultations.

The events also set out to find practical ways to embed equality law into the workplace in order to prevent discrimination before it occurs. The consultation process looked for solutions that could be delivered in a challenging economic climate, with an emphasis on partnership between different actors.

The events centred on the following questions about equality in the workplace:

- What are employers' experiences of embedding equality law into practice?
- What are employees' experiences of exercising workplace equality rights?
- What role do third parties play in implementing equality law at work?
- How entrenched are the barriers to putting the law into practice?
- What challenges do external agencies face in influencing employers?
- Where are the skills and knowledge gaps for employers and employees?
- What can employers, employees and external agencies do differently?
- What support do all parties need to narrow the gaps?

The 'Turning policy into practice' report is part of the wider 'Making a reality of equality and non-discrimination' project which is being delivered by EDF with the support of PROGRESS, the European Community Programme for Employment and Social Solidarity.

The report was launched at a conference in November 2010 attended by employers, employees, regulatory bodies, unions, advisory organisations and equality bodies. In addition to the input from those attending the consultation events, it includes ideas and issues set out in other European Commission anti-discrimination publications, as well as providing links to case studies and additional resources.

## **3.0 Experiences of workplace equality**

### **3.1 What are employers' experiences of embedding equality law into practice?**

Undoubtedly there are many employers who fully realise all the benefits that having diverse and engaged staff can bring. They excel at translating the letter and spirit of the law into practice and harnessing the benefits that this can bring, not least to the bottom line. A brief online search produces many case studies of (mainly large) employers succeeding in building diversity into their businesses or at least in delivering good practice on one equality issue such as disability or age.

These exemplary employers remain the exception, and even within these organisations there will be employees whose experience of workplace equality falls short of the mark. In some senses the analogy of a journey is a useful one. Rather than residing at opposite poles of a 'poor to excellent at workplace equality' measure, employers will more likely be at one of a wide range of different points on a long and complex journey. Feedback from respondents would suggest that many well-intentioned employers are held back on their journey to diversity excellence by fear; fear of getting things wrong, fear of appearing unskilled, fear of somehow precipitating litigation, and fear of transparency.

It could be argued that the field of equality and diversity management has become overly complex. What is primarily a matter of common sense has been weighed down by a confusing legislative landscape and anomalies in rights; and by the jargon and politically charged arguments that accompany it. This escalates the sense of fear and apprehension that ultimately deters some employers from engaging with equality issues at all. The complexity has also left some employers believing that the pursuit of diversity is somehow at odds with their aim of 'just wanting to find the best people'.

Many employers also fear that any commitments to workplace equality will be costly both in terms of time and money, especially if changes to policies and practices are needed. Employers have many competing priorities and most SMEs don't have access to a dedicated Human Resources (HR) manager. The initial cost of acquiring the requisite knowledge is perceived to be time spent not generating profits and cash. Any employer will need to be persuaded that the potential financial benefits of equality in the workplace outweigh the costs of getting there – especially during a period of economic crisis. Employers want simple, easy-to-implement solutions, not overly bureaucratic processes.

Many employers, especially SMEs, acknowledge that they have limited expertise and little experience of working on equality. Whilst buying off-the-shelf equality training would be an easy step to take, many are looking for a more bespoke solution. Equality legislation is framed largely in terms of what should not be done, with little about what employers should be doing. Knowing how to get hold of simple, relevant, trustworthy advice appears to be the real issue.

'We used to employ outside companies to advise on employment law, but we're moving away from that and saying we'll check it out on the website, but then it's not written in a way that we can understand or interpret, and then trying to find somebody on a one off question about any kind of employment law, is very, very difficult.'

SME employer, Cambridge consultation event

### **3.2 What are employees' experiences of exercising workplace equality rights?**

Some employers have been able to go well beyond bare compliance and harness the discretionary efforts of engaged employees who feel enabled, involved, valued, respected and heard.<sup>6</sup> Other employees who have clear expectations of how they would like to be treated still lack the understanding of what their specific workplace equality rights are. Employees often feel that they lack the knowledge, skills or confidence to challenge those in power.

Exercising workplace equality rights can prove particularly difficult in larger organisations when inequality occurs as a result of exclusive cultures, systemic barriers and unfair hierarchies. Even in smaller workplaces the unwritten norms, cultures and practices that exist can create indirect and unintentional discrimination. Whilst less overt than direct discrimination, the impact of cultural issues is no less damaging. For example, an employer may have an exemplary flexible working policy but employees who are too intimidated by the prevailing long hours culture to make a request.

'The next stage is very much in terms of looking at informal or unwritten working practices....the aim is to find if there's a gap between what is written in the policy and every day working practices within the organisation.'

Public sector organisation representative, Birmingham consultation event

'Fear' was cited by many consultation participants as a common outcome and perpetuator of workplace inequality for employees. This includes fear experienced as a result of direct prejudice or harassment and fear of the consequences of challenging direct or indirect discrimination, especially involving those in more powerful positions. Should a grievance not be dealt with sensitively, employees fear victimisation or losing their job.

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<sup>6</sup> MacLeod, D. and Clarke, N. (2009) *Engaging for Success: Enhancing Performance Through Employee Engagement*. London: Department for Business, Innovation and Skills

Challenging inequalities, at least in the private sector, remains largely an individual responsibility.<sup>7</sup> Progressing equality at work has often therefore been very much reliant on one brave and / or angry individual. Often an individual employee can feel isolated and unsupported, particularly if they judge Human Resources to be ‘on the employer’s side’. In such cases, or where there is no HR function or union representation, to whom can employees go for help?

### **3.3 What role do advice and support organisations play in implementing equality law at work?**

Many individuals from advisory bodies, unions and other third sector organisations involved in this consultation were aware that despite their best efforts a lot of employers and employees are still not sure who or where to go for advice on workplace equality issues.

It could be argued that there are too many potential sources of generic support, from local business support organisations, to national charities, regulatory bodies and online advice providers. That said, those advice organisations that had managed to get in the door were able to cite positive impacts from their efforts.

Trade union representatives described the difficulties that their officials have trying to find enough time to tackle complex discrimination matters whilst carrying out their day jobs, given that equality representation is not normally included in official union ‘reasonable time off from duties’.

‘We, as a union, have been campaigning for equality reps for several years now.... this company took this issue very much to heart and began to understand how effective it could be and are looking at ways it could be developed.’

Union Representative, Cambridge consultation event

### **3.4 Wider research**

A report published by the Trades Union Congress (TUC), the Confederation of British Industry (CBI) and the EHRC confirmed many of the points made by contributors to this consultation.<sup>8</sup> One large employer succinctly summed up the need for organisations to go beyond box-ticking because ‘Tackling the complexity of organisational culture requires a focus on what drives behaviour – this has taken us

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<sup>7</sup> The public sector equality duties make challenging discrimination an organisational issue.

