



UNIVERSITY of
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International perspectives on positive action measures

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Talk Brief

- What is positive action and what role do positive action measures play in preventing or remedying discrimination?
- What are the key differences and good practices around the world in the use of positive action?
- Why is positive action considered to be a controversial concept?
- What are the key drivers and barriers for positive action?
- Positive action in Europe – what can we learn from others?
- What can be the role of equality bodies in addressing the challenges of positive action?



Context

- Inequalities and exclusion from mainstream opportunities
- Continuing discrimination and systemic failures
- Occupational Segregation
- Business case



Working Definition Positive Action [

- Proportionate measures undertaken with the purpose of achieving full and effective equality in practice for members of groups that are socially or economically disadvantaged, or otherwise face the consequences of past or present discrimination or disadvantage.

- Positive action measures are designed to achieve one or more of the following goals:
 - preventing or compensating for disadvantages and discrimination
 - promoting substantive equality by taking into account the specific situation of members of disadvantaged groups and breaking the cycle of disadvantage associated with membership of a particular group;
 - redressing under-representation and promoting diversity in participation of all groups in social, economic, cultural and political life.

Positive Action

- A range of lawful actions which seek to address an imbalance in employment opportunities among targeted groups that:
 - have previously experienced disadvantage, or
 - have been subject to discriminatory policies and procedures, or
 - are under-represented in the workforce
- A tool and concept to help combat discrimination
- Guarantees equal opportunity for all members in society
- Given legal force through country specific anti-discrimination legislation and EC Directives

[NHS Employers 2005]





Positive action vs. reasonable accommodation/adjustment

- Positive action measures designed to address gaps in recruitment, promotion and development of targeted groups
- Reasonable accommodation often designed to meet specific needs of individuals – may result in benefits for others
- Examples of reasonable accommodation
 - Technical devices for employee with disability
 - Provisions for an employee's cultural or religious observance

Positive action vs. supportive measures

- Supportive measures include
 - Work/life balance initiatives such as flexible work arrangements, on-site childcare, eldercare, exercise programmes and facilities
 - Employee assistance programmes
- Often implemented to address challenges faced by specific groups; end up benefiting all employees

Understanding of positive action - Preferential treatment or balancing measures?

- Confusion and inconsistent terminologies
- A lack of common understanding
- A clarification of the nature and purpose of positive action measures
- The historical and political context of the respective countries



The Compliance Case:

driven by legislation
and policy

The Moral / Social Case:

“it’s the right thing to
do”

The Business Case:

where the benefits
outweigh the cost
and effort



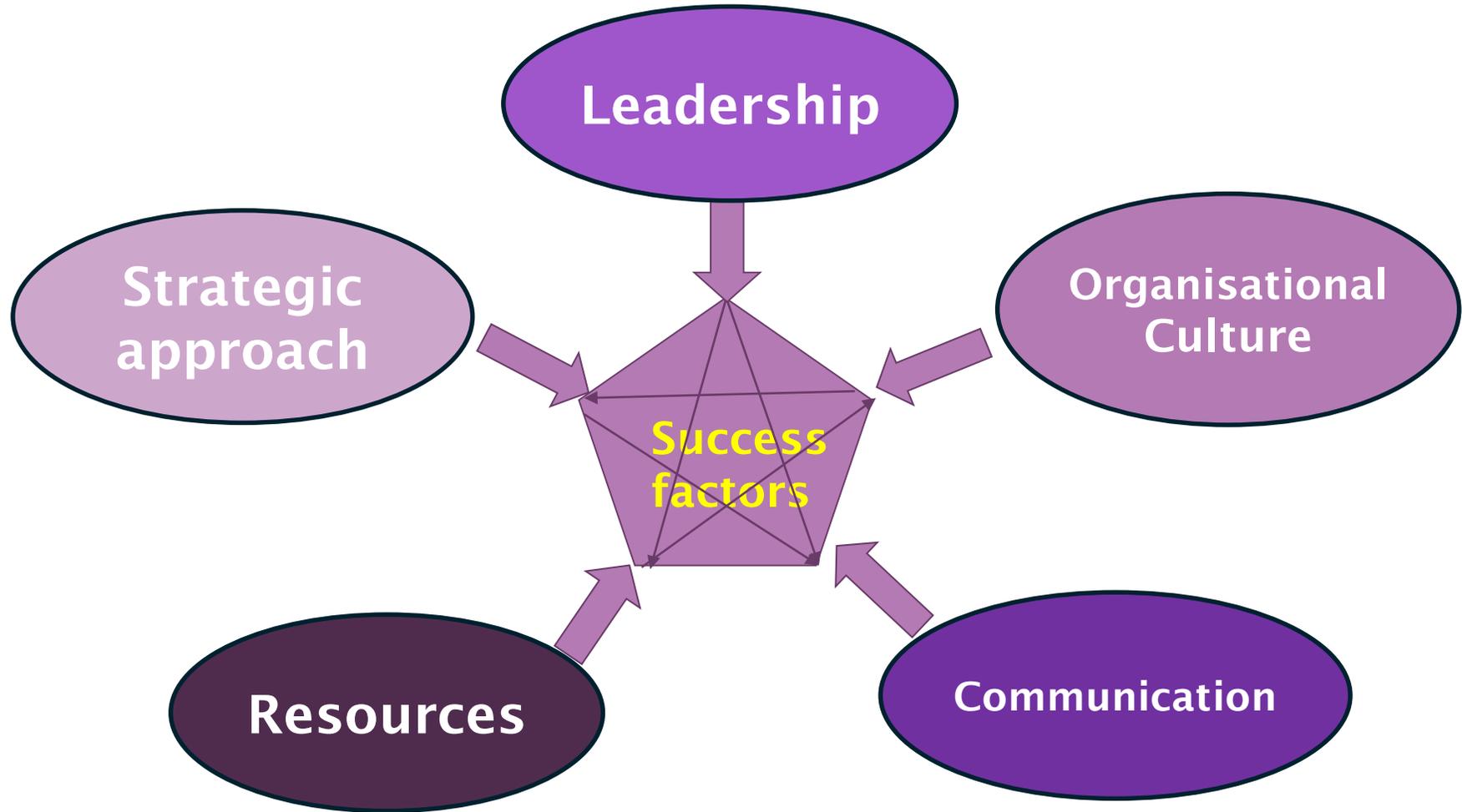


Barriers to positive action

- Lack of resources
- Lack of senior management buy-in, continued support and commitment
- Barriers linked to legal framework:
 - Legal frameworks on positive action lag far behind social policy
 - Inconsistent application of legislative framework
- Conflicting data protection arrangements in some countries
- Differences among countries in implementing sanctions
- Lack of awareness of the benefits of positive action
- Role of the media
- Exploitation of benefits and rationale
- Short-term nature of initiatives
- Mistrust of authorities



Positive Action: Success Factors



Support for positive action

- Support of the wider society
- Individual commitment
- Support from colleagues
- Leadership and senior management buy-in
- Differences between all sectors in levels of enthusiasm and implementation
- Involvement of the target groups



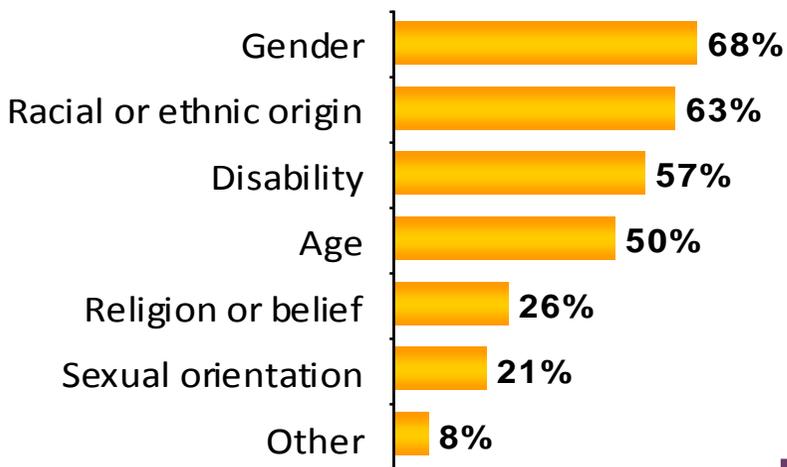
Outcomes and impacts

- Lack of systematic monitoring
- Lack of robust evidence and use of ‘soft’ measures for impact assessment
- Effective in raising awareness of equality issues in organisations
- Potential contribution to business success less well recognised
- Largely time limited and not seen as long term measures
- Most likely beneficiaries = minority ethnic groups and women; least likely beneficiaries = LGBT and disabled people

