Mainstreaming equality and human rights: Factors that inhibit and facilitate implementation in regulators, inspectorates and ombuds in England and Wales

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Abstract

To date the mainstreaming of equality and human rights law into public sector organisations has been underwhelming with the implementation of these norms being *ad hoc* and inconsistent. Existing research on factors that influence implementation has been either too general or too disjointed. This article has two aims to advance research on the implementation of equality and human rights: (i) to outline factors that influence the implementation of these norms and (ii) provide a more settled foundations for future research on equality and human rights implementation. It does this through interviews, undertaken in 2018–2019, with individuals responsible for leading the implementation of equality and human rights law within public sector organisations (specifically regulators, inspectorates and ombudsmen) in England and Wales. On the basis of this, the article makes suggestions for how the implementation of equality and human rights can be advanced further through changes to the regulatory environment.

1 Introduction

The British public sector equality duty and the Human Rights Act were intended to lead to the embedding of equality and human rights norms into all public sector organisations (Discrimination Law Review, 2007; HL Deb 3 November 1997). Over time organisations would mainstream equality and human rights by finding organisation specific ways to integrate these values (Hunt, 2017; Hepple, 2010). The reality has differed significantly from this ideal with mainstreaming of human rights in public sector organisations found to be 'patchy' and few concrete examples being found where the public sector equality duty has led to improved outcomes (Joint Committee on Human Rights, 2017-19; Independent Steering Committee, 2013). Regulators, inspectorates and ombuds (RIOs), in particular, were intended to have a crucial role in advancing mainstreaming and achieving 'sustainable behavioural change' in the organisations that they oversee, through the monitoring of, and taking enforcement action against, poorly performing organisations (EHRC, 2012; Fredman and Spencer, 2006; Hepple, Coussey and Choudhury, 2000). However, the implementation of equality and human rights norms into RIOs has been *ad hoc* and inconsistent, with many RIOs being found not to be meeting their legal duties (Women and Equalities Committee, 2017-19; EHRC, 2009).

Research on implementation has tended to either be too broad or too disjointed. Public policy research on implementation has attempted to provide a general theory of factors that influence implementation, but this has since been recognised as too broad and unable to apply to concrete

situations (Sætren and Hupe, 2018; O'Toole, 1986). Instead, researchers have argued that contextual studies of implementation are now needed (Sætren and Hupe, 2018). While there is research on the implementation of equality and human rights norms, this has taken place in three separate areas (gender mainstreaming, the mainstreaming of other characteristics and human rights mainstreaming). Although similar processes and factors are identified in the three bodies of literature, the discussion has so far occurred on parallel lines, with little interaction between the different research areas. The vast majority of the literature has focused on gender mainstreaming at the (macro) international, EU or member state level. Research on the mainstreaming of other characteristics and human rights, also largely focused on the macro level, has been more limited. Literature exploring implementation of equality and human rights, at the organisational (meso) and individual (micro) levels, is significantly under-researched, with the little research that exists focusing almost solely on local authorities. There is no empirical work exploring implementation in RIOs, despite their crucial role in driving mainstreaming in other organisations.

This article begins to fill this gap through interviews, undertaken in 2018–2019, with individuals responsible for implementing equality and human rights in RIOs in England and Wales. Through these interviews, factors that influence equality and human rights implementation generally, and in RIOs specifically, can be drawn out. On this basis, it is possible to outline suggestions for improving the implementation of equality and human rights and provide a more unified starting point for further equality and human rights implementation research in the future. The article begins by briefly exploring general public policy research on implementation and more specific studies of the implementation of equality and human rights, to identify factors relevant to implementation generally and equality and human rights implementation specifically. The article then goes on to investigate factors that influence implementation of equality and human rights within RIOs in England and Wales, through interviews with the individuals responsible for implementation of these norms. It will be seen that while there are factors that arise across all three contexts (general implementation, equality and human rights implementation and implementation within RIOs), there are additional factors that are specific to RIOs (such as interactions between different RIOs). The article concludes by outlining steps that could be taken to advance implementation in the future and opportunities for further research.

2 Research on implementation

Public policy research on implementation has sought to produce a general theory, that makes clear the factors that support or impede successful implementation. Pressman and Wildavsky (1984) found that for implementation to be successful, the law being implemented needs to be as simple as possible and to involve the lowest feasible number of actors. Van Meter and Van Horn (1975) argued that it was possible to successfully implement complex laws and policies, providing six key factors were taken into account in the implementation process. These are: (i) the clarity of standards and objectives set by the policy; (ii) the resources made available for implementation; (iii) interorganizational communication and enforcement activities; (iv) the characteristics of the implementing organisations (including competence and size of staff, internal processes and political resources); (v) economic, social, and political conditions and (vi) the disposition of implementers (their ability and willingness to carry out the policy; their cognition of the policy; and the intensity of their response to it).

Sabatier and Mazmanian (1980) put forward their own more practical factors. The first category was the tractability of problems addressed by the statute (which included difficulties in measuring the changes in the problem, how to change behaviour, the diversity of behaviour being regulated and the amount of the population whose behaviour needed to change). The second category was the extent to which the statute coherently structures the implementation process, which they argued required a valid causal theory, precise and clearly ranked objectives, financial resources for the implementing agencies and assigning implementation to agencies or officials

who were committed to the objectives. The final category was non-statutory variables affecting implementation, which included variation of social, economic and technological conditions over time, variation of public support, changes in resources and commitment and leadership skill of implementing officials.

Subsequent research expanded on these factors to the extent that O'Toole (1986) found that over three hundred factors were argued to be critical. Factors frequently referred to included: the characteristics of the policy (its clarity, specificity and flexibility); resources; the structure of implementers; the number of implementers; attitudes and perceptions of implementers; and timing, but these were not equally important in every context (Sætren and Hupe, 2018). Scholars have now moved away from producing a general theory of implementation to partial theories that explore implementation in particular contexts (Sætren and Hupe, 2018; Wanna, Butcher and Freyens, 2010; Winter, 2007).

In terms of research on equality and human rights implementation, there are three main bodies of literature. The first, constituting the bulk of the literature, focuses on gender mainstreaming. The implementation of gender mainstreaming has predominantly been explored in relation to the EU and its member states (e.g. Verloo, 2001; Rees, 2002; Squires and Wickham-Jones, 2002; Woodward, 2008; Wittman, 2010; Hankivsky and Christoffersen, 2011; Rawłuszko, 2019). There is, however, also research exploring the implementation of gender mainstreaming at the international level (e.g. Hafner-Burton and Pollack, 2002; Sundari Ravindran *et al.*, 2021) and in non-EU states (e.g. Hankivsky, 2008; Hankivsky, 2013; Ramparsad, 2019; Velez *et al.*, 2020).

The second body of literature, more limited in breadth than the first, explores implementation of equality beyond gender, exploring the mainstreaming of the rights of older people (Chaney, 2013), individuals with disabilities (Meier, Celis and Huysentruyt, 2016) and intersectional inequality (Hankivsky, de Merich and Christoffersen, 2019). The final body of literature, exploring the implementation of human rights, is significantly more disjointed than the equality literature. It largely explores the implementation of specific rights or rights in specific contexts, although there are exceptions which take a broader perspective (e.g. Olwuyi, 2013). Rights and contexts explored include the right to education (Chaney, 2011), rights in closed environments (Naylor, Debeljak and Mackay, 2015) and the Istanbul Convention on preventing and combatting violence against women (Niederhauser, 2021).

The vast majority of the equality and human rights implementation literature explores implementation at the macro level, such as in international or European institutions or at governmental level. At the macro level implementation is 'a "top-down" process, driven primarily by centrally located policy designers' (Scala and Paterson, 2018). While important, macro level action is insufficient on its own to effectively mainstream equality and human rights. This is because attempting to oversee mainstreaming in broad sectors, each of which have their own rules, is potentially unmanageable, expensive and often fails (Cairney, St Denny and Kippin, 2021). What is needed, alongside implementation at the macro level, is implementation at the meso (i.e. organisational) and micro (i.e. individual) levels. This is important as meanings and outcomes are constructed in the contexts in which they are implemented (Yanow, 1993). Therefore, if we are truly to understand implementation, there is a need to explore implementation at these lower levels.

