

The Equality Bill

Introduction

This briefing is to give the background to work done by London Voluntary Service Council (LVSC), Race on the Agenda (ROTA), London Civic Forum (LCF), HEAR and Third Sector Alliance (3SA) on the Discrimination Law Review and the development of the Single Equality Bill.

We warmly welcome the Equality Bill. This briefing covers the key points included in the Bill and refers to the recommendations made in our partnership response to the Discrimination Law Review.

ROTA is currently co-ordinating the 'Winning the Race Coalition' regarding the Bill and has met with the Solicitor General, Vera Baird, and the Equality and Human Rights Commission (EHRC) Chair, Trevor Phillips, to express concerns and key recommendations from a BAME perspective. The Coalition sent a letter to Harriet Harman earlier this year and also produced a briefing. ROTA is liaising with the National Equality Partnership and the Equality and Diversity Forum to take this work forward.

Further details of the Winning the Race Coalition are available at the end of this briefing.

The Bill has been broadly welcomed by the equalities voluntary and community sector.

Background to VCS partnership work on Single Equality Bill

In August 2007 LVSC, LCF, ROTA, HEAR and 3SA jointly responded to the government's 'Discrimination Law Review: A Framework for Fairness (proposals for a Single Equality Bill)'. The response was drawn from widespread consultation with the VCS and included input in the submission from 60 organisations covering most equality strands (see the notes section at the end of this briefing for the full list of the organisations that contributed).

In the response we made several recommendations and are pleased to see that many of them are reflected in the Equality Bill presented by Harriet Harman that is now before Parliament.



Key recommendations from the consultation and partnership included:

- The Equality Bill needs a clear 'purpose clause'
- Mandatory equal pay audits should be a key element of the Bill
- The public sector duties should be extended to all equality strands
- The Bill needs to include robust enforcement measures
- There should be a duty on public authorities to include equality in procurement
- We would like to see a comprehensive and inclusive definition of trans people (not just the medical model)
- We would like to see a non-discrimination right for carers in the Bill
- Use of the social model of disability - a better definition of disability
- There should be more protections around age
- There should be robust protections around multiple discrimination
- More powerful positive equality duties
- We would like to see the extension of the Equality Duty to the private sector
- We would also like to see the establishment of equality tribunals
- Better access to justice should be fundamental to the Equality Bill
- We recommend strong positive action measures as another key element of the Bill
- Workforce equality monitoring should be introduced where it is not already in place.
- Legislation should focus not only on the individual but also on the collective we would like to see representative actions sanctioned in the Bill

We are particularly pleased to see included in the Equality Bill the new socio-economic duty, as many of the inequalities that people face stem from class and poverty issues. However, we have concerns about the terminology used. To require public

bodies to 'consider' reducing socio-economic inequalities seems weak and difficult to measure.

We are also pleased to see the measures around the gender pay gap, positive action, public procurement, banning age discrimination outside the workplace, the extension of protections to carers and improved disability discrimination protections, as well as many of the other measures.

We are also very pleased to see that there is to be a broader definition of trans people that extends beyond the medical model.

We are concerned that although the step to draw together the current public sector duties on gender, race and disability and extend them to the other equalities strands is a welcome positive move, we would not want to see any weakening of the power of the current duties. We are disappointed to see that representative action is not to be included in the Bill. We are also still concerned with the enforcement and efficacy of the proposed legislation and would hope for it to be robust.

We recommended robust protections on grounds of multiple-discrimination and these are as yet not in the Bill. However, the government is in discussions with business and equality groups about how to address multiple-discrimination and the impact of allowing claims based on two protected characteristics combined.

The Government Equalities Office has produced a discussion document, "[Equality Bill: Assessing the Impact of a Multiple Discrimination Provision](#)". This document is seeking views on the implications of including in the government's Equality Bill a provision to protect people from multiple-discrimination.

Responses should be sent to multipliedisresponses@geo.gsi.gov.uk by Friday 5th June.

A Fairer Future: the Equality Bill and other action to make equality a reality

The government has published the Equality Bill as Harriet Harman says, “while a combination of laws and wider action has brought us a long way over the past 40 years, inequality and discrimination persist today”. The government says that we need this bill in order to streamline the law, help people to understand their rights and help businesses to comply with the law.

