Measuring the awareness of the Employment Equality (Sexual Orientation) Regulations (2003) amongst employers in the Yorkshire & Humber Region

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By Surya Monro & Alex Nunn, Policy Research
Institute, Leeds Metropolitan University

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By:

Surya Monro and Alex Nunn

POLICY RESEARCH INSTITUTE
LEEDS METROPOLITAN UNIVERSITY
22 QUEEN SQUARE
LEEDS LS2 8AJ

TEL: (00) 44 (0)113 283 1960
Fax: (00) 44 (0)113 283 1961

Website: www.leedsmet.ac.uk/lbs/pri

Acknowledgements

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About the Fair Play Partnership

Fair Play works in partnership with local and regional organisations to develop and support activities which build the capacity of local organisations and communities, enabling them to contribute to social and economic well-being. The organisation's core theme is to develop initiatives, projects and activities, which encourage a more diverse participation in employment, self-employment, community leadership and public life for under-represented groups.

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Introduction and background

Regulations have been in place since 2003 to prevent discrimination in employment on the grounds of Sexual Orientation. However, legislation is not on its own enough to secure fair practices in the workplace. Importantly, previous research has suggested that employers lack awareness of the regulations and may not have fully adjusted to the requirements and implications of the legislation. As such, the Government, through the DTI, has made funds available for capacity building among employers to support the implementation of the regulations.

Using this funding, the Fair Play Partnership commissioned the Policy Research Institute at Leeds Metropolitan University to undertake research which will provide baseline information on the existing state of awareness, understanding, attitudes toward and implementation of both the Employment Equality (Religion and Belief and Sexual Orientation) Regulations. This report presents findings from a survey of employers in relation to the Sexual Orientation Regulations. A separate report provides a similar review of findings in relation to the Religion or Belief Regulations.

Methodology

The report is based on the findings of a telephone survey of over 400 employers in the Yorkshire and Humber region. Initial quotas were set to ensure an adequate response from each of the three different employer size bands (1-10 employees, 11-49 employees, 50+ employees). Responses were then weighted to be representative both of all employers in the region and of the three employer size bands.

Headline Findings

The overall picture is one of significant progress regarding the Employment Equality (Sexual Orientation) Regulations in terms of levels of awareness, and some areas of provision such as equality concerning compassionate leave. There is a marked trend towards larger and medium sized – typically statutory, but also business sector – employers being far more aware, proactive and positive regarding the regulations. There are high levels of ignorance, and indifference, concerning the regulations especially amongst smaller employers, and in a few cases overt resentment.

Existing employment practices

Employers were asked a variety of questions about their existing employment practices:

- 65% of all employers in the region had written procedures covering disciplinary and dismissal and 61% had written grievance procedures. **Just over half of all employers in the region said that they had written equal opportunities (56%) and discrimination (51%) policies.** Many fewer employers had written policies covering issues like access to training and promotion.

- However these figures are skewed by the large number of smaller employers who, despite their numbers employ only a small proportion of the region's workforce. **The survey findings showed that the larger the employer, the more likely it is to have written employment policies.** Among those with 50 or more employees, 90% or more had written policies for dismissal, disciplinary and grievance procedures, equal opportunities and discrimination, while **less than half of employers with 10 employees or fewer had written equal opportunity** and **less than half of those made their new staff aware of such policies**.

- **Industrial sector was also related to the likelihood of having written employment policies in place.** Across the board employers in Primary, Construction and Transport sectors were comparatively less likely to have formal written employment policies than employers in the Public sector. 42% of employers in Primary, Construction and Transport sectors reported that they had written equal opportunities policies compared to 85% of Public sector employers.

Existing employment practices regarding sexual orientation

Employers were asked questions regarding current employment practice, and findings showed that:

- **Only a minority (4 small employers, 16 medium sized and 21 large businesses) kept records regarding their employees' sexual orientation.**
- Employers were also asked about whether they had any personnel issues or cases relating to discrimination concerning sexual orientation. **1% of small, 1% of medium sized 4% of large businesses had such cases.** These

figures have to be treated with caution, as cases of harassment may go unreported.

- **Composite figures show that 84% of organisations allow staff compassionate leave regardless of the gender of their partners.**

- **26% of organisations said that they provided any occupational pensions or benevolent funds equally to same sex partners and heterosexual partners** – provision of equal benefits was much higher amongst larger organisations (40% of medium sized and 45% of large organisations as opposed to 28% of small ones)

Awareness of the Employment Equality Regulations

More than half (61%) of employers said that they were aware of the Regulations. Levels of awareness were much higher in large organisations. Organisations became aware of the Regulations via the media, business networks, colleagues, internal sources and organisational affiliations. **Of those who knew about the regulations, 87% reported full or some understanding of the Regulations. A large majority of all the organisations surveyed felt that it was not important to have any support to help them understand and comply with the Regulations** – even though almost 40% were not aware of the Regulations. Employers made a range of suggestions regarding ways to help them understand the regulations – the most popular was accessible, simple literature.

Impact of the Regulations

Organisations were asked if they anticipate making changes to their Equal Opportunities or Human Resources policies as a result of the Regulations.

- The most common means of informing employees of the changes were memos or other paper-based methods (49%) or informal briefing sessions (47%).

- **12% said that they would and 50% said that they would not be making changes.** 15% of small employers said that the question was not applicable to them.

- **The majority envisaged no implications for them concerning the Regulations** – some envisaged positive outcomes such as improved employee relations.

- Organisations discussed a number of changes, including updating policies, changing recruitment practice, updating literature and awareness raising.

> **None of the employers discussed significant structural change such as equal pension schemes.**

- **Most employers did not have concerns about implementing the Regulations** but a number of small businesses were critical of the amount of legislation and the time taken to deal with it. Some ongoing issues were raised by employers, such as the grey area regarding bullying that is not victimisation.

- **Most employers did not envisage clashes between different Regulations but a few noted tensions between sexual orientation equalities and religion or belief equalities.**

Views concerning the legislation

The majority of organisations thought that the Regulations would have no impact on them (73%) with 13% anticipating a positive impact and 1% anticipating a negative impact. The smaller employers in particular see the Regulations as being irrelevant. **Organisations varied widely in their expressed views,** from comments that imply overt homophobia (such as 'lunacy') to direct support ('it's a good idea'). Some support may be indicated by the amount of organisations willing to participate in further research (61%), of which the majority were larger organisations.

1   INTRODUCTION AND BACKGROUND

The Employment Equality (Sexual Orientation) Regulations 2003 (SI 2003/1661) and the Employment Equality (Religion or Belief) Regulations 2003 (SI 2003/1660) which came into force in December 2003 implement the Sexual Orientation and Religion/Belief aspects of the European Council 'Equal Treatment' Directive of 2000 (2000/78/EC). These two sets of regulations, which are very similar in nature, follow established practices in legislating against discrimination in the workplace such as in the Race Relations (Amendment) Act (2000) and the Disability Discrimination Act (1995).   In addition to protecting employees from discrimination at work, the regulations also make it illegal to discriminate against people on the grounds of their sexual orientation or religion/belief in accessing vocational learning and in further and higher education. This report deals with the Employment Equality (Sexual Orientation) Regulations, although it contains some sections which address both of the Employment Equality Regulations.

The regulations have been introduced in the context of an employment market in which lesbian, gay, bisexual and transgender (LGBT) employees have previously experienced significant levels of discrimination. A report detailing findings from a survey of over 1000 LGBT people in Brighton and Hove shows that a quarter of the sample had experienced abuse, harassment or discrimination at work, and that almost two thirds did not report this to their employer. One in fourteen of the sample had experienced this within the last 12 months (Count Me In 2001). This finding reflects wider levels of harassment of this group, for example over half of the contributors to a study of LGBT people in Edinburgh (total surveyed 301) had been the victim of a physical assault – 36% had been assaulted within the last year, as compared to only one in forty of the general population experiencing assault within the previous year (Plant et al 1999). In a survey of lesbians and gay men in Glasgow, 48% of the 2000 respondents had experienced harassment at work due to their sexual orientation, 24% had avoided selecting certain professions for fear of discrimination, and two thirds concealed their sexuality from colleagues (Glasgow City Council 1999). In addition, only a quarter of those in employment in Brighton and Hove said that the terms and conditions of their employment offered equal benefits to same-sex partners as to heterosexual partners (Count Me In 2001)[1].