This provides significant research opportunities as, at present, implementation research at the meso and micro levels remains understudied (Scala and Paterson, 2018). In terms of meso studies, these have focused on local authorities and other similar public bodies (e.g. Greed, 2005; Page, 2011; Spencer and Harvey, 2014; Burman and Johnstone, 2015; Parken and Ashworth, 2019; La Barbera, Espinosa-Fajardo and Caravantes, 2022; Svedenmark, Bolin and Nyhlen, 2022). There is even less research exploring implementation at the micro (individual) level with Scala and Paterson's (2018) exploration of the perspectives of individuals within different public bodies in Canada being a notable exception.

Given that the exploration of equality and human rights implementation has been explored in different (and separate) literatures (gender mainstreaming, implementation in relation to

characteristics beyond just gender, and human rights) there is a lack of research into the general factors that inhibit and facilitate the implementation of equality and human rights norms within organisations. This article seeks to address this by attempting to draw out the factors that the equality and human rights specific implementation literature suggest are influential for implementation. Additionally, given that the major focus of research in all three literatures has been at the macro-level, this article aims to add to the growing research taking place at the meso and micro levels, through the exploration of the perspectives of individuals responsible for implementing equality and human rights norms within regulators, inspectorates and ombuds. RIOs are a particularly important site for the exploration of the implementation of equality and human rights norms because they can act as a filter between the macro level and front-line organisations (Barrett, 2020). In this way, RIOs can translate macro-level policies on equality and human rights into sector specific policies taking into account the rules and logics of the specific sectors, and thus act to address the major gap that routinely exists between mainstreaming strategy and delivery (Cairney, St Denny and Kippin, 2021).

A particular problem with identifying literature on equality and human rights implementation is that because it is siloed (i.e. discussed in different bodies of literature and often not coherently, as is the case with the research on human rights implementation) it does not necessarily use the same terms (Sætren, 2005). To ensure as much relevant research was identified as possible, key words and their variations were searched on Web of Science (including 'equality', 'human rights', 'implement', 'mainstream' and 'embed') for articles since 2010. Due to my failure to speak other languages only articles in English were identified. The abstracts of all the returned results were read to ensure that the returned research did in fact discuss equality and/or human rights implementation. These outputs were then read and the various factors, that were found to influence implementation, identified. Table 1, below, outlines the factors that were found to be important for implementation in the equality and human rights specific literature.

It can be seen that many of the factors found to be important in general implementation scholarship are also prevalent in the equality and human rights literature. These include the knowledge and skill levels of the implementers, the level of resources, leadership and the extent that obligations are enforced. Yet, there are also factors that are held to be relevant in the general implementation literature but which either do not feature at all in the equality and human rights literature (i.e. characteristics of the policy, structure and numbers of implementers and timing) or which feature much less prominently (i.e. economic, social and political conditions and commitment level). Conversely, while not held to be influential in the general implementation literature, quality of data was a factor that arose frequently in the equality and human rights scholarship. Finally, there are factors identified by equality and human rights implementation scholars that did not feature in the literature on general models of implementation. These include competing priorities and consultation/participation with those affected.

There is only one piece of academic research exploring implementation of equality and human rights and RIOs. The research by Naylor, Debeljak and Mackay (2015) explores the roles of RIOs in supporting implementation of rights within closed environments. This study is library-based, exploring the theoretical role of RIOs within this context and does not explore the implementation experiences of RIOs directly. The only existing empirical research is a 2009 report for the Equality and Human Rights Commission (EHRC) which explores how RIOs were promoting human rights in public services and aimed to capture the different approaches of RIOs. This offered some insights into implementation of human rights by RIOs and identified some inhibiting and enabling factors that are discussed below (e.g. leadership, lack of resources, capacity, and the importance of training). However, the report was very practical and did not engage with the rich ideas and data available from the academic literature. It also took place fairly early after the coming into force of the Human Rights Act (8 years) and thus longer implementation trends would not be visible (Goggin et al., 1990). Additionally, the report focused more heavily on the organisational level and not on the specific experiences of individuals tasked with implementing

Table 1. Equality and human rights implementation literature

Factor	Equality and Human Rights literature
Knowledge and skill levels of implementors	Rees (2002); Hankivsky and Chrisoffersen (2011); Hankivsky (2013); Olwuyi (2013); Goldstein (2014); Parpart (2014); Payne (2014); Spencer and Harvey (2014); Burman and Johnstone (2015); Naylor, Debeljak and Mackay (2015); Meier, Celis and Huysentruyt (2016); Manfredi, Vickers and Clayton-Hathway (2018); Hankivsky, de Merich and Christoffersen (2019); Ramparsad (2019); Rawłuszko (2019); Niederhauser (2021); Sundari Ravindran and others (2021)
Level of resources	Rees (2002); Squires and Wickham-Jones (2002); Hankivsky (2008); Woodward (2008); Hankivsky and Chrisoffersen (2011); Chaney (2011); Olwuyi (2013); Goldstein (2014); Parpart (2014); Payne (2014); Spencer and Harvey (2014); Burman and Johnstone (2015); Meier, Celis and Huysentruyt (2016); Parken and Ashworth (2019); Hankivsky, de Merich and Christoffersen (2019); Ramparsad (2019); Sundari Ravindran and others (2021)
Leadership	Hankivsky (2008); Hankivsky and Chrisoffersen (2011); Chaney (2011); Parpart (2014); Spencer and Harvey (2014); Burman and Johnstone (2015); Naylor, Debeljak and Mackay (2015); Meier, Celis and Huysentruyt (2016); Manfredi, Vickers and Clayton-Hathway (2018); Scala and Paterson (2018); Parken and Ashworth (2019); Hankivsky, de Merich and Christoffersen (2019); Ramparsad (2019); Sundari Ravindran and others (2021)
Enforcement	Wittman (2010); Hankivsky and Chrisoffersen (2011); Hankivsky (2013); Parpart (2014); Burman and Johnstone (2015); Meier, Celis and Huysentruyt (2016); Manfredi, Vickers and Clayton-Hathway (2018); Scala and Paterson (2018); Hankivsky, de Merich and Christoffersen (2019); Rawłuszko (2019); Sundari Ravindran and others (2021)
Economic, social and political conditions	Greed (2005); Goldstein (2014); Parpart (2014); Spencer and Harvey (2014); Scala and Paterson (2018); Parken and Ashworth (2019); Ramparsad (2019)
Commitment level	Hankivsky (2008); Wittman (2010); La Barbera, Espinosa-Fajardo and Caravantes (2022)
Quality of data	Chaney (2013); Hankivsky (2013); Payne (2014); Burman and Johnstone (2015); Meier, Celis and Huysentruyt (2016); Manfredi, Vickers and Clayton-Hathway (2018); Hankivsky, de Merich and Christoffersen (2019); La Barbera, Espinosa-Fajardo and Caravantes (2022)
Competing priorities	Hankivsky (2008); Hankivsky and Chrisoffersen (2011); Chaney (2011); Scala and Paterson (2018)
Consultation/participation with those affected	Hankivsky (2008); Hankivsky (2013); Manfredi, Vickers and Clayton-Hathway (2018); Scala and Paterson (2018)

equality and human rights within their organisation. Finally, due to its practical nature, the report did not explore the environment of implementation (both as an inhibitor and enabler of implementation) in any depth. It will be seen that the external environment and interactions with external actors are important factors in embedding equality and human rights within organisations. The next section outlines the empirical methodology before considering the factors that inhibit and enable the implementation of equality and human rights in RIOs.

3 Methodology

The project explores the experiences of individuals implementing equality and human rights norms within RIOs. It focuses on both equality and human rights as, while McCrudden recognises that there are differences between equality and human rights mainstreaming, such as different attitudes within government and the role of the EHRC, all of the participants integrated the two within their work so it is not possible to neatly and cleanly separate them (McCrudden, 2005, p.

