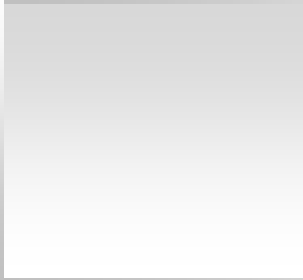
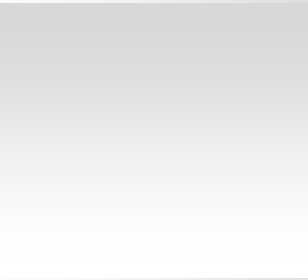


The Guide:

preventing systemic discrimination

2



Substantive Equality in Services

- addressing and preventing systemic discrimination

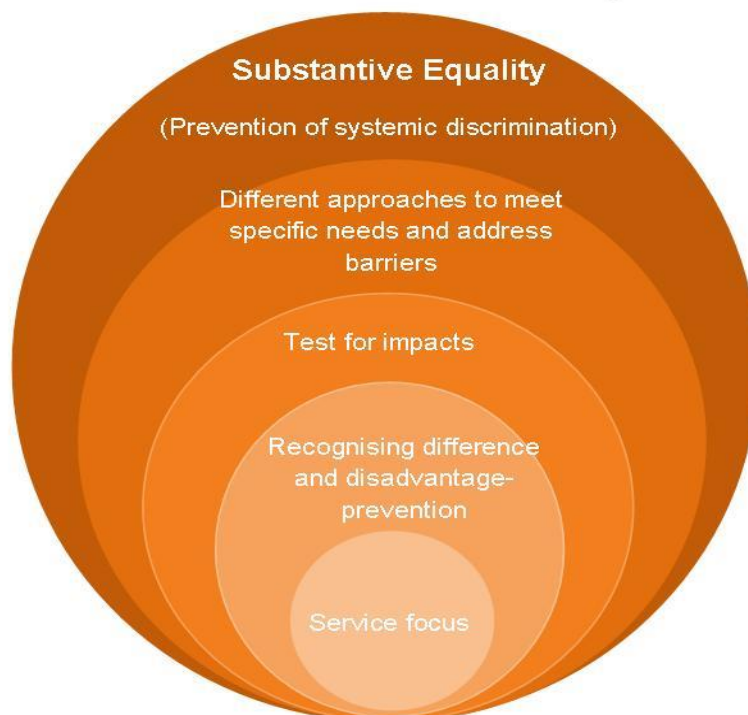
Introduction

The Policy Framework for Substantive Equality (Policy Framework) sets out a guiding structure to implement the prevention of systemic discrimination. We know that well intentioned policies and practices put in place for everyone may not serve the needs of all people, making them indirectly discriminatory. The Policy Framework is based upon a requirement to eliminate systemic and unlawful discrimination in service delivery and promote equality of opportunity. This can be fulfilled by carrying out a range of initiatives including policy impact assessments to determine the impact of particular policies and practices upon disadvantaged groups, and by taking remedial action where necessary. Such remedial action is also known as substantive equality.

Substantive equality can assist organisations to reveal and address entrenched inequalities for entire groups of people, unlike formal equality where remedies are limited to redressing retrospectively the immediate wrong. The one-size does not fit all approach has become the template for proactive advancement of equality and the elimination of underlying extensive patterns of discrimination.

Actioning the Policy Framework can be done both internally and externally within an organisation – that is, as an employer and in the business of each organisation especially in service delivery.

Substantive Equality



*Prevention of
systemic discrimination*

Purpose

This document is a guide to the Policy Framework for Substantive Equality and responds to the question How to Integrate Substantive Equality as Routine?

Together with a range of information and practical tools available on the Western Australian Equal Opportunity Commission (EOC) website this guide provides an explanation of the key considerations to prevent systemic forms of discrimination and achieve the aims of substantive equality.

