

Fair Access, Diversity & Inclusion

This is the 7th briefing paper to be issued on the Monitoring and Review of Supporting People.

INTRODUCTION

Throughout the Supporting People programme there is a strong emphasis on fair access, diversity and inclusion and this is particularly evident in the Monitoring and Review Framework. As one of the six core service objectives of the Quality & Monitoring Framework, (QAF), services are required to demonstrate that:

“there is a commitment to the values of diversity and inclusion and to the practice of equal opportunity, (including accessibility in its widest sense), and the needs of black and minority ethnic service users are appropriately met”.

The purpose of the standard is to ensure that services aim to treat their service users and staff fairly, promote diversity and prevent discrimination.

At a Northern Ireland level, as a result of local political circumstances, meeting the requirements of this service objective raises additional challenges: For example, balancing the encouragement of service users to retain links with their religious/cultural identity with the need to preserve a non-threatening environment within the scheme itself.

Fair access, diversity and inclusion

To meet this objective requires more than merely a written equal opportunity policy or a document agreeing to the principles of the above statement. To achieve the minimum acceptable standards, (level C), for this service objective, providers must meet the following 6 standards all of which must be evidenced.

Checklist for Level C:

- Written policies, in line with legislation, to cover equal opportunities (EOP), anti-discriminatory practice (ADP) and harassment. These should all have been reviewed within the last 5 years;
- Up-to-date assessment and allocations processes to ensure fair access to the housing support service;
- The eligibility criteria, application process and means of prioritising applications for supported housing are written down, are well publicised and are freely available to all enquirers in an appropriate format and/or language;
- A recruitment and selection policy, in line with EOP and reviewed within the last 5 years, which aims to address discrimination on the grounds of gender, age, religion, race, disability, nationality, political opinion and sexual orientation;
- A staff induction programme in place, with the above policies included as part of the induction. All staff should be able to describe key elements of these policies;
- Service users are provided with up-to-date information about the availability of local cultural and religious organisations, centres and services, for example, through leaflets. Cultural and religious needs, identified at assessment, are met through support plans etc;

Although there are statutory requirements in place that can be used to enforce compliance with these principles, they do not come into effect until an infringement has actually taken place. Services can demonstrate good practice in this area by going beyond their statutory requirements. Having policies and practices in place to promote fair treatment will promote user satisfaction, improve staff morale and protect the organisation from any possible action being taken.

Equal Opportunities Policy (EOP)

As it is also a requirement for the interim contract, it is vital that an EOP is in place. This consists of a framework or set of guidelines which formally define what an organisation aims to achieve in terms of promoting equal opportunities.

An EOP should address the following points:

- Aims and public commitment – acknowledge that discrimination exists and state the intention to ensure that no one is discriminated against on the grounds of gender, age, religion, race, colour, ethnic or cultural origin, nationality, disability, marital status or sexuality;
- Responsible persons – state who has overall responsibility for implementing and monitoring the policy and procedures;
- Information – how the policy will be developed and publicised;
- Action planning – identify future goals and what short term and long term action is required;
- Monitoring – methods of monitoring staff employment, promotion, access to training and development, applications and acceptances of the support service, harassment and discrimination;
- Review – identify whether intended outcomes have been delivered.

Relevant Legislation

The policy should be in accordance with the relevant legislation:

- **Northern Ireland Act 1998 Section 75**

Under Section 75 of the Northern Ireland Act designated **public bodies**, (which includes the NIHE and registered Housing Associations), are required to promote equality of opportunity between persons of different religious beliefs, political opinions, racial groups, ages, marital status or sexual orientation, between men and women, between persons with a disability and persons

without and between persons with dependents and persons without. If this is not possible, they should consider ways in which to mitigate any adverse effects, or alternative policies which might better achieve the promotion of equality of opportunity.

Fair Employment and Treatment (Northern Ireland) Order 1998

The Order makes it unlawful to discriminate against someone on the ground of religious belief or political opinion in relation to employment and in the provision of goods, facilities and services. This includes a person's supposed religious belief or political opinion or the absence of any, (or any particular), religious belief or political opinion. Indirect discrimination is also prohibited. Indirect discrimination is the application of a requirement or condition, which although applied to all, results in a considerably smaller proportion of people being able to comply with it, and that non-compliance disadvantages individuals who cannot comply.