Table 2. Characteristics of participants

Pseudonym	Size	Level of participant within RIO
English Organisation 1 (E1)	Large	Middle
English Organisation 2 (E2)	Large	Middle
English Organisation 3 (E3)	Large	Top
Welsh Organisation 1 (W1)	Small	Top
Welsh Organisation 2 (W2)	Small	Middle
Welsh Organisation 3 (W3)	Small	Middle
Welsh Organisation 4 (W4)	Small	Middle

27). Additionally, the focus is also on RIOs. While these organisations differ in their powers and remits, the focus is on RIOs as this is a grouping used by a wide range of organisations (for example the EHRC and the Women and Equalities Select Committee) and is used by the participants themselves (thus the National Preventive Mechanism consists of a mixture of regulators, inspectorates and ombuds).

Purposive sampling was utilised drawing upon three criteria (Palinkas and others, 2015; Guest, Namey and Mitchell, 2013). First, in order to compare different contexts to implementation, RIOs were selected from both England and Wales. This is because, as discussed in the next section, although the initial legal foundations are the same, Wales has taken a significantly different approach to equality and human rights since devolution (Hankivsky, de Merich and Chrisoffersen, 2019; Chaney, 2021). This also ensured implementation in different sized organisations could be explored as the Welsh RIOs were naturally significantly smaller than the English RIOs given the substantial differences in population sizes. Second, to ensure participants had adequately engaged with equality and human rights implementation, the project focused on RIOs where equality and human rights would be particularly prominent, rather than more marginal and tangential. Third, as the powers and remits of RIOs vary significantly, the project sought to ensure that different types of organisations participated (i.e. some regulators, some inspectorates and some ombuds) (Mason, 2002; Robinson, 2014). The websites of the UK and Welsh governments were used to identify RIOs that met the sampling criteria (gov.uk; gov.wales). This gave a sample of fifteen RIOs who were all contacted and asked to participate.

A particular challenge was getting individuals from RIOs to take part in the project as it became clear that many RIOs regarded equality and human rights as a highly political topic (Mikecz, 2012; Duke, 2002). As participants tended to know each other, snowballing was used to ensure the sampling criteria was satisfied (Babbie, 2016). In total, individuals from seven RIOs agreed to take part. These consisted of two regulators, three inspectorates and two ombuds, of which four were from Wales and three from England. Interviews took place in 2018–2019 with the individual who was responsible for the implementation of equality and human rights within the organisation. This varied from RIO to RIO, in some organisations, it was the leader of the organisation or a member of the senior management team, and in others it was someone who sat outside the top of the organisation who was specifically focused on equality and human rights. The characteristics of participants can be seen in Table 2.

Interviews were utilised so that the views, understandings and experiences of participants could be explored which would not be adequately captured by observation or questionnaire (Byrne, 2004). Semi-structured interviews were used over other forms of interview as they enabled considered responses alongside the use of prompts and supplementary questions (King and Horrocks, 2010; Byrne, 2004), and permitted further elaboration by participants and clarification by the researcher and the participants, which enhanced reliability (Chaney, 2016). The interviews

adopted what Aidinlis (2019) terms a hybrid approach to law, where the focus was on 'law' as it is experienced by participants. In this way, the interviews did not focus on specific legal provisions but allowed participants to draw on what they understood is meant by equality and human rights in the context of their work.

With the consent of the participants, all the interviews were recorded and transcribed. Notes were also taken during the interviews, which identified areas for further exploration and possible initial themes (Brugha and Varvasovsky, 2000). Given the concerns around the political nature of equality and human rights that many RIOs had and that the unique nature of RIOs means that they are easily identifiable, two safeguards were adopted. First, interviewees had the option of speaking off the record at any point, in which case the recording would be stopped and would not start again until they gave their consent. This sought to balance having accurate transcripts with the capturing of fuller contextual off the record information (Harvey, 2011; Peabody *et al.*, 1990). Four of the interviewees made use of this option. A second safeguard was member-checking (Lancaster, 2017; Wiles *et al.*, 2008). Transcripts were sent to participants within a week of the interview, and they were asked to review them for accuracy and anonymity. Two of the participants amended the transcripts to ensure greater accuracy; the other participants approved the transcripts without amendment.

To ensure the accuracy of the data, interviews were triangulated with each other and with publicly available documents (including those from the body itself and from scrutinising bodies) (Merriam, 1995). Triangulation is particularly important for elite interviews, where the number of interviewees is likely to be small (Kezer, 2008; Harvey, 2011; Aubrey and Durmaz, 2012). A content analysis of documents was undertaken in advance to provide context, suggest questions and to verify findings (Corbin and Strauss, 2008; Bowen, 2009; Natow, 2020).

Both inductive and deductive coding were used (Fereday and Muir-Cochrane, 2006). A deductive coding frame was produced that drew on the factors identified in the previous section to explore the relevance of these factors to the implementation of RIOs (Crabtree and Miller, 1999). The data was also inductively coded to identify additional themes that have not previously been identified in the literature (Boyatzis, 1998). This was done by developing summary themes from the raw data (Thomas, 2006). In this way the factors identified in the previous section could be tested, adapted and expanded (Finfgeld-Connett, 2014, p. 342). From this it was possible to see which previously discussed factors were relevant to RIOs, which were not, and which (new) additional factors were relevant. Once codes had emerged, the transcripts were then re-read in their entirety to ensure that the identified factors both worked for and honestly represented the data. This process was repeated once the analysis had been written up to ensure it was still representative of the data. Given the small sample size it is not possible to make broad generalisations. Instead, the intention is for the study to be exploratory, providing an initial look at this phenomenon (Gill and Creutzfeldt, 2018). On this basis it is possible to make 'contingent empirical generalisations' which can then be tested in the future in different contexts in order to assess their wider validity (Popper, 1959). Ways in which this can be done are outlined in the conclusion.

4 Research Context

The general requirement to implement equality and human rights in public authorities in both England and Wales can be found in s 6 of the Human Rights Act 1998 and s 149 Equality Act 2010. Section 5 of the Human Rights Act 1998 requires public authorities to act compatibly with the rights contained within the European Convention on Human Rights (ECHR). McCrudden (2005) outlines that to act compatibly with the ECHR requires human rights to be mainstreamed within public authorities. In relation to equality, s 149 of the Equality Act 2010, the general public sector equality duty, requires public authorities to have due regard to the need to eliminate

discrimination, advance equality of opportunity and foster good relations. In England, this is supplemented with specific duties (Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017) to publish yearly information to show compliance with the duty, including information relating to persons affected by policies and practices who share relevant characteristics (regulation 4) and to publish one or more specific and measurable equality objectives at least every four years (regulation 4). The public authorities required to discharge the specific duties are smaller in number compared to the public authorities subject to the general public sector equality duty. This includes some RIOs who are subject to the general duty but not the specific duties.

Since devolution, Wales has taken its own approach, particularly in relation to equality. The devolution statutes have required that the Welsh Assembly (Government of Wales Act 1998, ss 48 and 120), and subsequently Welsh Ministers (Government of Wales Act 2006, s 77), make appropriate arrangements with a view to ensuring that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people. In relation to their powers, equal opportunities is a reserved matter in Wales, which means that the default is that it is not possible to pass laws on equality (Government of Wales Act 2006, sch 7A, para 187). However, there are significant exceptions where the Welsh government can take action, including the encouragement of equal opportunities, imposing duties on devolved Welsh authorities to help them better meet the general public sector equality duty and equal opportunities relating to the inclusion of persons with protected characteristics in non-executive posts on boards of devolved Welsh authorities. Any action taken must not modify the Equality Act 2010. Under these exceptions, the Welsh Parliament has introduced specific equality duties, which came into force on 6 April 2011 (Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011/1064). These are significantly more extensive than the English specific duties, both in terms of coverage, as they cover all authorities subject to the general public sector equality duty in Wales, and requirements. In terms of requirements, the most important and relevant requirements are that public authorities must publish objectives to meet the general duty at least every four years, outline the steps that will be taken to meet the objectives and the predicted timeline for meeting the objectives. Authorities should also make arrangements to monitor progress and the effectiveness of steps taken (reg 3). When arriving at equality objectives, public authorities should engage with persons with protected characteristics, who have an interest in the way that the authority carries out its functions (regs 4 and 5) and have due regard to the relevant information that it holds, supplementing this where appropriate (regs 4 and 6). Authorities should also undertake equality impact assessments of proposed and existing policies and practices (reg 8). Finally, authorities must produce a yearly report setting out the steps taken to collect information, how information was used, and the progress made towards fulfilling equality objectives (reg 16). Since the interviews took place (in 2018–2019) there has been a renewed focus on equality with an advancing gender equality plan (2020) and an advancing LGBTQ+ equality action plan (2021) produced.

