



## Latest Diversity & Equality News - Autumn 2009

Samtosh Training Consultancy with the up to date latest research, news and case law.

### Social Inequality, Human Rights and Inter-sectional

#### Equality Bill – Committee Stage



On 7 July 2009, the Equality Bill successfully passed scrutiny by MPs on the Public Bill Committee in the House of Commons. It has since introduced a new clause allowing discrimination claims to be brought on any two combined of the seven protected characteristics (age, disability, gender reassignment, race, religion or belief, sex and sexual orientation).

#### Equality - Monitoring the impact of the recession

A EHRC report shows that men bore the brunt of the recession with a rise in the unemployment rate of the UK's male population of 2.4 percentage points to 8.1% in the year to March 2009, whereas women's unemployment rose by 1.4 percentage points to 6.4% in the same period. According to the report, this comes as no surprise, as it covers a period when there were significant cuts in manufacturing industries.

Other groups that have suffered big rises in unemployment in the recession so far include young people - with one in six (16.2%) 18- to 24-year-olds currently unemployed - and those in deprived areas, where unemployment has risen to 11.3% from 8.7% for 2008.

[www.equalityhumanrights.com/uploaded\\_files/monitoring-impact-recession-demographic-groups.pdf](http://www.equalityhumanrights.com/uploaded_files/monitoring-impact-recession-demographic-groups.pdf)

#### Council's length of service criterion held to be indirect discrimination



A tribunal rejected Manchester City Council's argument that their rules for licensing hackney carriage plates re use of a length of service criteria was justified. For example, it found that that length of service was not of inherent value to do the job - the tribunal could not see how a driver of 46 years would be better qualified than someone in the job for 10 years. They concluded that the justification put forward appeared to be purely a question of administrative ease, and no other method had been considered to achieve the same result in a non-discriminatory way. It held that the respondent had not shown that this was a proportionate means of achieving a legitimate aim, and therefore an indirect discrimination claim succeeded also.

**MANCHESTER**  
CITY COUNCIL

*Brookes v Manchester City Council (ET/240942/07)*

#### Harassment and bullying at work – Free CIPD factsheet

The factsheet gives introductory guidance. It:

- sets out the main forms and grounds of harassment and bullying at work
- outlines how harassment and bullying affect people and organisations



- examines the legal implications if employers allow such behaviour to go unchallenged
- gives guidance on the development of appropriate policies

<http://www.cipd.co.uk>

### The 10 dimensions of equality in the Equality Framework for Local Government

- Longevity – including avoiding premature mortality.
- Physical security – including freedom from violence and physical and/or sexual abuse.
- Health – including wellbeing and access to high-quality healthcare.
- Education – including being able to be creative, to acquire skills and qualifications and having access to training and lifelong learning.
- Standard of living – including being able to live with independence and security and covering: nutrition, clothing, housing, warmth, utilities, social services and transport.
- Productive and valued activities – such as access to employment, a positive experience in the workplace, work-life balance, and being able to care for others.
- Individual, family and social life – including self-development, having independence and equality in relationships and marriage.
- Participation, influence and voice – including participation in decision making and democratic life.
- Identity, expression and self-respect – including freedom of belief and religion.
- Legal security – including equality and non-discrimination before the law and equal treatment within the criminal justice system.



<http://www.idea.gov.uk/idk/core/page.do?pageId=9499336#contents-7>

### Joseph Rowntree Foundation research on economic inequality and human rights

The Joseph Rowntree Foundation have recently published three documents on attitudes to economic inequality. 'Understanding attitudes to tackling economic inequality'; 'What are the implications of attitudes to economic inequality?' and 'Political debate about economic inequality: An information resource' Use/copy the link below.



This September 'Poverty, inequality and human rights' by Alice Donald and Elizabeth Mottershaw was also published. This research examines how human rights have been used internationally to shape new conceptions of poverty and new approaches to combating it, and assesses the lessons for the UK. The authors conclude that now is the right time to explore ways of strengthening the integration of human rights and anti-poverty strategies in the UK, especially where there is evidence of positive impact internationally. There is also potential to explore how human rights could be used to challenge regressive welfare reform and notions of personal responsibility that underpin it, for example as activists have done in the United States.

