

Part 5

Law and Education

Evaluation of Organisational DEI Strategic Implementation of a London-based University

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Abstract

This paper originated from completing a study with the University of Cambridge, UK, on diversity, equity, and inclusion (DEI) strategies and implementation in educational institutions. Although global initiatives exist, the legal aspects of diversity, equity, and inclusion (DEI), such as gender and ethnic minority representation in senior positions, remain unaddressed. This research focuses on recruitment practices, highlighting gender and ethnicity disparities in higher education, and offers recommendations for inclusive processes to address discrimination. Using observations, case studies, and literature, thematic analysis revealed gender disparities in senior positions at a UK higher education institution. The study suggests revisiting recruitment and selection practices to better include women and ethnic minorities in senior management positions. It also encourages these groups to apply for senior roles, given DEI and equal opportunity compliance in recruitment practices.

Keywords: diversity, equity, inclusion, gender and minority inequality, discrimination in recruitment and selection, management positions, higher education

Introduction

Diversity, equity, and inclusion are essential concepts in the modern era, encompassing a variety of differences among people, such as race, ethnicity, gender, sexual orientation, age, religion, socioeconomic status, and abilities. Diversity refers to the presence of these differences within a given setting and emphasises the importance of having a variety of perspectives and voices in a community or organisation (Roberson,

2019). Equity involves creating fairness in job roles, opportunities, and advancement for all individuals while striving to identify and eliminate barriers that have historically led to unequal treatment. It recognises that different individuals may require different resources and opportunities to achieve similar outcomes (Wren & Bergmann, 2022). Inclusion involves establishing a setting where everyone is treated equally, respected, and provided with the same chances to participate and contribute effectively to their roles. It ensures that everyone feels respected, valued, and can contribute fully, fostering an environment of mutual respect and full participation (Smith, 2023). Inclusion means creating an environment where diverse individuals feel valued and can fully contribute, as explained by Mor Barak (2017). The most interesting is that one would assume that in the modern era, where globalisation is the norm of many organisations, discrimination should not be an issue anymore, as people now have the flexibility to interact and work globally. Discrimination still exists and should be addressed as it affects recruitment and selection for senior positions.

This paper focuses on the challenges and barriers in recruiting and selecting female and minority candidates for senior positions in a UK higher education institution. It examines discriminatory practices in recruitment and selection, particularly in recruiting women and minority groups in higher positions within higher education, using a case study of a higher education institution with a protected name.

Literature review

Academic literature and laws have aided in understanding organisational practices in recruitment and selection relating to the ethnicity and gender gap in higher education. As earlier discussed, diversity refers to the presence of differences within a given setting. Various researchers and literature have helped in defining DEI such as Roberson (2019), Wren and Bergmann (2022), Smith (2023), Mor Barak (2017) as well as some theoretical framework of McKinsey (2022), Tajfel and Turner (1979) have all contributed to the understanding of the concepts and theoretical framework underpinning DEI.

A study by Cox and Blake (1991) has it that diversity can lead to increased creativity and innovation resulting from varied views and approaches. Embracing diversity is crucial for organisations, as it enhances critical thinking skills and decision-making by incorporating diverse perspectives (Jackson et al., 2003).

Not only diversity, but inclusion is also important as individuals feel respected and empowered to contribute their unique perspectives, as identified by Shore et al. (2018), that an inclusive organisation has higher employee engagement, loyalty, and job satisfaction. As defined by Gallup (2021), diversity is the presence of differences in various aspects such as race, ethnicity, gender, age, sexual orientation, and abilities within an organisation, and therefore important in recruitment and selection in education.

Many educational institutions, including the higher education institution in this study, have implemented measures to eliminate bias in job descriptions, including continuing to revise their job descriptions to prevent gender bias. Using gender-neutral language and avoiding qualifications that might discourage minority groups and women from job applications, or promotions that help to prevent bias in recruitment, to ensure an inclusive workforce. However, women and minority groups in higher positions in education are still a major issue, particularly as in the case of higher education used for this study. The 2024 annual report of the organisation indicates that seven of the eight senior management positions occupied by CEOs are held by men, with one position held

by a woman. None of the eight CEOs come from minority groups, despite the DEI policy stating a commitment to equal opportunity and inclusive workforce in recruitment and selection practices for an inclusive workforce.

