



*Non-discrimination
mainstreaming– instruments,
case studies and way
forwards*

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This publication has been commissioned by the European Commission under the framework of the European Community Action Programme to combat discrimination (2001-2006). This programme was established to support the effective implementation of new EU anti-discrimination legislation. The six-year Programme targets all stakeholders who can help shape the development of appropriate and effective anti-discrimination legislation and policies, across the EU-25, EFTA and EU candidate countries.

The Action Programme has three main objectives:

1. To improve understanding of issues related to discrimination
2. To develop the capacity to tackle discrimination effectively
3. To promote the values underlying the fight against discrimination

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INTRODUCTION

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This publication has been produced on behalf of DG Employment, Social Affairs and Equal Opportunities by the Centre for Strategy and Evaluation Services.

1.1 Introduction

This report intends to support and further stimulate non-discrimination mainstreaming at both Member State and European level by proposing practical mainstreaming instruments that could be utilised to promote greater consideration of non-discrimination and equal opportunity concerns in the formulation and implementation of policies, legislation and programmes.

To this end, the report contains:

- A short explanation of what non-discrimination mainstreaming means
- A review of the policy case for non-discrimination mainstreaming as well as critical success factors in its successful implementation
- A comparative analysis of different approaches being adopted to the promotion of the dual principles of non-discrimination and equal opportunities at Member State level
- Suggested mainstreaming instruments that could be adopted either at Member State or Community level to promote non-discrimination mainstreaming
- Case studies highlighting examples of mainstreaming instruments already in use at Member State level in the formulation and implementation of policies and legislation

1.2 What is non-discrimination mainstreaming?

Non-discrimination mainstreaming is about ‘placing equality considerations at the heart of decision-making’ (Opinion published in October 2006 by EQUINET, the EU-wide network of specialised equality bodies). Mainstreaming might broadly be defined as the systematic incorporation from the outset of non-discrimination and equality of opportunity concerns into all public policies, legislation and programmes.

Non-discrimination mainstreaming is therefore about ensuring the integration of an equality perspective into all stages of the policy-making process – from design through to implementation, monitoring and evaluation.

The aim of non-discrimination mainstreaming is ultimately to reduce levels of discrimination suffered by particular social groups (as well as those at risk of multiple discrimination) and to improve equality outcomes for individuals.

Given that equality legislation, by itself, is unlikely to be sufficient to achieve desired changes in equality outcomes for individuals, mainstreaming has an important role to play in complementing and reinforcing anti-discrimination legislation across the six grounds of discrimination covered by Article 13.

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To be effective, mainstreaming at ‘horizontal’ level must be supported by ‘vertical’ support measures that help actively promote equal opportunities in order to bridge the gap between anti-discrimination legislation on the one hand and the everyday experiences for individuals from social groups at risk of discrimination (or of multiple discrimination) on the other.

1.3 Policy case for mainstreaming

There is scope for non-discrimination mainstreaming to be applied more systematically at both Community and Member State levels. It should be applied across all equality strands covered by Article 13 of the Treaty.

There is a need for an improved understanding of the policy case for, and practical benefits of, non-discrimination mainstreaming. A summary of some of the arguments in support of the policy case for including greater concern for non-discrimination and equal opportunities throughout the decision-making lifecycle is provided below:

➤ Improving the quality and effectiveness of policy-making

The systematic incorporation of non-discrimination and equal opportunity concerns in policy formulation and implementation has the potential to improve policy outcomes. For example, by thinking through the potential impact of policies on individuals from social groups at risk of discrimination prior to their implementation, steps can be taken to avoid unnecessary adverse impacts, and policies can be better tailored to meet the differing needs of all social groups in society.

➤ Improving the efficiency and effectiveness of public service provision

Different social groups in society, such as the disabled, people from an ethnic minority background, etc. may have different needs and access services in different ways. Taking such issues into account from the outset in planning public services should improve the efficiency and effectiveness of public service delivery.

➤ Contributing to the ‘Better Regulation’ initiative

Ensuring that the needs of particular social groups have been taken into account is one way of promoting better quality regulation, in line with the Commission’s Better Regulation initiative and similar initiatives at Member State level.

➤ Contributing to the Lisbon agenda

Non-discrimination mainstreaming has the potential to contribute to the achievement of the Lisbon objectives. For example, increasing labour participation rates amongst disadvantaged groups in the labour market is essential if the Lisbon employment objective of increasing employment rates to 70% is to be achieved (and likewise, targets in respect of female participation and of older workers).

➤ Bridging the gap between anti-discrimination legislation and the experience of individuals at risk of discrimination

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Legislation by itself will be insufficient to achieve desired changes in equality outcomes. Mainstreaming is about actively promoting non-discrimination and equal opportunity principles throughout the policy-making lifecycle.

➤ **Promoting good governance and transparency in policy making**

Non-discrimination mainstreaming can help strengthen governance through the use of consultation in particular with representatives from those social groups covered by Article 13 in the formulation of policies and legislation.

➤ **Strengthening social cohesion**

Non-discrimination mainstreaming has the potential to help prevent the social exclusion of particular social groups (from the labour market, from civic society etc.) with attendant benefits in terms of social cohesion, one of the EU's guiding principles.

➤ **Promoting equity and social justice**

The Community has a longstanding commitment to equal opportunities for all. Nevertheless, discrimination (direct/ indirect) is still a problem faced by many EU citizens. Taking into consideration the potential impacts of policies, legislation and programmes on 'at risk' social groups is appropriate to promote greater equality.

➤ **Reflecting the reality of an increasingly diverse European society**

The EU enlargement process combined with immigration from third countries means that Europe is becoming progressively more diverse. Non-discrimination mainstreaming is about reflecting this diversity at all stages in the policy-making process.

1.4 Critical success factors

Having outlined the policy case for non-discrimination mainstreaming, we now summarise critical success factors determining its successful implementation:

1. Non-discrimination mainstreaming principles should be systematically applied at all stages of the policy-making and legislative development processes.

A firm commitment to the application of non-discrimination mainstreaming principles at both a political and an institutional level is key to making this happen in practice.

2. Mainstreaming principles should be applied systematically across all equality strands.

There has been a tendency to limit mainstreaming activities to particular equality strands, especially gender (and to a lesser degree, disability, race and ethnicity). Non-discrimination mainstreaming principles should however be applied across the six equality strands encompassed by Article 13 of the Treaty.

While there are sensitivities in some Member States in collating statistical data in respect of some equality strands, every effort should be made to extend non-discrimination mainstreaming across the equality spectrum.

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3. Non-discrimination mainstreaming should take place as early as possible in the formulation of policies, legislation and programmes.

The earlier non-discrimination mainstreaming concerns are considered in the process, the greater the likelihood of mainstreaming having a positive impact in influencing the quality of policy-making and policy outcomes.

Policy-makers should ensure there is sufficient time for stakeholder consultation to take place with groups at risk of discrimination and that the results of consultation are integrated through a systematic impact assessment.

4. For non-discrimination mainstreaming to work effectively, appropriate human and financial resources are needed.

The case studies provide examples of countries in which non-discrimination mainstreaming appears to work particularly well. Having adequate human and financial resources was mentioned frequently as a pre-requisite for developing the necessary expertise to implement non-discrimination mainstreaming. For example, in Ireland and in Northern Ireland, the specialised equality bodies are well resourced and have played a critical role in developing good practice guidance for policy-makers on how to implement mainstreaming in practice through the use of mainstreaming tools.

5. Practical training support for civil servants on how to go about non-discrimination is critical.

For mainstreaming to work in practice, training support is needed. Policy-makers need to understand the legal and policy context in respect of anti-discrimination. They also need to be provided with mainstreaming instruments – such as good practice guides – setting out how in practical terms they can take non-discrimination mainstreaming concerns into consideration throughout the policy-making lifecycle.

6. Mainstreaming should be participative and involve consultation with key stakeholders.

Mainstreaming cannot work without the close involvement of organisations representing the interests of those at risk of experiencing inequality. In particular there is a need for meaningful consultation as an integral part of the early stages of the policy-making process.

To ensure that mainstreaming is as participative as possible, NGOs need to be equipped with the necessary human and financial resources to develop the capacity to contribute to the policy making process.

7. Progress against objectives in non-discrimination mainstreaming should be monitored at regular intervals.

There is little point in having an equality strategy or non-discrimination action plan unless clear objectives and milestones are set. A monitoring framework needs to be put in place to monitor the implementation of equality plans. This should include both qualitative and quantitative indicators against which progress can be measured.

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In this section, different ways of promoting the dual principles of non-discrimination and equal opportunities through a mainstreaming approach are examined. Instruments to promote greater consideration of non-discrimination concerns in policy formulation and implementation are then put forward (these are supported by case studies in the appendices). Recommendations for policy-makers at national and EU levels are then provided.

2.1 Non-discrimination mainstreaming at Community level

2.1.1 EU Policy Context

Non-discrimination mainstreaming has been on the Community agenda since the mid-1990s. Based on Article 3.2 of the EC Treaty, the European Union began by promoting gender mainstreaming, which is described as "the systematic integration of the respective situations, priorities and needs of women and men in all policies ..." (*Incorporating equal opportunities for women and men into all Community policies and activities*" (COM(96)67final).

The *European Year against Racism (1997)* and the *European Year of People with Disabilities (2003)* lent momentum to non-discrimination mainstreaming across other strands of the equality spectrum. Following the *European Year of People with Disabilities*, for example, an Action Plan was adopted which called for the 'reinforcement of the mainstreaming of the disability perspective into all relevant policies at the stages of policy formulation, implementation, monitoring and evaluation'. Activities being supported as part of 2007 *European Year of Equal Opportunities for all* should provide further encouragement to the take-up of a non-discrimination mainstreaming approach in policy making.

The Community legal framework in respect of non-discrimination was significantly extended by *Article 13 of the Treaty of Amsterdam* in 1999, which established a legal basis at EU level to adopt measures to combat discrimination on the grounds of sex, race or ethnic origin, religion or belief, disability, age and sexual orientation. This served as an important catalyst in extending mainstreaming principles across the equality spectrum.

As a result of the adoption of Article 13, two new Framework Directives were adopted in 2000, the *Race Equality Directive (2000/43/EC)* and the *Employment Equality Directive (2000/78/EC)*¹, in which specific provisions were made for combating discrimination in the area of employment on the grounds of racial or ethnic origin, religion or belief, disability, age and sexual orientation.

The adoption of the *Community Action Programme to combat discrimination 2000-2006* (Council Decision 2000/750/EC of 27 November 2000) provided a financial framework through which measures to combat and prevent discrimination in support of the implementation of the two Directives could be undertaken at Member State level.

¹ Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and Directive and 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation

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While the strengthening of the Community legal framework in respect of anti-discrimination provides important legal protection to social groups at risk of discrimination, there is a powerful policy case for adopting a mainstreaming approach so that non-discrimination concerns are systematically integrated into policy development and implementation from the outset in order to improve the quality of policy-making, better meet the needs of all groups in society and ultimately, to improve equality outcomes.

2.1.2 Progress at Community level in non-discrimination mainstreaming

There is strong political commitment at Community level to promote the integration of non-discrimination and equal opportunities principles throughout the policy-making lifecycle. However, while good progress has been made since the mid 1990s, the extent to which (and how) non-discrimination mainstreaming is being taken into account in EU policies and legislation still varies.

There are varying interpretations as to what non-discrimination mainstreaming means between different policy areas as well as with regard to how such concerns should be implemented in practice. There is also a challenge in some policy areas in striking a balance between a ‘horizontal’ approach to the inclusion of non-discrimination principles and ‘vertical’ support measures targeted at particular social groups.

While some policy areas (employment policy, education and training etc.) are of more immediate relevance to non-discrimination than others, more could be done across the policy spectrum to ensure that non-discrimination and equal opportunities considerations are taken into account throughout the full decision-making process.

There are also variations in the extent to which different equality strands covered by Article 13 are being taken into consideration in policy-making. Until relatively recently, mainstreaming efforts often focused on the promotion of equal opportunities between women and men (where there is a stronger legal base for mainstreaming).

Encouragingly, however, over the past five to ten years other equality strands, such as disability and race and ethnic origin are now being given increased consideration at policy formulation stage. For example, in the Structural Funds Regulations 2007-13, reference is included for the first time to the importance of taking into consideration the accessibility needs of disabled people.

Going forward, there is a need to ensure that, where relevant, all equality strands covered by Article 13 are given equal prominence through non-discrimination mainstreaming.

