

Common Myths in Equality and Human Rights Screening

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Business Services
Organisation

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A few words up front

“Some Common Myths in Screening” is a short practical guide that has been drawn up by staff in the Business Services Organisation (BSO) Equality Unit. It represents one element of the package of support and advice that we can offer staff tasked with carrying out screening of policies for equality and human rights considerations.

This package includes

- Training;
- Screening Template and Guidance
- “The Easy Way to EQIA” (Equality Impact Assessment)
- “Some Common Myths in Equality and Human Rights Screening”; and,
- Individual advice in relation to specific queries.

We have used the word “myths” as these are based on misconceptions that we have encountered from staff over the years. As these continue to crop up we thought it timely to tackle these “screening myths” head on in order to address them fully and to promote good practice in screening.

The myths have been drawn together in one document and relate to the different aspects of equality and human rights screening, that is, the what; the why; the when; the who and the how of screening. A short summary of the answers to each of these aspects alongside a reminder of the Section 75 equality legislation, human rights legislation and disability discrimination legislation is provided on page 19.

We have employed a common approach to challenging each myth:

(1) What is the myth?

As a first step, the myth is presented, drawing on the actual wording that is often used in screening templates and reports.

(2) Why is it a myth?

We then try to unpick it, aiming to explain why it constitutes a myth – in other words putting our finger on what is problematic about it.

(3) How can you avoid falling into the trap?

Recognising that it presents a common challenge to those undertaking screening we offer some advice on how to avoid this particular pitfall.

(4) Let's consider the following

The discussion of each myth is then accompanied by a practical example to illustrate the key message presented.

We hope you will find this publication useful and would be keen to hear of any comments or suggestions you may have on how to improve it. You can email us at: Equality.Unit@hscni.net

Summary of the key aspects of screening

What is screening? Screening is a practical exercise that guides us through a consideration of the equality, human rights implications of a policy or a decision. It helps us to identify the different needs of those affected and allows those affected to have more of a say.

Why carry out screening? Screening is about improving what we do for service users, staff and the public. It is about mainstreaming the equality and human rights duties and contributes to better decision making. Ultimately we need to acknowledge that it is a statutory duty and not an unnecessary optional extra

What do we need to screen? Plans, strategies, policies, service frameworks, changes in services, service specifications, contracts, human resources. The question is best phrased in the positive “what level of detail of screening is required” rather than “do I have to screen this”?

When do we need to begin screening? Screening should begin as early as possible. Include it as an integral part of policy development rather than as an after thought. It is not a one off process.

Who needs to carry out screening? It is best not done alone but rather by the group who are engaged in the policy development or decision. Ultimately the responsibility lies with the policy author. Advice and support is available from the Equality Unit in the BSO.

The how of screening? There must be evidence that the screening considerations were part of all policies and decisions. The screening template provides the evidence or audit trail. Follow through the template. It is a logical process. Use the associated guidance. The screening outcomes need to be made available for external scrutiny through consultation. Think through the screening questions included in the template. Consider what qualitative evidence do you have of those affected by the policy or decision? What evidence do you have that different groups have different needs. Can the policy be altered to better promote equality, human rights issues or promote more positive attitudes or participation by people with disabilities?

You will not get far if you perceive the screening duty to be over burdensome or take a mechanistic approach.... there will be progress if the duty is seen as a way of fundamentally changing the core values and culture of the organisation.....we need an outcome-oriented approach.

Myth 1: “This policy applies equally to all staff, therefore there are no equality implications”

Why is it a myth? Just because a policy or decision treats or applies to all staff equally it doesn't mean that all staff are impacted by it in the same way. This is because different groups of people may have different needs based on their characteristics or circumstances.

How can you avoid falling into the trap? Find out more about the issues, needs, perceptions and experiences of different groups that are relevant for the policy or decision; then draw conclusions based on these as to:

- (1) how these groups will be impacted by the policy or decision? and
- (2) what changes you may need to make and or what other provisions you may need to include.

Let's consider the following:

Moving from paper to online submissions

In order to reduce administration costs your organisation is considering moving from paper-based to online submissions of interest for secondments. An online facility has been developed to this end.

A substantial share of posts in your organisation, however, involve manual work for which computer literacy is not required. Your quantitative analysis shows that these posts are largely taken up by male staff with a significant share of older people. This contrasts with the profile of the rest of the staff who tend to be female, mostly of younger age groups.

