

Institution: University of Chester		
Unit of Assessment: 20 Social Work and Social Policy		
Title of case study: Addressing Inequality in Employment and Education Through Positive Action: Changing Policy and Practice		
Period when the underpinning research was undertaken: 2015 – 2019		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s): Chantal Davies	Role(s) (e.g. job title): Professor	Period(s) employed by submitting HEI: 2005 – ongoing
Period when the claimed impact occurred: 2016 – 2020		
Is this case study continued from a case study submitted in 2014? N		

1. Summary of the impact (indicative maximum 100 words)

Research undertaken by Professor Chantal Davies has impacted on the development of policy and practice concerning the much-misunderstood area of positive action. Professor Davies' work represents the first socio-legal exploration of positive action in the UK, significantly impacting on its use and development in the UK and beyond. In particular, this work has been key to developing the work of the AdvanceHE in the area of positive action in higher education. Similarly, this research has instigated, and formed the basis of, a review of statutory positive action guidance by the UK's national equality body and, via parliamentary exploration, the use of positive action to mitigate female inequality in the workplace. This research has also been used to develop policy and practice concerning positive action at an organisational and sector level (inter alia, Women in Construction, Liverpool University, National Training Federation for Wales). Similarly, it has resulted in the robust application of ground-breaking positive action in Ireland involving the introduction of 20 female-only professorships.

2. Underpinning research (indicative maximum 500 words)

Despite laws in Britain permitting limited positive action initiatives to combat disadvantage faced by minority groups in employment since the mid-1970s, the subject has notoriously been a neglected and highly controversial area in the UK. Positive action involves the 'use of special measures to assist members of disadvantaged groups in overcoming the obstacles and discrimination they face in contemporary society'. Any attempted development concerning positive action in the UK has arguably been contentious due to the potential for "reverse discrimination." More recently, the existing positive action provisions for the individual protected characteristics were largely transferred into the Equality Act (EA) 2010 (section 158 and 159).

Professor Davies has been an academic at the University of Chester since 2005 and Muriel Robison is an employment tribunal judge and previous legal director at the Equality and Human Rights Commission (Scotland). From 2014 – 2018, Robison was a Visiting Professor at the University of Chester. Based on the above problem, it was the view of Professor Davies that the lack of meaningful data on the attitudes and use of British employers towards legislative provision on positive action made it impossible to assess the comparable position within the European and global context. Thus, in 2015 Davies and Robison commenced study, funded by the University of Chester, on employer attitudes towards positive action [3.1] [3.2]. While it was not possible to generalise due to restricted sample size, the results of this research supported the hypothesis that the positive action provisions of the Equality Act 2010 were not effectively utilised across GB. In particular, while there was a clear willingness and openness to the use of outreach measures to redress disadvantage, there was evident wariness regarding a move towards preferential treatment as expounded by section 159. These concerns often reflected a highly sensitive risk-based approach towards any action that could expose their organisation to the possibility of "reverse discrimination" legal liability.

Building upon these early findings of Davies and Robison, in 2017, the Young Women's Trust (YWT), a charitable organisation working to achieve economic justice for young women in England, reported that young women are still mostly absent from several sectors, including Engineering, Construction, and Information and Communications Technology (ICT), and recommended that where participation of women is disproportionately low, employers should consider taking positive action to increase participation. Consequently, in June 2017, the YWT

commissioned and funded a research project led by Professor Davies into the attitudes towards, and current use of, positive action concerning apprenticeships aimed at increasing the representation of women in gender-segregated sectors across England [3.3]. This research (utilising a broad purposive sample of stakeholders from across England) pointed to a need for a change in approach towards positive action by organisations, and made recommendations around: the need for engagement with individualised; robust positive action as part of a broader holistic approach towards ensuring gender equality within apprenticeships; the need for employer collaboration and knowledge sharing networks around positive action; as well as the procurement process to embed use, wherever appropriate. At a sector level, the research pointed to a need for a more informed and robust approach towards positive action, recommending the need for sector-based support and guidance, particularly around section 159 EA 2010. At a Governmental/policy level, it called for recommendations around the promotion of government-endorsed guidance, and the implementation of a robust system of data collection in relation to underrepresentation in apprenticeships.