It is also unlawful to discriminate against someone by way of victimisation because they have made a complaint or have assisted someone else in the bringing of a complaint. Although not mentioned in the Order, sectarian harassment has also been found to constitute discrimination. This can include bullying.

This Order also provides that all private sector employees with more than 10 full-time employees, (working more than 16 hours per week), are required to register with the Equality Commission. All registered employers must submit an annual monitoring return to the Commission giving details of the community background of their workforce. Community background, in this context, being defined as those who are treated as belonging to either the Protestant or Roman Catholic community in Northern Ireland.

- **Race Relations (Northern Ireland) Order 1997**

The Order makes it unlawful to discriminate, either directly or indirectly, on the grounds of colour, race, nationality and ethnic or national origin. The legislation applies in the areas of employment, etc when a service is carrying out its functions, including the delivery of support services. The Irish Traveller Community is specifically identified as a racial group against which racial discrimination is unlawful. Racial discrimination also includes victimisation ie less favourable treatment because that person has made a complaint of discrimination.

- **Disability Discrimination Act 1995**

This Act makes it unlawful for a disabled person to be treated less favourably than someone else because of his or her disability and requires that reasonable adjustments are made to overcome the

effects of a person's disability. Such treatment can only be justified if the reason for it is a substantial one, material to the individual's circumstances and no reasonable adjustment to alleviate the disadvantage is possible. In addition, providers of goods and services must not refuse to provide or deliberately not provide to a disabled person any service provided to anyone else. While the Act extends to the whole of the UK, separate secondary legislation and Codes of Practice are required for Northern Ireland. Schedule 8 of this Acts sets out the modifications that apply in Northern Ireland. The Disability Discrimination Act 1995 (Amendment) Regulations (Northern Ireland) 2004 will come into effect on 1st October 2004 and will amend the Act.

The Act makes it unlawful to refuse to provide a disabled person with services which are available to other members of the public, to provide services of a lower standard or on terms less favourable than other members of the public. The Act contains an anticipatory duty to make reasonable adjustments when providing services for disabled people. From October 2004, the Act requires the removal of any physical barriers or the provision of a means of avoiding physical barriers where these would make it difficult for disabled people to access the service.

- **Human Right Act 1998**

The Act applies to all public bodies and their principals and agents. This Act makes it possible for individuals to enforce rights guaranteed by the European Convention on Human Rights in the courts in Northern Ireland. It prohibits discrimination on any ground in relation to any of the rights and freedoms set out in the Convention.

- **Sex Discrimination (Northern Ireland) Order 1976 (amended 1988)**

The Order makes it unlawful to discriminate, directly and indirectly, against an individual on the grounds of sex or marital status in the fields of employment, training and related matters, education and the provision of goods, facilities and services and the disposal of premises. Direct discrimination is treating a person less favourably on the grounds of their sex. Indirect discrimination includes the application of a condition, practice or provision which, although it applies equally to men and women, is such that the proportion of persons of one sex who can comply with it is considerably smaller than the other sex.

- **Employment Equality 2003 Regulations (Sexual Orientation)**

These regulations make it unlawful to discriminate in the fields of employment or training on the grounds of an individual's sexual orientation.

Harassment

Harassment is a form of discrimination which affects the dignity of people at work. Services are required to have policies and procedures to prevent harassment and to deal with it where it occurs. All staff and service users should be able to live free from harassment and the problem should be tackled within the context of a positive commitment to equal opportunities.

The policy on harassment should include:

- The forms that harassment can take;
- Preventative measures in place to avoid harassment;
- Methods of investigating complaints;
- Action that will be taken against perpetrators;
- How the rights of a person experiencing harassment will be protected.

The Equality Commission has developed a model harassment policy and procedure which is available from them on request.

Anti-Discriminatory Practice (ADP)

For the purposes of meeting this objective, it is not required that all anti-discriminatory practice is detailed within a single document, but that an organisation is able to demonstrate that it has the required measures and policies in place. ADP should provide evidence of the actions which an organisation takes to ensure that it is not operating in a discriminatory way, either knowingly or unknowingly.

