

Independent Review into Equality, Diversity and Inclusion | Findings and Recommendations Report

13 June 2023

Disclaimer:

*Nous Group (**Nous**) has prepared this report for the benefit of the Arts Council England (the **Client**).*

The report should not be used or relied upon for any purpose other than as an expression of the conclusions and recommendations of Nous to the Client as to the matters within the scope of the report, and Nous expressly reminds the Client that Nous does not provide legal advice, and this report cannot be relied on as legal advice. Nous and its officers and employees expressly disclaim any liability to any person other than the Client who relies or purports to rely on the report for any other purpose.

Nous has prepared the report with care and diligence. The conclusions and recommendations given by Nous in the report are given in good faith and in the reasonable belief that they are correct and not misleading. The report has been prepared by Nous based on information provided by the Client and by other persons. Nous has relied on that information and has not independently verified or audited that information.

© Nous Group

Contents

1	Executive Summary	1
2	Method.....	10
3	Overall findings.....	32
3.1	Access and external recruitment.....	32
3.1.1	The Arts Council is a leading organisation in terms of access and external recruitment.....	33
3.1.2	The review makes five specific findings in relation to access and external recruitment.....	34
3.2	Success.....	38
3.2.1	The Arts Council is making strong progress on success but more work is appropriate	39
3.2.2	The review makes seven findings in relation to success.....	41
3.3	Support.....	46
3.3.1	The Arts Council has several gaps to address on support.....	47
3.3.2	The review makes eight findings in relation to support	49
3.4	Inclusive leadership and governance	57
3.4.1	The Arts Council is a leading organisation in terms of inclusive leadership and governance	57
3.4.2	The review makes four findings in relation to inclusive leadership and governance	59
3.5	Open and respectful cultures	61

3.5.1	The Arts Council should progress further faster on developing open and respectful cultures	62
3.5.2	The review makes five findings in relation to open and respectful cultures.....	63
3.6	Policies and processes	66
3.6.1	The Arts Council is a leading organisation in terms of its policies and processes.....	66
3.6.2	The review makes two findings in relation to policies and processes	67
4	Specific findings in relation to protected characteristics and socio-economic background	69
5	Recommendations and commendations	79
5.1	Ensure workplace adjustments are applied consistently and improve staff awareness of supports	80
5.2	Increase staff confidence and improve transparency in grievance processes.....	81
5.3	Improve transparency in the advancement pathways....	83
5.4	Enhance the capability of managers and leaders to create an inclusive culture for all staff	84
5.5	Clarify the purpose and governance for staff networks to maximise their contributions.....	86
5.6	Uphold the Public Sector Equality Duty to foster good relations between staff in relation to personal beliefs	88
5.7	Reinforce the Arts Council's purpose and identity as a development agency for creativity and culture	89
Appendix A.....	Review Terms of Reference	92

Appendix B	Review background, context and language
95	
Appendix C	Detailed considerations about method
114	

A safety warning about the content of the report

This review explores challenging topics, and some readers may find it confronting. We ask readers to engage with the material with that understanding and prioritise their wellbeing as appropriate. The Nous review team also notes that this report may be particularly confronting to some staff colleagues who have contributed to the review. While we have made every effort to anonymise contributions, staff colleagues may still hear their voices in some of quotes and narratives that the report includes.

A note on language and terminology used in the report

We have carefully applied language in this report to balance self-articulated lived realities, terms that the Arts Council uses widely, and the language in the Equality Act 2010. However, language in equality, diversity, and inclusion reviews can be imprecise. We have set out our rationale for choices in language in the early sections of this report, but we acknowledge there are limitations.

1 Executive Summary

Arts Council England (the Arts Council) is England's national development agency for creativity and culture. The Arts Council distributed £892 million in grants and more than £250 million in repayable finance in 2021-2022. This represents an unprecedented investment in creativity and culture. Through its 10-year 'Let's Create' Strategy, the Arts Council seeks to transform England to be a country in which the creativity of every person is valued and given the chance to flourish.

Review purpose

The Arts Council's National Council commissioned Nous Group (Nous) to conduct an independent review of its employment policies and processes, practices, and culture in relation to equality, diversity, and inclusion (EDI). The review examines the Arts Council's effectiveness as an employer in relation to staff colleagues' experiences and the Arts Council's non-executive governance. The review explores these across all protected characteristics in the Equality Act 2010 and in relation to socio-economic background. This review follows substantial work from staff colleagues at the Arts Council and efforts from leaders to help make the Arts Council a more equal, inclusive, and diverse workplace. The review focuses on the Arts Council as a workplace, though it recognises that the Arts Council's institutional position means that the Arts Council's successes and failings in EDI resonate across the sector. The full Terms of Reference for the review is provided in Appendix A and background information pertaining to the review is described in Appendix B.