Conversations with these members of staff in the course of team meetings reveal that they do not have any experience or skills in the use of computers.

While your decision would therefore apply equally to all staff, some staff would be less in a position to avail of secondment opportunities in the future. They would thus be negatively impacted by the decision. You would therefore need to consider accepting paper-based alongside online submissions.

Myth 2: “This policy is intended to benefit all staff, therefore there are no equality implications.”

Why is it a myth? Just because we set out with the best of intentions it doesn't mean that we automatically get it right. Often, we are simply not aware of the particular barriers some groups might experience which may actually hinder them from benefiting from the policy or decision.

How can you avoid falling into the trap?

You will only know whether the policy or decision will in fact benefit all staff if you find out more about the issues, needs, perceptions or experiences of different groups beforehand.

Let's consider the following:

An extra day of leave

Your team has achieved a tremendous result in a recent quality assessment exercise. To reward their hard work you decide to accord everybody an extra day's leave in the next quarter. In theory everybody will benefit from your reward equally, since everyone will be entitled to the extra day during the quarter. Some members of staff might not be in a position to take the leave within the given timespan. These might include, for example, those who are currently off on parental leave or an employment break (the majority of whom tend to be females with dependants) or on sick-leave. They will therefore not benefit from your policy or decision even though they have contributed to the fabulous result of the exercise.

Myth 3: “This policy is designed to address a disadvantage for a particular group, therefore there are no negative equality implications.”

Why is it a myth? Even if the policy or decision targets one specific group it doesn't mean that all people within this group have the same needs. There may be important differences amongst people that you need to take into account in the design of the policy or decision. In focusing in one particular group other groups may be excluded from having the same opportunities while being just as disadvantaged.

How can you avoid falling into the trap?

Find out whether different groups within the target group have different issues or needs or perceptions or experiences that are relevant for the policy or decisions. Revisit the original decision to target this particular group – what is it based on? Does the disadvantage or need exist only for this one group or do others likewise have unmet needs? If you think the policy should focus on one group alone state the reasons why.

Let's consider the following:

A counselling service for lesbian, gay and bisexual people

You have been successful in making the case and securing funds for developing a counselling service for lesbian, gay and bisexual people. While this service will promote equality in that it seeks to meet the needs of a particular group that has been disadvantaged by a lack of a dedicated service in the past, you will need to consider the diverse needs amongst people within the target group. The needs of a young gay man, for example, may differ substantially from those of an older lesbian woman.

Myth 4: “This policy was developed on the basis of a regional template. Therefore I can assume that any equality implications have already been identified and addressed.”

Why is it a myth? There are more fundamental issues involved. Even if two organisations adopt the same policy its equality implications may be quite different from one organisation to the next. That is because the Section 75 profile of staff and service users may vary substantially from one organisation to the next. Also, even if a policy is drawn up at a regional level, your organisation still needs to adopt it at which point it becomes your organisation’s policy.

How can you avoid falling into the trap?

Ask those who have drawn up the regional template for a copy of the screening documentation which must accompany the policy template. If it doesn’t exist insist that it is completed before you embark on your own screening.

Then consider the equality implications identified regionally, whether or not they apply to your organisation in the same way, and identify any additional equality implications that are specific to your organisation, including those based on the particular profile of your staff and service users.

Let’s consider the following:

Vacancy controls

Two organisations have different religious profiles, the profile of one more or less reflects that of the population in its catchment area while the other organisation has a substantial over representation of Catholics compared to its surrounding population. Introducing vacancy controls will have very different impacts depending on these profiles: the second organisation will be unable to redress its religious imbalance which means that Protestants living in the catchment area will continue to have fewer employment opportunities with this organisation. The same decision to introduce vacancy controls will not have the same equality implications in this respect for the other organisation.

Myth 5: “There is so much United Kingdom and European Union legislation in this field, the policy is watertight as to this legislation so there are no equality issues.”

Why is it a myth? Just because many experts in the policy field may have contributed to the legislation it does not follow that they have taken equality issues on board. You also need to be mindful that some aspects of the equality legislation are unique to Northern Ireland. Legislation in Great Britain for instance does not include 3 out of the 9 equality categories that apply in Northern Ireland.

How can you avoid falling into the trap?