Consideration of non-discrimination principles during the early stages of policy development has been given impetus by the introduction of **compulsory impact assessments** within the Commission. These were introduced as part of the ‘*Better Regulation*’ initiative (2003), which led to a requirement for all Community legislation and policies to be subject to a systematic assessment of their potential *economic, environmental and social impacts*.

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Impact assessments are potentially one of the main tools through which non-discrimination and equal opportunity principles can be taken into account in the formulation of EU policies, programmes and legislation (particularly during the early stages of the policy making process).

There is already a non-discrimination dimension in impact assessments. As a result of the adoption of the *European Charter of Fundamental Rights* (Solemn Proclamation signed at the Nice summit in December 2000, OJ C 364 of 18 December 2000), the Commission introduced an obligation in 2001 to scrutinise all new legislative proposals to ensure respect for fundamental rights. This mostly happened through the incorporation of a recital formally stating compatibility with the Charter: “This [act] respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union”.

In 2005, fundamental rights were brought into sharper focus in the impact assessment procedure when an integrated approach to analysing impacts was introduced². A set of revised *Impact Assessment Guidelines* (SEC(2005) 791 of 15 June 2005) formulated a single instrument through which the economic, social and environmental impacts of proposed policies and legislation could be assessed. The guidelines include *checklists of the types of impacts* to be considered in carrying out impact assessment work, including some in relation to fundamental rights.

In spite of these developments there is, however, scope for increasing the non-discrimination and equal opportunities dimension in the impact assessment procedure. This could be achieved for instance by adding an additional chapter to the Guidelines dealing specifically with how to assess the impact of proposals in relation to equality and non-discrimination.

An important feature of the impact assessment procedure is that it involves extensive consultation. From a non-discrimination mainstreaming perspective, there are considerable potential benefits in encouraging NGOs and other representative organisations of social groups included in Article 13 to participate actively in the consultation process from the outset of the policy development process.

It is worth emphasising that various **mainstreaming tools** are already being deployed within the Commission to help ensure greater inclusion of non-discrimination and equal opportunities principles. Examples of these include:

Commission **Actions Plans** in relation to non-discrimination and equal opportunities, either focusing on particular equalities issues or with a broader horizontal scope. Apart from coordinating, supporting and financing the implementation of horizontal trans-national activities to promote equal opportunities, these also typically outline concrete actions to ‘mainstream’ equality. Examples include:

- Commission Communication ‘Equal Opportunities for people with disabilities (A European Action Plan) 2004-10’ ([COM\(2003\) 650](#) final of 30 October 2003)

² *Commission Communication on Compliance with the European Charter on Fundamental Rights - COM(2005) 172 of 27 April 2005*

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- 5th Action Programme on Gender Equality (2000-2006)³

Methodological tools to ensure respect for non-discrimination principles, such as:

- Methodology for monitoring *Compliance with the Charter of Fundamental Rights in Commission legislative proposals* and revised *Impact Assessment Guidelines*⁴
- Mainstreaming toolkits – e.g. *Toolkit on mainstreaming gender equality in EC Development co-operation*

Guidance documents on how to integrate mainstreaming concerns into policy making such as:

- DG Research's *Vademecum on Gender Equality Mainstreaming in the 6th RTD Framework Programme* (March 2003)
- DG EMPL's Working Paper on Mainstreaming Disability into the European Employment Strategy (July 2005)

The 2005 Commission Communication '*Framework Strategy on non-discrimination and equal opportunities for all*' (COM (2005) 224, 1st June 2005) reflected a consensus of the usefulness of mainstreaming equality and non-discrimination considerations across EU policies.

A variety of **institutional mechanisms** have also been introduced at Community level to facilitate co-ordination between the Commission services with a view to mainstreaming non-discrimination into decision-making processes. As an example, Inter-service Working Groups have been set up on equality-related issues, such as disability, gender, racism and xenophobia.

It is noticeable that in the 2007-13 financial perspective, **non-discrimination is being given increased prominence in official legal texts and in programme documentation** compared with earlier programming periods. This is partly a reflection of the evolution of the legal context in respect of anti-discrimination having moved on as a result of the adoption of Article 13.

Overall, while more work remains to be done, considerable progress has been made at Community level in respect of non-discrimination mainstreaming over the past decade, through the introduction of compulsory impact assessments and through the development of other mainstreaming instruments.

2.2 Non-discrimination mainstreaming at national level

While awareness with regard to the policy benefits of non-discrimination mainstreaming is steadily growing, there are considerable variations with regard to the extent to which a mainstreaming approach is being applied at Member State level.

³ Council decision 2001/51/EC of 20 December 2000

⁴ Commission Communication - COM(2005) 172 and SEC(2005) 791 of 15 June 2005

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Whereas in some EU countries, non-discrimination mainstreaming is conceptually well understood and applied in practice, in others, awareness and understanding about mainstreaming is less developed, with a policy approach tending to be characterised by specific measures to promote equal opportunities targeting particular social groups. Although such vertical support measures are of course important in reinforcing mainstreaming, a better understanding is typically needed amongst national policy makers with regard to the policy case and benefits of horizontal mainstreaming (see section 1.3).

In countries where a mainstreaming approach has already been adopted, it is worth taking stock of the various instruments that are being utilised, as well as examine perceptions of their relative effectiveness.

Research suggests that while other factors are also important (such as access to practical mainstreaming instruments and equality specialists, the presence of a political environment conducive to equality mainstreaming etc.), non-discrimination mainstreaming only tends to occur systematically when supported by a compulsory element, such as the so-called ‘statutory’ or ‘positive duty’ on public sector authorities to promote equality in carrying out their functions. The statutory duty is a legally binding obligation to take account of equality principles and is often bound to a requirement to put in place an equality plan for all activities and/or to carry out regular equality impact assessments.

To take the example of *Northern Ireland*, which has separate equality legislation from Great Britain, public sector organisations have since the mid-1990s undertaken equality screening to ensure that all policies were compatible with non-discrimination principles. This initially took place on a voluntary basis, however, mainstreaming did not become systematised until the adoption of Section 75 of the Northern Ireland Act in 1998, which placed a legal requirement on public sector organisations with a policy-making remit as well as public service providers to ensure that equality considerations were taken into account at all stages in planning and implementation.

Similarly, the positive duty has provided a strong impetus to non-discrimination mainstreaming in other countries such as *Great Britain* (gender equality, race equality, and equality for the disabled) and *Finland* (gender equality, race equality).

Awareness about mainstreaming appears to be growing amongst national authorities. In a **survey** carried out in June 2006 of public authorities involved in non-discrimination work, the majority of respondents said that non-discrimination concerns were taken account of in the formulation of national legislation either to a large degree (60.6%) or to some extent (36.4%).

Non-discrimination principles also appeared to be taken into account to a high degree in the development of policies, especially at national level (42%). The research suggested that the transposition of the 2000 European Equal Treatment Directives into national legislation has had a significant impact in promoting greater consideration of the need to respect non-discrimination concerns.

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In Member States where an active mainstreaming approach is already being adopted, a number of different **methodological instruments** have been used to integrate equality considerations into policy development and implementation. These instruments are now explored:

Equality screening procedures involve a screening exercise to assess whether it may be appropriate to subject new (and existing) policies and legislation to a more detailed equality impact assessment. This instrument has been deployed in some Member States such as Finland, Sweden and Northern Ireland to ensure that policies where non-discrimination and equal opportunity considerations are of greatest consideration are identified sufficiently early in the policy-making lifecycle.

A second, related instrument is the **equality impact assessment**. In cases where an equality screening exercise suggests an impact assessment is necessary, an in-depth analysis is carried out to assess the impact (negative or positive) that new legislation, policies or other initiatives might have from a non-discrimination and equal opportunities perspective. In particular, they consider the potential impact on disadvantaged social groups at risk of discrimination.

Equality impact assessments are a statutory requirement in some EU countries. Often, the requirement applies to particular equality strands. In the case of Finland, for instance, equality impact assessments have been mandatory for gender since the mid-1990s and since 2004 for race.

In Great Britain, the statutory duty that exists at present for all authorities to conduct a race equality impact assessment of new and existing legislation was extended at the end of 2006 to gender and to disability. Subsequently, it will be extended to all equality strands, and government departments, for example, will be required to produce a single equality impact assessment on a three yearly basis covering all their activities and policies. In the case of Northern Ireland, the statutory requirement for conducting impact assessments applies to all key policies.

In Finland and the UK (both Great Britain and Northern Ireland), the statutory duty is also linked to a requirement to draw up an **Equality Action Plan** (also sometimes known as an **Equality Scheme**) to ensure that non-discrimination mainstreaming is fully integrated into organisational planning. The plan is basically a detailed explanation of how the public authority proposes to respect the principles of non-discrimination and equality of opportunity in its relevant functions or, in case there is a statutory duty, of how the public authority intends to fulfil its legislative duties.

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In Finland, for example, where public authorities are bound by law to prepare an Equality Plan, they receive guidance from the Ministry of Labour on how to prepare it. An online *Equality Portal* provides detailed advice on equality planning, equality toolkits for local authorities as well as training in equality related matters. The Equality Plan is monitored annually through self-evaluation against a number of qualitative indicators. There are internal guidelines for individual departments setting out minimum requirements on what should be included in the Plan. These departmental Plans are then combined in an overarching Equality Plan for the whole authority.

Consultation is a tool which typically has an important role to play for a number of key mainstreaming instruments, including *equality screening* and *equality impact assessments*. In those countries that have adopted these instruments, consultation with key stakeholders help identify problems for groups at risk of discrimination that might not otherwise have been recognised and assist the authorities in setting up communication channels and engaging directly with associations of individuals from particular risk groups (especially those groups included in Article 13) or organisations representing their interests.

It is also worth mentioning the importance of **practical guidance documentation** as a tool in implementing non-discrimination mainstreaming. In some countries, mainstreaming has been greatly facilitated by the preparation of detailed guidance by *specialised equality bodies*. For example, the *Equality Commission for Northern Ireland* has prepared guidance for public authorities on various mainstreaming instruments, such as a *Guide to the Statutory Duties in Northern Ireland*, which includes information for public bodies on how to prepare an Equality Scheme (similar to an Equality Plan) and *Practical Guidance on Equality Impact Assessment*.

2.3 Obstacles to non-discrimination mainstreaming

While there are many examples of good practices at Member State level of non-discrimination mainstreaming, a mainstreaming approach is not yet being systematically adopted in all EU countries.

In order to promote greater take-up of mainstreaming, it is important to understand the barriers (actual and perceived) to non-discrimination mainstreaming at Member State level. To this end, a survey was carried out for the Commission in June 2006 with public authorities, NGOs, employers' organisations and other stakeholder organisations on non-discrimination mainstreaming, including barriers to its wider usage.

The survey asked stakeholders for their views on the main **obstacles to the mainstreaming of non-discrimination principles**. Amongst the reasons frequently raised were '*problems at an institutional level*', '*lack of political will*' and '*lack of awareness and understanding*'.

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With regard to obstacles of an institutional character, the absence of a legal requirement to engage in equality mainstreaming and the lack of an institutional infrastructure to allow for it, were raised by a number of respondents. Furthermore, many mentioned that a segregated approach to equality-related issues such as human rights, education, social inclusion etc. makes horizontal coordination difficult. There also appears to be a lack of data on non-discrimination issues and poor data collection systems, which in turn make it more difficult to understand where problems lie.

With regard to political will among policy-makers, non-discrimination concerns were not felt to have been given sufficient priority, typically because public stimulus is not strong enough, so that other issues with higher public interest are given more political attention. This is often linked to a poor understanding of discrimination and mainstreaming issues both at political level and in society in general.

To change this pattern and to give equal opportunities a higher profile, more awareness-raising activities about the benefits of (and policy case for) non-discrimination mainstreaming was seen as necessary. There also seems to be political concern in some quarters with regard to the risk of non-discrimination mainstreaming being seen as too administratively cumbersome amongst employers.

Other barriers identified included negative attitudes and prejudice within society, insufficient pressure and lobbying from relevant interest groups, conflicts of interest between different equality strands, e.g. between freedom of speech and freedom of religion, or between religion and the freedom to display sexual orientation.

Last but not least, a serious obstacle appears to be the lack of human and financial resources. Respondents particularly voiced uncertainty about the financial implications of mainstreaming.

An effort should be made by all stakeholders to ensure that these concerns are addressed.