<http://www.jrf.org.uk/publications/poverty-inequality-human-rights>



## Majority want Human Rights enshrined in law

84% of people say they wanted human rights enshrined in the law for themselves and their families and 81% of people saw human rights as important to creating a fairer society, finds a survey commissioned by the Equality and Human Rights Commission.

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

## Guidance on mainstreaming community cohesion

On 4 August 2009, the Department for Communities and Local Government published 'Guidance for local authorities on how to mainstream community cohesion into other services'. The Guidance provides evidence and arguments which can be used by local authorities as a basis for mainstreaming or embedding community cohesion in other areas of service delivery and with other local organisations.

[www.communities.gov.uk/publications/communities/mainstreamcommunitycohesion](http://www.communities.gov.uk/publications/communities/mainstreamcommunitycohesion)

## Equality and public procurement

The Equality Bill contains a specific measure on procurement "to enable duties to be imposed in relation to the exercise of public procurement functions". The accompanying guide, 'Framework for a Fairer Future – The Equality Bill', states the bill: "makes it clear public bodies can use procurement to drive equality". It also sets out how public bodies should go about doing so. Public procurement is already inherently linked to the three existing public equality duties. However, the explanatory notes state that the new legislation will create a more explicit connection between procurement and the new Single Equality Duty i.e. bringing in the other equality strands/protected characteristics.



The Improvement and Development Agency's online guidance provides practical support on equalities and procurement including information about using equality in the procurement process and supplier diversity.

[www.idea.gov.uk/idk/core/page.do?pageId=9308150](http://www.idea.gov.uk/idk/core/page.do?pageId=9308150)

## A new Equality Measurement Framework (EMF) for monitoring progress on social outcomes from an equality and human rights perspective.

The Equality and Human Rights Commission has developed the EMF. It focuses on life; health; physical security; legal security; education and learning; standard of living; productive and valued activities; individual, family and social life; identity, expression and self-respect; and participation, influence and voice. The framework will assist Government and public bodies to meet their public sector duties on equality by providing a baseline of evidence to inform policy priorities and help identify inequalities that need further investigation.

<http://www.equalityhumanrights.com/fairer-britain/equality-measurement-framework/>



## Requirement to work full time not proportionate

An employer who insisted that a woman returning from maternity leave should work full time did not convince the employment tribunal of the need for the claimant to be available five days a week. It found that the respondent was a funding organisation and funding crises are rare. True emergencies, such as fire, strikes or acts of God, could not be dealt with by the funding council and therefore it had not established that the need for full-time working was a proportionate means to achieve a legitimate aim.

*Thomas v The Arts Council of Wales (17 Jun 2009, ET/1604301/08)*

## Equality and diversity training - an Equal Opportunities Review survey Sept. 09

Most employers responding to our survey provide training on equality and diversity, and the majority make it mandatory for all employees. More than half say that the amount of equality and diversity training will increase in the future.

[www.eordirect.co.uk](http://www.eordirect.co.uk)

## A rise in the average compensation awards for 2008

There were 387 cases in 2008 with the average awards being:

Age Discrimination: £15,080 (31 cases)  
Sexual orientation: £33,724 (5 cases)  
Religion & Belief: £8,248 (5 cases)  
Race Discrimination: £18,200 (50 cases)  
Sexual Discrimination: £13,312 (189 cases)  
Disability Discrimination: £21,339 (91 cases)  
Combined cases: £37,655 (16 cases)

*Equal Opportunities Review*

## HIV guidance for healthcare and voluntary sector professionals

In June 2009, the National AIDS Trust and British HIV Association published 'Detention, Removal and People Living with HIV'. The guidance provides information and advice for healthcare, voluntary sector and other professionals working with detained HIV positive asylum seekers.

[www.nat.org.uk/Media](http://www.nat.org.uk/Media)

## Lack of Rural Housing

Rural primary schools are closing at the rate of one a month due to the lack of affordable housing for families as they are being forced into towns and cities with cheaper housing and transport costs. The National Housing Federation have just launched a 'save our villages' campaign. They want to halt the decline of rural England, campaigning to ensure every village is covered by an action plan for affordable homes.



