



Promoting Equality in the workplace: A Guide to Bargaining Around Equality

Introduction

In accordance with the motion that was ratified at the last Service Group conferences, this paper has been put together in line with the action required and to assist both branch negotiations and full time officers in incorporating equality bargaining during negotiations.

Equality Bargaining is defined as “the collective negotiation of provisions that are of a particular interest or benefit to disadvantaged or under-represented groups and/or are likely to facilitate equality at work which can then bring about diversity”.

Collective agreements, which do not explicitly promote equality, may be indirectly discriminatory and where we are looking to see positive outcomes for disadvantaged or under-represented groups are by no means guaranteed when the equality dimension remains invisible and unarticulated.

This guidance is designed to help WET and Energy Representatives (National and Local), and Full Time Officers negotiate and organise around the Equality Act 2010. This guide should also help to ensure that:

- Strategies and policies are free from discrimination;
- When entering into negotiations, negotiators / organisation complies with current equality legislation;
- That due regard is given to equality in decision making and subsequent processes;
- Opportunities for promoting equality are identified.

Equality policy and equality objectives

Employers have their own equality policies and standards but problems occur when they are not reflected in the workplace.

As negotiators we should ensure there is a robust and comprehensive equality policy, cross-referenced with all other policies. For example, If sexual orientation - or another term with the same meaning - is not explicitly mentioned, most lesbian, gay, bisexual and transgendered (LGBT) people will assume from experience that their issues are not being taken seriously.

The policies listed below are not exhaustive but we must check national or employer agreements, procedures and policies to ensure they have been equality proofed.

- Performance Management Policies
- Managing Attendance/Sickness Absence Policies
- Recruitment, Grading and Selection Policies
- Family friendly and work/life balance policies
- Disciplinary Policies
- Grievance Policies
- Harassment policies
- Voluntary Exit Redundancy (VERS) / Early Retirement Schemes
- Re-deployment and Relocation

Publicity, implementation, training and monitoring

During negotiations, negotiators should ensure that all policies include agreements on publicity, implementation and monitoring. New and amended policies should be circulated to all workers – branches should also ensure they consult with members, explaining why they have been adopted. Raise awareness/promote the training of Managers on equality where it's not in practice.

Should local managers have discretion in implementation, members must be aware of their rights and know how to make a complaint if necessary. The complaints procedure should be confidential and well publicised.

Negotiators must seek agreement on regular reviews of the effectiveness of the policies and how they are impacting on members facing discrimination. For example, a record should be kept of the numbers of complaints of any harassment lodged by under-represented groups such as women, black, disabled and Lesbian Gay Bisexual and Transgender (LGBT) workers, and the outcomes of these complaints.

Remember that an absence of complaints does not mean there is no harassment.

We argue strongly that branches should monitor the implementation of all policies, including any negative impact on under-represented groups.

Protected Characteristics

Is there a legal obligation to carry out an equality analysis?

Whilst there is no legal obligation to carry out an Equality Analysis under the Equality Act 2010, employers will have to set out how it has assessed the impact of its

policies, practice and related decisions on all of the protected characteristics, which are:

Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex and Sexual Orientation

Identify & Remove Barriers to Equality

The employer will or should hold data on its employees in order to monitor its Equality Duties. Branch Negotiator / Branch Equality Officer should be given access to this (non-personalised) information in order to carry out their duties. **If not readily available a request should be made for this information on a regular basis.**

Equality mapping the workplace is also a very useful tool; whereby a Branch Equality Officer would look at the strands it is interested in and note where they are located within the workplace to establish any trends or patterns that may exist. This may prove valuable when considering any potential implications when undertaking Equality Analysis

Branches should ensure they cascade equality matters to members: this can pass useful information to the members, but also encourage them to raise any equality concerns or issues that they have with their Branch Equality Rep.

Once identified and understood the cause(s) of the inequality, you can then actively consider a view to its removal.

Equality Mapping

Equality Mapping is a strategic tool to help you analyse the workplace around the equality strands.

In practice, it means breaking the workplace down into component parts to determine the level of union density within your workplace.