Discrimination can take many forms therefore ADP should:

- Recognise areas where discrimination could occur. This is particularly relevant where decisions or choices are made in a service, for example, allocations, staff recruitment and selection procedures.
 - Prevent it from occurring – actions that are taken to prevent potential incidents of discrimination.
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In Northern Ireland, where the location of a service is likely to attract service users or staff of a specific community background, the service should ensure that its recruitment/application policies encourage applications from under-represented groups and that its practices and policies do not deter any specific group from applying to the service.

It may also be necessary to provide service users with information about what constitutes harassment and discrimination and how to make a complaint and what action can be expected from the service if they feel that an incident has occurred. This could include information about independent advice services or groups.

Ensuring Fair Access

An EOP and ADP should be integrated into every policy and practice to ensure that fairness and equality are evident throughout the service. To meet the requirements of Level C, (meets minimum acceptable standards), a service needs to have in place an eligibility criteria, application process, method of prioritising applications and assessment procedure. The purpose of including these within this service objective is to ensure that the principles of the EOP are addressed from a potential service user's initial contact with the service.

These policies and procedures should be written in plain language and be made available to anyone who requests a copy. The provision of information is an important part of promoting fair access. Relevant information on the service should be available to all potential service users and sources of referral in an appropriate form, for example, a language other than English.

Eligibility Criteria

A service's eligibility criteria should state who is eligible to apply and any specific exclusions. It should also include any conditions of entry, the type or level of support the applicant should have and the current housing status if appropriate, (for example, homeless). The criteria should state who is ineligible to apply, although blanket exclusions should, if possible, be avoided. Where they are included it is important to ensure that they are justifiable against the equal opportunities policy.

When developing the EOP a service should aim to avoid criteria that are more difficult for a particular group to meet or would deter a particular group from applying, for example on religious, political or ethnic grounds.

Application Process

The application process should state clearly how people can apply for the housing support service and what this process will involve. This should detail the first steps in the process, for example completing an application form or an assessment of need by a relevant professional. It should also indicate policy regarding referrals, for example advising if self referrals are acceptable.

An interview or assessment should be conducted to gain sufficient information to make a decision about the applicant. It should be clearly stated at what stage in the application process this will occur and what form it will take.

A formal process for prioritising applications will ensure that accountable and consistent decisions are made when determining which applicants will be accepted into the service. It is good practice for at least two people to be involved in this process. Staff should be aware of discrimination issues and the various forms that it can take. One of the evidence requirements for Level C is that EOP, ADP and harassment policies are covered in the staff induction programme and that staff can describe the key features of the policies.

In a Northern Ireland context, with regard to allocations and diversity of service users, it is recognised that certain services, due to their location, will have service users of predominantly one community background. In this case, the service should be able to demonstrate that they have policies in place which aim to promote fair access, diversity and inclusion and that do not deter any specific group from applying to the service.

Information

A final requirement of this performance level is that the service should provide service users with information on relevant cultural and religious organisations and centres. This should be delivered in a way that is appropriate to the service and the client group. Options include: from having relevant leaflets or information available on request; to the display of posters or material, right through to pro-actively working with service users to help them engage in social and cultural activities.

The needs of service users in this area should have been identified at the assessment stage and services should ensure that appropriate and current information is available to meet these needs. The standards emphasise the importance of ensuring fair access to minority and 'hard to reach' groups.

Contacts / Further Support

The SP team have produced this briefing paper to assist you in developing fair access, diversity and inclusion policies. In addition, you can contact the SP team at supportingpeople@nihe.gov.uk or visit the Supporting People section of the Northern Ireland Housing Executive's (NIHE) website at www.nihe.gov.uk.

Relevant Legislation

- Fair Employment & Treatment (Northern Ireland) Order 1988
- Race Relations (Northern Ireland) Order 1997
- Disability Discrimination Act 1995
- Disability Discrimination Act 1995 (Amendment) Regulations (Northern Ireland) 2004
- Human Right Act 1998
- Sex Discrimination (Northern Ireland) Order 1976 (amended 1988)
- Employment Equality 2003 Regulations (Sexual Orientation)

Also applicable to Public Bodies:

- Northern Ireland Act 1988 Section 75)
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