<sup>8</sup> Equality and Human Rights Commission, TUC and CBI (2008) *Talent not Tokenism: the Business Benefits of Workforce Diversity*.

into the realms of organisational psychology so that we can each better understand ourselves and thus each other.’<sup>9</sup>

In fact some research suggests that simply increasing diversity in a numerical sense without effective management can reduce organisational performance. This diversity paradox is summed up as follows: ‘When managed poorly it [diversity] can be as disruptive as it can be beneficial, when managed well’.<sup>10</sup> There is a risk that without skilled and ongoing management of diversity, the potential benefits remain dormant and employers are left unconvinced of the business case.

Research published by the European Commission (EC) suggests that most SMEs currently receive no advice on diversity.<sup>11</sup> Those that do will go to their own professional networks first, then to government sources or business support organisations. A few might look further afield to their wider informal networks and even customers.

Those involved in the above EC research found that SMEs prefer guidance to be linked very specifically to their type of business operation and contexts. Other advisory bodies mentioned that many SMEs were not prepared to risk the problems and conflicts that they believed would be created by having a diverse workforce.

Literature produced as part of the EC’s ‘For Diversity: Against Discrimination’ campaign echoes the points made by consultees about the importance of tackling informal workplace cultural issues: ‘Fighting stereotypes and deeply rooted patterns of thinking, based on fear and lack of knowledge is difficult but crucial.’<sup>12</sup>

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<sup>9</sup> Equality and Human Rights Commission, TUC and CBI (2008) *Talent not Tokenism: the Business Benefits of Workforce Diversity*, p.11.

<sup>10</sup> Basset-Jones, N. (2005) ‘The paradox of diversity management, creativity and innovation’, *Creativity & Innovation Management*, vol. 14, no. 2, pp. 169-175.

<sup>11</sup> European Commission (2008) *Continuing the Diversity Journey: Business Practices, Perspectives and Benefits*, p. 34.

<sup>12</sup> European Commission (2008) *Communicating Equality and Non-Discrimination in the European Union*, p. 3.

## **4.0 Barriers to implementing equality policy and the full realisation of workplace equality rights**

### **4.1 How entrenched are the barriers to putting the law into practice?**

In contrast to the messages conveyed in many good practice guides, it was suggested by consultees that employees are far more reliant on middle managers than leaders to translate equality laws into practice. Clear direction on and commitment to equality from leaders may start an organisation on an equality journey but if there is unfair or inconsistent execution of policies by line managers or middle managers then the whole thing grinds to an abrupt halt.

A diverse organisation will undoubtedly include an equally diverse range of attitudes, stereotypes and prejudices. These will present real barriers to translating equality laws meaningfully into practice. One challenge for line managers is to role model acceptable behaviours. They also need to develop the competencies required to performance manage employees' behaviours should they fall short of clear equality standards whilst respecting their right to hold private beliefs.

This is particularly relevant when considering management of workplace equality rights which may appear to be competing, for example religion and sexual orientation. The barrier to realising rights in this matter appears to be one of expertise and confidence: 'In most circumstances, approaches to managing and resolving conflict can and should be considered simply as a part of good management. Emphasising that this is also true in the case of competing equality claims may help employers overcome their fears that such cases are "special" and fall somehow outside traditional management expertise'.<sup>13</sup>

A common difficulty for many organisations is the unwillingness of employees to mention informally or formally any grievances they may have about equality. On some occasions this may be because they are unclear about how to do this or because no grievance process exists. However a more frequent explanation cited by those participating in this research was the belief that the employer would not deal with the problem in a skilled way. Employees quickly learn from experience that either nothing changes or the matter (too) quickly escalates, the relationship between the employer and employee becomes adversarial and the employee loses control of the process.

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<sup>13</sup> Equality and Diversity Forum and brap (2010) *Managing Competing Equality Claims*, p. 21.

‘There's threats of disciplinary action, and my concern is what that does to the culture of the organisation because what we want to try and get to is a position where organisations are more open and there's discussion and there's an actual inquisitiveness about the protected characteristics and different groups.’

NHS employer, Birmingham consultation event

In order to achieve a diverse workforce, employers also need to overcome the temptation to always recruit individuals who will ‘easily fit in’. Whilst being a very human inclination, this tendency is likely to perpetuate the existing culture and fail to harness the opportunities for innovation and competitive advantage that diversity and alternative perspectives can bring. This is likely to be an even more intractable issue in SMEs where the culture will be set by the owner or founder.

## **4.2 What challenges do external agencies face in influencing employers?**

The first challenge faced by equality advisory bodies is to be able to engage with employers in a timely and meaningful way. This is particularly problematic in the case of SMEs who often lack the time to digest complex guidance, attend events or even schedule one-to-one advisory meetings.

External agencies also need to overcome a number of common misunderstandings that employers and employees have about equality, including the perception that it is ‘a HR thing’. Consultees felt that this belief gives some employees a rationale for not playing their part, given HR are responsible. This in turn leads to a lack of ownership for driving equality forward across the whole organisation. This view can also be one that is fairly negative and skewed towards compliance and risk management.

Equality can also be pigeonholed as ‘a Corporate Social Responsibility thing’, which, whilst understandable, can limit its impact to a ‘nice to do’ charitable activity. And the view that equality is ‘an initiative’ tends to create a box-ticking, form-filling culture. All three misnomers undersell the fullest possible business case and miss the opportunity to link equality to customers, to innovation, to competitive advantage and to the bottom line.

As one large employer contributing to the ‘Talent not Tokenism’ report explained, ‘Diversity is not a “programme of the year”, where we do our best and then move onto something else; this is a long-term commitment. Only when our own teams truly reflect the diversity of our customers can we best serve them and fulfill their needs.’<sup>14</sup>

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<sup>14</sup> Equality and Human Rights Commission, TUC and CBI (2008) *Talent not Tokenism: the Business Benefits of Workforce Diversity*, p.25.

The range of attitudes and prejudices within any organisation will potentially be as diverse as the workforce it employs. The values and beliefs of individual employers and employees can hinder progress in turning law into practice. These values are informed by much more than the training, policies and practices encountered at work. They will have been to some degree set by the influences of schooling, parenting, media and friends presenting external agencies with a particularly important yet difficult challenge.

A similar societal issue that external agencies need to consider is how to tackle occupational segregation and stereotypes that prevail despite the existence of plenty of evidence to challenge them. Average differences between the sexes indicate that, for example, women and men behave similarly 98% of the time.<sup>15</sup> Yes individuals can be conditioned to believe the stereotypes they experience and act in a way that reinforces them by for example, not applying for jobs they don't think they are suited to, making the recruitment of a diverse workforce even more difficult.

