



Board

28 July 2009

Equality and Diversity within YHN

Report by Chief Executive

Discussion	Area Implications	Citywide
Executive Summary	<p>This paper discusses three elements of equality and diversity and YHN's approach to taking the workload forward.</p> <ul style="list-style-type: none"> • Equality Framework for Local Government • Stonewall's Workplace Equality Index • Single Equality Bill 	
Recommendations	<p>Board is asked to:</p> <ul style="list-style-type: none"> • note the information in this report make any other comments on the information presented; • consider the actions identified. 	

Business Implications	
YHN Mission and Strategic Objectives	<p>Support and Care to Communities Three Star Excellent Services A Quality Workforce Refurbishing and Building Homes</p>
Value for Money/Efficiencies	<p>There are no immediate implications for Value for Money. However in using the information contained in this report through the business planning cycle YHN can ensure we provide relevant and effective services.</p>
Resources (financial, property, technological or human)	<p>There are no direct financial implications of this report. Further consideration of the information it contains will require officer time as part of the business planning process and may have future financial implications.</p>
Impact on Services /	<p>Implementation of this workload will result in</p>

Performance	YHN providing services that are relevant to our customers needs.
Outcomes for tenants/leaseholders	A number of actions and subsequent targets will have a direct impact in improving the relevance and accessibility of the services we provide to our customers.
Risk (reputation, relationship)	<p>The failure to address or progress this area of work would have adverse implications for YHNs reputation in the area of Equality and Diversity.</p> <p>In addition Compliance with the Stonewall's code of practice on Sexual Orientation in the Workplace is an essential elements of meeting the Audit Commission's model for a 3 star Housing Management organisation.</p>
Environmental	None immediately apparent
Legal Implications	As a public body YHN has specific legal duties to promote Race, Gender and Disability Equality as a result of providing the Housing Management service on behalf of Newcastle City Council.
Equality and Diversity	<p>This is the subject area of this report. The work detailed will:</p> <ul style="list-style-type: none"> • Raise the profile of E & D within YHN • Embed E & D in policy and practice • Ensure improvements are achieved in all aspects of E & D throughout YHN

Background papers	

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Equality and diversity within YHN

1 Equality Framework for Local Government

Background

The Equality Standard for Local Government (ESLG) – see appendix 1 for an overview - was introduced in 2001 to help local authorities to mainstream equality issues into service delivery and employment. Since this time weaknesses have been identified with the Standard. In addition at national level, there has been new thinking on how we understand equality. Subsequently this has resulted in a new standard.

The new Equality Framework for Local Government (EFLG) has therefore been developed to:

- Simplify our work to mainstream equality (the Framework is less process orientated and more flexible than the previous Equality Standard)
- Enable us to comply with public sector equality duties and good practice on community cohesion and migration
- Take account of the new definition of equality proposed by the Equalities Review

An action plan to facilitate the migration of the old standard to the new has recently been completed and on conducting a gap analysis exercise several actions have been highlighted for improvement and or development in order to achieve level 2 of the new standard.

Key Changes

The new framework will consist of three levels rather than five. The three levels are:

- Emerging
- Achieving
- Excellent

Authorities who are currently using the ESLG will migrate under the new framework as follows:

- Authorities at levels 1 and 2 will be treated as Emerging
- Authorities at level 3 will be treated as Achieving
- Authorities at level 4 will be treated as 'Moving towards Excellent'
- Those at level 5 will be treated as Excellent

There are five areas against which authorities measure their performance:

- **Knowing your community – equality mapping** (the use of local and national data to understand the profile of

communities and measure inequalities)

- **Place shaping, leadership and partnership** (understand the importance of equality in visions of place, political and officer leadership, working with partners to challenge inequality)
- **Community engagement and satisfaction** (involving diverse groups in decision making and assessing satisfaction)
- **Responsive services and customer care** (providing personalised services that meet the needs of people from different backgrounds, reflecting different needs in commissioning and procurement, measuring access)
- **A modern diverse workforce** (measuring the diversity of the workforce, setting appropriate objectives to improve performance, equal pay and flexible working)

A new definition of equality - the new framework uses the definition of equality set out in the Equalities Review which emphasises equal life chances for all. This includes groups who currently have legal protection from discrimination and other groups such as looked after children:

“An equal society protects and promotes equal, real freedom and substantive opportunity to live in the ways people value and would choose, so that everyone can flourish.