There are currently nine major pieces of discrimination legislation, around 100 statutory instruments setting out rules and regulations and more than 2500 pages of guidance and statutory codes of practice. The bill will streamline all of this into a single act, whilst using plain English explanatory guidance.

The government’s position is that equality is not just right in principle it is necessary for:

- Individuals: everyone has the right to be treated fairly and given the opportunity to fulfil their potential. To achieve this we must tackle inequality and root out discrimination
- The economy: a competitive economy draws on all the talents and ability - it is not blinkered by prejudice
- Society: a more equal society is more cohesive and at ease with itself

Everyone has a stake in creating a fair society because fairness is the foundation for individual rights, a prosperous economy and a peaceful society.

The key areas of the Equality Bill

- Socio-economic duty
- Equality duty
- Public procurement
- Banning age discrimination
- Gender pay and equality reports
- Positive action

- Employment tribunals
- Protecting carers
- Protecting breastfeeding mothers
- Private members' clubs
- Protecting disabled people

A new public sector duty to consider reducing socio-economic inequalities

The Equality Bill will place a new duty on government ministers, departments and key public bodies (local authorities and NHS bodies) to consider what action they can take to reduce the socio-economic inequalities people face.

The duty will affect how public bodies make strategic decisions about spending and service delivery. It will not affect frontline decisions taken by service providers, which relate to individuals. For example, it would not require a doctor to prioritise a patient from a disadvantaged area.

Guidance will be produced before the duty comes into force to help inspectorates and public bodies prepare.

The Equality and Human Rights Commission (EHRC) has launched [an online consultation on guidance for the Equality Act](#). As part of its statutory responsibilities set out in the Equality Act (2006), it will be producing a range of 'Codes of Practice and Guidance' documents to assist stakeholders with interpreting the Bill on a practical basis.

A new equality duty on public bodies

The new equality duty will require a range of public bodies to consider the needs of diverse groups in the community when designing and delivering public services so that people can get fairer opportunities and better services.

The duty will create a single equality duty that extends the current gender, race and disability duties to cover age, sexual orientation and religion or belief, pregnancy and maternity explicitly and gender reassignment in full.

A list of the public bodies to which the duty will apply will be produced as soon as possible. It will apply to private bodies that deliver a public function. There will be consultation over the summer on the specific duties that will underpin the new Equality Duty.

Using public procurement to improve equality

The Bill makes it clear that public bodies can use procurement to drive equality. It enables ministers to set out how public bodies should go about doing so.

Banning age discrimination outside the workplace

The Equality Bill will make it unlawful to discriminate against someone aged 18 or over when providing services or carrying out public functions. There will be a consultation over the summer on the details of the new law.

Gender pay and equality reports

In the private sector: the Bill will contain a power to require reporting on the gender pay gap by employers with 250 or more employees. This power will not be used before 2013 and will only be used if sufficient progress on reporting has not been made.

In the public sector: the Bill will require public bodies to report on equality issues. There will be a consultation over the summer on the precise details. It is anticipated that public bodies with 150 or more staff will be required to report on their gender pay gap, their ethnic minority employment rate and their disability employment rate.

The Equality Bill will ban secrecy or 'gagging' clauses which stop employees discussing their pay with colleagues.

Positive action

The Bill will expand the way positive action can be used. Employers will be able to select someone from an under-

represented group when they have the choice between two or more candidates who are equally suitable, provided they do not have a general policy of doing so in every case.

Positive action is not positive discrimination, which will remain unlawful. Positive discrimination means favouring one person over another because they are from an under-represented group, whether they are suitable or not. The Bill will also not allow employment quotas.

The Bill will extend the permission to use women-only shortlists in Parliament until 2030. The Bill will enable political parties, in their selection process, to take positive measures to bring on candidates from under-represented groups.

The Bill will allow service providers to take positive action measures to meet the particular needs of disadvantaged groups. For example, women-only sessions at a local sexual health centre.