Our approach

Nous developed a conceptual approach that addresses the Terms of Reference set for the review and emphasises an intersectional lens. This conceptual approach underpinned our consultation approach and report development. Figure 1 illustrates this conceptual approach. Its six elements provide a framework for our engagement with staff colleagues, our report structure, and our findings.

Figure 1 | Nous' conceptual approach to the review



Nous used a range of engagement methods to understand the lived experience of staff, triangulating these perspectives with existing data, documentation, and wider research. 430 staff completed a survey that Nous developed specifically for the review and the Nous team heard from 82 staff through 35 one-to-one interviews and seven self-organised focus groups over a three-month engagement period. All individuals who participated in the review had the opportunity to access follow-up counselling support with a specialist counsellor.

The review team also benchmarked the Arts Council's progress and practices towards EDI against comparable organisations through an EDI maturity framework. Our engagement methods have substantively informed Nous' recommendations. Any engagement methods necessarily have limitations; we discuss these below. Our recommendations should be considered and prioritised alongside existing programmes of work and governance arrangements to fully realise the Arts Council's EDI ambitions.

Our findings

The Arts Council's ambitions for EDI and staff colleagues' expectations of the Arts Council in supporting EDI in the workplace are demonstrably high. This is consistent with the aspirations of 'Let's Create'¹ and the Equality Objectives set out in the 2021–2024 Delivery Plan for the sector. The Arts Council has achieved commendable progress across several dimensions. This includes successes in diversifying the talent

¹ Let's Create. Retrieved from:
<https://www.artscouncil.org.uk/lets-create>

pool from which it recruits and taking actions to support staff with a wide range of protected characteristics, needs, and abilities to achieve pay parity. The Arts Council can be rightly proud of these achievements; several of its practices are leading across comparable organisations within and beyond the sector.

However, other areas require ongoing attention across protected characteristics. These include the need to improve transparency in advancement processes and some staff colleagues' confidence that the Arts Council will fairly and transparently resolve formal and informal grievances. The Arts Council has also not succeeded in building a culture that fully realises its EDI aspirations in all teams and regional offices. This has contributed to mixed experiences for staff colleagues across a range of protected characteristics and at various stages of their lifecycle as employees of the organisation.

Our specific findings fall into two categories – those that related to six areas outlined in the conceptual approach above and those that concern specific protected characteristics. These are summarised in turn below. The Arts Council's high aspirations mean that some findings can read more critically than intended. The Arts Council meets or exceeds the expectations that a less aspirational organisation would set itself. It is appropriate to situate the Arts Council based on comparable organisations and their aspirations. A benchmarking exercise serves to contextualise findings. The benchmarking indicates that comparable organisations also grapple with challenges in the areas where the Arts Council performs less strongly. The ratings used in the benchmarking exercise and their limitations are discussed in the method section.

Our overall findings are structured across six key themes, which are briefly summarised below and form the structure of the wider report. These findings are not representative of the experiences of all staff at the Arts Council England. We have formed these findings through careful triangulation of available data, together with staff interviews and focus groups. They include:

- **Access (section 3.1)** – This section highlights the Arts Council's progress to diversify its external applicant pool, the mixed access outcomes for some individuals with different protected characteristics, some concerns around the interview process' accessibility, and the misaligned role descriptions and workload expectations. It also highlights the improvements to support staff with diverse needs while noting that this success is not consistent.
- **Success (section 3.2)** – This section demonstrates that advancement processes for career development at the Arts Council are not consistently clear to staff colleagues and lack transparency for individuals with various protected characteristics, and that the Arts Council has limited internal progression pathways generally. This contributes to inequities in representation. Managerial favouritism and unconscious bias are other areas of concern. However, the Arts Council can show evidence of progress in the diversity of staff representation at various levels of the organisation. The Arts Council has also achieved considerable progress in reducing gender and ethnicity-related pay disparities. Patterns in relation to the use and application of fixed-term contracts across protected characteristics are largely

consistent, though staff colleagues do not perceive this to be the case.

