



NCVO WORKFORCE DEVELOPMENT

Diversity Update

Introduction

This document is an abbreviated version of the diversity chapter of the forthcoming edition of the Good Guide to Employment. The forthcoming edition will be available in November 2009 and will contain updated information on key changes to employment law.

Any legal references in this briefing are, to the best of our knowledge, accurate as at **May 2009**.

The briefing covers the following areas:

- Diversity and equal opportunities
- The six equality strands
- Key terms in equality legislation
- The Single Equality Bill
- Developing an equality and diversity policy
- Good practice checklist

Diversity and equal opportunities

Equal opportunities is concerned with keeping within the law and ensuring that all decisions about pay, recruitment and promotion are based only on an individual's ability to do their job well. Equal opportunities is about recognising that certain groups in society (such as people from Black and ethnic minority groups, disabled people and gay people) have experienced and do experience more discrimination than others.

Managing diversity complements, and expands on, equal opportunities. Diversity recognises that each individual is different in lots of different ways, not just the ways covered by law. This might not just be about who we are but also about our likes and dislikes, and how we lead our lives, our socio-economic differences and our educational background.

Valuing diversity can help develop your organisation, because people who are different can bring different ideas. This can help broaden your view on every aspect of the work of your organisation. Diversity includes everyone, because everyone is different.

The six equality strands

The six equality strands are:

- Race
- Gender
- Disability
- Age
- Religion and belief
- Sexual orientation

Legislation prohibiting discrimination covers each of the above areas.

Key terms in equality legislation

Direct discrimination is when you specifically treat someone less favourably in respect of one of the six equality strands. Examples are:

- not appointing a woman to a job because she is deemed to be 'of childbearing age'. This would be direct discrimination on the grounds of her gender and her age.
- not appointing someone to a job because of their actual or perceived sexual orientation.

Indirect discrimination is more subtle and may not be intentional. Whether it is intentional or not, it is unlawful. It involves applying a 'provision, criterion or practice' which considerably fewer people of the relevant group can comply with and which cannot be objectively justified. An example would be refusing a request from an employee who wishes to reduce their working hours in order to be able to leave early on Friday afternoons in winter – so as to be home before nightfall – a requirement of their religion.

Indirect discrimination can be *justified* under the law, though. If you could show that no one else could do the work on Friday afternoon and the work has to be done at that time, then the requirement is likely to be justified, even though it may have a disproportionate effect on certain groups.

Reasonable adjustments

The Disability Discrimination Act 1995 states that employers must make reasonable adjustments to working arrangements for disabled people.

Adjustments which might be reasonable to make include:

- reallocating duties
- altering hours of work
- providing a reader or interpreter
- giving time off for therapy or rehabilitation
- modifying instructions and reference manuals
- assigning a disabled worker to a different place of work, eg the ground floor.
- making adaptations to the written test used in an interview
- allowing job applications to be submitted on tape
- providing a blind or partially sighted person with a reader or adapted computer with large character, Braille display or speech output
- reallocating some minor duties to another colleague.

Adjustments do not need to be costly. Where there is a cost involved, there is a government funded scheme called Access to Work. The service provides practical advice and may provide financial help, of up to 100% of the cost of an adjustment for a new employee. You can contact your local Disability Employment Adviser (DEA) through your nearest JobcentrePlus office. The DEA will put you in touch with an Access to Work adviser.

Harassment is where one individual engages in unwanted conduct that has the effect of violating the dignity of another person, or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person, for a reason related to one of the grounds covered by legislation eg disability, age, sex etc. An example might be constantly calling an older worker 'grandad' or describing a younger worker as 'wet behind the ears', especially when the workers concerned have made it clear that they do not like such remarks (harassment on the grounds of age).

Forthcoming change – the Equality Bill

The Equality Bill was published on 27 April 2009 and is likely to be enacted in 2010. It is possible that some of its provisions will be amended between now and its enactment. The key provisions are currently as follows:

Consolidating the existing discrimination law into one Act. The aim is to simplify existing legislation.

Giving additional equality duties to the public sector. These duties cover age, religion or belief and sexual orientation. The new duties will run alongside the existing duties of the public sector concerning race, disability and gender. Public sector organisations will need to identify what is being done in these areas to improve equality, not only for employees but also for service users. These duties will impact on the voluntary sector. This is because the Bill gives the Secretary of State the power to make regulations spelling out what organisations bidding for public sector contracts will be required to do to prove their diversity credentials.

A number of measures to promote equal pay between men and women, including: banning secrecy clauses in employment contracts which prevent people discussing their own pay; requiring employers of over 250 people to publish statistics on gender pay gaps from 2013 if not enough progress has been made voluntarily; and measures to simplify current equal pay legislation.

Extending positive action so that employers choosing between two equally-qualified candidates will be able, if they wish, to select the successful candidate on the grounds that they are from an under-represented or disadvantaged group, eg on the grounds of sex, ethnic origin etc. In other words, the fact that a candidate is from one of these groups would lawfully be considered as a 'tipping factor' in a tie-break situation.

It should be noted that the proposed positive action outlined above is different from 'positive discrimination'. Positive discrimination is where, for example, someone is selected for employment specifically because of their particular ethnic origin, even though they are less qualified than another candidate. Positive discrimination is and will remain unlawful.

Developing an equality and diversity policy

Your starting point in promoting diversity and equality in your organisation is to develop a policy, with an action plan to back it up.

It is important to have a policy and action plan because:

- it will help to clarify the main issues and priorities for your organisation
- it is a basis for making required changes
- it sends a clear statement to staff about what is and is not acceptable, and about how they can be expected to be treated
- it may be required by your funders
- it helps you comply with the law.

