



Key practices for social workers

Race and rights

Lesley Ann Cull

Barbara Cohen, who is a principal legal officer at the Commission for Racial Equality talks about the work of the Commission and discusses a number of issues around discrimination which effect social workers and service users.

Barbara Cohen

The Commission was set up under the 1976 Race Relations Act. This Act made it unlawful to discriminate in a number of different areas, and established the Commission as the body to both promote and to enforce the Act. We have powers under the Act to provide assistance to individuals who want to bring a complaint; that they have been discriminated against on grounds of race, ethnic or national origins, nationality or colour. We give them advice and assistance and in a number of cases we then provide them with legal representation in a court or tribunal. The Commission also has powers under the Act to carry out the formal investigation and we can carry out either a general investigation which might be across a range of organisations doing the same type of work, or we can conduct an investigation into a single organisation. And if we find that racial discrimination is part of the way that that organisation operates, then we can serve a non-discrimination notice which requires them to stop discriminating. Very often when we approach an organisation with some concerns about their practice we are able to secure change in practice without the need for a formal investigation. It is very much better if the organisation itself recognises where it's going wrong and itself makes the changes and monitors the way that they do it. When we decide that we will conduct a formal investigation the law requires us to serve a notice on the organisation saying that we intend to do so, and they have an opportunity to make representations to say why we shouldn't. And very often at that stage we begin to see that they are fairly resistant. Organisations don't want the CRE to go prowling through their records. But often, again once the formal investigation is begun we reach the stage where the organisation says well we'll do a bit of this investigating ourselves and come back to you.

Lesley Ann Cull

How does the legislation allow people who are not part of a large organisation to have a voice if they experience discrimination?

Barbara Cohen

The Race Relations Act enable any person who believes that he or she has been discriminated against on racial grounds to bring a case, to make a complaint, and to have it heard in the court or in the employment tribunal. A significant proportion will come from the public section, from large organisations, but increasingly we are getting complaints from people who work in small organisations, small companies. People's rights are exactly the same. I think that the reality is that people who work in large organisations either where they've got good trade union activity or where it's a public body who is committed to equality of opportunity, the work force is better informed of their rights and therefore more likely to bring complaints.

Lesley Ann Cull

I asked Barbara whether the Commission had been involved in any cases supporting social workers who had experienced racial harassment from service users, and if she could give us a few examples of such cases.

Barbara Cohen

Harassment of social workers by service users appears to be coming an increasing problem or at least social workers are becoming more outspoken, and it's a matter which has in fact

been litigated in the employment tribunals. The law generally is that an employer has a responsibility to ensure that their employees do not suffer racial discrimination. Once case concerned a probation officer who heard and was subjected to verbal racist abuse by one of the clients, and there was some question about whether that probation officer was expected to prepare any reports, to have any dealings with that client. And he complained nothing was done, and the employment tribunal was very critical of that particular branch of probation service for doing nothing to implement a policy which had been sent to them about five years earlier, saying that they must ensure that their employers were working in a racism-free environment. And the fact that in the particular circumstances of the case, they did very little to protect this employee, and so he was successful. A more recent case raised some of the same questions and went the other way. It related to a care worker in a residential home where one of the residents in the home who suffers from some disagree of mental disability continually uttered racist remarks of a very offensive nature, and the black worker complained about it, understandably. And management on receiving complaints then did do as much as they felt they were able to do to restrain the language used by the resident in the home. And as a result of the intervention by management her racist outbursts were much less frequent but they did continue nevertheless and so the care worker brought a case against her employer, but she was not successful because the management had spoken to the care worker to see whether she wanted them to take action to remove this resident from the home, and she did not. So she wasn't asking management to go that far, but she was asking management to secure that she could work in a racism-free environment.

Lesley Ann Cull

What are the issues around harassment of social workers by colleagues or management?

Barbara Cohen

In social services departments, like most work places, there will be issues of racial harassment between staff. The cases that have been heard in the tribunals quite recently often are concerned not only with the issue of harassment taking place but the extent to which management responds to the complaints of the person who is experiencing harassment. And harassment can take a number of forms. In a couple of the cases that I've looked at recently where a black social worker complained about arrangements not working properly or having difficulty working with a particular member of staff, they chose to isolate that social worker, and say 'well never mind, you don't work with that person any more'. So instead of solving the problem, they solved it by treating that person less favourably by giving them less access to colleagues. So I think that the concern is both watching what goes on, but more importantly, properly responding to it, and quickly responding to it. The cases where for whatever reason there's a very great delay, and of course that's one of the most harmful things for the person who's experiencing harassment or feeling uncomfortable about the working environment, is having to wait for change to happen. The most valuable support that social workers most often have is through their trade union. Trade unions are getting better at supporting cases of racial discrimination. Many trade unions will have a black worker section, and within some of the social work areas there are separate black workers groups, so really the best protection you have is with your colleagues, and certainly if you are experiencing racial harassment at work, I mean the first thing to do is to find someone in whom you can confide, somebody who will believe you and somebody who may help you to take action to bring that unacceptable behaviour to an end very quickly without the need of any kind of formal action. So it's very important that people work together and that the workplace is solid.