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[1] Further evidence concerning discrimination against lesbian, gay and bisexual people is documented in the literature, for example Matassa and Newburn (2001).

It is widely recognised that legislation is not on its own enough to promote fair practices in the workplace and that it is much quicker and more efficient to support employers to make voluntary changes than have them enforced through the accumulation of case law. The first stage in this process is raising awareness among employers of their legal obligations and rights in respect of these new regulations. Previous research has suggested that employers currently lack awareness of the regulations and may be unprepared (Eversheds 2004; Anon 2003). Recognising the need to improve awareness, the Government made funding available for capacity building in support of the regulations.

Using this funding the Policy Research Institute at Leeds Metropolitan University was commissioned by the Fair Play Partnership to undertake research which will contribute to awareness raising in Yorkshire and the Humber by providing baseline information on the existing state of awareness, understanding, attitudes toward and implementation of the Sexual Orientation and Religion or Belief Regulations among employers in the Yorkshire and Humber region. This report presents findings from a survey of employers in relation to the Sexual Orientation Regulations. A separate report provides a similar review of findings in relation to the Religion or Belief Regulations.

2   METHODOLOGY

2.1   The Questionnaire and Survey Method

The questionnaire was developed by the team at the Policy Research Institute in conjunction with the Fair Play Partnership and is included in Appendix 1: The Questionnaire. The survey was undertaken by telephone by trained Survey Research Officers and all organisations included in the survey were written to in advance of receiving the call in order to establish the credibility of the research and the research team.

2.2   The Sample

The telephone survey was conducted with 402 employers in the Yorkshire and Humber region, selected from a sample obtained from Experian Data Services. Quotas were set to ensure adequate response rates from each the three different employer size bands used (1-10 employees, 11-49 employees, 50+ employees). The sample was then weighted to make the data more representative of all employers in the region.   Within size bands this meant weighting by grouped industrial sector (SIC) (as in Table 1) and when presented on a total basis the data was weighted by both size and sector. It was necessary to use a different weighting strategy in this way because of the disjuncture between the prominence of small employers in terms of the total number of employers in the region on the one hand and the relative importance of larger employers in terms of the number of people employed.

Table 1: Banding of SIC Industrial Groups

SIC 05	Banding
Agriculture	Primary
Mining	
Manufacturing	
Electricity, gas and water supply	
Construction	Construction and transport
Transport, storage and communications	
Wholesale and retail	Sales and service
Hotels and restaurants	
Financial	Business
Real estate, renting and business activities	
Public administration	Public
Education	
Health and social work	
Community, social and personal service activities	
Other	

3 SURVEY FINDINGS

3.1 Existing employment practices among employers in the region

3.1.1 Existing employment practices general

Employers were asked a range of questions about their employment practices. To begin with they were asked whether they had written policies covering areas of employment practice such as recruitment, promotion, access to training, discrimination, bullying and harassment, grievance and disciplinary procedures and equal opportunities. 65% had written procedures covering disciplinary and dismissal and 61% had written grievance procedures. Just over half said that they had written equal opportunities (56%) and discrimination (51%) policies. Less than half had written policies on bullying and harassment, access to training, recruitment and only around a fifth had written policies related to promotion.

Figure 1: Employers with written employment policies, by no. of employees
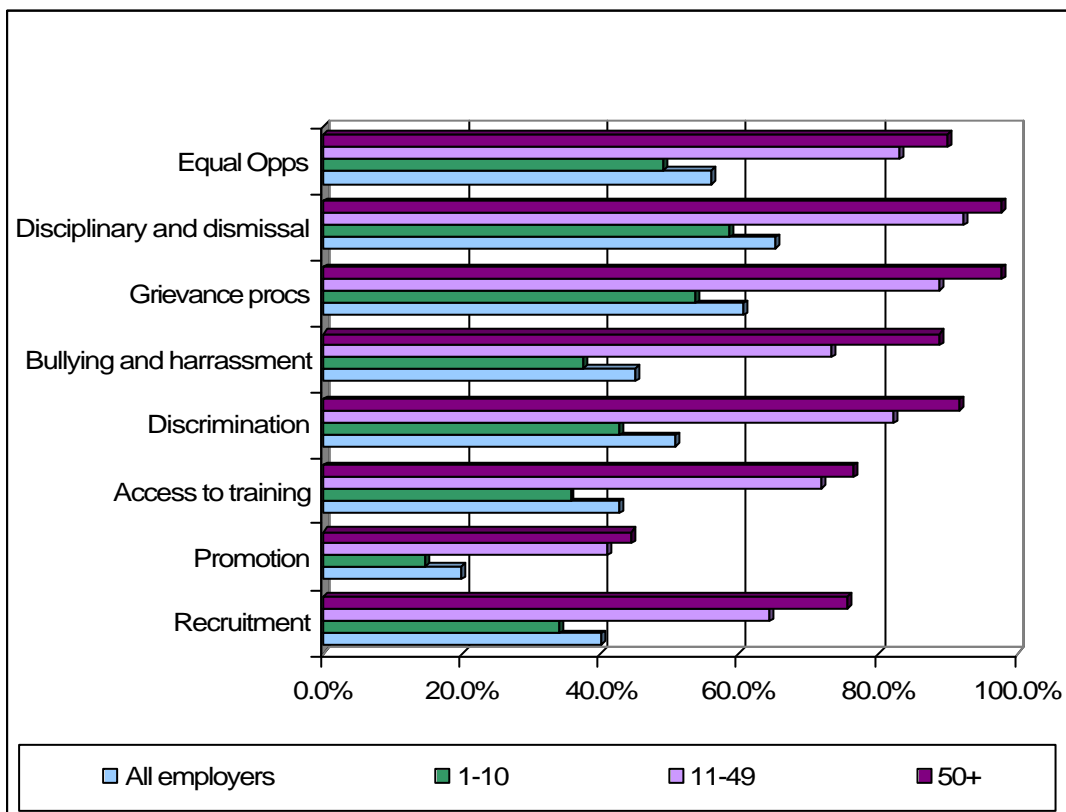
Answers to q4i.

However, because small businesses make up the vast majority of the total business stock while employing only a small proportion of the region's workforce, this does not

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produce an accurate representation of the proportion of the region's workforce that is covered by written employment policies. Using the same data adjusted and weighted to be representative of the region's employee profile rather than employers, it is possible to estimate that around 83% of the region's workforce is covered by a written equal opportunities policy. Figure 1 goes someway to addressing this by comparing the number of employers with such policies by the size of their workforce. This shows clearly that the larger the employer, the more likely it is to have written employment policies. Among those with 50 or more employees, 90% or more had written policies for dismissal, disciplinary and grievance procedures, equal opportunities and discrimination. Over 75% of these employers had written policies covering bullying, access to training and recruitment, though less than half had policies related to promotion procedures. Conversely, the smallest employers were least likely to have written employment policies. Just less than half had written policies on equal opportunities or discrimination, less than 40% had policies in relation to bullying and harassment and only a third had written recruitment policies. Generally, across the three size bands that were compared, employer size was a good indicator of whether or not an employer would have written employment policies. Notable also was that across all size bands, employers were most likely to have disciplinary procedures and then grievance procedures in place and less likely to have written policies on recruitment, access to training and promotion.

