

# **NCSL**

**Tomorrow's Leaders Today**

**A Guide to**

**Achieving Equality and Diversity  
in School and Children's Centre  
Leadership**

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# 1. Executive summary

## **Achieving equality and diversity in school and children's centre leadership**

This guide is aimed at providing support to the leaders in education services: local authorities, diocesan authorities, governors, heads and deputy heads in achieving equality and diversity in school and children's centre leadership. It explains why equality and diversity leadership action at every level is critical to providing effective, fair and accessible education services for all children and employment practices for all staff. It outlines supporting NCSL frameworks and guidance policies, as well as your legal obligations. Most importantly, the guide provides a checklist of questions of priority areas for action.

Equality, fair treatment and social inclusion lie at the heart of the government's plans for a modern education service. The 'every child matters' agenda recognises that we live in a diverse society and sets out as core principles that local authorities, schools and other education providers will:

- shape their services around the needs of children
- support and develop leaders and teachers to better respond to the needs of all sections of the community and deliver more responsive, high-quality education services
- challenge discrimination on the grounds of age, gender, ethnicity, religion, disability and sexuality

This guide highlights that, as leaders in the design and delivery of education services, we have a responsibility to ensure that equality, diversity, fair treatment and social inclusion are integral to all decision making; that we always need to keep this under review; and that we need to ensure that we seize the opportunity to create school and children's centre leadership that builds these principles into day-to-day and longer-term outcomes.

## 2. Introduction: purpose and scope

Although the information in this guide can be used by broader audiences, it has been developed with four key audiences in mind:

- heads
- aspiring heads
- school and children's centre governing bodies (or equivalent)
- local and diocesan authorities

In relation to all of these roles, to be successful it is important to know, appreciate and understand the diverse nature of the environment and community in which we work. This means constantly redefining and refining our ability to achieve our goals in a competitive and changing environment. This includes getting the best value out of the people and financial resources available.

Achieving and managing diversity in the workplace is not only the right thing to do ethically, but it is critical to achieving organisational and personal goals. To achieve effective and fit-for-purpose school and children's centre leadership, equality and diversity is essential.

The NCSL publication *Leadership succession: an overview*<sup>1</sup> highlights the need to widen the talent pool and improve representation of equalities target groups. This is because diversity is integral to achieving the core tasks of being a good school leader<sup>2</sup>. Diversity is also critical to meeting the great challenges we face in the shortage of high quality school leaders.

We know that even after over 40 years of equalities legislation, inequalities still exist in society and the workplace. Women are still paid less than men and are under-represented at senior level positions. Black and minority ethnic (BME) people and disabled people are seriously under-represented in most areas of work, at every level, not least in school and children's centre leadership positions.

To be fit-for-purpose and to improve the diversity of our school leaders we need to achieve greater equity and fairness in every aspect of leadership and management of our schools. Research and experience of high performing organisations<sup>3</sup> has shown that the achievement of diversity requires an integrated approach – embedding equality and diversity into everything an organisation does around service/business and workforce planning.

Moreover, the importance of school leadership diversity is critical to the [Department for Children, Schools and Families](#). In its Equalities Scheme<sup>4</sup>, Departmental Strategic Objective 7, it emphasises the high levels of under-representation in school leadership and the need for urgent action.

In this context, this guide mainly focuses on the challenge of achieving a more diverse school and children's centre leadership. The guide is primarily aimed at improving the integration of equality and diversity into workforce planning – recruitment, selection, succession planning and retention. The guide is intended to act as a checklist of actions, where possible supported by examples of best practice.

The guide has been developed based on the advice and guidance provided by the key equalities organisations like the [Equality and Human Rights Commission](#)<sup>5</sup> (EHCR) in the UK and examples of best practice from the public, private and voluntary sectors. It is intended

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<sup>1</sup> Leadership succession: an overview – securing the next generation of school leaders, [www.ncsl.org.uk/tomorrowsleaderstoday](http://www.ncsl.org.uk/tomorrowsleaderstoday)

<sup>2</sup> Page 6 of NCSL publication *What we know about School Leadership*, [www.ncsl.org.uk](http://www.ncsl.org.uk)

<sup>3</sup> *The Business of Diversity*, 2002, research commissioned by the Cabinet Office, Barclays and CMRS, [www.schneider-ross.com](http://www.schneider-ross.com)

<sup>4</sup> [www.dcsf.gov.uk/publications/des/](http://www.dcsf.gov.uk/publications/des/)

<sup>5</sup> [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

that it will be updated regularly to help communicate best practice as NCSL's succession planning work continues to develop across the country.

The guide should be used in conjunction with the wide variety of material already provided on leadership and succession planning by NCSL through the [Tomorrow's Leaders Today](#) website. These include:

- [Framework for action](#)
- [Recruiting headteachers and senior leaders](#)
- [Local solutions for leadership succession](#)
- [Taking a marketing approach to leadership recruitment](#)
- [Retaining school leaders](#)
- [Reasons to be a headteacher](#)
- [What's good about leading schools in challenging circumstances?](#)
- [Applying for headship - practical guides](#)
- [Greenhouse schools](#)
- [Career moves](#)

## **2.1 Purpose**

This guide will:

- support the achievement of greater diversity in school and children's centre leadership by enabling you to identify the benefits of a more diverse school and children's centre leadership
- provide practical suggestions and examples of best practice to deliver leadership diversity through monitoring, recruitment, selection, targeted training and succession planning
- enable schools and children's centres to mainstream and embed equality and diversity in service and workforce planning

## **2.2 Scope**

The guide focuses on the following equality target groups:

- gender – women
- ethnicity – black and minority ethnic (BME) people
- disability – people with physical and sensory impairments, learning difficulties and mental health requirements

However, the guide may also be used in relation to other equalities target groups including:

- sexual orientation – lesbians, gay men and bisexual people
- religion – faith groups
- age – older people, children and young people

A full list of key definitions and terms used in this guide are provided in section 17: definitions and terms.

### 3. Context

This section covers equalities and diversity implications of the changing landscapes in relation to:

- society and demographics
- legislation
- language

#### 3.1 Social and demographic landscape

Over the last 40 years the UK has experienced significant social and demographic changes. Section 14: facts and figures provides some of the key facts and figures on the diverse makeup of the UK population.

Social expectations about the equality and dignity at work of women, BME people and disabled people have increased. Girls are achieving better educational results in schools, in some areas better than boys. More women are going onto higher education and hold high expectations about their future. Similarly, there are many black and minority ethnic graduates (the take up of higher education is proportionally greater amongst BME people than among the white population) with legitimate expectations of fair treatment.

At the same time, the medical model of disability is almost replaced by the social model – the emphasis is not on the nature of the disability, but what needs to be done to remove the barriers to full accessibility and citizenship.

The NCSL publication *Leadership succession: an overview* highlights the shortage of headteachers across England as one of the most serious challenges for the education system. A large number of heads are due to retire between 2009 and 2011 and there is a real concern that, if current trends continue, there will not be sufficient numbers in a position to replace them, especially in light of the difficulties in attracting and retaining senior school leaders.

Leadership succession planning is critical in meeting the demographic challenge facing the teaching profession. It is anticipated that without intervention, there would be an acute shortage of suitable candidates and leaders within the next two to three years. In some specific areas, schools and children's centres the challenge of filling vacancies is immediate. Local authorities, schools and children's centres now need to look beyond their traditional talent pools to an ever-growing diverse recruitment market.

In addition, there has been a steady increase in the extent to which community perceptions and pressure have influenced what employers can do<sup>6</sup>. This shift in social attitudes has undoubtedly made it easier for organisations to introduce and embed equality and diversity initiatives. Evidence from the work of NCSL's national succession consultants indicates that schools and children's centres that decide to lead on equality and diversity are seen as exemplary and this may explain how they have been able to attract the very best talent.

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<sup>6</sup> *The Business of Diversity*, 2002, research commissioned by the Cabinet Office, Barclays and CMRS, [www.schneider-ross.com](http://www.schneider-ross.com)

### **3.2 Language landscape**

Language is always changing. The meaning of terms like equal opportunities, equality, diversity, inclusion, corporate responsibility and positive action mean different things to different people. For our purposes, it is important that we develop a shared understanding of these and other terms in current usage. Section 17: definitions and terms provides the definitions of many of widely used equalities terms by central government, the leading equalities agencies and in the public and private sectors, including the EHCR and Employers Forums on Age and Disability.

It is important to get language right as it can, on the one hand, empower and include people and, on the other hand, offend and exclude. Equally, it is important not to get too entangled in definitions or fear saying the wrong thing which could lead to losing sight of the real purpose and intent of the concepts of equality, diversity and inclusion. These concepts, like many before them, are derived from universal values of fairness, social justice, respect, human rights and dignity at work for all people.

### **3.3 Legal landscape**

Following on from the social, demographic and language influences is the legal landscape. A variety of laws require public and other organisations not to discriminate and to positively provide equal opportunities for all with regard to employment and service delivery. The equalities legislation is detailed in section 15: the legislative framework. The social, language and legal landscapes are, of course, intimately linked with a complex interaction of cause and effect. Equality legislation may not be the main driver for seeking to establish a diverse school leadership, but its influence is still considerable. The costs of litigation, for example, as well as the ensuing bad publicity have undoubtedly played a part in making employers take equality and diversity much more seriously.

Discrimination, whether conscious or not, limits an organisation's ability to get the best from its workforce. Employers who promote equality of opportunity among their workforce can draw on a wider pool of talent and experience, and create an environment where employees are valued and supported, and appreciate their colleagues' contribution. A climate where unlawful discrimination is fostered, condoned or ignored cannot provide these benefits.

Employers who are not convinced of the benefits of promoting equality for its own sake must still consider the possibility that an employee or former employee will seek to make a claim against the organisation. Employers who directly discriminate are obviously vulnerable, but so are employers who act capriciously and arbitrarily, who cannot objectively justify their decisions and who conduct themselves in a manner which falls below that generally expected in a modern employment context.

All this can lead employees to feel that they have been discriminated against and, without convincing evidence to the contrary, an employment tribunal may accept that belief as being likely to be correct and make a finding of unlawful discrimination against the employer. Whatever the outcome of discrimination hearings, the process is stressful and is likely to be costly in time, money and reputation.

If a finding of discrimination is made against an organisation, there is a possibility of potentially unlimited compensation being awarded to the former employee. A public finding of discrimination, possibly coupled with criticism of decisions or procedures in a tribunal's judgment, is not a good advertisement for any organisation. It could have an adverse effect on recruitment as well as on existing or potential service users.

## 4. Eight key equality and diversity actions

This section covers:

- a series of checklist questions aimed at thinking through the issues and challenges that need addressing
- an introduction to eight key equality and diversity actions critical to achieving a diverse school leadership. These are based on best practice experience and guidance provided by key equalities organisations:
  - Action 1: develop an equality and diversity strategy and action plan
  - Action 2: identify the local business-service case
  - Action 3: introduce equality monitoring
  - Action 4: identify the barriers and blockages
  - Action 5: diversity-proof policies, procedures and practices
  - Action 6: target support, training and development
  - Action 7: build ownership
  - Action 8: measure progress and accountability

The eight key equality and diversity actions have been compiled from the advice and guidance provided over many years by central government and the leading equalities organisations including:

- [Equality and Human Rights Commission](#)
- [Employers' Forum on Disability](#)<sup>7</sup>
- [The Employers Forum on Age](#)<sup>8</sup>
- [Race for Opportunity - Business in the Community](#)<sup>9</sup>
- [Stonewall](#)<sup>10</sup>

In addition, other sources such as the Audit Commission – *Comprehensive Performance Assessment (Comprehensive Area Assessment)*<sup>11</sup> from 2007, the *Best Value Performance Measures BVPI 2a* and the *Equalities Standards for Local Government*<sup>12</sup> as well best practice experience of organisations in the public, private and voluntary sectors have been used to inform the key actions required.

The eight actions are intended to help quickly identify the priorities and issues which need to be addressed in improving schools' and children's centres' leadership diversity profile. If no actions are currently being undertaken, an equalities and diversity in leadership review should be carried out in the school or children's centre. Please refer to the appropriate action in the checklist for guidance.

Where one or more of the actions is currently being progressed, ensure that the evidence can be provided to back up the practices. This may be written, statistical or otherwise.