A diverse and inclusive workforce is crucial in higher education, benefiting the organization through open recruitment that embraces all characteristics. This approach leverages diverse ideas and practices by involving employees from various perspectives. The key to DEI compliance in senior management positions is addressing discrimination challenges in recruitment and selection. An interesting question to address is what constitutes discrimination and its challenges in compliance with DEI in staff recruitment and selection into senior management positions?

Discrimination

Discrimination is an important aspect of diversity, equality, and inclusion to observe in the workplace environment because failure to implement it by an organisation can lead to bias and prejudice. Discrimination in recruitment and selection practices can be attributed to various individual and organisational factors. These factors can hinder the achievement of diversity, equity, and inclusion goals within an organisation. Effective DEI practices for recruiting ethnic minorities and women into educational managerial roles are vital for creating an inclusive workplace. Discrimination is the unfair treatment or prejudicial treatment of diverse groups of people in the workplace that includes gender, ethnicity, disability, sexual preferences, age, colour, and religion. Discrimination in recruitment and selection arises from individual and organisational factors, which can hinder the achievement of DEI goals within an organisation.

Discrimination, as defined earlier, occurs when someone is treated unfairly due to a personal characteristic protected by law, such as gender, religion, or disability. One of the key important aspects of the definitions is their focus on behaviour and distinct from racial prejudice, such as attitudes, racial stereotypes, beliefs, and racism (ideologies) associated with racial disadvantage (Quillian, 2006). Discrimination can stem from prejudice, stereotypes, or racism. Discrimination is a crucial factor in diversity, equality, and inclusion (DEI) to observe in the workplace, as ineffective DEI practices can result in bias and prejudice and may have legal consequences. Current research on discrimination supports the discussed causes of discrimination that may lead to biases. Devine et al. (2012) work on discrimination found that individuals with implicit biases were more likely to exhibit discriminatory behavior, even if they did not consciously endorse prejudiced beliefs.

There are many cases of discrimination at work in relation to recruitment and selection, recognition, promotion, pay and compensation, and calling names. Several cases of discrimination were witnessed in previous jobs as discussed below.

Factors that contribute to discrimination

Discrimination in recruitment and selection stems from individual and organisational barriers that obstruct DEI objectives. Effective DEI practices in recruiting ethnic minority groups and women for senior managerial roles in education are essential to fostering an inclusive work environment. For instance, when a qualified applicant could not be hired for a position solely because of their gender or ethnicity, while a less qualified candidate of a different gender could be hired, this constitutes discrimination.

In an analysis of discrimination, it is important to consider both direct and indirect discrimination as both contribute to inequality and as part of DEI policy. This understanding aids in creating fair policies across sectors.

Direct discrimination

Direct discrimination is when someone is treated less favourably due to their race, gender, age, disability, sexual orientation, or religion. For example, refusing to appoint a minority group of employees or women because of their colour or gender, obviously is discrimination, demonstrating that employment was denied due to a specific characteristic, also explicit and easily identified based on actions and policies that are disadvantageous to those affected (EHRC, 2010).

Indirect discrimination

Indirect discrimination occurs when a neutral policy disproportionately affects a group with a protected characteristic. A policy can have discriminatory effects even if that was not its intent. For example, a full-time work policy may disproportionately impact women due to caregiving responsibilities (EHRC, 2010). Indirect discrimination occurs when people do not openly discriminate but indirectly create a situation to make promotion difficult for potential applicants for a job. It could be making excuses not to promote diligent employees based on their race or gender, therefore denying the individual concerned the opportunity to be promoted.