Industrial sector was also related to the likelihood of having written employment policies in place. Across the board, employers in the Primary, Construction and Transport, sectors were comparatively less likely to have formal written employment policies and Public sector employers were generally most likely to have these policies. This was equally the case in relation to equal opportunities policies. 42% of employers in Primary, Construction and Transport sectors reported that they had written equal opportunities policies compared to 85% of Public sector employers.

Having policies in place however, does not necessarily mean that they are effective or become part of the culture of the organisation. It is difficult to directly measure the extent to which such policies are adhered to within any organisation in an employer survey because respondents are unlikely to admit to having 'toothless' policies in place. However, there are a number of proxy measurements that can be used to begin to assess the extent to which formal employment policies are embedded into the routine practices of the organisation. One of these proxies is whether or not new and existing staff are made aware of the existence of written employment policies.

As such, our survey asked those employers with written policies whether they routinely made new staff aware of them and whether they regularly update or remind their workforce about their details.

In answer to these questions all employers reported remarkably high levels of communication with new staff in relation to their employment practices. Of those that had them, more than 90% of employers in each size band made their employment policies in relation to Equal Opportunities, disciplinary and dismissal, grievance procedures, bullying and harassment, discrimination and access to training known to new employees. Surprisingly, only 85% of the larger employer group (those with 50+) employees made their recruitment policies known to new staff, in contrast to nearly 100% of the smallest employers who had written recruitment policies.

Figure 2: Employers who make new staff aware of written employment policies, where these exist
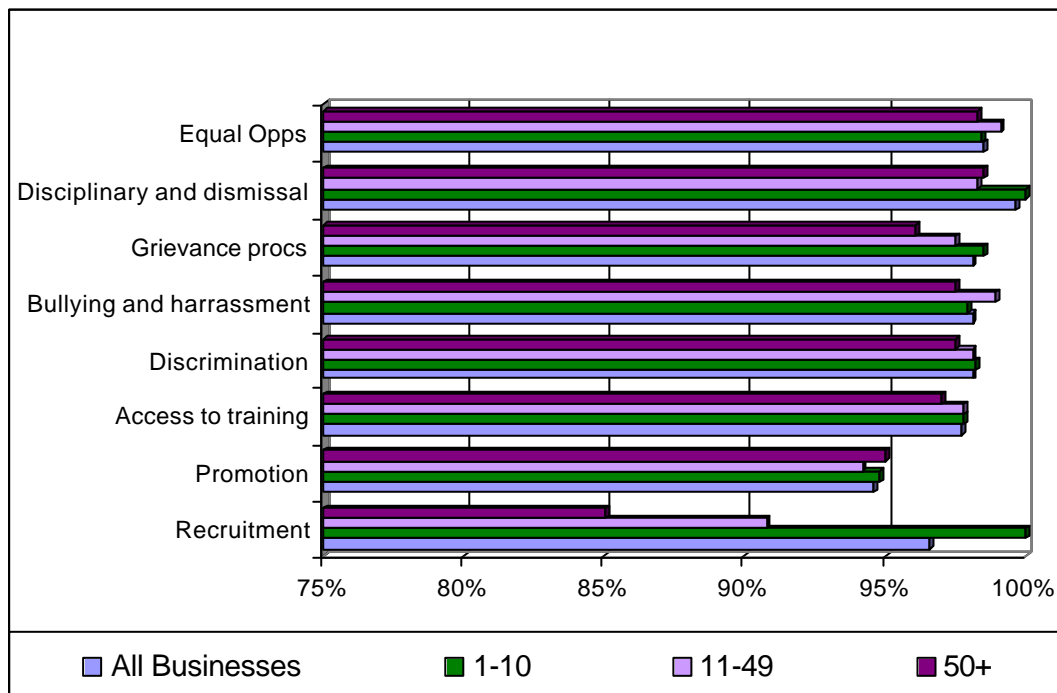
Answers to question 4ii.

Of those organisations that do have an equal opportunities policy over 90% covered race, gender and disability strands. 89% of organisations with an equal opportunities policy said that this covered religion or belief, which suggests widespread awareness of the new Employment Equality Regulations. When reinterpreted to reflect employees rather than employers, the responses to the survey suggest that more

than 80% of employees in the region are covered by a written equal opportunities policy addressing religion or belief and more than 77% are covered by a written equal opportunities policy addressing Sexual Orientation. As might be expected the coverage of more recently recognised equality strands such as Religion or Belief and Sexual Orientation is higher in larger employers than smaller ones. Industrial sector was also related to the likelihood of employers' equal opportunities policies covering either Religion or Belief or Sexual Orientation. Primary sector employers in particular were less likely to have equal opportunities policies covering these equalities strands than were Public sector employers. Among employers in Primary sectors 74% and 70% had policies which covered Religion or Belief and Sexual Orientation while the comparable figures for Public sector employers was 93% and 91% respectively. The survey also asked about the coverage of equal opportunities policies in other areas. Around 78% of all employers said that their policies covered people with caring responsibilities for children or other dependents.

Figure 3: Coverage of equal opportunities policies among employers that have them
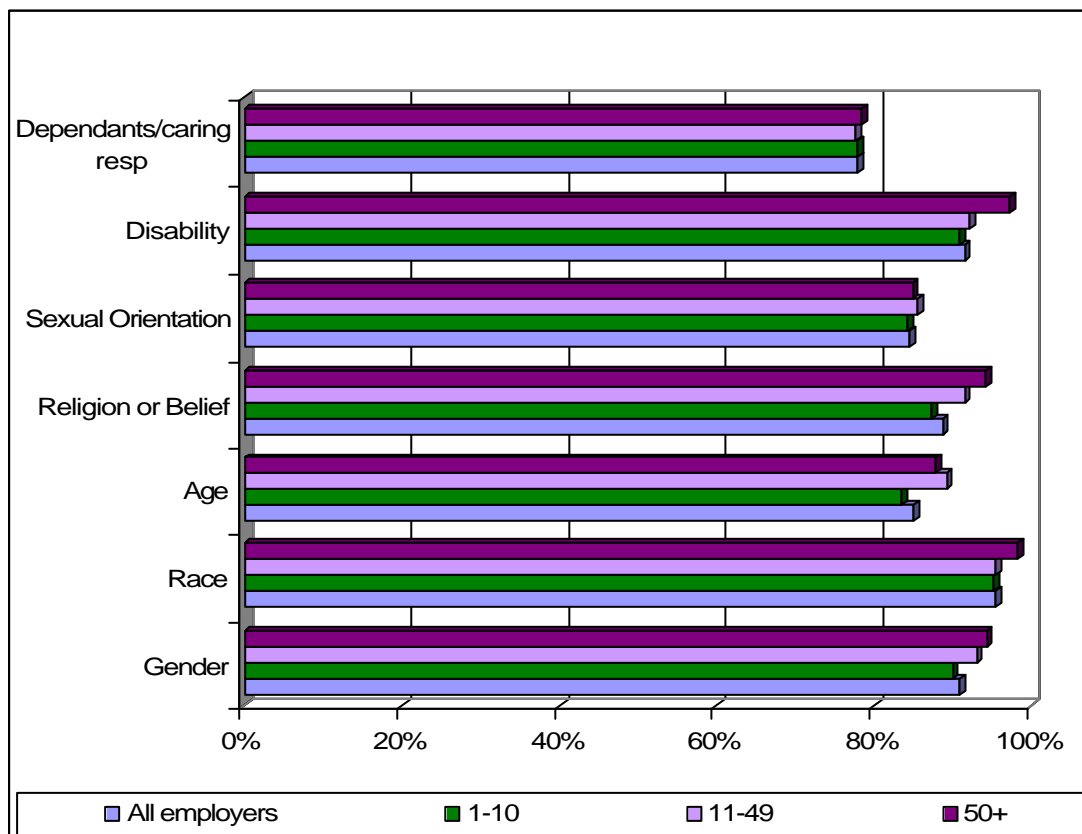
Answers to question 6.