As a starting point, organisations do better in preventing complaints of discrimination when:

- learning and development is provided to all staff about the meaning and practical application of equal opportunity law as well as substantive equality
- the principles of substantive equality are formally integrated into organisational vision statements, values, strategic and operational plans
- relevant groups are consulted about the services they receive
- 'real time' services are monitored for any unintended outcomes

The *Equal Opportunity Act 1984* makes it unlawful to discriminate on a range of characteristics (known as grounds). These include but are not limited to 'race', age, impairment (disability), and sex.

Sometimes the real reason someone is treated in a less favourable way is not because of a prejudice, but because there are rules and practices which have developed over time, and seem fair because they apply to everyone. If these rules have an unfair effect on a group of people (for e.g. an ethnic, aged, gendered, or group of people with a particular disability) and they cannot meet the requirements of the rule or practice, then discrimination is likely to occur.

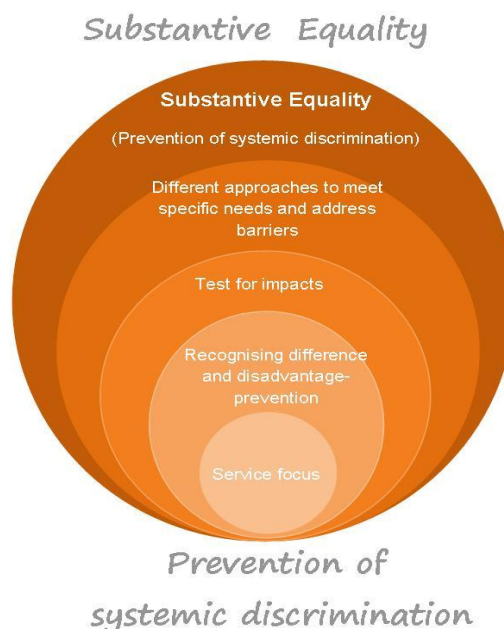
Rather than being an 'add-on or extra', implementing the **Policy Framework for Substantive Equality** simply seeks to identify the obstacles which create barriers and proposes alternative ways of achieving positive and equal outcomes.

The **Policy Framework** also recognises that discrimination is rarely based on one characteristic such as 'race'. In this regard, systemic racial discrimination can be compounded by other characteristics such as age, sex, religious belief (or lack of). It is therefore important when implementing the **Policy Framework**, to also consider other inequalities such as those related to gender, or age, in all sectors, including the private, higher learning, non government, and voluntary sectors.

In most cases, when implementing the prevention of systemic discrimination within existing structures and arrangements of organisations, programs such as equal opportunity plans, access and equity strategies, diversity improvement measures, together with equal opportunity management or reconciliation action plans should be viewed as complementary and beneficial, particularly if an integrated approach is adopted.

Benefits

- Helps to combat systemic racial discrimination and all other forms of systemic discrimination, therefore contributing to creating a society that is genuinely inclusive
- Improves service delivery both to historically disadvantaged groups, and to the broader public
- Increases client confidence and satisfaction
- Promotes cohesion, and community harmony ultimately 'closing gaps'
- Identifies gaps in policy that perpetuate discriminatory practices as well as best practices which could be used as a platform for designing and implementing new policies
- Provides a comprehensive picture of multiple, or intersecting forms of disadvantage, for example, with regard to women or men of a certain age, ethnicity or disability. Being aware of intersecting factors can reveal the convergence of different types of discrimination as points of intersection or overlap
- Can show how policies, programs, or services that impact one area of life can be inextricably linked to other areas of impact.



Essentials

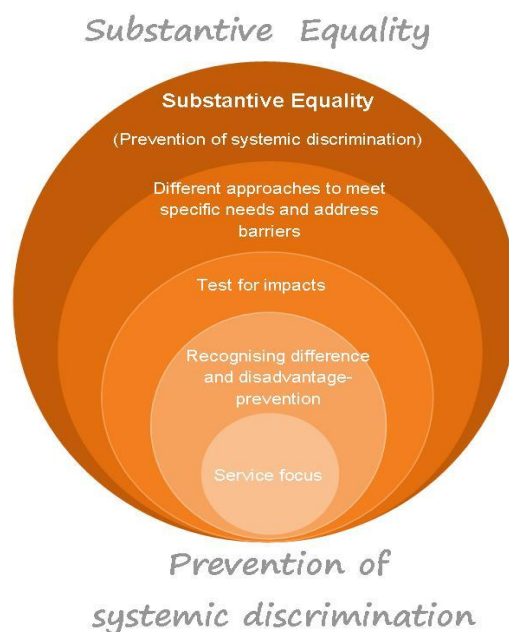
In order to integrate equality outcomes into core business activities, the following key elements are considered essential. These are:

- Understanding the meaning of systemic discrimination and substantive equality
- Mainstreaming – Integration across an organisation
- Identifying systemic discrimination through consultation
- Incorporating the assessment of the impacts of new organisational policies and major initiatives
- Effective delivery of services
- Performance information and monitoring of services.

While the above are described as separate components, they are by no means mutually exclusive; in fact all are required and there is considerable overlap and inter-reliance between them.

WA Police - Increasing Public Confidence and Avoiding Stereotypes in Practice

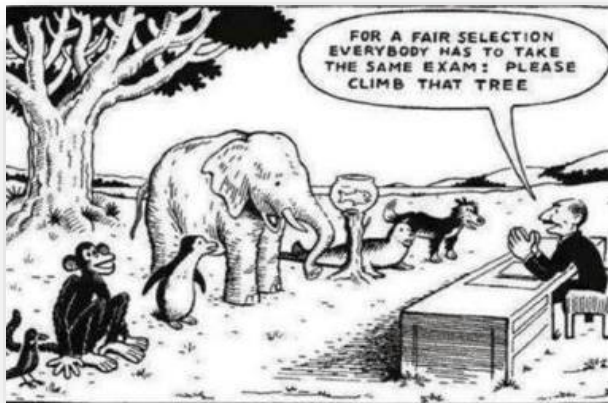
When describing persons of interest, physical features are used rather than the ethnicity of the person.



Understanding the meaning of systemic discrimination and substantive equality

Understanding the meaning and practical application of equal opportunity and communicating the key aspects of substantive equality is critical to successful business integration. In the area of education and training there are examples of how to focus and build an integrated approach.

As organisations develop a more detailed understanding of how systemic discrimination operates, in particular of how seemingly neutral policies have been discovered to have an unintended negative impact on particular groups, it may be necessary to seek specific training for key staff. Developing executives and managers understanding is critical in analysing possible implications of policies and decisions being made. Overall, easy access to relevant information for all in an organisation will assist in developing best practice.



If you want to treat me equally – be prepared to treat me differently

The Disability Services Commission in Western Australia recognises that people with disability from culturally and linguistically diverse groups often face additional communication barriers that may prevent them from receiving adequate and relevant services. Individualised planning which promotes choice and control for individuals with disability, their families and carers is vital.

A family may be fearful or too respectful and say nothing for fear of losing the service.

...they (Positive Behaviour Team) are very aware of his cultural background and are keen to enhance his cultural knowledge through giving him experiences that are culturally valued...the team are really good to work with they are open, communicate well, there are no issues at all...

...they are very good at what they do and always aware of my family's cultural values...

(Clients of the DSC)

Conceptualising discrimination in terms of rigid discrete categories also results in inevitable anomalies, gaps and distinctions. For example, the ways that various forms of discrimination occur simultaneously, such as the combined effects of racial, gender and disability discrimination, can provide responses which are different from what each category would produce separately. Using the accompanying tools to this guide allows the detection of such multiple forms of discrimination.

Mainstreaming: Integration across an organisation

Mainstreaming does not mean that there is one model of service delivery. Rather, the awareness of different needs and therefore different ways of service provision to reach the same equal outcome becomes the central mode of operation for any organisation concerned with the prevention of discrimination.

Mainstreaming incorporates the integration of an equality perspective into the everyday work of organisations, involving employee awareness, leadership, policy makers, specialists, service providers and external partners.