In relation to human rights, it is not possible for the Welsh Parliament to modify the Human Rights Act 1998 (Government of Wales Act 2006, sch 7B, para 5(1)) but it is possible to pass measures to observe and implement international obligations, including obligations under the ECHR (Government of Wales Act 2006, sch 7A, para 10(3)(a)). This has been done in relation to both children's rights, where Welsh Ministers must have due regard to the Convention on the Rights of the Child when exercising their functions (Rights of Children and Young Persons (Wales) Measure 2011), and the rights of older people, where a Commissioner has been established to protect and promote the rights of people aged 60 and over (Commissioner for Older People (Wales) Act 2006). At the time of the interviews (2018–2019) Welsh government action to address human rights, in comparison to equality, had been limited, but has increased significantly since, with the establishment of a Strengthening and Advancing Equality and Human Rights steering group which produced a report in 2021 outlining how action to address human rights could be increased in Wales, which was largely accepted by the Welsh Government.

In relation to the RIOs that participated in this study, all were public authorities under s 6 Human Rights Act 1998 and s 149 Equality Act 2010 and thus required to implement equality and human rights within their organisation and its work. All but one of the RIOs (the exception being in England) were subject to the specific duties, the relevant specific duties depending on whether they were based in England or Wales. Given the greater focus on equality, and to a lesser extent human rights, by the Welsh Government, it is unsurprising that equality and human rights was more prominent in the environment that Welsh RIOs were operating. From an early stage the Welsh Government (2006–2007 and 2009–2010) focused on involving some RIOs (for example the subsequently renamed Care and Social Services Inspectorate for Wales) in the implementation of equality within regulated organisations in Wales. However, the focus on RIOs has declined in the Welsh Government's Annual reports over time, with the 2018 Welsh Ministers' Report giving examples of how a wide range of public authorities were complying with the equality duties, and yet no RIO was mentioned. Equality and human rights have been more purposefully integrated into the frameworks of some Welsh RIOs by the Welsh Government, for example embedding equality in social services (Social Services and Well-being (Wales) Act 2014) and health (Health and Care Standard). This stands in marked contrast to the frameworks of English RIOs where equality and human rights values are not so explicitly integrated.

Overall, the different approaches taken in England and Wales led to a clear distinction in how equality and human rights featured in the work of RIOs. With the noticeable exception of W4, whose work had not been a focus for the Welsh government in the time preceding the interview, individuals within Welsh RIOs were strongly aware of the integration of equality and human rights within their legislative frameworks and had undertaken mandatory training in equality and human rights. For example, the interviewee from W2 explained that 'there's been stuff overseen by Welsh Government or provided by Welsh Government or funded by Welsh Government on equality and human rights training, conferences, briefings over the years, there definitely has been that sort of stuff'. RIOs have been able to use the fact that equality and human rights are more explicitly integrated into their frameworks to cajole organisations they oversee to act. Thus, the participant from W1 outlines how 'it's useful to be able to say "Listen, here, and this is the reason why you have to use it, this is the reason why it has to be done"'. While this integration was positive and enabling, it also acted to inhibit further implementation within Welsh RIOs as it allowed individuals to see responsibility for equality and human rights lying with the Welsh Government. This can be seen in the interview with the participant from W3 who outlined that most of their organisation's 'processes and procedures have to be approved by Welsh Government. And our legislatory basis is provided by the Welsh Government and they will ensure that rights' issues, equalities issues were in the basis legislation. Again, whether it is always explicitly there, I don't know, but there's very clear expectations'. It also means that situated, organisational knowledge is often not taken into account in implementation, potentially hampering its effectiveness. This is outlined by the individual from W3: 'sometimes, to our irritation, not because of what they [the Welsh Government] are doing but the way, we sometimes think that what they want us to do in terms of processes are perhaps not the best, most effective way of achieving what are shared goals'. It should also be noted that although the specific duties have been in force in Wales since 2011, no reference was made to them by any of the interviewees from Welsh RIOs. Additionally, with the exception of engagement with persons with protected characteristics (discussed later), the requirements of the specific duties rarely featured in the interviews. Finally, some participants actively outlined practices undertaken by their organisation that would appear to conflict with the requirements of the specific duties. For example, W1 had not done an equality impact assessment of its strategic plan because whilst 'it's something that could quite usefully have been done we were not convinced that it would drive changes to the plan'.

In contrast, individuals at English RIOs did not have equality and human rights so explicitly in their frameworks. This led to some English RIOs taking an approach similar to that described by

the individual from E1 where equality and human rights can be seen as one of many competing pressures: 'if you're working in a public body, if your legislation doesn't require you to do something, it's not an institutional priority because no one has extra money or extra resources any more. So, it relies on good will and good will gets you a certain distance, but it doesn't get you far enough'. This can be seen in E3 where equality and human rights was a big issue but still 'only one issue' among many. However, the lack of government action and focus in England also leads to opportunities for committed individuals to drive forward an organisation specific approach to equality and human rights implementation. This can be seen in E2 where the organisation's framework was explicitly linked to equality and human rights to drive action forward. The participant described how there is 'a link between our core purpose and equality and human rights which goes beyond our legal duties ... [and therefore if we are to meet our core purpose] then that does automatically engage equality and human rights issues'.

While there are differences between Welsh and English RIOs, with the majority of Welsh RIOs having equality and human rights implementation driven by the Welsh government and English RIOs, in the absence of government focus, having to take an organisation specific approach to implementation, this was not uniform (organisations W4 and E3 being outliers). Significantly, despite the different starting points for Welsh and English RIOs the factors that inhibited and enabled implementation were remarkably similar as is illustrated in the subsequent sections.

A second contextual difference is the distinction between regulators and inspectorates, and ombuds. Regulators and inspectorates are traditionally more assessment led and thus more proactive. Whereas, ombuds are traditionally more complaint led and thus more reactive. Through comparing the experiences of regulators and inspectorates on the one hand, and ombuds on the other, there appears to be only one significant difference in the factors that inhibit and facilitate implementation. This is in relation to external interactions where ombuds need to be mindful of which bodies they interact with and how, because many regulators and inspectorates fall under their jurisdiction. Yet, this does not prevent ombuds from interacting with regulators and inspectorates around equality and human rights issues nor interacting with other ombuds. Although the protection of anonymity means that it is not possible to explicitly illustrate these interactions, the ombuds that took part in the study did engage in interactions with regulators, inspectorates and other ombuds. Therefore, in reality, the experiences of staff at ombuds and those at regulators and inspectorates were again remarkably similar. The rest of the article is split into two sections. The first section explores perceived inhibitors to the implementation; with the second section exploring perceived enablers that are partially within the control of RIOs, and those that are fully within a RIO's control.

5 Factors that inhibit implementation

It will be seen in the following sections that many of the factors found to be important in both the general implementation literature and the equality and human rights literature, featured prominently in the experiences of the interviewees (including knowledge and skill levels, level of resources and leadership). Additionally, some of the factors that feature prominently in the general implementation literature but are less prominent in the equality and human rights literature, were significant factors (for example motivation/commitment level). Finally, a particularly central factor in the implementation experiences of the interviewees, which did not feature prominently in either body of literature, was the learning opportunities provided through interaction with other organisations.