Make sure you consult with your staff when developing your policy and action plan – your staff may have useful insights and they are also more likely to help with implementing change if they have been involved.

You can find an example equality policy, from the Acas advisory booklet, 'Delivering Equality and Diversity' available from www.acas.org.uk.

Good practice checklist

Below are some practical steps that you could consider taking to promote equality and diversity in your organisation.

Be flexible

For job applicants

Offer to produce documentation in alternative formats eg large print, online, Braille

Offer different ways of contacting you for an application pack eg email and fax as well as phone

State in your documentation that you are committed to employing disabled people and ask all candidates if there are any adjustments they may require to the selection process

Offer flexible times to attend interviews, so that, for example, candidates can avoid times of religious observance or can accommodate child care responsibilities

Make adjustments that are requested, where reasonable

For existing employees and new recruits

Offer flexible working (eg flexible start/finish times, compressed week, working from home, job share or term time only working), as appropriate to the job

Tell staff about your parental leave policies and flexible working policies, so that they know what is available to them

Allow flexibility where possible in the way employees approach tasks: concentrate on results being achieved, on time and to standard; be less concerned about where, how and when the work was undertaken.

If possible, provide to all staff the opportunity to take annual leave on the days of their major religious festivals.

Check your image

Undertake a review of the images you use in your publications and website. Make changes if needed

Consult with your existing staff, volunteers and service users about the image they consider that your organisation portrays

Make sure that the images you portray and the wording you use convey your positive stance to people from a variety of backgrounds

Consider becoming a 'two ticks' positive about disabled people symbol user. For further information, contact your local Jobcentre Plus, or see www.jobcentreplus.gov.uk

Be welcoming

Train those (such as receptionists) who 'meet and greet' applicants for employment to treat everyone appropriately and with respect

Provide a work environment that is welcoming and accommodates individual lifestyles and needs (eg providing a room which is available during part of the day for quiet or prayer, providing a special chair for a back pain sufferer).

Show commitment

Adopt and implement fair employment practices – use NCVO's Good Guide to Employment as a start

Use an equal opportunities or diversity statement in your advertisements. If you have one already, check if it needs to be updated

Include in application packs your organisation's equal opportunities or diversity policy. Give brief details of what you have done to implement the policy as it will give the message that it is not just a piece of paper.

Improve your skills in assessing and appraising others

Make sure you and other managers are trained in interviewing skills – an unskilled interviewer may not be able to draw out the information needed to make a selection decision – and may therefore fall back on their stereotypes and assumptions

Focus your selection criteria more on the skills that are required and less on where or how the skills have been acquired: it is not only university graduates who are able to think analytically, for example

In appraisals, ensure you focus on the job requirements, not on individual and irrelevant personal characteristics

Check that your training and development practices are sufficiently flexible to accommodate different needs.

Train your staff

Your equality training programme might include:

An explanation on equality in your organisation and its importance

The legal framework

Staff roles and responsibilities

Harassment and bullying policy

Specialist guidance for managers who recruit and appraise staff

Written documentation to support the training

The opportunity to raise ideas and concerns

Be willing to experiment and learn

Advertise your jobs in a variety of media – experiment to see what works

Have a look at the job advertisements placed by other organisations – obtain ideas for good practice

Listen to the views of others (volunteers, staff, trustees, service users) and learn from these views – don't always stick to 'this is how we do things around here'.

Influence others

Even in the smallest charity, you'll need to influence others about what you want to do – you can't recruit and retain a diverse workforce on your own

Think about who you need to influence and why, such as managers, staff, volunteers, the board

Consider what other people's viewpoints might be – and how you will deal with objections or concerns

Use statistics and data to persuade people

Have diversity as a standing item at meetings

Establish a network eg an equality and diversity working group with other similar voluntary organisations

Monitor and measure what you do

The purpose of monitoring is to enable you to examine how your policy and action plan are working. If they are not working well you need to ask yourself 'why?' and do something to put it right.

Monitoring is not a legal requirement in the voluntary sector, but it is good practice and your funders may also expect you to do it.

You can also consider building in an assessment of the equality impact of your policies and practices, both existing and new. For further information on monitoring and impact assessments, see the Acas publication, 'Delivering Equality and Diversity.'

Become an Investor in Diversity

The Investors in Diversity (IiD) standard provides a route map to help organisations to adopt, develop and benchmark behaviours and practices, which promote inclusion, equality, diversity and achievement.

The standard allows organisations to measure their progress and receive recognition for their achievements. There are three levels of the standard.

If you are interested in becoming an Investor in Diversity, go to the National Centre for Diversity's website: www.nationalcentrefordiversity.com.

Further information

The Equality and Human Rights Commission

The EHRC has a wealth of information on its website. You can download from the website Codes of Practice on race, sex and disability.

www.equalityhumanrights.com.

Acas

Acas has a number of advisory booklet and guides, including the following:

- 'Delivering Equality and Diversity'**
- 'Age and the workplace: a guide for employers'**
- 'Religion or belief and the workplace'**
- 'Sexual orientation and the workplace'**

www.acas.org.uk

NCVO

You can access the following publications via the NCVO website:

'Making Diversity Happen', a resource specifically designed for the voluntary and community sector.

'Are You Looking At Me?', a guide to help you to work out how to attract a diverse workforce.

'Making Equality Simple', a plain English guide to the implications of the 2003 Employment Equality Regulations relating to sexual orientation, religion or belief.

'Supporting Diversity and Equality: A 'Good Practice' Guide for Voluntary and Community Organisations'. This guide assists organisations by suggesting ways of thinking and behaving which will inform good practice in training for equality and diversity in voluntary and community organisations.

www.ncvo-vol.org.uk/publications/index.asp?id=2900#hr

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