

Government Equalities Office
Attn: Harshbir Sangha
9th Floor, Eland House
Bressenden Place
London SW1E 5DU

Tuesday 19 April, 2011

Dear Harshbir Sangha

Specific Equality Duties

Background

I am writing on behalf of the Intercom Trust, which is the community-led lesbian gay bisexual and trans community resource for the South West, founded in 1997. We provide help and professional advocacy for individuals who are in need on account of discrimination or prejudice, community-development for around 100 independent frontline groups, and consultancy and partnership working for stakeholders in the public and third sectors.

Seventy-six per cent of LGBT people in our area live in rural areas, and only 24 per cent in large cities with visible LGBT-friendly community resources. Our formal research and our community work show that rural LGBT residents have a very significantly different demographic profile from urban LGBT residents, particularly in respect of how far they are Out as LGB or Trans, and of their experience of prejudice-related crime and discrimination. There are very few LGBT community agencies in the UK that have any comparable experience of detailed work in rural areas.

Both in the urban and the rural areas, the Intercom team has accumulated a wide and detailed knowledge of the issues that currently affect LGB and Trans women and men of different ages, ethnicities, faith and unbelief and cultural backgrounds, and physical, mental and health-related disability needs.

Response

We welcomed the draft Specific Equality Duties that the Government published in February. By contrast, we respond to the new revised proposals with dismay and, it has to be said, with grave apprehension.

We have observed that over the last ten years the requirement to conduct and publish Equality Impact and Needs Assessments has been a major source of practical improvement in the quality and cost-effectiveness of local public services. I myself lead the Intercom Trust's partnership work with our public-sector stakeholders, and in the course of this I have audited more EINAs than I could count.

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Where the EINA process has been well conducted we have been able to promote the good work of the public sector to the communities, and build new trust and confidence; where EINAs have been of a low quality, and the results discriminatory, we have been able to identify underlying gaps—either in skills or in local knowledge—and to work with the authority to address the problems and avoid damaging and costly consequences further down the line.

In many authorities the EINA regime has enabled senior officers and the Trust to work together to drive up standards of decision-making, and directly improve service-delivery to the general public.

In other authorities, however, we find that there is only patchy understanding, or no understanding at all, of the positive potential of the EINA process. Decision-making in these authorities is visibly flawed, and the effects on the quality and cost-effectiveness of public services are all too evident.

Moreover, from time to time, in all authorities, we encounter significant resistance at key strategic levels. This may be passive resistance to the duty of ensuring equal access to services on the basis of need, or it may be active resistance to having to deal with the needs and concerns of minorities who lie outside a particular officer's "comfort-zone" (and this is particularly the case in relation to LGB and Trans issues, though in the rural South West we know it also deeply affects our colleagues in the BME sector, with whom we work in close partnership). It may even be a general resistance to accepting that the authority has a responsibility to develop a reliable corporate understanding of the real needs and concerns of all the vulnerable people and communities who use public services.

Such resistance can seriously affect decision-making, and this in turn seriously affects the quality of public services. It is only through a well-enforced statutory EINA process that these deficits in public service decision-making can be identified and addressed, and public authorities can make progress towards eliminating unfair and unlawful discrimination from the services that they deliver or commission.

We identify the requirement to publish the evidence-base, and also the requirement to consult and involve, as key parts of this process. Without them, there is, frankly, no real local democracy at all. Without the statutory process which the February draft promised us, we shall often not even be able to identify the fact that critical decisions have been made. We shall not know what data it is that we need to ask for.

This situation will massively overburden both the third sector and the public sector with Freedom of Information requests. Worse still, we in the community sector will not be able to target our Fol requests effectively because the key data about objectives, decisions, and the decision-making process, will not have to be published.

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If the new proposals are allowed to stand, we would hope that good authorities will continue to do the right thing, at least while they have good leadership from current members and senior officers; but other authorities, whose officers and members are now taking bad decisions on bad evidence, and providing patchy or downright bad public services, will be able to continue on this discriminatory and over-costly path; and they will be secure from challenge. If authorities have no statutory duty to be transparent about their objectives, decision-making processes and evidence-base, those few local people in each area who know the issues and have some understanding of the internal workings of the public sector will not be able to hold them to account. It should be made clear that this development would completely undercut any possibility that the Big Society ideal could become a functioning reality in the varied localities of the South West.

In addition, since LGB people and Trans people have had such difficulty in having their needs and concerns addressed by many of the local public authorities in the South West over the last ten to fifteen years, and are therefore already at a significant disadvantage in making community voices heard in many parts of the public sector, the Government's current proposal would significantly add to the indirect discrimination that LGB and Trans people already experience.

For all these reasons, we strongly urge the Government to reconsider their current plans, and to reinstate and implement as they stand the draft regulations that were published in February.

If Ministers or officers would like the Intercom Trust to provide further detail on this topic we shall be very happy to do so.

Yours sincerely



Dr Michael Halls
Executive Director