2.4 Instruments for taking forward non-discrimination mainstreaming

As shown in section 2.2, a number of methodological tools are being utilised at Member State level to guarantee respect for and the promotion of non-discrimination principles. These instruments can be applied at various stages in the policy implementation lifecycle from the earliest stages of policy planning through to their subsequent implementation and revision.

In this sub-section, we present examples of mainstreaming tools in template format that could be adopted at Community and Member State level.

The instruments outlined in this document include:

- How to go about undertaking an **Equality screening procedure** of a new or existing policy
- How to carry out an **Equality Impact Assessment**
- The role of **consultation processes** in promoting non-discrimination

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- Developing an **Equality Plan** for a public authority setting out an institutional commitment to embed equality throughout the policy making process
- **Data collation** as part of a systematic **monitoring and evaluation framework** to ensure that continuous monitoring of social groups at risk of discrimination included in Article 13 of the Treaty takes place to assess the impacts on these groups of policies and legislation.

The various instruments outlined in the following pages are supported by case studies demonstrating how these instruments work in practice at Member State level.

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Instrument 1 – Equality screening procedures

| <i>Instrument</i> | Equality screening | <i>Equality strand(s) for which instrument is applicable</i> | All equality strands |
|---|--------------------|--|----------------------|
| <i>The basics</i> | | | |
| <p>Equality screening is the term used to describe the procedure for reviewing whether a given policy, piece of legislation or publicly financed programme should be subject to a full equality impact assessment. It can be applied both to new and existing policies and legislation.</p> <p>The screening of existing policies is an important first step in the development of an Equality Plan for institutions with a policy-making remit.</p> | | | |
| <i>Objectives</i> | | | |
| <p>The objectives of equality screening are in summary to:</p> <ul style="list-style-type: none"> • Identify potential adverse impact on particular social groups • Identify ways of better promoting equality of opportunity • Better target resources to particular groups in order to achieve improved equality outcomes • Improve the quality of policy making and of public service provision by ensuring that the needs of all social groups are taken into account • Screening is only the first stage in the process. To achieve the above objectives, a separate equality impact assessment - or alternatively the inclusion of equality considerations in a regulatory impact assessment - will need to be conducted. | | | |
| <i>Practical steps towards implementation</i> | | | |
| <p><u><i>Step 1. Develop screening criteria to provide framework for undertaking screening process</i></u></p> <p>The screening assessment should be undertaken using agreed equality screening criteria to determine whether or not a full (equality) impact assessment is needed. In countries where screening procedures have been introduced, examples of criteria adopted include:</p> <ul style="list-style-type: none"> • Is there evidence that individuals within particular social groups may have different needs, issues and priorities in relation to a particular policy? • Could equal opportunities be promoted more systematically and more effectively by undertaking a review of the policy, piece of legislation or publicly financed programme in question than is currently the case? • Have previous consultation exercises been carried out involving relevant groups and organisations? Have these identified any particular problems related to a given policy? • In the case of public services and publicly financed programmes, is there an indication of differences in the level of participation (or take-up rates for support) by different social groups? Can explanatory factors be identified? Is this likely to require a full equality impact assessment? | | | |

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Step 2: Conduct internal appraisal of a given policy by policy makers

The next step in the screening procedure involves undertaking an internal appraisal of a given policy or piece of legislation to identify whether there are issues relating to non-discrimination or equality of opportunity likely to require a full equality impact assessment.

Step 3: Produce short screening paper for distribution to key stakeholders

Following the internal appraisal, in order to facilitate the consultation process, a screening paper should be produced setting out the policy framework and key issues including the screening criteria that will be applied.

This should then be circulated to relevant organisations at the outset of the consultation process.

Step 4: Ensure stakeholders take active part in the screening consultation process

Consultation with relevant stakeholders is an integral dimension of the screening process and helps determine whether or not a full equality impact assessment is needed.

It is necessary to obtain the views of organisations representing the interests of different groups on i) the extent to which non-discrimination and equal opportunities are likely to be relevant and ii) the degree to which the implementation of a given policy, piece of legislation or programme may impact on different social groups (positively as well as negatively). See instrument 4 for further details.

Step 5: Review submissions to consultation process from stakeholders and finalise screening paper

Following receipt of comments from stakeholders, steps should then be taken to analyse these and to make revisions and finalise the screening paper. This should then be circulated to those participating in the consultation process.

Applicability at different stages in policy-making lifecycle

Equality screening is mainly relevant at the outset of the policy making process. However, it can also be used to review existing policies periodically.

Costs and Benefits

Costs

- There are costs inherent in organising the equality screening process. These include the human resource implications of conducting the screening exercise, the time taken to consult with stakeholders and to analyse the response of their submissions to the consultation process.
- Financial costs include those associated with holding the consultation process, any meetings or focus groups with key stakeholders, the distribution of printed reports etc.

Benefits

- Equality screening involves consultation with key stakeholders at an early stage in the policy making process. This not only has the potential to improve the quality of policy-making but also helps improve transparency and accountability.
- The equality screening procedure is cost-effective in that it enables resources to be devoted only to those policies where there is likely to be a significant equality dimension.
- This in turn has the potential to improve public policy outcomes by better targeting resources.

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Success factors in implementation

- Targeted consultation should be an integral part of screening decisions. Consultation needs to be carried out with representatives of those most affected by a policy early in the policy planning process.
- Effort needed to ensure that consultation is not overly burdensome either for policy makers responsible for analysing responses or for stakeholder organisations being asked to contribute to the screening consultation.
- Public institutions may need expertise from external sources – specialists from specialised equality bodies or consultants – in order to carry out equality screening procedure effectively.
- Mechanisms needed to help develop capacity of consultees – which may be voluntary organisations or NGOs with limited human resources and administrative capacity - to respond to consultation exercises.

Examples of where the mainstreaming instrument has been utilised

Equality screening has been introduced in some EU countries such as Finland, Sweden and Northern Ireland (which has separate equality legislation from Great Britain).

Instrument 2 – Equality Impact Assessment

| <i>Instrument</i> | <i>Equality Assessment</i> | <i>Impact</i> | <i>Equality strand(s) for which instrument is applicable</i> | <i>All equality strands referred to in Article 13 of the Treaty</i> |
|---|----------------------------|---------------|--|---|
| <i>The basics</i> | | | | |
| <p>An Equality Impact Assessment is a thorough and systematic analysis of a policy or a piece of legislation for its potential impact on equality of opportunity to avoid unanticipated negative impact on any groups that are protected under specific non-discrimination legislation and to ensure ‘policy coherence and best use of resources’.</p> <p>Only those policies and legislative acts which during the equality screening process would have been deemed to have significant impact on equality, would go through such a detailed analysis, although it could in principle be carried out without prior screening having taken place.</p> <p>As an alternative to a separate equality impact assessment, equality considerations can be included in other regulatory impact assessments, such as the Commission Impact Assessments examining the economic, social and environmental impacts of all new policy proposals.</p> | | | | |
| <i>Objectives</i> | | | | |
| <p>The purpose of an equality impact assessment is to:</p> <ul style="list-style-type: none"> • Determine the extent of differential adverse impact of a policy on particular social groups at risk of discrimination • In case of negative of adverse impact, either <ul style="list-style-type: none"> ○ identify measures to mitigate the negative effect, or ○ propose alternative policies that might better achieve equality of opportunity | | | | |

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- Ensure that new policies and legislation are fully equality proofed
- Better target resources to particular groups in order to achieve improved equality outcomes
- Improve the quality of policy-making and of public service provision by ensuring that the full implications (including any unintended consequences) are thought through prior to policy implementation.

Equality impact assessment is the second stage in the equality mainstreaming process after equality screening, although it could in principle be carried out without prior screening having taken place. To achieve the above objectives fully, an equality plan will also typically be needed, setting out the strategic framework for promoting equality within an organisation.

Practical steps towards implementation

Step 1: Definition of policy objectives

Setting overall policy aims is a central element in defining the desired results and impacts of a given policy. It is therefore important from the outset to define clear, achievable aims.

In certain cases the definition of objectives will be based on an initial problem analysis. To facilitate clarity, objectives could be defined according to the **SMART** principle: **S**pecific, **M**easurable, **A**ccepted, **R**ealistic, **T**ime-dependant.

It can be useful to set objectives out in a hierarchy of *general objectives* (overall goals expressed in terms of ultimate impact), *specific objectives* (direct and short-term effects of policy) and *operational objectives* (outputs or deliverables produced by policy).

Step 2: Research and collection of data to examine current baseline

In order to be able to assess the extent of impact on the defined target groups, the current baseline must be established. For this, it is necessary to be in possession of relevant, reliable and up-to-date data in relation to the groups at risk of discrimination. The approach to be adopted would typically involve a combination of analysis of existing quantitative and qualitative data and research, identification of gaps in available information and commission of new research/data collection. (See instrument 7 for further details)

Step 3: Internal assessment of impacts by policy makers

The next step involves an internal examination of a given policy or piece of legislation to identify and describe any evidence of direct or indirect, differential impacts on the relevant groups. This examination is carried out using data in accordance with established indicators. A link between cause and effect should be sought and impacts should be divided into 1) negative/adverse impact, 2) positive impact and 3) neutral impact.

This analysis will typically be based on checklists of illustrative questions, such as:

- Is there evidence that the policy option significantly affects any group protected by specific non-discrimination legislation?
- Does the option affect equal treatment and equal opportunities for all?
- Could the option lead to direct or indirect discrimination of groups or individuals directly on the grounds of gender, race, colour, ethnic or social origin, language, religion or belief, political opinion, disability, age or sexual orientation?

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- Is the policy intended to increase equality of opportunity by permitting or requiring affirmative or positive action or action to redress disadvantages? Is it lawful?
- Is there any indication of differences in the level of participation (or take-up rates for support) by different social groups? Can explanatory factors be identified?

The impacts should be assessed in qualitative, quantitative and monetary terms as appropriate. In as far as possible, risks, obstacles and uncertainties should be identified.

Step 4: Consideration of policy options and mitigating measures

Where adverse effects are identified, measures should be proposed which might mitigate the negative effect, or alternative policy options should be considered which promote equality of opportunity better. This principle is central to the whole process of equality impact assessment. It must also be established whether separate implementation strategies for each of the relevant target groups are necessary for the policy to be effective.

Questions to be considered include:

- How does each option improve or hinder equality of opportunity?
- What are the consequences for the group concerned and for the organisation of not adopting an option more favourable to equality of opportunity?
- How will the relevant representative groups be advised of the new or changed policy or service?
- What are the costs of implementing each option? Will the social and economic benefits to the relevant group of implementing the option outweigh the costs?
- Are there international obligations which would be breached by, or could be furthered by, each of the options?

A comparison of considered policy options should be carried out considering all the relevant positive and negative impacts of each, preferably presented in a schematic form. On the basis hereof options should then be ranked.

Step 5: Consultation

It is necessary to obtain the views of interested stakeholders and beneficiaries on the impacts on different social groups to ensure that the chosen policy is workable. (See instrument 4 for further details).

Step 6: Applying the results of the equality impact assessment

To make the process effective, the results of the equality impact assessment ought to be taken into account in whatever policy, programme or other decision the organisation adopts and there should be clear evidence of the consideration of mitigating impacts and the measures taken to counteract these. The results of the equality impact assessment would also typically be published.

Step 7: Organisation of subsequent evaluation and monitoring

In order to verify whether implementation is on track, a system must be established with carefully designed indicators to subsequently monitor the chosen policy option against its objectives. In case of inadequate implementation it is important to be able to determine where the problems lie.

Application stage in policy-making lifecycle

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Equality impact assessment is relevant at the outset of the policy-making process, either immediately or as a result of having been found of relevance for a particular policy area during an equality screening. Existing policies, however, could also be reviewed periodically for their equality impact.

Costs and Benefits

Costs

- The costs involved in carrying out equality impact assessments are mainly related to the human resource input in conducting the exercise and in organising the consultation.
- The consultation process might involve some financial resources of a logistical nature (meetings with stakeholders, distribution of material etc.).

Benefits

- Assessing equality impacts will highlight gaps in the policy proposal in terms of unanticipated negative impact on any groups protected by specific non-discrimination legislation.
- By equality proofing new policies and legislation improved equality outcomes are achieved for the targeted groups.
- Improves the quality and effectiveness of policy proposals by ensuring policy coherence and better use of resources.
- Demonstrates commitment to greater transparency in policy-making as the views of different groups in society will be heard prior to the introduction of new policies and legislation.
- Ex-post evaluation of the policy will be made easier by having already collected relevant data and identified indicators that can be used to monitor the policy.
- Will promote equality and non-discrimination principles more widely in society.