### **4.3 Where are the skills and knowledge gaps for employers and employees?**

'We also want to make sure we're using equality data. There isn't much data, unfortunately. So, through Equality Impact Assessments, we're encouraging services to collect data and put the effort into it because often the data is poor.'

Equality advisory organisation, Birmingham consultation event

One of the biggest knowledge gaps identified by consultees was 'evidence', i.e. employers don't know enough about the diversity of their own workforce and the realities of being one of their employees. For example, the actual barrier to recruiting a diverse workforce could be that informal routes are only ever used, or it could be the language of job advertisements or short-listing processes or interview bias etc. A lack of monitoring data can lead to the adoption of generic, off-the-shelf, unsuitable solutions.

'You might have a fantastic flexible working policy, but the question to ask is: what is the take up of flexible working... it might be that the working culture within the organisation is not supportive of provisions in place, or simply your staff are not aware of when it's available.'

Public sector organisation, Birmingham consultation event,

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<sup>15</sup> Fawcett Society (2009) *Just Below the surface: gender stereotyping, the silent barrier to equality in the modern workplace?* p. 3.

Very few employers, particularly SMEs, have developed their own business case or identified the specific and measurable benefits to their business of becoming better at managing equality. This gap, coupled with the lack of baseline evidence against which to monitor performance, presents a major challenge when needing to justify resources and when trying to build commitment. Even fewer employers have created their own equality metrics to measure the ongoing impact of any work they undertake.

Employers also have limited information about the workplace cultural barriers that make converting equality laws into reality more difficult. This kind of knowledge can be very difficult to acquire mainly because, by their very nature, workplace cultural barriers are likely to be intangible and unwritten. This lack of knowledge is also often coupled with complacency and inertia given the understandable reluctance of many employees to challenge the status quo and the perceived lack of consequences by employers of non-compliance.

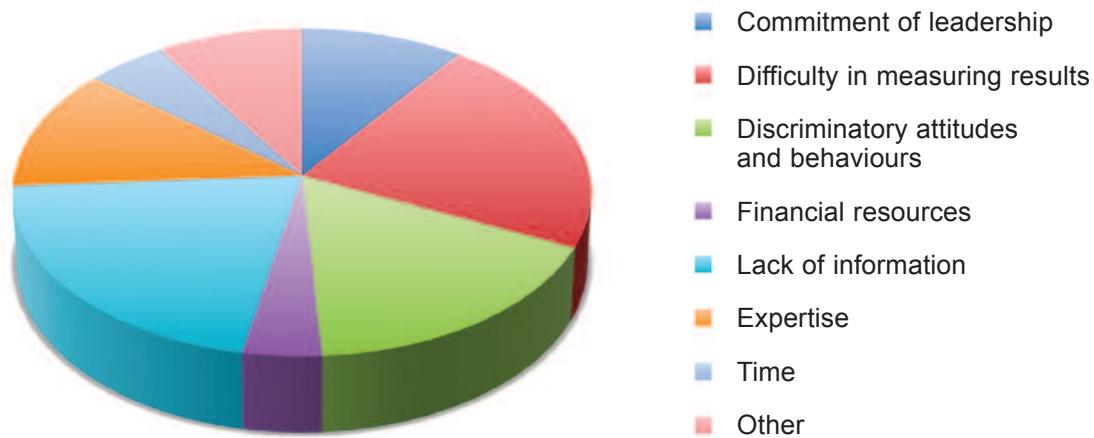
‘Harassment usually leads to sickness and poor performance and so issues are dealt with wrongly as capability issues, training and appraisal issues.’

Employer, Newcastle consultation event

Employers’ limited knowledge of broader equality issues is not only a hindrance in itself but also makes buying in additional expertise difficult: employers simply don’t know who to trust given the array of advice and guidance available. Employers, particularly SMEs, often lack the skills to judge which organisations may or may not provide them with reliable, professional equality support and to interpret generic or legalistic documentation.

#### 4.4 Wider research

A survey of the European Business Test Panel (EBTP) identified the main barriers to successfully promoting diversity in the workplace as difficulty in measuring results, discriminatory attitudes and behaviours, leadership commitment, lack of information and expertise. Financial resources were seen as a less significant factor.<sup>16</sup> See Figure 1.



**Figure 1: Challenges in Addressing Workplace Diversity**

A second survey of more than 1000 European businesses found that company size is a key determinant of whether equality policies are adopted and converted into day-to-day business practices, with larger companies more likely to succeed at this.<sup>17</sup>

This 2008 EC survey also identified distinctive challenges for SMEs on the journey to realizing the benefits of diversity in the workplace. These were summed up as: ‘a very small workforce (the average small enterprise employs just 6.8 staff members), significant levels of employment of family members (around half of SMEs provide employment for family members only), low levels of personnel, time and financial resources, high levels of economic insecurity, and no formal HRM [Human Resources Management] processes’. The survey also noted that in highly competitive markets, SMEs are more willing to invest time and money in new products/services or marketing than in diversity.

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<sup>16</sup> European Commission (2005) *The Business Case for Diversity: Good Practices in the Workplace*, p. 6. The European Business Test Panel is a group of individual companies regularly consulted on European Commission policy initiatives.

<sup>17</sup> European Commission (2008) *Continuing the Diversity Journey: Business Practices, Perspectives and Benefits*, p. 18.

## 5.0 Solutions to narrow the gap between workplace equality policy and practice

This section asks what can employers, employees and external agencies do differently and what support do they need.

### 5.1 Trustworthy tailored advice

Many participants in this research believe that the production of more information and written guidance is not the best way to close the gap between workplace equality laws and practice. Toolkits exist on most issues, case studies abound and equality guidance is plentiful, even if the right piece is sometimes difficult to find. The bigger issue seems to be that the existence of more and more guidance does not equate to more and more competent employers or employees. The question therefore remains, how can information and guidance be transferred into useful knowledge?

Businesses, especially SMEs, need access to trusted advisers able to deliver intelligent, relevant, simple and objective interpretation of the law specifically for their organisation and their issue. Larger employers are more likely to be able to develop or recruit this expertise in-house. Advice providers need to pitch their guidance somewhere between the overly complex legal documentation and the overly simplistic generic guides.

Given the wide range of organisations offering a wide range of equality advice services, from online toolkits to one-to-one consultancy, employers need to know which one they can turn to for answers on specific issues and – more importantly – which advice they can trust. SMEs are most likely to ask their ‘accountant, financial advisor, solicitor or a close relation, or even their bank manager’ for help with diversity issues.<sup>18</sup> It is therefore important that these individuals are equipped to support employers in turning equality laws into meaningful actions.

Upskilling those people that businesses already trust is therefore one potential solution. This development work could, as a minimum, focus on giving accountants, financial advisors and bank managers the skills to guide their clients on how to intelligently source expert equality advice. Improving the signposting and publicity behind existing equality advice services would also help employers and their advisers to find the right answers.