This section will discuss three inhibitors to implementation of equality and human rights: (i) lack of resources; (ii) lack of knowledge or expertise and (iii) competing pressures. While these can be alleviated to some extent (and the following section will explore factors that can do this)

these inhibitors figured prominently in the experiences of all of the interviewees. While they may prove less inhibiting as work progresses it is unlikely these factors can ever be fully overcome (e.g. there will always be resource constraints).

5.1 Lack of resources

A significant inhibitor to implementation is the finite amount of resources RIOs possess (including money, staff and time). Many of the interviewees explained how limited resources constrained action and had negatively affected their ability to mainstream equality and human rights within their organisation. For instance, the individual from E2 outlined how there were thousands of staff employed by the organisation but only three people working on equality and human rights and this had led to missed opportunities: 'it's a big organisation to get around and there's a lot happening, and for three of us to be aware of what's happening, and sometimes we've missed opportunities to influence things early on in projects and programmes just because we're not always aware'.

Time was also a significant constraint. One interviewee at an inspectorate (W2) explained how it is difficult to integrate equality and human rights within the confines of inspections: 'that's a challenge as all the time the clock is ticking and inspectors have to do one inspection a week, churn it out, inspect, look at the evidence, get the report drafted and there's thousands of settings ... and there's a lot to be done in just providing some basic level of quality'. Even where staff had more interest in equality and human rights, the participant at E2 still outlined that time was a significant constraint: 'our staff work really really really hard and even the people who are keen don't have time to do anything extra'.

These resource constraints meant that organisations had to prioritise which actions to pursue. For example, the participant from W2 outlined that 'As ever with us, and any organisation it's balancing all the things we'd like to do with the resources we've got available and all the things we have to do.' This meant that while W2 saw the utility in explicitly drawing out equality and human rights issues in its inspection reports and undertaking thematic analyses of widespread issues, at present it was felt that they currently did not have the resources to do this and instead needed to focus on meeting their inspection targets. There was a similar situation within E1 who wanted to explore the jurisprudence of the European Court of Human Rights, but limited resources meant that the organisation was instead limited to reading factsheets and case law that was already known to staff.

There was a general feeling that increased resources could lead to greater action in relation to equality and human rights. Thus, if greater resources were available, W4 would hire an expert in equality and human rights, as currently it only formed one part of the participant's role and they did not regard themselves as having sufficient expertise to integrate these values effectively. The interviewee at W1 was also aware of opportunities that could be taken with greater resources: 'there's some interesting areas that we could do more with ... There are things that we could look at. I think we could probably go deeper into some of those issues if we had the resource and if we had the time'. For example, a particular issue that had been noted in W1 was how settings interacted with each other. There was an awareness that while individual settings could provide a good service, issues could arise when service users moved between different settings and W1 wanted to explore this but felt that there were other equally important priorities during inspection and time was a finite resource. This chimes with the increasing scholarship on law and time where time is created, ordered and contested through law, power, relationships and politics (Hambly and Gill, 2020; Grabham, 2014; Freeman, 2011; Greenhouse, 1996). Here legal requirements (such as the requirement to inspect a certain number of settings with a set time period) combine with political pressures (e.g. pressure to focus on particularly salient political issues in inspections) and economic constraints to limit the time available for consideration of equality and human rights issues.

5.2 Lack of staff knowledge/expertise

Staff that work at RIOs have knowledge of the sector that they oversee (e.g. health, education etc.). The majority do not have knowledge of equality and human rights, meaning that it is difficult to integrate these norms into the work of the organisation. This means that inconsistencies can often arise. For example, the interviewee from W4 explained that the extent that equality and human rights norms were drawn upon, could often depend on the staff members involved: 'over the years, it has been very difficult to incorporate it and we have in the past, probably been quite inconsistent and not systematic and it has largely been dependent on the staff member and whether or not they had confidence and interest in the area'. The participant was also aware of the implications of this lack of expertise: 'I'm sure there's lots of stuff that probably we don't see that somebody with, you know, with significant expertise probably would see.'

Confidence was also a significant issue in relation to staff and often deterred staff from taking action. Thus, the participant from E2 described hesitation that they have encountered from staff when trying to integrate equality and human rights into their organisation's work:

> 'People are nervous about getting it wrong, there's a lot of nervousness in a way that people wouldn't be nervous about getting another topic wrong. There's an emotional engagement, particularly with equality issues, about fear of getting it wrong, that's quite tricky … And I think as well people can get overwhelmed so they can think there's nine protected characteristics, there's this many articles in the Human Rights Act, and they see it as on top of rather than integrated into their work.'

5.3 Competing pressures

As can be seen above, alongside equality and human rights commitments, RIOs have many other commitments and pressures that utilise their limited resources, meaning there are less resources to devote to equality and human rights implementation. One participant, the leader of E3, outlined this reality on taking charge of the organisation: 'it's quite a challenge taking over this institution with all its challenges and this issue [equality and human rights] is a big one but it's only one issue'. The individual from W2 also discussed equality and human rights having to compete with other priorities and the balancing at any point could depend on other factors (in this case political ones): 'we try our best, but you will always at times have competing pressures and ultimately it's a political decision'. This accords with research by Hankivsky and Christoffersen (2011) on gender mainstreaming that found that the nature of the political process meant that long term goals (such as making progress on equality and human rights) were much harder to focus on than more topical issues and, even where there was a strong commitment to long-term goals, they could still be subverted by other issues.

6 Factors that enable implementation

Although the previously discussed inhibitors are always likely to provide some constraints on the implementation of equality and human rights within an organisation, staff at RIOs had sought to reduce the influence of these inhibitors by adopting behaviours that can support implementation.

6.1 Factors partially within an organisation's control

There are factors that affect the environment in which RIOs operate that can limit their ability to implement equality and human rights (Velez et al., 2020). It could be assumed that these factors are externally imposed and that organisations have no power to influence them. However, although there are limits to the extent that organisations can influence these factors (Hill and Hupe, 2014; Teubner, 1993), RIOs often have the opportunity to feed into these processes and

therefore can encourage the introduction of factors that can support the implementation of equality and human rights within their organisation (Spencer and Harvey, 2014).

6.1.1 External Environment

The external environment can impose economic, social or political conditions which constrain the implementation of equality and human rights. For instance, the participant from E3 described how an external political decision to expand their organisation's remit meant that its workload increased drastically overnight with no increase in resources. This led to its previous work on equality and human rights being immediately 'pushed to one side and regarded as either something which was already ingrained or not something that was necessary'.

Yet the external environment in which RIOs operate in can also be enabling. As discussed previously, this came across particularly strongly in interviews with staff from Welsh RIOs who stressed the importance of the Welsh Government's policy of ensuring that equality and human rights were integrated into their legislative bases and operating frameworks (discussed in more detail below) and that their attempts to integrate equality and human rights had been spurred on by the Welsh Government regarding their sector as a priority. Although, this was not always uniform (e.g. W4), and could lead to reliance on the Welsh Government and avoidance of organisational action (e.g. W3).

The external environment was particularly important for accountability, which can cajole organisations to act by increasing pressure to take action on equality and human rights and thus encourage organisations to devote increased resources to this goal. The individual from W2 outlined how their organisation's attempt to mainstream equality and human rights had begun when they had received external criticism from another organisation, not only for equality and human rights not appearing obviously in their work, but for not even making any reference to equality and human rights in their mission statement and literature. Equally, lack of accountability can stall progress. The individual from W4 described how their organisation had begun to take action but then stopped. When asked what led to this change, they admitted that 'it's very easy not to do anything about it. Nothing happens if you don't tackle it. You know, there is no repercussions if you don't, if you ignore it and pretend it's not there'.