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<sup>7</sup> [www.employer-forum.co.uk](http://www.employer-forum.co.uk)

<sup>8</sup> [www.efa.org.uk](http://www.efa.org.uk)

<sup>9</sup> [www.bitc.org.uk](http://www.bitc.org.uk)

<sup>10</sup> [www.stonewall.org.uk](http://www.stonewall.org.uk)

<sup>11</sup> [www.auditcommission.gov.uk](http://www.auditcommission.gov.uk)

<sup>12</sup> [www.idea.gov.uk](http://www.idea.gov.uk)



#### 4.1 Checklist of questions and actions

<b>Checklist of Questions</b>	<b>Already in Place: Yes/No</b>	<b>Actions to help achieve diversity</b>
1. Does your organisation have an equality and diversity in school and children's centre leadership strategy and action plan?	Y/N	Action 1: develop an equalities and diversity strategy and action plan  Action 2: identify the local business-service case
2. Does your organisation regularly collect and report on your school or children's centre workforce profile at all levels on the basis of ethnicity, gender, disability and age?	Y/N	Action 3: introduce equality monitoring
3. Does your organisation regularly monitor and assess, at senior levels, people applying for jobs, short listed, appointed and exiting on the basis of ethnicity, gender, age and disability	Y/N	Action 3: introduce equality monitoring
4. Does your organisation know what the barriers are (actual or perceived) for different under-represented groups in terms of accessing senior jobs and training opportunities within your school or children's centre?	Y/N	Action 4: identify the barriers and blockages
5. Can your organisation provide evidence that all under-represented groups can access employment opportunities, particularly in senior positions, on a fair and equitable basis?	Y/N	Action 5: diversity-proof policies, procedures and practices
6. Can your organisation provide evidence that all under-represented groups can access training, development and promotion opportunities?	Y/N	Action 5: diversity-proof policies, procedures and practices
7. If there are barriers, does your organisation have specific support schemes targeted at under-represented groups eg coaching, mentoring, networking and skills training?	Y/N	Action 6: target support, training and development
8. Does your organisation have evidence of the senior team taking personal leadership to achieve diversity in school leadership?	Y/N	Action 7: build ownership
9. Can your organisation provide evidence that all those involved in recruitment and selection have had up-to-date recruitment training which includes effective equalities and diversity training?	Y/N	Action 7: build ownership
10. Can your organisation provide evidence of embedding equalities and diversity targets into the organisational business-service plans and performance management arrangements including evidence of providing the necessary funding to enable the targets to be met?	Y/N	Action 8: measure progress and accountability

## 5. Action 1: develop an equality and diversity strategy and action plan

This section covers:

- the key elements of a successful equality and diversity strategy and action plan
- the need for the equality and diversity strategy to be an integral part of the local authority's, school's or children's centre's succession plan and wider business-service and employment plan
- the key duties, roles and responsibilities of local authorities, governors, heads and deputy heads

The experience of many leading public, private and voluntary sector organisations suggests that some of the successful elements of an effective equality and diversity strategy include:

- visible leadership and a clear statement of the organisation's values, incorporating equalities and diversity, how those values will be put into practice, and how they will be communicated to all people
- clear equalities and diversity goals and targets (including personal leadership targets for heads, deputy heads, governors and board members), in partnership with stakeholders and any coalition members within specified time periods. These targets should be based on good equalities workforce, recruitment and training data
- clear actions to describe what will be done to achieve these targets and which senior person(s) is/are responsible for each action
- allocation of financial and human resources to deliver the programmes of action
- effective performance management arrangements integrating equalities and diversity – measuring and celebrating success and how lack of progress will be tackled and rectified
- a programme of training and development for existing staff and leaders which should be based on a skills audit in order to deliver the strategy and action plan

An equality and diversity strategy is vital if visible progress is to be made in improving the senior leadership profile. However, occasionally some leaders representing local authorities with small BME populations argue that equality and diversity is of a lower priority. This is because equality and diversity is all too often associated with BME equality issues.

It is important first to recognise that however small a particular community they have rights to fair and equitable education services. Second, equality and diversity is much wider than BME equality issues so it is important to consider equality issues connected to age, gender and disability amongst other equalities issues.

Knowledge and experience of the diverse communities in the area are vital to both service and employment planning. In relation to employment or workforce planning it is particularly important that accurate data is collected aggregated by ethnicity, gender and age. This enables the identification of specific equalities and diversity blockages and challenges experienced by different people and the extent to which employment policies, procedures and practices are fair for everyone. For example, some local authorities and schools' employment profiling data has revealed that they are under-represented in terms of women in secondary headship positions and men in early years education. Their priorities have been to focus on

improving the representation in these two areas. For other authorities, data has revealed that, as well these two areas of focus, they also have an under-representation of BME people at all levels.

Crucially, having good data and not doing anything or not knowing what to do with the information has been found to be challenging for some. The starting point for action is naturally a clarification of roles and responsibilities.

Outlined below are a few key areas of responsibilities for local authorities, governors, heads and deputy heads based on best practice in achieving improved diversity in school and children's centre leadership.

## **5.1 Local authorities**

The minimum responsibilities or duties for public authorities are set by the equalities legislation (see section 15: the legislative framework). All public authorities have legal duties relating to race, gender and disability. Public authorities (which includes schools and children's centres) in England, Scotland and Wales must uphold and promote equality and human rights in everything they do. Their obligations within each area focus on:

- promoting equality of opportunity
- promoting good relations
- promoting positive attitudes
- eliminating harassment, and
- eliminating unlawful discrimination.

These obligations are set out in the race equality duty, the gender equality duty and the disability equality duty. The three equality duties are similar in spirit as they all place the onus on public authorities to actively tackle discrimination and promote equality. However, the duties do have slightly different requirements, which will need to be met in order to satisfy legal obligations.

For local authorities, the diversity in school and children's centre leadership strategy and action plans should be part of the local authority's overall Equality Scheme. It should connect to succession planning and be part of the overall authority-wide service and workforce plan.

### **Case study**

Stimulated by support from the NCSL National Succession Consultants a group of local authorities, having identified that limited or no progress was being made in improving senior level diversity in schools, decided to form themselves into a succession planning network. The network helped each local authority to:

- identify and share diversity leadership best practice through networks, workshops and conferences for school governors, children's centre boards, heads and aspiring heads
- set equalities standards, targets and how to monitor progress
- each authority committed themselves to producing an annual equalities and diversity strategy including providing workforce monitoring data
- identify their own knowledge gaps and developmental needs
- identify the consultation and engagement needs of their local diverse communities – proactive consultation with community groups and stakeholders was seen to be vital to attracting particular community groups into the teaching profession
- mainstreaming equality and diversity into all aspects of service and employment planning delivery for schools and children's centres
- explore systems for undertaking equalities impact assessments and reviews/audits
- putting in place training and support initiatives to improve governors and board level diversity

## **5.2 School governors and children's centre boards**

School governors and children's centre boards are responsible for the overall success or failure of the school or children's centre. The key equalities and diversity responsibilities for school governors and children's centre board members should involve:

- ensuring that the required equalities and diversity policies and implementation plans are in place
- ensuring that governor and board make up is reflective of the local communities
- having an understanding and knowledge of the legal responsibilities, obligations and best practice in relation to equalities and diversity
- holding the senior staff to account with regards to having a diverse school and children's centre leadership

### **Case Study**

A school, with support from the chair of governors, carried out wide-ranging community engagement activities and media campaigns in partnership with the local authority. This resulted in the school being able to improve the representation of women and BME governors. The school then ensured that the governors were provided with appropriate training and information organised by the local authority. At the end of the year the governors were able to:

- integrate equalities and diversity into governance arrangements and decision making evidenced through the school's equalities and diversity strategy and action plan reports to governing body meetings
- undertake fair and equitable roles in recruitment, selection and appointments
- be accountable to parents and the communities in providing inclusive and fair school services and employment practices
- advocate for the school within particular communities – encouraging parents and job seekers from diverse backgrounds to consider being school governors and teachers
- act as a critical friends to the head and deputy head

### **5.3 Heads and deputy heads**

Heads and deputy heads, as the most senior executive people in a school, are ultimately responsible for providing diversity leadership and achieving equality and diversity in school leadership.

#### **Case study**

A Church of England school head, over many years, had worked incrementally to achieve a wide range of equality and diversity actions, including:

- producing and communicating the school equality and diversity policy
- developing a strategy and related programmes of action including a diversity leadership action plan that included training for governors
- promoting a rolling programme of developing relationships with stakeholders and community groups in the local area
- diversity-testing recruitment and selection procedures
- benchmarking the school with other similar schools, identifying and sharing best practice

One of the outcomes was that the school's governors were successful in appointing a BME woman as its head following the retirement of their current head. This attracted a wide range of local and national interest. Consequently, this had a huge positive impact on the school's reputation as a diversity-friendly place to be. The spin-off benefits included:

- an increase in interest from teachers and aspiring heads to want to work in the school
- a positive day-to-day working culture which valued and celebrated diversity

## 6. Action 2: identify the local business-service case

Developing locally-relevant business reasons, linked to the benefits of equality and diversity to local communities, stakeholders and the workforce, can help achieve greater buy-in and co-operation in achieving leadership diversity. Whatever the drivers that are considered important locally, providing an inclusive education to all children – every child matters, by definition, requires equality and diversity at its core.

There are four key drivers for pursuing equality and diversity, these are:

- moral – it is immoral to unfairly discriminate against people on any basis
- social / demographic – changes in society, technology, communications and demographics require organisations to change to be able meet the different needs, expectations and aspirations of a diverse society. Also, as tax-payers, all people have a civic right to fair and accessible public services and employment
- legal – a wide range of equalities legislation now exists prohibiting unlawful discrimination and providing duties to promote equality
- business – making the best value use of finite resources, creating a fit-for-purpose organisation and ensuring all people have fair access to employment and services amongst others aims are the hallmark of effective business decisions, management and leadership

Many organisations are increasingly regarding all four areas as business-service drivers. This is because talented people are increasingly exercising greater choice in who they work for – most will not work for a school or children's centre that they consider to be diversity-unfriendly or unethical.

In a highly competitive recruitment market there is pressure to attract and retain the best talent for all employers. However, given the particular shortages within schools leadership this is much more acute and requires all schools to think about different ways in which they can improve their image and brand - to grow, attract and retain the best talent.

In service-delivery terms, most parents want the best education for their children and look to the schools in their area that can help fulfil their child's full potential. Many schools are now experiencing parents asking about their values and vision. Increasingly, part of this consideration is the expectation that the school will be able to help in imparting an understanding of the multi-cultural society in which we live and work.

The need to comply with the law can also be viewed as a strong business reason to pursue equalities and diversity. This is because contravention of the law can lead to costly litigation. Even an allegation of contravention of the law can lead to a loss in reputation and consequently impact on delivery.

## Story

Recently an aspiring BME head had been invited to interview to a large inner city comprehensive for a Headship interview. She arrived at the school and headed to the reception area. On her way she was stopped by a passing female teacher who inquired: "Are you the new cleaner?"

This may appear at first sight to be an innocent mistake. However, its impact was that the aspiring BME Head felt that this was not a school she wanted to work in. From the BME candidate's point, this was a school where there may be a culture which tolerates negative stereotypes. It could be argued that people make assumptions about one another all the time and the BME teacher was somewhat over sensitive. Yet the apparent over-reaction by the BME teacher may be explained by her having a long cumulative history of such experiences.

This incident serves to highlight the risks even of individual actions or insensitivities (witting or unwitting) on a school. As it happened, the school failed to chase up the candidate to ascertain her reasons for not coming for interview. If the school had done so it may have been able to consider whether this was an isolated incident or indicative of a much wider issue in the school.

The key point is that schools and children's centres cannot be complacent, just because no one complains or prejudice is undetected. We know it exists and can manifest itself in a variety of ways. Being proactive in providing equality and diversity training, including awareness-raising not only safeguards against prejudice and discrimination, but will help to improve the school or children's centre's performance.

## Case study

A local authority having analysed the age profile of its senior leadership identified that many of its heads were coming up to retirement age. The local authority decided that retaining older senior staff was essential to sustaining a high-performing school.

The local authority provided guidance and communicated area challenges and opportunities for retaining existing heads. All schools in the area were encouraged to explore different flexible working practices including: joint headships, executive headships of more than one school, part time posts and job shares.

Over a period of two years some of the schools in the area were able to retain their retiring heads.

## 6.1 Community engagement

This is about the way in which schools or children's centres engage with local people and communities. It requires good awareness of the range of different communities within the area, targets and practices to monitor and ensure a full understanding of the different needs and aspirations of these communities, and reflection of these in school policy and service delivery. Genuine community engagement helps to: challenge the way education services are delivered; identify root causes; contribute local knowledge; and develop local capacity, confidence and ownership. It includes a wide range of methods for engaging parents and local people, from simple surveys through to more deliberative and participative methods such as conferences, fetes and fairs.

A school or children's centre performing strongly here would see the following outcomes:

- increased levels of parent and civic participation
- parents and local people feel that they are able to engage in debates about your school and children centre priorities and that they can influence decision making. They feel that they have a good understanding of your ambitions and priorities
- a good mix of engagement methods that are relevant and appropriate to the needs of local people – the needs and aspirations of different communities are successfully balanced
- a track record of change and improvement following community engagement

**Key points to consider:**

- The business case is expanding all the time and includes social, moral and legal reasons as well as the more obvious community-based service-delivery reasons.
- The business or service delivery case is key to the success of your equality and diversity strategy and action plan.
- The business case for diverse school and children's centre leadership should be based on improving service delivery and employment issues.
- Each business case will be unique to the organisation and the environment in which it works.
- Knowledge and experience of the local community diversity is vital.

Some examples of business benefits include:

- better recruitment and retention
- improved quality in service delivery
- increased creativity and innovation
- achieving cost savings and reducing waste
- better engagement with key stakeholders



## 7. Action 3: introduce equality monitoring

This section covers:

- the context and rationale for introducing equalities in employment monitoring
- which equalities monitoring categories to use
- the challenges experienced in collecting and reporting the data
- undertaking an initial senior workforce diversity profiling and continually updating the information
- how to use the data - comparing the senior workforce profile with the local community profile
- why and how applications, shortlists, appointments, training, promotions and leavers should be monitored
- how monitoring costs in advertising and other recruitment activities can help drive up efficiencies and achieve savings

A prerequisite to developing the local equality and diversity in school leadership strategy and a local business case is the need to understand the current workforce profile and employment practices. This will help provide the starting point in identifying where the gaps are and what needs to be done to address them. In other words, the current leadership profile compared against the local, regional and national population profile will help identify any levels of under-representation. It should also help point to the blockages and barriers to retention, succession planning, training and recruitment linked to under-represented groups.

Without some basic information it is difficult to draw reliable conclusions. Profiling and regular monitoring of the senior leadership profile, and the entire recruitment process, should be undertaken on the basis of gender, ethnic origin and age. These are not the only groups who suffer discrimination, but their situation may well identify the need for actions which will benefit wider groups such as disabled people and people of different faiths and sexual orientation.