3.1.2   Existing employment practices regarding sexual orientation

Levels of awareness about the Employment Equalities (Sexual Orientation) Regulations can be assessed using proxy measures (see above). These include current employment practices, in particular monitoring, harassment procedures, and the provision of equal benefits for lesbian, gay and bisexual (LGB) staff and their partners. Employers were asked about whether they keep a record of their employees' sexual orientation. 4 small businesses, 16 medium sized and 21 large businesses - said that they kept records concerning sexual orientation; the vast majority did not. Clearly this is problematic, as monitoring forms an important means of assessing the success of equalities policies, as well as ascertaining the needs of employees for these policies.   However, monitoring of sexual orientation is a contentious issue because of privacy issues concerning sexuality, and the risks associated with being 'out' as a lesbian, gay or bisexual employee[2]. This issue was in fact picked up by one employer in our sample, who remarked that "by actively collecting employees' backgrounds it introduces an element of invasion of privacy which could cause conflict as this is what the new legislation is trying to avoid". Monitoring is supported by some statutory sector employers, for example Haringey (*Achieving Equality,* undated) described consultation about the appropriateness of monitoring concerning sexuality as forming part of an equalities strategy. But, more than half of the contributors to Monro's (2006) study who discussed monitoring said that staff rejected it. This was due to concerns about homophobia and the need for privacy. These concerns are valid, given the incidence of homophobic harassment (see Monro 2006).

Employers were asked about whether their organisation had had any personnel issues or cases relating to discrimination regarding sexual orientation. 4% of large businesses reported that they had had cases of this sort. However the figure for medium and small businesses was only 1% each, indicating that very few small businesses had experiences of this sort. Figures concerning harassment have to be treated with some caution, as cases of harassment may go unreported. Reporting harassment can be a block to promotion, and given the difficulties with making a successful stand against harassment in some organisations, is not necessarily the action of choice for LGB employees who experience it.

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[2] As research about LGB equalities in local government by Monro (2006) shows.

Other indicators concerning current levels of awareness regarding sexual orientation include whether the organisation allows staff compassionate leave for partners regardless of sex. Composite figures show that 84% of organisations allow staff these benefits regardless of the gender of their partners, and when these figures were broken down by size of organisation, the findings showed that medium and large organisations provided equal levels of compassionate leave slightly more frequently than small organisations (97% and 93% respectively as opposed to 88%).

Figure 4: Organisations that extend selected benefits to all employees regardless of gender / sexual orientation of partner, by employer size
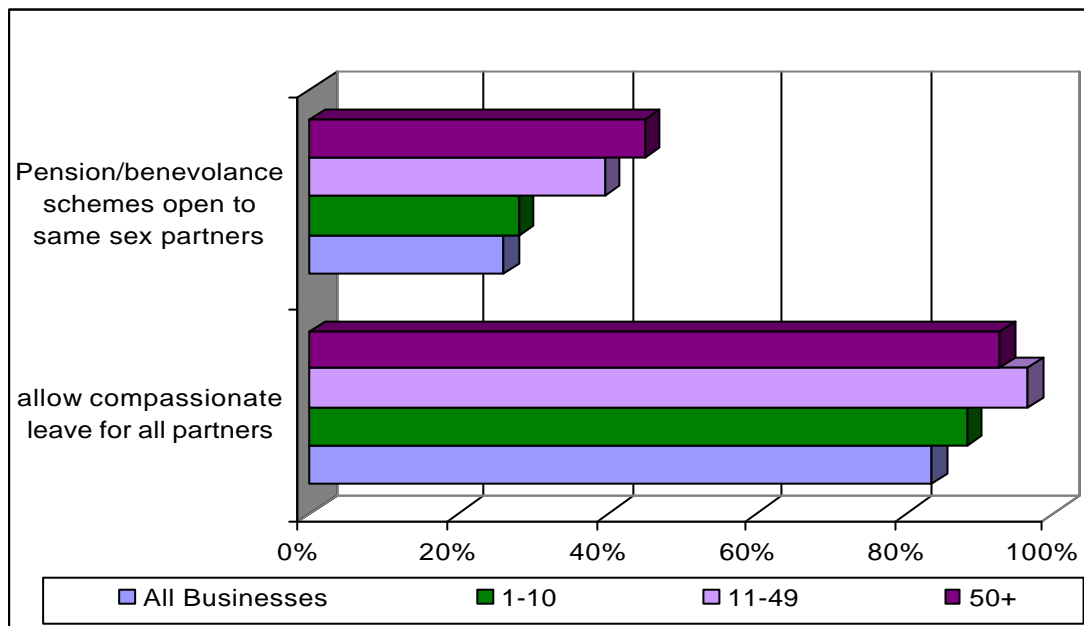
Employers were also asked whether any occupational pensions or benevolent funds provide the same benefits to same sex partners as heterosexual partners. 26% of organisations said that they did provide these benefits equally and 7% said that they did not. Provision of equal benefits was much higher amongst large organisations – of those who responded, 28% of smaller organisations said they provided equal benefits, compared to 40% of medium sized and 45% of large organisations. Very high proportions of contributors said that they did not know or that the question was not applicable, which raises questions about why this is the case. One issue to bear in mind for both of these questions is that where employees are not 'out' (open) about their sexual orientation, they obviously do not gain any of the benefits discussed here.

3.2   Awareness of the Employment Equality Regulations

Organisations were questioned about whether they were aware of the introduction of the 2003 Employment Equality regulations relating to discrimination against employees on the grounds of sexual orientation.   61% said that they were, as opposed to 39% who said that they were not. Levels of awareness were considerably higher in larger organisations, where 91% were aware of the regulations relating to discrimination on the grounds of sexual orientation, as opposed to 69% of smaller organisations and 86% of medium sized ones.   When the response data is converted to be representative of the region's employees rather than employers, the responses suggest that 79% of the region's workforce is employed by organisations that are aware of the regulations.

Figure 5: Employers' awareness of the Regulations
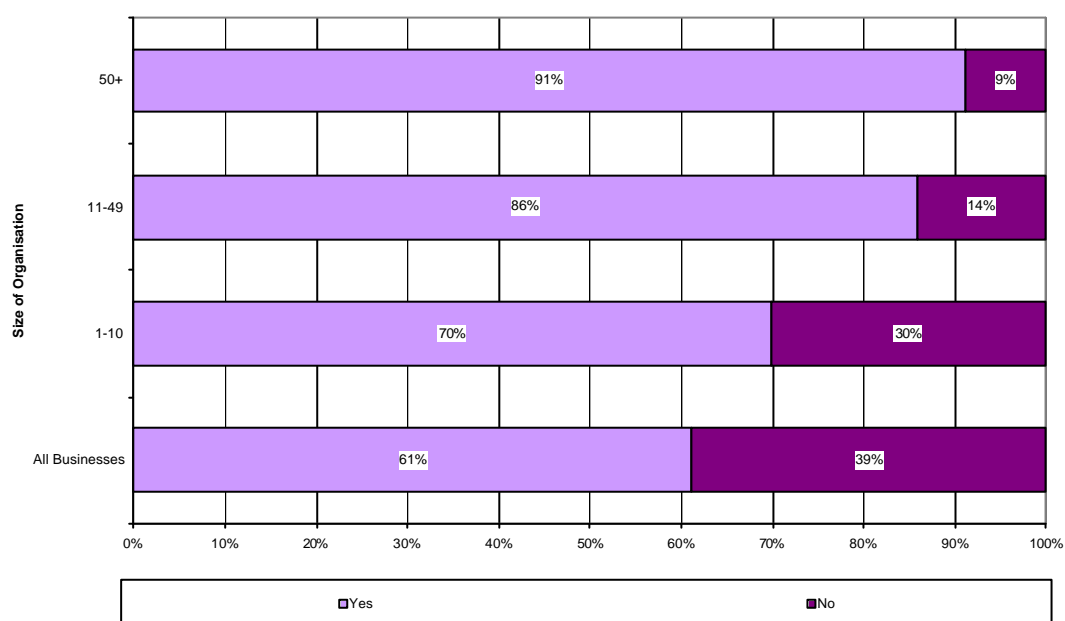
There were a number of ways in which organisations became aware of the regulations.   These included the media, business networks, colleagues, and a variety of other sources.   The most common other ways in which organisations became aware about the regulations were information from an internal source such as the HR department, information gained via membership of organisations, information from solicitors, consultants, or accountants, and mail-shots, leaflets or online information.