It might appear that there is nothing RIOs can do about the external environment they operate in. Yet, RIOs have opportunities to at least partially shape their environment through engaging with actors around equality and human rights (March and Olsen, 1996). All participants explained how their organisations had undertaken project work that sought to identify trends in their sector, some of which had drawn upon equality and human rights values. This was publicly available and promoted to stakeholders. For example, W3 had shared information it had gathered with professional bodies, with the aim of increasing the equality and human rights practices of professionals within the area it scrutinised. Additionally, some organisations had engaged with parliament through reports and select committees and given prominence to equality and human rights in their responses. This can be seen with both E1 and E3 who had both used the evidence they had gathered about equality and human rights in reports to parliamentary select committees. Others had fed into conversations around their frameworks, including the integration of equality and human rights. This can be seen with W1 who influenced the Welsh Government to produce common standards in their area and W2 who had given detailed advice when the government was redrafting its framework.

6.1.2 Leadership

Leadership within an organisation is vital as leaders have the ability to create a culture and climate more conducive to mainstreaming equality and human rights (e.g. they can better negotiate the external environment, provide more resources and ensure equality and human rights has a high

priority) (Aarons *et al.*, 2011). In theory, an organisation has complete control over its leadership. However, in reality, the majority of interviewees operated outside the top leadership of the organisation, and many spoke of having to influence the leadership, in a similar manner to the organisation influencing its external environment. Thus, in a similar fashion to the external environment, in practice, the commitment of leaders to equality and human rights integration is only partially in the control of participants.

In terms of influencing leaders, the participant from E2 outlined their role as 'about making sure that equality and human rights is adequately positioned in other people's work . . . to get the leadership understanding of what we need to do to improve'. This is important as now the leadership 'know what we're doing and are quite committed to it. We've had leaders that are individually committed to equality and human rights . . . So senior commitment has been quite good individually'. Nonetheless, this commitment is not fixed, and a change of leadership can lead to a change of commitment. The individual from E3 explained that their organisation had previously made significant progress in integrating equality and human rights but this work was undone with a change in leadership to the extent that there were many current staff who had subsequently joined and therefore did not remember this previous work and now opposed the integration of equality and human rights, which made the re-implementation of equality and human rights even more challenging.

Given the prominence of equality and human rights in Wales, the individuals at Welsh RIOs generally did not need to convince leaders within the organisation of its importance to their work. However, there could still be differences between leaders at different organisations, as outlined by the participant from W2, when discussing the challenges of partnership work: 'they are all independent organisations with their own constitutions and governance and crucially their own chief executives or chief inspectors who will have a view about what they want to do and what they don't want to do. So, there's always that challenge that each individual organisation's got its own pressures and priorities'.

Leadership dispersed throughout an organisation is one method of overcoming changes in leadership and previous failures (Page, 2011). This is particularly prominent in relation to some of the interviewees, who demonstrated strong leadership over equality and human rights within their organisation even though they were not part of the senior management team. For instance, the interviewee from E1, described how they did a long scoping exercise of all existing human rights standards as the standards under the Human Rights Act 'are not always very high so my thinking is in that case you need to use all the standards that there are to really make sure that you're at the forefront of the thinking and as far ahead of the game as you can be'. However, interviewees did acknowledge that their ability to effectively do their role did depend on senior leadership. The following example from E1 shows how different factors can combine to enable implementation, where in the absence of specific reference to equality and human rights in an organisation's framework and constraints in terms of resources, the commitment of the senior leadership team to equality and human rights is particularly significant:

'. . . obviously, institutionally, there has to be an investment of time in doing that process [the scoping exercise] and there was certainly no pushback on that process because I think when I joined I made sure we did a scoping exercise and had a discussion about it because it is a lot of work. There wasn't any disagreement with it, but it took a lot of my time, a lot of time for the person working with me and then a lot of time at the management board to discuss it. And because it's not an explicit requirement in legislation that we do it that's got to come from the top.'

6.1.3 External interactions

A final important factor in helping RIOs to implement equality and human rights are external interactions. Through interacting with external bodies, RIOs can gain knowledge and support of

equality and human rights and get insights into how other organisations are mainstreaming norms. This is particularly crucial in overcoming a lack of knowledge or expertise within an organisation. It can also increase the pressure on organisations to take action on equality and human rights for fear of being compared unfavourably with other similar organisations. Finally, it illustrates more efficient ways of utilising limited resources. Although organisations interact with a wide variety of bodies (such as providers and representative organisations that they oversee and charities and NGOs) two bodies featured prominently in discussions with interviewees: the EHRC and other RIOs.

All of the interviewees discussed the EHRC and the different interactions they had with the Commission. The individual from E2 described how they had 'a really close working relationship' and that this had helped their organisation gain access to additional financial resources to aid the integration of equality and human rights, helped broaden its networking with other organisations and led to the sharing of information. However, other participants had a more passive relationship with the Commission. For instance, the participant from W3 described how their organisation 'would keep a regular eye on what they [the EHRC] were producing. I'm trying to think of an example. It is constantly in the background'. The individual from W2 outlined how their organisation had 'certainly looked at their resources and their resources have certainly been used . . . We have certainly been to events that they've put on. We certainly circulate their reports . . . I listened to the things they had to say'. Other participants were more disappointed with the Commission, with the individual from W4 believing that the sort of resources that they believed would be useful to them would be 'too much to ask them [the EHRC] for'. The individual from E3 was also 'waiting for them [the Commission] to show the colour of their money' as their organisation was keen 'to not have to reinvent the wheel'. Yet, at present the participant was disappointed as 'There's no dialogue, there's no systematic dialogue at the moment. There's no conversation.' Although the participant did note that this lack of dialogue was 'the fault of both of us, it's not a criticism of them'. This suggests that the EHRC is a resource that RIOs can use to help aid the integration of equality and human rights but maximising this resource requires organisations to purposefully engage with the work of the Commission (Barrett, 2019).

One significant but often overlooked factor in supporting organisations to mainstream equality and human rights is interactions with other RIOs. The participant from W1 outlined the importance of this explicitly:

> 'We're always learning. I think we share that sort of stuff . . . it is quite interesting to have a look [at the work of other RIOs] and it's useful to speak to others and see the approach that they take. And then it makes us reflect on the way that we do things and sometimes we'll find things that we'll change and sometimes we won't. It's a small world, you try and share things where you can.'

These interactions can be more active (e.g. some RIOs meet regularly to discuss priorities) or more passive (e.g. one RIO looked at the literature of other similar RIOs to inform a particular piece of work). They can also be more formal (e.g. one RIO describes how other RIOs hold them to account in their areas of expertise) or informal (one interviewee describes how they know equivalent staff on other RIOs well and often meet regularly).

Joint working (where the remits of two or more RIOs interact so they conduct oversight together) is particularly effective at advancing implementation, as organisations can pool resources (financial, staff, authority, jurisdiction etc) and use their resources more efficiently, while at the same time, achieving results that they could not achieve on their own (Rhodes, 1988; Kenneth Benson, 1982; Scharpf, 1978). However, the success of joint working can vary and tends to be more successful where the work is longer-term, there are clear rules governing the work and there are clear activities and programmes that RIOs undertake together (Klijn and Koppenjan, 2000; O'Toole, 1988; Dunshire, 1978). This could be seen in the interviews with the individual

from W2 describing the opportunities and challenges that come from joint working (with the challenges arising from previously discussed factors namely different legislative frameworks, competing pressures and leadership):

> [In relation to joint working] we try and learn from each other all the time … And we try at times to look at methodologies and compare methodologies. The challenge of all our partnership stuff … is, they are all independent organisations with their own constitutions and governance and crucially their own chief executives or chief inspectors who will have a view about what they want to do and what they don't want to do.'