Strengthening the powers of employment tribunals

The Bill will allow employment tribunals to make recommendations in discrimination cases, which benefit the whole workforce and not just the individual who won the claim. This will help to prevent similar types of discrimination happening again.

Failure to comply with a recommendation could be used as evidence to support subsequent similar discrimination claims. Representative actions are not included in the Bill and any reform in this area will be subject to full consultation.

Protecting carers from discrimination

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

Offering new mothers stronger protection when breastfeeding

The Bill makes it clear that it is unlawful to force breastfeeding mothers and their babies out of places like coffee shops, public galleries and restaurants.

Private members' clubs

The Equality Bill will make it unlawful for associations, including private members' clubs, to discriminate against members or guests of members.

The position of single-sex clubs or people of shared characteristics (gay clubs or religious clubs) will be unaffected. The Bill will mean that clubs which admit a range of members will have to treat them equally.

Improving protection from disability discrimination

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

The Bill will provide disabled people with new protections in law to ensure that their rights are broadly the same as they were before the legal case (*Lewisham v Malcolm*) that altered their legal protection.

The Equality Bill will make it unlawful to knowingly treat a disabled person in a particular way, which amounts to poor treatment, unless the treatment can be justified.

Next steps

- May - second reading of the Bill
- June - the Bill enters the House of Commons and should reach the House of Lords by the new parliamentary session
- Spring 2010 - the Bill should receive Royal Assent, subject to approval
- Autumn 2010 - the majority of the Bill will come into force

- 2011 - the socio-economic duty and the equality duty will come into force
- The new law on age discrimination will come into force in phases
- The new Equality Bill will generally apply in Scotland, Wales and England; the socio-economic duty will apply in England and Wales only

Notes

For a full copy of A Fairer Future visit the [Government Equalities Office website](#).

For the full text of the Equality Bill and explanatory notes visit [UK Parliament website](#). [Other versions](#) of the Bill are also available.

For more information about the Winning the Race Coalition visit the [ROTA website](#).

For more information on LVSC, ROTA, LCF, HEAR and 3SA's work on the Discrimination Law Review, visit the [LVSC website](#).

Appendix

List of contributors to the Discrimination Law Review consultation held by LVSC, ROTA, LCF, HEAR and 3SA in August 2007:

- 1990 Trust
- Action for Advocacy
- adviceUK
- Age Concern Islington
- Age Concern London
- Alliance for Inclusive Education
- Black Londoners Forum
- British Black Anti Poverty Network
- British Humanist Association
- British Institute of Human Rights
- Brook London

**Please contact
Tim Brogden at
LVSC regarding
the contents of
this briefing:**

**020 7700 8115
tim@lvsc.org.uk**

- Cardinal Hume Centre
- Central London CVS Network
- Challenge Life
- Children's Rights Alliance for England
- Commission for Racial Equality
- Confederation of Indian Organisations
- Consortium of LGBT VCOs
- Disability Law Service
- Enfield Community Empowerment Network
- Equalities National Council
- Evelyn Oldfield Unit
- Faithworks
- Federation of Irish Societies
- Hammersmith & Fulham Action on Disability
- Haringey LGBT Network
- Havering Asian Social & Welfare Association
- Havering Citizens' Advice Bureau
- Healthcare Commission
- Hindu Cultural Association
- Independent Academic Research Studies
- Irish Traveller Movement
- Journeyman Training
- Kingston Racial Equality Council
- London Civic Forum
- London Voluntary Service Council
- National Society for the Prevention of Cruelty to Children
- Necko Consultancy
- Office for Disability Issues
- Positively Women
- Press for Change
- Princess Royal Trust for Carers
- PublicMedia
- Race On The Agenda
- Refugee Council
- Richmond AID
- Richmond CVS
- Rights and Humanity
- Royal National Institute for the Deaf

- Schools Out/LGBT History Month
- Shape
- Shelter
- St Mungos Westminster Building Based Service
- The Royal Association for Deaf People
- TransLondon
- West Indian Standing Conference
- Westminster Advocacy Service for Senior Residents
- Westminster Partnership for Race Equality
- Women's Design Service
- Women's Resource Centre

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