Success factors in implementation

- Targeted consultation should be carried out early in the policy planning process (see instrument 7 for further details).
- The involvement of specialised equality experts might be needed in the impact assessment process to make it effective.
- The identification of alternative policy options and their relative comparison is essential to the process.

Examples of where the mainstreaming instrument has been utilised

Equality impact assessments have been carried out in a number of EU countries including Finland, Sweden, Northern Ireland and Great Britain. There are other examples of an equality dimension being incorporated into regulatory impact assessments, such as the impact assessment procedure adopted by the Commission, which involves an assessment of social, environmental and economic impacts

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Instrument 3 – Consultation

| <i>Instrument</i> | Consultation | <i>Equality strand(s) for which instrument is applicable</i> | All equality strands |
|--|--------------|--|----------------------|
| <i>The basics</i> | | | |
| <p>Consultation is the process of asking those affected by a policy (i.e. service users, staff, the general public) for their views on how the policy could be implemented more effectively. As such, it can be a useful method for helping to ensure equality of opportunity, especially if consultation is carried out with groups representing the interests of those at risk of suffering from inequality or discrimination.</p> <p>Consultation processes can take place in different ways, from the circulation of consultation documents, to face- to- face meetings and the holding of focus groups. Consultation processes are frequently used in conjunction with several of the other instruments set out in this document, such as equality screening, impact assessment and the preparation and implementation of an equality plan.</p> | | | |
| <i>Objectives</i> | | | |
| <p>Holding a meaningful consultation process can be a crucial tool to ensure that:</p> <ul style="list-style-type: none"> • Non-discrimination principles are taken into account throughout the policy-making lifecycle • The potential and actual impact of policies, legislation and programmes on particular social groups (including possible discrimination) are identified <p>Consultation should take place at the earliest possible stage in policy development so as to identify any potential adverse impact in sufficient time so that steps can be taken to remedy this.</p> | | | |
| <i>Practical steps towards implementation</i> | | | |
| <p><u><i>Step 1: Identification of stakeholder organisations to participate in consultation process</i></u></p> <p>Groups that might participate in consultation exercises should be identified through a broad process, whereby not only the most obvious umbrella organisations, but the participation of a wide range of groups should be sought for. A special efforts should be made to target ‘hard to reach’ groups.</p> <p>Targeted consultation is particularly beneficial when carried out sufficiently early in the policy planning process. The best results can be obtained through the close involvement of policy makers in the consultation process.</p> <p><u><i>Step 2: Preparation of a consultation document</i></u></p> <p>The next step is to prepare the consultation document. This should state clearly:</p> <ul style="list-style-type: none"> • Why the consultation is being undertaken • How the consultation will be carried out • The timeframe within which organisations must submit a response <p>Consultation documents should include an assessment of the impact of policy or legislative proposals on social groups likely to be particularly affected. Every effort should then be made to ensure that those groups are invited to participate in the consultation process so as to remove or at least reduce any potential adverse impacts.</p> | | | |

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Step 3: The consultation process

The next step is to hold the consultation process itself. Various issues will need to be considered in managing the consultation, including:

- The need to inform consultees about upcoming consultation exercises well in advance so as to ensure sufficient time for preparing a submission to the consultation;
- The importance of drawing up a summary of consultation documents and of distributing this in advance to allow consultees time to decide whether they would like to respond;
- The most appropriate consultation method (e.g. face- to- face, group meetings, discussions and questionnaires).
- Ensuring that accessibility issues are taken into account to ensure that all relevant stakeholder groups are able to fully participate in the process. This might involve making different formats available so that the blind / partially sighted can contribute, enabling consultation submissions to be made in minority languages etc.
- The results of consultation should be published following the consultation closing date, ideally within 3 months.
- Making sure consultation does not become overly burdensome either for consultees or for those managing the consultation process.

Costs and Benefits

Costs

Mechanisms for coordinating consultation efforts need appropriate human and financial resources. The nature of these costs will depend on the type of policy in question, the scope of the consultation exercise and the number of stakeholders that are invited to participate;

- For consultees, the process can also entail significant amounts of work. The capacity of NGOs and voluntary sector organisations to contribute to the consultation process may need to be further developed using financing support from national or EU funding sources;
- For example, the PROGRESS programme 2007-13 will provide support for capacity building amongst organisations representing social groups mentioned in Article 13;

Benefits

- Consultation can help identify problems for groups at risk of discrimination caused by policies, which might not otherwise be recognised;
- A participative approach to consultation can help public authorities engage directly and creating communication channels with groups representing those potentially at risk of discrimination;
- The process of consultation can help to enhance the capacities of risk groups through the provision of advice and by enhancing their access to decision-makers.

Success factors in implementation

- Consultation should take place as early on in policy development as possible to ensure that appropriate steps can be taken to reduce possible adverse impacts on particular groups.
- Clear guidelines should be produced at national level on consultation for public authorities. This should include guidance on the provision of advice to stakeholders during consultation.

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- Consultation needs to be carefully targeted to ensure that those most likely to be affected by a given policy or piece of legislation are represented in the process.
- The consultation process should involve the full range of stakeholder organisations i.e. organisations representing the interests of particular social groups, government departments, public agencies, trade unions and employers' organisations, voluntary and community organisations, NGOs, business networks etc.
- Information on the consultation process should be centrally coordinated to avoid different consultation exercises overlapping.
- The process should avoid becoming overly burdensome either for policy makers responsible for analysing consultation responses or for consultees. Support and advice to consultees should be provided by public authorities during the process, where necessary.
- Mechanisms are needed to help further develop the capacity of consultees to respond to consultation exercises. Some voluntary organisations and NGOs have very limited human resources and administrative capacity.

Examples of where the mainstreaming instrument has been utilised

Consultation is used in a number of countries for various mainstreaming instruments. For example, equality screening exercises involve consultation in Northern Ireland, the preparation of an Equality Scheme in Great Britain for government departments involves consultation with relevant stakeholder groups.

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Instrument 4 – Equality Plan

| <i>Instrument</i> | Equality Plan | <i>Equality strand(s) for which instrument is applicable</i> | All equality strands |
|--|---------------|--|----------------------|
| <i>The basics</i> | | | |
| <p>An equality plan sets out a strategic framework for promoting equality within an organisation. It represents a medium-long term organisational commitment to promote non-discrimination and equal opportunity principles through all activities.</p> <p>Developing an equality plan is about embedding equality and diversity principles throughout an organisation in relation to both internal and external policies, practices and procedures. This might encompass the role of a public authority as an employer (in recruitment, promotion and staff development), as a policy developer and as a service provider.</p> <p>In some countries, such as Finland, Great Britain and Northern Ireland, there is a ‘positive duty’ on public authorities to promote equality. This also involves a statutory requirement to produce an equality plan (sometimes known as an ‘Equality Scheme’) setting out how non-discrimination and equal opportunities principles will be actively promoted.</p> | | | |
| <i>Objectives</i> | | | |
| <p>In summary, the purpose of producing an equality plan can be defined as being to:</p> <ul style="list-style-type: none"> • provide a strategic framework through which non-discrimination and equal opportunities principles can be embedded throughout an organisation in all its activities • set out how equality will be systematically addressed at various levels: in employment practices and procedures, policy making, public service provision, public consultation etc. • outline practical measures that will be taken to promote equality | | | |
| <i>Practical steps towards implementation</i> | | | |
| <p><u>Step 1: Undertake internal consultation on the equality plan</u></p> <p>The first step will be to consult internally with policy colleagues with regard to drawing up the equality plan and deciding on its structure and contents.</p> <p>In producing an equality plan for the first time, it will be appropriate to identify good practice guidance documents to assist in its preparation. For example, some specialised equality bodies – such as the Northern Ireland Equality Authority - have produced guidance on how to prepare an Equality Scheme.</p> | | | |

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Step 2: Prepare the equality plan in draft

The Plan will need to include a number of core elements. These include:

- An assessment of the relevance of the **functions of the organisation** (policy-making, service provision etc.) from a non-discrimination and equal opportunities perspective
- Setting out arrangements for:
 - **Consulting with external stakeholders** on the impact of policies from the perspective of different social groups covered by Article 13 of the Treaty;
 - **Monitoring and evaluating the impact of policies** (and where appropriate, legislation and publicly financed programmes) on different social groups;
 - **Data gathering** in order to support monitoring and evaluation work;
 - **Publishing the results** of any impact assessment work to ensure transparent access to information for interested parties; and
 - Ensuring that **institutional mechanisms** are in place to ensure that non-discrimination and equal opportunities are systematically integrated into all aspects of policy making. For example, an Equality Working Group could be appointed to oversee the preparation, implementation and monitoring of the Equality Plan.

- Concrete measures to help progress non-discrimination mainstreaming and equal opportunities. Examples might include:
 - A commitment to undertaking equality impact assessments (where equal opportunities issues are considered relevant) in relation to new policies or legislation
 - A commitment to ‘equality proof’ existing policies and, in the case of service providers, public service delivery, to ensure that equality considerations (including the unintended impact on particular social groups) have been fully considered
 - Reviewing the results of any equality impact assessments published to date
 - Measures to help customise services so that these better meet the needs of individuals from different social groups, since these may differ
- The plan should also consider how equality and diversity will be promoted internally. This might involve:
 - Systematically scrutinising recruitment and promotion practices
 - Monitoring the representation of different social groups both across the organisation as a whole and at different levels of seniority

Step 3: Undertake external consultation with stakeholders

Ideally, the preparation of an equality plan should include the active participation of stakeholders through an external consultation exercise.

The inputs of associations of (or organisations representing the interests of) individuals from social groups covered by Article 13 has potential to improve the quality of an equality plan. Consultation also accords with transparency principles.

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Step 4: Approval of the equality plan

The results of the consultation exercise should be published together with an explanation of:

- Why the consultation was undertaken and how it was carried out
- A summary of responses received
- An assessment of how these have been incorporated into the final version of the equality plan

Step 5: Implementation of the equality plan

The final step is for activities set out within the plan to be implemented. A key issue here is ensuring that arrangements are put in place to undertake an annual monitoring review of progress made.

Monitoring is a critical element of equality planning given its role in facilitating evidence-based policy-making and in assessing progress towards the achievement of key strategic aims and objectives. Qualitative information as well as quantitative data should be collated as an integral part of monitoring the implementation of equality plans.

In some Member States, statistics are already collated disaggregated by race, gender, disability and age. In other countries, there are data sensitivities with regard to collecting data on particular social groups. It is important that likely data availability is considered when drawing up the plan.

Applicability at different stages in policy-making lifecycle

The preparation and implementation of an equality plan is relevant throughout the decision-making lifecycle. It is an ongoing task which helps engender a ‘whole organisation approach’ to non-discrimination mainstreaming on a systematic basis.

Costs and Benefits

Costs

The main costs include human resource inputs in preparing the equality plan, the cost of organising the consultation process with key stakeholders (including the analysis of responses) and the cost of implementing measures outlined in the plan.

- An estimate of the time involved in preparing an equality plan was provided by a large government department in the UK. This estimated that the work involved 2 people working for 3 months duration to prepare the plan

Benefits

- Equality planning helps ensure that non-discrimination and equal opportunities principles are systematically taken into account in policy making and service delivery and helps demonstrate transparency and accountability.
- This is valuable in strategically embedding equality and diversity principles. It also has a potential ‘demonstration effect’ in illustrating the public sector’s commitment to improving performance in promoting equality of opportunity for all.
- It is important that public authorities take active steps to ensure that policies and services meet the needs of all citizens not just the majority– important from the perspective of reconnecting citizens with public institutions in the context of a diverse and globalised society.

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- Equality planning facilitates evidence-based policy making by providing a framework through which a comprehensive picture can be built up over time with regard to the way in which the implementation of policies, legislation and programmes impacts on different groups.
- This has the potential to improve the quality of policy making and enhance policy outcomes, for example, by enabling resources to be spent more effectively.