Theoretical framework

There are different theories for understanding discrimination in recruitment. The Social Identity Theory states that individuals derive part of them from socialising with others that can result in favouritism towards members of one's group and discrimination against those in out-groups' recruitment, hence can result in biases against individual who cannot be part of the organisation's culture fit (Tajfel & Turner, 1979). The Organizational Culture Theory investigates how shared values, beliefs, and behaviors within an organization can impact DEI initiatives. An organization's culture that prioritizes diversity may lead to more inclusive practices, potentially providing pathways for the advancement of gender and minority groups within the organization. The absence of dedication to DEI will result in discrimination (Schein, 2010). The Critical Race Theory (CRT) examines the connections between race, law, and power, revealing how racism is ingrained in legal systems and policies, and exposing systemic inequality (Delgado & Stefancic, 2017). The Disparate Impact Theory is a legal theory that asserts that policies or practices that are neutral on their face can still be discriminatory in effect if they disproportionately disadvantage a protected group. The Diversity, Equity, and Inclusion (DEI) Theory emphasizes the importance of creating fairness in job roles, opportunities, and advancement for all individuals while striving to identify and eliminate barriers that have historically led to unequal treatment (Wren & Bergmann, 2022). The Implicit Bias Theory highlights the existence of implicit biases that affect decision-making in recruitment processes. For instance, research by McKinsey (2022) found that educators from BAME backgrounds were less likely to be shortlisted for leadership positions, even when their qualifications and experience were comparable to

their white counterparts and the Social Justice Theory emphasizes fair distribution of wealth, opportunities, and privileges, aiming for equality in society (Rawls, 1971). The Human Capital Theory suggests that investment in people's education and skills can increase productivity and economic value, linking DEI initiatives with organizational performance (Becker, 1993). The Transformative Learning Theory, Jack Mezirow's theory, emphasizes changing perspectives through transformative experiences, promoting inclusivity (Mezirow, 1991). The outlined theories are essential for understanding DEI policy rules and regulations guiding organisational strategies and practices, and should be mentioned in the discussion.

Data collection

The research methodology employed in this research included observations, case studies, comments from a few staff, analysis of literature, and a theoretical framework, which helped to gather information to justify further research to make recommendations for effective strategies for implementation. The methodology used at this stage is appropriate due to the access and sensitivity of DEI issues in organisations. Additional research is necessary to thoroughly investigate DEI challenges in educational institutions in the UK, particularly for the organisation for this study about DEI practices.

Analysis of findings

The study describes the measures taken by the organisation to address DEI issues. However, barriers identified in both the literature and staff comments present significant challenges for effective implementation.

Barriers to increasing diversity at an organisation, with comments from staff

Implementation

The organisations must take the necessary steps to effectively implement diversity at all levels. work effectively, particularly when it comes to the recruitment of senior executives. A typical example was a comment made by one of the female staff, which indicates that out of the top senior executives employed, only one out of eight is a woman, and none are from the minority groups. another one also confirmed the same as in the annual report 2024. Another one pointed out that, at the Board level, the employees are all white males with no women or people from other backgrounds. This is an area that needs improvement by the organisation's recruitment and selection.

A female staff member indicated that during her ten years with the organisation, she has been promoted once. She believes that it might be her final promotion if she continues with her current employer. She recommends that monitoring and keeping close eye on recruitment and selection can help to support the women climb to the top positions as the male, however, it is also difficult to blame the organisation as most of the women or people from the ethnic groups do not go for executive jobs due to the fear that they may not be accepted from their previous experience, as one stated that she tried applying for senior management jobs for more than five times and never once was shortlisted for the post for interview. She stopped applying. Few of the staff surveyed expressed that the organisation values fairness. They also mentioned other aspects of fairness, including equitable distribution of roles, pay, and compensation, and a friendly working

environment, and are proud of the organisation's effort to implement effective DEI policy and practice.

Lack of effective management

An effective leadership and management strategic approach to diversity is very important and can create barriers and misunderstandings, again, one would expect leaders and managers of any organisation with gender gap or any of the defined characteristics to immediately address any issue and with HR keeping an eye on the implementation of policies about the inclusion workforce. However, this may be difficult to manage if those affected do not complain or see this as a problem, particularly in an organisation where staff are loyal and committed to their jobs, as in the case of the organisation for the study. Another individual confirmed that the organisation has a reporting system in place, which is accessible to staff for open discussions about issues of racism. However, most staff do not bother to utilise the opportunity to report cases of racism due to fear of losing their jobs, also the assumption that the case may not be properly addressed to avoid bias for the organisation.

Resources

Leaders, managers, and employees need access to resources to deal with issues of discrimination, as a lack of resources can create barriers. Again, the organisation has done much to observe protocols and also has lots of strategies in place such as, diversity and inclusion celebrations every year, cultural diversity open day, having a logo that indicate inclusive workforce and welcoming environment for all, but with limited resources, most organisations are restrained from what they can do more, same applies to the organisation with limited resources, particularly since the COVID-19 pandemic, the onus is about survival and staff currently worried about job loss than DEI.

