“Who moved my samosa?”

Managing conflicts about equality and diversity

A practical guide

February 2011

brap

Important note

The information in this guide is taken from a research report written by brap, and commissioned and funded by the Equality and Diversity Forum (EDF). EDF is a network of national organisations committed to equal opportunities, social justice, good community relations, respect for human rights and an end to discrimination based on age disability, gender and gender identity, race, religion or belief, and sexual orientation. Details of EDF activities and membership are available at www.edf.org.uk. This is also the address to subscribe to EDF's free electronic newsletter.

For copies of the full report, email brap@brap.org.uk or info@edf.org.uk. Copies are also available from the brap website.

The views expressed in both the report and this guide are those of brap and not necessarily those of EDF or its members.

Introduction

What would you do in the following situations?

- a member of staff asks if she can be exempt from providing advice to people in civil partnerships because it conflicts with her religious beliefs
- you have funding to allocate and need to chose between two organisations: one gives skills and training to older BME women, and one provides a job club for disabled people
- as part of a campaign to promote better sexual health, you distribute advice packs which include free contraceptives. The parent of a teenager objects to his son receiving a pack

These are all examples of competing equality claims: instances where the rights of one group conflict – or appear to conflict – with the rights of others.

This guide is designed to help you resolve conflicts of this nature.

It doesn't claim to have all the answers. Because competing equality claims are a real-life problem this guide outlines some real-life situations and then explains how the conflicts were resolved. It gives you some pointers about what could have been done differently, as well as highlighting what was done well.

Resolving these types of conflict isn't easy, and we don't pretend it is.

At the back of this booklet you'll see a list of the kinds of things your organisation might want to think about to handle competing equality claims. It's also a list of how brap can help you treat staff, customers, and clients more fairly.

1. Points of view

A primary school classroom had a toy kitchen, where the children could pretend to bake cakes, make tea, and clean up afterwards. A parent lodged a complaint because every time he came into the classroom his son was playing there. He wanted the teacher to encourage his son to play elsewhere. Although he didn't say it, the teacher felt there was an underlying assumption that his son would 'become gay' if he kept playing in the toy kitchen.

In another similar case a parent expressed concern because her daughter had been eating ham sandwiches (she had swapped with a classmate). Although the child had expressed a desire to try ham to see what it tasted like, the parent explained that ham was forbidden in their religion.

What was done?

- In both cases, the headmasters advised teachers to talk to parents to make them aware that there are some values that teachers cannot guarantee to protect while in school. Teachers can try to be sensitive to particular concerns that parents have (e.g. their child not eating food that is against their religion); but the school could not be held responsible if children want to do otherwise.
- Despite this, teachers still found it difficult to broach the subject with parents. Some teachers felt that telling parents this would be tantamount to criticising or disregarding their religious or cultural values.

Key lessons

The boundaries of personal belief:

- When providing public services, it's important to explain to service-users the boundaries between privately held beliefs and what service providers can be expected to respond to
- These examples also demonstrate the challenges of protecting the rights of younger people who may not be able to clearly express what they want from a service. Groups like this should be provided with a fair opportunity to express themselves. How do they feel about the quality and relevance of services they receive?

Service provider responses:

- It is important not to rely too heavily on organisational policies and procedures: whilst they provide some guidance, they rarely equip staff with the knowledge and confidence to discuss these issues with service users. In the example above, a number of teachers were not able to implement suggestions for preventing conflict simply because they felt uncomfortable discussing the issues.
- This type of discussion requires a high level of diplomacy and sensitivity and an ability to share information in a non-judgmental way. While these are skills that are often important for professionals in other areas of their work, their application to discussing challenging equality and human rights issues remains under-explored in training

2. The office… part 1

In 2009, a pensions advisor told her manager she didn't want to give pension advice to people in civil partnerships because of her religious belief, and requested she be relieved of this duty. This would have left same-sex couples at a significant disadvantage in terms of access to advice. The line manager consulted the organisation's equalities advisor, who collected relevant information and reported back to the line manager.

What was done?

