brap

getting off
the merry-
go-round:
workplace
equality

brap is an equality and human rights charity, inspiring and leading change to make public, private and third sector organisations fit for the needs of a more diverse society. We offer tailored, progressive and common sense approaches to equality training, consultancy and community engagement issues.

'Getting off the Merry-Go-Round' is part of a series of papers outlining our thinking on key areas of policy and practice.

The story so far...

- we were talking about human rights in health before it was cool. In the late 2000s, we devised human rights schemes and policies for a number of Birmingham primary care trusts. Our work for one of these, Heart of Birmingham PCT, was showcased by the Department of Health in its publication *Human Rights in Healthcare: a framework for local action*.

- before that we were all over the place – up in Sheffield helping the local health and social care trust develop metrics in relation to BME service delivery, down in London helping to evaluate the Department of Health's approaches to engagement, and then back up to Yorkshire to evaluate the effectiveness of the community development worker role in mental health provision

who are brap?

- not interested in health? Well, we've worked with scores of housing organisations, from homeless charities, to housing associations, to local authority housing departments (in fact, we've trained over 700 social housing staff). We've created human rights schemes and policies for a number of housing associations, and have recently developed a pioneering human rights toolkit, allowing associations to mainstream equality into their day-to-day work

- education more your thing? In the last few years, we've provided training to over 50 early years directors, strategic leaders, and children's centre managers; over 3,000 children's centre, community nursery, and private nursery staff; over 3,500 staff working in FE colleges; and 150+ staff working in adult education provision. We've also advised predecessors to the Department of Education on exclusion rates and behaviour management and supported three universities on their equalities schemes and improving the working environment for Black and minority ethnic (BME) staff

- in 2011, on behalf of Macmillan Cancer Support, we developed a human rights standard to improve people's experience of cancer care. The standard was warmly received by the Department of Health, who highlighted it in their *National Cancer Reform Strategy*.
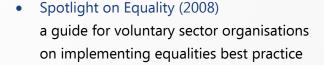
- Equality Speak (updated regularly)
  an introductory resource outlining origins and contested nature of some of the equality terms in common usage

- Equality Objectives and Public Authorities: Tips, Hints, and Bright Ideas (2011)
  a nationally recognised guide for public sector organisations on how to go about formulating equality objectives

Our publications

- The Equality Delivery System: Key Challenges and Opportunities (2011)
  a roundup of a discussion with equality practitioners in the health service about the new Equality Delivery System

- Who Moved my Samosa? (2011)
  a short and punchy introduction to resolving competing equality claims, both in the workplace and the community

- Spotlight on Equality (2008)
  a guide for voluntary sector organisations on implementing equalities best practice

- The Thinking Behind the Action (2007)
  a facilitation aid of particular interest to those organisations who have realised that 'ticking the box' has not always helped develop the practice required to transform services

- The Busy Employer's Guide to Equalities (2006)
  an easy-to-use guide that aims to provide a better understanding of some basic issues that often puzzle people

- Rethinking Recruitment (2006)
  a short guide on rethinking common problems and explanations around BME unemployment, offering fresh, evidence-based interpretations

- we still have a long way to go when it comes to workplace equality. Take promotion, for example (just one aspect of workplace fairness). Figures show Black people make up 0.8% of head teachers and just 2% of NHS Chief Execs. Only 3% of police chiefs are BME. Famously, women hold only 17% of FTSE 100 Director positions and are just 14% of the senior judiciary. Similar figures are available for other marginalised groups

- research from our own cultural audits with a range of organisations suggest that only 60% or so of employees agree with the statement 'My organisation is a fair place to work'. Granted, this work tends to be in organisations where managers have already identified a problem. However, the persistence of workplace discrimination is uncontroversial. In 2012, for example, 1 in 13 NHS staff said they had experienced discrimination from colleagues in the last 12 months.

- these statistics come with a health warning – data collection and monitoring in relation to staff outcomes is poor. A quick glance at the appendix of staff data reports usually shows that the 'unknown' or 'no response' category is one of the largest. In particular, people are wary of revealing their sexual orientation and disability status, suggesting there are real problems for people with these characteristics in the workplace

- eagle-eyed readers will have spotted that most of these stats come from the public sector. As patchy as data collection is in the public sector, it's even worse in the private.