<http://www.housing.org.uk/default.aspx?tabid=1103>



## Age

### The youth sector and the economic downturn

In August 2009, Independent Academic Research Studies (IARS), a youth-led social policy think tank published a report on 'The Needs of the Youth-led Sector During the Economic Downturn'. The report found limited understanding and awareness of the youth-led sector amongst funders and infrastructure organisations and a lack of targeted support services for youth-led organisations.

For example, there is expected to be a rise in unemployment amongst young people that reaches 1.25 million by the end of 2009 (Prince's Trust). This rise in unemployment is an expected outcome of a recession and it is clear is that the younger generation will be severely affected. With these facts come the impacts on the young people themselves such as low confidence, a lack of skills development, poverty and debt.

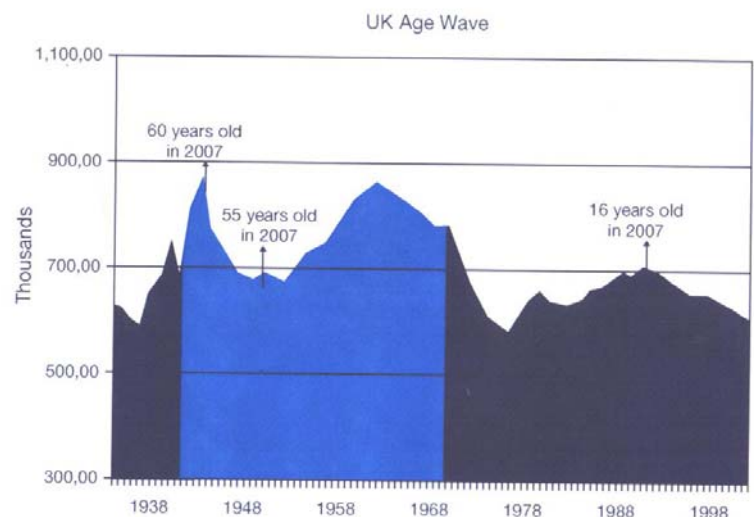
<http://www.iars.org.uk/IARS%20Publications%20&%20Projects/Research%20Reports/Youth-led%20Research%20Reports/The%20Recession%20&%20the%20youth-led%20sector.pdf>

### The Age Wave

This term is used to describe the combined effect of the UK Baby Boom between 1945 and 1970, the fact that people are living longer and individuals of child bearing age are choosing to have fewer or no children.

The chart clearly shows that UK employers face an increased number of individuals approaching retirement age over the forthcoming ten years. This, coupled with the reducing birth rate across the UK, means that there will be significantly fewer new entrants into work during this period. The estimated net impact of this on the UK workforce is that the working age population will decrease by approximately 12% between 2000 and 2050; the competition for skills across all sectors will ultimately increase.

As the UK Baby Boomers now in their 40s and 50s approach traditional retirement age, organisations are faced with the additional problem of losing their skills and knowledge, an effect known as 'brain drain', not least because these individuals are perhaps the most educated, literate and productive generation to date. The loss of these individuals en masse from the UK workforce will be a challenging time for all sectors. The increased life expectancy of the UK population has a secondary impact on the healthcare sector with more individuals requiring care into old age, coupled with increases in long term conditions and chronic disease. This will impact particularly upon the skills that are needed by the healthcare sector to deliver services over this period.





## New TAEN Age and Employment newsletter



Although there are many highly qualified older workers, generally speaking, the older the individual the less likely they are to have formal qualifications. Of those over 50 years old:

Male 16.9% Female 21.2% are double that of 25-50 year olds. It is a truism across all age groups that those without qualifications are less likely to be in work than those with them.

[www.taen.org.uk/assets/50MattersNewsletters/0809/pdf/TAEN\\_50Matters\\_0809.pdf#page=7](http://www.taen.org.uk/assets/50MattersNewsletters/0809/pdf/TAEN_50Matters_0809.pdf#page=7)

## Highest Age Discrimination Award

In this highly publicised case, the tribunal makes the highest injury to feelings award for age discrimination so far, at £29,500. The claimant was refused a post in a restructuring, despite the fact that the new post was almost identical to the role she had carried out for 16 years, a short time after her manager had commented on her age, realising that she was due to retire in three years' time.



