

Impact case study (REF3b)

Institution: Queen Mary University of London (QMUL)
Unit of Assessment: Business and Management Studies (C19)
Title of case study: Putting the Equality Act 2010 into Practice (CS2)
1. Summary of the impact (indicative maximum 100 words)

The Equality Act 2010 (EqA) is the first major reform to equality legislation since the wave of UK equality legislation in the 1970s. The case deals primarily with the two most innovative aspects of the EqA – the Public Sector Equality Duty (s.149) and the Dual Discrimination provisions (s.14), which have formed the basis of Hazel Conley’s research. The research has involved significant impacts with notable reach in relation to: (1) the policy and best practices of five local authorities, with other authorities also drawing on these lessons, (2) trade unions’ priorities, strategies and representational roles in relation to equality objectives, including prompting 30 equal pay test cases, and (3) public policy in terms of promoting social justice and public debate, and advocating improvements to government policy.

2. Underpinning research (indicative maximum 500 words)
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The case comprises two main research projects designed to explore how far the new legislative framework has required changes to existing practices and how equality could be promoted most effectively through the new Act. The projects draw on earlier research and theoretical ideas developed within the Centre for Research in Equality and Diversity. The EqA 2010 brought together over 100 pieces of existing legislation and included some innovations which promised to significantly change the legal definition of equality and its organisational practice. The projects focussed on the two most innovative aspects of the EqA: the Public Sector Equality Duty (s. 149) and the provisions addressing Dual Discrimination (s.14). The aims were to: a) investigate how the new and innovative provisions could be put into practice, b) identify best practice, c) consider how stakeholders could be supported to use the new legislative provisions most effectively, and d) the lessons for future legislative change. The underpinning research may be found in Conley and Page (2010), Conley (2012a, 2012b, 2013), Moore, Wright and Conley (2011, 2012)

1) The implementation of the Gender Equality Duty in local government

(Hazel Conley, QMUL and Margaret Page, University of the West of England)

The first project, supported by a British Academy grant (£7,000, 2008-09) aimed to: (i) identify the opportunities and pitfalls of using the existing legislation to advance gender equality in the public services, and (ii) examine the conceptual and practical problems of integrating gender with the other equality objectives as was required by, what was then, forthcoming legislation. The research involved working with five major local authorities (Bristol, Leeds, Sheffield, Lewisham and Devon) to develop and share best practice on the Gender Equality Duty, as it then stood, and to prepare strategies for implementing the forthcoming Single Equality Duty. While actors at national and local level have stressed the need to embed gender equality measures, sustaining these measures remains precarious. The streamlining of gender equality within a generic positive duty to promote equality, as required by the Equality Act 2010, is uncertain, especially given the significant funding reductions facing the public services. The research output (Conley and Page, 2010) challenged the assumption that the new EqA Public Sector Equality Duty has strengthened gender equality as originally envisaged. Instead, the research evidence indicates that the specific duties contained in the Gender Equality Duty, prior to the EqA, already provided an effective tool for equality advisors in the pursuit of gender equality both for employees and public service users. Indeed the local government equality officers, who participated in the research, perceived a danger that any gains in equality measures, particularly gender equality, may be lost unless clear strategies are put in place. Given these concerns the research team produced an interpretive framework for local authorities to use in the development of policies and strategies to meet the new legislative requirements and embed equality strategies.

2) **2) Discrimination in the workplace on multiple grounds – the role of trade union Equality Representatives** (Hazel Conley; Sian Moore, Leeds University; Tessa Wright, QMUL)

This exploratory research examined the experiences of trade union Equality Representatives (ERs) to gain an understanding of the complexities of dealing with discrimination on more than one

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ground and how these complexities might best be managed. The research was funded by the Advisory, Conciliation and Arbitration Service (Acas) (£10,000, during 2011). The ER role has arisen following the new provision for dual discrimination (s.14 of the EqA). ERs are a new form of workplace representative with a remit to address equality in its broadest form, rather than just a single equality strand such as women's or race equality. ERs are, therefore, well placed to deal with members' individual and collective experiences of discrimination on any or multiple grounds. The research explored the forms of combined discrimination by drawing on ERs' experiences and the measures taken to address discrimination, both in terms of legal remedies and action in conjunction with employers. Twelve interviews were conducted, including seven ERs, three other union officers and two union members referred to the research team as possibly experiencing multiple discrimination. All were from public sector unions: PCS, UNISON and the UCU. The government announced it was delaying the implementation of this part of the EqA in the 2011 Budget (HM Treasury 2011: 23). Research was therefore essential to assess what the impact of this delay might be. Research output (Moore, Wright and Conley, 2011) identified the difficulties of identifying dual discrimination, as conceptualised in the EqA, in practice and, therefore, its limited use in representing trade union members who may suffer multiple discrimination.