An overview assessment by NCSL of the extent to which data is being collected for senior leadership levels shows that many local authorities and schools are not collecting data or are finding it difficult to do so. The following are some of the reasons given:

- a lack of understanding as to why data needs to be collected and what it will be used for
- data was not collected in the past and therefore the systems are not in place to do so
- confusion as to what categories to use, particularly around ethnic origin
- poor response rates or returns
- poor relations between schools, children's centres and local authorities
- recruitment handled by external organisations – monitoring not built into contract
- capacity issues, some authorities and schools have said they do not have the human resources. However, this may be more a question of how those local authorities and schools have prioritised equalities.
- resistance due to institutionalised racism and sexism

These are very valid and important issues which need to be explored, and solutions developed, at the local level. Below are a few starting points:

- Collecting gender and age information should be routine and relatively simple. Disability and Ethnic Origin are seen to be more difficult. As a rule of thumb use the 2001 census categories for data collection. This will help to compare and benchmark against others. Section 15: the legislative framework provides further details and advice on this.
- Sufficient time should be invested in explaining the purposes of gathering this information (refer to the information gleaned from action 2). The explanation and request for information should be repeated every six months. Even though some areas of return may be poor, continue to ask for the information while building awareness and understanding as to why it is important to collect.
- A variety of devices and opportunities should be used including payslips, newsletters, e-communication, seminars, conferences, team meetings, performance appraisal meetings to collect the data. For example, senior staff could be reminded in team meetings that data returns are still outstanding this could be followed up by reminders at one-to-ones.
- The results of data collection – recruitment and workforce profile information should be communicated to all staff and stakeholders clearly, showing how the information is being / will be used to improve performance and service delivery
- It has been suggested that some schools and children's centres with different governance arrangements, such as faith-based or academies, may not necessarily see diversity as high priority in the context of their local community. Whatever the governance arrangements diversity is crucial, especially for those schools or children's centres with a poor reputation within specific communities.
- Public service organisations and schools have a duty to ensure that external suppliers working with them comply with their equality and diversity policy and this means building in equality and diversity into the contract specifications.

### **7.1 Using suppliers and contractors in HR service delivery**

The issue of using external suppliers in managing and delivering HR services for local authorities and schools has been raised as being prohibitive to the collection of diversity data. The example below shows how contract / tender specifications can incorporate requirements to ensure equalities and diversity throughout the contract, including diversity data collection.

### **Example of a contract tender specification incorporating equality and diversity requirements**

Bidders are to prepare an equality and diversity policy (or provide their existing policy) for their organisation's participation in this initiative. The policy should state the bidder's equality and diversity objectives and the means by which the objectives will be achieved over the duration of the Contract.

Bidders should reflect in their policies the steps they would take to ensure their subcontractors implement equality and diversity policies similar to that of the Bidder. The equality and diversity policy should also set out the methods by which the Bidder proposes to monitor and report on the implementation of the policy and its effectiveness.

A comprehensive policy document will reassure the contract evaluation team that the following areas have been addressed:

- Bidders should formulate and adopt a comprehensive equality policy that covers race, gender, disability, age, faith and sexual orientation. The policy should be in line with current legislation (ie RRA, SDA, DDA, EPA) and codes of practice of the three former equality commissions, CRE, EOC and DRC – now EHCR. In respect of Bidders who are based in countries other than the UK, their equivalent local legislation and codes of practice will be acceptable.
- Recruitment policies and procedures will need to be implemented such that they positively promote diversity. This will need to be confirmed by conducting reviews on a regular basis in relation to both the workforce and service delivery.
- Bidders will need to demonstrate that they are both actively engaging and securing long-term relationships with diverse communities in respect of seeking to establish the Bidder's workforce to be more reflective of local communities.
- The policy will need to ensure that any publicity for vacancies will encourage applicants from equality target groups. Recruitment processes will need to be reviewed on a regular basis to ensure that all potential barriers to recruitment, particularly with regard to equality target groups, have been removed.
- Those organisations involved in delivering the Contract will need to have well-defined procedures to deal with harassment and grievances, staff assigned to deal with issues of this nature and a robust mechanism for implementation. Additionally it would be prudent to include equality objectives into management appraisal mechanisms.
- The policy should clearly identify what it is aiming to achieve and what actions will be incorporated to ensure progress remains on schedule. It would also be prudent to identify how the policy will continue to be shaped by key diverse stakeholders.
- Adequate numbers of suitable diverse personnel, together with resources and allocation of time, will need to be made available to deliver this critical activity.

### **Case study**

A local authority, after several years and a series of attempts at collecting senior leadership profile data, asked a senior member of the education staff well known to all the heads in the area to visit each school and undertake a manual headcount with each head. There was a 98% success rate.

This example highlights that data collection in this way through management headcounts is relatively straight forward. The numbers of senior staff in most schools and children's centres are relatively small. When undertaking management diversity headcounts of senior staff it is advised that:

- Each of the senior individuals who has been profiled needs to be sent their individual profile to provide an opportunity for each individual to make any changes for greater accuracy.
- Management headcounts should only be used as a one-off exercise, following which a more systemic approach should be put in place to collect and update the data regularly.

## **7.2 Compare the current workforce profile with the local, regional and national population**

A good starting point is to draw up a profile of the workforce including at senior levels. How many women? How many black and minority ethnic? How many disabled? What age groups? Where they are in the organisation?

Compare these figures against the local borough / area, regional and national population. Bear in mind that the UK labour market has changed and the direction that this change is taking. This information is likely to generate further questions to explore.

One of those questions may be around 'supply', for example not having sufficient BME teachers or qualified / skilled teachers from under-represented groups to attract into senior positions. This should not be an excuse for inaction. On the contrary, this highlights the need for focused interventions in both attracting more people from BME communities into teaching, as well as targeting training and development for those already in the workforce.

### **Case study**

A school with over 80% of its pupils from the Bangladeshi community had only 4% Bangladeshi school teachers against a local Bangladeshi population of over 40%. The head recognised the critical importance of seeking to improve the representation of Bangladeshi teachers. In collaboration with existing Bangladeshi teachers, the head established a local Bangladeshi teachers group. The group helped to:

- encourage more people from within the Bangladeshi community to enter the teaching profession
- act as a sounding board to the head and governors, highlighting concerns and challenges experienced by Bangladeshi teachers and aspirant teachers
- establish an authority-wide Bangladeshi teachers group and support network

### **7.3 Monitor applications, shortlists, appointments, training, promotions and leavers**

In order to identify blockages and trends in attraction, recruitment, retention, training, promotions and leavers, a system should be introduced to collect data in these areas for each equalities group. The data collected should include:

- Who is applying?
- Who is getting short-listed and appointed?
- Who is going on training courses?
- Who is getting promoted?
- Who is leaving?
- How has the local population changed?

The critical question for recruitment campaigns is the extent to which they mirror the rapidly changing labour market.

#### **Case study**

A local authority, on the basis of recruitment monitoring data, identified that applications from BME people for all jobs, including senior leaders, were broadly proportionate to the population. However, the data showed that BME applicants were ten times less likely to be shortlisted for interview than their white counterparts. In addition, the figures showed that where BME people had been shortlisted for interview they were three-times less likely to be appointed than their white counterparts. The council undertook the following actions:

- used external experts to review and diversity proof the overall recruitment and selection procedure – resulting in a shorter more user friendly procedure
- provided ‘training for trainers’ training for all HR staff on equality and diversity and the new procedures
- provided a series of workshops and training for all managers led by board members and HR staff on the use and application of the revised procedures

These actions resulted in 17% increase in the number people from BME backgrounds appointed into senior positions.

### **7.4 Monitor costs in advertising and other recruitment activities**

How much is the current recruitment and employment activity costing the school / children’s centre? This may not readily be connected to equality and diversity. However, the question to explore is how equality and diversity can add value or even help achieve savings in recruitment costs.

- How many women have left to have children and have not returned from maternity leave? Why have they not returned?
- How many black and minority ethnic staff have left and why?
- How many years of service have they put in?

- How much has it cost to train and develop them?
- What are the costs associated with recruiting their successors?
- For each percentage reduction in attrition, how much would this save?
- How could targeted recruitment reduce recruitment costs?

Feedback from consultation on this guide raised concerns about how some of the above information could be used by some schools or children's centres to deduce, for example, that employing young women of child bearing age is not cost effective. This would be a very narrow interpretation of the question of cost-effectiveness and does not take account of the wider, longer term costs such as loss of trained talent, poor image and fundamental impact on performance and service delivery.

#### **Case study**

Some local authorities and schools remain unaware of their employee profile and the costs of doing nothing. Significant cost savings became clear to one primary school which realised that 70% of their staff were women aged under 35.

The school introduced a combination of more flexible options for return (for example job share and part time working) and a programme of training to help raise awareness and change attitudes in managers wanting and expecting their staff to return. Attrition due to maternity leave and caring responsibilities was dramatically reduced. The impact on the school was: continuity, less disruption to learning and pastoral care, maintained levels of achievement and an improved community image.

See NCSL publication [Retaining school leaders](#).

## 8. Action 4: identify the barriers and blockages

This section covers the key barriers and blockages experienced by women and BME people in seeking to move into senior positions. They include:

- education and training – in some instances, BME people, in particular, have experienced exclusion from quality education and training
- social capital – lacking the appropriate social networks and appropriate role models
- geographic - living in areas of deprivation and poor transport
- self-imposed – home life, personal confidence and motivation
- prejudice and discrimination – direct and indirect discrimination in work life opportunities – sexism, racism and perceptions that men make better leaders and BME people are inexperienced and lack education

Action 3: equality employment monitoring has highlighted the critical importance of monitoring and statistical data in identifying the blockages in recruitment, retention, selection and training process and practice. In this section we look at how this evidence compares against the actual experiences and perceptions of equalities target group staff and communities.

Two key pieces of research detail some of the barriers to senior leadership for women and BME people. These are:

- [Gender and Headship in the 21st century](#)<sup>13</sup>
- [Black And Minority Ethnic Leaders](#)<sup>14</sup>

### 8.1 Summary of barriers faced by women

Data for school leadership appointments in 2005/06<sup>15</sup> reveals that 70% primary headship appointments were women. In secondary headship women account for around 40% of appointments and make up 85% of the teaching workforce.

Clearly the under-representation of men in the teaching workforce requires action at a number of levels, not least specific targeted interventions to encourage more men to join the teaching profession. Yet men remain disproportionately over represented in headship positions both in primary and secondary. So, what is preventing more women from reaching senior leadership positions? Below is a short summary of some of the barriers experienced by women:

- experience of discrimination and sexism, and feeling that at some time they have had to justify their existence as female leaders. The male heads did not question their situation as leaders
- stereotypes about women identified them with the more domestic and caring role in schools

<sup>13</sup> By Dr Marianne Coleman on behalf of NCSL

<sup>14</sup> Final Report to the National College for School Leadership by Tony Bush, Derek Glover, Krishan Sood, Carol Cardno, Kholeka Moloi, Geraldine Potgeiter and Kenneth 2005

<sup>15</sup> Thirteenth Annual Report, Education Data Surveys, June 2007

- the most common example of sexism in interviews related to the family commitments of the women
- women were favoured as heads of all-girls' schools. Becoming a female head of a co-ed or boys' school was comparatively more difficult
- there were geographical differences, with women more likely to be heads in London and other metropolitan areas and less likely to be heads in the shire counties
- lack of mentoring and role models and not much evidence of heads giving any special support for women in terms of career development
- the hero-leader working 24/7 model of leadership is off-putting for many aspiring heads, particularly so for women

## **8.2 Summary of barriers experienced by BME people**

Data on school leadership appointments 2005/06 showed that just over 1% of primary heads and just over 3% of secondary heads came from a BME group. Most teachers from BME backgrounds work in schools where there are also concentrations of pupils of similar backgrounds. Research indicates that 79% of men and 61% of women work at schools with more than 50% BME pupils (source NCSL website).

- The under-representation of BME people in middle and senior leadership roles contributes to the potential shortage of school leaders and provides few role models for the next generation of school leaders.
- The statistics show that BME teachers are much less likely to be promoted to leadership positions than white teachers.
- Family and community attitudes to teaching influence whether BME people embark on a teaching career and/or seek promotion.
- The sense of 'identity' of BME teachers strongly influences their attitudes to teaching and leadership. This concept includes notions of race, 'roots', culture and community.
- There is widespread evidence of covert or indirect discrimination, coupled with a racial 'glass ceiling' and negative stereotyping.
- Recruitment and selection strategies, and the composition of the selectors, may constitute a barrier to employment and/or promotion.
- Professional and social isolation or 'exclusion' of BME teachers may occur after appointment.
- British BME people may have a different experience from those who are educated and 'socialised' abroad.
- BME professionals who succeed in their careers despite the barriers may be perceived as 'pioneers'.
- Some high-achieving BME people are reluctant to discuss or deny the experience disadvantage or discrimination so that they are not seen to be weak and to 'fit in'.
- When BME people do receive promotion to leadership positions it is often to schools in challenging circumstances.



- There is insufficient support from local authorities, but when things go wrong there are high levels of scrutiny.

#### **Example**

To gain a better understanding of the barriers experienced by under represented groups, a local authority established a 'Diversity in School Leadership Coalition' involving, heads, governors and community organisations. One of the first things the coalition has done is to commission research into the barriers, through satisfaction, attitudinal surveys and focus groups with BME and women teachers in area. The research was also used to identify potential solutions to overcoming these blockages.