In 2018, the national equality body in Great Britain (GB), the Equality and Human Rights Commission (EHRC), responded to the recommendation that it further develop guidance in this area. It commissioned and funded Professor Davies to conduct research into the use of positive action in apprenticeships across GB. As part of this commissioned work, Professor Davies was commissioned to lead a round table event on positive action in apprenticeships, with leading employers, academics and policy drivers from across GB, to consider the use of positive action in apprenticeships to address underrepresentation across the protected characteristics in England, Wales and Scotland; the findings of this research were published in March 2019 [3.4]. Recommendations included: a call for Government to hold apprenticeship providers to account by setting robust targets for improved participation of under-represented groups to be achieved using positive action and to utilise public procurement to promote the use of positive action and for employers to collect more robust data on underrepresentation in order provide a solid evidence base for the use of positive action; the provision of improved guidance in this area; and for greater input from sector bodies in promoting the use of positive action.

3. References to the research (indicative maximum of six references)

- [3.1] Davies, C. M., & Robison, M. (2016). Bridging the gap: An exploration of the use and impact of positive action in the United Kingdom. *International Journal of Discrimination and the Law*, 16(2-3), 83-101. (doi: 10.1177/1358229116655647).
- [3.2] Davies, C., & Robison, M. (2015). Shifting the starting blocks: an exploration of the impact of positive action in the UK. In 'Beyond 2015 shaping the future of equality human rights and social justice', EDF. (<http://hdl.handle.net/10034/600573>)
- [3.3] Davies, C. (2018). Equality at work? Positive action in gender segregated apprenticeships. Young Women's Trust. London, United Kingdom. (<http://hdl.handle.net/10034/621827>) (YWT Report)
- [3.4] Davies, C. (2019). positive action and apprenticeships: exploring the use of positive action in apprenticeships in England, Scotland and Wales. Equality and Human Rights Commission, London, United Kingdom. (<http://hdl.handle.net/10034/621983>) (EHRC Report)

4. Details of the impact (indicative maximum 750 words)

The research has been used by: both the EHRC and YWT as evidence to Parliament; the EHRC to develop enhanced national guidance to organisations on the use of positive action; and Advance HE, on a national basis, in rolling out projects with Higher Education Institutions across England, Wales and Scotland, to develop positive action initiatives within their particular institutions in order to mitigate against underrepresentation and disadvantage faced by protected groups.

YWT Research Impact

The research commissioned and funded by the Young Women's Trust, and launched at a Parliamentary event in June 2018, has formed a core part of their work with sector bodies and organisations since publication in 2018 [5.1]. Within the UK, the recommendations of Professor Davies' research for the YWT have been used by employers (e.g. Virgin Trains, Balfour Beatty),

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sector bodies (e.g. SEMTA, Women into Construction) and Unions (e.g. Unite) in adapting and implementing their positive action schemes as a means of addressing female underrepresentation in gender segregated sectors. Joe Levenson (Director of Communications and Campaigns, YWT) states, *"We were delighted with the quality of the research delivered by Professor Chantal Davies and the impact it has had. Engagement with employers and stakeholders during the research process itself secured valuable commitments to change, both from employers and from the Equality and Human Rights Commission who not only adopted a draft recommendation but also commissioned their own allied project."* The findings from the YWT research received significant parliamentary and policy interest. In particular, Professor Davies presented findings of the research to the Women and Work All Party Parliamentary Group (APPG) in 2018 [5.2], and recommendations from this research were taken forward and referenced by the APPG, forming part of the recommendations made to Government in the Group's 2018 Toolkit and Annual Report. In particular, *"The Government should commission or publish new guidance on the effective use of positive action and other measures that can be taken under the current legal framework aimed at levelling the playing field for underrepresented groups"*. [5.1]. This recommendation has partially been implemented via the EHRC work on this (see below). YWT also used the research as the basis of their engagement with the House of Commons Education Select Committee and their engagement with the Department for Education, including through the membership of their Apprenticeship Diversity Group. YWT were also able to secure significant media coverage [5.7] [5.8]. The Young Women's Trust promoted, and encouraged engagement with, the research findings and recommendations with major employers, including Virgin Trains and Balfour Beatty, who had signed up to its apprenticeship pledge [5.1].

