

Women’s Equality in Public Services:
Where are we now?

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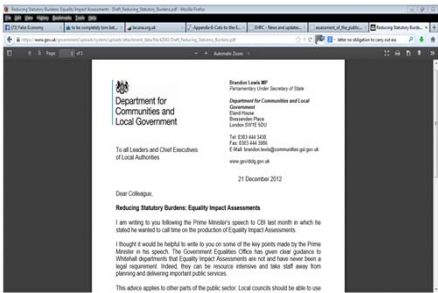
- General state of equality in public services. How is the PSED working in an age of austerity ?
- Specific issue of women’s equality. What has been gained and lost from the move from the GED to PSED?

State of equality within public sector

- Equality Act 2010
- Emergency Budget 2010

EHRC

- Budget cut from £70 to £17 million a year and its staff numbers have fallen from 525 to 207.
- Lost helpline and power to make grants.
- Not been able to issue statutory guidance.
- Limited use of enforcement powers relating to PSED
- EHRC enforcement not seen as a factor in local authorities
- ‘Nothing between best practice and judicial review’



We have smart people in Whitehall who consider equalities issues while they’re making the policy.

We don’t need all this extra tick-box stuff.

So I can tell you today we are calling time on Equality Impact Assessments.

R (Brown) v Secretary of State for Work and Pensions

- i) The public authority decision maker must be aware of the duty to have "due regard" to the relevant matters;
- ii) The duty must be fulfilled before and at the time when a particular policy is being considered;
- iii) The duty must be "exercised in substance, with rigour, and with an open mind". It is not a question of "ticking boxes"; while there is no duty to make express reference to the regard paid to the relevant duty, reference to it and to the relevant criteria reduces the scope for argument;
- iv) The duty is non-delegable; and
- v) Is a continuing one.
- vi) It is good practice for a decision maker to keep records demonstrating consideration of the duty

Stuart Bracking and others v Secretary of State for Work and Pensions [2013]

- In my view, there is simply not the evidence, merely in the circumstance of the Minister's position as a Minister *for Disabled People* and the sketchy references to the impact on ILF fund users by way of possible cuts in the care packages in some cases, to demonstrate to the court that a focussed regard was had to the potentially very grave impact upon individuals in this group of disabled persons, within the context of a consideration of the statutory requirements for disabled people as a whole.

Some councillors and senior managers were starting to say 'do we have to do this anymore?'.... I got a barrister's briefing with all the cases and scared them shitless about judicial review.

JR is always a useful spectre to have sort of hovering in the side. I am as likely to use that as a threat as anyone else and I do use it actually, if someone is being a bit reluctant. It is probably a bit naughty isn't it but I do use it as a stick. Laughs

Judicial review really is one of the strongest levers we've got really

Judicial review cases

- Most individuals and small organisations lack resources and expertise to take cases
- 38% of cases against spending cuts have been successful: the rest have not
- 'Due regard' bar can be set very low
- Test of procedure, not outcome
- Judicial review under threat

- McColgan, A, 2015, 'Litigating the Public Sector Equality Duty: the story so far', *Oxford Journal of Legal Studies*, 35:3 453–485

- <http://www2.warwick.ac.uk/fac/soc/law/research/centres/chrp/projects/spendingcuts/resources/database/legal>
- <http://www.equalityhumanrights.com/private-and-public-sector-guidance/public-sector-providers/making-fair-buying-decisions/relevant-case-law>

Equality objectives within local authorities

- 24.9% had an objective related to sex/gender
- 54.5% on age
- 53.2% on disability
- 40.9% on race.

Impact assessments in public authorities

- Gender is marginal
- Focus is on men
- Not intersectional

Public authorities that prioritise gender

- Strong commitment internally from equality officers, senior managers and councillors
- Well organised feminist/women's groups that engage with authority
- This is rare

Conclusion

- Law is not enough
- Need committed people inside and outside authority
- Proper enforcement
- Government commitment

Down to us