*Sturdy v Leeds Teaching Hospital NHS Trust (14 May 2009, ET1803960/07)*

## Default retirement age review

The Government has announced that it is to bring forward its review of the loathsome default retirement age, from 2011 to next year. In 'Building a society for all ages', the Government says: "The very different economic circumstances today - for businesses, and for individuals coming up to retirement - in comparison to 2006 when the age regulations came into force, suggest that an earlier review is needed." The Government's hand may be forced, in any event, by the outcome of the Age Concern challenge, the result of which is probably going to be known in October.

[www.pensionsage.com/pa/Default-retirement-age-review-sooner-than-planned.php](http://www.pensionsage.com/pa/Default-retirement-age-review-sooner-than-planned.php)

## Sharp rise in over-50s made redundant

Almost half of respondents (47%) to an online survey of over-50s were made redundant in the period October 2008-May 2009, according to the Age and Employment Network. This is a sharp increase from the period January-September 2008, when 32% said they had been made redundant.

<http://taen.org.uk/>



## Disability

### M&S signs up to Face Equality

Joining Shell, KPMG and Barclays, Marks & Spencer has become the first retailer to sign up to the Face Equality at Work campaign and to commit to treating employees and customers with disfigurements both fairly and equally.

[www.changingfaces.org.uk](http://www.changingfaces.org.uk)

### Those with conditions that vary in severity over time will still be termed disabled

A landmark ruling in the House of Lords means disabled people with intermittently occurring conditions will be protected from discrimination. The Lords agreed that people with a physical or mental condition that varied in its severity over time should still be termed disabled. Those who have conditions such as diabetes and epilepsy which are controlled by medication are now clearly still covered

<http://www.peoplemanagement.co.uk/pm/articles/2009/07/scope-of-disability-is-extended.htm>

### Disabled worker wins case for wrongful dismissal

Clothing retailer Abercrombie & Fitch were accused of "hiding" a sales assistant Riam Dean in a stockroom at a London outlet because her prosthetic arm didn't fit with its "look" policy, a tribunal was told. She was removed from the shop floor at the company's Savile Row branch when management became aware of her disability. She was awarded £7,800 compensation for injury to her feelings, £1,077 for loss of earnings, and £136 damages.

<http://www.guardian.co.uk/money/2009/aug/13/abercrombie-fitch-employee-case-damages>



### Terminology:

During our training at Samtosh, where requested, we cover the use of terminology, without giving prescribed lists, explaining where possible why terminology is or isn't considered appropriate e.g. there are times when you might need to describe a person's impairment, in which case for the most part the terms below will be *acceptable*:

Mental health service users

Mental health issues

People with learning difficulties

People with visual impairments (blind if totally blind)

People with hearing impairments (deaf if profoundly deaf)

People with speech impairments .....

*Avoiding:* Handicapped - this term has images of begging and disabled people being cap in hand.

For further details of our training please contact Jonathan on 01672 513738

[www.samtosha.co.uk](http://www.samtosha.co.uk)

### 'Abuse – Tell Someone' interactive DVD

'Abuse – Tell Someone' is an interactive DVD on abuse for adults with learning disabilities to give information on their rights, to help them understand what abuse is, and to know what to do if abuse happens to them or someone else they know. To get a copy go to the link below.

<http://www.learningdisabilitywales.org.uk/abuse-tell-someone.php>





## Sexual Orientation and Gender Identity



### BT Group is the most gay-friendly multinational in the world

According to the first International Business Equality Index. Developed by the International Gay and Lesbian Chamber of Commerce, the index measures the performance of multinational corporations in relation to diversity and inclusion issues - specifically focusing on lesbian, gay, bisexual and transgender (LGBT) communities - in the countries where they operate. IBM and the Dow Chemical Company were the next top two firms out of 15 participating multinationals.

The 2009 findings revealed that almost half of respondents (46.7%) did not have diversity and inclusion managers specifically for LGBT issues in every country where they had operations; and there were openly LGBT members of senior management teams in less than 7.3% of those countries.