3. References to the research (indicative maximum of six references)****submitted to REF2014**

Conley, H. and Page, M. (2010) 'The Gender Equality Duty in Local Government: The Prospects for Integration' *Industrial Law Journal* Vol. 39 (3) pp 321-325, doi: 10.1093/indlaw/dwq017

**Conley, H. (2012a) 'Using Equality to Challenge Austerity: New Actors, Old Problems' *Work, Employment and Society* 26 (2) pp 353-363, doi: 10.1177/0950017011432906

**Conley, H. (2013) 'Trade Unions, Equal Pay and the Law' *Economic and Industrial Democracy*, on line, DOI: 10.1177/0143831X13480410

Conley, H. (2012b) 'Economic Crisis, Austerity and Gender Equality: The UK Case' *European Gender Equality Law Review* 2012/2 pp 14-19 ISSN: 2212-5914

Moore, S., Wright, T. and Conley, H. (2011) 'Addressing Discrimination in the Workplace on Multiple Grounds: The Experience of Trade Union Equality Representatives' *Industrial Law Journal* Vol. 40 (4) pp 460-465, doi: 10.1093/indlaw/dwr025

Moore, S., Wright, T., Conley, H. (2012) 'Addressing Discrimination in the Workplace on Multiple Grounds: The Experience of Trade Union Equality Reps' Acas research paper 02/12 Acas: London

4. Details of the impact (indicative maximum 750 words)**1. The impact on the policy and best practices of local authorities and voluntary sector**

The research team developed an interpretive framework for those with equality responsibilities to use in developing the local policies and strategies required to meet the legislative requirements. This framework was further refined through a workshop with the five authorities led by the research team in December 2009. The framework sets out the underlying policy and public service guidelines and the best practice for integrating what had been quite separate duties on race, disability and gender duties, plus the addition of religion, sexuality and age strands in preparation for the EqA. All five local authorities have now adopted the framework. They are using this framework in the assessments against the Equality Framework in Local Government, a national standard whereby local authorities have to assess the extent to which they have achieved best practice on equality. As a direct result one major urban authority significantly improved their Equality Framework for Local Government rating to 'excellent' (the range runs from 'developing', 'achieving', to 'excellent').

"Following the research interviews we looked at our overall focus in the area of gender to ensure that it did not become marginalised with the increased focus on other protected characteristics. We used the research as support for, and underpinning, our self-assessment in this area. This led to a new approach around embedding equality in decision making with the introduction of a performance measure to understand the extent to which this takes place. The research also helped with our self-assessment against the excellent

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level of the Equality Framework for Local Government which we achieved in May 2011.”
(Strategic Equality Manager, Leeds City Council).

Impact is also very evident in those voluntary sector organisations which are using the public sector equality duties to pressure local authorities to improve their practice.

“Over the course of the meetings I had with you [Hazel Conley] and Margaret Page it became clear that Fawcett Southwest was far too tied to the County Council's apron strings. This completely hampered pro-active gender equality promotion, other than working with the County Council. I relayed to the tiny Exeter group your advice – about the need to achieve credible independence in order to effectively use the Gender Equality Duty (as it was in those days). We met, dissolved Fawcett South West, reformed as Fawcett Devon, opened our own bank account, established our independence and put ourselves onto the Devon 'map' of equality/diversity organisations by taking our Fawcett Devon stand to conferences and equality events. It was the best thing we could have done.” (Exeter Councillor).

2. The impact on trade union's priorities, strategies and representational roles

The research has made a significant contribution to enabling trade unions to pursue equality issues more effectively on behalf of their members. Conley has presented the research findings and outlined how unions can take up equality issues with employers in a range of seminars. These seminars have involved trade union workplace representatives from the local government sector as well as the banking and finance sector, a sector which the EHRC has targeted and investigated for its poor record on equality and diversity practice. In particular, she led a training session for the Unite union at their training and conference centre in Eastbourne (September 2012). The participant feedback points to considerable impact in the form of learning by union activists about how they can apply the lessons of research in representing their members and negotiating with their employers over equality issues. The research also created a resource for Equality Representatives at: www.acas.org.uk/index.aspx?articleid=2056. Its presence on the ACAS website indicates that ACAS consider that the resource has significant value for users.