After mapping, it may be found that certain departments have little or no trade union members, and could be targeted for recruitment, equalities, union representation or membership density.

Who does it? As mapping is about gathering information, all activists should be involved together with your Regional Organisers. Regional Organisers should already map the workplaces in terms of male/female ratios and member/non member.

Equality Mapping extends this process further to collate data from our diverse groups to ensure, we as a union are tackling under-representation.

You don't have to collect the information in one go, but you can build up your database over time, extending and amending it as you go.

Adapting workplace mapping for equality is reasonably simple to develop the technique to analyse the workplace around the equality strands.

You should be able to identifying opportunities for supporting members, where relevant equality status details are known within a workplace, this information can be used to map out whether issues such as gender, disability, race, sexual orientation, religion or beliefs, age, ethnicity, could be important to your members and any non members.

Where gaps are highlighted, support provided by the union can only benefit members but could also persuade non members to join, by making the union more accessible and relevant to their needs.

Where industrial relations are quite positive, a joint approach between union and management may offer the most effective exercise.

If industrial relations are poor the branch should map the workplace and use the information gained in a collective bargaining setting.

What is most important is that you undertake the mapping exercise with the intention of collecting as much information as you can to help you plan your recruitment and organising work and build a stronger branch.

An essential part of mapping exercise is to test if employers are putting into practice what they are putting onto paper.

The main aim of mapping is to assess if general contractual terms and conditions are equally applied across all the equality strands.

Equality Analysis (EA)

Equality Analysis played a key role in implementing the old equality duties. This is not the case as the Equality Act 2010 does not impose a legal requirement on employers to conduct equality analysis. We recommend that assessing the equality impact of any policies, procedures and proposals remains the most reliable way of demonstrating that equality issues relating to people with protected characteristics have been given due regard prior to a change.

Case law from the previous duties indicates Equality Analysis should be done before decisions are made and that a written record is useful for demonstrating compliance. We also need to remind the employer of their statutory obligations to assess the impact on equality groups of any proposals, cuts or redundancies BEFORE making any decisions.

We also recommend that negotiators/full time officers should build equality into their campaigning activities by raising Equality Analysis and Equality Objectives with their respective employer.

Equality Analysis is a systematic approach to assessing whether policy, decision or practice meets the General Duty to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Promote good relations between different social groups

They provide evidenced based methodology for assessing whether a policy, criterion, practice may result in:

- Adverse impact.
- Opportunity to promote equality.

Equality Analysis is a way of helping identify indirect discrimination. They are not a means to an end, or the end in itself. An EA is a tool to ensure that employers' policies and the way they carry out their functions do what they are intended to do.

The employer must have good information, ensure they consult with staff, and trade unions and importantly having staff with the skills to be able to analyse the implication for equality.

Properly conducted EA's will provide evidence that due regard has been paid to the general duty. An EA should not just be a tick box exercise but evidence as to how it has addressed its specific statutory duties.

A Guide to Equality Analysis - Equality Human Rights Commission (EHRC)

The Commission has developed the materials in this section to help those delivering public services make decisions which are fair to all.

http://www.equalityhumanrights.com/sites/default/files/documents/EqualityAct/PSED/equality_analysis_guidance.pdf

Equality Schemes

One of the disappointing aspects of the new legislation is that public sector organisation will no longer be required to publish an equality scheme. Previously, they were required to publish a document which showed how they were planning to promote equality on the grounds of race, disability and gender. ***Negotiators should continue to push employers to report on a regular basis progress made in addressing gender equality and also demonstrate action taken on race and disability in the workplace.***

Actions

Tackling equality is designed to bring about change in organisations. Even though it may not be possible to address and resolve all issues in the workplace, it should begin to tackle the most significant matters.

Monitoring and Enforcement

The Equality and Human Rights Commission is responsible for enforcing the equality duty. The main purpose of this work is to “promote compliance, improve standards, and collate and promote best practices”.

The EHRC has a number of statutory powers to enforce the general and specific duties.

If Branches are concerned that employers, are not meeting their obligations under the Act, they can seek advice in the first instance through their National or Regional Officers or escalate it to the National Office with SOGs National Officers.

National SOG Officers:

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