



Targeted employee development



Diversity Works
for London

Introduction

Targeted development refers to development activities focused on particular groups in the workforce. Employers may wish to introduce targeted development to help address under representation in particular management levels or occupational areas. The purpose of this guidance is to explore some of the key issues for employers when considering providing such opportunities.

Targeted Development is often more commonly referred to as 'Positive Action'. To avoid confusion and to take account of the legislative context, this guidance will use the term Positive Action to describe targeted development.

What is meant by Positive Action?

There is much confusion around the term 'Positive Action'. Many employers are unclear as to what they can and can not do without risking a legal challenge. They may also feel uncomfortable with taking action that appears contrary to principles of merit. If not handled carefully, undertaking such initiatives can also evoke feelings of tokenism within both the targeted group and resentment in the rest of the workforce.

Positive action is not positive discrimination (or Affirmative Action as it can be known). Positive discrimination is unlawful and refers to giving someone an opportunity simply because of their race or sex, irrespective of their individual skills and abilities.

Positive Action is about creating a level playing field to enable people to compete on equal terms. It describes a range of measures which aim to eliminate unlawful discrimination and promote equality of opportunity. It is about encouragement and training but not selection. If properly planned and positioned within a wider equality and diversity strategy, positive action can be a useful tool for helping to address the effects of specific past discrimination or disadvantage. Positive Action can be a step towards achieving a workforce which is reflective of today's diverse society.

Positive Action and the law

It is important to note that the law surrounding Positive Action is expected to be amended. The Government has announced its intention to extend the scope of Positive Action and detailed proposals are expected later in 2008.

The information given in this guidance note relates to the current legal position and focuses on the opportunities for positive action within the workplace rather than widening the potential pool of recruits externally.

Positive Action is not a legal requirement but there are provisions in law to allow it under certain circumstances.

The 1976 Race Relations Act and the 1975 Sex Discrimination Act allow for positive action under certain circumstances. Where there has been under representation of one gender or particular racial groups in particular work for the previous 12 months, the law allows employers to give encouragement to, and provide training for the minority gender or members of particular racial groups.

Positive action is not a term recognised in disability legislation as the Disability Discrimination Act (2005) only gives protection to disabled people. The law acknowledges that equality for disabled people will not be achieved by treating them the same as non-disabled people. For example, employers are required to make 'Reasonable Adjustments' where a provision, criterion or practice or any physical feature of their premises places a disabled person at a substantial disadvantage with persons who are not disabled.

Disability legislation permits employers to take Positive Action even though the legislation itself does not specifically refer to it. The Disability Equality Duty requests public bodies to 'take steps to take account of disabled persons' disabilities, even where that involves treating disabled people more favourably than other persons'. In practice it would seem that many employers have yet to take advantage of this opportunity, particularly in terms of existing employees.

The Employment Equality Regulations covering age, sexual orientation and religion or belief make it unlawful to discriminate, either directly or indirectly, in employment and vocational guidance. The Regulations permit training or encouragement to 'prevent or compensate for disadvantages linked to sexual orientation/religion or belief/persons of that age or age group'.

Under European law Member States can take Positive Action measures to prevent or compensate for disadvantages linked to discriminatory treatment although any action remains voluntary. There is a view that action is needed to accelerate progress as relying on natural wastage alone is unlikely to lead to a more diverse workforce in the foreseeable future. The Equalities Review provided clear evidence that the inequality gap for some groups within the workplace will either never be closed or is closing at far too slow a rate. It recommended that 'time limited, proportionate balancing measures' in line with European law, be adopted.

Taking Positive Action – what can employers do?

In the context of the workplace, Positive Action in its widest sense typically focuses on the issue of under representation at senior management levels or in particular occupational areas. Examples of targeted development include:

- formal leadership development programmes targeted at particular groups (usually ethnic minorities and/or women) in the particular grades (normally just below the senior management grade)
- personal development courses focusing on such areas as confidence building, career planning and assertiveness
- job shadowing and attachments to occupational areas with under representation
- away days to enable under represented groups to network
- formal and informal mentoring and buddying arrangements

More general forms of encouragement include hosting lunches with high profile speakers from under represented groups or with senior Board members, ring fencing a proportion of places on generic management development programmes for under represented groups, encouraging targeted action learning sets and holding confidential discussions with under represented staff to identify perceived and actual barriers to progression.