Table 2: Ways that individuals in organisations become aware of the Regulations

Sources of information	Organisations with 1-10 employees	Organisations with 11-49 employees	Organisations with 50+ employees

The media	23%	12%	19%
ACAS	Less than 1%	6%	7%
Colleagues	15%	8%	9%
Business Network	23%	31%	28%
Other	45%	49%	54%
Don't know	7%	9%	8%

3.3   Understanding of the regulations

We asked the organisations about how they rated their understanding of the implications of the new regulations. Whilst this is a problematic question, given the fact that the individuals answering the questionnaire will have a certain perspective on the levels of understanding in the organisation, it nonetheless does go some way to showing how far awareness of the regulations has penetrated through the organisation. A majority of organisations said that they had a full understanding (40%) or some understanding (47%) of the implications of the new regulations. As with other questions, the majority of those who indicated high levels of understanding were large or medium sized organisations, for example 59% of large organisations said they had a full understanding as opposed to 25% or small organisations. However, amongst small organisations, 44% said that they had some understanding, showing that awareness concerning the regulations and their implications has spread to some extent across all organisations. Because of the higher proportion of the region's workforce in larger organisations this means that around 73% of the workforce are employed in organisations who said that they had full or some understanding of the regulations.

Clearly organisations may face barriers in understanding and complying with the Regulations. These can include cultural factors – in particular homophobia. The term 'homophobia' was originally coined to mean the irrational fear of homosexuality (Weinberg 1972), and has now spread to include the social implications of this fear (see for example Llamas and Vila 1999). Institutional homophobia can be defined as a lack of openness, respect, and equality, and as assumptions of heterosexuality or discomfort about sexuality, for example people not wanting to use the words 'lesbian', 'gay', or 'bisexual'.   In Monro's (2006) research one local authority contributor explained that 'Peoples' attitudes and prejudices are barriers…I think the resistance is both deep-rooted but also incredibly well hidden. And I think that's a real issue, I mean it's an issue within staff groups, it's an issue within the County Council' (Senior Officer, Midlands Authority). There are other factors that may

impede understanding of the regulations, including resource issues, and structural issues.

Organisations were asked what would be most useful in helping them to understand and comply with the new regulations. It was noticeable that a large proportion of the organisations felt that it was not important to have any support to help them understand and comply with the regulations, with smaller proportions saying that they did not know or that the issue is not important. A few organisations said that the information they already have is sufficient. There was vocalised resentment and resistance concerning the regulations amongst a minority - a small number of small and medium sized organisations said for example 'stop making these silly laws', to 'stop bringing out all the new regulations' , ' abolish them', and in another 'all this is unfair to small businesses'. A few organisations also said that they wanted less bureaucracy, for the new regulations to be short and simple. Organisations made a wide range of suggestions about what would help support understanding and compliance. Some organisations wanted more information to be provided directly by government, and some looked to consultants, professional organisations, and others for support. User friendliness, good communication, accessibility, and brevity were emphasised by contributors – although some also said that they needed as much information as possible. One large public sector organisation discussed 'time to digest, time to disseminate, time so that it become embedded', and another similar organisation suggested a need to 'observe tribunals and breaches of the legislation, communicate with the staff, and point out how other organisations work'.

The suggested media included the following:

- Seminars and talks
- Simple leaflets/handouts/flowcharts or an up to date information package
- Keeping staff up to date with policies internally, and keeping the issue at the forefront of people's minds
- Government funded courses, training
- Discussion groups
- A website
- An idiots guide from ACAS
- A handbook
- Punchy, simple posters for use around the company site

- Practical information about how to implement the policies
- An Education Department to teach people about differences of belief and sexual orientation (in a medium sized statutory organisation)

Overall the most frequently mentioned thing that would help organisations understand and comply with the new regulations was succinct and accessible literature.

3.4 Impact of the regulations

Impact of the Employment Equality (Sexual Orientation) Regulations can be assessed by looking at the impact that the Regulations are having in organisations. Organisations were asked whether they will be making any changes to their Equal Opportunities or Human Resources policies as a result of the new regulations. 12% of all organisations said that they would be making changes, 50% said they would not, and 15% said they did not know whether they would be making changes. Of those that said they would be making changes, the majority were large organisations (48%), meaning that around 37% of the region's workforce are employed in organisations that said they would be making changes as a result of the regulations. Interestingly, 15% of small organisations said that the question was not applicable, raising questions regarding the reasons for this.

Figure 6: Employers planning to make changes as a result of the Regulations
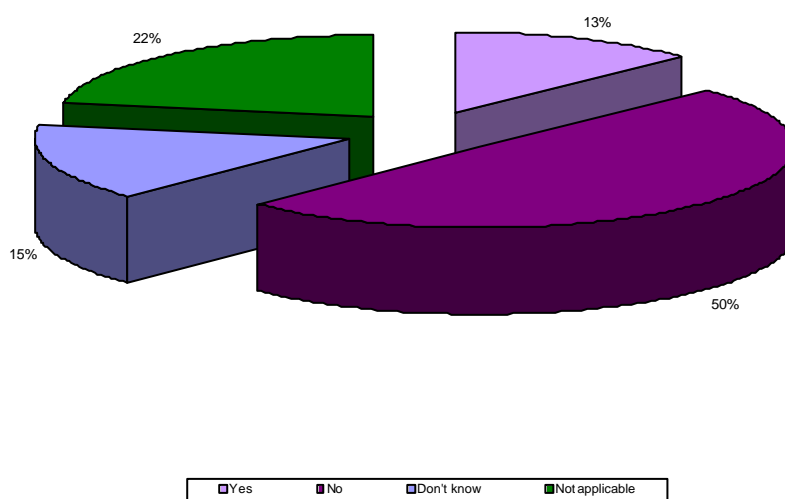
Organisations were asked about what changes have been made or will be made as a result of the regulations. A few organisations expressed uncertainty as to what changes they might make. A minority said that they would meet any necessary requirements but did not specify what these might be and a few said they had already implemented the regulations. The majority of changes appeared to be taking place at the level of policy, but some organisations did discuss means of implementing these policies, for example "Always look at the implications for the organisation and its partners policies – make sure the partners follow the policies too" (medium sized business). None of the organisations discussed significant structural changes such as same-sex partner entitlement to pensions or compassionate leave for LGB people with partners. Some organisations said that their HR department or Head Office would deal with it, or the Local Authority/LEA. Organisations discussed making the following changes:

- Updating their policies, including any equal opportunities policies
- Communicating changes to policies to staff
- Changing the wording in job adverts, i.e. 'we would welcome…' and making employees aware of the regulations whilst recruiting
- Updating handbooks
- Updating awareness raising
- Local authority changes (large public sector organisation)
- More documentation from contracts

Organisations who said that they would not make changes were asked about the reasons for this. The majority said that there was no need, and of these, some said that the changes were already in place, and that they were satisfied with their current situation. Some said that they have always been open minded and sympathetic regarding equalities issues, or that the company does not discriminate against anyone, or that they already employ people with different sexual orientations (large public sector organisation). These types of positive response were more common, but a sizable proportion said that they did not think the regulations were relevant to them or that they are not a priority, or that they are not aware of the regulations. Perceptions regarding the regulations as irrelevant seemed to be more prevalent in small organisations, for example "we don't have any – it is not relevant for such a small company", "not really applicable with only having three staff", "no – we are a

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tightly knit family firm and don't need to", and "the company doesn't have any policies" (all small businesses).