The research has had an impact on national trade union policies and priorities, providing the necessary evidence base for giving greater priority to equality issues. The Head of Local Government in the largest public sector union UNISON notes:

“I have attended a number of seminars at which Dr. Conley has presented her research on the Gender Equality Duty and the current Public Sector Equality Duty. I have found the information provided on how the Duties can be used by trade unions useful and thought-provoking and we have incorporated it into some of our work at UNISON, particularly when looking at the impact of austerity measures on a predominantly female workforce. Dr. Conley's research and other academic research on this issue has encouraged the union to prioritise the support and use of the duties in our future policies.”

The team's research has had a very tangible impact in equipping the Transport and Salaried Staff Association (TSSA) with the evidence and strategy to mount equal pay cases which have compelled a formerly recalcitrant employer to begin negotiations with the Union advice. The team's analysis encouraged the Union to launch equal pay test cases, as the Assistant General Secretary has testified:

“You were very helpful in undertaking an initial analysis of the data and confirming that there was statistical relevance that suggested that in key bands (particularly three and four) there was evidence of gender pay inequality. Your support and advice allowed us to develop a more targeted approach to individual jobs within those grades. This second survey, gave us the ammunition to launch 30 equal pay claims (with a potential liability to the employer in excess of £1 million for back pay alone). The effect of this was that the employer, who had previously simply refused to accept that there was an issue, changed their attitude and agreed to enter into discussions... Your analysis was instrumental in moving our thinking on

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and focussing us on how the survey could provide a point of leverage to move the company from a position of denial to one of active engagement.” Assistant General Secretary, TSSA.

3. Wider impact on public policy in terms of promoting social justice and public debate, and improving government policy

The Equality Act 2010 (EqA) had a turbulent start as its enactment coincided with a change of government and the global economic crisis. The government is now reviewing both the Public Sector Equality Duty and the Dual Discrimination provisions under the “Red Tape Challenge – Spotlight on Equalities” initiative. Given this review, Conley’s research has made a major contribution to focussing attention on the social justice aspects of the legislation both within government and more widely in public debate, as well as potentially contributing to improved government policy.

The decision to review the legislation so close to its enactment gave little time for equality groups to assemble and interpret the limited information available, therefore Conley’s contribution has been particularly significant in informing public debate and assessing the impact of the Act. Her research and advice has been much sought after as illustrated by:

(i) An invitation to address the ‘Equality and Diversity Forum Research Network seminar Evaluating the Equality Duty – where is the evidence?’ (June 2012) together with representatives of the Government Equalities Office and the Equality and Human Rights Commission. Over 50 practitioners, policy-makers and academics attended. EDF highlighted the seminar as indicative of how research had informed their policy work over their first two years of existence:

“In June 2012, the Network held a seminar entitled ‘Evaluating the Equality Duty – where is the evidence?’ Speakers from Oxford University, Queen Mary University of London, the Government Equalities Office and the Equality and Human Rights Commission considered what we know about the effectiveness of the Equality Duty and whether it is bringing about organisational change to secure better equality outcomes.” (www.edfresearch.org.uk)

(ii) An invitation to contribute to a publication of the European Commission’s Network of legal experts in the field of Gender Equality. The European Network of Legal Experts assists the Commission ‘in the field of Gender Equality in order to help monitor the implementation of the EU *acquis* related to the principle of equal treatment between women and men in the EU countries and to develop new legal initiatives in this specific field.’ The Network of Legal Experts informs the European Commission of important legal developments in the field of gender equality at national level and the impact of these developments. Published in 2012 at:

http://ec.europa.eu/justice/gender-equality/document/index_en.htm#h2-9

(iii) The research findings have been submitted in evidence to House of Commons Business, Innovation and Skills Select Committee inquiry on ‘The Women in the Workplace’ (Conley was the lead author with Durbin (UWE), Moore (UWE) and Wright (QMUL)). The research was cited on three occasions in the final report released in June 2013, which can be found at:

www.parliament.uk/business/committees/committees-a-z/commons-select/business-innovation-and-skills/publications

Conley *et al*’s evidence on the public sector equality duty and equality impact assessments was reflected in the recommendations of the report. And two of the research team’s key outputs (2010, 2011) were included in the evidence dossier produced by the Equality and Diversity Forum for the Government Equalities Office. Thus these outputs are major contributions to the government’s review of the public sector equality duty. The document is available at:

www.gov.uk/government/publications/evaluation-of-the-equality-act-2010-evidence-dossier

5. Sources to corroborate the impact (indicative maximum of 10 references)

- Assistant General Secretary, TSSA (impact at the local level)
- European Network of legal Experts in the Field of Gender (impact at the international level)
- Strategic Equalities Officer, Leeds City Council (use of Dr. Conley’s research in formulating equality policy in Leeds City Council)
- Head of Local Government sector, UNISON (impact at the national level)
- Councillor, Exeter City Council (impact at the local level)