

New regulatory model needed to help organizations comply with equalities legislation, study says

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A new type of regulation is needed to support and encourage organizations to comply with equality and human rights law because

enforcement alone is ineffective, a new study says.

The introduction of the Public Sector Equality Duty and the Human Rights Act were intended to establish an [equality](#) and [human rights](#) culture within public authorities. The research highlights how this culture has failed to take hold.

An alternative is needed to the current model of regulation (the enforcement pyramid) under which penalties increasingly progress until noncompliers comply. The study says the current model cannot recognize innovation, good practice or the reasons why organizations struggle to comply. Some organizations may lack confidence or feel overwhelmed rather than intentionally choosing not to follow the rules.

Dr. David Barrett, from the University of Exeter Law School, analyzed original empirical data and interviewed individuals within regulators and inspectorates and ombudsmen.

He found firms are implementing the duty in three ways: strong implementation (where individuals make the most of the resources they have and drive ever deeper implementation), mixed implementation (where individuals oscillate between deeper and perfunctory implementation), and weak implementation (where individuals avoid taking meaningful action due to feeling overwhelmed and in need of rescue).

Dr. Barrett said, "Equality and human rights laws require organizations to adjust and reconfigure themselves to mainstream the values of equality and human rights. This requires a model of enforcement that assists organizations, builds capabilities and ultimately sanctions organizations if they fail to comply."

"Ever severe punishment is unlikely to secure meaningful mainstreaming

and instead is likely to result in minimal and perfunctory performance. What is needed is encouragement and support, but this cannot be adequately provided by the current enforcement pyramid."

[The study](#) recommends there should be a "strength-based" pyramid, which would work alongside the enforcement based pyramid. This would involve increasing incentives in the form of education and persuasion, validation and encouragement, grants and awards, that would hopefully work to incentivize individuals and their organizations to embed equality and human rights ever deeper into the organization.

Dr. Barrett found a significant barrier to implementation is the finite number of resources—including money, staff and time. Even where staff had more interest in equality and human rights, time was still a significant constraint. Most staff have knowledge of the sector that they oversee rather than equality and human rights, meaning that it is difficult to integrate these norms into the work of the organization.

Confidence was an important issue in relation to staff and often deterred staff from taking action. The majority of interviewees operated outside the top leadership of the organization, and many spoke of the challenges imposed by the senior leadership.

The study recommends, as part of a strength-based system, organizations could apply either singularly or collectively (for example a network) for grants to further the implementation of equality and human rights. Eligibility requirements could be established to incentivize moving up the pyramid.

Organizations that had particularly excelled in equality and human rights could apply to be accredited. Awards could also be given to individual implementers to recognize and encourage innovation.

The study is published in the *Industrial Law Journal*.

More information: David Barrett, Implementation Behaviours and a Strength-Based Approach to Equality and Human Rights Implementation, *Industrial Law Journal* (2023). [DOI: 10.1093/indlaw/dwad020](https://doi.org/10.1093/indlaw/dwad020)

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