



Intersectional inclusion in the workplace

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The role of the Equality and Human Rights Commission

- Independent statutory body established under the Equality Act 2006 working to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights.
- We enforce the Equality Act 2010 and encourage compliance with the Human Rights Act 1998
- Are accredited at UN level as an 'A status' National Human Rights Institution.
- We are responsible for highlighting issues of concern, inform and guide good practice, engage others in solutions and influence change in employment practice.
- Work is an important aspect of personal fulfilment, and the right to work and fair conditions at work are fundamental human rights. However, some groups face disproportionate disadvantage and discrimination at work.
- As such, one of the Commission's priority aims is that people in Britain have equal access to the labour market and are treated fairly at work.

Intersectionality in law: dual discrimination

- Know that different aspects of individual's identity can affect their experiences at work
- Domestic and EU law does cover dual or multiple discrimination
- However protections are weak or currently not in force
 - Section 14 of the Equality Act 2010 protections would allow individuals who have been treated less favourably due to a combination of characteristics to bring a combined claim
 - However remain unimplemented since 2010 change in Government.
- EU Equal Treatment Framework calls for member states to consider a legal response for multiple discrimination
- Has been established in case law (*Parris v Trinity College Dublin*) that under EU law that there is no specific category of intersectional discrimination - discrimination needs to be proved in relation to each protected characteristic

Legal Case Study: *Bahl v The Law Society, 2004*

- Similar findings in domestic case law
- Kamlesh Bahl was the first black female office holder the Law Society had ever had
- Brought claims for race and sex discrimination to tribunal, which succeeded but which was overturned at EAT
- Court of Appeal agreed it was necessary for the tribunal to consider each type of discrimination separately
- Bahl's appeal failed because the Employment Tribunal was required to consider each protected characteristic separately and make findings of fact in relation to each one, which it did not.



Why tackle dual discrimination?

Ethical Case:

- In order to treat people fairly we need a more nuanced understanding of inequality
- Focusing on single protected characteristics don't reveal structural or systemic inequalities e.g. pay gaps or employment gaps for disabled women, or young black men
- Current lack of legal safeguards highlights need for improved employer understanding and response

Business Case:

- Improves performance
- Assists with retaining talent (which minimises loss of knowledge and expertise)
- Increases profitability and adds brand value
- Enhances customer focus and improves customer experience

Inclusion good practice

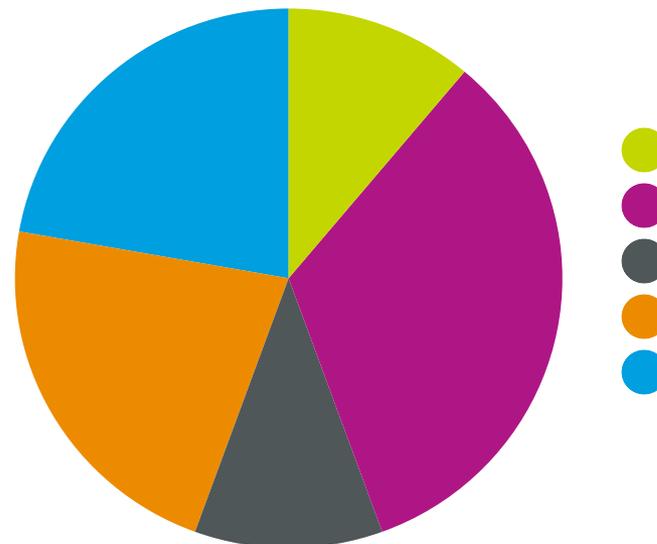
- Inclusive recruitment practices
- Performance management
- Learning and development
- Training for managers
- Flexible working
- Positive action
- Apprenticeships
- Monitoring data



The importance of data collection

Enables employers to:

- Identify issues or barriers
- Recognise the scale of the problem
- Understand the underlying causes
- Identify actions to address inequalities
- Use data to track progress
- Types of data to look at:
 - Recruitment processes
 - Starting pay for different characteristics
 - Promotion rates for different characteristics
 - Retention rates for particular groups
 - Proportion of employees using flexible working patterns



How to turn data into action - Action Plans

- Government definition: *'a document in which the employer has considered their gender pay gap and has offered a next step to implicitly or explicitly reduce or maintain their gender pay gap'*
- Commission's definition include explicit reference to **time-bound** and **target-driven** activities based on **best practice policy**
- Commission is pushing for these to be mandatory



Case study: Centrica – 2018 ICOSA winners for GPG reporting

- Centrica understood importance of transparency and providing employees with a detailed account of why they had a gender pay gap and what they were doing to close it.
- Clarified difference between GPG and equal pay
- Thought about the ‘employee lifecycle’ (recruitment, retention, progression)
- Set out specific commitments on:
 - Reviewing recruitment practices
 - Inspiring young women and girls
 - Supporting parents and carers
 - Creating a women’s network and offering mentoring
 - Looking at the representation of women across the whole organisation
- Also looked at measuring impact of their actions which has led them to start reviewing ethnicity pay gaps.

Summary

- Barriers to equal access and inclusion in the workplace vary depending on protected characteristics
- Workforce diversity data is crucial to understanding those barriers and can provide insight into intersectional issues
- Need time-bound, target-driven action plans in place to eliminate workplace inequalities
- Commission has a range of practical resources and information for employers on data collection, and strategies for inclusion
- www.equalityhumanrights.com

Thank you

Any questions?