Below are some other examples of barriers reported by BME teachers and NCSL's national succession consultants over and above those already documented. These barriers were drawn from recent conferences and discussions attended BME teachers:

- inflexible working conditions (eg limited or no job share)
- self-exclusion – feelings of not being good enough often underpinned by lack of encouragement and support
- lack of understanding and support in application processes and interviews
- past negative experiences of application and recruitment process
- lack of association or empathy with job advert, job description and person specification
- exclusion from and/or inability to access training and development
- additional skills, competencies and experience eg being bi-lingual, used to marginalise rather than enhance career progression
- lack of recognition even when leadership has been cited as outstanding by bodies such as Ofsted
- protracted routes to promoted posts are often suggested to BME teachers, while white teachers are often informally mentored and 'fast tracked', eg reaching head of department within two years of having entered the profession

## 9. Action 5: diversity-proof policies, procedures and practices

This section covers issues around ensuring that all recruitment and training policies and practices are fully inclusive. This includes:

- application forms
- job descriptions, person specifications and the wording of adverts
- advertising and media selection
- assessments: short-listing, interviews and tests
- training programmes

This section should be read in conjunction to the NCSL guidance on:

- [Recruiting headteachers and senior leaders](#)
- [Taking a marketing approach to leadership recruitment](#)
- [Retaining school leaders](#)

The intention of this section is not to describe all the human resources policies and procedures connected to the employment lifecycle of a teacher, but to highlight the critical need to embed equality and diversity into all the HR policies, workforce planning and practices. This means assessing or proofing all HR policies and practices eliminate unfair bias and discrimination and to ensure that they are fully **inclusive**.

It is worth remembering that as part of the legal duty<sup>16</sup> to develop and publish equalities schemes there is a requirement for public authorities to 'impact assess' their policies, practices and functions. Diversity-proofing is seen to aid this requirement.

There is much research and evidence<sup>17</sup> to show that employers can and do treat some people less favourably than others on racial grounds or because of gender, age, disability, sexual orientation, or religion or belief, during various parts of the recruitment process, including:

- application and forms
- job descriptions, person specifications and the wording of adverts
- advertising and media selection
- assessments: short-listing, interviews and tests

There is no obligation on an employer to show that they have selected the best candidate for the job. However, the employer is recommended to keep records that allow them, if challenged, to justify their decisions to select particular candidates and reject others. The former Commission for Racial Equality's code of practice on employment contains useful information on this and other areas<sup>18</sup>.

Legally, everyone has the right to be treated fairly at the point of selection and when they are in work to be treated with respect and dignity so that they can achieve their full potential,

<sup>16</sup> [Race equality duty, Disability equality duty & Gender equality duty](#), [www.equalityandhumanrights.com](http://www.equalityandhumanrights.com)

<sup>17</sup> [Ethnic Minorities and the Labour Market](#), Number 10, Cabinet Office Strategy Unit Report, [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)

<sup>18</sup> [www.equalityandhumanrights.com](http://www.equalityandhumanrights.com)

whether a person is a full or part-time employee, in a temporary job, or a freelance or agency worker. Equality legislation and best practice covers the entire recruitment process. The section below explores some key areas of the recruitment process and suggests how to achieve greater inclusiveness.

## 9.1 Application forms

Overcomplicated and voluminous application forms can put some people off from applying for a job. Discussions at workshops and the experience of the wider public sector shows that some people from under-represented groups are particularly affected, especially when the form is asking for information which could potentially be used to discriminate unlawfully, ie irrelevant to the job competencies. Examples can include: marital status, driving licence, disability, date chronology of education and work history and age.

The law does not prohibit employers from asking for such information – as long as the employer can objectively justify that it is necessary or relevant to the job. Asking for such information can run the risk of applicants viewing this as evidence of an organisation's intention to discriminate. For example, recruitment panel members can work out an applicant's age from a date chronology of their work and education history.

Many organisations use a separate form or tear-off slip to monitor equalities and other information not relevant to the job competencies. The request for equalities profiling and other data should clearly explain the purpose of collecting such data, reassuring applicants that this will not be used as part of the selection process.

### Case study

A local authority, as part of reviewing and diversity-proofing its overall recruitment and selection procedure, changed its eight-page application form to four pages and ensured that the form:

- did not ask for age, date chronology of education and work history
- provided the facility to apply online
- provided the facility to apply in different disability communication formats, eg audio tape and braille
- was anonymised, on receipt, with the name of the applicant blanked out for sift and selection panel

## 9.2 Job descriptions, person specifications and adverts

### Example

“For this Headship post the Chair of Governors is looking for commitment, reliability and stability, not someone who has job-hopped for the last few years. The ideal candidate would be someone like Bill our former Head.” Statement appeared in an advert.

In today's job markets it is increasingly common for people to move jobs. Applicants should be asked to give evidence of commitment and reliability in their applications. In this scenario, the school should have made it clear as to why this is important. In addition, communicating that the school is seeking someone like Bill (former head) will do little to widen the recruitment market.

Diversity-proofing job descriptions and person specifications can and does help to improve inclusion by broadening the appeal to attract a wider talent pool.

The job description needs to be relevant to the actual job. When a head or deputy head leaves or is about to leave all too frequently an old job description and person specification is used. This means that the opportunity to capture the changing nature of the position, its context and the different skill sets and competencies required is missed. This can lead to not getting the best person for the actual job.

### Scenario

One school head used her local authority diversity services to diversity-proof her adverts, job descriptions and person specifications before advertising. She also organised an equalities and diversity training session in recruitment for herself and her senior team.

This arrangement ensured that:

- all adverts, job descriptions and person specifications were worded positively to attract people from under-represented groups, eg the advert stated: 'we would like to particularly attract people from BME backgrounds because we are currently under-represented at this level'
- specific inclusive wording was used in person specifications and job description, such as: 'evidence of leading and managing diversity change and diverse groups of staff'
- numerical references to experience were removed eg: 'at least ten-years experience of managing a school' was replaced with: 'track record of experience of achieving improvements in educational performance within a diverse school population'
- there was acceptance of overseas qualifications which are comparable with UK qualifications and support to obtain QTS as soon as possible
- compelling and inclusive advert design appealed to under-represented groups
- schemes for work and home life balance were highlighted – flexible working options such as career break schemes, arrangements for return to work, support for people with caring responsibilities

The outcome of these interventions ensured an increase in the proportion of applications from BME and women applicants.

### 9.3 Advertising and using the media

While headship posts are normally advertised in TES and Guardian, there may be local circumstances such as issues of under-representation and school / children's centre image that require the use of wider diversity media. See NCSL publication [Local solutions for leadership succession](#).

Careful planning in terms of research, message creation, content delivery, timing, location, and understanding the target markets will all help to generate the desired response from candidates from under-represented communities.

One of the ways of widening access and making sure that the widest possible talent pool is reached is to make sure that the appropriate media mix is used to reach the target under-represented group. Outlined below are a few suggestions:

- Assess the effectiveness of the process already in place before developing a comprehensive diversity recruitment marketing program – this can have a long-lasting impact on the success of efforts to achieving a more diverse school leadership.
- Conduct an analysis of the effectiveness of the current media used, including any media used that targets under-represented groups. Determine which are most effective using both figures about response rates and actual appointments. Those media channels that have been shown to produce the best results should be reviewed to determine what aspects of their editorial content, marketing, distribution or ‘clicks’ are leading to your success.
- Take the information obtained from this evaluation to help the creation of a more effective marketing strategy and use of media, will lead to greater success in reaching under-represented groups.

Also see NCSL publication [Turning heads: Taking a marketing approach to leadership recruitment](#)

#### Checklist

- In addition to using TES and Guardian, consider the key diversity media including any local free press.
- Sometimes advertising in diversity media may not generate the numbers, but remember it can help to improve your profile and image within that community.
- Look beyond print media to online media and advertising portals.
- Education leadership career websites are on the increase – a simple ‘google’ search should reveal the key ones. Banner and directional advertising to the schools or local authority website is likely to be the most cost-effective. However, the website must be diversity friendly.
- Explore social networking sites like ‘facebook’.
- Use local community organisations and explore doing a mail-shot or poster campaign.
- Explore targeted community outreach, road shows and engagement work – this can include job shops at community centres, places of worship, festivals, fairs, shopping centres, and educational organisations.
- Explore the use of ‘head hunters’ – search consultants to attract top talent. Diversity ‘head hunting’/search are increasingly being used in both the private and wider public sector to attract and improve the diversity of talent pools and shortlists from which organisations can appoint. See page 37 of [Turning heads: Taking a marketing approach to leadership recruitment](#).

#### 9.4 Assessments: short-listing, interviews and tests

Attracting applications from the right people will not necessarily lead to improved representation within the workforce representation, particularly if the assessment and sift stages act as barriers to recruitment.

To ensure bias-free sift and selection, consider the following before long-listing, short-listing, planning the assessment and interview:

- a diverse panel which has received good quality equality and diversity training
- a consistent system for keeping records of all interviews – each panel member’s notes and their scores against the competencies
- ensuring venues and communication formats are accessible (for example, wheelchair access or communication formats to do tests and take part in other selection processes) and making necessary reasonable adjustments in advance
- using alternative recruitment qualifying tests and sift mechanisms for all eligible applicants, eg competence-based recruitment criteria
- invite applicants to identify any particular arrangements they might need at the interview, eg an interpreter for a candidate who may have a hearing impairment or natural lighting for someone with photosensitive epilepsy
- provide candidates with the opportunity to have a support worker at the interview – this does not necessarily mean they will need a support worker to do the job
- provide job-coaching sessions for potential candidates
- provide questions in advance of interview to each candidate
- before the interview, tell the candidate the names of the interviewing panel and ask them if the layout of the room is suitable
- ensure that all tests are piloted first and tested to remove any adverse impact or bias

Also see [\*Turning heads: Taking a marketing approach to leadership recruitment\*](#)

### **Example**

A central government department undertook a detailed competency analysis by a team which included equality and diversity experts. The team's work resulted in:

- key competencies being identified following consultation with the established BME, women and disabled staff support groups
- the agreed competencies forming the basis of all subsequent recruitment and selection materials
- the development of a competency based application form, which asked applicants to provide evidence of experience, skills and abilities directly related to the competencies and removal of irrelevant qualifications and numerical years of experience
- short-listing guidelines with a systematic rating scheme to enable recruiters to be as objective as possible
- testing regimes that were of direct relevance to the job
- structured interview schedules, together with an interview rating form and decision guide, to ensure consistency and objectivity

The outcome was an annual average increase of 1.5% improvement in BME appointments and 0.4% improvement in appointments of disabled candidates.

The NCSL is determined to do all that it can to support local authorities, dioceses, schools and children's centres to achieve a diverse leadership. In this respect it has developed a strategic framework of action under the equalities and diversity for all group (EDfA). This includes making sure all NCSL's efforts support the achievement of this goal. The training and development programmes currently available are the central vehicles through which schools and children's leadership capability and capacity is achieved.

## 10. Action 6: target support, training and development

This section covers advice to consider around:

- ensuring that existing training and development opportunities are clearly communicated and targeted at women, BME and disabled teachers
- using positive action to address under representation including encouraging all senior staff to 'coach' and mentor staff from under-represented groups
- having an appraisal scheme which provides reliable information on current performance and career aspirations
- monitoring access to training on the basis of age, gender, ethnicity and disability and taking action to remedy any lack of access

There are a wide range of programmes of development and support to help achieve the goal of a more diverse school leadership. An [A–Z list of all training programmes](#) can be found on the NCSL website. If the current take up from under-represented groups is limited it is important to understand why that is the case and what changes are needed to enable the programmes to be more inclusive. Part of this discussion may involve targeting access and encouragement to improve take up. This includes:

- identifying and preparing under-represented groups to take advantage of these programmes – this area of work rests principally with local authorities, dioceses and schools
- designing positive action access routes in to these programmes for under-represented groups – this is a shared responsibility for all agencies to consider creative and innovative solutions
- diversity-proofing the programme content and delivery to ensure inclusion – this area of work essentially rests with NCSL, the training partners / developer and the providers

### 10.1 Positive action support

Positive action measures can support access to these training programmes, help to release the potential of the existing teachers from under-represented groups and counteract any effects of past, present and potential discrimination. Schools and children's centres can no longer afford to leave the career development of their staff to chance. Proactive systems need to be put in place that enable each member of staff to achieve their full potential.



Positive action broadly involves training before entering a job, personal development training, access to professional qualifications, highlighting positive images and targeting information. Positive action should not be confused with positive discrimination or affirmative action (i.e. choosing people solely on the grounds of their gender or racial origin, regardless of their capabilities), which is illegal in the UK.

Positive action is not about giving some people more favourable treatment. Positive action initiatives are designed to enable employers to encourage people from certain groups who are under-represented in the workplace to apply for jobs and promotions. Some people may perceive that they might not 'fit in' to some organisations because of their lifestyle or background; their past experiences of some organisations may have led them to think they would not be welcome as an employee.

Positive action aims to dispel such myths and show employees and potential employees how organisations have changed; also to emphasise that applications are particularly welcome from people from under-represented groups. Whilst information (eg familiarisation events) and sometimes additional training can be given to under-represented applicants, final selection must always be made on merit.

Certain positive action initiatives are permitted by law specifically:

- Sections 47 & 48 of the Sex Discrimination Act 1975
- Sections 37 & 38 of the Race Relations Act 1976
- Employment Equality Regulations for Religion and Belief and Sexual Orientation
- the Disability Discrimination Act, which allows for positive action
- the government's √√ (Two Ticks) Scheme, which was introduced to support the employment of people with disabilities in a similar way

Positive action can help:

- counteract past, present and potential discrimination
- redress the limited range of employment opportunities provided by the traditional girls' curriculum at school
- enable target groups to obtain the skills required to enter a wider range of jobs
- enable employers to encourage target groups to seek promotion and contribute fully to the organisation for which they work
- to resolve the problems of skills' shortages
- returners to find employment when their skills are rusty or out of date

The aim of positive action is to ensure that people from previously excluded BME groups and women can compete on equal terms with other applicants. It is intended to make up for the accumulated effects of past discrimination. Selection itself must be based on merit and treat all applicants equally. The law does not compel employers to take positive action, but it allows them to do so.