Organisations were asked about the ways in which employees were informed, or will be informed, of the new regulations. Across all sizes of organisation, the most popular methods of communication were memos or other paper-based communication (49%), or informal briefing sessions (47%). Findings broken down by size of organisation are shown below (some organisations used more than one form of communication). Those who said that they used other forms of briefing used the following: notice boards (three organisations), handbooks (one organisation), formal meetings (one organisation), and induction/appraisal processes (one organisation).

Table 3: Means of communicating with staff

Method of communication (% and number of cases)	Organisations with 1-10 employees	Organisations with 11-49 employees	Organisations with 50+ employees
Memo/paper based	53% (23)	60% (53)	60% (56)
Email/intranet	16% (7)	15% (13)	38% (36)
Formal training	13% (6)	19% (16)	34% (31)
Informal briefing sessions	42% (18)	39% (35)	29% (27)
Other	-	12% (11)	14% (13)

Organisations were asked about what sorts of implications they envisaged for their organisations as a result of the regulations. The majority said that they envisaged no implications and that the matter was not of perceived importance to them. For example one large business said that "hopefully not too much impact – it makes us aware when we are dealing with these issues that we are doing it correctly, and these issues are taken into account – but they are not relevant when we are employing". A minority of organisations were openly negative about the regulations, for example "it's a minefield", or envisaged more red tape and costs associated with it. Some said there were no implications because the organisation was already non-discriminatory, for example "none at all – we are already adhering to 'best practice' and have always been 'gay friendly'". A few saw the regulations as being important and as having a positive impact, including some medium sized businesses and public sector organisations, and large public sector organisations. The majority were larger employers, although a handful of small employers also expressed positive views. One contributor pointed out that the law is a good start, and legislation needs to be looked at in order to start debate and make policy changes.

Some of the organisations envisaged specific positive outcomes, including the following:

- I'd like to think there will be a better understanding of these issues, open-mindedness.
- A positive one – a well educated workforce is a better workforce.
- Improved employee relations.
- It may be positive for people who may feel that they have been discriminated against in the past, but we are not aware that this has occurred.
- A positive impact for existing company employees and new employees.
- An improved working environment and more understanding in the workplace.
- If it needed to be employed we would know exactly what to do – it is a safety net for the individual.
- A substantial impact – it helps people discuss it in a more objective way than they would otherwise.
- People have begun to feel better about 'coming out' and bisexual networks have arisen.
- Quite an impact concerning homophobic harassment and bullying – to give people protection is very positive. For students to know that we have a good record – this can only bring in more talent and help us keep it.

Organisations were questioned about whether they had any concerns about implementing the Regulations. A large majority said that they did not. Of those who said that they did, some had concerns about the amount of legislation and the resource implications for employers. For example one small business said that 'our concern is that as more and more separate legislation comes out, people see it as being bracketed – they get sick of one after the other, of what is basically the same thing with different titles. There needs to be one to cover everything and that is easier to understand', and another commented that 'I don't have specific concerns, but this sort of thing takes time to implement and while I'm doing this it means less time spent running the factory', whilst a further said that 'small businesses having to implement this sort of thing is a concern – there are too many laws and we don't have time to keep up with them all'. In contrast, some organisations were positive, for instance one said that 'anything that makes the workplace better is welcome'. Organisations pointed out some useful areas of concern, including:

- There are various grey areas i.e. bullying where it is not victimisation.
- Someone homophobic may have a problem working alongside someone who is gay.
- Companies worry about employees taking them to court for the new regulation which is untested – they worry they might miss something.
- No concerns about implementation, but about peoples acceptance of them.
- There is a difficulty with competing interests.
- Sometimes it is difficult to get information about equalities, we would probably welcome a one-stop help shop.
- There is concern about being too politically correct and too much the other way. We need to find ways of capturing hearts and minds and keeping it interesting for employees to learn about.
- There are concerns about keeping the workforce updated when our workforce is spread widely across the area.
- All the legislation is seen as a big stick to beat you with – the more it is portrayed as useful the better.
- It is easier to put into policy than to implement.

We asked employers whether they envisaged there being any tensions between the different regulations. The vast majority did not, or highlighted issues that were more general to the equalities field. However, a handful did point out some of the tensions, for example: 'A lot of religions have problems about sexuality, therefore there could be a problem implementing both sexuality and religion', 'there are possible clashes between religion and sexual orientation', and 'tensions occur when issues are being dealt with and work is being done…there will always be some clashes'.

3.5   Views of the regulations

Organisations were asked about whether the regulations will have a positive, negative, or neutral impact. Figures from all sizes of organisation showed that the overwhelming majority thought that the regulations would have no impact on their organisation (73%) whilst 13% envisaged a positive impact and 1% envisaged a negative impact. This finding implies perhaps that organisations perceive themselves to have no LGB employees, as the presence of such employees clearly does have some implications. It appears to indicate the presence of a certain

amount of institutional discrimination in the assumption that all employees are heterosexual, as well as the low levels of provision in some areas for example equal provision of pensions or benevolent funds for same-sex partners (see above). Weighting to take the size of the organisation into account showed that 75% of small organisations said that they thought the regulations would have no impact, as opposed to 57% or large organisations. This indicates that the majority of smaller organisations, in particular, see the regulations as having no relevance to them.

**Figure 7: Employers' views about the impact of the Regulations**
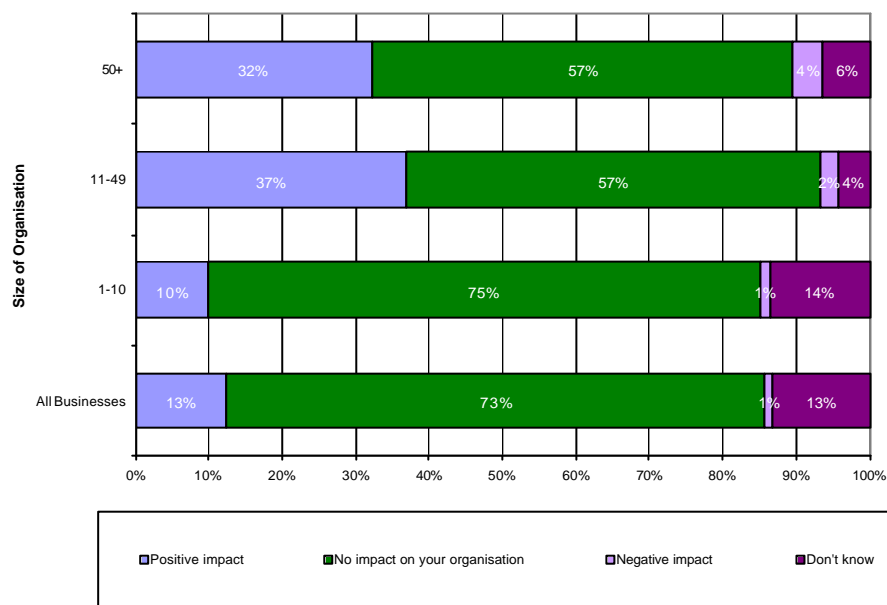
Organisations did vary very widely in their opinions of the regulations. There were more than a few instances where the regulations were described as 'pc gone mad' and 'lunacy', or simply as 'a waste of time' (particularly for small businesses). On the other hand, some organisations expressed positive views concerning the regulations, for instance:

- The legislation could have gone further, for example it does not cover service delivery to the public – they have missed a trick there as it is quite soft, but it is understandable that they are opening the door slowly.
- I think its extremely possible that the legislation will be revised and expanded.