A particularly important (given its scale), and yet often overlooked, form of joint working is the National Preventive Mechanism (NPM). A NPM is a requirement of states that are party to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). Within the UK the NPM consists of twenty-one RIOs and some of the participants were involved in the UK's NPM. All the interviewees that were part of organisations that made up the NPM were positive about its impact on their equality and human rights work. The participant from E1 described how the NPM had used a template across the twenty-one organisations 'to get everyone to use the same terms, the same lens to look at from separation to terms like duty of care. We gathered evidence from all of the NPM and then collectively we developed guidance on how everyone should monitor, inspect, regulate, any form of isolation detention'. Participants were positive about the NPM in a way that they were not as positive about other external interactions (e.g. the EHRC). The individual from W1 outlined how the NPM had enabled 'sharing of good practice' and the individual from W2 recalled 'coming back from NPM meetings and writing notes for people in this organisation about what we might do differently'. In this way, the NPM can be argued to act as a community of practice, where representatives of different RIOs can learn through practice and develop, negotiate and share their understandings of equality and human rights (Wenger, 1998; Lave and Wenger, 1991). Being able to practise equality and human rights in a community, appeared to advance knowledge of equality and human rights in a way that internal training (discussed below) often could not. This learning can then be taken back and further developed with other staff within each RIO through practice.

6.2 Factors fully within an organisation's control

As outlined above, there are a number of options that RIOs can take to aid implementation of equality and human rights and that can act to significantly limit inhibitors RIOs might face. These factors include the recruitment of knowledgeable/experienced staff; motivation of staff; training; consultation/participation of service users; and data.

6.2.1 Recruitment of knowledgeable/experienced staff

One way of easily increasing knowledge and expertise in an organisation is to hire individuals with this expertise (Nolan Garcia and Aspinwall, 2019). Many of the organisations had lawyers working within the organisation and drew upon this expertise to aid the mainstreaming of equality and human rights. For example, the individual from W4 stated that: 'fortunately, we have somebody with legal background … and there are things that she'll have to go away and kind of do a bit of digging and research about sometimes'. However, lawyers are not crucial to the implementation of equality and human rights, with many other forms of knowledge and experience being useful. Thus, the participant from E1 stressed the wide, varied and useful knowledge and expertise staff possessed: 'I find there's sort of an intuitive approach here, certainly among my colleagues … who have different backgrounds, some of them have worked in [the regulated settings], some of them have worked for NGOs, there's an intuitive understanding of human rights without having

read all of these documents [i.e. international human rights treaties].' This is important, as historically, the legal view of equality and human rights has been privileged over other understandings of these norms. Instead, legal knowledge needs to sit aside other relevant knowledge as other professionals (such as teachers and doctors) have relevant knowledge that should be utilised (Ife, 2009).

Yet, having experienced staff, while important, is not sufficient on its own. There is also a need to ensure the best use is made of such staff (particularly where there is a general lack of knowledge and expertise in the organisation as a whole). For example, W4 identified a lack of knowledge as a problem across the organisation. To overcome this, they established an advice group composed of individuals with relevant knowledge and expertise in the organisation to which front-line workers could refer questions. At the same time, they aimed to take away the pressure often felt by front-line workers around equality and human rights, which can aid mainstreaming (Parken and Ashworth, 2019):

'... we decided not to do training, just to say here you are people, have a go and see where you get to, based on what you have already gleaned over the years ... and we've got the advice group there and if people are unsure they can refer anything into our advice group and I always say "err on the side of caution and don't try and make the judgements yourself, that's what the advice group is there for" and the advice group aims to be supportive and helpful rather than over-bearing and interfering.'

6.2.2 Motivation of staff

A separate factor that is linked to having knowledgeable staff is having motivated staff. What was clear from the interviews was just how motivated many staff were around equality and human rights which has enabled innovation within organisations. For example, E2 had gone beyond the Human Rights Act and drawn on rights from other international treaties. When asked about this, the participant explained that this had 'largely been due to the enthusiasm and skill of one of my team who's very keen on international rights'. The individual at E1 had also drawn upon international rights and on occasion had found these lacking, so had had to consider how general rights might be extended to particular aspects of the organisation's work: 'There are some areas of our work where there aren't any standards. There are no international documents saying it should be like this or be like that, so we do a certain amount of extrapolation or interpretation.'

Yet, the danger of particularly motivated staff driving forward equality and human rights implementation within the organisation, is that if that staff member leaves the organisation can stagnate or regress (as was seen in relation to E3 earlier). This also leads to what Wittman (2010) terms as one of the paradoxes of mainstreaming: where taking forward mainstreaming takes the work of passionate advocates and yet, this undermines the general goal of integrating equality and human rights thinking into all parts of the organisation, as it means that ownership is not taken by others in the organisation. To avoid this, E2 had drawn upon the general enthusiasm of staff and created a staff network. The staff with specific knowledge and expertise then utilised this enthusiasm to greater integrate equality and human rights throughout the organisation: 'the central team's role is now much more about supporting other people to do what they need to do, providing the subject-matter expertise and the leadership so it all hangs together but enabling staff to work on the issues that are most pertinent to their job roles'.

6.2.3 Training

Training is an obvious way to overcome issues around lack of knowledge and confidence and most of the interviewees described how their organisations had some form of training. However, the perceived usefulness of this training was variable, with some participants having had a poor

experience of training to the extent that they believed it was counterproductive as it furthered a pre-existing lack of confidence by staff. For example, the interviewee at W4 explained how their previous experiences of training now meant they were resistant to any further training:

'We haven't had training, none of us have had any training and there is a reason for that, we've had training in the past, and it just has absolutely no effect whatsoever because the landscape is so huge and so complicated and so legal that people will sit there and it's all very interesting and then they go away and they can't apply it to their work. So, we decided not to do training.'

This recognises that often practice is as crucial as knowledge and, practice cannot be taught, it is only through situated learning involving more practical exercises (such as looking at cases or settings from an equal and human rights perspective as seen with the National Preventive Mechanism) that individuals can effectively learn (Wenger, 1998; Lave and Wenger, 1991; Schön, 1983).

6.2.4 Consultation with/participation of service users

One way of overcoming a lack of knowledge within an organisation around equality and human rights, and yet still incorporating equality and human rights within an organisation, is to incorporate the views of service users (Murray, 2006; Whitaker, 1980). Although service users may not speak explicitly in equality and human rights terms, by listening to their experiences and capturing their observations and suggestions, organisations are likely to implicitly address many equality and human rights issues (Ife, 2009; Goodale and Engle Merry, 2007). However, it is necessary that any consultation/participation is meaningful as Richardson and others found that it was only effective where enduring relationships were built with service users, rather than RIOs engaging with service users in a transactional, self-serving manner (Richardson *et al.*, 2019).

The participation of service users was particularly prominent in Welsh RIOs, which, as discussed earlier, is an explicit requirement of the specific equality duties. Thus, the interviewee from W1 outlined how their organisation gathers the views of service users, which are then subsequently integrated into its work. They also used lay reviewers, who were important as they 'can go out and to talk to people and make sure they're not captured by the system . . . [that our decisions] are not constrained and are not drawn away from the things that matter to the people that are receiving the services'. W3 utilised specialist organisations to engage with traditionally hard to reach groups. The interviewee from W2 also outlined a specific project that they had undertaken on the human rights of individuals with learning disabilities, where people with learning disabilities had been full partners in the project, designing the methodology and undertaking the assessment.

6.2.5 Data

Data is another relevant factor highlighted by some of the participants. This could involve utilising existing data streams. Thus, W1 drew on intelligence to determine the issues that were present and causing problems for people. Some RIOs also undertook additional work to gain access to new data. For example, the participant from E2 described how their organisation had set up new data gathering mechanisms following a change in approach to regulation that involved getting 'better information streams, alongside much more nuanced risk management' to get the right equality and human rights data. Finally, W1 also worked with other organisations to share intelligence, which enabled patterns to be identified that could not be identified on the basis of the organisation-specific information that it possessed. Surprisingly, given that the capture and use of data is a specific requirement of the Welsh specific duties, it was not mentioned by the participants at any of the other Welsh RIOs.