- **Support (section 3.3)** – This section finds substantial inconsistencies between the Arts Council policies and staff colleagues' experience of those policies. This is most notable in relation to grievances. The Arts Council has comprehensive policies and detailed records addressing grievances. However, some staff colleagues report that they are not aware of steps involved in navigating a grievance and they are concerned that the Arts Council applies its policies inconsistently. The review team also found that managers vary in their capability to create inclusive environments and are not all well equipped to respond to EDI matters. Finally, the review commends the progress that the Arts Council's staff-led EDI networks have achieved but notes a mismatch in expectations about these networks' purpose.
- **Inclusive leadership and governance (section 3.4)** – This section highlights disconnect between the Arts Council leadership's strong commitment to EDI and some day-to-day actions. One major driver of this is that staff colleagues, including leaders, do not always understand the tensions for an arm's-length body. This may contribute to some staff colleagues' perception that leadership engagement with EDI appears tokenistic.
- **Open and respectful culture (section 3.5)** – This section makes clear that staff colleagues are passionate about the Arts Council's purpose and that they largely embody both the Nolan Principles and the Arts Council's stated values. It also emphasises that staff colleagues have high expectations

of EDI. Less positively, some staff felt that the Arts Council does not mirror aspects of their identity and post-pandemic ways of working have challenged some staff colleagues. Some staff have experienced unresolved microaggressions. The way that the Arts Council has navigated recent events and the significant variation of experience by team, office, and line manager inform Nous' more critical assessment of the Arts Council's culture.

- **Policies and processes (section 3.6)** – This section emphasises the need to commend the Arts Council for significant strides in respect of policies and support, especially for disabled staff. The Arts Council does however need to communicate these developments more widely to both staff colleagues and line managers, as some staff colleagues are not aware of these policies and some managers do not apply them.

The review team considered issues and staff experiences in relation to specific protected characteristics as set out in the Equality Act 2010 and socio-economic status.

Our commendations

Commendations highlight areas where the Arts Council performs strongly or has progressed strongly in meeting its aspirations for EDI. These are priorities where the organisation is already demonstrating sound practice and encouraged to continue progressing good work. Specific areas for commendation include:

- External recruitment efforts to increase Black, Asian and ethnically diverse staff

- Comprehensive collection of staff diversity data
- Scaling up use of the ClearTalents platform
- Achieving pay equity against gender and ethnicity
- Expanding the accessibility self-assessments across business areas
- Procuring a new training provider to focus on inclusive behaviours

Our recommendations

Recommendations are proposed actions that the Arts Council can implement over the 12-24 months following receipt of this report. The Arts Council could substantially improve staff colleagues' experiences and support the Art Council to realise its EDI aspirations if it successfully implements these recommendations.

They include:

1. Ensure workplace adjustments are applied consistently and improve awareness of supports
2. Improve transparency in the advancement pathways
3. Increase staff confidence and improve transparency in grievance processes
4. Enhance the capability of managers and leaders to create an inclusive culture for all staff
5. Clarify the purpose and governance of staff networks to maximise their contributions

6. Uphold the Public Sector Equality Duty to foster good relations between staff in relation to personal beliefs
7. Reinforce the Arts Council's purpose and identity as a development agency for creativity and culture

Actions already under consideration

Actions already under consideration are actions that the Arts Council is already considering undertaking in the future. They are highlighted here, separate from our recommendations.

- Analysing the pay gap of disabled, D/deaf and neurodiverse staff and the pension gender pay gap
- Aligning categories of data collection to the categories used by the Office for National Statistics in the census

A note of thanks and reflection

The Nous review team would like to thank the wide range of staff colleagues at the Arts Council for their contributions to this review. The EDI reviews engage deeply in matters of identity, community, and society. Staff colleagues at the Arts Council have graciously shared their stories and many have engaged in the emotional labour of recounting challenging experiences. This is not an easy process, and we thank them for their generosity. Their previous work, their contributions to this review, and the work that they will continue to perform will make the Arts Council and the arts sector more equal, diverse, and inclusive. We recognise that no easy solutions exist for some cultural challenges that the Arts Council, and indeed wider society, face. This review does not seek to take sides. We acknowledge that this will disappoint some readers.

2 Method

This section outlines the approach undertaken to address the review's Terms of Reference, the levels of engagement received, and the limitations encountered.

Our approach focused on the experience of staff, their outcomes and underlying practices

Nous' conceptual approach addresses the elements that the Terms of Reference set for the review. This approach adopts a whole-of-organisation framework to understanding and improving EDI matters and is underpinned by a recognition of intersecting identities. Figure 2 provides a visual summary of this. The report's structure first engages with common elements of staff colleagues' employment lifecycle before engaging with the cross-cutting themes in the outer ring. The lifecycle stages are:

- **Access** – barriers and opportunities in relation to external recruitment and accessibility at the Arts Council.
- **Success** – barriers to, opportunities for, and the measurement of success at the Arts Council including pathways for career advancement and skill development.
- **Support** – the role of support mechanisms and initiatives.