The YWT research has also been used by sector bodies in developing strategy in the area of positive action. For example, Kath Moore, Director of Women into Construction (WIC is an independent not-for-profit organisation that promotes gender equality in the construction sector) states, *"the YWT research on positive action has been hugely helpful for Women into Construction in our promotion of positive action programmes in construction to support women wishing to enter the industry"* [5.2]. In particular, the YWT research has enabled WIC to reassure participating companies that they are engaging in robust legal activity in implementing positive action policies, allowing the organisations to utilise positive action, which has consequently led to an increase in gender diversity in the construction industry. Similarly, the YWT research has been used by the National Training Federation of Wales [5.1] to develop a robust positive action programme, as part of their Work-Based Learning Equality, Diversity and Inclusion strategy for the coming three years, to improve the representation of underrepresented groups in apprenticeships in Wales. This will be used to ensure that apprenticeships in Wales are meeting their targets to increase the representation of protected groups. The YWT research was also disseminated by UnionLearn to unions across England, promoting and encouraging the use of positive action by unions in apprenticeships and beyond [5.3]. Unionlearn is the learning and skills organisation of the Trades Union Congress (TUC), and works to assist unions in the delivery of learning opportunities for their members. The research was also discussed in various TUC union and training journals. The research helped inform the development of the TUC publication 'Tackling apprenticeship gender inequality'. The research also practically influenced the development of advice and guidance for trade unions/employers about apprenticeships/apprenticeship schemes and associated initiatives on positive action, equality, diversity and inclusion. The UNITE union has used the research as part of their equality and diversity induction and CPD activities, and also as part of their Employment Rights & Responsibilities Apprenticeship Toolkit to educate and train union representatives, and those in the construction sector. Steve Craig (National Development Officer, UNITE) has stated that, *"as a consequence of UNITE's involvement, in promoting and utilising the research in our work with the TUC/Unionlearn; apprentices; employers; Local Authorities; FE Colleges; and on various forums across the construction sector, such as the Cross-Construction Apprenticeship Taskforce - we believe there have been countless beneficiaries."*

EHRC Research Impact

Perhaps most significantly, the YWT research in this area led to the EHRC deciding to focus on developing their policy work in the area of positive action in 2018/19, which led to the commissioning of further research undertaken by Professor Davies, published in 2019. The

evidence presented in the EHRC research, as well as the raft of specific policy recommendations it contains, informed the development of national EHRC guidance outlining how employers might effectively use positive action in the workplace [5.4]. The publishing of the 2019 research led the EHRC to review and reengage with their statutory guidance on positive action informed by the 2019 report. This summarised positive action in clear, straightforward guidance for employers, and directed the reader back to the employment code of practice for more detail. Although data is not collected on use and application of the EHRC statutory guidance, this guidance has quasi-legislative application in the employment tribunals, and therefore will have a significant national impact on addressing underrepresentation and disadvantage. On a global level, the EHRC positive action research was also submitted to the United Nations Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee), to provide them with evidence about women's rights in Great Britain. Moreover, following the EHRC's oral evidence to the Home Affairs Committee on 12 March 2019 (The Macpherson Report: Twenty Years On), the Home Affairs Committee requested additional written evidence on the distinction between positive action and positive discrimination, and more examples of how positive action might be used more effectively and consistently. The EHRC research has also informed their additional written evidence to the Home Affairs Committee in this regard [5.4].

An important part of the EHRC's research and policy work concerns the labour market. Previously, EHRC had carried out very little work on apprenticeships, and The EHRC report on positive action greatly contributed to EHRC understanding of apprenticeships and their implications from the perspectives of gender, race and disability. The EHRC has also drawn on the insights and findings of the 2019 research in their wider research and policy work, for example, in their flagship research, *Is Britain Fairer? 2018* [5.4].

Higher Education Sector Impact

Professor Davies has also been working with the Equality Challenge Unit (ECU, now AdvanceHE) to advise on the use of positive action by HEIs nationally. In particular, she advised on a scheme (rolled out by the ECU) in Scotland on implementation of positive action initiatives to address underrepresentation on the broad range of protected characteristics in higher education [5.5]. Her research has been used to develop AdvanceHE's joint projects (Attracting Diversity in Scotland and 'Increasing Diversity' in the rest of the UK), and focused on using positive action to tackle the underrepresentation of student groups in UK undergraduate recruitment. These projects included working with a cohort of around 32 HEIs in action research across 2016-2019. The final summary reports for these projects directly utilised Professor Davies' research on positive action (as above) and also her positive action checklist developed with ECU/AdvanceHE based on the recommendations from her research [5.5]. This work has enabled the specific and wider HE sector to clarify and consider the use of positive action, and resulted in a range of institutions relying on the work of the projects above in policy and reporting, referencing this in their Scottish Funding Council Outcome Agreements (e.g. Aberdeen; QMU; West College Scotland), Public Sector Equality Duty statements (e.g. Edinburgh), and Scottish Funding Council Institutional Gender Action Plans (e.g. City of Glasgow College). In particular, the impact of the positive action research upon Abertay University is notable. Abertay University wanted to test whether the title of a degree programme could positively impact gender diversity in student recruitment. They focused on four degree subject areas: computing, computer games, sport, and food, with a focus on two new degrees in the subject areas with titles and content that might appeal more to females, commencing in September 2017. Evaluation of course application data demonstrated very positive results for their sports-related degrees in this regard. In 2017/18 62% of applicants were female whilst, in 2018/19, 71% of applicants were female. The reports, and specifically the positive action recommendations/checklist developed from Professor Davies' research, have been directly referenced by the Royal Historical Society [5.5] in its ongoing work to champion the use of positive action in relation to scholarships, ethnicity, and efforts to tackle inequality in the academic career 'pipeline.' The positive action recommendations developed from Professor Davies' research have also been used in a high-profile project engaging with Scottish institutions on race equality and response to EHRC's enquiry into racial harassment in HE [5.5]. It was part of a set of resources used with Scottish university leaders in developing the project's declaration and statement, which