An equal society recognises people’s different needs, situations and goals and removes the barriers that limit what people can do and can be.”

Evaluation - critical self assessment and peer challenge will be the method of evaluating progress against the Framework rather than external assessment. Authorities who have successfully undergone peer challenge will be awarded a kite mark.

Timescale - Authorities will be able to start using the Framework from April 2009.

Implications for YHN

The key implications for us are:

- 1) New work; while much of the new framework is consistent with the work we have carried out under the existing Equality Standard, we will need to undertake some new work such as the equality mapping/knowing your community activity.
- We technically migrate over to the framework as an achieving authority, however as there are new areas of work in the framework it has been necessary for us to also consider the requirements of a development authority. Consequently both levels will be worked through simultaneously in order to ensure that we fulfil all requirements of the revised framework.

- 2) Partnership; the emphasis on working with partners (other public service providers and the voluntary sector) to challenge inequality could have implications
- 3) Peer review; the use of peer review to evaluate performance raises questions about the consistency of approach and the training needs of peer reviewers.
- 4) Resources; we are expected to look to the Regional Improvement and Efficiency Partnership for improvement resources in this area.

Next Steps

Work is currently in hand to pull together the “what needs to be done to improve the service” section of the gap analysis plan in order to start populating a plan of action that includes smart actions, identified officers, realistic timescales and required resources that will set us on our way to achieving level 2 of the new standard.

A progress report is scheduled to be submitted to Governance & Personnel Committee at their August 2009 meeting and with their approval will be implemented.

2 Stonewall’s Equality workplace Index

Background

YHN joined Stonewall’s Diversity Champion Programme (a good practice forum for sexual orientation where employers can work with Stonewall, and each other, to promote diversity in the workplace) in 2008.

One of the many benefits of joining the programme gave us the opportunity to participate in the 2009 Workplace Equality Index (WEI) which is Stonewall’s national benchmarking exercise showcasing Britain’s top 100 employers for LGB staff.

The WEI also provides YHN with valuable feedback and allows us to measure our continued improvement whilst addressing sexual orientation within YHN.

The results of the WEI gave an indication of our strengths, weaknesses and opportunities which we could use as a baseline from which we could develop targets and put remedial actions in place to successfully be recognised as an employer of choice by the LGB communities.

Competition was fierce this year with 317 organisations applying for entry. The entry score to be included in Stonewall Top 100 Employers 2009 is 113. We scored 56. Although we didn’t obtain a place in the top 100 index our first submission was encouraging.

As part of the WEI exercise, we were assessed on our policies on sexual orientation; how we engage with the LGB community; the work of the LGBT Staff Group and their work with Newcastle City Council; policies we have in place for bullying and harassment; whether we monitor employee's sexual orientation; procurement policies, amongst many other business aspects.

Workplace Equality Index Questionnaire

Entering the WEI required us to complete a questionnaire around the following themes:

- Policy and Practice
- Staff Engagement
- Staff Development and Support
- Monitoring
- Supplier Policies
- Community Engagement

The questionnaire is attached for information as Appendix 2.

Improving Our Performance

Although we have scored well, there is room for improvement and progress to be made on our work on this particular equality strand. We have recently met with Stonewall to discuss areas for improvement and to learn from best practice in other organisations. They informed us that areas that require development include the following:

- Equal benefits
- Staff engagement
- Diversity Training:
 - access
 - Coverage
 - Level
 - Line manager
- Monitoring – grades
- Community engagement

We have already taken the first steps in setting up an LGBT Network group; collecting demographic information through the staff survey; developing a LGBT web page for staff and have sponsored Northern Pride.

Stonewall have offered to assist us through this process and we are taking steps to improve on the areas identified.

Next Steps

In addition to addressing the above improvements we are busy preparing for our submission to the WEI 2010. It is anticipated that again competition will be tough as whilst there has been no changes to the 2009 questionnaire the number of entrants is expected to

swell, meaning that the entry score into the top 100 index will be increased. A small working group has been set up to take this work forward, with the longer term aim to effectively improve YHN's practice and interpretation on LGB issues within the organisation as a whole.