An exploration of cross-cutting themes follows. This includes: the role of **leadership and governance**, the importance of an **open and respectful culture** (including compliance with Nolan Principles and Public Sector Equality Duty), and an assessment of **effective policies**. These enable access, success, and support when they are in place. Finally, the report examines **specific issues in relation to the Equality Act** that have not been

addressed elsewhere and provides recommendations with suggested timelines for action.

Figure 2 | Nous' conceptual approach to the review



Nous evaluated the Arts Council's progress in relation to an organisational EDI maturity scale

The review team has used an organisational maturity framework to benchmark the Arts Council's progress towards EDI and its associated practices. Nous uses a strength-based model for benchmarking, which assumes that comparable

organisations at least comply with their obligations. Figure 3 shows how Nous' EDI maturity framework situates organisations on a path from **compliance** (the base level of performance) to **belonging** (the highest level of performance). The review team conducted the benchmarking exercise in respect of the wider review context and Terms of Reference. Further detail about the benchmarking is provided in Appendix C.

EDI maturity framework definitions

Compliant

The organisation complies with government targets and strategies but does not think beyond these parameters. Risk management and a limited focus on diversity inform policies and behaviours.

Enhanced

The organisation implements programmes to realise the goals associated with government diversity targets and strategies and these programmes have had some success in leading to organisational change. These 'front-end' changes may not have flowed through to broader substantive changes.

Accommodating

The organisation has adopted broader organisational changes that support a more inclusive workplace for underrepresented groups (such as through unconscious bias or cultural competency training). This may occur in a somewhat ad hoc manner so the majority culture may still be dominant.

Inclusive

The organisation works to include its diversity of talent in organisational processes. It leverages the experience across a diversity of groups and sees the inclusion of diverse voices as a mechanism for promoting better outcomes. The organisation integrates inclusion into processes, ways of working, and moments that matter.

Equitable

The organisation recognises the power of inclusive practices and reflects these in systems, processes, data collection, and organisational norms. The organisation substantively leverages diversity of thought and background to augment its strengths and respond to challenges.

Belonging

The organisation integrates and leverages equality, diversity, and inclusion at all levels – grass roots, management, and leadership. External stakeholders recognise the organisation for its equitable and inclusive culture, practices, and systems.

We used mixed methods to develop a wide understanding of EDI experiences

Nous used a range of engagement methods to harness staff perspectives, triangulating their lived experiences with existing research, data, and analysis that was available within the organisation. All staff were offered the opportunity to engage with us, but it was not compulsory. We did not seek to be statistically representative or to assess compliance; our aim was to create a safe space for staff to share their experiences authentically.

We recognise this approach has strengths and weaknesses which are discussed in the limitation section. Staff engagement included:

- **One-to-one interviews with staff for 30 minutes** – Nous offered all staff colleagues self-directed and narrative-based interviews. Interviewees were free to focus on the experiences at the Arts Council that were most important for them from an EDI perspective.
- **Self-organised focus groups for 90 minutes** – all staff colleagues had the opportunity to self-organise groups to discuss specific experiences or reflections about EDI at the Arts Council. A specialist counsellor attended all focus group sessions.
- **Survey** – the survey comprised of Likert-scale questions and free text responses and explicitly focused on the effectiveness of the Arts Council in upholding the Public Sector Equality Duty and the Nolan Principles. Through optional demographic questions, the survey provided the opportunity for individuals with protected characteristics defined under the Equality Act and in relation to socio-demographic backgrounds to share their experiences of working at the Arts Council.

The review team separately sought insights from the HR team to clarify data and context pertaining to elements of the review. We thank the Human Resources (HR) team for their contributions and re-iterate that this is an independent and

external report. Data and document review² covered the periods of 2018 to 2023.

The engagement (including both surveys and interview) and analysis phase ran from 22 February 2023 through to 31 March 2023. Throughout this period, the National Council and Nous reviewers circulated a range of internal communications. A standalone intranet page was established for the purposes of the review on Arts Council's OnePlace platform. The Nous review team and a cross-section of Arts Council staff piloted and adapted the survey to maximise accessibility and to balance length and comprehensiveness. A few participants (less than ten) expressed difficulties accessing the correct weblink for the survey at launch; the Nous review team immediately addressed this. Interviews and focus groups incorporated accessibility measures, for example sending interview guides in advance of the interview.

We engaged 82 staff colleagues in interviews and focus groups

Nous reviewers engaged with 82 staff through a series of one-to-one interviews and nine self-organised focus groups.³ The review engaged with a breadth and depth of staff experiences across levels, roles, and protected characteristics. Self-

² The review engaged with a wide variety of data and documents provided by the Arts Council, between 2018 to 2023

³ Note it is not possible to identify the unique number of staff engaged through both consults and survey responses due to the anonymity of the survey.

organised focus groups comprised staff from across the Arts Council offices, functions, and protected characteristics. Specialist counselling support was available for participants through Mamta Ward, an external counsellor who attended all focus group sessions. The Arts Council additionally organised a bespoke counselling service.