Equality advice providers could also adopt more of a ‘no wrong door’ partnership approach, so that whichever organisation a business approaches first, a degree of handholding takes place until the right provider is found. The development of industry

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<sup>18</sup> European Commission (2009) *Diversity at Work: A Guide for SMEs*, p. 12.

specific equality knowledge amongst providers would also go some way to ensuring that the equality advice provided was fit for purpose.

The 2008 EC research identified some very specific and practical ideas for advice organisations that are supporting SMEs:

- Create awareness of the relevance and value of diversity.
- Focus on the specific needs of SMEs including branch and regional issues.
- Communicate the message in a positive and inspiring way; focus on the economic advantage.
- Share 'best practice' examples – 'best practice' awards can be a great help in promoting the importance of diversity to SMEs.
- Demonstrate how SMEs have overcome barriers to create a functioning and beneficial diversity policy and diverse workforce.
- Create support tools that are personal and direct including training, coaching and discussion.
- Make sure to include middle management, they are even more important than employees to target.
- Offer practical advice and examples that can save SMEs a lot of time.<sup>19</sup>

## What we did....

### Bespoke solutions for a North East law firm

'We regularly provide guidance and support to employers on the business benefits of adopting good equality and diversity practices within the workplace, as well as guidance on how to ensure compliance with the applicable law. In recent months we have delivered a number of training sessions to a wide variety of employer organisations on the implementation of the Equality Act 2010. We have set up an HR Director Forum with a local recruitment company in order to ensure that the decision makers responsible for HR strategy and practice are fully aware of the changes in equality and diversity law.'

Paul Johnstone, Partner, Muckle LLP

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<sup>19</sup> European Commission (2008) *Continuing the Diversity Journey: Business Practices, Perspectives and Benefits*, p. 36.

## 5.2 Appropriate baseline evidence

‘The most important thing is knowing the workforce and the demographics of the workforce.... That gives a snapshot of where the organisation is and hopefully that can be used on a regular basis to monitor progress and look at the impact.’

Public sector employer, Birmingham consultation event

Before committing time and money to converting equality laws into practice, employers need to establish an equality evidence baseline appropriate to their size and the nature of their operations. Not only will this provide a measure for progress but also it can indicate where barriers exist and therefore where action needs to be taken.

SMEs might only want to capture the diversity of their workforce or recent applicants, whilst larger organisations could measure the diversity of shortlisted candidates, newly-appointed staff, promoted staff, pay rates, staff attending training, and those taking out grievances, being disciplined and leaving the organisation. Areas to be monitored could include those protected by the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender and sexual orientation.

Collecting evidence for the first time may seem a daunting task, however considerable amounts of guidance exists on how to do this and even what questions to ask. Stonewall and ACAS have both produced very useful guidance on this matter (see Further information section of this report below) including the groundwork needed to prepare an organisation for successful monitoring.

It is also important to reassure those involved that all information collected will remain strictly confidential. Supplementary statistics about the diversity of suppliers and customers can enhance baseline data as can evidence of local community or industry specific demographics e.g. the percentage of women in IT positions. For this kind of information, the Office for National Statistics is a good place to start.

This skeletal data then needs to be fleshed out with more descriptive evidence of the intangible cultural barriers and indirect discrimination that can inadvertently result from systems and processes that employers put in place. Gathering this kind of information can be more difficult but using anonymous attitude surveys, feedback forms and Equality Impact Assessments (EIAs) can be simple ways to do this. Both ACAS and the EHRC have produced guidance on EIAs (see 7.3 below).

### 5.3 Customised action plans

Different employers will be at different stages of their equality journey and will be heading for different destinations. The actions they need to take will therefore vary depending on the equality evidence baseline they establish and their equality objectives e.g. compliance or best practice. Each employer then needs to create a customised action plan, suitable for their size, from the ideas that follow.

There are a number of fundamental first steps that most experts would agree an employer needs to take. These include providing clear leadership, developing clear policy statements, training and awareness raising activities, auditing existing policies and practices and positive action programmes.

Strong **leadership** was a crucial foundation for equality identified by participants in this research. In practice it involves embedding relevant values into the businesses' vision, mission and business strategy. Communications from leaders should leave employees in no doubt about the businesses' view on equality and discrimination. Leaders need to be able to talk confidently about equality and make their commitment visible through action and through keeping the issue live in conversations with their staff. Leadership is not just about what leaders say but about how they role model the values and behaviours required to help translate equality law into practice.

Consultees also cited the drafting of an **Equality Policy** as an initial step that all employers, regardless of size, need to take. Whilst the exact format of the document may vary, some consistent points need to be made such as the company's equality aims, levels of commitments, values, standards of acceptable behaviour, rights and responsibilities. Additional guidance on how the policy will be implemented and how to raise grievances or make complaints is also important. Further ideas, especially around how to engage staff in the implementation of the policy and a template policy are available from ACAS.<sup>20</sup>

'The question we need to ask is: has your policy changed the environment of the workplace to one where everyone is treated with dignity and respect, where the talents and skills of different groups are valued and where productivity and customer service improves because the workforce is happier and more motivated.'

Large employer, Birmingham consultation event

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<sup>20</sup> ACAS (2010) *Delivering Equality and Diversity*, pp. 6 & 21.

The **positive actions** that accompany the equality policy should be chosen to respond appropriately to the evidence the employer has found of gaps in the diversity of their staff or discriminatory barriers or cultures *and* to the size of the organisation. There are a huge number of possibilities, including:

- targeted recruitment campaigns and career fairs;
- work experience or internships aimed at under represented groups;
- mentoring and training for those not achieving promotion;
- diversity awards to raise awareness of commitment;
- pre-application workshops and open days;
- inter-department secondments;
- networking and sharing good practice.

Responding to evidence of cultural barriers will involve auditing of existing ways of working, policies, systems and processes to ensure that they:

- promote and don't undermine people's dignity and respect;
- accommodate the different needs of employees;
- don't impact adversely on different groups of employees, even unintentionally;
- don't make incorrect assumptions about employees' needs and contributions.<sup>21</sup>

**Cultural change** may also be required and is undoubtedly harder to achieve than some of the other outcomes of equality work. Ideas from consultees included:

- ensuring that the stated values of the organisation are role modeled by leaders;
- embedding equality values firmly into the recruitment and induction process;
- dealing with behaviour which is at odds with these values;
- making the promotion of equality an explicit part of everyone's job.