3 Single Equality Bill

Background

The Equality Bill was introduced into Parliament on 24th April 2009. The Bill is 205 clauses and 28 schedules long. The proposals mean a radical change in UK discrimination law.

The basic objectives of the bill are to

- Strengthen the law
- Streamline the law
- Support wider work to promote equality.

Context and scope of the Bill

The Government state that the key features of the Bill are as follows:

- Introduction of a new public sector duty for strategic public bodies to consider reducing socio-economic inequalities;
- A new Equality Duty on public bodies;
- The use of public procurement to improve equality;
- Banning of age discrimination outside the workplace;
- Introduction of gender pay reports;
- Extension of the scope to use positive action;
- Strengthening of the powers of employment tribunals to make recommendations in discrimination cases;
- Protection for carers by banning "associative" discrimination;
- Protection for breastfeeding mothers;
- Banning of discrimination in private clubs;
- Strengthened protection from discrimination for disabled people. Appendix 3 gives full details.

Key Considerations for YHN

- A new socio-economic duty – which will effect how public bodies make strategic decisions about spending and service delivery
- The 6 equality strands (race, disability, gender, age, religion or belief and sexual orientation) have been expanded to include maternity, pregnancy and gender-reassignment

- The requirement to publish annual details of the gender pay gap/equal pay
- Banning age discrimination outside of the workplace (some exceptions expected)
- Positive action – the Bill’s proposal will allow employers to recruit or promote a person from a under represented group where that person is “as qualified” as other candidates
- Employment tribunals – will be allowed to make recommendations in discrimination cases which benefit the whole workforce and not just the individual who won the claim
- Protection for carers - is extended to include age, disability, sex and gender reassignment
- Procurement - ensuring the public sector has due regard to equality when buying goods and services. Every year £175 billion is spent by the public sector on goods and services supplied by the private sector. It is thought that this purchasing power can be put to good use to improve equality.

Anticipated timetable – passage of the Bill

- The Equality Bill was introduced in the House of Commons on 24th April, 2009.
- The Bill entered the Commons Committee stage in June and is expected to reach the House of Lords at the beginning of the new parliamentary session.
- Subject to the approval of both Houses, the Bill is expected to receive Royal Assent in spring 2010.
- The majority of the Bill should come into force by autumn 2010.
- Certain parts of the Bill, such as the socio-economic duty on public bodies, and the public sector Equality Duty are likely to come into force in 2011.
- The new law on age discrimination will come into force in phases starting with those sectors most ready to comply.

Next Steps

In order to raise awareness of the Equality Bill within YHN an awareness campaign has been initiated. Initial steps have included an article being placed in the Managers Briefing “Rewind” and included in the monthly briefing produced by the Policy & Performance Team. The briefing includes an external link to the Chartered Institute of Housing (CIH) website which holds the presentations of their recently held Conference “The Impact of the Single Equality Bill on Housing” This information included best practice and gave excellent examples of how the requirements of the Bill could be implemented by housing organisations.

In addition the Diversity Manager will contact managers who will have responsibility for specific areas to consider. Early indications are this will primarily involve procurement, HR and OD (to consider training aspects).

As and when appropriate further updates will be issued within YHN.

A further report will be presented to Board as and when finalised details of the Bill are made known.

The Equality Standard for Local Government

The Standard

The Equality Standard recognises the importance of fair and equal treatment in local government services and employment and has been developed as a tool to enable authorities to mainstream gender, race and disability into council policy and practice at all levels.

The Equality Standard is a framework that sets up a way of working within local authorities which will make mainstreaming equalities into service delivery and employment an issue for all aspects of the council's work. Using five levels, authorities will introduce a comprehensive and systematic approach to dealing with equalities.

These levels cover all aspects of policy-making, service delivery and employment.

The Standard will:

- provide a systematic framework for the mainstreaming of equalities;
- help local authorities to meet their obligations under the law;
- integrate equalities policies and objectives with Best Value;
- encourage the development of anti-discrimination practice appropriate to local circumstances;
- provide a basis for tackling forms of institutionalised discrimination;
- provide a framework for improving performance, over time.