430 Arts Council England staff contributed to the survey

Current Arts Council England staff colleagues were eligible to take part in the survey. 626 staff colleagues started the survey. 430 responses included both a consent to data collection and completed the survey beyond the consent question.⁴ This represents over 65% of the Arts Council's overall workforce.⁵

Of those that completed the survey, approximately 80% of staff colleagues provided their demographic details. Nous did not weight for a representative sample; however, the survey responses broadly reflect the Arts Council's workforce data. A greater proportion of disabled staff completed the survey than in the workforce (33% in the survey compared to 12% in the workforce). The review team are not clear on this divergence, but we can theorise. It may be due to the definition of disability we used; "a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities", as per the Equality Act. It may also

⁴ Note that it is not unusual for people to open a survey link, understand what it entails and then come back to it later.

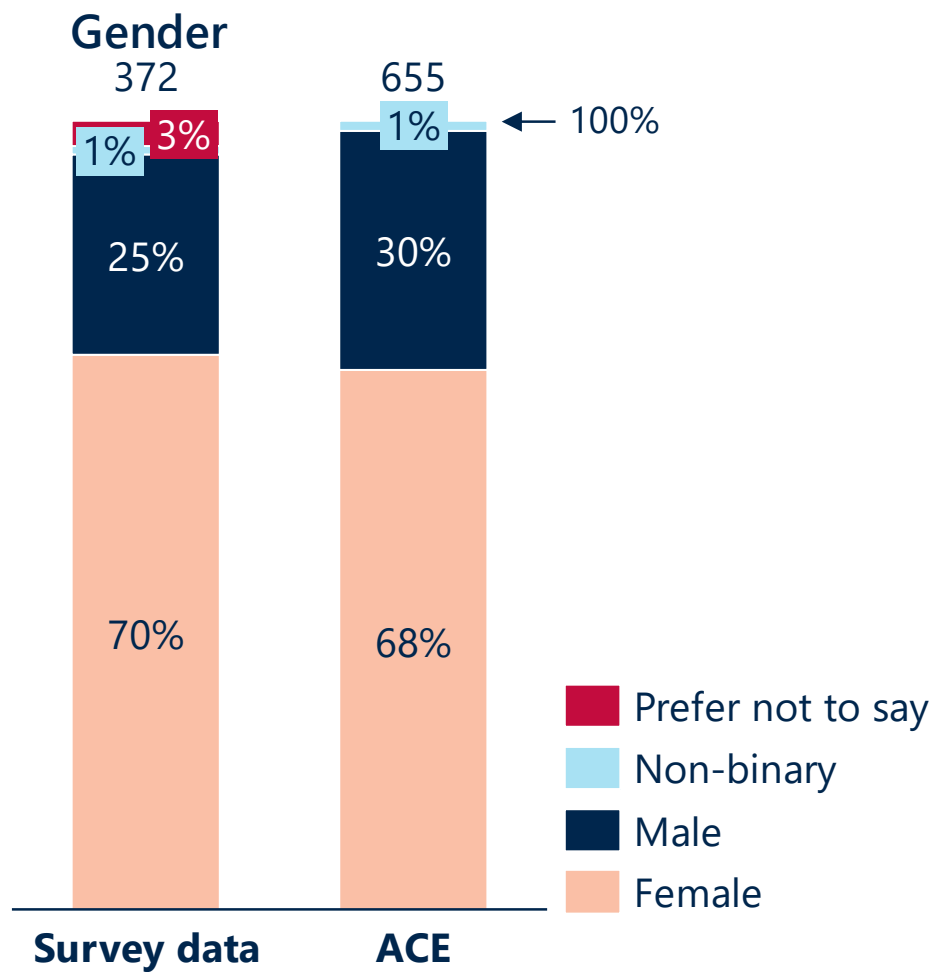
⁵ Proportion calculations are based on a total staff number of 655, provided February 2023.

be due to staff being more willing to share information about disability with a third party than directly with their employer.