## What we did....

### Bespoke solutions for a West Midlands NHS employer

This West Midlands employer is developing fairness champions who are hand picked for their skills. The role is both rewarding and demanding as they need to be prepared to put time in to do the work over and above their day job. Those involved are given a very clear brief to work to. One of their main responsibilities

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<sup>21</sup> EU For diversity Against Discrimination (2009) *What can employers do to tackle discrimination and promote diversity: The Right Steps*, p. 3.

is to champion culture change through Equality Impact Assessments. They are not responsible for carrying them out but do need to understand both the process and the issues and improve the quality of the Assessments undertaken. Through this positive action it is hoped that previously unidentified barriers to equality will surface and can then be challenged in an effective way. This employer is also using Equality Impact Assessments to improve the quality and quantity of data it has about equality outcomes.

If evidence gathering uncovers direct discrimination then this needs to be addressed quickly, calmly but firmly. Guidance on how to deal with this can be found on the EHRC website.<sup>22</sup>

If discrimination is a recurrent problem then various forms of additional support could be provided to employees, for example:

- a dedicated helpline;
- information about rights in simple language;
- specialist advice on challenging discrimination;
- realistic guidance on the likely outcome of pursuing a complaint;
- access to professional counseling to rebuild self-esteem;
- mediation.<sup>23</sup>

‘To prevent discrimination employers need to raise awareness of what discriminatory practice is / looks like, and make sure there is a strong message that it is not acceptable and all are equipped and supported to change behaviour as necessary.’

Larger employer, Newcastle upon Tyne consultation event

**Training** obviously has a role to play in combating overt discrimination. It can also be used in a more positive way to explain the employer’s commitment and approach to equality. As a minimum it needs to explain the business case and clarify employees’ legal rights and responsibilities, especially with regard to recruitment and managing people.

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<sup>22</sup> Available at <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/-what-to-do-if-someone-says-they-ve-been-discriminated-against/>.

<sup>23</sup> European Commission (2005) *Combating Discrimination: A Training Manual*, p. 33.

For SMEs, online staff training may provide a cost effective solution, although training delivered in a fairly generic way has its limitations. The use of scenarios, case studies and practical interactive action planning sessions can make training more meaningful, aid learning and increase the likelihood that delegates will take action. Mainstreaming equality into other training programmes such as induction, management and leadership development is also vital.

## **5.4 Meaningful equality metrics**

A minority of employers measure the effectiveness of the steps they take along their equality journey. Most do not know if they are making progress or if they are heading in the right direction. According to the EBTP, only 30% of companies monitor the impact of their equality work.<sup>24</sup>

The use of meaningful metrics not only ensures value for money, but it also provides weight to the business case and helps to convince any doubters of the need for continuing effort.

The difficulty is to measure what really counts and not just to count the things that can be measured. Metrics used need to align with equality objectives set and continue to monitor simple workforce demographics as well as track progress towards more sophisticated outcomes. Some of the ideas from consultees include gathering customer feedback, benchmarking against competitors, building the achievement of progress against equality objectives into senior managers performance related pay assessments, and measuring employee morale. For SMEs, measures might include gathering regular anonymous feedback from staff and customers (see ACAS for suggestions) or periodically undertaking one of the many independent online equality audits.

Some of the indicators used by EBTP members are: ‘the increase in the representation of women, disabled people and ethnic minorities, especially at senior levels, in some cases linked to specific targets for each; the retention rate for high calibre managers, especially women and ethnic minorities; and the improvement in employee perceptions of diversity issues, measured against a target percent satisfaction rating in employee attitude surveys’.<sup>25</sup> For larger employers, the CIPD website provides advice on creating an organisation specific diversity balanced scorecard (see 7.3 below).

## **5.5 Bespoke business case**

Having a clear rationale explaining why an organisation is devoting precious time to equality is essential. This ‘business case’ also needs to spell out the potential

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<sup>24</sup> European Commission (2005) *The Business Case for Diversity: Good Practices in the Workplace*, p. 6.

<sup>25</sup> European Commission (2005) *The Business Case for Diversity: Good Practices in the Workplace*, p. 27.

benefits of committing any resources. An online search for 'diversity business case' produces numerous ready prepared examples, e.g. on the Business Link website.

Whilst these are a useful starting point, a much more powerful solution is to create a bespoke business case suited to each employer's particular culture, values and business objectives. For example, if the organisation is very risk averse then a business case focusing on compliance maybe more effective. This approach works well regardless of the size of the business. In fact it can be even more applicable in an SME where readymade arguments rarely fit.

In addition to the case for a diverse workforce, organisations need to consider how equality will be of benefit to other business objectives focused on marketing, sales, suppliers, operational efficiency, innovation and the bottom line. A company specific business case can also be used to overcome fear and dispel myths about political correctness or that time spent on equality is a 'distraction from real business'.

A large employer who contributed to research led by the TUC spelled out how their business case links investment in equality to employee satisfaction which in turn leads to increased customer satisfaction and loyalty: 'We realised that to have happy and loyal customers, we would need to employ happy and loyal staff. The answer was a competitive benefits package, including flexible working which is available to everyone'.<sup>26</sup>

### What we did....

#### **Bespoke solutions for an East of England independent garage**

Andy's Kars is a local family-run garage that services and repairs cars. It has also been recognised with a Remploy Leading the Way Award for its efforts in enabling disabled people to realise their working potential.

Andy Kent, the owner, explained the benefits of his focus on equality: 'Far too many businesses make the excuse of cost. There's a gain, rather than a cost, if only they would think about it...the benefits are you get extreme loyalty from staff. So that in itself has a knock-on effect to the customers as well, because if you have good staff who enjoy what they're doing and doing it because they want to do it, then you get more customers, and we get more customers because they tell their friends and they travel from further distances as well. As a business, 50% of our customers come from the fact of what we do, I'd say. One of our biggest customers actually brings vehicles into us from all over the country now just because of what we do. If we didn't do it, we wouldn't have the rapport with the particular sector, so we wouldn't understand the customer's need'.

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<sup>26</sup> Equality and Human Rights Commission, TUC and CBI (2008) *Talent not Tokenism: the Business Benefits of Workforce Diversity*, p. 12.

## 5.6 Unique equality competencies

As discussed early in this report, consultees felt that employers and employees have had access to a range of equality resources for a number of years. A gap seems to exist between the law as explained in guidance and the reality of workplace experiences because businesses struggle to translate these external resources into internal knowledge and skills. Further down the line employers who have acquired some knowledge often lack the capabilities to channel this into what business strategists would describe as their core competencies – the things that they can do uniquely well and that are very difficult to copy.<sup>27</sup>

All employers need to train and develop their managers well so that the organisation can get the most out of diversity. The skills needed include the ability to:

- sensitively manage complaints in a way that supports troubled employees and helps them stay in employment;
- manage the performance of employees in a way that is fair and consistent and yet flexible;
- resolve any tensions resulting from an increase in diversity;
- challenge behaviour that falls short of equality standards;
- manage diverse teams;
- model inclusive behaviours;
- resist the temptation to recruit only ‘people who fit’.