the Scottish Funding Council, Scottish Government, and the sector as a whole are now committing to [5.5].

Professor Davies also fed her research by means of expert advice on the approach taken in Advance HE's briefing for HEIs on the use of positive action in REF 2021 [5.5]. The briefing was used by Advance HE in its REF 2021 training (which supported national, UK-wide engagement) and was shared with the UK funding bodies' REF Team. The briefing was used to form a guidance note for all HEIs participating in REF 2021, accompanied by an FAQ by the UK funding bodies on positive action signposting [5.5].

More generally, Professor Davies has utilised her research findings to work with individual Higher Education Institutions, such as the universities of Liverpool, Sheffield, and Sheffield Hallam, to implement the research recommendations into their institutional practice, and address disadvantage and underrepresentation of protected groups across the student and staff population. For example, in September 2018, she presented her research to a group of strategic leaders at the University of Liverpool who were actively engaged in implementing the Athena SWAN Gender Equality Charter across the institution [5.6]. This practical implementation of her research findings helped to develop and equip these equality leaders in understanding what, how and when positive action initiatives could be implemented within the University of Liverpool to address underrepresentation and disadvantage. Since the research was presented, staff have used this to develop positive action initiatives including an Equality and Diversity Kickstarter fund targeted at disadvantaged groups (representing 20% of their annual Diversity and Equality budget). This fund has established a Veterinary Science project targeting BAME and male students to try and improve representation in this area. Equally, a dedicated Women in Football management scholarship has been established, as well as the research feeding into the continuing development of Athena SWAN awards in recognition of the university's commitment and progress.

In 2018, Professor Davies was invited by the Higher Education Authority in Ireland to sit on a panel of 10 international experts with gender equality expertise, to feed her research into and support the establishment of a potentially controversial women-only professorship positive action initiative in Irish higher education. This Senior Academic Leadership Initiative (SALI) is aimed at addressing gender underrepresentation in senior leadership roles across the Irish higher education system in Ireland. As a result of this process, in January 2020 the Irish Government's Higher Education Minister, Mary Mitchell O'Connor, announced the funding and creation of 20 female-only professorships under SALI [5.7].

The YWT and EHRC research also received widespread media interest between 2018-2019 [5.8], ensuring a broad-based reach across sectors. However, it is difficult to trace the consequent application of this media dissemination into formal impacts due to the diverse nature of the media coverage.

5. Sources to corroborate the impact (indicative maximum of 10 references)

[5.1] YWT evidence/statement: from Director of Communications, YWT; [APPG Minutes 11.07.18](#); [Women and Work APPG Annual Report 2018](#)

[5.2] Statement from the Chief Executive, Women into Construction.

[5.3] Statement from National Development Officer, UNITE; [UnionLearn Engagement](#)

[5.4] EHRC evidence/statement: [EHRC Report release](#); [EHRC, Is Britain Fairer, 2018](#)

[5.5] AdvanceHE evidence/statement: [ECU web content 2016](#); [AdvanceHE Attracting Diversity End of Project Report](#); [Royal History Society positive action checklist](#)

[5.6] Liverpool University evidence: from Head of Equality, Liverpool University.

[5.7] SALI evidence: [HEA Ireland SALI release](#)

[5.8] Selected Media: [New Statesman](#); [Guardian](#); [Womensgrid](#); [Equallyours](#); [Newwomens.net](#); [Workingmums](#); [London Business Journal](#); [Croner-i](#); [Apprenticeships Directory](#); [Small Business](#); [Women's Budget Group](#); [Ekklesia](#); [HR Magazine](#); [International Workplace](#)