Success factors in implementation

- Consultation in the preparation and implementation of an equality plan is important in helping to identify and prioritise issues from the perspective of different social groups
- Monitoring on a regular basis facilitates evidence based policy making and to assess progress towards objectives
- The need to tailor equality plans to the prevailing legal framework. In some countries, an equality planning approach is compulsory whereas in others it is done on a voluntary basis
- The successful implementation of an equality plan will depend on the engagement of the public authority itself as well as partner organisations and those contributing to the consultation process

Examples of where the mainstreaming instrument has been utilised

Equality planning has been used in a number of EU countries. For example, in the UK, all government departments, regional and local authorities and public bodies are required to produce an Equality Scheme, which is another name for an Equality Plan (see case study on the Department for Education and Skills)

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Instrument 5 – Data collection

| <i>Instrument</i> | Data collection | <i>Equality strand(s) for which instrument is applicable</i> | All equality strands |
|--|-----------------|--|----------------------|
| <i>The basics</i> | | | |
| <p>For non-discrimination mainstreaming to be effective, it is necessary to measure the extent and impact of discrimination amongst those social groups identified as being at higher risk of discrimination and then to monitor this on a regular basis.</p> <p>It is important to establish an evidence base founded upon relevant, reliable and up-to-date quantitative and qualitative data about the situation of social groups experiencing inequality.</p> <p>Statistics alone do not provide reasons or explanations for differences. A system of information gathering to supplement available statistical and qualitative research is necessary in order to obtain a full picture of the current situation. The approach to be adopted should involve a combination of analysis of existing quantitative and qualitative data and research, the identification of gaps in available information and the commission of new research and data collection. As the Commission for Racial Equality (GB) puts it: “<i>Monitoring is not only a statistical exercise, it is not an end in itself. It is a starting point for developing initiatives</i>”.</p> <p>In undertaking data gathering, it will be important to respect particular sensitivities of some groups in relation to data collection.</p> | | | |
| <i>Objectives</i> | | | |
| <p>The purpose of data collection is to:</p> <ul style="list-style-type: none"> • Create a reliable, up-to-date evidence base about the identity, experience and situation of groups experiencing inequality or discrimination, based upon quantitative and qualitative data. • On the basis of awareness about the reality of discrimination, build the foundations for monitoring progress which in turn should improve awareness amongst policy makers and service providers about key issues • Improve the quality of policy- making and public service provision by ensuring that policies are constantly reviewed and enhanced so as to better meet the needs of different groups experiencing inequalities or discrimination. | | | |
| <i>Practical steps towards implementation</i> | | | |
| <p><i>Step 1: Develop available data sources</i></p> <p>To form a minimum basis against which equality outcomes can be assessed, public authorities should build up a source of ready information through the collection and analysis of existing quantitative data on each of the relevant target groups. A lot of information typically exists in-house.</p> <p>Most public authorities collect routine statistics, conduct various regular surveys and carry out population census that could all serve to build data capabilities. Responses to former consultation exercises related to equality or discrimination can also provide valuable information.</p> <p>Other potential sources of information might include quantitative or qualitative research, evaluation and studies carried out by expert bodies or other stakeholders, such as government, specialised equality bodies, social partners, the voluntary sector or research bodies or universities.</p> | | | |

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Where possible, data should be collected and analysed separately for each of the relevant equality categories as the experiences and needs of each target group are likely to be different. There might even be differences within the same category, e.g. the needs of the mentally disabled and the physically disabled may differ significantly.

It would make sense for public bodies within the same policy area, sector or region to work together to coordinate the creation of such a base of data sources.

Monitoring methods should be put in place to facilitate data collation and analysis.

Step 2: Identification of gaps

A thorough audit of available data should be carried out to identify where there are gaps in existing information, either for particular equality strands or where more detailed data are needed in order to develop a full picture on which to base subsequent impact assessments, equality plans or decisions.

Step 3: Commissioning new data collection or research

Where gaps are identified, the collection of new quantitative or qualitative data might prove necessary. Depending on the type of information lacking, a range of data collection techniques might be used including survey work, interviewing, focus groups, secondary analyses of existing data, user feedback, reviewing complaints, academic research or consultancy reports.

Step 4: Adapting procedures for future data collection

Collecting data on the target groups affected by equality concerns should not be a 'one-off' exercise but an ongoing procedure. The situation of different groups will change over time. If an organisation intends to adopt mainstreaming principles in all its activities, up-to-date data will be needed for other equality impact assessments at a later stage.

Application stage in policy-making lifecycle

The evidence base that is created through the collection and analysis of data would typically be needed at the very early stages of the policy-making lifecycle, although the process of data research and analysis should be an ongoing process.

Costs and Benefits

Costs

Data collection and analysis will require both human and financial resources although for the initial development of ready data sources, the cost will to a large extent involve staff time pulling together the data, analysing them and setting up methods for subsequent monitoring.

Benefits

It is clearly beneficial for decision-makers to inform planning decisions through an evidence base which provides timely, relevant and up to date information about the needs of particular social groups (in the case of service provision) and about the impacts on groups at risk of discrimination (in the case of policy making)

Success factors in implementation

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- Creating systematic methods for the analysis of existing data and for the subsequent ongoing monitoring of such information on an ongoing basis.
- Bringing in outside professional expertise to set up effective analytical and monitoring techniques or to data or carry out new research where gaps are identified in the evidence base.

Examples of where the mainstreaming instrument has been utilised

Extensive data collection systems have been put in place by all the countries that carry out systematic equality mainstreaming in order to create a reliable, up-to-date evidence base upon which progress towards set objectives can be monitored.

2.5 Recommendations to EU and national policy-makers

Having outlined ‘ready-to-use’ practical examples of non-discrimination mainstreaming instruments that might act as inspiration to policy-makers at Member State and EU level, a number of recommendations are now put forward to further stimulate and support non-discrimination mainstreaming.

2.5.1 Recommendations - EU level

General principles

- Further steps should be taken to institutionalise non-discrimination mainstreaming within EU institutions
- Every effort should be made to ensure that mainstreaming is systematically integrated into policy formulation and implementation from the outset
- Likewise, an effort should be made to ensure that non-discrimination mainstreaming encompasses all equality strands covered by Article 13 of the Treaty in accordance with the Community’s non-hierarchical approach to non-discrimination and equal opportunities
- Further steps should be taken to ensure that concern for non-discrimination and equal opportunities in policy-making is evidence-based, which implies:
 - The need for more systematic appraisal of the impact of EU policies, legislation and programmes on social groups at risk of discrimination as part of the Commission’s impact assessment procedure
 - The regular collection and updating of statistical data in respect of social groups covered by Article 13 to gauge the need of different groups and to monitor progress towards set objectives.

Specific recommendations

On top of the institutional mechanisms and tools that have already been put in place at EU-level to promote non-discrimination mainstreaming, the implementation of a number of additional mainstreaming instruments would further assist the European Commission to take the mainstreaming agenda forward and systematically integrate

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non-discrimination concerns in the formulation and implementation of EU policies, legislation and programmes.

The suggestions outlined below reflect the views of the authors of this report.

a) Extension of the Impact Assessment procedure

There is already a well established Impact Assessment procedure in place within the Commission which requires systematic assessment of the social, economic and environmental impacts of all EU policies, legislation and programmes on the Commission's work programme.

It would be relatively simple to extend this process to **include an assessment of the impacts in relation to non-discrimination and equal opportunities** more specifically. Such an analysis should consider the impacts on non-discrimination in general as well as in respect of specific equality strands and the social groups mentioned in Article 13.

The Commission's existing Impact Assessment Guidelines could simply be extended to include an additional chapter providing practical guidance on how to ensure more systematic consideration of non-discrimination and equal opportunities issues from the outset of the policy-making process.

To ensure that the procedure takes proper account of the impacts of policies, it would be important to **monitor and assess the quality of the impact assessments** carried out by Commission departments.

The newly created 'Impact Assessment Board' created by the Commission President in the context of the November 2006 strategic review on Better Regulation will play the key role in monitoring the quality of impact assessments.

Progressively, the responsibilities of the Board should involve advice to departments on impact assessment work and contributions to further develop the Commission's impact assessment methodologies, procedures and tools.

b) Improving stakeholder contributions to impact assessment

The European Commission already consults extensively on major new policies and pieces of legislation. A strong consultation dimension is included in the Commission's Impact Assessment Guidelines. However, the treatment of non-discrimination issues in impact assessments could be significantly strengthened if stakeholder organisations in general and NGOs in particular further developed their capacity to respond effectively to the formal consultation process linked to the Impact Assessment procedure.

A participative approach to non-discrimination mainstreaming, particularly in the early stages of policy development with organisations representing the interests of groups at risk of discrimination, is essential if the quality of policy-making is to be improved. An effort should therefore be made to further encourage the active participation in the consultation process of NGOs with experience of particular

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equality strands, possibly by providing further capacity building support.

c) Using Equality Planning to help institutionalise non-discrimination mainstreaming

With a view to further institutionalising the mainstreaming of non-discrimination principles within the Commission, **individual DGs could be required to draw up an Equality (Action) Plan**, creating a link with other strategic planning processes. This plan should deal with the promotion of non-discrimination both internally and in relation to policy-making, setting out ways in which non-discrimination and equal opportunities principles will be mainstreamed into policies, programmes and other activities. Outlines could be added of suggested vertical support measures targeted at particular social groups. Such plans should cover the full gamut of equality strands.

At central level, the Commission could draw up an **organisation-wide Equality Action Plan** to demonstrate its commitment to non-discrimination mainstreaming in all EU policies, legislation, programmes. Apart from describing the legal basis for promoting non-discrimination and stating the key principles and concepts behind mainstreaming, the Plan would give details of how to go about non-discrimination mainstreaming in practice, illustrated by good practice examples. Some of the detailed content of the Equality Action Plan could be drawn from the DG-specific equality plans. A good example of how the Action Plan might be structured is provided in the existing biennial *Community Action Plan for People with Disabilities* (see case studies).

Monitoring and evaluation are critical elements of a holistic approach to non-discrimination mainstreaming. The various suggested instruments, such as Equality Plans, both at DG-level and for the Commission as a whole, if adopted, should be subject to regular monitoring and review and underpinned by quantitative indicators and targets, where possible. The Equality Plans could thus be prepared for a period of 3 to 5 years, but progress would need to be monitored on a more regular basis (e.g. annually) to measure progress towards the achievement of key aims and objectives of the Plans.

The Department for Education and Skills in the UK provides a good example of regular monitoring of the implementation of a department-wide Equality Scheme (see case studies). It is important that the Commission-wide and the DG-specific plans should follow the same monitoring and review cycle.

To facilitate Equality Planning within the Commission and to coordinate the process, it would be useful if **equality-related working groups** were to be set up at DG-level. These would ideally function under the ‘umbrella’ of a Commission-wide equality group.

d) Training and guidance on non-discrimination

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Practical training, guidance and further awareness-raising activities should be provided to staff from all EU institutions on non-discrimination mainstreaming. Training was identified as one of the main ways in which a culture of non-discrimination mainstreaming can be institutionalised through research leading to this publication.

One of the aims of delivering training should be to raise awareness about non-discrimination issues and about the different mainstreaming tools and instruments already available. Input from associations representing groups at risk of being discriminated against could form part of the training.

Furthermore, practical written guidance to support training activities could be developed on how to integrate a non-discrimination perspective into EU policies and programmes from the outset.

In support of training and guidance activities, an equality or **non-discrimination Help Desk** could be set up within Commission services to provide ad-hoc assistance and serve as a central repository for the collation of mainstreaming good practices.

e) Data collection

To monitor the impacts of policies, legislation and programmes in the promotion of non-discrimination principles generally and on social groups covered by Article 13, quantitative and qualitative data will need to be collected.

It is necessary to carefully consider what data requirements (quantitative, qualitative) will be needed at Community level in order to assess progress made in mainstreaming the dual principles of non-discrimination and equal opportunities both internally and into EU policies, legislation and programmes. To this end, a separate study is currently being carried out for DG Employment, Social Affairs and Equal Opportunities to develop a conceptual framework for measuring progress in combating discrimination and promoting equality at Member State level.

The data collection process will need to respect any sensitivities that might exist at Member State level in relating to data collection of particular social groups covered by Article 13.

f) EU guidance to Member States on how to go about mainstreaming in key EU programmes

In particular areas of EU policy and for particular EU financed programmes, good practice guidance should be prepared and made more widely available in order to disseminate key messages on how to go about mainstreaming as well as its practical benefits.

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More guidance could be made available at Community level for the Member States and regions on how to integrate equal opportunities in practice in the implementation of different EU-financed programmes. For example, while equal opportunities has been one of the main horizontal themes in Structural Funds for some time, as yet, no good practice guidance has yet been produced on how to integrate the cross-cutting themes at various levels (project, programme etc.).