The standard builds on the principles of:

- Quality
- Leadership
- Community involvement.

Local authorities will be able to assess their progress through the Standard based on 5 levels:

- Level 1: Commitment to a Comprehensive Equality Policy
- Level 2: Assessment and Consultation
- Level 3: Setting equality objectives and targets
- Level 4: Information systems and monitoring against targets
- Level 5: Achieving and reviewing outcomes

YHN is currently working at Level 3.

WORKPLACE INDEX 2009

EQUALITY



Submission Deadline – Friday 5 September 2008

Please ensure you have submitted your online questionnaire and all accompanying evidence by 5pm on the above date. This deadline is final and Stonewall is unable to accept any submissions after this date.

Please note that this document is for informational purposes only. All submissions must be completed online. **Please visit www.stonewall.org.uk/wei for details on how to participate.**

For advice on completing questions, see the separate guidance sheet.
Please note that credit can only be awarded where requested evidence is supplied.

PART 1 | POLICY AND PRACTICE

1. Which of the following do you have in place to ensure a strategic approach to your work on lesbian, gay and bisexual (LGB) equality and diversity? (Please tick all that apply)

- A) Organisation-wide equality and diversity policy that bars discrimination based on, and specifically referring to, sexual orientation
- B) Organisation-wide equality and diversity strategy that links LGB equality and diversity to wider organisational aims
- C) Action plan to deliver that strategy with identifiable objectives and milestones to be achieved
- D) Any of the above policy, strategy and/or action plan is reviewed at Board level
- E) We do not have any of the above in place

2. Do you have an accountable team/person in place whose remit includes LGB equality and diversity? (Please tick all that apply)

- A) Yes, we have a diversity team/person in place whose remit includes LGB equality and diversity
- B) Yes, this team/person has access to resources including a budget
- C) Yes, this team/person reports directly to the CEO/Board level equivalent
- D) No, we do not have a dedicated team/person with LGB equality remit

3a. Is your most senior lead champion for LGB issues: (please tick one)

- A) At Board/CEO level equivalent
- B) At Senior Management level equivalent

- C) The HR or Diversity officer
- D) We do not have a champion for LGB issues

3b. How has this champion advocated LGB equality in any of the following ways during the past year? (Please tick all that apply)

- A) Promotion of LGB equality issues at Board level meetings
- B) Engaged with managers to promote importance of achieving outcomes on sexual orientation issues
- C) Communicated to all staff a strong leadership message on importance of LGB equality in workplace
- D) Met periodically with LGB employee network group
- E) Attended LGB employee network group event or LGB awareness raising event
- F) Other
- G) Our lead champion has not done any of the above in the past year or we do not have a lead champion

4. What steps do you take to ensure that your current and any new policies and procedures are inclusive of LGB staff, customers and service users? (Please tick one)

- A) We have done a full audit and will continue to do so on a routine basis
- B) We have done a full audit, but have no system in place to ensure that audits are completed on a regular basis
- C) We have not previously audited but we are currently doing so
- D) We have not audited

5. How do you ensure that all benefits offered by your organisation (e.g. pensions, paternity leave, carer's leave, etc.) are available and accessible to all staff regardless of sexual orientation? (Please tick all that apply)

- A) All benefit policies have been audited to ensure LGB inclusivity
- B) We specifically use inclusive terminology and language in all of our policies
- C) Line managers/staff with supervisory responsibility are trained in application of these policies
- D) Targeted promotion of benefits as inclusive to LGB staff to encourage appropriate take-up
- E) We do not do any of the above

6. Have you had an Employment Tribunal hearing against your organisation that included a complaint on the basis of sexual orientation in the past 12 months? (Please tick one)

- A) Yes, and the complaint on the basis of sexual orientation was upheld and we have taken action to resolve the issues identified
- B) Yes, and the complaint on the basis of sexual orientation was upheld, but we have no plans to take further action to resolve the issues identified
- C) Yes, and it is currently on-going
- D) Yes, but the complaint was not upheld
- E) No, we have not had a hearing in the past year that included a complaint on the basis of sexual orientation

7. What policies and procedures do you have in place for LGB related bullying and harassment and/or grievances at work? (Please tick all that apply)