Positive action can also be taken by trade unions; by any organisation which provides training courses; and by education providers, who can take positive action by providing for special educational or training needs, such as special classes in English as a second language.

See section 15: the legislative framework for further details around different types of positive action.

## 10.2 How to target

- Identify the levels of take up – monitor by gender, ethnicity and age (if possible, disability too) to identify the proportions of the groups accessing the different training courses. How does it compare to their representation in the workforce. What are the gaps?
- Set a target to increase numbers / percentages of BME and women to access each programme.
- Identify specific individuals to be targeted.
- Develop a short work plan to improve access – encouragement measures, communicating programme availability, one-to-ones, team meetings, coaching, mentoring and preparing individuals to take advantage of the relevant programmes.
- In the promotion and communication of these programmes always include positive equalities and diversity messages.
- Undertake specific targeted campaigns to attract and improve take-up.
- Provide specific pre-training support and training needs assessment for example the [Equal Access to Promotion](#) programme provided by NCSL.

### Case study

A secondary school head undertook to:

- engage and consult extensively with BME and women teachers in the school to establish levels of interest and potential take up for targeted programmes of support
- engage with wider groups of staff to communicate the purpose and rationale, to build wider ownership and dispel negative views / myths
- write to all women and BME teachers asking them whether they would be interested in a programme of training and development based around their individual needs
- assess their individual training needs
- personally encourage many to take up professional development courses including NPQH
- develop and implement a coaching / mentoring programme, led by the head, senior management team and heads of department, who each mentored a female and BME teacher
- set up two staff support groups, one for women and another for BME teachers

“I was able to share, in a safe all-women environment, some of my professional and personal challenges. As a direct result of attending the network events I developed self-confidence and received the support to put myself forward for further development and training. Now I am a successful secondary school head.”

*The above quote is from a secondary school head speaking at an equality and diversity workshop organised by NCSL. She has been a head for three years and has brought about wide ranging improvements in her school including the performance results for pupils with BME and white working class backgrounds. She also acts as a mentor to three aspiring heads, two in her own school and one from a neighbouring school.*

### **Case study**

In order to address the under-representation of BME teachers, a local authority established a coalition of eight schools. This helped to pool their resources. One of the initiatives the coalition developed was a positive action training scheme for aspiring BME teachers. Each school identified or created a number of trainee teaching positions and advertised these trainee positions in the local media, including the local BME media.

The adverts carried the legal provision contained within the Race Relations Act 1976, Sections 35 and 38 (see section 10.1 on positive action for fuller description of these legal provisions).

The outcome: in the first year, 15 trainees were recruited and put onto appropriate training and professional development courses. In its second year the coalition is looking to appoint up to 25 trainees.

Further advice on encouraging and supporting the development of school leaders is provided in the NCSL publication [Greenhouse schools](#).

## 11. Action 7: build ownership

The experience of successful public and private sector organisations shows that the ones with a diverse workforce are also ones that are high-performing<sup>19</sup>. Several key success factors were seen to have contributed to building effective ownership of equality and diversity in these organisations:

- effective diversity leadership (good leaders and managers were also good at diversity) was critical to the initiation of policies and ongoing implementation of programmes
- corporate values were used as a vehicle to integrate equality and diversity
- the need for effective equality and diversity expertise and advice, the role of a diversity functions/ advisers and their status and seniority within the organisation
- the critical importance of ongoing support, particularly training, in order to build and spread ownership and encourage individual and collective responsibility for the delivery of equality and diversity
- the need for full scale integration into the overall business and workforce plan, supported where necessary by specific, targeted measures

### Case study

A local authority improved the ownership of equalities and diversity by:

- building diversity into leadership targets into the overall schools workforce plan, including succession planning, and identifying appropriate resources for its delivery
- undertaking an equality and diversity training needs audit / analysis of all governors and teachers and developing a bespoke programme of equalities and diversity training based on the day-to-day and strategic responsibilities of governors, senior team and staff
- delivering the training using effective equality and diversity leadership trainers
- establishing a system to recognise and reward good practice in equality and diversity, celebrating and communicating examples of best practice
- ensuring that progress was monitored through refining and establishing an effective performance management and appraisal system
- making regular equalities and diversity performance reports to the board and members, thereby establishing a record of evidence of equalities and diversity action and progress
- the Chief Executive and other Directors leading by example, by mentoring two aspiring teachers from under-represented groups and each having a personal diversity target

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<sup>19</sup> The Business of Diversity, how organisations in the public and private sectors are integrating equality and diversity to enhance business performance, 2002, research commissioned by Cabinet Office, [www.schneider-ross.com](http://www.schneider-ross.com)

## 12. Action 8: measure progress and accountability

It is said that: "What is not measured is not valued and cannot be effectively managed." Having effective measurement and accountability is essential to managing organisational change – and equality and diversity change is no different. As discussed in the earlier actions, strategies and action plans need to be based on good data. As the business-service case targets and actions plans become clearer, so will the measurement and accountability arrangements.

There are a wide range of equality and diversity measures. The different types of equality and diversity measurement fall broadly into the following areas:

- external measurement – one of the ways of measuring progress is by benchmarking with other similar organisations. Examples include: [The Equality Standard for Local Government](#)<sup>20</sup>, [Investors in People Standard](#)<sup>21</sup>, [The Diversity Excellence Model](#)<sup>TM22</sup> based on the European Quality Foundation Model
- measuring outcomes – as discussed in action 3, this involves data on employee profiles compared to the population to measure diversity outcomes of HR practices
- measuring attitudes – employee surveys and focus groups/ workshops are popular methods (quantitative and qualitative) of capturing staff attitudes and feelings
- measuring behaviours – this involves having effective accountability at both organisational and individual levels. Accountability systems need to be in place to ensure follow up to results. Some behaviours can be measured through appraisal systems and specific employee feedback like 360 degree feedback. The work on behaviours is linked to developing a set of explicit diversity competencies
- measuring business-service delivery outcomes – this is about measuring the impact of diversity on business-service performance and can include measures such as: reduced absenteeism, reduced costs of turnover, improved retention and improved productivity compared to the investment made in delivering diversity

### Key points:

- Equality and diversity training for governors and senior staff are critical to enabling greater ownership, accountability and improved capability to model good leadership behaviour.
- There are three key components to an effective performance management system which has integrated equality and diversity:
  - a direct link to the overall business-service and workforce plan
  - a bias-free and diversity-positive appraisal system with equality and diversity built into each senior staff performance appraisal, linked to rewards and possibly sanctions
  - an effective learning, training and development plan
- Take direct personal responsibility to demonstrate commitment.
- Identify and allocate appropriate resources to deliver equality and diversity.

<sup>20</sup> [www.idea.gov.uk](http://www.idea.gov.uk)

<sup>21</sup> [www.investorsinpeople.co.uk](http://www.investorsinpeople.co.uk)

<sup>22</sup> [www.nationalschool.gov.uk](http://www.nationalschool.gov.uk)

### 13. Advice for aspiring heads

Use the tips below in conjunction to the detailed guidance provided in the NCSL publications:

- [Applying for headship - practical guides](#)
- [Go for it reasons to be a headteacher](#)
- [Career moves](#)

#### **Some tips from the experience of BME and women heads:**

- Network, network and network – many people from under-represented backgrounds lack the social capital (see explanation on social capital in section 17).
- Be honest in identifying strengths and weaknesses and establish a proactive plan to overcome or improve those weakness and build on strengths. Use development and training time effectively by choosing the right course, workshops and conferences.
- Find a number of good mentors to support you in the different aspects of your development.
- Establish a work-home life balance – being disorganised and having a chaotic home life can impact on performance.
- Use voluntary, community and home life experiences intelligently and in the relevant context. These can sometimes provide a powerful edge over other candidates.
- Highlight any additional and complementary skills and competencies gained outside of work, eg if you are from a particular ethnic background and are bilingual you may have experience of, or be able to engage with, particular communities more efficiently.
- Take initiative and create opportunities for yourself and others to strengthen your experience / skills base and build your reputation.
- Discuss ideas with colleagues and senior staff to enlist their support.

## 14. Facts and figures

Most of the facts and figures in this section have been gleaned from the 2001 Census, Office of National Statistics ([National Statistics Online](http://www.statistics.gov.uk))<sup>23</sup>. Where this is not the case it is referenced accordingly.

### 14.1 Ethnicity

- 7.9% of the UK population are from visible minority ethnic groups.
- Visible minority ethnic groups are generally younger than white groups.
- 50% of BME people are under the age of 16, compared to 33% white population.
- 45% of the UK's visible minority ethnic people live in London.
- Asians have the largest households in the UK.
- 9 out of 10 people of mixed race identify as British.
- 7 out of 10 people identify as white Christian.
- Chinese pupils gain the best GCSE results in the country.
- Pakistanis are the group most likely to be self-employed.
- Bangladeshis have the highest unemployment.
- 1 in 10 white and Indian people provide unpaid care.
- Pakistanis and Bangladeshis are at the highest risk of being victims of crime.

### 14.2 Gender

- There are 30 million women and 28 million men in the UK.
- It is forecast that, by the year 2010, vast demographic changes in the UK workforce will see 80% of 2 million new jobs being filled by women.
- Almost half of these will be part time roles (Institute for Employment Research, University of Warwick, 2004).
- Women comprise 45% of the available workforce and 30% of UK managers.

### 14.3 Disability

- There are over 8.6 million (14.5%) disabled people in the UK – more than the combined populations of Scotland and Wales – of which only 8% were born with their impairment (Employers' Forum on Disability (EFD) 2004).
- Seven out of ten economically-active disabled people of working age will have become disabled during their working life. (Disability Rights Commission (DRC) 2002)
- Around 3.5 million disabled people are in employment, with an employment rate of 48% compared with 81% in for non-disabled people (Employers' Forum on Disability (EFD) 2004).

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<sup>23</sup> [www.statistics.gov.uk](http://www.statistics.gov.uk)

## 14.4 Age

The UK population is ageing. By 2010, 40% of the population will be 45 or over and 17% under 24.

- In 2002, there were 8,100 people over the age of 100 ([www.agepositive.gov.uk](http://www.agepositive.gov.uk)).
- In 2003, 8% of people aged 75 and over took part in some sort of adult learning ([Age Concern UK<sup>24</sup>](#)).
- It is estimated that ageism at work is costing the UK £31 billion every year ([The Employers Forum on Age<sup>25</sup>](#)).
- Around 80% of young people believe that age discrimination is widespread (DWP 2001).
- By 2006, the 25-34 working age group will decrease by 2 million from a peak of 9 million in 1996 (Employers Forum for Age 2001).
- Nearly 1 in 3 of the UK workforce is now over 40 (Employers Forum for Age 2001).
- By 2006, there will be 500,000 more female workers in the 45-59 age group (Employers Forum for Age 2001).
- Over 50% of employees now retire before the official company retirement date (Employers Forum for Age 2001).
- The UK population as a whole is ageing. Experts predict that, by 2021, 55 to 64 year-old workers will represent the largest section of the working population, whereas at the moment they are in the minority.
- This has been described as a 'demographic time bomb'. If it continues, it may soon result in serious shortages in the workforce as less and less young people are available to fill new roles.
- At the same time, employers who focus on recruiting younger people are potentially ignoring older workers who are still very productive and often more experienced.
- So, age diversity is vital both for the interests of employees and also for employers looking for a productive, inspiring culture at work. It is now more important than ever to recognise the value of employing people of all ages.

## 14.5 Religion and belief

- Within Pakistani and Bangladeshi communities, Islam is the main religion.
- Within the Indian community, Sikhism and Hinduism are the main religions.
- Within white and mixed communities, Christianity is the main religion.
- Many practising Muslims, Jews and Rastafarians do not eat pork.
- Many observant Sikhs and Hindus will not eat beef.
- Many traditional Hindus, Buddhists, Rastafarians and Sikhs are vegetarian.
- Ramadan, the Muslim period of fasting, lasts for one month.
- Three quarters of white people in the UK consider themselves Christians.
- Many Bahá'is, Hindus, Muslims, Sikhs and some Christians avoid alcohol.

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<sup>24</sup> [www.ageconcern.co.uk](http://www.ageconcern.co.uk)

<sup>25</sup> [www.efa.org.uk](http://www.efa.org.uk)



- Many religions follow lunar calendars, some follow solar calendars, and others have luni-solar calendars.
- The Jewish year can be between 353 and 385 days long.
- The Christian religion has no fewer than 14 major denominations, and many of these are sub-divided into different types of church.
- Most religions have an element of fasting or moderate eating aimed to cleanse the body and soul.

#### 14.5.1 Religion by ethnic group (%), ONS 2001 Census (England & Wales)

	Christian	Buddhist	Hindu	Jewish	Muslim	Sikh	Any other religion	No religion	Religion not stated	All people
White	75.7	0.1	0.0	0.5	0.4	0.0	0.3	15.3	7.7	100%
Mixed	52.5	0.7	0.9	0.5	9.7	0.4	0.6	23.3	11.5	100%
Indian	4.9	0.2	45.0	0.1	12.7	29.1	1.8	1.7	4.6	100%
Pakistani	1.1	0.0	0.1	0.1	92.0	0.1	0.0	0.5	6.2	100%
Bangladeshi	0.5	0.1	0.6	0.1	92.5	0.0	0.0	0.4	5.8	100%
Other Asian	13.4	4.9	26.8	0.3	37.3	6.2	0.9	3.4	6.8	100%
Black Caribbean	73.8	0.2	0.3	0.1	0.8	0.0	0.6	11.2	13.0	100%
Black African	68.9	0.1	0.2	0.1	20.0	0.1	0.2	2.3	8.1	100%
Other Black	66.6	0.2	0.4	0.1	6.0	0.1	0.7	12.1	13.9	100%
Chinese	21.6	15.1	0.1	0.1	0.3	0.0	0.5	52.6	9.8	100%
Other Ethnic Groups	33.0	15.5	1.3	1.1	25.7	-	-	-	-	100%

The percentages in the table above apply to all people who responded to the Office of National Statistics Census conducted in April 2001.