Lesley Ann Cull

What are the dilemmas for social workers who want to expose discriminatory practice?

Barbara Cohen

It's often a very isolated position to try to challenge something which has happened within your workplace, and these days none of us want to risk our jobs. It's always very, very difficult, and a number of the cases that have gone forward to employment tribunals are situations where an employee has not been able to allow a situation to continue. I mean most of the time people keep trying to accommodate within their workplace what's going on, and they try and use the existing structures to complain up the line of supervision and

management, and often it's only when that just proves impossible that they then say, 'I can't take it any more' and take a case to the tribunal.

Lesley Ann Cull

The next speaker is Philippa Russell, a commissioner for the Disability Rights Commission. She is going to talk about the practice issues for those working with black disabled children. Philippa starts by considering the impact of the Disability Rights Commission, and the Disability Discrimination Act 1995.

Philippa Russell

I think it's very important to have a basic knowledge of the law and given that the law changes very frequently and nobody can have an encyclopaedic knowledge of all the relevant pieces of legislation, I think it's important to know where you can get that information. But when I talk about the law, it's important that social workers for example understand the legal basis for assessment, for example the government's new framework for assessment, but they also need to know how education services work out, what's a statement of special educational needs, for example. And it's important to know how services are organised within the health service, what pieces of legislation actually decide how something works. I think that the law can often seem a very dry, boring and irrelevant subject to practitioners who are very, very busy on the ground. But there are plenty of good readable guides around now, and it's useful to actually know what people are entitled to, and to understand also how you can get the best out of the system. I would hope that black disabled children and their families would get a much better deal with the disability rights commission and with the full implementation of the Disability Discrimination Act. I think unfortunately there's quite a lot of institutional disability around, and of course black disabled children have the double jeopardy of being disabled and black and discriminated against, indirectly or directly, in a variety of ways. One of the things which I hope the disability rights commission will do, and as one of the first disability rights commissioners I am committed to achieving that end, is to make absolutely sure that all our services are as accessible to black people, black disabled people, families with, black families with disabled members, as they possibly can be. Because information and advice are actually power, and we know from looking at the likes of black disabled children and their families, that very often families just haven't had the information which would enable them to access a service which was actually there, or assumptions, erroneous assumptions have been made about what a black family with a disabled child would actually need.

Lesley Ann Cull

What advice would Philippa give to social workers working with disabled children?

Philippa Russell

Firstly to make strong alliances within the authority within which you are working with organisation of disabled people and with parents' organisations, because you are getting valuable information on what's working, where the problems are, and what the local issues are. Secondly it's really important to identify the best possible way of actually communicating directly with disabled children. We need to do that firstly because it's right and children have an important voice and we need to listen to them. Secondly, if we don't empower disabled children to participate in decision making then they are going to lack important skills about contributing to the assessment that's likely to be part of their whole adult life and planning for their adult future. But thirdly, because social workers have the ability to look at all aspects of the lives of disabled children, their experiences across a whole range of services and their local community and family is going to be really really important that they do understand what the pressures are upon disabled children and their parents, and how best to communicate with them, and that they facilitate wherever possible groups of disabled children, because solidarity matters. And many disabled children have said how much they would have liked to have known other disabled children and been able to discuss some of the challenges, opportunities, and wishes that they that they actually have.

Lesley Ann Cull

I asked Philippa what she thought could be done to improve services for black disabled children and their families, and whether the legislation promotes good practice.

Philippa Russell

There are very strong messages from recent legislation across education, health and social services about the importance of planning. And I think it will be really important that every local authority plans coherently and across all services to ensure that disabled children and families get a good deal. I think this may mean taking advice from local or other individuals who have a particular interest in, and expertise in, disability. It certainly means looking at the accessibility of all local services. I personally believe that reviews of local services, done with local organisations of disabled people, disabled children and young people as far as possible, and their parents, can often be a very good starting point. If the review is focusing not upon what's not working but actually looking for what could work better and what are the opportunities. And for most parents and young disabled people the big, big challenging period now is transition, between children's and adult services, because that's when you could lose all the professionals that you knew and valued. If the Children Act, and related legislation and of course the Disability Discrimination Act, were all implemented effectively then we wouldn't really have very many worries. But I think there are challenges here because the more legislation we have the more complex and challenging some of the assessment and planning arrangements actually become. Secondly there still are wide variations between local authorities, in the extent to which for example they involve disabled children and parents in decision making, in the range of services which are actually available and in the extent to which those local authorities take account of user's views and planning in provision. I think one way forward which helps everybody to understand the legislation and make it work is to make sure that government initiatives like Quality Protects or Sure Start really do include disabled children. And very often it's these kinds of new initiatives which do carry some new money with them, which actually enables everybody to get together and say what could we do better to improve the lives of disabled children. But I have to sort of give the final warning comment that sometimes within these new initiatives children with disabilities and or special educational needs are not necessarily given the priority that they deserve because there is not always enough local understanding about what it is that would actually make a difference.