2.5.2 *Recommendations to the Member States*

General principles

This document is timely in that research suggests that, eight years after the adoption of Article 13, while a non-discrimination mainstreaming approach is already being adopted in some Member States, in others, this is not yet the case (the approach to equal opportunities tending to rely on vertical support measures targeted at individuals from social groups perceived as being at risk of discrimination or social disadvantage).

Member States are therefore encouraged to respond to the challenge of making *equal opportunities for all* a reality for all Europe's citizens by embracing the following principles:

- Non-discrimination concerns should be **systematically integrated** into the policy making process (and in public service provision) **from the very outset**
- As the starting point in making this a reality, **public authorities at national and regional levels should endeavour to institutionalise and embed non-discrimination and equal opportunities principles**
- Member States should make use of the various mainstreaming tools, good practices and **methodologies that are already available at both Community and Member State levels**. (Inspiration can be found in the mainstreaming instruments outlined above)
- **Each and every Member State should ensure that specialised equality bodies are adequately resourced in order for them to spread good practices with regard to non-discrimination mainstreaming to the public and private sectors**. Specialised equality bodies that have been properly resourced have achieved demonstrable progress in producing practical guidance for public authorities and private sector employers on how to implement non-discrimination mainstreaming principles in practice
- Efforts should be made to ensure that non-discrimination mainstreaming **encompasses all equality strands** covered by Article 13 of the Treaty. As at Community level, an effort is needed to ensure that the good progress already made in mainstreaming in some equality strands (especially gender) is consolidated and extended across the equality spectrum

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- Non-discrimination mainstreaming tends to happen more systematically when accompanied by a **compulsory element**, such as a statutory duty to promote equality on public bodies.
- It is important that the concept of non-discrimination mainstreaming, how it works in practice and the legal and policy framework are well understood amongst policy-makers and by society at large. Investment in **training and awareness-raising activities is therefore crucial**.
- The **mainstreaming process should be as participative as possible for it to be effective**. Unless prejudices in society are dealt with and the views of those at risk of being discriminated against are heard, the process of mainstreaming is likely to be ineffective.
- The **creation of an evidence-base** on the situation of the groups at risk of discrimination is another essential element in making mainstreaming work. Data collated should then serve as basis for carrying out **monitoring and evaluation** of mainstreaming efforts on a regular basis.

CASE STUDIES

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A.1 Introduction

In this section, a small number of case studies are provided. These contain examples of how a non-discrimination mainstreaming approach is already being carried out in some EU Member States.

The case studies are intended to provide illustrations as to how some of the mainstreaming instruments described in section 2 work in practice. Given the size limitations of this document, further case studies have been combined in a separate annex which is available online from the website of the European Commission's DG Employment, Social Affairs and Equal Opportunities.

The case studies have been divided into two categories:

- Those that demonstrate examples of mainstreaming in the formulation of policies, legislation and programmes
- Those that demonstrate mainstreaming in the implementation of policies, legislation and programmes.

The full list of case studies demonstrating the integration of non-discrimination concerns into the **formulation** of policies, legislation and programmes is provided below (those highlighted in **bold** are included in this main report with other case studies being provided in a separate annex, available online):

| No. | Member State | Case study title | Equality strand(s) |
|-----|------------------|---|--|
| 1. | UK | Role of Equality Impact Assessments and of an Equality Scheme in mainstreaming non-discrimination in a UK government department (Department for Education & Skills) | Race |
| 2. | FIN | Helsinki City Authority – the role of Equality Plans in non-discrimination mainstreaming at regional level | All |
| 3. | FIN | Join-in project in Finland: mainstreaming equality and non-discrimination | All |
| 4. | SWE | Integration Policy in Sweden – mainstreaming race and ethnicity into policy making and practice | Race/ ethnicity/ religion |
| 5. | IRE | The role of a specialised equality body in embedding equality mainstreaming – the case of Ireland | All |
| 6. | EU | Mainstreaming disability in the European Employment Strategy (EES) | Disability |
| 7. | UK | Supporting activity to embed awareness and understanding of the 2003 Employment Equality (sexual orientation, religion or belief) Regulations (Department for Trade & Industry) | Sexual orientation, religion or belief |
| 8. | Northern Ireland | Implementing equality mainstreaming in Northern Ireland – the role of a specialised equality body and the consultation process | All |

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The case studies listed below relate to the integration of non-discrimination concerns into the **implementation** of policies, legislation and programmes. These cases can be found in the separate annex, available online.

| <i>No.</i> | <i>Member State</i> | <i>Case study title</i> | <i>Equality strand(s)</i> |
|------------|---------------------|---|---------------------------|
| 1. | UK | Horizontal approach to non-discrimination mainstreaming in the implementation of Structural Funds (Wales, UK) | All |
| 2. | FR | PACTE - Combating social exclusion in Civil Service Employment | Socially excluded groups |
| 3. | DK | URBAN programme for Denmark 'Neighbourhood in Movement' – empowerment programme promoting social inclusions and equality | Race/ethnicity |
| 4. | D | Promoting the employment of older workers – mainstreaming 'active ageing' through the European Employment Strategy | Age |
| 5. | D | Job - Jobs ohne Barrieren (jobs without barriers) | Age |
| 6. | PT | The role of the EQUAL Community Initiative in promoting non-discrimination mainstreaming through closer Government/NGO co-operation in Portugal | Race, ethnic origin |
| 7. | ES | "Almería Observatory for Diversity" - Almería City Council | Socially excluded groups |

CASE STUDIES

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A.2 Non-discrimination mainstreaming in the formulation of policies, legislation and programmes

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| <i>Example 1: The role of Equality Schemes and Equality Impact Assessments in mainstreaming non-discrimination in a UK government department (Department for Education & Skills)</i> | |
| Equality strand | Race |
| Region/country | Great Britain (Note: Northern Ireland has separate equality legislation) |
| Organisation and address | Department for Education & Skills (DfES) |
| Type of organisation | Government department |
| Website | http://www.dfes.gov.uk/ |
| Contact person | Linda Barwell |
| Telephone / e-mail | Linda.BARWELL@dfes.gsi.gov.uk |
| 1. Background on organisation | |
| The Department for Education & Skills (DfES) is responsible within government for education, training and skills policy. This embraces a number of key policy areas including school education (5-19 years), higher education, adult learners and learning and skills development. | |
| 2. Summary overview of instruments | |
| This case study focuses on the legal requirement in Great Britain for all government departments to produce a race equality scheme (or equality plan) setting out how they will embed equality and diversity into their internal- and external-facing activities. The role of two instruments facilitating mainstreaming within government is considered, the DfES' Race Equality Scheme (RES) and some of the actions contained within it: notably the race equality impact assessment procedure. | |
| 3. Detailed description of instruments | |
| <i>Legal context on public duty – applicable to all government departments/ public authorities</i> Under the Race Relations (Amendment) Act 2000 (hereafter 'the Act'), public authorities have a 'positive duty' to promote race equality. The duty was introduced as a way of making race equality a central part of the way in which public authorities operate in all areas including external-facing activities such as policy making and public service delivery as well as internal-facing activities such as employment practice. In the Act, there is a 'general duty' on public bodies to ensure that discrimination on the grounds of race or ethnicity (direct/ indirect) is eliminated and that race equality is promoted. Underpinning the general duty are 'specific duties' which provide a framework through which public bodies can meet their obligations under the general duty. | |

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One of the specific duties on public bodies is a requirement to produce a three-yearly *Race Equality Scheme (RES)*. This involves undertaking a comprehensive review of all activities to ensure both that discrimination is outlawed and that appropriate arrangements are put in place to promote race equality. In late 2006, this requirement will be extended to other equality strands including gender and disability. Eventually, it is envisaged that public authorities will produce a single integrated Equality Scheme.

Under the specific duty, government departments are required to identify their key functions and areas of policy responsibility and then to assess the likely potential impact of these on race equality. They must then set out arrangements in order to:

- Meet their obligations under the general and specific duties
- Assess which functions are relevant to the general duty
- Assess and consult on the impact of policies on race equality
- Monitor policies for any adverse impacts
- Publish the results of these assessments and undertake consultation and monitoring
- Ensure public access to information and services

Race equality impact assessments (REIA)

The Commission for Racial Equality (Great Britain) defines race equality impact assessment as ‘systematically and thoroughly assessing, and consulting on, the effects that a proposed policy is likely to have on people, depending on their racial group’. The purpose of an REIA is therefore to analyse in advance how a policy or legislative proposal will affect people from different groups.

REIA is mandatory in instances where a given policy or legislative proposal is identified as potentially having an impact (intended/ unintended) on race equality. To establish whether an REIA is needed, equality screening is carried out of all policy or legislative proposals to see if they are relevant from the perspective of race equality.

If an REIA is deemed necessary in particular policy areas, the second stage in the process involves undertaking a detailed assessment of the policies in questions to make sure that they do not have adverse effects on particular racial groups and that, if inequalities are identified, concrete, positive steps are taken to address problems identified.

Instrument 1 - Race Equality Schemes at DfES

The DfES produced its first Race Equality Scheme (RES) in 2002. The Scheme was updated in 2005 and it is the 2005 RES that this case study focuses on as well as on the annual update on its implementation (2006). The 2005 RES includes a number of key elements:

- A description of the key functions and areas of policy responsibility of the DfES;
- An assessment of the extent to which the policy areas are relevant from a race equality perspective (the RES states that ‘all the Department’s major policy areas are relevant to the promotion of race equality as they affect the lives of so many people’);

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- An explanation of the role of race impact assessments in meeting the Department's responsibilities in respect of the general and specific duties on public bodies;
- Sources of advice, guidance and further information as well as good practice materials for civil servants in policy teams on how to carry out race equality impact assessments (notably signposting to DfES 'Fair Way' intranet site);
- A description of the consultation procedures applied by the DfES stressing the need for the process to take account of any adverse impacts on different race or ethnic groups;
- A review of monitoring and evaluation arrangements put in place to monitor the implementation of the RES;
- A detailed explanation of how the Department will meet its obligations as an employer under the 'specific employment duties' of the Act including how diversity and equality issues will be mainstreamed into recruitment and retention strategies as well as training;
- A summary of Race Impact Assessments and Actions carried out previously.

Instrument 2 – REIAs at DfES

REIAs are an integral component of the concrete activities listed in DfES' Race Equality Scheme 2005. Summaries of race impact assessments are published annually as an annex to the Race Equality Scheme and are made available on the DfES website. A number of REIAs were included, for example, in DfES' annual update on the 2005 RES published in 2006.

To assist civil servants in carrying out race equality impact assessments, guidance has been produced by the Equality and Diversity Unit (EDU) within DfES which is made available through 'Fair Way', a DfES intranet site which provides, amongst other guidance and information for its staff: an online equality impact assessment tool, examples of previous race impact assessments and case study materials highlighting good practices. Consideration is being given to making the intranet tools available externally via the main DfES website.

Turning to specific examples, an REIA was undertaken in 2005 in respect of *Children and Early Years*, one of DfES' key policy areas. The *Five Year Strategy for Children and Learners* (July 2004) which committed DfES to delivering better support for children and families in order to give every child the best possible start in life was reviewed from a race equality perspective. Consequently, a number of relevant challenges were identified. These included:

- Low take-up of childcare (including early education), especially by Gypsy/Roma, Pakistani, Bangladeshi and Black African families, and the resulting impact of this on lower than average achievement by those groups in the Foundation Stage at age 5;
- The over-representation, especially of young Black people, amongst those who are not in education, employment or training (NEET); and
- The need to create a more diverse and ethnically and culturally sensitive workforce to deal with children to ensure that front-line practice more effectively meets the needs of children, young people and families from minority ethnic communities.

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Following the REIA, DfES prioritised a number of actions in order to address the problems highlighted above. These included:

- Placing a new statutory duty on local authorities to secure sufficient childcare to support all parents in work or in the transition to work and funding new pilots aimed at delivering free early years provision to 12,000 disadvantaged two year olds;
- Emphasising the importance of recording ethnicity with front-line staff, and training the staff in the collection and recording of information; explaining to young people why this is important; recruitment of personal advisers to work with young people from specific black and minority ethnic communities (to make them more approachable to the youngsters, many advisers are themselves from minority backgrounds ;
- Extending current data collection to establish a baseline assessment of ethnicity, gender, age and disability at all levels of the children’s workforce; collection and dissemination of good practice materials on ethnic and cultural sensitivity.