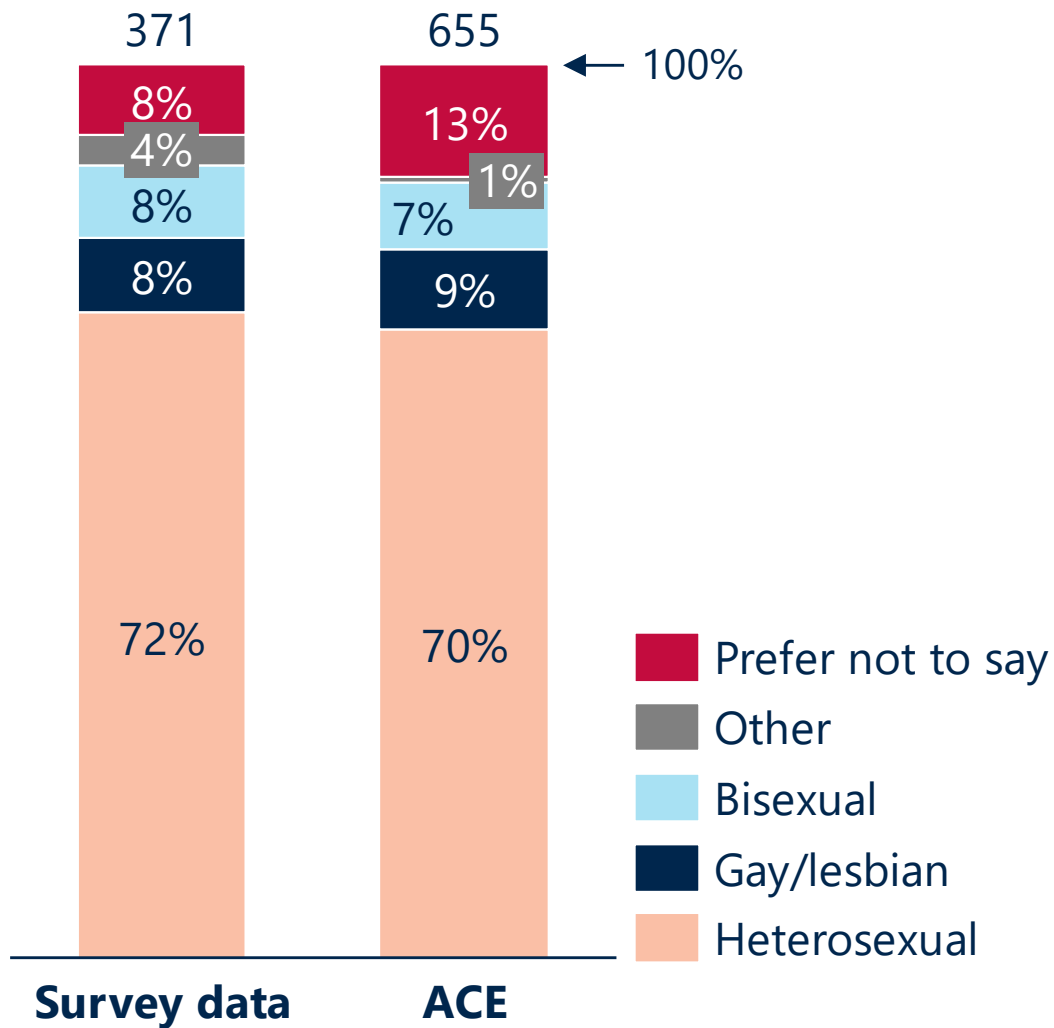
DRAFT

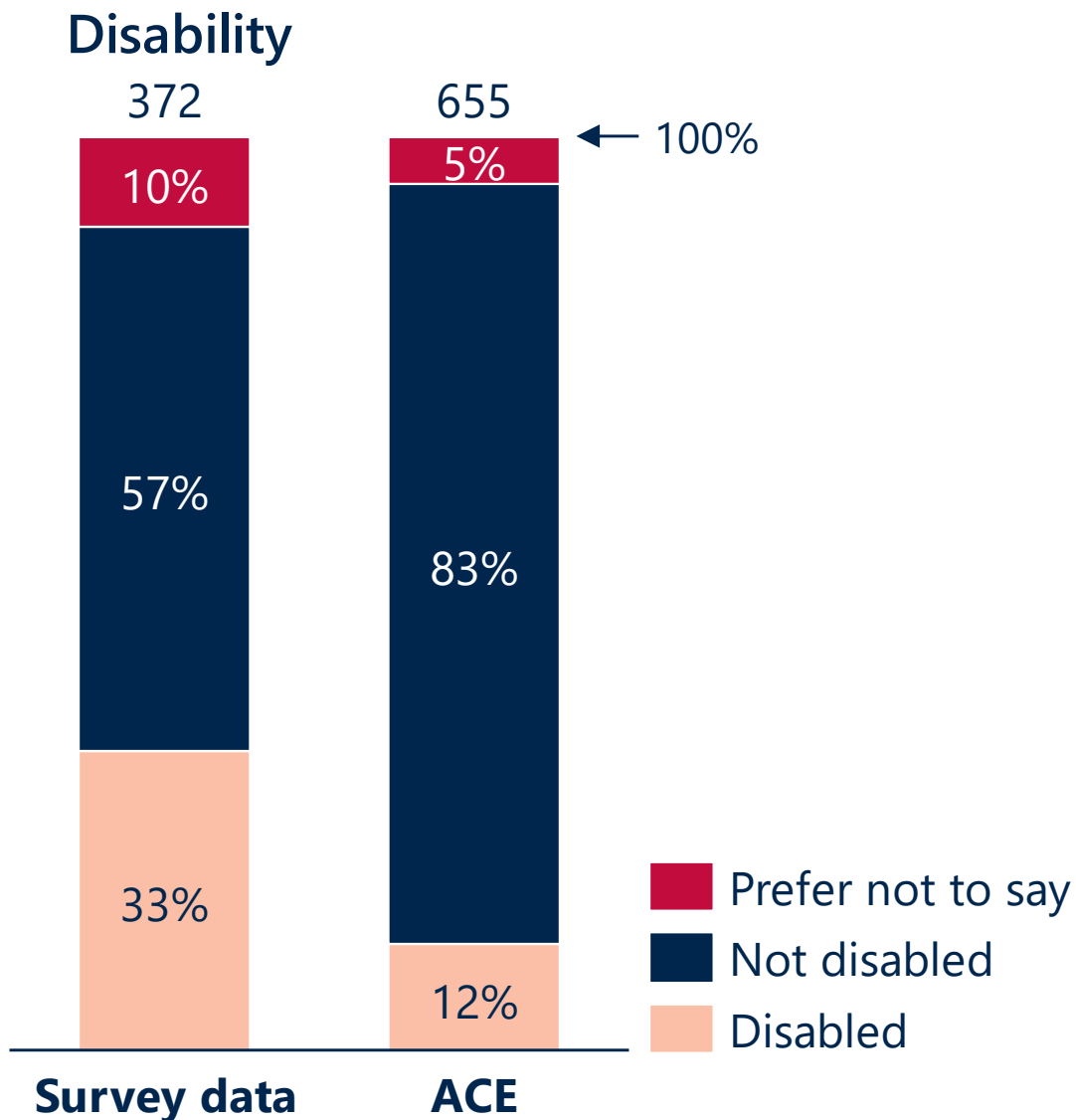
Figure 3 | Survey responses split by gender, sexual orientation, disability, and ethnicity compared to the Arts Council's workforce⁶

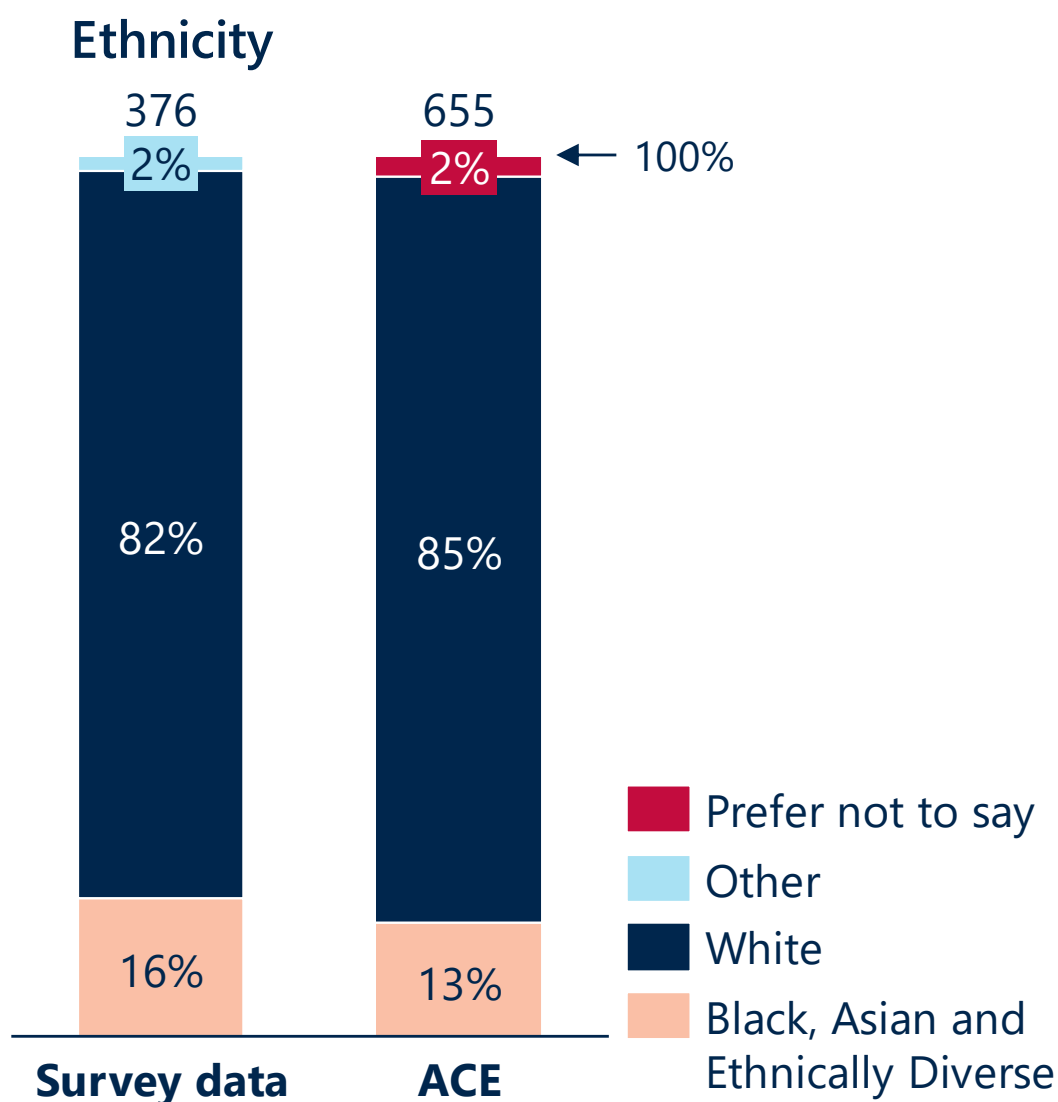
⁶ We have applied the Arts Council's internal terminology in this chart. The comparable terms used in Nous' survey (to align with the Equality Act's protected characteristics) were: Sex, Sexual orientation, Physical/mental health conditions or illnesses lasting or expecting to last 12 months or more, Race/ethnic group.