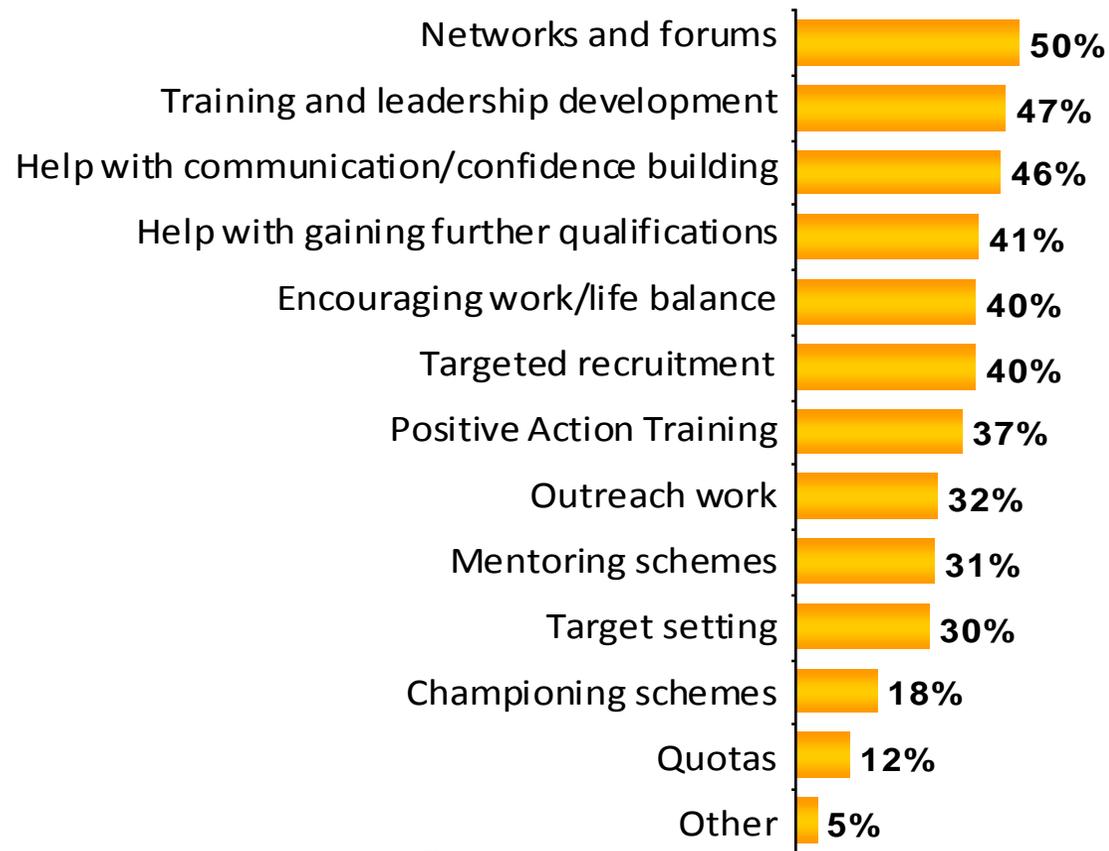


Positive Action Measures

Areas used in



Measures used



[PAMECUS 2009]



Positive Action in practice (Exemplars)

- EU funded ‘migrant friendly hospitals’ project (Ireland)
- Staff disability review (Ireland)
- NGO teaching assistant programme (Slovakia)
- Broad Based Black Economic Empowerment (BB-BEE) (South Africa)
- Non-discrimination and Diversity in the Police force (the Netherlands)
- Researchers from ethnic minorities can accessing a specific grant scheme (the Netherlands)
- Black Leadership Initiative (UK)
- Breaking Through Programme (UK)





Positive action in practice

- Confirm **confusion** about the scope of positive action measures and overlap with other complementary measures
- **Diverse** range of activities
- Many countries focus on **specific groups** - a reflection of the particular context or 'politics' of that country
- Missing and limited examples – **religion and transgender**
- More focus on **employment** rather than **service delivery**
- **Negative consequences** or backlashes such as negative stereotypes, stigmatisation, lack of proper oversight, dishonest behaviour and malpractice



Recommended Research on Positive Action

- Map the current situation of ‘disadvantage’ with regard to the different fields in which positive action can be applied
- Research to assist courts to establish whether a prior situation of disadvantage justifies the use of a particular positive action measure
- Research on economic advantages of positive action
- Intervention study to develop a coherent model / theory for measuring success
- A model for identification, evaluation and dissemination of ‘best practice’
- Gather disaggregated data in key sectoral fields on all grounds of discrimination.



Recommendation for Law and Policy Development

- EC to continue dialogue with civil society organisations and the social partners
- EU-level guidance on the meaning of positive action
- EC anti-discrimination legislation to ensure public, private or voluntary organisations engagement
- Member States to revise national legislation where this prohibits or restricts application of positive action
- Whilst respecting data protection legislation, Member States to ensure data protection legislation facilitates data collection
- The EU institutions and Member States to introduce legal duties



Practice - European and National levels, and equality bodies

- European-level framework of understanding of positive action measures
- Public education through ‘social marketing’
- Clear strategies for identifying and managing the negative consequences
- The role of the media and educational forums and networks
- Minimum operating standards for positive action application
- Adequate funding through national government or EU funds
- Develop tools to assist organizations to establish baseline data to facilitate positive action



Practice - Organisational level

- Mainstreaming - Integral part of a wider organisational corporate mission, workforce planning and service development
- More coherent and collaborative approach between organisations
- Involvement of members of minority groups in design and evaluation



Thank you for listening

Any Questions??

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