Investigation

Discrimination cases require prompt and thorough attention. Employees often hesitate to report them, which hinders effective investigation and prevention. This means people living with bitterness, stress, and unhappiness, or demotivated, as they cannot speak out. People must be open to cases of discrimination at work, but also consider the reputation of the organisation and self. Earlier reporting to the immediate line manager is a stepping stone to address the issues to prevent it from escalating and leaving it too late to address, as stated by a participant, DEI is my least worries as she is more interested in protecting her job and organisation's reputation but can limit her concerns to her line manager if necessary.

Awareness

Creating awareness is necessary, and failures to let people know about what the company believes, values, and policy on this can create barriers and may lead to biased discrimination. This is the reason why having a written policy and procedures to deal with diversity at work to care and protect all the characteristics, but a monitor on how much the staff is aware and reads the document is questionable. One of the staff stated that she knows about it, but never read the content as she is happy with the environment of work and the people around her. To her, the sense of belonging to a caring organisation keeps her motivated.

Employee participation forum

Staff hardly complain openly, the need for constant reminders through training and development to reinforce diversity at work, to make people more aware of the procedures available for complaints for harassment or discrimination, no reminders, no asks, nothing

will happen. Lack of feedback to employees can create problems or barriers to achieving diversity. One of the staff stated that the constant training that she has received on DEI from the organisation has created more awareness, not just for her but for all to understand that they have a non-tolerant policy for any form of discrimination in the organisation. The absence of an Equal Opportunity Representative in an organisation can hinder progress, as employees may struggle to express their opinions or feelings. Having staff representatives like Equal Opportunity officers or trade unions is essential, though some organisations use staff forums to discuss DEI issues. However, the effectiveness of these forums can be questionable in certain organisations, such as the organisation for the study.

Case study 1

Two colleagues worked together in a department, one male (Asian) and the other female (Black). Both participated in writing and publishing and attended yearly conferences. On one occasion, the female staff member invited her colleague Adam to present a paper at a conference. Both requested funding from their employer, which their manager approved. The manager approved funding for the male staff member and asked him not to inform the female staff member, who had been refused funding. She paid for herself to attend the conference. Both participated in writing and publishing activities and attended annual conferences.

During the three-day conference in Turkey, the male staff member appreciated the event but expressed regret regarding his colleague's circumstances. He decided to reveal the details to her but requested secrecy. The female staff member became emotional and reported the matter to the HR manager upon their return. The HR manager found the situation concerning, given the company's policies against discrimination. After an investigation, the HR decided to suspend the manager and arranged for further training to be offered for all staff on DEI matters. This case highlighted the occurrence of discrimination and the employer's response to address it. It also underscored that many such cases go unreported due to a lack of knowledge, fear of job security, or perceived futility. The employee's decision to report the matter led to corrective action to prevent further discrimination.

Case study 2

Another noted recent Case Law is the case of G4S Cash Solutions (UK) Ltd v. Powell (Employment Appeal Tribunal, 2016), which highlighted the implications of discrimination in recruitment and selection. The tribunal ruled in favour of an applicant who faced indirect discrimination due to a recruitment process that favored certain demographic groups, prompting organizations to reassess their hiring practices to avoid legal repercussions. Gender stereotypes have posed challenges for individuals in male-dominated industries and roles, affecting their ability to assert themselves professionally. One such challenge is the difficulty many women face when speaking up in team meetings. Evidence from research has consistently shown that women who voice their opinions in a way that is perceived as assertive may be labelled as "aggressive" or "bossy", while those who speak more passively can be seen as lacking authority or confidence. Gender bias often excludes women from leadership roles in education. Eagly

and Carli (2003) found that stereotypes harm the recruitment of women for positions like principals or superintendents.

Another research indicates that individuals from Black, Asian, and Minority Ethnic (BAME) backgrounds continue to be underrepresented in senior educational roles. A study by DfE (2021) revealed that while there is a growing number of diverse individuals in the teaching profession, representation decreases significantly in leadership positions. The Equality Act 2010 (UK, 2010) consolidates and strengthens protections against discrimination based on race, sex, disability, religion, and other characteristics. Educational institutions are required to ensure fair recruitment practices and can be held accountable for discriminatory outcomes. The Public Sector Equality Duty, a provision under the Equality Act 2010, mandates public bodies to consider how their policies and decisions affect those with protected characteristics. This duty involves recruiting in educational institutions and promoting equal opportunities. Having discussed the above, it is apparent that the challenges of DEI policy concerning discrimination in education are still paramount and therefore worth revisiting to get it right for those affected.

