

Making Equality Effective

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The Complaints led model

- Victim must
 - initiate complaint
 - find evidence
 - prove breach of discrimination law against named perpetrator
- Remedies:
 - Win or lose
 - Backward looking - compensation

Complaints Led model

- Advantages
 - Not dependent on institutional initiative
 - Defined right
 - Remedy to specific individual
 - May deter
- Disadvantages
 - Burden on individual
 - Possible victimisation
 - Problems of proof
 - Not systematic
 - Costly and slow
 - Requires victim and perpetrator
 - Remedies don't require structural change

Modified complaints led model

- *Minimise burden on individual*
- Class actions (all have identical claim)
- Wider standing: commission, union, NGO on behalf of victim/without identified victim
- *Modify adjudicative body*
- Specialised tribunals – quicker and cheaper,
- Initiated by victim/ initiative of body
- BUT: still require proof of breach
- **Conciliation and persuasion: non judicial bodies.**

Modified complaints-led models

- Advantages
- Quicker and cheaper than courts
- Less burden on complainant
- Possibility of forward-looking remedies
- Disadvantages
- Not widely used
- Dependent on resources
- Lack of awareness
- Wider structural problems

Proactive models

- Complaints led model
- Initiated by victim
- Proof of breach by identified perpetrator
- Compensation to individual
- Proactive model
- Initiated by body capable of change
- Structural inequality
- Positive steps towards structural change

Proactive Models

- Initiative with employer rather than victim
- Change systematic rather than ad hoc
- Responsibility with those who can bring about change; no need to prove fault
- Group remedies – institutional change
- Participation

Functions of proactive measures

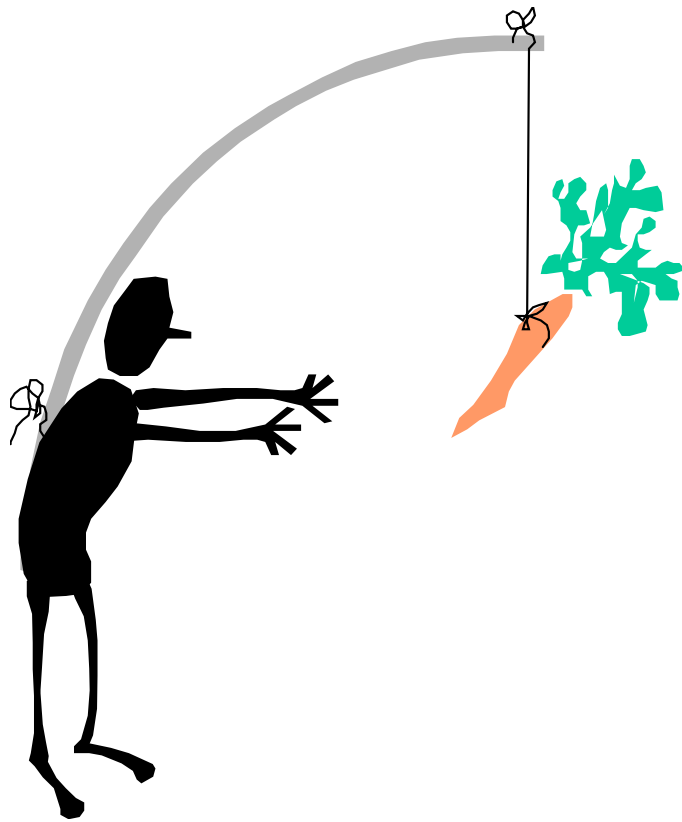
- Eliminate unlawful discrimination: more effective anti-discrimination laws
 - Equal pay
- Promote equality
 - Quotas, family friendly measures
- Prevent new measures from creating or perpetuating inequality
 - Impact assessment

Structure

- Who is responsible?
- Who participates and why?
- How is effect evaluated? Role of monitoring
- Enforcement

Questions for Discussion

Enforcement



- Reliant on participants' energy/political goodwill
- Rights or policy?
- Reporting requirements
- 'Enforcement pyramid'
- Trade Unions and collective bargaining

2. Defining the goals

- Targets
- Measurement
- Data Collection

3. Role of individual

- Conflict between individual and collective?
- Individual as trigger for general duty?



Functions of Participation

Gaining information

Those affected best placed

- Giving information
- Transparency
- Accountability
- Publication

- Better Compliance
- Instead of 'victim'

Influence decisions

Deliberative democracy

'Learning'

Voice