## **14.6 Sexual orientation**

- The government estimates that 5% to 7% of the UK population is gay or bisexual.
- Various sociological and commercial surveys have also produced estimates, but there is no hard data available because no national census has ever asked people to define their sexuality.

## 15. Legislative framework

This section has been principally compiled from the advice and guidance available from the Equalities and Human Rights Commission, encompassing the former equalities commissions on race, gender and disability<sup>26</sup>:

It provides a brief introduction to the legislation affecting a public employer. In general, rights and equality laws regarding employment apply to all organisations that have employees. They apply to all aspects of the employment cycle of employees from entry to exit, including recruitment, training and the treatment of former employees such as pension-holders. Schools are also responsible for the actions of their governors and staff.

The various regulations on equality in employment are listed below and apply to all employers and employees. They prohibit discrimination, harassment and victimisation of employees and others on grounds of race, gender, gender identity, sexual orientation, religion or belief, disability and age:

- Sex Discrimination (Gender Reassignment) Regulations 1999
- Race Relations Act 1976 (Amendment) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Disability Discrimination Act 1995 (Amendment) Regulations 2003
- Employment Equality (Sex Discrimination) Regulations 2005
- Employment Equality (Age) Regulations 2006

An employer will, in most cases, be liable for any discriminatory acts by its employees. For example:

- a governor or manager conducting interviews in a discriminatory manner
- employees harassing a colleague

It is not sufficient to show that an act of discrimination was not authorised by the management of the organisation, although an employer who has taken all the steps that they practically could to prevent a particular act of discrimination may be able to use this as a defence. A company would normally have to show that rigorous anti-discrimination policies are in place, backed up by training programmes and robust grievance procedures.

For further advice and guidance see:

- [Code of practice on sex equality in employment](#) produced by the former Equal Opportunities Commission
- [Code of practice on racial equality in employment](#) revised by the former Commission for Racial Equality in 2006
- [Code of practice on employment and occupation](#), which gives guidance to employers and others about employing disabled people, produced by the former Disability Rights Commission.
- Acas advice for employers on putting the regulations listed above into practice, including their [Employment Code of Practice](#). Find out more from the Acas website<sup>27</sup>.

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<sup>26</sup> [www.equalityhumanrights.com/en/yourrights/equalityanddiscrimination](http://www.equalityhumanrights.com/en/yourrights/equalityanddiscrimination)

<sup>27</sup> [www.acas.org.uk](http://www.acas.org.uk)

The codes of practice, listed above provide detailed guidance to employers. These are statutory documents, which means that employment tribunals will take their recommendations into account as evidence in any legal proceedings.

### **15.1 Human Rights - Human Rights Act 1998**

Broadly, human rights are the internationally recognised rights that we all share. The laws that enforce human rights protect us from threats to our freedom, dignity and equality. The human rights and freedoms that are protected by the Human Rights Act 1998 are:

- right to human life
- freedom from torture and degraded treatment
- freedom from slavery and forced labour
- right to liberty and security
- right to a fair trial
- right to no punishment without law
- right to respect for private and family life
- freedom of thought, conscience and religion
- freedom of expression
- freedom of assembly and association
- right to marry and start a family
- freedom from discrimination
- right to own property
- right to education
- right to participate in free elections

#### **Promoting and protecting human rights**

Public authorities in the UK have obligations to promote and protect human rights, and all public authorities must act in a way that is compatible with the European Convention on Human Rights. This means treating individuals fairly, with dignity and respect, while also safeguarding the rights of the wider community.

The Human Rights Act 1998 makes it possible for individuals to challenge in the UK courts any actions or decisions of public authorities that they believe have violated their rights. Previously, individuals had to take such a challenge to the European Court of Human Rights. Now, UK courts must take account of human rights in their deliberations.

The Act applies to all public authorities (such as central government departments, local authorities, schools, children's centres and NHS trusts) and other bodies performing public functions (such as private companies operating prisons). These organisations must ensure that they are acting compatibly with the Convention rights when providing a service or making decisions about individuals.

Although the Act does not apply to private individuals or companies (except where they are performing public functions), sometimes a public authority has a duty to stop people or companies abusing human rights. For example, a public authority that knows a child is being abused by its parents has a duty to protect the child from inhuman or degrading treatment.

The Act urges public authorities to apply a human rights framework to decision making across public services, in order to achieve better service provision.

Applying a 'human rights framework' means including core human rights values, such as equality, dignity, privacy, respect and involvement in decision making, whether a public service is being delivered directly to the public, or a new plan or procedure is being devised. Public authorities must take human rights into account in their everyday work.

## 15.2 Race equality

**The Race Relations Act 1976**, as amended by the Race Relations (Amendment) Act (RRAA) 2000, makes it unlawful to discriminate against anyone on the grounds of race, colour, nationality, or ethnic or national origin. The Act applies to discrimination in employment, education, housing and the provision of goods, facilities and services (including the provision of facilities for travel and transport). In broad terms, the RRAA outlaws three types of behaviour: direct discrimination, indirect discrimination and victimisation.

### Race equality duty

In 2001, the Race Relations Act was amended to give public authorities a new statutory duty to promote race equality: this duty is commonly referred to as the race equality duty. The aim is to help all public sector organisations, authorities and institutions including schools to provide fair and accessible services, and to improve equal opportunities in employment.

The legislation was necessary to ensure that members of the public receive the best from their public services. Previously, many public authorities were failing to address the problems of racial discrimination and inequality, as was highlighted by the inquiry into the murder of Stephen Lawrence.

The race equality duty helps to ensure that public authorities become accountable to the people they serve and allows everyone the opportunity to give their views about the services that affect them. It helps to further equality of opportunity and improve race relations. All public authorities need to take account of race equality.

The statutory code of practice on the duty to promote race equality gives practical guidance to public authorities on how to meet the general and specific duties to promote race equality.

## 15.3 Gender equality

**The Equal Pay Act (1970)** aims to counteract sex discrimination in employment pay and benefits.

**The Sex Discrimination Act (1975)** covers not only discrimination in employment, but other areas as well, such as education and the provision of goods, facilities and services. The Sex Discrimination Act makes it unlawful to discriminate against anyone on the grounds of sex or marital status. Like the Race Relations Act, the Sex Discrimination Act outlaws three types of behaviour: direct discrimination (including sexual harassment), indirect discrimination and victimisation.

Following a 1996 European Court of Justice decision, the Sex Discrimination (Gender Reassignment) Regulations 1999 were enacted to extend the Sex Discrimination Act 1975 to prevent discrimination against transsexual people on the grounds of sex, in pay, during employment and vocational training and during the recruitment process.

The Sex Discrimination Act does not cover discrimination on the ground of sexual orientation. More information on the Equal Pay and Sex Discrimination Acts is available at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## Gender equality duty

The gender equality duty is a legal obligation which came into force in April 2007. It was introduced by the Equality Act 2006, which in turn amended the Sex Discrimination Act 1975.

The gender equality duty requires public authorities to promote equality between men and women and eliminate unlawful sex discrimination. Instead of depending on individuals making complaints about sex discrimination, the duty places the legal responsibility on public sector organisations, authorities and institutions to demonstrate that they actively promote equality between men and women. The duty affects policy making, public services such as transport, and employment practices such as recruitment and flexible working. All public authorities need to take account of their duties to promote gender equality.

## 15.4 Disability equality

**The Disability Discrimination Act (DDA) 1995** prohibits discrimination against disabled people. The DDA applies to discrimination in employment, education and the provision of goods, facilities and services.

The DDA protects disabled people against discrimination by employers in all aspects of employment. The Act imposes a duty on employers to make reasonable adjustments to accommodate the needs of a disabled person where the employer's working arrangements or premises place the disabled person at a substantial disadvantage.

The Disability Discrimination Act (Amendment) Regulations 2003 amended the DDA 1995 to ensure the Act is consistent with the requirements of the EU Employment Framework Directive. Changes include the removal of the small employer exemption and currently excluded categories of employment, and the extension of the Act to cover the police, partnerships, barristers, qualification bodies and more office- and post-holders. The regulations came into force in October 2004.

In 2005, the government amended the DDA, bringing in specific duties. The changes to legislation that will have an impact on local authorities and schools are as follows:

- The Act covers the exercise of functions of public bodies, so that it would apply to most of their activities, not just those which consist of the provision of services.
- It introduced a new duty on public bodies to promote equality of opportunity for disabled people, so they are required to consider the needs of disabled people as early as possible and at every stage in their policy and decision making – this parallels the Race Relations Amendment Act.
- It extends the definition of disability to cover more people with HIV, cancer or multiple sclerosis, so that more disabled people benefit from the Act's protection.
- It requires those who manage or let premises to make reasonable adjustments to their policies and practices for disabled tenants or prospective tenants.
- It allows disabled people to issue a questionnaire in relation to discrimination complaints, not just in employment cases as now, but also cases concerning service providers, private clubs, landlords or public bodies carrying out their functions – this is admissible as evidence.

## Disability equality duty

The disability equality duty came into force on 4 December 2006. This legal duty requires all public bodies to look actively at ways of ensuring that disabled people are treated equally. All of those covered by the specific duties must also have produced a disability equality scheme, which they must now implement.

The disability equality duty, also referred to as the general duty, sets out what public authorities must have due regard to in order to promote equality of opportunity. Most public authorities are also covered by the specific duties, which set out a framework to assist authorities in meeting their general duty. All public authorities covered by the specific duties must:

- publish a disability equality scheme (including within it an action plan)
- involve disabled people in producing the scheme and action plan
- demonstrate they have taken actions in the scheme and achieved appropriate outcomes
- report on progress
- review and revise the scheme

The EHRC has overview guidance on the duty which gives a brief introduction to what it is and what it means for public bodies and disabled people. This document contains information on key dates for the duty, and details of the disability equality scheme and the action plan. To download this guidance, go to [www.equalityandhumanrights.com](http://www.equalityandhumanrights.com)

## 15.5 Age equality

### Employment Equality (Age) Regulations 2006

It is unlawful for your age to be the cause of less favourable treatment in the workplace or in vocational training. The legislation covers discrimination against all employees, not just older employees. See Acas' [Guidance on Age and the workplace: a guide for employers](#).

Age discrimination law currently applies only in employment and vocational training where a person has been treated less favourably on the basis of their age, without justification. This may be because they are considered too young or too old.

Age discrimination law does not currently apply to goods and services, though human rights law may give some protection in these areas.

Legally, the test for many potential cases of age discrimination is whether the discrimination can be said to be 'justified'. Unlike most other types of discrimination, justification can be used lawfully as a defence for direct age discrimination, as well as indirect age discrimination.

### What is age discrimination?

Definitions of the different types of discrimination, such as direct, indirect, harassment and victimisation, are included in section 17: definitions and terms.

The following are examples of age discrimination:

- An employer refuses to offer a job to a young candidate, even though the candidate has the skills and competencies required for it. The employer sees the position as one of authority and does not feel the young candidate will be respected or taken seriously because of his age. This is an example of direct discrimination.



- An employer insists that all candidates for a job have to meet a physical fitness test (that younger candidates can meet more easily) even though the fitness standard is not required for the job in question. This is indirect discrimination.
- An employee has been consistently passed over for promotion, and is not allowed to attend meetings unaccompanied because she looks young for her age. Her manager, who is 10 years older than her, feels that she is too 'wet behind the ears' to be given more responsibility, despite the fact that she has the right qualifications and five years' experience in her role. This is an example of direct discrimination.
- A general work culture appears to tolerate people telling ageist jokes, bullying or name calling. This could count as harassment on the grounds of age. Harassment is a form of direct discrimination.
- As one of its requirements, a job advert lists 10 years' experience in a relevant field, when two or three years' experience would be adequate for the job. This could be seen as indirect discrimination.

### **When and where could age discrimination take place?**

People can encounter unlawful age discrimination at work and in education and training.

### **Working and earning**

An example of direct age discrimination in employment would be an IT company with a policy of not recruiting older employees because they didn't fit in with the youthful culture of the company. Age discrimination legislation applies throughout employment, from recruitment advertising to pension rules. However, there are circumstances in which age discrimination is allowed.

### **When is age discrimination lawful?**

In certain circumstances, age discrimination may be lawful, but there must be an 'objective justification' in every case.

### **Objective justification**

An objective justification allows an employer to discriminate both directly and indirectly on the basis of age. They must, however, show that this discrimination is 'proportionate' and contributes to a 'legitimate' aim.

Proportionate means that:

- what the employer is doing is actually achieving its aim
- the discriminatory effect should be significantly outweighed by the importance and benefits of the legitimate aim
- the employer should have no reasonable alternative to the action they are taking. If the legitimate aim can be achieved by another or less discriminatory means, they must then opt for that route

Legitimate means:

- economic factors such as the needs of and the efficiency of running a business
- the health, welfare and safety of the individual (including protection of young people or older workers)
- the particular training requirements of the job

A legitimate aim must correspond with a legitimate need of the employer. For example, economic efficiency may be a real aim, but saving money because discrimination is cheaper than non-discrimination is not a legitimate need. It is not easy to prove objective justification, and employers have to provide valid evidence if they are challenged.

For example, some employers have policies that link pay and benefits to an employee's length of service, such as additional holiday entitlement for long-serving employees. This may indirectly discriminate against younger people who are less likely to have been employed for that length of time, but in most circumstances it is seen as being a proportionate way of encouraging staff loyalty.

