Crossing the Rubicon: an exploration of the use of positive action provisions in Higher Education Institutions in the UK

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Presentation Objectives

✅ Background and theoretical context

✅ Methodology

✅ Emerging themes from the data

✅ Future Implications
UK HE Staff Population

- Gender pay gap in UK HEIs (JNCHES, 2015);
- 45% of academic staff are female in the UK (HESA 2013/14);
- Only 17% of Vice-Chancellors in UK are women (Manfredi et al, 2014);
- Only 22% of Professors in UK are women and 33% of other senior academic staff (HESA 2013/14).
Reasons for disparity?

Teaching
(Broadbent, 2010; Poole et al, 2007; Terosky et al, 2008; UCU, 2013)

Caring responsibilities
(Ledwith & Manfredi, 2000; Barrett & Barrett, 2011; Pezzoni, Sterzi & Lissoni, 2012; Savigny, 2014)

Capacity
(Dever & Morrison, 2009; UCU, 2013)

Confidence
(Asmar, 1999; Saunderson, 2002; Fletcher, Boden, Kent, & Tinson, 2007; ECU, 2014)
UK Drivers for Gender Equality in Higher Education

- ATHENA SWAN (Equality Challenge Unit);
- AURORA PROGRAMME (Leadership Foundation for Higher Education);
- Section 149 Equality Act 2010 (Public Sector Equality Duty);
The UK Legislative Framework (1)

- Special measures for protected groups
- Which are a proportionate means of meeting the aim of
  - Enabling or encouraging persons to overcome or minimise disadvantage
  - Meeting the different needs of protected groups
  - Enabling or encouraging persons to participate in an activity

section 158 Equality Act 2010
The UK Legislative Framework (2)

- Employers can take account of protected characteristics where:
  - One candidate is “as qualified as” the other
  - Where employer “reasonably thinks” the protected group is under-represented
- So long as it is a proportionate means of achieving the aim of overcoming the disadvantage and it is not an automatic policy
- Each case considered on own merits
- Call by ECU, 2014 for use of positive action in UK HEI’s

Section 159 Equality Act
The Limits of Positive Action

- The intention is to permit all action which is permitted by European law;

- Thus must “remain within the limits of what is appropriate and necessary in order to achieve the aim in view”;

- But despite intention not to deter those contemplating positive action;

- There is still a risk of challenge;

- And there is no obligation to do it.
Methodology

- Stage 1: Small-scale qualitative scoping study;
- Questionnaire distributed to HR Managers and Employers across a range of sectors;
- Twenty-four responses from across the public and private sector;
- 46% of these from UK HEI’s.
Early Findings

- Limited study;
- Small scoping sample;

Awareness and cognizance of legal provision:
  - 82% aware of the positive action provisions;
  - Awareness via third party organisations (Equality Challenge Unit, Higher Education Statistics Agency, Equality and Human Rights Commission);

Practice and usage:
  - 40% had previously used positive action;

Inclination and alacrity:
  - 30% could anticipate using in the future;
  - Subjective positioning/versus institutional commitment (73% commitment to benefit of legislative provision);
  - Reticence to use (risk of legal liability, fear of creating segregation, discrediting merit etc)
Future Implications

- Need for further exploration;
- Sectoral drilling down into HE sector in UK;
- Broad-based questionnaire;
- Series of semi-structured interviews;
- Gender perspectives of research activity Symposium 2016.
Forum for Research into Equality and Diversity

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