- many organisations are unaware of how the law places a requirement on them to be proactive in pursuing fairness. If an employee takes a claim of discrimination to an employment tribunal they only have to show that discrimination is a reasonable explanation for the outcome they've experienced. Then the burden of proof is on the employer to show that they did not act unlawfully. So there's no need for employees to have a detailed diary of discriminatory incidents; instead, employers need to have evidence showing decisions have been made fairly. Additionally, in deciding whether organisations have acted discriminatorily employment tribunals can consider circumstantial evidence, such as the diversity of management or the support and encouragement other employees from marginalised backgrounds say they have received[1]

Key Points

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[1] For a more technical and precise outline, see Equality and Human Rights (2011) *Equality Act 2010 Statutory Code of Practice Employment*

- many organisations do not know the difference between 'needs' and 'wants'. In particular, there's a lot of confusion around religiously motivated requests, with many employers feeling these automatically have to be met. In fact, the situation is a lot more complex – much depends on the specific circumstances of the case in question. The training managers receive rarely equips them to deal with these complexities, though

- many organisations have built their hopes for improved equality on being able to attract people to work for them who are representative of the local population and/or representative of users of the service. Diversity, however, is no guarantee of equality. 'Add-on' measures to attract people from marginalised groups don't tackle institutional problems. They can also cause animosity amongst other employees who see people benefit from tokenistic initiatives which don't improve outcomes in the long run

- on the flip side, managers need to be more aware that treating people fairly might mean treating them differently. For example, equalities legislation places a duty on employers to make reasonable adjustments to help disabled people participate more fully in the workplace

- there are certain areas of workplace practice where inequality tends to congregate. Whilst some of these are obvious – promotion, access to training – employers need to think about some of the less obvious ones: performance management, managing absence, and accessibility of managers
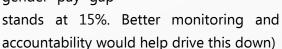
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Figures for headship roles: 'Black male head teachers in England's state schools number just 30' in *The Guardian*, 21 April 2011. Figures for NHS Chief Exec roles: 'Why are there so few BME managers at the top?' in *The Guardian*, 7 December 2011. Figures for chief police officers: 'Call for new law to force police to tackle diversity at the top' in *The Guardian*, 27 January 2013. Figures for women in directorships and senior judiciary roles: Fawcett Society (2013) *Sex and Power 2013: Who runs Britain?* Figures for NHS staff discrimination: National NHS Staff Survey Coordination Centre (2012) *Briefing Note: Issues Highlighted by the 2012 NHS Staff Survey in England*. Figures on the gender pay gap: Office for National Statistics (2013) *Patterns of Pay: Results from the Annual Survey of Hours and Earnings, 1997 to 2012*

The findings in the preceding pages have a number of implications for the way employers should promote equality.

- the positioning of equality in an organisation (who will drive it forward) and its accountability (monitoring and reporting arrangements) need careful consideration, as these issues have 'let down' equality and diversity in the past. (Over 40 years since the Equal Pay Act was passed, for example, the gender pay gap stands at 15%. Better monitoring and accountability would help drive this down)

- 'line of sight' is particularly important: managers do not always exhibit the principles of equality and transparency in their leadership of organisations. This can appear to staff as if they are held accountable for outcomes which their managers are not

- monitoring and accountability mechanisms in the past have been overly bureaucratic. This has stifled staff motivation to act positively: faced with the possibility of doing the wrong thing, staff often opt to do nothing at all – a kind of professional paralysis. Internal accountability mechanisms should help create a permissive, 'can-do' culture where people feel they have the permission to take calculated risks and innovate to

ways forward

improve equality at work (without feeling they will be blamed or punished for 'getting things wrong').

- key to this last point is a focus on employee behaviour. Organisations might want to focus on creating a set of 'behavioural standards' (actual ways of acting that staff can do and can see other staff doing) which let employees know what equality 'looks like' in their day-to-day roles. These standards should be...

  (a) specific: outline clear actions
  (b) personal: different roles will require different actions
  (c) feasible: take into account resource constraints or the expertise of staff
  (d) motivating: people are motivated by a number of things (in our experience, human rights is one of them). Show people how enacting behaviours will help them promote things that are valuable to them

- firms may want to test managers for unconscious bias. In light of changes to burden of proof in employment disputes identifying and rooting out unconscious bias amongst staff could be a cost-effective means of improving recruitment, promotion, and management practices

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making equality work for **everyone**