- A) We have a policy against workplace bullying and harassment which specifically mentions sexual orientation
- B) We have a policy that explicitly clarifies what constitutes anti-gay bullying and harassment and communicates zero-tolerance of this behaviour
- C) These policies and procedures are communicated and promoted to all staff
- D) Staff who deal with complaints are trained regarding LGB related bullying and harassment
- E) Recognising barriers to reporting LGB related bullying and harassment, we have put in place additional measures to facilitate reporting
- F) We monitor for LGB related complaints and regularly review monitoring data to inform our work
- G) We do not have any dedicated policies or procedures in place for LGB related bullying and harassment

PART 2 | STAFF ENGAGEMENT

8. Does your organisation have a lesbian, gay and bisexual employee network group (ENG) in the UK? (Please tick all that apply)

- A) Yes, we have an ENG and it has formal recognition and a defined role within the organisation
- B) Yes, we have an ENG and it has a budget
- C) Yes, we have an ENG and we provide it with resources (apart from budget)
- D) Yes, we have an ENG and there is a two-way communications route with HR/Equality and Diversity and the wider organisation
- E) No, we do not have an ENG, but we are in the process of setting one up
- F) No, we do not have an ENG, but we make other facilities and resources available to LGB staff for networking and consulting/feeding back to organisation
- G) No, we do not have a group nor do we offer specific alternative resources

9. Please specify below the function(s) of your LGB employee network group. (Please tick all that apply)

- A) Advises the organisation on the LGB specific implications of HR/employment policies, rights and benefits
- B) Social and other networking events for LGB staff
- C) Awareness raising/education of non-LGB staff
- D) Collaboration with other LGB employee network groups (e.g. cross-sector or regional)
- E) Maintains its own intranet site
- F) Point of contact for LGB staff with issues at work
- G) Advises the organisation on business development/service delivery
- H) We do not have a group

10. How have you communicated with and engaged all staff on issues of LGB equality in the past year? (Please tick all that apply)

- A) LGB related information included in staff induction events, activities and/or literature
- B) Poster or leaflet awareness-raising campaign
- C) All staff emails or intranet pop-up/login messages to publicise LGB equality issues/events
- D) LGB related intranet pages accessible to all staff
- E) LGB related internet pages accessible externally
- F) LGB related articles in staff newsletters or other organisational publications
- G) LGB awareness raising events open to all staff
- H) Use of Stonewall logo in internal communications
- I) Consultation exercises on LGB issues, apart from employee network group, open to all staff
- J) Other
- K) We do not communicate with or engage staff on LGB issues

PART 3 | STAFF DEVELOPMENT AND SUPPORT

11. To which of the following staff groups do you provide diversity training that is inclusive of LGB issues? (Please tick all that apply)

- A) New starters
- B) Board and senior level management equivalent
- C) Line managers
- D) Staff with recruitment responsibilities
- E) All other staff
- F) We do not offer LGB-inclusive training

12. Approximately what proportion of all of your staff has been through diversity training that includes LGB issues? (Please tick one)

- A) 90% - 100%
- B) 75% - 89%
- C) 50% - 74%
- D) 25% - 49%
- E) 24% or less
- F) We do not offer LGB-inclusive training

13. Up to what level of learning are you aiming to achieve via the LGB diversity training that you offer to staff? (Please tick one)

- A) Introductory LGB awareness training (e.g. legislation and policies)
- B) Higher level training which challenges assumptions, language, and behaviour at an individual level
- C) Advanced learning which inspires and equips participants to promote change and be a positive role model for diversity and inclusiveness in the workplace
- D) We do not offer LGB inclusive training

14. What steps do you take to ensure that all line managers are skilled to manage diverse staff groups? (Please tick all that apply)

- A) LGB inclusive equality and diversity targets are incorporated into annual performance reviews

- B) Line managers undergo advanced learning on LGB inclusive equality and diversity directly relevant to role as people manager
- C) Appointment criteria for line management roles considers equality and diversity knowledge and achievements
- D) Line managers undergo refresher diversity training on a regular basis
- E) Other
- F) We do not undertake any of the above