4. Evidence of good practice in mainstreaming

Instrument 1 – DfES Race Equality Scheme

While public authorities are required by law to produce a Race Equality Scheme, this particular approach demonstrates a number of good practices, namely:

- Drawing up a RES has assisted in institutionalising mainstreaming due to the fact that, for the RES to be effective and workable, there must be an organisation-wide commitment across different organisational functions, policy areas and areas of service delivery to ensuring that equality is actively promoted and that all activities are equality-proofed;
- The RES is underpinned by concrete actions and progress towards objectives can be ‘measured’ through regular monitoring and annual progress reporting in a way which is not possible with informal approaches to mainstreaming;
- External organisations with an interest in particular equality issues can obtain a clear understanding through the RES of the way in which DfES is dealing with its statutory responsibilities under the public duty to promote race equality. This transparent approach encourages stakeholders such as NGOs and specialised equality bodies to contribute fully to the consultation process in respect of new policies/ legislation.

Instrument 2 – DfES Race Equality Impact Assessment

- Carrying out REIAs helps identify unintended impacts on race equality that might not have been foreseen without an in-depth analysis. This in turn leads to better policy making and legislation;
- Systematically drawing up REIAs has assisted in institutionalising mainstreaming within DfES, since the procedure requires all policy teams to fully consider the implications on race equality of new and existing policies/ legislation;
- The REIA demonstrates to external stakeholders that policy/ legislation has been fully thought through and enables them to make a contribution to promoting race equality through the consultation process.

5. Institutional mechanism for mainstreaming

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Within DfES, the Equality and Diversity Unit (EDU) has responsibility for co-ordinating the preparation of the three-yearly Race Equality Scheme and the annual updates. It also has primary responsibility for the provision of advice and guidance on how to carry out an REIA.

EDU works closely together with policy teams and provides hands-on support and advice on equality and diversity issues including how to ensure that legal obligations under the Race Equality (amendment) Act 2000 are adhered to. It emphasises that embedding equality and diversity is a continuous process and not a one-off activity.

6. Monitoring and evaluation

Monitoring procedures are outlined in the Race Equality Scheme. These describe the Department's overall approach to monitoring, evaluation and performance measurement as well as set out specific arrangements to ensure that delivery against actions in the RES is monitored. A key element of the monitoring framework is that REIAs are carried out for each policy area for which DfES is responsible, and the results are included in the annual update on the RES.

Other means of monitoring performance delivery on equality and diversity are mainly statistical. The Department requires all policies to be monitored using statistical evidence disaggregated wherever possible by race, gender, disability and age. The *'rule of thumb for success in terms of equality is that the results should be proportional to representation in the target population. Disproportionate results lead to further investigation, such as research and specific targeting of groups found to be at a disadvantage compared to others in the population'*.

DfES also monitors the representation of minority groups within delivery workforces and encourages good practices from delivery partners in improving the representation and career progression of any under-represented groups. For example, local education authorities (LEAs) are required to monitor teaching staff by ethnic group.

7. Replicability of approach

The public duty originated in Northern Ireland, which has separate equality legislation from Great Britain. A gradual formalisation of a similar procedure including the preparation of Equality Schemes and Equality Impact Assessments has since emerged in Great Britain. Similar requirements to produce an Equality Plan for public authorities can be found in a small number of other Member States, such as Finland (gender and race equality plans).

There are human and financial resources involved in adopting such a comprehensive approach to mainstreaming. In some Member States, undertaking a separate Equality Impact Assessment for all policy instruments may be considered administratively burdensome. An alternative would be to integrate an equality dimension into wider Regulatory Impact Assessment procedures which are used in several Member States.

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| <i>Example 2: Helsinki City Authority – the role of Equality Plans in non-discrimination mainstreaming at regional level</i> | |
| Equality strands | All |
| Region/country | Finland |
| Organisation and address | Helsinki City Authority City Council, City Board and City Administration Centre: Pohjoisesplanadi 11-13, Helsinki, Finland |
| Type of organisation | Local authority |
| http://www.hel.fi/ | http://www.hel.fi/ |
| Contact person | Ms Anu Riila, Social Services Department |
| Telephone / e-mail | Tel. +358 9 310 42303 anu.riila@helsinki.fi |
| 1. Background on organisation | |
| <p>Helsinki City Authority is the local authority for Helsinki, the largest city in Finland with more than 500,000 inhabitants. The wider Helsinki region – including Vantaa and Espoo (with which Helsinki co-operates closely on non-discrimination mainstreaming matters) has a population of 1.2 million.</p> <p>The City Authority is responsible for delivering a wide range of services to Helsinki residents including education, health and social welfare services, public transport, public housing and other support services.</p> | |
| 2. Organisational arrangements for mainstreaming non-discrimination | |
| <p>The City Council does not have a dedicated equality unit. Overall responsibility for equalities issues is co-ordinated by the human resource department. Each department is then responsible on a decentralised basis for mainstreaming equalities issues into its activities.</p> <p>In terms of resourcing, at the departmental level while there are no dedicated equality specialists working full-time, some officials do have considerable expertise in equalities matters (in some cases their job function involves dealing with equalities issues).</p> <p>Some departments have set up informal structures on equalities issues. For example, the social services department has set up an equality steering group to monitor the implementation of the equality plan which meets four times a year to review progress against objectives, to exchange experiences and to share good practices.</p> | |
| 3. Mainstreaming tools to ensure respect of non-discrimination principles | |
| <p>This case study focuses on the role of Equality Plans as a mainstreaming tool in local government in Finland.</p> | |

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Legal context

Under the 2004 Equality Act, Finnish public bodies have responsibility to systematically promote equality in all their activities as well as to take remedial steps to tackle obstacles to the realisation of equality. A practical means of promoting equality of opportunity provided for by the Act is the requirement on public authorities to draw up an Equality Plan. While there has been a statutory duty on public bodies to draw up a Gender Equality Plan since 1995, the 2004 Equality Act introduced an additional requirement to produce a separate plan on race and ethnicity.

Prior to the introduction of the statutory duty on public bodies introduced by the 2004 Equality Act, some mainstreaming in the area of race and ethnicity was already taking place following the implementation of a national programme adopted by the Finnish government in 1997 to promote the integration of ethnic minorities and recent immigrants

National guidance on drawing up an equality plan

The Finnish Ministry of Labour produced national level guidance for public bodies on how to prepare an equality plan. This guidance together with complementary tools such as the development of an Equality Portal for local authorities (www.equality.fi) financed through the *EU's Community Action Programme to Combat Discrimination 2001-06*, were perceived as useful in supporting the work of local authorities in preparing equality plans.

The web portal provides guidance on equality planning, equality toolkits for local authorities, as well as guidance on training for equality.

Helsinki City Authority – preparation of an equality plan

Helsinki City Authority was required under the 2004 Act to produce an equality plan on race and ethnic background. While the implementation of the Plan is monitored annually through self-evaluation against a number of qualitative indicators, the plan has no fixed timeframe.

Internal guidelines for each of the departments on the preparation of the equality plan were drawn up by Helsinki City Authority's Human Resource department in October 2004. These set out minimum requirements on what should be included in the Equality Plan.

Each of the six departments within the City Authority (social services, education, housing, health, employment and human resources) then drew up their own equality plans, which were then combined in an overarching Equality Plan for Helsinki City Authority.

While the guidelines focused on race and ethnicity, individual departments were able to adopt a broader approach covering a wider range of equality strands if appropriate. For example, the equality plan for the social services department encompasses disabilities, age and children's rights as well as race/ ethnicity.

While other equality strands – particularly disabilities – were taken into account at the departmental level, there is no statutory duty to draw up an equality plan in respect of the other equality strands covered by the Equal Treatment Directives.

Objectives of the Equality Plan

The preparation of an Equality Plan has a number of specific objectives, namely to:

- Promote equality and prevent direct and indirect discrimination and harassment
- Support authorities in the development of strategies and working practices that are based on non-discrimination principles

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- Help service providers ensure that they develop services that meet the needs of different customer groups including those at risk of discrimination
- Ensure that the realisation of equality is taken into consideration in planning activities, information sharing, the allocation of resources and in working practices
- Enable activities and/or services provided to be monitored and evaluated so that their impact on different minority groups can be properly assessed
- Help identify risks that may lead to discrimination (irrespective of whether unintended).

Measures included in the Equality Plan

All six departments within the City Authority prepared equality plans and were asked to include a number of concrete measures to promote equality. The overarching Equality Plan collectively contains 25 separate measures to mainstream equality of opportunity.

Examples include the development of guidelines on how to take equalities issues into account in public service provision, facilitating access to public facilities for those with disabilities and a number of awareness raising activities. The Equality Plan also includes a number of positive actions, such as furthering the equal participation of ethnic minorities and immigrants in the economic, social, cultural and political life of the City.

Mainstreaming non-discrimination – in internal activities and external service provision

Non-discrimination principles are mainstreamed both in relation to internal activities and through external service provision:

- *Internal* – the need to increase the representation of under-represented groups such as ethnic minorities on the staff of the City Authority is explicitly emphasised in the HR strategy. Non-discrimination principles are therefore closely integrated into recruitment processes and procedures
- *External* – the needs of particular groups at risk of discrimination – in employment and in service provision – are carefully taken on board in planning service provision.

4. Performance monitoring

Each department must submit an annual progress report outlining progress in delivering the Equality Plan. The submission of an annual report is seen as a useful instrument in helping to improve mainstreaming. Although the progress update involves self-evaluation, the annual review process is useful in highlighting areas where progress has been made and conversely signalling areas where further action needs to be taken.

To date, performance monitoring has largely been qualitative. Going forward, there is recognition that measuring performance in mainstreaming equality of opportunity will need to be underpinned by quantitative and qualitative indicators. The social services department for example has recently started the process of defining quantitative indicators. An example is the percentage increase in the number of employees from an ethnic minority background.

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5. Success factors

- Annual *progress reporting* was viewed as being key to monitoring how effectively the Equality Plan has been implemented. Quantitative as well as qualitative indicators should be included in the performance measurement framework;
- The setting up of an *equality steering group* to monitor the implementation of the equality plan in the social services department has helped mainstreaming by ensuring that equalities issues are regularly discussed. The group meets four times per year;
- *Training* on how to incorporate non-discrimination principles into the activities of the local authority was regarded as critical to the success of mainstreaming. It was recognised, however, that training needs to become more systematic and delivered organisation-wide – at present training on non-discrimination is delivered ad hoc;
- Provided an appropriate framework is put in place as to how to go about mainstreaming, all civil servants should be able to take due account of non-discrimination principles in their everyday work. However, for mainstreaming to be effective, it must be combined with *specialist support and guidance*;
- Mainstreaming is an *ongoing, continuous and long-term process*. The challenge is in ensuring that good practices already present in some departments are transferred throughout the organisation;
- The fact that non-discrimination is mainstreamed into both *internal activities and external service provision* has helped to ensure that non-discrimination principles are closely integrated into the working practices of the Authority.

6. Links with other organisations of relevance to mainstreaming

Co-operation between local authorities

The *National Advisory Board on Immigration and the Integration of Ethnic Minorities* (which was set up in 1995 and also has a regional presence through several regional boards) recently set up a working group for the Helsinki metropolitan area bringing together representatives from Helsinki City Authority and from Espoo and Vantaa - neighbouring local authorities in the wider Helsinki metropolitan area.

Close co-operation between local authorities is viewed as having been an important catalyst in strengthening capacity at local level to mainstream non-discrimination principles by encouraging wider discussion of equality and diversity issues, the sharing of good practices etc.

Co-operation with NGOs

The City Authority also maintains close links with NGOs – such as the Finnish Disability Forum and the Finnish League for Human Rights. Again, this was viewed as being helpful in ensuring that there was adequate ‘connectedness’ between local authorities and those involved at the grassroots level in working with particular social groups.

NGOs have also played an important role in helping to strengthen mainstreaming through their involvement in delivering targeted training to employees of the City Authority. NGOs were involved, for example, in delivering training to staff sitting on five regional advisory boards of primary and secondary schools. Training was provided on how to mainstream equalities issues in an educational context. Additional training was delivered to those in four regional social services and health centres with regard to ensuring equality in health service provision.