<http://www.iglcc.org/en/index.php>

### Homophobic Bullying 'I'd have killed myself - or others'

The first person to win compensation from the MoD for non-violent bullying from the MoD speaks to Channel 4 News about the abuse he suffered and the mental damage it did. Andy Lee, who was subjected to homophobic bullying for 12 years until it drove him to nervous breakdown, has settled out of court with the MoD.

Lee, who is not gay, settled for £300,000 with the MoD recognising a failure in its duty of care, health damage and loss of earnings. He said he is speaking out because others want to feel they can stand up to bullying in the armed forces.

He had travelled the whole world as a marine and became close to nervous breakdown and being suicidal. His Corporal made him bend over while simulating sexual acts, gave verbal abuse through each and every day – his wife was also abused by marines whilst out socialising and shopping. He complained to senior officers but they did nothing. Psychological damage was deemed so great the payout was far greater than for some physical injuries. He was medically discharged.

<http://www.channel4.com/news/articles/society/id+have+killed+myself++or+others+/3111112>

### Lesbian parents now permitted to be named on birth certificates



From 1st September 2009 lesbian couples who have children through fertility treatment can be named on birth certificates. Previously, only the birth mother could be named as a parent. The changes to the Registration of Births and Deaths Regulations 1987 apply to any child born after fertility treatment which began on or after April 6th 2009.

This new right was introduced as part of the Human Fertilisation and Embryology Bill. It brings the UK's fertility laws in line with equality legislation. Home Office minister Lord Brett said: "This positive change means that for the first time female couples who have a child using fertility treatment have the same rights as their heterosexual counterparts to be shown as parents in the birth registration.

<http://womensgrid.freecharity.org.uk/?p=3431>



## Leagues Behind – Footballs failure to tackle gay abuse

A report from Stonewall, has called for football to take more decisive action on homophobic abuse in football. The research finds that anti-gay abuse in the sport has been witnessed by seven in ten fans. The research also reveals that fans expect greater action to tackle the problem.

It finds that:

- Three in five fans believe that anti-gay abuse from fans dissuades gay players from coming out
- Almost two thirds of fans believe football would be a better sport if anti-gay abuse was eradicated
- Two thirds of fans would feel comfortable if a player at their club came out



Recommendations include ensuring that sanctions used against fans who perpetuate anti-gay abuse and violence are consistent with those for racial abuse. Chair of Kick It Out, Lord Herman Ouseley welcomed the research, "We are clear that any homophobic abuse that is directed at any player, at any level, is wrong and should be dealt with through the full force of the law. The gay community should know that zero tolerance of homophobia is the only acceptable position." Gordon Taylor, Chief Executive of the Professional Footballers Association (PFA) added, "The PFA has a zero tolerance policy in all areas of discrimination, bigotry and prejudice."

<http://www.kickitout.org/files/1eb24eb6-/Leagues%20Behind.pdf>

## Gender variance in the UK – GIRES



'Prevalence, incidence, growth and geographic distribution' was published by the Gender Identity Research and Education Society in June 2009. The aims of the report include improving the evidence base about the likely extent and location of transphobic crime, and alerting providers and commissioners of healthcare to the growing needs among transsexual people for specialised medical services. It states that the prevalence may now be 20 per 100,000; 80% assigned as boys at birth, now trans women, and 20% assigned as girls now trans men. It is anticipated that these figures will eventually come into balance.

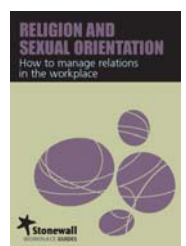
<http://www.gires.org.uk/assets/Medpro-Assets/GenderVarianceUK-report.pdf>

## Religion & Belief

### New Stonewall Guidelines:

### How to manage relations in the workplace – religion and sexual orientation

[http://www.edf.org.uk/blog/wp-content/uploads/2009/06/religion\\_sexual\\_orientation1.pdf](http://www.edf.org.uk/blog/wp-content/uploads/2009/06/religion_sexual_orientation1.pdf)





## The new intolerance?

Rightwing writers say Europe is at risk of being overrun by its Muslim populations; historian Niall Ferguson has predicted “a youthful Muslim society to the south and east Mediterranean is poised to colonise – this term is not too strong – a senescent Europe”. In the Financial Times C. Cauldwell writes Muslims are already “conquering Europe’s cities, street by street” and in the Telegraph he speaks of a “demographic time bomb”. Currently under 4% of the total EU population of 493 million are Muslim; and the birth-rate of the Muslim community (from a Financial Times survey) are fast converging with national averages.