### **A genuine occupational requirement**

In some circumstances, it may be lawful for an employer to treat people differently if there is a 'genuine occupational requirement' for a jobholder to be of a particular age. For example, a younger actress would be required to play the role of a female teenager in a film.

### **Vocational learning and training**

The opportunity to learn and receive training should be open to all, and educational providers at institutions of further and higher education are covered by age regulations. An example would be a 16-year-old who applies for a vocational training course to enhance her promotion opportunities within her company. She is refused entry to the company's training scheme on the grounds that she is too young. Under age regulations her employer would not be allowed to prevent her from seeking further training because of her age.

It can sometimes be justifiable to adopt an age-specific approach to the delivery of vocational education or training, provided that this is a fair means of achieving a genuine aim. An example of this would be an educational institution that increases the participation of a particular age group on a training course to ensure that this section of the population is integrated into the workforce. This is an example of positive action, which is discussed further below.

### **Age equality positive action**

The term 'positive action' refers to legal measures that are designed to counteract the effects of past discrimination and to help abolish stereotyping. Positive action can be taken to encourage people from particular age groups to take advantage of opportunities for training or work experience schemes, or encourage them to apply for particular employment. It can only be done when a particular group has been identified as under-represented in a certain area of employment. Positive action may include things like introducing fair selection procedures, training programmes or targeting job advertisements at a particular group.

Positive action is not the same as positive discrimination, and does not involve treating particular groups more favourably when recruiting. Employers must make sure that employees are hired or promoted on merit alone.

For example, a company with a young workforce which does not typically attract applications from older people could advertise a job vacancy by saying:

'We would welcome applications from candidates over the age of 45, as this age group is currently under-represented within our establishment. However, the appointment will be made on merit alone.'

There are a few other exemptions:

- The national minimum wage is split into three different rates depending on the age of the employee. It is within the law for employers to pay their employees minimum wages of different rates according to their age.

- Employment can depend on age if this is required by existing law. For example, the position of a bartender serving alcohol at a club can only be filled by someone who is over 18 years of age, to comply with licensing requirements.

Volunteers generally don't have protection from discrimination, unless their unpaid work is part of a training course or they are government-appointed office holders (like magistrates, for example).

Age discrimination legislation does not cover the provision of goods and services, which means that it is lawful for insurance companies and healthcare providers, for example, to discriminate on the grounds of age.

## 15.6 Religion and belief equality

### Legislation

In recent years, the government has passed laws to protect religious freedom. These laws include the:

- Employment Equality (Religion or Belief) Regulations 2003
- Racial and Religious Hatred Act 2006
- Equality Act 2006
- Human Rights Act 1998

Religion or belief should not interfere with your right to be treated fairly at work, at school, in shops or while accessing public services such as health care and housing.

Under human rights and anti-discrimination legislation, you have the right to hold your own religious beliefs or other philosophical beliefs similar to a religion. You also have the right to have no religion or belief.

Under the Equality Act 2006, it is unlawful for someone to discriminate against you because of your religion or belief (or because you have no religion or belief):

- in any aspect of employment
- when providing goods, facilities and services
- when providing education
- in using or disposing of premises
- when exercising public functions

There are, however, some limited exceptions when discrimination may be lawful. For example, faith-based schools can, on the basis of their faith requirements, recruit people belonging to a specific faith. Further information is available in Acas' [Guidance on religion or belief and the workplace](#).

### Organised religion

Some schools have a religious or belief-related purpose. Such schools may have a legitimate need to limit membership or access to their activities to people who wholly or partly share their religion or belief.

The law recognises the need to avoid unnecessary and unjustifiable restrictions on people's right to exercise their religious belief and, for this reason, an exemption may be justifiable to cover the activities of religious organisations. For example, a religious group may be able to

justify restricting their membership to heterosexual people to comply with the doctrine of the organisation, or to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

The religion or belief provisions of Part 2 of the Equality Act 2006 contain exceptions to make this possible.

### **Example**

Religious adoption agencies are exempted until Christmas 2008 from the requirement not to discriminate against lesbian and gay couples who wish to adopt children. After that date it will be unlawful for them to discriminate against lesbian or gay couples who approach them for adoption services.

### **Charities**

It is generally unlawful for charities to discriminate on grounds of sexual orientation. However, if a charity has been established to provide benefits to people of a particular sexual orientation, and its rules (called 'charitable instruments') make this clear, they can legally restrict their services in this way.

### **Examples**

- A charity is established to promote equal rights for lesbian, gay men and bisexual people. It is lawful to restrict the activities of the charity in this way.
- A charity is established to support lesbians, gay men and bisexual people who experience hate crime. It is lawful to restrict the activities of the charity in this way.

Under British anti-discrimination and human rights legislations employees have a right to practise their religion or belief, express their views and get on with day-to-day work life without experiencing threats or discrimination.

Part 2 of the Equality Act 2006, which came into force on 30 April 2007, deals with the prohibition of discrimination on grounds of religion or belief when providing goods, facilities and services, education, using or disposing of premises and exercising public functions.

The Government has produced guidance on this legislation, which is available at: [www.communities.gov.uk/communities/racecohesionfaith/faith/stoppingreligiousdiscrimination/guidancenew/](http://www.communities.gov.uk/communities/racecohesionfaith/faith/stoppingreligiousdiscrimination/guidancenew/)

### **What is a religion?**

The [Equality Act 2006](#)<sup>28</sup> contains definitions of religion and belief, which will be interpreted by the courts with reference to relevant case law, including cases relating to the European Convention on Human Rights.

In order to be protected under the Equality Act 2006, a religion or belief must be recognised as being cogent, serious, cohesive and compatible with human dignity. The concept includes religions that are widely recognised in Britain (although it is not limited only to these), such as:

- Baha'i faith
- Buddhism
- Christianity
- Hinduism
- Islam

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<sup>28</sup> [www.opsi.gov.uk](http://www.opsi.gov.uk)

- Jainism
- Judaism
- Rastafarianism
- Sikhism
- Zoroastrianism

Denominations or sects within a religion will also be considered as religions, or religious beliefs, such as Catholicism and Protestantism, which are divisions of Christianity.

### **What is a belief?**

For the purposes of the Equality Act 2006, belief is defined as including philosophical beliefs, such as humanism, which are considered to be similar to a religion. Other categories of beliefs, such as support for a political party, are not protected by the Equality Act.

### **What is religious discrimination?**

Definitions of discrimination are included in section 17: definitions and terms.

Religious discrimination can occur when one person does not have the same religious or philosophical beliefs as someone else, or because they have no religious beliefs, and because of that someone treats them less favourably than somebody else who does share their religion or belief.

It can also happen because of the religious or philosophical beliefs of someone you are associated with, or if someone thinks you have certain beliefs which you do not have.

### **Hate crimes**

If someone threatens, abuses or attacks someone else because of their religion or belief (or lack thereof), this may amount to what is called a 'hate crime'. Hate crimes are criminal offences, and should be reported to the police. Hate crimes can include:

- physical attacks and damage to your property
- offensive letters, emails or phone calls
- groups of people intimidating you
- insults or offensive leaflets or posters
- dumping rubbish outside your home or through your letterbox
- bullying at school or work

### **When and where could religious discrimination take place?**

This section gives examples of areas where discrimination on grounds of religion or belief could take place.

### **Working and earning**

There are laws to protect people from discrimination on grounds of religion or belief when they apply for a job, while they are in employment and after they leave.

## Examples

- During an interview, a Christian woman refers to the church that she regularly attends. Although she has the skills to do the job successfully, the interviewer does not employ her because she does not like the idea of working alongside someone who believes in God. This would be unlawful direct discrimination.
- A Sikh man takes his employer to a tribunal for banning 'headwear', as his religion says he must wear a turban. He later leaves the company and asks his old employer for a reference. The employer refuses, saying that the man is a 'troublemaker' and he couldn't recommend him to another employer. This would be unlawful victimisation.
- A school head introduces a 'no headwear' rule for all staff. This would put Sikh men who wear a turban and Jewish men who wear a kippah at a disadvantage. This is an example of indirect religious discrimination, and would need to be justified otherwise it may be unlawful.
- A manager arranges for his team to go to football matches once a month. During these trips, a group of employees chant anti-Muslim slogans and make offensive comments about Islam. The manager does nothing to stop his team's behaviour. This is an example of religious harassment. Companies can be held responsible for harassment carried out by their staff in the workplace or at an event or venue associated with work.
- A religious woman frequently refers to her colleagues as 'sinners' and warns them that they will go to hell if they do not convert to her religion. This is an example of religious harassment.
- A man who is an atheist is targeted by his Christian colleague, who believes that she must try to convert him to her religion. She leaves religious texts on his desk and tries to engage him in conversations about Christianity. The man complains to his employer, who tells him to ignore her. This is an example of harassment from a colleague on grounds of no religious belief. The employer is also liable to legal action for failing to deal with the harassment.

## Learning and training

A person's religious beliefs, or lack of them, should not affect access to education or training (although certain forms of selection by schools according to religion or belief may be lawful in some circumstances). Nor should it affect the quality of what is taught.

## 15.7 Sexual Orientation Equality

**Employment Equality (Sexual Orientation) Regulations 2003** prohibit discrimination on grounds of sexual orientation in employment and the provision of goods, facilities and services, education, the use and disposal of premises, and the exercise of public functions. These regulations prohibit discrimination in the workplace, including harassment, on grounds of sexual orientation. Acas has published useful guidance for employers and employees on sexual orientation in the workplace: [Guidance on sexual orientation and the workplace](#)

### What does sexual orientation mean?

Sexual orientation means the emotional, physical and/or sexual attraction that a person feels towards another person, and the expression of that attraction:

- Same-gender attraction is called homosexuality. In this guide we call men and women who are homosexual either 'gay' (for men) or 'lesbian' (for women).
- Opposite-gender attraction is called heterosexuality. In this guide, we describe people who are heterosexual as 'straight'.

- Both-gender attraction is called bisexuality. In this guide, we use the word 'bisexual' to describe people who are attracted to both genders.

Legal protection from discrimination on the basis of sexual orientation applies to everyone, whatever their sexual orientation. Sexual orientation discrimination includes being treated less favourably because:

- someone is lesbian, gay, bisexual or straight
- someone is thought to be lesbian, gay, bisexual or straight, or
- someone is associated with another person who is lesbian, gay, bisexual or straight, for example a friend, relative or colleague

The law applies to direct and indirect discrimination as well as to harassment and victimisation. The law applies to the private, public and not-for-profit sectors. Discrimination on the grounds of sexual orientation occurs in many situations. It is unlawful.

### **Examples**

Employers have a positive duty to treat people equally in terms of recruitment, training, promotion and dismissal:

- While being interviewed for a promotion, an applicant says that she has a female partner. Although she has all the skills and competences required for the position, the organisation decides not to offer her the promotion because she is a lesbian. This is unlawful direct discrimination.
- James applied for a number of training courses offered by his company. All of the courses were relevant to his job and essential for access to promotion opportunities. His manager refused on each occasion, saying that he could not spare the time away from his usual work. However, the same manager regularly allowed other colleagues to go on training courses and, as a result, several gained promotion. James overheard his manager say that gay people should not work for the company and he would never send James on training. This is direct discrimination.
- Maria is a lesbian who decided not to come out to colleagues because she often heard them telling jokes that poke fun at other people, including lesbians and gay men. Maria was 'outed' at work by a colleague, who told everyone she is a lesbian because he saw her holding hands with another woman. She was summoned to her manager's office, to be told she was being moved to another section because he could not work with a lesbian. This is unlawful direct discrimination from her manager. It is also harassment from colleagues, both because she was outed as a lesbian and because of the discriminatory jokes to which she was subjected.

If the work environment is one where people tell jokes about different sexual orientation that are found to be offensive, or where people are picked on because of their perceived sexual orientation, this could be harassment.

If someone has made a complaint about sexual orientation discrimination and is subsequently treated badly because of having complained, this is unlawful victimisation.

### **Learning and Training**

It is unlawful to discriminate on grounds of sexual orientation when providing education or training. The opportunity to learn and receive training is open to all, and educational providers are required to treat everyone equally in making this available. This means, for example, that homophobic bullying in schools and colleges must be taken seriously and dealt with as firmly as bullying on any other grounds.

## Examples

- John was bullied in school by other pupils who thought he was gay. He complained to his teacher, who did nothing to deal with the bullies. When he was beaten up by the bullies, John was so frightened that he refused to return to school. This could be direct discrimination.
- The daughter of a gay couple was bullied at school because of her parents' sexual orientation. The parents complained to the teacher, who said it was 'just teasing' but she would ask the children to stop. The bullying did not stop, even though bullying on other grounds was taken seriously and dealt with firmly by the school. This could be direct discrimination related to her parents' sexual orientation.

## When is discrimination on the basis of sexual orientation lawful?

In certain circumstances, treating someone more or less favourably because of their sexual orientation may be lawful, but these are rare exceptions. Some of these exceptions are outlined below.

### Genuine occupational circumstances

In limited situations, it may be lawful for an employer to discriminate if there is a genuine occupational requirement for the jobholder to be of a particular sexual orientation.

## Examples

- A charity delivering domestic violence services to lesbians, bisexual women, gay men and transgender people advertises for a gay caseworker to deliver services to its gay clients. The post is restricted to gay applicants because the charity believes that a particular sexual orientation is a genuine occupational requirement for the post.  
  