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| 7. Impact |
| As the statutory duty on public bodies in Finland to produce separate equality plans on race and ethnicity was only introduced by the 2004 Equality Act, it is still too early to get a full picture of the impact of the Act. However, as the case study shows, a number of success factors have already been identified in the implementation of the scheme. The planned introduction of qualitative performance indicators is also bound to influence the future measurement of impact. |
| 8. Replicability of approach |
| Equality plans have been used as a mainstreaming tool in a number of countries – including Finland, Great Britain and Northern Ireland. The approach is certainly therefore replicable, providing resources are made available to ensure that equality specialists are able to work alongside their policy colleagues in putting together an equality plan. |

CASE STUDIES

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| Example 3: Ireland – the role of a specialised equality body in embedding equality mainstreaming | |
| Equality strands | Nine equality strands covered by the Equal Status Act 2000 including all six covered by Article 13 |
| Region/country | Dublin, Ireland |
| Organisation and address | The Equality Authority 2 Clonmel Street Dublin 2 - Ireland |
| Type of organisation | Equality Body |
| Website | www.equality.ie |
| Contact person | Niall Crowley |
| Telephone / e-mail | Tel: +353 1 4173333 |
| 1. Background on organisation | |
| <p>The Equality Authority is an independent body set up under the Employment Equality Act 1998. Its functions and powers were further expanded under the Equal Status Act 2000 and the Equality Act 2004. Its mission is to ‘achieve positive change in the situation and experience of those groups and individuals experiencing inequality by stimulating and supporting a commitment to equality:</p> <ul style="list-style-type: none"> • Within the systems and practices of key organisations and institutions. • As part of the cultural values espoused by society. • As a dimension to individual attitudes and actions.’ <p>Amongst the responsibilities of the Equality Authority are to monitor and enforce the implementation of equality legislation, and to provide an information service on the legal obligations of employers and service providers under the Equal Status Act, 2000 (see below).</p> | |
| 2. Legal background | |
| <p>The Equal Status Act, 2000, outlaws discrimination in employment, vocational training, advertising, collective agreements and in the provision of goods and services on nine distinct grounds. These include: gender, marital status, family status, age, disability, race, sexual orientation, religious belief and membership of the Traveller Community.</p> | |
| 3. Summary of mainstreaming instrument | |
| <p>This case study examines the role of the Equality Authority Ireland in embedding non-discrimination mainstreaming and equal opportunity principles in public sector institutions and in policy making as well as in promoting equality and diversity in wider society.</p> | |
| <p>In particular, it examines the role of the <i>Strategic Action Plan for 2006-08 ‘Embedding Equality’</i> through which equality mainstreaming activities can take place. The strategic plan seeks to further develop the concept of a national strategic framework for action on equality in Ireland.</p> | |

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4. Detailed assessment of mainstreaming instrument

'*Embedding Equality 2006-08*' is the third strategic plan of the Equality Authority. It envisages the Equality Authority playing a key supporting role in engendering a culture of equality in public institutions and throughout society.

The Equality Authority's approach to equality mainstreaming has evolved. The first strategic plan (2000-02) mainly focused on embedding the new legal framework in respect of equality. The second strategic plan (2003-05) advocated an active approach to promoting equality. In particular, it emphasised the need for a strategic framework to promote equality combining equality legislation and enforcement with equality mainstreaming in key areas having greatest potential to impact on equality outcomes e.g. in the workplace, in education and health and in public sector service provision more widely.

The third strategic plan (2006-08) goes further still and emphasises '*the contribution of individual action, organisational practice and societal values in promoting equality and in combating discrimination and seeks to embed a long-term commitment to equality*'.

Strategic objectives to embed equality

Five **key strategic objectives** are included in the strategy to embed non-discrimination and equal opportunity principles. In summary, these are to:

1. Stimulate and support initiatives that enable the systems and practices of key organisations and institutions to promote and achieve full equality in practice.
2. Maintain and further develop a culture of compliance with equality legislation.
3. Contribute to the further development of a strategic framework for action on equality.
4. Stimulate and support a response to core equality issues for specific groups experiencing inequality.
5. Sustain and further develop the standing expertise and capacity of the Equality Authority at international, national and local levels.

Each strategic objective is then underpinned by a **number of goals**. For example, under the first objective (which focuses on the workplace and on organisations with responsibilities for education, healthcare, accommodation provision and for the delivery of labour market measures), the main goals are identified as being to:

- Encourage and facilitate planned and systematic approaches to workplace equality.
- Stimulate and support policy development and school practice that seeks to achieve inclusive schools and maintain a partnership with the relevant partners in education in this work.
- Promote and contribute to policy development and organisational systems and practices for equality competent health service provision.
- Promote equality and diversity in labour market measures through supporting organisations to accommodate diversity in the provision of education, training and employment services.
- Explore strategies to promote equality within accommodation policy and provision.

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The Equality Authority commits itself in the Strategic Plan to **concrete activities** through which these goals will be achieved. For example, taking the fourth goal above as an example, actions envisaged include:

- Contributing to policy development that stimulates and secures equality and diversity in the labour market.
- Working with providers of labour market measures to review the design and delivery of these measures for their ability to achieve full equality in practice and to accommodate diversity, and to take steps to enhance this ability.

Under each strategic objective, **key performance indicators** are identified. These are mainly qualitative and seek to outline concrete outcomes that will be achieved as a result of implementing concrete actions specific to each strategic objective. For example, under the first strategic objective, anticipated outcomes from activities carried out under each of the five goals include:

- Working relationships will be developed with key organisations and institutions in each sector.
- Research and other knowledge development in relation to equality, diversity and discrimination issues in each sector.
- Practical guidance materials developed for different sectors.
- Practical initiatives, systems and policies developed by organisations and institutions in each sector that promote full equality in practice, accommodate diversity and combat discrimination.

The third strategic objective seeks to ‘contribute to the further development of a strategic framework for action on equality’. This provides a good example of the way in which the Equality Authority is seeking to promote a holistic approach to equality mainstreaming. **7 key elements of an integrated approach to mainstreaming** are identified in the Plan. These include:

- Legislation and in particular equality legislation to promote equality and to combat discrimination.
- Institutions and in particular institutions to secure the effective implementation of equality legislation.
- Mainstreaming including processes to ensure that all public sector policies and programmes contribute to achieving equality objectives.
- Targeting which involves investment of resources to address the impact of discrimination on particular groups, to provide for needs that are specific to a group and to support equality outcomes from mainstream provision for groups experiencing inequality.
- Participation which includes the involvement in decision making processes of organisations that articulate the interests of groups experiencing inequality.
- Agenda-setting by developing and agreeing action agendas to enhance the experience and situation of groups experiencing inequality.

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- Monitoring including gathering and analysing equality data.

A **number of goals** have been set to underpin the realisation of a strategic equality framework. These include a commitment to:

1. Promote and support the further development of equality legislation.
2. Further develop and support approaches to equality proof public sector plans, policies and programmes at national and local level.
3. Further promote and support the collection and analysis of equality data.
4. Explore and identify the boundaries for, and to promote the use of, positive action.
5. Stimulate, engage with and support public debate on a societal commitment to equality and diversity.
6. Engage with the implementation of the EU Year of Equal Opportunities for All 2007.

5. Evidence of good practice

- The Strategic Plan provides a good illustration of the important role specialised equality bodies can play in embedding equality mainstreaming amongst public institutions responsible for policy making and for service provision.
- It seeks to achieve this in practical ways, such as drawing up guidance on how public authorities can fulfil their legal obligations under equality legislation as well as on the steps needed to ensure their institution becomes ‘equality competent’.
- The strategy advocates a holistic approach to the promotion of non-discrimination and equal opportunity principles (combining equality legislation and legal enforcement with equality mainstreaming and active measures). The Equality Authority’s support for a national equality strategic framework appears to have been effective.

- The Plan is well structured with clear linkages between strategic objectives, goals underpinning each objective and concrete, practical actions to achieve those objectives.
- Key performance indicators are included under each strategic objective. These set out clearly what outcomes the implementation of each objective are designed to achieve.
- There is regular monitoring of progress towards objectives and of outcomes achieved.
- Extensive consultation took place with key stakeholders in drawing up the Strategic Plan. Securing the buy-in of a diverse range of stakeholders during the preparation of the strategy - should increase the likelihood of its successful implementation.

6. Replicability of measure

The Equality Authority’s Strategic Plan can be seen as playing an important contribution in the development of a national strategic equality framework in Ireland through which non-discrimination and equal opportunity principles can be promoted at all levels of society and governance.

This approach could be adopted in other countries provided that equality bodies are equipped with appropriate resources – human and financial - for them to deliver on its successful implementation.

SURVEY ANALYSIS

B

B.1 Survey work on non-discrimination mainstreaming

A survey was carried out as part of the study on non-discrimination mainstreaming. The aims of the survey were to:

- Ascertain the extent to which a non-discrimination mainstreaming approach to the formulation and implementation of policies is taking place at Member State level
- Identify any obstacles and challenges hindering the wider usage of a non-discrimination mainstreaming approach
- Identify examples of good practice
- Assess the impact that the transposition into national legislation of the Equal Treatment Directives stemming from Article 13 of the Treaty of Amsterdam has had in promoting non-discrimination mainstreaming

Given that different types of organisations at Member State level will have differing viewpoints on the extent to which non-discrimination mainstreaming is taking place, three different tailored surveys were launched, targeted at:

- 1) Public Authorities involved in policy making at national (and regional) level,
- 2) NGOs, Specialised Equality Bodies, Charities etc., and
- 3) Trade Unions and Employers' Organisations.

B.2 Summary of survey findings

The complete survey findings are available online from the website of the European Commission's DG Employment, Social Affairs and Equal Opportunities. A short summary of the main findings is provided below:

Over half of all respondents (56.9%) stated that they applied an **active approach to promoting non-discrimination** principles through activities such as awareness-raising and conferences, identifying best practice, developing equality action plans and guidance, training and capacity building, setting up equality working groups, proactive relations with NGOs, lobbying policy-makers, providing finance to equality-related projects, etc.

The non-discrimination principles outlined in the **Equal Treatment Directives** appear to have been taken into account quite extensively in the:

- Formulation of national legislation: 58.3% (to a high degree) - 38.9% (to some extent)
- Development of policies: 40.5% (to a high degree) – 56.8% (to some extent)

A number of concrete **examples of mainstreaming initiatives** were put forward, some of which were used as examples in the case studies presented in this report (see appendix A).

SURVEY ANALYSIS

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The **equality strands** most frequently dealt with were *Race* and *Disability*:

- 70.6% of public authorities and 72.6% of NGOs/social partners address *race* and 61.8% of public authorities and 53.5% of NGO/social partners deal with *disability*
- Public authorities seem to deal regularly with all equality strands, whereas 20.9% of NGOs/social partners never dealt with *sexual orientation* and 16.2% never dealt with *religion or belief*

Respondents identified a number of **potential obstacles to the process of mainstreaming**. The most important categories of obstacles identified were:

- Institutional problems, lack of awareness and understanding, lack of political will, prejudice and attitudes of society, insufficient pressure from interest groups, lack of human and financial resources and conflicts of interest

The **transposition** of the **Equal Treatment Directives** into national legislation seems to have had a particularly **positive impact** on promoting mainstreaming in the equality strands of *Disability* and *Race*.

- *Disability*: 60.2% of respondents stated that the transposition had had a very positive impact and 14.6% some positive impact
- *Race*: the corresponding figures in respect of race were 56.3% (very positive impact) and 15.5% (some positive impact)

With regard to the impact of the Directives on **different stages of the policy-making process**

- 19.3% of NGOs and social partners and 51.3% of public authorities felt that there had been a very positive impact on the development of national legislation, whereas 53% and 46.2% respectively acknowledged that the Equal Treatment Directives had had some positive influence
- 63.1% of NGOs and social partners said that the impact on the development of national policies had been positive, whereas 94.9% of public authorities expressed a positive view in this respect
- Perhaps surprisingly, 40% of NGOs and social partners stated that the Equal Treatment Directives have made no change on the implementation of policies.
- 77.3% of respondents agreed that the Directives have raised the profile of non-discrimination issues among policy-makers and raised awareness about individual rights (73.6%)
- 69.5% of respondents felt that the Directives had been influential in integrating non-discrimination concerns more closely into policy-making and the formulation of legislation, whilst 58.4% said that they are starting to make a difference to equality outcomes

A very high percentage of respondents (86.5%) agreed that it would be helpful for the

SURVEY ANALYSIS

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European Union to take further steps to promote non-discrimination mainstreaming principles, particularly in the following policy areas:

- European Employment Strategy (85.3%)
- EU education, training and youth programmes (84.3%)
- Justice, Freedom and Security (67.6%)
- EU Structural Funds (64.7%)

The survey results suggest that the Equal Treatment Directives have had a positive impact in promoting the integration of non-discrimination concerns into national policy making and the formulation of legislation which is evidently encouraging.