15. What personal/career development opportunities do you offer LGB staff? (Please tick all that apply)

- A) Target existing non-LGB specific programmes to LGB staff and review take-up to ensure equality of opportunity
- B) LGB specific leadership/professional development
- C) Mentoring scheme with a specific LGB element, or mentoring opportunities coordinated by employee network group
- D) LGB sensitive staff counselling and advisory service via offering either LGB counsellors or LGB trained counsellors
- E) Established career planning processes which encourage the development of LGB staff and proactively identify any issues for action
- F) Other
- G) We do not offer any tailored personal/career development opportunities for LGB staff

PART 4 | MONITORING

16. At what stages in the employment cycle do you monitor your UK staff's sexual orientation? (Please tick all that apply)

- A) At job application
- B) At job offer
- C) Internal promotion/recruitment
- D) At exit
- E) We do not monitor at any of the above stages

17. At which of the following levels/grades do you collect monitoring data on existing staff that aims to establish the current statistical representation of LGB staff? (Please tick all that apply)

- A) CEO/Board level equivalent
- B) Senior management/Director level equivalent
- C) Management
- D) All other staff
- E) We monitor sexual orientation of all staff but we cannot breakdown the data by levels/grades
- F) We do not monitor sexual orientation to capture representation among staff

18. Where you collect monitoring data to determine the current statistical representation of LGB staff across the organisation, what proportion of your staff declare their sexual orientation? Please exclude any spoils, non-responses and/or those who tick 'prefer not to say'. (Please tick one)

- A) 90% - 100%
- B) 80% - 89%

- C) 70% - 79%
- D) 69% or less
- E) We do not monitor sexual orientation

19. Please indicate whether your most recent staff attitude survey included any of the following. (Please tick all that apply)

- A) We asked a sexual orientation monitoring question so that we are able to analyse questionnaire data by sexual orientation demographics
- B) We asked specific questions on workplace culture in relation to sexual orientation issues
- C) We carried out a staff attitude survey that does not include any questions specifically on sexual orientation, but does address general equality and diversity issues
- D) We do not carry out a regular staff attitude survey that addresses sexual orientation or general equality and diversity issues

20. Please indicate which of the following actions are taken to follow-up your monitoring exercises. (Please tick all that apply)

- A) Summary report of key issues discovered via monitoring exercises are reported to and actioned by board/senior management
- B) Summary report of key issues discovered via monitoring exercises are reported to and actioned by line management
- C) Summary report of key issues discovered via monitoring exercises are communicated to all staff
- D) None of the above efforts are undertaken with monitoring results or we do not monitor

PART 5 | SUPPLIER POLICIES

21. How does your organisation ensure that supplier and partner organisations fully comply with your policies and practices on sexual orientation? (Please tick all that apply)

- A) We ensure the equality and diversity policies of supplier and partner organisations are inclusive of sexual orientation
- B) Organisations are required to comply with our policies and procedures as part of the selection of tenders, and consideration of this forms part of the decision on successful tenders
- C) LGB inclusive equality and diversity criteria form part of the contract for services and we monitor this via contract monitoring meetings
- D) We require organisations to provide LGB diversity training for their staff to ensure promotion of equality and diversity
- E) We monitor organisations' LGB related complaints and customer feedback as part of the contract management
- F) We ask to see their LGB related staff monitoring data on sexual orientation
- G) A contract could be terminated for a breach in policy in this area following due contract process
- H) We do not undertake any of the above

PART 6 | COMMUNITY ENGAGEMENT

22. How in the past year has your organisation engaged with the wider LGB community either locally or nationally? (Please tick all that apply)

- A) Recruitment, product or service advertising in LGB media
- B) Advertising in mainstream non-LGB media explicitly stating a commitment to sexual orientation equality or use of 'Stonewall Diversity Champion' logo
- C) Official sponsor of LGB event
- D) Participation or supported staff participation in LGB community event
- E) Supported LGB community group or project with funding, publicity or facilities
- F) Sponsored/commissioned LGB related publication/piece of research
- G) Strategic work with LGB service users/customers
- H) Senior organisational leadership active in LGB communities
- I) Other
- J) We have not engaged with the wider LGB community within the past year