### What we did....

#### Bespoke solutions for a global car rental company

In the UK, a team of cross-function senior leaders came together with the express purpose of enhancing existing diversity programmes. The leaders wanted to engage their managers to develop their understanding and appreciation of diversity issues and ultimately to develop a process of accountability for action.

Prior to the course, participants complete a series of online opinion tests to highlight personal bias, read relevant diversity articles and prepare a fifteen-minute presentation on an area of diversity with which they are not familiar. On the first half-day of the course, delegates deliver their presentations to their peers. The aim is to take participants outside of their comfort zone, encouraging them to learn about something new and to apply their learning in both a business and personal context.

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<sup>27</sup> Prahalad, C.K. and Hamel, G. (1990) ‘Core Competence of the Corporation’, *Harvard Business Review*, pp. 1-15.

The second day is an open forum where participants talk freely about the business with regard to diversity trends; looking at what is working well and what could be improved. In addition, the participants' online test results are discussed. These discussions often result in provocative, stimulating debate on prejudice and the impact that this has on the business.

The final session covers the skills needed to become a diversity change agent. Subjects covered include diversity awareness, empathy, understanding personal traits, and how to be an effective agent for change. Participants are then asked to create action plans to take back to their business and discuss with their teams and direct manager.

The training ensures all managers are held personally accountable for diversity. In order to prove their engagement, participants must demonstrate, in their regular reviews, the efforts they have taken to improve diverse thinking, and encourage broader initiatives on the issue. All managers must also demonstrate how they have mentored and developed diverse employees within their businesses.

The role of business schools in equipping managers with these skills was highlighted by the 2009 EC business survey which concluded: 'The knowledge and skills required to respond to these challenges demand clear vision, focus and inclusive leadership. These competences should form part of the development of future business leaders and hence be an integral part of the curricula and research agenda of business schools and university departments'.<sup>28</sup>

'I think the important thing is in terms of what people do once you have a diverse workforce and that's where the opportunity is in terms of recession..... To get the most out of them, it's about embracing and using the diverse skills and knowledge that the workforce has. In times like this it's very much in terms of looking at new markets and ensuring customer loyalty.'

Public sector organisation representative, Birmingham consultation event

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<sup>28</sup> European Commission (2008) *Continuing the Diversity Journey: Business Practices, Perspectives and Benefits*, p. 9.

## 5.7 Knowledge and influence

Contributions to this research suggested that many employees and trade unions share some common requirements. The first is time and resources to acquire knowledge of workplace equality rights and the second is an opportunity to influence the way that equality issues are managed within the organisation. According to a European Commission report, 60% of employees are not even aware that discrimination on the grounds of the named protected characteristics is illegal.<sup>29</sup>

Both groups would benefit from access to independent advice before taking any issues up in a formal manner. Coaching and training can also be used to build the confidence that employees will need to challenge those in power. Some employers have worked with their unions to train equality representatives who are able to respond quickly and competently to any complaints relating to discrimination. Others have adopted a partnership model with unions in joint pursuit of the business benefits of diversity.

One way that some employers and unions are tackling workplace barriers to equality is through the appointment of official union Equality Representatives. The 'TUC Union Equality Representatives Survey 2009' found that in workplaces where Equality Representatives exist and are recognised and involved by the employer it is more likely that equality policies will be translated into action.<sup>30</sup> Eighty percent of Representatives surveyed felt that they had been able to have a positive impact on equality issues by assisting employers to develop better policies and practices that ensure equal and inclusive workplaces and prevent discrimination problems from arising in the first place.

The positive benefits to employers of workplace equality reps noted in the 2009 survey included better workforce morale, improved recruitment and retention, higher productivity and lower tribunal costs. These benefits were equally likely in the private as in the public sectors, and in large employers as in SMEs, although the provision of sufficient facilities time was a prerequisite to success. (See ACAS for more guidance on facilities time.<sup>31</sup>)

## 5.8 Beyond the workplace

Individuals' attitudes to equality do not exist in a workplace vacuum and employers are only able to challenge inappropriate behaviours. Therefore long-term attitudinal change will need to involve all sectors of society including schools and the media. Larger pro-diversity employers need to spend time combating stereotyping, prejudice, and occupational segregation by working in partnership with schools and

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<sup>29</sup> European Commission (2008) *Continuing the Diversity Journey: Business Practices, Perspectives and Benefits*, p. 9.

<sup>30</sup> Bacon, N. and Hoque, K. (2009) *TUC Union Equality Representatives Survey 2009: final report*. Nottingham University Business School.

<sup>31</sup> [www.acas.org.uk](http://www.acas.org.uk).

colleges as both IBM and Microsoft have done to encourage more women into Information Technology roles.<sup>32</sup>

The public sector can play its part by using its buying power and procurement activities to require more active equality work from suppliers. It could also use its existing and imminent public sector equality duties to take positive action to build the capacity of the advisory sector to meet the individual needs of employers. Regulatory bodies could 'name and shame' those employers who repeatedly flout equality laws whilst also commending those who go the extra mile.

### **What we did....**

#### **Bespoke solutions for the East of England public sector**

The East of England Development Agency (EEDA), ACAS and Business Link have been working in partnership to ensure that organisations are aware of the implications of the Equality Act 2010 on their business. Fairness in the workplace is good for business and motivates staff as well as improving effectiveness and productivity. ACAS has said that it will provide a series of business briefings on behalf of EEDA and Business Link to help organisations, particularly SMEs, understand the changes, how they impact on them and what is required for implementation. It will help organisations find practical solutions to gain the full value of equality and diversity practice. The two-hour morning briefings are free and cover the main provisions of the Act, which came into force on 1st October. They are open to owners/managers from the private and third sector.

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<sup>32</sup> Evans, C. et al (2007) *Effective Recruitment Strategies and Practices: Addressing Skills Needs & Gender Diversity Challenges in ITEC and Related Sectors*. London: School of Business and Social Sciences, Roehampton University.

## 6.0 Report conclusions and recommendations

Recent misleading coverage of the implementation of the Equality Act 2010 highlighted that a lot of work still needs to be done to clarify the purpose of equality legislation and dispel the myths and misunderstandings that abound.<sup>33</sup>

Going forward, it will be essential to keep the spirit of the law central particularly through a period of disinvestment as summed up neatly by the 'Talent not Tokenism report': 'the most important thing is to try to make sure your workplace is one where people treat each other with respect and no-one believes that "different" means "worse"'.<sup>34</sup>

A lot of progress has been made in the promotion of equality, particularly by enshrining fundamental rights in legislation across many areas of inequality. Many employers have also taken some preliminary steps to convert legislative rights into workplace realities. Some have gone much further and lead the way in terms of linking diversity to competitive advantage.