The charity considers that heterosexual men would not have an in-depth understanding of the cultural and domestic violence experiences of gay men. The charity restricts other caseworker posts to lesbian and bisexual women and transgender people for the same reasons. Other posts that do not require this kind of in-depth understanding, such as administrative posts, are open to people of all genders and sexual orientations. This type of discrimination could be lawful.
- A Church of England bishop blocked the appointment of a woman to a youth worker job funded by the church because she was a lesbian. The job involved working with teenage girls. The bishop felt that it was not appropriate to have a lesbian working with teenage girls. The recruitment panel had already decided that the woman was the most suitable candidate for the post, which was restricted to women. Her references were also excellent. The post was restricted to women as a genuine occupational requirement. The decision not to offer the post to a lesbian is lawful discrimination on grounds of sexual orientation.



## 16. Equalities monitoring categories

### 16.1 Gender

- Male
- Female

Note that European and domestic legislation now recognises the rights to equality and dignity at work for transgender people. It is advisable to have this as an additional gender category

### 16.2 Ethnicity

The following categories were used in the census and labour force survey (2001/02). For the purposes of comparability, it is strongly advised that these categories be used.

	Level 1	Level 2
	White	British Other White
	Mixed	White and Black Caribbean White and Black African White and Asian Other mixed
	Asian or Asian British	Indian Pakistani Bangladeshi Other Asian
	Black or Black British	Black Caribbean Black African Other Black
	Chinese	Chinese
	Other ethnic group	Other Ethnic Group

### 16.3 Disability

Section 15.4: disability equality includes a full explanation of the meaning of disability. For monitoring purposes in school leadership you may wish to consider the following approach:

Do you consider yourself to have a disability? Yes/ No

If yes please specify the nature of your disability\_\_\_\_\_

#### **16.4 Age**

This is a relatively straight forward category though you may wish to collect data by particular age groups in your workforce, for example:

- Under 25
- 25 – 34
- 35 – 44
- 45 – 54
- 55 +
- Prefer not to say

#### **16.5 Religion or faith**

The following approach is based on the question included in the 2001 census:

What is your religion?

- Buddhist
- Christian
- Hindu
- Jewish
- Muslim
- Sikh
- Other (please specify)
- None
- Prefer not to specify

#### **16.6 Sexual orientation**

Stonewall's *Guidance on monitoring sexual orientation in the workplace* is available from [www.stonewall.org.uk/workplace/1473.asp](http://www.stonewall.org.uk/workplace/1473.asp)

This guidance suggests that the question should be phrased in the following way:

What is your sexual orientation?

- Bisexual
- Gay man
- Gay woman/lesbian
- Heterosexual/straight
- Other
- Prefer not to say

## 17. Definitions and terms

Unless stated or referenced otherwise, the following definitions and terms are recommended by the key equalities organisations in the UK and widely used throughout local and central government.

**Access** – can be both physical and communication. Information access involves the methods by which people with a range of needs find out about and apply for employment opportunities and find out about and use services and information.

**Assimilation** – the idea of absorbing or being absorbed into the prevailing or dominant culture; to change and become like another at the loss of one's original culture or identity.

**Black** – a term used in many contexts to mean all people whose skin colour makes them liable to experience racism or discrimination. It emphasises the common experience of people of otherwise diverse backgrounds and distinguishes them from 'white people' whose skin colour alone does not expose them to racism. However there are limitations to the term as it is also used to describe people of African or African-Caribbean origin and is a description that many people, for example many Asians, who experience racism may not identify with.

**Black and minority ethnic (BME)** – this term, while not being entirely satisfactory, is sufficiently inclusive to be useful to describe all groups who experience racism. See definition of 'minority ethnic' below.

**Bullying** – behaviour which involves the deliberate threatening, frightening, abuse or hurt of another person. It may be physical, verbal or mental and based on certain physical or mental characteristics. It is not necessarily based in difference of race or gender. It may arise from the misuse of managerial status.

**Business case** – that there are tangible business-service reasons for pursuing equality and diversity.

**Consultation** – any suitable means by which advice is given or views are exchanged. Consultation involves people in meaningful, genuine dialogue when proposals are still in the formative stage.

**Disability** – the Disability Discrimination Act 1995 defines disability as 'a physical or mental impairment, which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities'.

**Discrimination (direct unlawful)** – this is usually the result of conscious or unconscious prejudice. Direct discrimination occurs when one person is treated less favourably than others are, or would be, treated in the same or similar circumstances, for example on the grounds of a person's colour, race, nationality, gender, disability, religion, age or sexuality.

**Discrimination (indirect unlawful)** – this occurs when a provision, criterion or practice is applied which applies equally to everyone, but can be shown to put some people at a much greater disadvantage than others by reason of their race, sex, disability etc where such treatment cannot be objectively justified.

**Diversity** – the recognition and value of difference. It is about creating working cultures and practices that recognise, respect, value and harness difference for the benefit of the organisation and the individual. There are many characteristics of diversity but these broadly fall within the areas of social, demographic and cultural characteristics.

**Equal opportunities (equality in short)** – this is essentially about creating a fairer society where everyone can participate and has the opportunity to fulfil their potential. It is backed by legislation designed to address unfair discrimination (past, present or potential) that is based on membership of a particular group. In particular circumstances, it facilitates taking positive action. The equalities legislation prohibits:

- unlawful discrimination, both direct and indirect
- harassment and bullying
- victimisation

Equality and diversity are not inter-changeable, they need to be progressed together. There are not equal opportunities if difference is not recognised and valued.

**Ethnicity** – an individual's identification with a group sharing any or all of the following: nationality, lifestyles, religion, customs and language.

**Exemplary employer** – an employer that is at the leading edge of good practice, that people want to work for, and that offers favourable terms and conditions to its employees.

**Gay** – this term is preferable when referring to gay men or women. The word 'homosexual' (implying a condition or illness) is usually viewed as an offensive term by gay people. The word 'gay' is normally attributed to men, but it is sometimes used as an all-encompassing term for gay men, lesbians and bisexual people.

**Gender** – the social differences between women and men that have been learned, are changeable over time and have wide variations both within and between cultures. The term is often used to differentiate from 'sex', a term referring to biological differences.

**Genuine occupational qualification or requirement (GOQ or GOR)** – equalities legislation allows for lawful discrimination in recruitment on the basis of a person's gender or ethnicity, provided that there is a clear and evidenced-based business reason for the person's gender or ethnic origin to be a genuine occupation qualification or requirement. Age regulations allow for different treatment in certain areas. These are outlined in section 15: the legislative framework.

**Harassment** – behaviour of an intimidating or hostile nature. It can be directed at women and men, service users and staff. It is uninvited, unwelcome behaviour, which causes distress to the recipient. Particular actions or behaviour could be seen as harassment even if not aimed directly at the recipient and not intentionally offensive. It should be remembered that the impact of the behaviour determines harassment and not the intent.

**Homophobia** – discrimination and harassment faced by lesbian, gay and bisexual people.

**Inclusion** – a belief in every person's inherent right to participate fully in society. The goal of inclusion is for all people to lead productive lives as full, participating members of their communities.

**Integration** – the idea of amalgamating or relative total mixing with an existing community or culture while retaining some aspects of one's own original culture or identity.

**Mainstreaming** – the integration of equalities and diversity into policy, practices, business and employment plans, evaluation and review. Each part of the organisation accepts its own responsibility for promoting equality of opportunity and challenges discrimination.

**Medical model of disability** – a model that looks at disability as being caused by medical symptoms, ie it is the impairments that prevent the person from fully participating in society. It promotes the view that the disabled person should adapt to fit into a non-disabled world. If this is not possible, then the needs should be met outside of mainstream society. It focuses on the disability rather than the needs of the person.

**Minority ethnic** – this does not mean the same as 'black' above. It includes, for instance, white people of Jewish or Irish origin who experience discrimination on the grounds of their ethnic origin but not because of their skin colour.

**Pluralism** – is the co-existence of several autonomous but independent groups or cultures.

**Positive action** – this concerns measures targeted at particular groups who have experienced and suffered discrimination, exclusion and disadvantage. This includes, for example, the provision of training / targeted advertising and recruitment literature for people of a particular racial group, gender or disability who have been under-represented in certain occupations or grades.

**Prejudice** – a misinformed judgement based on stereotyping of a group or individual. Prejudice is the attitude that underpins the act of unlawful discrimination. Remember that we all have prejudices and the challenge is to ensure that we have personal and organisational checks and balances to prevent the inappropriate use and application of prejudice. Many people in society are discriminated against and disadvantaged, for example women, black and minority ethnic people, disabled people, older people and gay and lesbian people. People can also be discriminated against because of their faith or religion, social background, education, marital status or place of residence. The act of discrimination gives rise to an outcome of disadvantage, which is borne out of prejudice.

**Race** – a term that describes social groupings and not biological or genetic differences. The 1976 Race Relations Act covers discrimination on the grounds of race, colour, nationality (including citizenship), national or ethnic origin. Groups defined by reference to these grounds are referred to as racial grounds. A wide range of minority ethnic people are both black and white including, for example Jewish and Irish people and Travellers.

**Racial harassment** – this may be defined as any hostile or offensive act or expression by a person of one racial origin against a person of another, or incitement to commit such an act.

**Sexual harassment** – a type of sex discrimination and the most common case of complaint under the Sex Discrimination Act. Sexual harassment is unwanted or unwelcome sexual behaviour – people ‘crossing the line’. It has nothing to do with the mutual attraction of friendship.

**Sexual orientation** – a person’s emotional, physical and/or sexual attraction, and the expression of that attraction. This may be attraction to people of the same sex, people of the opposite sex or people of both sexes.

**Social model of disability** – a model that considers disability as a social phenomenon. While many individuals have physical or sensory impairments, learning difficulties or are living with mental health requirements, it is the way that society responds to these which creates disability and the impairment. The social model believes the ‘cure’ to the problem of disability lies in the restructuring of society, an achievable goal that benefits everyone.

**Social capital**<sup>29</sup> – an approach to thinking about the way that groups relate to wider communities, which has evolved from the branch of social sciences dedicated to examining social capital. Broadly speaking, social capital metrics attempt to measure how well-connected individuals are to their communities, and to their society more broadly. Measures of social capital are divided into two types, ‘bridging’ and ‘bonding’.

Bridging social capital consists of networks that link the members of a given social group with the wider society, whereas bonding social capital links members of the social group with each other. The distinction between bridging and bonding social capital may be important in understanding the labour market fortunes of minority ethnic groups. Bridging social capital is likely to be of considerable importance in the process of job search, particularly for employment fields and seniority where recruitment is principally by word of mouth.

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<sup>29</sup> R. Putnam, *Bowling Alone: The Collapse and Revival of American Community*, New York: Simon and Schuster, 2000. See also Strategy Unit, *Social Capital: A Discussion Paper*, 2002 (available at [www.strategy.gov.uk/2001/futures/attachments/socialcapital.pdf](http://www.strategy.gov.uk/2001/futures/attachments/socialcapital.pdf)).

A woman or BME individual who is socially isolated will, almost by definition, lack this bridging social capital and therefore lack access to some employment and experience opportunities. It is quite possible that a lack of these bridging social networks will limit the chances of obtaining work with certain employers, in certain professions and at certain levels.

**Social inclusion** – the position from where someone can access and benefit from the full range of opportunities available to members of society. It aims to remove barriers for people or for groups that experience a combination of linked problems such as unemployment, poor skills, low incomes, poor housing, high-crime environments, poor health and family breakdown.

**Transgendered** – an acceptable term for referring to a person with a recognised medical condition known as gender dysphoria, where an individual has the desire to live and be accepted as a member of the opposite sex. Another commonly used term is 'transsexual'. The terms 'transman' (female to male) and 'transwoman' (male to female) are also acceptable.

**Victimisation** – where an employee is singled out for using their workplace complaints procedures or exercising their legal rights to make or support a complaint of discrimination or harassment.

**Vicarious liability** – when one person is liable for the negligent actions of another person, even though the first person was not directly responsible for the injury. For instance, an employer can be vicariously liable for the acts of a worker.

## 18. References and resources

Age Concern UK: [www.ageconcern.org.uk](http://www.ageconcern.org.uk)

Age Positive: [www.agepositive.gov.uk](http://www.agepositive.gov.uk)

Arbitration Conciliation Advisory Service: [www.acas.org.uk](http://www.acas.org.uk)

Audit Commission: [www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)

*Black And Minority Ethnic Leaders*, Final Report to the National College for School Leadership by Tony Bush, Derek Glover, Krishan Sood, Carol Cardno, Kholeka Moloji, Geraldine Potgeiter and Kenneth 2005, [www.ncsl.org.uk](http://www.ncsl.org.uk)

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Department for Children, Schools and Families, *Single Equalities Scheme*: [www.dcsf.gov.uk/publications/des/](http://www.dcsf.gov.uk/publications/des/)

Employers Forum on Age: [www.efa.org.uk](http://www.efa.org.uk)

Employers' Forum on Disability: [www.employers-forum.co.uk](http://www.employers-forum.co.uk)

Equality and Human Rights Commission: [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Equality Standard for Local Government 2007 ([www.idea.gov.uk](http://www.idea.gov.uk))

Equality Direct: [www.equalitydirect.org.uk](http://www.equalitydirect.org.uk)

*Ethnic Minorities and the Labour Market*, Number 10, Cabinet Office Strategy Unit Report , [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)

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National Statistics Online, [www.statistics.gov.uk](http://www.statistics.gov.uk),

NCSL Resources and Publications, as referenced ([www.ncsl.org.uk](http://www.ncsl.org.uk))

*The Business of Diversity 2002*, research commissioned by Cabinet Office, [www.schneider-ross.com](http://www.schneider-ross.com)

Thirteenth Annual Report, Education Data Surveys, June 2007, [www.ncsl.org.uk](http://www.ncsl.org.uk)

Race equality duty, Disability equality duty & Gender equality duty, [www.equalitiesandhumanrights.com](http://www.equalitiesandhumanrights.com)

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