- The Regulations can have a positive effect if people are more open-minded. If it's an open topic, staff with a problem can approach managers easier. This prevents bullying – bullies know that it is not acceptable..
- It's a good idea – it raises awareness.
- Its good to see how practice by employers is being monitored.
- It is going in the right direction – keep it up.

One indicator of views concerning the Regulations is whether the organisations are willing to participate in further research on the topic. The majority of organisations were willing to participate (61%)[3]. Of these, again the majority were larger organisations, with 78% of large organisations, 77% or medium sized organisations, and 64% of small organisations being willing to participate in further research, and 36% of small organisations, as opposed to 22% of large organisations, and 23% of medium sized organisations, not being willing to participate in further research.

Figure 8: Employers that were willing to undertake further research

No, 39%

Yes, 61%
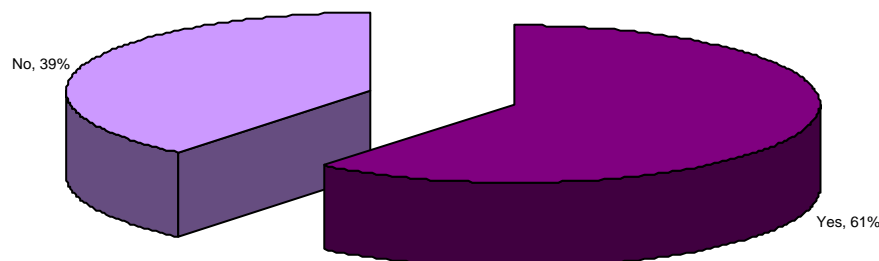
4   CONCLUSION

As with the Religion or Belief Regulations there is evidence to suggest that employers are not fully complying with the requirements placed upon them by the Employment Equality (Sexual Orientation) Regulations. Generally, there was less

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[3] This question covered the whole questionnaire, so includes the material on religion or belief.

awareness of these than the Religion or Belief Regulations with nearly 40% reporting that they were unaware of the regulations. Of those that were aware, only 40% rated their own understanding of them as full, and while a further 47% thought they had some understanding, only 13% said that they had or would be making changes to their organisation to comply with the regulations. Of course some organisations may not be changing because they already comply but taken together with some of the other answers, particularly the nearly three quarters of employers who thought that the Regulations had or would have no impact on them, suggests that this is rather because employers do not fully understand the implications of the Regulations on the one hand or the potential and nature of institutional and indirect discrimination on the other. As with the Religion or Belief Regulations this suggests that there is a need to:

- Raise employer awareness regarding the Regulations.
- Ensure that all employers fully understand the implications of the Regulations and the need to move beyond a negative deficit approach of avoiding discrimination to one of avoiding in-direct discrimination also.
- Develop the appropriate support for employers in making the necessary changes and adjustments, including developing equal opportunities policies and embedding these in the culture and practices of the organisation.

When targeting employers with awareness raising activities it is worth utilising the survey's findings to the full. For instance, of those employees whose employer was unaware of the Sexual Orientation regulations, just over half were in smaller organisations with less than 10 employees and just under a third were employers with more than 50 employees. Of those whose employer was aware but had little or no understanding of the regulations, just under a third were in smaller organisations with less than 10 employees, just under a third were in mid-sized organisations (with 11-49 employees) and just over 45% were with employers with more than 50 employees. Of those whose employer had not and would not be making a change to its equal opportunities or HR policies, despite being aware of the regulations, just under a third were in the smallest employer size band, around a quarter were in mid-sized organisations and over 40% were in the largest employers.

Like with the Religion or Belief Regulations this suggests that while awareness raising may need to be directed more towards smaller employers to benefit the larger number of employees, there dearly remain important issues of understanding the implications of the regulations in larger employers, even where they are aware of the

them. No clear message emerges then from this analysis other than that where activities are targeted at small employers they need to begin from the starting point of awareness raising, while in larger employers the emphasis should be more firmly on understanding the full implications of the regulations.

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APPENDIX 1: THE QUESTIONNAIRE

ID No ▮☐▮☐☐☐☐▮

leeds metropolitan university

FAIR PLAY SORB EMPLOYER SURVEY 2005

Good morning/afternoon, my name is ...., I'm calling from the Policy Research Institute at Leeds Metropolitan University. We have been commissioned by the Fair Play Partnership to conduct a survey with employers' to examine the awareness of new government legislation relating to employment equality.

We recently sent a letter informing you about the survey, do you recall seeing this?

*If **yes**, continue.*

*If **no**, briefly outline the purpose and content of the survey*

Are you the right person to speak to about Human Resources / Personnel issues for your organisation?

*If **yes**, continue.*

*If **no** ask, can you tell me who I should speak to about HR and can I get them on this number? (Record new contact name and number, if different to that listed, on the contact sheet. Thank caller and ask if it would be possible to be put through to the new contact)*

Would you be willing to take part in the survey? It should take no longer than 10 minutes to complete. Everything you say will be treated in the strictest confidence and no individuals or organisations will be identifiable in the results of the survey.

 A) **Record Respondent's Name:**

 …………………………………………………………………..

Section A: Your Organisation

1. First of all can you tell me / confirm your job title please………?

(please write in response in full)

…………………………………………………………………………………………….

2. What are the main products / services of your organisation at this site?

(please write in response in full)

………………………………………………………………………………………….

SIC: ………………..

3. How many people are employed by your organisation at this site?

*…………………………….. (please write in the number - include all full & part time staff. **If no staff terminate interview**)*

Section B: Human Resources Policies

I'm now going to ask you a few questions about the Human Resource or Personnel policies you use in your organisation.

4. i) First of all can you tell me, do you have a written Human resources policy that relates to…..?
  (please tick one box per row in Column i – if the respondent answers 'Yes' to any of the policies then also ask Q4.ii and Q4.iii)

  ii) If yes to Q4.i ask, are the details of this policy routinely made known to new employees joining the organisation? (please tick one box in Column ii)

iii) If yes to Q4.i ask, do you regularly update or remind your existing staff about the   details of this policy?   (please tick one box in Column iii)

		i) Do you have a written policy			ii) Are the details of this policy routinely made known to new employees			iii) Do you regularly update or remind existing staff about the details of this policy		
		YES	NO	D/K	YES	NO	D/K	YES	NO	D/K
A	Recruitment	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃
B	Promotion	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃
C	Access to training	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃
D	Discrimination	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃
E	Bullying and harassment	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃
F	Grievance procedures	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃
G	Disciplinary and dismissal procedures	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃
H	Equal Opportunities ***	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃	☐₁	☐₂	☐₃

If respondent said either No, their organisation DOES NOT have a written Equal Opportunities Policy or that they Don't Know if they have one, then you MUST ask Question 5.

If respondent said YES, their organisation DOES have a written Equal Opportunities Policy go straight to Question 6.

5. If no, does your organisation do anything to address equal opportunities?

(please tick one box only)

Yes	□₁	*Go to Q6*
No	□₂	*Go to Q7*
Don't Know	□₃	*Go to Q7*

6. Does your Equal Opportunities Policy / Practice cover…..?

(please tick one box per row)

		YES	NO	D/K
A	Gender	□₁	□₂	□₃
B	Race	□₁	□₂	□₃
C	Age	□₁	□₂	□₃
D	Religion or belief	□₁	□₂	□₃
E	Sexual orientation	□₁	□₂	□₃
F	Disability	□₁	□₂	□₃
G	Those staff with dependants / caring responsibilities	□₁	□₂	□₃
H	Other (please specify) ………………………………………………………	□₁	□₂	□₃

Section C: Religion or Belief Regulations

7. Is your organisation aware of the introduction of the 2003 Employment Equality Regulations, related to discrimination against employees on the grounds of Religion or Belief?