PART 7 | PINK PLATEAU

23. Are there openly LGB people at senior levels in your organisation? (Please tick all that apply)

- A) Yes, at top tier
- B) Yes, at second tier
- C) Yes, at third tier
- D) No, we do not have any openly LGB people at senior levels in the organisation

24. Do you have a senior out LGB member of staff who acts as visible role model? If so, how does this person act as a visible role model and what impact have they had? (Please tick one)

- A) Yes we have a senior out LGB member of staff who acts as a visible role model
- B) Not applicable, we do not have a senior out LGB member of staff who acts as a visible role model

PART 8 | ADDITIONAL INFORMATION

25. Please identify any further work on LGB equality not already covered above. This may include, but is not limited to, the following areas:

- A) Demonstrable achievement of equality and diversity outcomes
- B) Impact on LGB equality and diversity beyond remit of your own organisation
- C) Any further work with LGB service users or consumers
- D) Any innovative practices not covered above

The Equality Bill

The key provisions of the Bill:

A Socio-economic duty

There will be a new duty on Government Ministers, departments and certain public bodies such as local authorities and strategic health authorities to consider what action they can take to reduce the socio-economic inequalities people face.

The duty will affect how public bodies make strategic decisions about spending and service delivery. The Government will issue guidance, which public bodies will be obliged to take account of, prior to the new duty taking effect. This duty will not apply in Scotland and in Wales it will be for Welsh Ministers to decide which public bodies this duty should apply to.

The duty will not set out specific targets or priorities, and provides for no enforcement or powers of remedy or rights to transparency for the public. However an individual whilst not being able to claim damages could bring a judicial review if she/he believes a public body has not considered this duty. The provisions are expected to come into force in 2011.

A new equality duty on public bodies

Public bodies already have obligations to promote equality and challenge discrimination on grounds of gender, race and disability. This includes addressing the gender pay gap for their employees. The Bill will incorporate these duties into one equality duty which will also cover race, gender, and disability but will be extended to cover age, sexual orientation, religion or belief, pregnancy and maternity, and fully cover gender-reassignment.

The Government states: "The new Equality Duty will require a range of public bodies to consider the needs of diverse groups in the community when designing and delivering public services so that people can get fairer opportunities and better public services."

Significantly this new duty will also apply to private bodies that deliver a public function, for example, a private firm running a prison.

The Government will consult further on the "specific elements of the duty"; this will include gender pay reporting, and the proposals in regards to procurement (see below).

Procurement

It is proposed that public bodies will be able to use procurement to drive equality. It will allow Ministers to specify how public bodies should go about doing so. This will be subject to further consultation.

Banning age discrimination outside the workplace

Age discrimination in the workplace is already unlawful. The Equality Bill will make it unlawful to discriminate against someone aged 18 or over when providing services or carrying out public functions. However, age appropriate special provisions such as free bus passes, or specialist cancer screening for certain age groups, will be able to continue. It is intended that this will sit alongside the proposed European Council Directive on Equal Treatment. The new law will be introduced gradually from 2012.

The health and social care sectors will not be in the earlier phase. This will be subject to further consultation.

The Government will consult further on the details of this provision.

Equal pay

The Bill seeks to introduce some transparency into pay and specifically differences in pay between men and women. The Government plan to do this by:

- Introducing a power to require reporting on the gender pay gap by private sector employers with 250 or more employees. This power would not be used before 2013 and it will only be used if sufficient progress on reporting has not been made.
- The Equality and Human Rights Commission will be required to work with business and unions to develop measures against which private sector employers with 250 or more employees will be voluntarily asked to report. The Commission will monitor progress on reporting within the private sector annually. The private sector therefore has 4 more years to voluntarily comply with a potentially limited reporting proposal.
- Introducing powers for Ministers to require public authorities to report on equality issues. This will be subject to further consultation but it is likely that public bodies with over 150 employees will be required to publish annual details of:
 - * their gender pay gap;
 - * their ethnic minority employment rate; and
 - * their disability employment rate.
- Banning secrecy clauses on pay.

Positive action

This proposal will allow employers to recruit or promote a person from a disproportionately under-represented group where that person is "as qualified" as the other candidates, and as long as the employer does not have a policy of treating persons who share the protected characteristic more favourably than those who do not share it.