*The Guardian Weekly 04.09.09 Pankaj Mishra*

## For a Ramadan Fact Sheet go to:

[www.equalitysouthwest.org.uk/esw/live/our-networks/religion-and-belief/Ramadan\\_Factsheet\\_2009\\_v2.doc](http://www.equalitysouthwest.org.uk/esw/live/our-networks/religion-and-belief/Ramadan_Factsheet_2009_v2.doc)

## Race

### Gypsy, Roma, Traveller History

There are currently estimated to be 300,000 Gypsy, Roma and travellers in Britain – in 2011 the census for the first time Gypsy, Roma and travellers will be included.



*Gypsy, Roma, Traveller History Month magazine June 09*

### Inequalities experienced by Gypsy and Traveller communities: A review

This report reviews the available information about the severe inequalities that Gypsies and Travellers face in Britain today.

Inequalities and problems include:

- Gypsies and Travellers die earlier than the rest of the population.
- They experience worse health, yet are less likely to receive effective, continuous healthcare.
- Children's educational achievements are worse, and declining still further
- Participation in secondary education is extremely low: discrimination and abusive behaviour on the part of school staff and other students are frequently cited as reasons for children and young people leaving education at an early age.
- There are high suicide rates among the communities.
- Within the criminal justice system – because of a combination of unfair treatment at different stages e.g. perpetuation of discrimination, disadvantage and cultural dislocation within the prison system, leading to acute distress and frequently suicide.
- There is a lack of access to culturally appropriate support services for people in the most vulnerable situations, such as women experiencing domestic violence.
- Gypsies' and Travellers' culture and identity receive little or no recognition, with consequent and considerable damage to their self-esteem.



<http://edit.equalityhumanrights.com/Documents/Race/Services/Inequalities%20experienced%20by%20Gypsy%20and%20Traveller%20communities%20-%20a%20review.pdf>



## Intolerance in Belfast

In June after the racist attacks in Belfast resulting in 75 Romanians leaving Northern Ireland a Hindu priest and his family were forced to move out when their home and community centre was attacked. The Equality Commission report that 'anti-gay prejudice' is up from 14% in 2005 to 23% in 2009.

*The Guardian*

## Name Shame at London Hospital

A Spanish electrician has been awarded a payout after being nicknamed Manuel after the Fawlty Towers Character. Juan Ignacio from Barcelona was taunted, abused, his accent mimicked which went from being funny to being nasty over five years whilst working at the private London Bridge Hospital. The owners HCA settled out of court, believed to be about £30,000.



[www.telegraph.co.uk/news/uknews/](http://www.telegraph.co.uk/news/uknews/)

## Admission Policy direct race discrimination

The Court of Appeal held that a Jewish school's requirement that if a pupil is to qualify for admission his mother must be Jewish, whether by descent or by conversion, as recognised by Orthodox Jews it is a test of ethnicity which amounts to direct discrimination contravening the Race Relations Act.

*R v Governing Body of JFS (25 Jun 2009, CA)*



## Gender Newsletter

We will shortly be producing a special gender newsletter including articles and research relating to:

- The gender pay gap (and city bonuses)*
- Men, masculinity and equality*
- Do women make better leaders than men?*
- Men's health*
- Why ethnic minority women are excluded from power*

**If you missed our LGBT or NHS Newsletter Specials please contact Jonathan for a copy.**

For further information or background on any of these items, or information about diversity & equality training or consultancy please contact us as below.

Jonathan Heath  
Samtosh Training Consultancy  
01672 513738 / 07977 540524  
[www.samtosha.co.uk](http://www.samtosha.co.uk)