And yet for many employees their day-to-day working lives do not deliver the rights they could expect as set out by legislation. The reasons for this gap are numerous and complex and in many ways mirror the gap between a great deal of corporate and policy rhetoric and how experience really is on the ground.

Bridging this gap will require policy makers, advice providers, NGOs, unions, employers and employees to invest time and energy to acquire new knowledge and new skills. Applied well this investment will reap rewards and can maybe even play some part in helping businesses to weather the current economic storm.

### 6.1 Recommendations for policy makers and public bodies

6.1.1 Working in partnership with equality experts, professional membership bodies and trade organisations could improve the availability of clear, easy to understand, industry-specific equality advice which includes some reassurance on benefits vs. costs.

6.1.2 Working together in response to their new Equality Act 2010 duties the Department for Business, Innovation and Skills, the Government Equalities Office, the Equality and Human Rights Commission and ACAS could build the capacity of unions and local third sector equality advice providers to tailor their advice to different business sectors and individual employees.

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<sup>33</sup> See for example 'Equality Act will damage honest employers' (*Daily Telegraph*, 12 October 2010), 'Death of the office joke: Coalition enacts Harriet's PC equality law which means ANYONE can sue for ANYTHING that offends them' (*Daily Mail*, 2 October 2010), 'Red tape will damage firms, bosses warn' (*Daily Express*, 1 October 2010).

<sup>34</sup> Equality and Human Rights Commission, TUC and CBI (2008) *Talent not Tokenism: the Business Benefits of Workforce Diversity*, p. 6.

- 6.1.3 The public sector needs to take steps to better use its considerable buying powers to influence the translation of equality laws into workplace practice by the private sector and reward existing good practices. (For examples and suggestions, see EDF and Office of Government Commerce procurement publications in 7.2).
- 6.1.4 Regulatory bodies should 'name and shame' those employers who repeatedly flout equality laws whilst also commending those who make progress.
- 6.1.5 Schools, universities, business schools and training providers could play their part in developing the next cohort of middle managers and future leaders able to harness the benefits and manage the tensions of diversity.

## **6.2 Recommendations for third party organisations**

- 6.2.1 The Equality and Human Rights Commission and ACAS as well as third sector advice providers and membership organisations need to develop their knowledge of different business sectors and their unique diversity challenges in order to better provide tailored equality guidance.
- 6.2.2 Equality advisory organisations across the private, public and third sector could explore adopting a 'no wrong door' partnership approach through which any employer or employee making an enquiry is guided professionally to an organisation able to answer their specific query.
- 6.2.3 Employer networks could work with regulatory bodies and third sector advice providers to offer employees who are experiencing discrimination at work additional support, specifically easy to understand information about rights, specialist advice on challenging discrimination and realistic guidance on the likely outcome of pursuing a complaint.

## **6.3 Recommendations for employers**

- 6.3.1 The equality journey for small, medium and large employers needs to start by establishing a clear picture of the positive and negative aspects of their unique workplace culture. For SMEs, painting this picture will involve beginning a meaningful conversation with their employees on equality and where possible inviting anonymous suggestions for improvements. Larger employers can use more robust numerical monitoring systems.
- 6.3.2 Larger employers then need to use more searching mechanisms, such as anonymous staff attitudinal surveys and Equality Impact Assessments, to uncover evidence of institutional barriers blocking the translation of equality rights into practice.

- 6.3.3 Employers of all sizes then need to develop simple, customised equality action plans which respond to any problems identified. Depending on size and business priorities the solutions chosen could include demonstrable strong leadership, meaningful training, clear policy statements, wider policy auditing and measures to tackle discriminatory cultures.
- 6.3.4 All employers need to be able to measure their progress in delivering these action plans. Smaller employers might use simple staff and customer feedback loops, whereas larger employers need to develop more meaningful metrics, for example benchmarking against competitors, the increased diversity of the workforce especially at senior levels, and the improvement in employee perceptions of diversity issues, measured against a target percent satisfaction rating in employee attitude surveys.
- 6.3.5 Regardless of size, all employers need to be clear to staff, customers and suppliers about their commitment to diversity and sell the specific benefits of this commitment. The level of detail and complexity of this 'business case' will match their size and should reflect their particular culture, values and business objectives.
- 6.3.6 Larger employers should consider developing the equality competencies of middle managers so that they are better equipped to harness the benefits and manage the challenges of diversity.
- 6.3.7 Employers could work in partnership with unions to explore the mutual benefits of giving union officials the mandate and dedicated time to promote workplace equality rights.
- 6.3.8 Larger employers with the resources and desire to build the skills of their future workforce should work with schools and further education providers to deliver practical opportunities to challenge stereotypes and occupational segregation.

## **6.4 Recommendations for employees**

- 6.4.1 Employees need to take time to find out what their equality rights are and actively seek out guidance, support and training from their contacts.
- 6.4.2 Employees should take up any opportunities offered by their employers to influence the way that equality work is undertaken.
- 6.4.3 Employees should seek specialist support when they are experiencing direct discrimination, prejudice, harassment or victimisation. Useful sources of advice and information, including ACAS, the Equality and Human Rights Commission and others, are provided in the following section of this report.

## 7.0 Further information

### 7.1 Case study sources

**Age:** Employers Forum on Age, includes Centrica, British Gas, McDonalds. Available at [www.efa.org.uk/pages/case-study-summaries-.html](http://www.efa.org.uk/pages/case-study-summaries-.html).

**Disability:** Employers Forum on Disability, includes ASDA, BBC, The British Library, Merseyside Police. Available at [www.efd.org.uk/media-centre/case-studies](http://www.efd.org.uk/media-centre/case-studies).

**Gender:** Opportunity Now, includes Aviva, Derbyshire County Council, Home Office, ITV, John Lewis, The Open University, Transport for London, Linklaters, Shell. Available at [www.opportunitynow.org.uk](http://www.opportunitynow.org.uk).

**Race:** Race for Opportunity recruitment case studies including BT, BBC, RBS, and Enterprise Rent-a-car are available at [www.bitc.org.uk/workplace/diversity\\_and\\_inclusion/race/rfo\\_recruitment\\_cs.html](http://www.bitc.org.uk/workplace/diversity_and_inclusion/race/rfo_recruitment_cs.html).

Diversity case studies including Accenture, Addleshaw Goddard, American Express, British Army, BUPA, Credit Suisse, Deloitte, HSBC, and Jaguar Land Rover are available on the [bitc.org.uk](http://bitc.org.uk) website.

**Sexual Orientation:** Stonewall publications include many useful case studies of workplace experience and are available at [www.stonewall.org.uk](http://www.stonewall.org.uk).

**Religion or Belief:** see Equality and Human Rights commission Research Report 36 (2009) *Integration in the workplace: emerging employment practice on age, sexual orientation and religion or belief* by Sue Bond, Emma Hollywood and Fiona Colgan. Available at [www.equalityhumanrights.com/uploaded\\_files/research/integration\\_in\\_the\\_workplace.pdf](http://www.equalityhumanrights.com/uploaded_files/research/integration_in_the_workplace.pdf).