Summary of findings

It is obvious from the findings that organizations struggle with effectively implementing diversity, especially in senior executive recruitment. Only one out of eight top executives is a woman, and none are from minority groups. At the Board level, all employees are white males. This needs improvement in recruitment and selection practices for the effective implementation of DEI. A female staff member stated that she has been promoted once in ten years and is concerned that it may be her final promotion, and with this assumption, she made up her mind to stop applying for higher jobs. Monitoring recruitment and selection can aid in promoting diversity in top positions. Some people avoid executive roles because they fear rejection. One staff member applied for senior management jobs five times without being shortlisted and stopped applying. There should be a monitoring process to encourage all to apply for which training and development that can help. Most staff believe the organization prides itself on fairness in roles, pay, compensation, and a friendly working environment, which shows good practice to keep employees motivated.

Effective leadership and management strategies are crucial for diversity. Leaders and managers should address gender gaps, and HR should monitor policy implementation. However, loyal and committed staff may not see this as a problem, as noted in the comment from a member of staff. The organization has a reporting system for racism, but staff fear job loss and doubt cases will be properly addressed. Training can build confidence to discuss concerns confidentially with their manager or HR. Leaders, managers, and employees need resources to deal with discrimination. The organization has strategies like diversity celebrations and cultural diversity open days, but limited resources, especially since the COVID-19 pandemic, have restrained efforts. However, resource issues have been one of the barriers to achieving effective DEI implementations for most organisations. Discrimination should be promptly reported to line managers, as early intervention can help prevent employee stress and reduce motivation. However, a lack of confidence among employees in the reporting process remains a significant obstacle to achieving effective diversity, equity, and inclusion (DEI) in the workplace. Early reporting to line managers can resolve issues before they escalate, but employee confidence in reporting remains a barrier to effective DEI.

Creating awareness about company values and policies is essential. The organization has written policies, but monitoring staff awareness is questionable. Employee participation forums and constant reminders through training and development can reinforce diversity at work. Lack of feedback can create barriers. One staff member stated that DEI training has created more awareness and understanding of the organization's non-tolerant policy for discrimination. The absence of an Equal Opportunity Representative can hinder progress. Staff representatives, like Equal Opportunity officers or trade unions, are essential. The effectiveness of these forums can be questionable. Effective DEI practices in recruitment and selection that include outreach to underrepresented groups, diverse hiring committees, and inclusive job descriptions are a fair strategy that can DEI practices and can help institutions attract a diverse applicant pool (Kanter, 2020), which will help with the retention of a talented workforce.

Conclusion

The study shows significant gender and ethnic disparities in senior positions at a UK higher education institution. Despite DEI policies, women and ethnic minorities are underrepresented in senior management roles. Discrimination in recruitment and selection processes is prevalent, particularly against women and minority groups. Both direct and indirect discrimination, along with implicit biases, impact decision-making in recruitment processes. This results to fewer opportunities for educators from BAME backgrounds to be shortlisted and recruited for leadership positions. In addition, organisational barriers can impact on effective implementation of DEI policy; therefore, a lack of diversity and inclusion initiatives, ineffective management, and systemic inequality can contribute to discrimination in recruitment and selection. The findings help us to understand the need for action by organisations to put working policies in place to tackle the issues of DEI in workplaces practically, as the case of the gender and ethnicity gap in senior job positions.

Recommendations

- Revisiting recruitment practices: The study suggests revisiting recruitment and selection practices to better include women and ethnic minorities in senior management positions.
- Inclusive job descriptions: Implementing measures to eliminate bias in job descriptions by using gender-neutral language and avoiding qualifications that might discourage minority groups and women from applying.
- Training and development: Implementation of programs to enhance inclusion, establishment of organisational policies that prohibit discrimination, and creation of a culture where discriminatory behaviour is held accountable.
- Awareness and reporting: Creating awareness about DEI policies and encouraging those affected to follow the organisation's measures to tackle DEI issues of concern.

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