- The organisation checked the job description to understand the degree to which offering this service was an essential part of the job.
- Based on discussions with an Equalities Advisor, the organisation decided that providing pensions advice to all staff was an essential part of the role. The employer saw no reason why giving advice on the legal status of a situation interferes with a person's beliefs, since advice-giving involves no moral judgment.
- The employee accepted this decision and there was no adverse feedback.

Key lessons

A clear perspective:

- Focusing on tasks 'essential' to the job description helped to take the heat out of the situation.

Good management practice:

- It's important that the employee felt able to raise the concern with her management and important too that the manager sought help, and knew where to seek it.
- Effective, swift and timely communication was also important in resolving the situation.
- Encouraging the open expression of opinions, recognising the importance of feelings, and listening to what people have to say are all good management practices, as well as important features of resolving equality claims.

3. The office… part 2

Since children's centres are encouraged to recruit staff locally, sometimes a centre may have the majority of its staff from one religious group. This has caused some difficulties when it comes to managing holidays and leave during religious festival periods – especially Eid. In some centres, the denial of holiday requests during Eid (in order to maintain a minimum staff cohort on duty) proved especially divisive as some staff felt that holiday requests during Christian religious festivals, such as Christmas, were always granted. Muslim members of staff felt their requests for holiday during Eid were being dealt with less fairly than other non-Muslim staff.

What was done?

- One centre made decisions based on an examination of business needs and health and safety (e.g. staffing ratios) and put those considerations first. A request to close the nursery completely was refused as it was felt that this would adversely affect parents who needed to access the childcare service in order to be able to work.
- In another location, one with a high number of Muslim employees, staff were given half a day each staggered throughout Eid. This meant everyone got some holiday during Eid but enabled service provision at the centre to continue unimpeded. This was felt to be a fair and unambiguous solution.

Key lessons

Management support:

- It is important to reiterate that religious requests are not 'done deals': instead, they should be seen as the beginning of a dialogue on how to balance business and personal needs.
- Managers should have been supported more – perhaps by receiving informative, relevant guidance and by being signposted to sources of mediation or negotiation support. They would also have benefitted from greater clarity over individuals' entitlements in law.

Forward thinking:

- The issue of staff absence during religious festivals could have been anticipated and should have been discussed much earlier with all staff. After all, the same situation will arise next year, and the year after, and the year after...

Clear expectations:

- Some of the organisations should have been much clearer in setting out the service delivery expectations and the duty of care they were under to provide uninterrupted service throughout the year.

4. The right stuff

A member of a panel offering advice to help find suitable parents for adopted children felt that some of the policies that the panel adhered to were inappropriate. There were particularly long delays in placing children from BME backgrounds with families. This was explained partly by the fact that in these cases social workers on the panel insisted that at least one of the adoptive parents should be from a BME background. The children's 'cultural rights' associated with their 'race' were seen as particularly important by these social workers, whereas the panel member in question disagreed profoundly with this position and felt the overwhelming priority should be to find successful adoptive families for the children, irrespective of the cultural background of the families. In this case different judgments were being made about what the right to private and family life looks like for BME children.

What was done?

- Although the panel member's role was only an advisory one, she felt able in these cases to influence the views of social workers to some extent by employing human rights arguments. She emphasised that children may value the right to be placed with a family quickly more than being placed with parents whose ethnic background they share. This helped to open up a broader debate about the importance of 'culture' and of children's rights. It helped the panel to consider all of the parties that have a stake in the decisions being made by the panel.

Key lessons

Using human rights: practically, simply

- The language of human rights can bring into play the rights of others not traditionally considered to be covered under equality law (e.g. the rights of children and parents).
- For more information about human rights and their practical relevance, see our website: www.brap.org.uk

5. Casualty

A man who was described as a 'vulnerable adult' due to his long term illness was due to enter hospital for an operation. The man preferred to wear women's clothing and wanted to wear women's clothes while staying in a male ward at the hospital. His care-worker was unsure that this would be appropriate, fearing that his client would be harassed or that other men on the ward might feel that their privacy and dignity were not being respected. There was a potential conflict between the rights of the men in the ward to their privacy and dignity, and the rights of the transgender patient to the same.