You are the only expert in the field who can bring full consideration of equality implications relating to all nine equality groupings to the table. Again, start by looking for data and research and if this doesn't provide you with useful information talk to those who will be affected by the policy or decision about their issues, needs, perceptions or experiences.

Let's consider the following:

Health & Safety Policy – Evacuation of Building

A detailed framework will most likely be set by the Health and Safety Executive for your policy but you will still need to consider the equality impacts, based on both the profile of staff in your organisation and any visitors to the building. What procedures will you put in place, for example, for ensuring that persons with a hearing impairment will be alerted when they need to evacuate the building?

Myth 6: “The decisions have already been taken and the policy has already been implemented so there’s no point in screening.”

Why is it a myth? Screening a policy, even at the stage when it has already been implemented, may highlight the need for changes to be made to remove or reduce disadvantages for particular groups. Failure to effectively screen a policy or decision will always mean the organisation is in breach of its Equality Scheme.

How can you avoid falling into the trap?

Adequate pre-planning, where possible, should avoid this issue. It is advisable to build equality into business and corporate planning processes – this will assist decision makers in meeting their organisational equality obligations.

Let’s consider the following:

Absence Management

A new manager joins a team in an HSC organisation and discovers that the absence management policy has never been screened, even though it was currently being implemented. The key issue is that lack of screening may mean some or all of the equality groupings are disadvantaged, for example disability related absence may need to be recorded separately from sickness absence; screening would pick this issue up. It would be important to undertake the screening as soon as possible, and take relevant steps to address any issues that come to light.

Myth 7: “This policy needs to be implemented immediately so unfortunately there’s no time for screening.”

Why is it a myth? Failure to screen a policy or decision may ultimately result in an investigation by the Equality Commission, the outcome of which may result in the involvement of the Secretary of State. This, along with time taken to implement steps to reduce any impacts identified, would incur a longer timescale than time taken to screen the policy or decision at the early stages of development.

How can you avoid falling into the trap?

There may be times when outside factors or pressures dictate and a policy is implemented that has not been screened it is important to then screen at the earliest opportunity. Generally, adequate pre-planning should minimise such occurrences.

Let’s consider the following:

Helpline

A team is established to operate a new helpline. Timescales for implementation of the helpline do not permit time for screening prior to implementation.

In this case it might be unavoidable to implement the decisions without appropriate screening, however this does not remove the duty to undertake the screening. This should happen as soon as possible, with consideration given to making changes to the decisions that might reduce or remove any negative impacts on any of the 9 equality groups (both staff and service users), for example training staff in the use of telephone interpreting services for service users who are deaf or who do not speak English.

Myth 8: “This policy emanates from the Department of Health and Social Services and Public Safety (DHSSPS) as part of priorities for action, consequently we do not have any discretion in implementation and so do not need to consider equality implications.”

Why is it a myth? Each public authority has the responsibility to ensure that it is implementing the commitments as outlined within in its own Equality Scheme. A key element of this Equality Scheme is the arrangements for assessing and consulting on the likely impact of its policies on the promotion of equality of opportunity.

How can you avoid falling into the trap?

A fresh look must be given to all aspects of the existing policy considering in particular what are the areas for which your organisation is responsible?

Let’s consider the following;

The requirement of Section 75 statutory equality duties is that public authorities must take responsibility for the mainstreaming of equality and good relations making it central to all aspects of the policy decision making process. A fresh look needs to be given to policies from the perspective of the role of the authority. Seek out the screening outcomes from those who produced the policy in the first instance. However these are often at a high level of screening and may not address local sensitivities. If your organisation has a role in the implementation of this policy you need to satisfy yourself that any decisions taken adequately consider and address equality issues. Are the processes for engagement and consultation inclusive and accessible? Are any marginalised groups excluded from the process remembering the multiple identities of individuals and groups and their human rights? Are there better opportunities to promote equality within performance measurement of targets? For example, Priority for Action Target – Reduction in rate of births to mothers under the age of 17 years.

Issues to consider under the category gender. Do young men and women receive sex education that addresses their different needs? Are young men as well as young women supported to access contraception and sexual health services?

Myth 9: “We have no evidence so we conclude that there are no equality implications.”