#### See also:

CIPD case studies including Barclays, Carlton TV, Oxford Brookes University, and Ford are available at [www.cipd.co.uk/subjects/dvsequl/general/\\_mngdvprsm.htm](http://www.cipd.co.uk/subjects/dvsequl/general/_mngdvprsm.htm).

Diversity Works for London case studies (by theme and size, including many SMEs) are available at [www.diversityworksforlondon.com/server/show/ConWebDoc.397](http://www.diversityworksforlondon.com/server/show/ConWebDoc.397).

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European Commission (2005) *The Business Case for Diversity: Good Practices in the Workplace*. Available at <http://ec.europa.eu/social/main.jsp?catId=780&langId=en>

European Commission (2008) *Communicating Equality and Non-Discrimination in the European Union*. European Commission.

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European Commission (2009) *Diversity at Work: A Guide for SMEs*. European Commission.

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## 7.3 Organisations

Below is a list of organisations that provide information and in some cases advice on the issues covered in this report.

### **ACAS**

[www.acas.org.uk](http://www.acas.org.uk)

Helpline: 08457 47 47 47

Minicom helpline 08456 06 16000

### **Advice UK**

[www.adviceuk.org.uk](http://www.adviceuk.org.uk)

### **Business in the Community**

[www.bitc.org.uk](http://www.bitc.org.uk)

### **Business Link**

[www.businesslink.gov.uk](http://www.businesslink.gov.uk)

(Business Link Pay and Work Rights

Helpline provides advice to employers on 0800 917 2368, teletext 0800 121 4042.

See

[www.businesslink.gov.uk/payandworkrights](http://www.businesslink.gov.uk/payandworkrights))

### **CBI**

[www.cbi.org.uk](http://www.cbi.org.uk)

### **CIPD**

[www.cipd.co.uk](http://www.cipd.co.uk)

### **Citizens Advice**

[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

### **Employers for Carers**

[www.employersforcarers.org](http://www.employersforcarers.org)

### **Employers Forum on Age**

[www.efa.org.uk](http://www.efa.org.uk)

### **Employers Forum on Belief**

[www.efbelief.org.uk](http://www.efbelief.org.uk)

### **Employers' Forum on Disability**

[www.efd.org.uk](http://www.efd.org.uk)

### **English Regions Equality and Human Rights Network**

[www.eren.org.uk](http://www.eren.org.uk)

### **Equality and Diversity Forum**

[www.edf.org.uk](http://www.edf.org.uk)

### **Equality and Human Rights Commission**

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

### **Equality South West**

[www.equalitysouthwest.org.uk](http://www.equalitysouthwest.org.uk)

**European Commission** 'For Diversity:

Against Discrimination' campaign

[www.stop-discrimination.info](http://www.stop-discrimination.info)

### **Gender Identity Research and Education Society**

[www.gires.org.uk](http://www.gires.org.uk)

### **Government Equalities Office**

[www.equalities.gov.uk](http://www.equalities.gov.uk)

### **Local Government Improvement and Development**

[www.idea.gov.uk](http://www.idea.gov.uk)

(Information on equality and diversity, including equality frameworks and Equality Impact Assessments is available on the Local Government Improvement and Development website)

### **Maternity Action**

[www.maternityaction.org.uk](http://www.maternityaction.org.uk)

### **Mind**

[www.mind.org.uk](http://www.mind.org.uk)

(Mind 'health at work' information is at [www.mind.org.uk/employment](http://www.mind.org.uk/employment))

### **Recruitment & Employment Confederation (REC)**

[www.rec.uk.com](http://www.rec.uk.com)

### **Stonewall**

[www.stonewall.org](http://www.stonewall.org)

(Stonewall has a range of workplace materials available at [www.stonewall.org.uk/at\\_work/](http://www.stonewall.org.uk/at_work/))

### **The Age and Employment Network (TAEN)**

[www.taen.org.uk](http://www.taen.org.uk)

### **TUC**

[www.tuc.org.uk](http://www.tuc.org.uk)

## Appendix 1. Fifteen steps to success

1. Acknowledge that discrimination can occur. Don't ignore any potential case of discrimination. They can have costs in time, money and stress for everyone involved, as well as potential negative publicity. Inaction can be viewed unfavourably in any legal case.
2. Get to know new legislation. Make sure that you and your staff are aware of the main features of the new legislation. Don't wait until you have a problem. Remember, you are responsible for the actions of your employees, so make sure that they know what is expected of them.
3. Create the right climate. Look at how you can create a workplace where dignity and respect for different people are a reality in practice.
4. Develop a Non-Discrimination Policy. Establish a clear message that discrimination, harassment and victimisation are not acceptable in the workplace and be prepared to abide by and enforce these policies.
5. Be prepared to lead. Statements and actions from the leadership of the organisation create a strong message about how you expect people to behave in the workplace.
6. Look at the whole of your organisation. Check all your policies, systems and practices to see where discrimination might exist and be prepared to make changes to improve things.
7. Communicate what you are doing. Tell employees, their representatives and the wider community what you are doing to ensure discrimination is being tackled.
8. Improve the skills of employees. Train personnel in how to recognise and deal with discrimination. Employees, who are taught to respect difference, may be less likely to engage in discriminatory behaviour.
9. Deal with complaints. Put in place a clear and independent process for dealing with complaints in a transparent way. Above all don't victimise the victim – that too is illegal!
10. Take Positive Action. You can consider special programmes to help employees from under-represented groups to apply for jobs or take up new responsibilities.
11. Review your initiatives. Things change. Recent cases may establish case law. Complaints can help you identify specific issues to be tackled.
12. Make people accountable. Tackling discrimination is not only the responsibility of one group. Make it part of the job description of all employees and help them to understand what they can do themselves.

13. Measure your progress. Set goals and devise ways in which you can collect information that tells you how well you are doing in ensuring discrimination does not take place in the workplace.
14. Connect with external stakeholders. Develop links with external organisations that represent or work with a wide variety of people, in order to reach a wider pool of people or to get advice about your initiatives.
15. Seek expert help. There are many different organisations and experts that can help you implement these steps. Key areas will include, for example, recruitment and selection, the work environment, training and development, promotion & career development, staff retention, pay, rewards and benefits, redundancy and termination, health and safety, communication with employees and the public.

Taken from European Commission (2009) *What can employers do to tackle discrimination and promote diversity: The Right Steps*.

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**FOR DIVERSITY  
AGAINST DISCRIMINATION**

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For more information see: [http://ec.europa.eu/employment\\_social/progress/index\\_en.html](http://ec.europa.eu/employment_social/progress/index_en.html)

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