(please tick one box only)

Yes	$\square_1$	*Go to Q8*
No	$\square_2$	*Go to Q10*

8. How did you / your organisation become aware of these new regulations?
(please tick all that apply)

The Media	$\square_1$
ACAS (Advisory Conciliation Arbitration Services)	$\square_2$
Colleague	$\square_3$
Business Network	$\square_4$
Other *(please specify)*	$\square_5$
Don't know	$\square_6$

9. *How would you rate your organisations understanding of the implications the new regulations will have, would you say it has a…..?*

(Read out list and tick ONE box only)

Full understanding	$\square_1$
Some understanding	$\square_2$
Little understanding	$\square_3$

No understanding of the regulations	☐₄
Don't know	☐₅

10. *Has or will your organisation be making any changes to it's Equal Opportunities or Human Resources Policies as a result of the new regulations?*
(please tick one box only)

Yes	☐₁	*Go to Q11*
No	☐₂	*Go to Q12*
Don't Know	☐₃	*Go to Q13*
Not Applicable	☐₄	*Go to Q13*

11. *If yes, what changes have been / will be made?*
(please write in response in full)

…………………………………………………………………………………………………

…………………………………………………………………………………………………

…………………………………………………………………………………………………

12. *If no, why not?*
(please write in response in full)

…………………………………………………………………………………………………

…………………………………………………………………………………………………

…………………………………………………………………………………………………

13. *Has or will your organisation be informing staff members of the details of the new regulations?*
(please tick one box only)

Yes	$\square_1$	*Go to Q14*
No	$\square_2$	*Go to Q15*
Don't Know	$\square_3$	*Go to Q15*

14. *How have or how will staff members be informed of the new regulations?*
(please tick all that apply)

Memo / paper based communication	$\square_1$
Email / Intranet	$\square_2$
Formal Training sessions	$\square_3$
Informal briefing sessions	$\square_4$
Other *(please specify)* ………………………………………………………………………	$\square_5$
Don't know	$\square_6$

15. *What impact do you think these regulations will have for your organisation?*
(please write in response in full)

………………………………………………………………………………………………

………………………………………………………………………………………………

………………………………………………………………………………………………

16. *Overall do you think these regulations will have a…..?*

(Read out list and tick ONE box only)

Positive impact	☐1
Negative impact	☐2
No impact on your organisation	☐3
Don't know	☐4

17. *What would be most useful to your organisation in helping you to understand and comply with the new regulations?*

....

....

……...

18. *Has your organisation experienced any personnel issues or cases relating to discrimination on the grounds of religion or beliefs?*
(please tick one box only)

Yes	☐1
No	☐2
Don't Know	☐3

19. *Does your organisation keep a record of its employees religion or beliefs?*
(please tick one box only)

Yes	☐1	*Go to Q20*
No	☐2	*Go to Q21*
Don't Know	☐3	*Go to Q21*

20. *If yes, how is this information used?* (please write in response in full)

……………………………………………………………………………………………

....

……………………………………………………………………………………………

Section D: Sexual Orientation Regulations

21. Is your organisation aware of the introduction of the 2003 Employment Equality Regulations, related to discrimination against employees on the grounds of Sexual Orientation?

(please tick one box only)

Yes	☐ 1	*Go to Q22*
No	☐ 2	*Go to Q24*

22. How did you / your organisation become aware of the new regulations?
(please tick all that apply)

The Media	☐ 1
ACAS (Advisory Conciliation Arbitration Services)	☐ 2
Colleague	☐ 3
Business Network	☐ 4
Other *(please specify)* ………………………………………………………………………	☐ 5
Don't know	☐ 6

23. *How would you rate your organisations understanding of the implications the new regulations will have, would you say it has…..?*

(Read out list and tick ONE box only)

Full understanding	☐₁
Some understanding	☐₂
Little understanding	☐₃
No understanding of the regulations	☐₄
Don't know	☐₅

24. *Has or will your organisation be making any changes to it's Equal Opportunities or Human Resources Policies as a result of the new regulations?*
(please tick one box only)

Yes	☐₁	*Go to Q25*
No	☐₂	*Go to Q26*
Don't Know	☐₃	*Go to Q27*
Not Applicable	☐₄	*Go to Q27*

25. *If yes, what changes have been / will be made?*
   (please write in response in full)

……………………………………………………………………………………………………

……………………………………………………………………………………………………

……………………………………………………………………………………………………

26. *If no, why not?*
   (please write in response in full)

……………………………………………………………………………………………………

27. *Has or will your organisation be informing staff members of the details of the new regulations?*

(please tick one box only)

Yes	$\square_1$	*Go to Q28*
No	$\square_2$	*Go to Q29*
Don't Know	$\square_3$	*Go to Q29*

28. *How have or how will staff members be informed of the new regulations?*

(please tick all that apply)

Memo / paper based communication	$\square_1$
Email / Intranet	$\square_2$
Formal Training sessions	$\square_3$
Informal briefing sessions	$\square_4$
Other *(please specify)* ………………………………………………………………………	$\square_5$
Don't know	$\square_6$

29. *What impact do you think the new regulations will have for your organisation?*

(please write in response in full)

………………………………………………...………………………………………………

……………………………………………………………………………………………

30. *Overall do you think the new regulations will have a…..?*

(Read out list and tick ONE box only)

A positive impact	☐₁
A negative impact	☐₂
No impact on your organisation	☐₃
Don't know	☐₄

31. *What would be most useful to your organisation in helping you to understand and comply with the new regulations?*

....

....

………..

32. *Has your organisation experienced any personnel issues or cases relating to discrimination on the grounds of sexual orientation?*
(please tick one box only)

Yes	☐₁
No	☐₂
Don't Know	☐₃

33. *Does your organisation keep a record of it's employees sexual orientation?*
(please tick one box only)

Yes	☐₁	*Go to Q34*
No	☐₂	*Go to Q35*
Don't Know	☐₃	*Go to Q35*

34. *If yes, how is this information used?*
(please write in response in full)

…………………………………………………………………………………………………

……………………………………………………………………………………………….

…………………………………………………………………………………………………

35. *Does your organisation……..?*
(please tick one box per row)

		YES	NO	D/K	N/A
A	Have a prayer room	☐₁	☐₂	☐₃	☐₄
B	Allow flexible working to accommodate prayer time	☐₁	☐₂	☐₃	☐₄
C	Allow religious dress to be worn in the workplace	☐₁	☐₂	☐₃	☐₄
D	Prioritise leave for staff wanting to take holiday for religious reasons, regardless of the religion followed	☐₁	☐₂	☐₃	☐₄
E	Allow staff compassionate leave for partners regardless of their sexual orientation	☐₁	☐₂	☐₃	☐₄
F	If you have an occupational pension / benevolence scheme, does this offer the same benefits to same sex partners as to heterosexual partners	☐₁	☐₂	☐₃	☐₄

36. *There are now a number of regulations relating to different forms of discrimination in the work place, do you have any concerns about implementing them?*

………………………………………………………………………………………………

………..……………………………………………………………………………………

37. *Do you envisage any issues with tensions between the different regulations?*

....

....

………...

38. *Do you have any additional comments you'd like to make about any of the subjects covered in this survey?*

....

....

………...

....

39. The Fair Play Partnership is considering conducting further research on this subject, would you be willing to participate?

(please tick one box only)

Yes	☐₁	*Go to Q40*
No	☐₂	*Thank & close*

40. Can I just check I have the correct contact details for you………?

Name: …………………………………………………………………………

Direct Number:……………………………………………………………………..

Thank you very much for taking part in this survey

Interviewer: …………………..……………………………... Date: ……………………

| Unique ID Number: | | | | | |

Produced by the Policy Research Institute, Leeds Metropolitan University for the Fair Play Partnership.

The Gatehouse

Mansion Gate

Chapel Allerton

Leeds

LS7 4RF

T   0113 262 2789

F   0113 262 3006

E   mail@fairplaypartnership.org.uk

W   www.fairplaypartnership.org.uk