What was done?

The care-worker discussed this issue with the hospital and was left feeling even more confused. The hospital explained that the dignity of all patients was protected by providing separate wards for separate sexes – however, because the transgender patient had not (and did not intend to) reassign his gender, he would be required to stay in a male ward. The care-worker advised his client of this, but felt dissatisfied with the advice he had been provided.

Key lessons

New responsibilities:

- this situation occurred before the Equality Act 2010 was introduced. Now, hospitals have very clear legal responsibilities not to discriminate against transsexual people. This may well involve placing transsexual patients on wards of their choosing
- under the Equality Act, a transsexual is someone who proposes to, starts or has completed a process (or part of a process) to change his or her sex. (The Act does not require a person to be under medical supervision to be protected. So even if someone hadn't consult a doctor or undergone any medical procedures they would still be protected if they had decided to live permanently as the sex opposite to their birth sex.)
- transvestites are not covered by the Act. In the case above, then, staff would have to take reasonable steps to ascertain whether the patient was also transsexual.
- so it is important organisations:
  a) know their (new) responsibilities under the Equality Act
  b) give staff the knowledge and understanding they need to uphold those responsibilities
- additionally, the hospital may also want to communicate to patients the duties public bodies are under and the entitlements service users have. This may help pre-empt any concerns and issues other patients may have. Staff should also be supported to explain to patients why particular decisions have been made

Dignified service delivery:

- The hospital had clearly thought about what a 'dignified service' might mean to its clients. However, the example demonstrates the importance of developing balanced definitions of dignity that are flexible enough to respond to individual need.

- Taking advice from appropriate transgender groups might have enabled the hospital to adopt more flexible policies which would still have protected the dignity of all the parties concerned. This might have included additional measures, such as use of a private room if required, or reviewing staffing numbers to ensure enough people are around on the ward to support patients

6. Neighbours

It was proposed that a medium secure forensic facility be built in a community setting. About 75% of the local community come from a South Asian background, and fears regarding the dangers posed by users of such a facility were high (indeed, they were made even worse by community leaders and overwhelmingly negative media coverage). Some residents also felt that the unit should not be sited near them because 'mental health problems don't affect our community'. There were others in the community, however, who wanted a facility closer to them so that they could visit relatives who have mental health problems.

What was done?

- Media involvement inhibited real conversations with the community and prevented clear communication between the Primary Care Trust and representatives. It was decided that the best strategy was to talk to community representatives on a one-to-one basis rather than as a group. This helped Trust staff to build relationships and also helped identify some residents who were likely to have family members in the facility and would wish to be able to visit them more easily.
- It also helped to identify 'moderate' voices within the community and to identify the diversity of voices. The Trust used this consultation process to educate the community about mental illness and the types of clients housed in a facility of this nature and organised trips to similar forensic facilities. It took over two years of community outreach before local residents were persuaded that the facility and its siting was necessary.

Key lessons

Listen up:

- Listening was the key to unlocking and responding to community concerns. The Trust needed to be very patient and in the majority of instances avoid direct responses that might have led to more confrontation.

Sound like a broken record:

- Many staff on the front line used the 'broken record' technique to get views across which worked very effectively. This involved different staff members repeating and emphasising the same key messages so that community members recognised the Trust's policy and those issues that were (and weren't) negotiable.
- It was also important to use staff in the process who could remain objective and stay non-judgemental.

How we can help

This section isn't just about how we can help: it's also a checklist of what your organisation might want to think about to ensure it handles competing equality claims more fairly.

You can also think of this as a summary of all the key points in the preceding pages.