This is not "positive discrimination" - that is, recruiting or promoting people because they are from an under-represented group even where they are less qualified than other candidates. Nor will the new rule allow employment quotas. Neither will there be any requirement on employers to use this power. It will be for the EHRC to issue advice on this.

The Bill will also allow for employers to target their recruitment advertisements and to target their training provision to under-represented groups.

Further, the Equality Bill will extend the permission to use women-only shortlists until 2030. The Bill will also enable political parties, as part of their process of selecting candidates, to take positive measures to bring on candidates from under-represented groups. This could include reserving a specific number of places on every electoral shortlist for Black or disabled candidates, or organising mentoring schemes for LGBT candidates.

Employment Tribunals

The Equality Bill will allow employment tribunals to make recommendations in discrimination cases which benefit the whole workforce and not just the individual

who won the claim. This will help to prevent similar types of discrimination occurring in the future. Failure to comply with a recommendation could be used as evidence to support subsequent similar discrimination claims.

Protection for carers

This provision implements the widely hailed decision in the Coleman case – Sharon Coleman claimed she was unlawfully discriminated against by association i.e. as a carer for her disabled son. This provision brings our law in line with this European Court decision. It is currently unlawful to discriminate against or harass someone because they are ‘linked to’ or ‘associated with’ a person who is of another sexual orientation, race, or religion or belief. But currently the same protection does not apply in respect of age, disability, sex, or gender reassignment.

The Equality Bill will strengthen the law, protecting all people from discrimination when they are associated with someone who is protected themselves, for example, as their carer.

Protection for breast-feeding mothers

The Bill will prevent breast-feeding mothers being forced out of public places.

Banning discrimination in private clubs

It will be unlawful for associations, including private members’ clubs, to discriminate against members, or guests of members invited to a club. However the Bill will also allow for clubs for people with a shared characteristic, such as gay clubs, although not for clubs exclusive by colour.

Strengthened protection for disabled people

A recent House of Lords decision (Lewisham vs Malcolm) severely limited the effectiveness of protection for disabled people. This provision rectifies that situation and the Equality Bill will provide disabled people with new protections in law to ensure their rights are broadly the same as they were before the ruling.

The Bill will maintain the concepts of “reasonable adjustment” and “disability related discrimination” for disabled people AND introduce protection from indirect discrimination on grounds of disability.

The Bill will also place a new duty on landlords and managers of residential properties to make alterations for disabled people where it is reasonable to do so.

What else does the Bill do?

It introduces new definitions and language:

- A simplified definition of who is a disabled person under the legislation, also providing protection for those whose condition can be predicted to last more than 12 months; however it retains the requirement for the impairment to be substantial. This term has excluded some disabled people from protection in law.
- In the definition of direct discrimination, “because of” takes the place of “on grounds of”.
- There is a new definition of indirect discrimination, which specifies that “a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B’s if— (a) A applies, or would apply, it to persons with whom B does not share the characteristic; (b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it; (c) it puts, or

would put, B at that disadvantage, and (d) A cannot show it to be a proportionate means of achieving a legitimate aim.”

- no longer “strand” or “ground” but a “characteristic”. The Bill covers 9 characteristics - age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.
- The Bill revises the definition of ‘gender reassignment’ to make it clear that a person does not have to be under medical supervision to be protected from discrimination.
- The Bill extends employer liability for third party sexual harassment to all the other strands. This will reflect the current provisions of the sex discrimination legislation meaning that employers will only be liable for third party harassment where such harassment has occurred on at least two previous occasions, the employer is aware that it has taken place, and the employer has not taken reasonable steps to prevent it from happening again.
- Providing additional funding to support the work being done by trade union equality representatives who help to create a more equal workforce.
- Advice and guidance from ACAS, and information on the Business Link website to help employers understand what equality means for their workforce, and to improve working life for everyone.
- Work by the Equality and Human Rights Commission which provides advice and guidance on equality issues.
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Further Consultation

The Government has announced it will be carrying out further consultation on:

- How to address multiple discrimination
- Proposals for the detailed requirements under the public sector Equality Duty
- Age discrimination
- Procurement – how it will drive equality