It is important to recognise that substantive equality needs to be part of mainstream services to have the effect of preventing discrimination. Although there are very good initiatives in place directed towards vulnerable groups, they are often not mainstreamed. That is, they are not replicated in other relevant service areas. Research and practice in this work clearly indicate that one-off initiatives for specific groups, (usually referred to as targeted programs) whilst positive, produce the best outcomes when they operate in parallel with mainstreaming, so that the needs of particular groups are considered as core business and is provided routinely.

Identifying systemic discrimination through consultation

Consultation as a key engagement strategy and built into organisational cultures as part of core business, has proven to benefit client groups as well as the organisation. Most significantly it can become a highly productive means of gaining views from those who are directly impacted by a policy or practice.

There are no simple checklists for effective consultation other than the most productive consultations being those which create a space in which people concerned are able to actively, often proactively, contribute their own perspectives, concerns and solutions. Research indicates that this requires different methods and strategies that establish a dialogue rather than information sessions followed by question and answers.

Consultations can be the rubber on the road for any organisation involved in the prevention of systemic discrimination – like a good set of tyres they give traction. They can be the crucial link between the corporate vehicle and the social terrain; can give direction; and help smooth out the inevitable bumps - *Perth Forum, 2011*

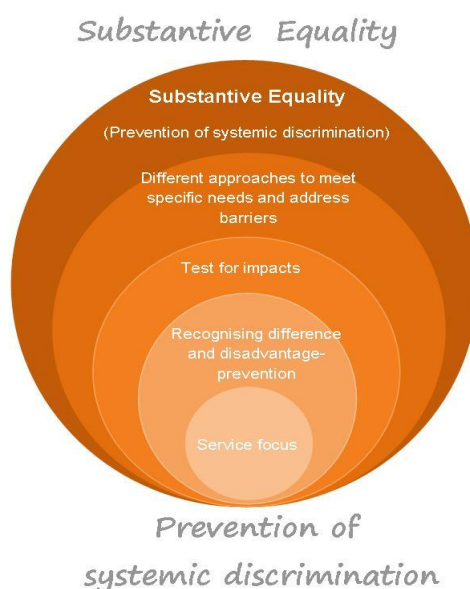
Key features to ensure the identification of systemic discrimination through consultation:

- Ensure that language used, including Auslan (in whatever medium or communication) is accessible and not overly technical
- Recognise that English may be at best a second language, making it essential to work with interpreters or where there is literacy in the other language to use written and other materials
- When considering where and with whom to hold group consultations there may be particular factors related to 'place' to take account of, or of gender or of age and so forth which may be implicit knowledge amongst members of the group concerned. It is therefore important to work with the people concerned to prepare for consultations
- Identify terms or concepts that are not directly comparable across languages
- Assign the professional level of staff commensurate to the issue to be consulted on.

Incorporating the assessment of impacts of new organisational policies and major initiatives

Policies provide people with a set of principles and the intentions of what an organisation expects in a range of areas within their business. Preventing systemic discrimination within the policy area contributes to the functioning of the whole organisation.

Impact assessments aim to assist in revealing barriers and their causes as well as the understanding of the impact of policies or initiatives before a service is provided. To recognise that neutral or '*one size fits all*' policies, projects or initiatives may have disproportionate negative impacts on groups of people, it is essential to consider the equality dimension of an initiative or policy systematically, from inception to design, through implementation and review.



A WA case study - Support to obtain driver licences

Following consultation and an impact assessment the Department of Transport's (DoT) Driver and Vehicle Services unit has responded to Western Australia's diverse population (27%) and their immediate need to obtain a driver's licence.

Translated videos and fact sheets in 11 languages as well as closed captioning and sign language provide information on getting a licence, proof of identity, sitting a driving test and how to buy and sell a vehicle. The reform program also assists staff by providing information on what is needed before a person visits a licensing centre – enabling customers to understand what they need to do and what documentation they need to bring with them.

Averting Social and Economic Costs

A similar program aimed at those residing in remote locations brings together a mobile service which responds to the circumstances faced by many who are unable to satisfy requirements which would otherwise be available to metropolitan residents. The DoT has also addressed a range of impediments related to establishing or confirming a person's identity.