Are you prepared to deal with conflict effectively?				
Preventing conflict			Managing conflict	
Policy review	Service delivery	Organisational culture	Mediation and conflict	Education and awareness
do your policies and procedures allow you to pre-empt potential conflict between members of staff? Do they help staff deliver fairer services by being properly ground-ed in your day-to-day role?	how can you give staff the skills to look beyond group identities to ascertain the needs and entitlements of the individual? How can you translate this into specific actions that communities can use to gauge how fair you're being?	how do you create a welcoming and inclusive environment for staff and services users? How do you ensure leaders and managers relate to staff in a way that minimises tension and promotes openness?	if conflict does occur and you wish to seek outside help, how can you ensure the mediators understand the nuances and complexities of delivering public services to diverse communities?	what skills and expertise do people need to explain decisions, actions, and preferences diplomatically and with confidence? How can you raise understanding of what service users can **reasonably** expect in terms of fair treatment?

Organisations delivering services to the public have to deal with conflict every day. As public spending gets tighter, decisions about how to allocate resources will become increasingly more complex. Difficult choices will have to be made about people's needs, who benefits, and why. As you can see from the questions above (and hopefully the preceding pages) mainstreaming equalities practice into your day-to-day operational procedures ensures fairness for staff and services users. This will help you answer some of those questions in a way that is equitable for everyone, which is the best way to avoid and deal with conflict. For more information on how brap can help you do this – or help with any of the areas above – email us at brap.org.uk or give us a call on 0121 456 7400.

1. Being prepared to prevent and handle conflicts

Many instances of where rights might conflict in your organisation are foreseeable. We can help you think through potential problems (involving, say, acceptable expressions of faith) and communicate these to your staff.

brap has over 12 years' experience helping organisations improve their policies and processes. For them to work well they have to relate to the 'day job' of people in your organisation and to the services they deliver. Our service shaping team can work with you to help your organisation prevent and prepare for conflict of this type.

2. Mediation and conflict resolution

Good mediation has significant benefits – it can be quick, effective, and less costly than legal action. We have worked with organisations experiencing conflicts between staff about equality issues. If you think your situation could benefit from an objective point of view, give us a call.

We have also helped organisations to engage more effectively with their customers/ service users. Sometimes community groups compete with one another to get *their* voice heard. They have different priorities and needs – all of which you may be asked to show you are responding to.

brap has facilitated a range of community consultation events for public authorities to explore competing needs and conflict in relation to equality.

3. Education and awareness

It's important those working on the frontline have the skills and expertise to explain decisions, actions, and preferences diplomatically and with confidence. brap can not only work with your staff to develop these skills, but also to raise their understanding of what service users can **reasonably** expect in terms of fair treatment.

brap can help you to manage community expectations and to facilitate difficult discussions about use of scarce public resources. Our two-day course 'Responding to competing community needs: a guide for public officials' can help you drive progress on this in your own organisation.

4. Organisational culture

There's a lot of research suggesting organisations that encourage a greater sense of participation amongst their employees and users are better able to resolve – and avoid – competing equality claims.

We have worked with people across the public, private and voluntary sector to create more mutual and shared objectives within organisations. brap's 'cultural audit' process has been well received by those that want to take a 'temperature test' of their own organisation's culture. Do staff feel supported by managers and other colleagues? Are staff all clear about the aims and priorities of the organisation? Are the needs and concerns of different equality groups responded to within the organisation? These are all issues covered by the cultural audit process. Getting these things right can help you to resolve equality conflicts when they emerge.

5. Public service delivery

A human rights based approach to service delivery could help avoid many competing equality claims. Instead of thinking about what people 'need' based on a single aspect of their identity, it identifies the entitlements we all have as human beings. Interested? See our website, www.brap.org.uk, for more details.

brap can work with your staff and groups of your customers to develop a set of 'service guarantees' that ensure particular human rights are protected as you deliver public services. These guarantees will be unique to your organisation. We have already worked with organisations in the health sector and housing to do this. Developing these guarantees creates a strong and joint contact between your staff and service users about what is most important in ensuring dignity and respect in the job you are doing.

brap is think fair tank, inspiring and leading change to make public, private and third sector organisations fit for the needs of a more diverse society. brap offers tailored, progressive and common sense approaches to equality training, consultancy and community engagement issues. Registered charity number 1115990

brap

brap | 9th Floor, Edgbaston House | Hagley Road | Birmingham | B16 8NH
Email: brap@brap.org.uk | Telephone: 0121 456 7401 | Fax: 0121 456 7419