Although many examples of targeted development have concentrated on under representation of women and ethnic minorities, employers are beginning to expand such programmes to include other under represented groups, most typically lesbian and gay and disabled employees.

Given the concerns surrounding Positive Action it is important to be able to justify a proposal with clear evidence and to present it as a legitimate and credible option, not a remedial activity for some employees. As with any development offering, the purpose of a targeted programme is to provide an opportunity to encourage *all* staff to reach their full potential in the workplace, irrespective of who they are.

It is worthwhile for employers developing a policy on Positive Action to outline how it supports organisational values, provides the statistical evidence of under representation and explains what action will be taken and why.

Communicate the policy widely. It is important to emphasise that the aim is to remove unnecessary barriers to enable all staff to compete on equal terms for opportunities and training and not to give preferential treatment to some. Being transparent and positioning targeted action as part of a wider package of opportunities open to all staff can help defuse criticism.

As well as a developing a policy, consider other ways of raising awareness to address any confusion around positive/targeted action and to ensure that the rationale is understood. This could include discussions as part of diversity awareness training, publicising the analysis of workforce data to demonstrate under representation, highlighting Positive Action case studies from similar organisations or competitors and interviews with participants and mentors in articles on the intranet and in-house newsletters.

Use terminology that is meaningful to your organisation. If you believe that 'Positive Action' will have a negative connotation use an alternative such as 'Targeted Action'. Whatever term is used, make sure that there is the statistical evidence of the specific under representation to support action and to avoid legal challenge.

It is essential that targeted action is seen to have support at the most senior levels of the organisation. For example, getting a Board member to be the sponsor of a particular initiative or to be a mentor can have positive impact on employees' perceptions.

As well as having senior support it is beneficial to engage with members of diversity staff networks to gain a qualitative insight into the issues surrounding under representation and ways of addressing them. Staff networks can also help test out proposals and promote them. In addition, network members may be willing to be mentors. However, it is important to manage the expectations of network members and participants in targeted action from the outset. Targeted action is about development and encouragement not a guarantee of promotion.

Another way of managing targeted action programmes is by opening up the programmes to *all* staff. The programmes still focus on the issues and barriers experienced by some under represented groups whilst providing leadership skills and personal development for all. This approach can help raise awareness of diversity by providing the opportunity for interaction and sharing of experiences. It can also encourage staff who may be reluctant to apply for a targeted programme for fear of drawing attention to who they are rather than what they can do. This can sometimes be the case for gay and lesbian individuals who may have chosen not to reveal their sexual orientation in the workplace and so would not apply for a programme which targeted lesbian and gay staff.

Employers who do not have the resources or sufficient numbers of employees from under represented groups to justify an in-house targeted development programme can opt into programmes run by external equality strand specific organisations. These programmes provide leadership training, personal development and the opportunity to network in a safe environment. Examples include the Stonewall Leadership Programme for lesbian and gay people and RADAR's Leadership Development programme for disabled people.

Whatever approach is taken, for targeted development to be credible to both its intended recipients and the wider workforce it needs to have clear objectives and be supported by evidence. The activity needs to be regularly reviewed to assess impact and to ensure that the reasons for its existence remain valid.

Summary

When considering taking action targeted at particular groups of employees do take account of the following points:

- Assess the evidence you have of under representation in particular occupational areas or management levels
- Aim to get quantitative as well as qualitative data, ideally supported by relevant external research
- Explore the reasons for under representation and challenge any assumptions
- Be clear on your reasons for wanting to take action to address any particular under representation

- Communicate your reasons for wanting to provide a targeted development opportunity to the workforce as a whole and stress the business benefits
- If you have staff networks do consult the members for their views of the issues and ways of addressing them
- Plan and resource targeted development activity to the same high standards as that of generic programmes to give credibility and avoid claims of tokenism
- Use staff networks to promote targeted development opportunities and to get feedback on impact
- Seek the views of your trade union or workplace representatives on ways of tackling under representation
- Make sure that there is a range of development opportunities available for all staff to help avoid any accusations of preferential treatment
- Equality proof generic development activities to ensure that the selection procedures, content and delivery methods do not have an adverse impact on particular groups of employees
- Ensure that all development activity is systematically monitored across all of the equality stands and that the data is reviewed regularly