A driver's licence enhances mobility, especially the prospects of work, getting to and from essential services as well as travelling long distances within and between remote and regional locations of Western Australia. In the immediate and longer term the reforms will contribute towards less contact with the justice system.

Effective delivery of services

Substantive Equality provides a powerful framework for change away from a 'one size fits all' approach, enabling relevant services, including those contracted out, to actively address gaps and barriers and meet the needs of all people.

Goods and services commissioned, purchased or provided in a manner which is consistent with the aims of substantive equality adds to the well being and value of an organisation. By ensuring that those who tender for services can deliver to a diverse clientele, this leads to increased satisfaction and confidence in using the service. This in turn ultimately brings about real change, achieving an equal outcome particularly for those who rely on essential services.

Information in relation to the requirement for public sector tenderers for community services (including the Request for Tender template) can be found at the Department of Finance website at <http://www.finance.wa.gov.au/cms/content.aspx?id=12652>

The following statement applies to public sector agencies requesting community services

"The contractor must give consideration to equal opportunity legislation and promote substantive equality in its practices and service delivery, ensuring that services are sufficiently tailored to meet the needs of Western Australia's diverse community including individuals and groups from Aboriginal and ethnic minority communities"

Performance information and monitoring of services

Performance measurements and monitoring provide evidence of barriers and impacts that affect particular groups, as well as tracking critical information for better decision making.

Specific areas relating to performance information might include:

- Customer satisfaction surveys, ensuring that processes work for and reach all people
- Data sources, including a breakdown of relevant data by client group, e.g. ethnicity, age, gender, location (data disaggregated)
- Client complaints processes and ensuring the process caters for people from specific and marginalised groups

- Consultations including information from representative groups on how they have experienced their contact with the services provided, and that their views are reflected in service design and delivery
- Workforce Profile, ensure the workforce reflects the community the organisation operates in as well as the level of need for the service.

Recognition and Economic Participation

As a procurer of goods and services, the State will strengthen Aboriginal employment requirements in government procurement processes and increase the involvement of Aboriginal businesses in the delivery of government services and capital projects.

Department of Aboriginal Affairs – Aboriginal Economic Participation Strategy 2012-2016

Advancing equality and sharing practice

Sharing experiences and practice with other organisations and service users is always helpful. Implementation plans responding to this guide **How to integrate substantive equality as routine** could be further promoted by publishing on websites and by making relevant information available and accessible to all groups.

World class organisations take into account the needs of their users and actively address gaps by tackling inequitable outcomes. Understanding the concept of substantive equality and the meaning of systemic discrimination is an essential component to realising the **Policy Framework for Substantive Equality**. Sharing this knowledge and building a dialogue will inform and enhance future practice. The necessary changes that can be measured as well as raising standards, will impact on improved equality outcomes to benefit all.

Tools and further resources

Having identified the essential key elements for averting systemic discrimination and achieving substantive equality, a range of tools and resources have been developed and introduced by the Equal Opportunity Commission. These can assist in actioning the Policy Framework for Substantive Equality. The tools are available on our website under Equal Opportunity fact sheets and other resources.

- Substantive equality fact sheet
- Screening New Policies : Preventing Systemic discrimination in New and Revised Policies major initiatives
- Impact Assessment: Preventing Systemic Discrimination

and several case studies of impact assessments and other resources

Education and training

The Commission can also provide education and training. Further information can be made by contacting (08) 9216 3900 or by emailing training@eoc.wa.gov.au

By telephone

General enquiries	08 9216 3900
Training courses	08 9216 3927
Country callers	1800 198 149

Email: eoc@eoc.wa.gov.au

Website: www.eoc.wa.gov.au



The EOC uses the services of accredited and confidential interpreters where needed. An interpreter can be arranged by calling the Translating and Interpreting Service (TIS for migrant languages) on 131450 and ask to be put through to the EOC on 9316 3900 or presenting the Interpreter Card I For Kimberley region Aboriginal language needs contact the EOC on 9216 3900 Email eoc@eoc.wa.gov.au | Website: www.eoc.wa.gov.au

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May 2022