7 Conclusion

Equality and human rights mainstreaming, particularly by regulators, inspectorates and ombuds (RIOs), has been under-researched. The existing research largely focuses on gender mainstreaming at the international or state (macro) level (e.g. Verloo, 2001; Hafner-Burton and Pollack, 2002; Rees, 2002; Squires and Wickham-Jones, 2002; Hankivsky, 2008; Woodward, 2008; Wittman, 2010; Hankivsky and Christoffersen, 2011; Hankivsky, 2013; Ramparsad, 2019; Rawłuszko, 2019; Velez *et al.*, 2020; Sundari Ravindran et al, 2021).

Research on the mainstreaming of other protected characteristics and human rights is significantly more limited (Chaney, 2011; Chaney, 2013; Olwuyi, 2013; Naylor, Debeljak and Mackay, 2015; Meier, Celis and Huysentruyt, 2016; Hankivsky, de Merich and Christoffersen, 2019; Niederhauser, 2021). Research on implementation at organisational (meso) and individual (micro) level is also largely absent, with the exception of research exploring local authorities (e.g. Greed, 2005; Page, 2011; Spencer and Harvey, 2014; Burman and Johnstone, 2015; Scala and Paterson, 2018; Parken and Ashworth, 2019; La Barbera, Espinosa-Fajardo and Caravantes, 2022; Svedenmark, Bolin and Nyhlen, 2022).

This article sought to begin to fill this gap by undertaking interviews with individuals responsible for the implementation of equality and human rights norms in RIOs in England and Wales. It was found that many of the factors identified in both the general implementation literature (e.g. Pressman and Wildavsky, 1984; Van Meter and Van Horn, 1975; Sabatier and Mazmanian, 1980; O'Toole, 1986) and the equality and human rights specific literature were also present in relation to RIOs. These include the knowledge and skill levels of implementers, the level of resources, leadership and enforcement, which supports their continued importance to effective implementation. Yet, there are also factors that are held to be relevant in the general implementation literature, which do not feature at all in the equality and human rights literature (i.e. characteristics of the policy, structure and numbers of implementers, and timing). These were not present when exploring implementation by RIOs, but this is likely due to the general implementation literature focusing on large projects and implementation at the macro level, where these factors would be much more relevant. Additionally, there are factors which, while prominent in the general implementation literature, feature less frequently in the equality and human rights literature (i.e. economic, social and political conditions and commitment level). These were present when exploring the mainstreaming of equality and human rights by RIOs, suggesting that future research on equality and human rights implementation should be more alert to these factors. It is likely that these factors have not been focused on previously, as most of the research has taken place at the macro level, whereas these factors would be more acute at the meso (organisational) and micro (individual) levels. Additionally, consultation with and participation of those affected by the implementation, and the quality of data available were found to be important factors in the equality and human rights specific literature, and to implementation by RIOs, but did not feature prominently in the general implementation literature. Therefore, there would be utility in exploring whether these factors are specific to equality and human rights implementation or whether they are also relevant to implementation more generally.

Further, a significant finding of this article is the importance of interactions between organisations (in this case RIOs), which did not feature in either body of literature. While the general literature argues of the need for organisations to work together to advance implementation, this is because they all need to take action for a law or policy to be effectively implemented in an area. While this is true in areas jointly regulated by RIOs, neither body of literature has recognised the critical learning opportunities that other interactions between different implementing organisations present. This suggests a need for research in the future that explores the learning process(es), threats and opportunities presented by interactions between organisations generally, and, in particular, in their equality and human rights work. Situated learning by organisations, such as that provided by the National Preventive Mechanisms, appears a fruitful avenue for increasing implementation in the future.

In terms of practical implications, RIOs have a crucial role in supporting the mainstreaming of equality and human rights values into public sector organisations (Barrett, 2020), but, as yet, this role has been significantly under-realised (Women and Equalities Committee, 2017-19; EHRC, 2009). The rest of the conclusion, therefore, explores how this role could be better advanced. It was found that individuals responsible for implementation at Welsh RIOs had greater equality and human rights consciousness and a more supporting and enabling environment than English RIOs due to it being regarded as a high priority by the Welsh Government. However, this was not uniform for all Welsh RIOs, with one RIO (W4) not being regarded as a focus by the Welsh Government and thus not having strong confidence around equality and human rights. Additionally, the specific Welsh context was only effective up to a point, beyond this point it acted as a barrier, as the involvement of the Welsh Government allowed participants (e.g. W3) to see responsibility for implementation primarily lying with the Welsh Government, and thus limiting action beyond this point. It also meant that organisational specific knowledge about the optimal way to implement the norms was often ignored. In contrast, English RIOs did not have such an enabling environment. This could lead to the mainstreaming of equality and human rights values not being seen as an overarching priority (e.g. E3). However, it also created freedom and space for committed individuals to drive forward organisation-specific approaches to implementation (e.g. E1 and E2). As a result, although proceeding from different starting points, it meant that, with the notable exception of engagement with people with protected characteristics, in reality, the factors that inhibited and enabled implementation in RIOs, were largely consistent across both Welsh and English RIOs.

Three factors were found to inhibit implementation: a lack of resources, a lack of staff knowledge and expertise and competing pressures. Alongside these inhibitors, eight factors were found to enable implementation: the external environment, the commitment of leaders, external interactions, recruitment, motivation, training, consultation with those with lived experience and data. Based on these different factors, in order to drive forward implementation in RIOs, four actions are needed by policymakers. First, accountability of RIOs needs to be increased through greater monitoring and enforcement by external bodies. This would create an enabling environment by illustrating the importance of equality and human rights to RIOs, focusing the minds of the senior leadership and increasing the priority of mainstreaming in comparison to competing pressures. In this way, organisations will be more focused on how they can effectively implement equality and human rights and they are likely to adopt some of the identified enabling factors to do this, such as drawing on the motivation of existing staff, recruiting knowledgeable and experienced staff and/or requiring staff to undergo training. This can be done, as is the case in Wales, through explicitly integrating equality and human rights into the legislative frameworks of RIOs. However, the experiences of Welsh RIOs show that more is needed, particularly monitoring and enforcement by external bodies. It was originally intended that the Equality and Human Rights Commission (EHRC) would be the primary source of accountability, but the majority of participants described having very limited interactions with the EHRC suggesting that the Commission is not fulfilling this role. The EHRC needs to increase its accountability of RIOs (Women and Equalities Committee, 2017-19), which could be achieved by including it explicitly in the Commission's governing framework (Equality Act 2006) and providing additional resources in which to undertake the role. Other bodies could also act to ensure greater accountability including the UK and Welsh Governments and parliamentary committees (such as the UK Women and Equalities Committee and the Joint Committee on Human Rights and the Welsh Equality and Social Justice Committee).

Second, alongside formal accountability mechanisms which will only be effective for bodies that are resistant to taking action, supportive measures need to be provided (Braithwaite, Makkai and Braithwaite, 2007; Barrett, 2023). These measures would support individuals and organisations that lack knowledge and expertise of equality and human rights (as seen, for example, in relation to W4). This could include the Welsh and UK governments facilitating

purposefully designed, high quality, RIO-specific training. Specific resources could also be provided to support RIOs who are unable to mainstream equality and human rights as fully as they would like (for example E1 and W1). This could take the form of grants being provided to facilitate specifically identified projects.

Third, the Welsh requirements to engage with persons with protected characteristics seem to be particularly effective at facilitating mainstreaming in RIOs. The requirement to engage with persons with protected characteristics should be reintroduced into England. Although it is likely that engaging with individuals with protected characteristics would feed into discussions around human rights, it would be beneficial to make this requirement explicit for both England and Wales. This could require organisations to engage with service users around topics such as how they view privacy in different settings. Finally, the UK and Welsh governments and the EHRC should look at ways of facilitating external interactions between organisations to cultivate learning. This could be orchestrated by the EHRC supporting RIOs to mainstream equality and human rights (Abbott and others, 2015; Pegram, 2015). Alternatively, horizontal accountability could be designed by requiring RIOs to work together to achieve particular goals (Scott, 2000; Maggetti, 2010). In this way, the role of RIOs in equality and human rights enforcement can be more effectively realised in the future.

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