Why is it a myth? The absence of evidence is not the same thing as saying that no evidence exists. There may be cases in which, having collected the data, its analysis suggests that there is no evidence that different groups are impacted differently. But this is a completely different scenario from data not having been collected in the first place. When you don't collect the data it is not acceptable to conclude that no evidence exists and thus no equality implications arise.

How can you avoid falling into the trap?

At the early stages of policy development consider what evidence you have in order to make your decision. If it is clear that no evidence exists then consideration needs to be given as to how this can be collated remembering that resources will have to be dedicated to this element of data collection.

Let's consider the following;

Priority for Action Target - Reducing the harm related to alcohol and drug misuse

Guidance from the Equality Commission explicitly states that “the absence of evidence or indicators does not mean that there is no impact on equality”. Furthermore the guidance indicates that “arrangements must be made to obtain relevant information, whether quantitative or qualitative so that the authority can assess the level of equality impacts”. Quantitative information can be obtained from regular management information systems, service monitoring, complaints monitoring or other research or surveys outcomes. Equality impacts are not necessarily only assessed through quantitative information. The qualitative information is equally important. Therefore the authority needs to consider ways of collecting such information, for example, arranging face to face meetings, focus groups or other methods to obtain feedback or view and comments, from those affected by the policy or decision or from groups with an interest in this area. The screening process is a proactive means of considering how best this can be done.

For example, Priority for Action Target - Reducing the harm related to alcohol and drug misuse. Whilst departmental reports do not specifically identify the gay and lesbian community as significantly vulnerable to substance misuse – several qualitative studies recently published by the community themselves would suggest that they should also be considered vulnerable. This includes both younger people and adults. You would need to consider such secondary sources in your efforts to collect data for the screening. Also, it would be useful to have a conversation with local groups representing people from the lesbian, gay and bisexual community.

Myth 10: “Commissioning and delivering services in a non-discriminatory way and addressing inequalities is what health and social care organisations are all about so we are already addressing the requirements of equality duties under Section 75 legislation.”

Why is it a myth? Anti-discrimination legislation still exists but requires individuals to take a case through the courts should they feel discriminated against. The Section 75 Equality duties are “positive duties” placed on a public authority. This requires integrating equality principles into strategies, policies and decision making processes to ensure better outcomes for the nine equality strands or categories covered by the duties. In addition the duties extend to three categories covered by the good relations duties.

How can you avoid falling into the trap?

Utilise the screening processes and consultation processes in order to make better decisions for those who use our services and for those who may have been traditionally excluded or marginalised.

Let’s consider the following:

It is certainly the case that health and social care has always had at the heart of its agenda the requirement to “tackle health inequalities”. Commissioning and delivering services have addressed equality issues by programme of care such as mental health and learning disability, older people, children and young people which are all covered by Section 75 Groups. In addition attention has been given to the commissioning and delivering of services in an anti-sectarian way.

Section 75 duties however go beyond anti-discrimination legislation and require organisations to positively promote equality of opportunity across the nine equality categories. Often the invisibility of groups, for example, minority ethnic groups or those who are gay lesbian or bi-sexual meant that they were excluded from the discussion table. The screening exercise allows issues identified by these groups to be considered early in the policy development phase, including a consideration of the multiple identities of people as well as their human rights. For example, the young woman from the Travelling Community with a physical disability, the older Chinese man with depression. Taking account of, for example, language needs, cultural needs, literacy needs, accessibility needs and looking at ways to accommodate these different needs is what is required. This takes account of the positive duties to ensure that there are opportunities created for increasing equality in access to services and in the longer term this will contribute to equality of outcomes.

A reminder of the legislation

Section 75 of the Northern Ireland Act (1998) goes beyond anti-discriminatory legislation and places a duty on public bodies to promote equality of opportunity across nine specific categories. These categories include, age, gender, marital status, sexual orientation, ethnicity, religion, political opinion, disability, dependants. It also contains the duty to promote good relations covering ethnicity, religion and political opinion. Public bodies need to have put in place an Equality Scheme. This scheme includes a series of commitments including those relating to consultation; equality proofing; training, access to information; communications; progress reviews and complaints.

The Human Rights Act (1998) places a positive duty to promote human rights and to ensure that actions are compatible with human rights. Any interference with human rights must be legal, reasonable and proportionate.

The Disability Discrimination (2006) Order covers two new duties to promote positive attitudes towards disabled people and promote participation by disabled people in public life. Public bodies are required to put in place a Disability Action Plan.

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