

# The role of the equality bodies

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# EU equality bodies established:

- To strengthen protection against discrimination
- To ensure victims of discrimination can obtain redress
- To influence development of equality law
- To promote awareness of and compliance with equality law
- To promote equal treatment
- To share information

# The EU legislation

## **Article 24 The Racial Equality Directive (2000/43/EC)**

Protection against discrimination based on racial or ethnic origin would be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims.

## **Article 12 Equal Treatment in access to goods and services (Directive 2004/113/EC)**

## **Article 20 Recast Equal Treatment Directive (2006/54/EC)**

Member States shall designate a body or bodies for the promotion, analysis, monitoring and support of equal treatment of all persons without discrimination on grounds of sex. These bodies may form part of agencies with responsibility at national level for the defence of human rights or the safeguard of individuals' rights.

# Art 20 Recast Directive continued...

The **competences** of these bodies must include:

- (a) ...providing independent assistance to victims of discrimination in pursuing their complaints about discrimination;
- (b) conducting independent surveys concerning discrimination;
- (c) publishing independent reports and making recommendations on any issue relating to such discrimination;
- (d) exchanging available information with corresponding European bodies such as the European Institute for Gender Equality.

# Study of Equality Bodies found range of models and approaches

- 2 broad types: tribunal-type or promotion-type
- Many go beyond minimum requirements of EU law and most cover more grounds
- 5 equality bodies are also National Human Rights Institute (subject to Paris Principles)
- Only 4 member states now have separate gender equality body
- Concern about loss of focus on gender vs hopes for new approach from integrated bodies

*Study on Equality bodies set up under Directives 2000/43/EC, 2004/113/EC and 2006/54/EC, Synthesis Report, Margit Ammer et al October 2010*

# Equinet survey of equality bodies

- 20 equality bodies responded to a detailed Equinet questionnaire in summer 2009 about their work
- Findings provide insight into work on gender equality
- Dominant issues:
  - Pregnancy and maternity discrimination
  - Equal pay
  - Sexual harassment
  - Most of legal work undertaken is employment-related
  - Multiple discrimination a focus: older women, black and ethnic minority women, disabled women

# Equinet survey (continued..)

- Barriers to gender equality work identified:
  - Lack of resources and budget restrictions
  - Defects in national legislation
  - Lack of gender equality body
  - Under-reporting of sex discrimination
  - Fear of victimisation
  - Under-resourcing of women's NGO's

<http://www.equineteurope.org/equinetpublications.html>

# Key factors for effectiveness

- Adopt a strategic approach
- Have a communication strategy
- Devise a casework and litigation strategy, with clear criteria for support
- Ensure visibility of work on all discrimination grounds covered
- Facilitate stakeholder participation
- Engage effectively with public authorities, employer bodies, trade unions and NGOs
- Work with other statutory bodies with linked mandates

# Case study: Equality and Human Rights Commission of Great Britain

- A promotion-type equality body established by the *Equality Act 2006*, replaced 3 bodies that had single mandates (on gender, race and disability) and covers 9 discrimination grounds
- Accredited as a UN NHRI (complies with the UN Paris Principles)
  - Reporting against UN CEDAW is a way of maintaining focus on gender inequality
- Has responsibilities under the single *Equality Act 2010* (which replaced the *Sex Discrimination Act 1976* and the *Equal Pay Act 1970*) and under the *Human Rights Act 1998*

# Legal strategy - inquiries

- The Commission has a unique set of legal powers.
- These include the **power to conduct an inquiry** into any matter which relates to equality and diversity, human rights or good relations between groups
- Examples in relation to gender equality:
  - Inquiry into sex discrimination and the gender pay gap in financial services sector
  - Inquiry into employment and recruitment in the Meat and Poultry Processing Sector
  - Inquiry into human trafficking in Scotland

# Legal strategy - assessments

- Assessments are used to scrutinise and test compliance with public sector equality duties
- Assessments can be used to obtain evidence for further enforcement action to secure compliance, and to identify areas of best practice in the performance of the duties
- Example: Assessment of whether and how HM Treasury met its equality duty obligations when making the decisions contained in the 2010 Spending Review

# EHRC as effective equality regulator

- Regulation does not just mean legal enforcement action such as inquiries and investigations.
- It also means providing advice, raising awareness and understanding, transferring expertise and supporting organisations in their efforts to comply with the law.
- Reporting on progress (and/or regression) and providing evidence base: Triennial Review - *How Fair is Britain?*

# Overview of gender equality work

- Publication of *Sex and Power*
- Working Better - promoting flexible working
- Equal pay
  - intervention in Supreme Court case
  - Equinet workshop
  - research and guidance
- Violence against women - Map of Gaps; defending legal aid
- Pregnancy discrimination - advice and casework, guidance

# Changes under way

- Government consultation on Commission's future role and our response

<http://www.equalityhumanrights.com/about-us/vision-and-mission/government-consultation-on-our-future/#full>

- Substantial budget cuts taking effect
- Commission consultation on its Strategic Plan - how to do more with less!

<http://www.equalityhumanrights.com/about-us/vision-and-mission/about-us/vision-and-mission/our-strategic-plan/consultation-on-our-strategic-plan/>