Sexual orientation







Blank responses: 52

We have grouped together themes across interviews and survey free text responses

Throughout this report, we refer to groups of staff who highlighted a common theme during interviews or in survey free-text responses. A few staff refer 3 – 5 comments, some refers to 5 – 10 comments, and many refer to 10+ comments.

The review team have diverse experiences and used a trauma-informed approach

Nous' core team have knowledge and lived experience of EDI matters and are skilled in trauma-informed consultations. An Expert Advisory Panel supported the core who advised on the conceptual approach and findings. The Expert Advisory Panel also provided additional support with stakeholder engagement and play a crucial role in testing recommendations.

The core project team have driven the research and analysis for this review including the development of this report. The team structure is set out in Figure 4.

Figure 4 | Team roles and responsibilities

Core Team





Caitlin Evans
Project
Consultant



Sarah Palmer
Project
Consultant



Éireann Attridge
Project
Consultant

Engagement and consultation, as appropriate

Research and analysis

Expert Advisory Panel



Abigail Nduva
Expert Advisor



Steph Huang
Expert Advisor



Antonia Instone
Expert Advisor

Engagement and consultation, as appropriate

Advice on approach, findings, and
recommendations

Mamta Ward, a specialist counsellor, was an additional team member. She provided follow-up counselling support to

participants and attended all focus groups as an observer. The Nous review team are experienced in working on sensitive issues and in creating psychologically safe environments for participants. Interviewers followed confidentiality protocol and, as previously described, referred participants to appropriate services where there was risk of harm to participants or others.

Stakeholder and advisory groups

National Council and the Nous review team established a comprehensive approach to engaging formal stakeholder groups at key stages of the review (set out in Table 1). These groups provided advice to the Nous review team on the method and made practical suggestions to ensure wider staff views and perspectives were reflected through the surveys and focus groups. However, it is important to stress that the Nous review team developed findings independently, through consideration of data and policies, and the experiences of staff as elicited through the one-to-one interviews, focus groups, and survey data.

Table 1 | Stakeholder groups and engagement activities

Stakeholder group	Purpose
National Council	National Council commissioned the review and had oversight responsibility for the project, including consideration of findings and recommendations arising.

Stakeholder group	Purpose
Staff Reference Group	The Staff Reference Group helped refine the objectives of the review, provided input into the method, and suggested actions to encourage wider staff participation.
Area Councils	Area Councils will be briefed on the overall review approach and will comment on findings.
Race Advisory Group	The Race Advisory Group will comment on findings and recommendations. They will help identify leading practice examples to improve staff experiences at the Arts Council.
Disability Advisory Group	The Disability Advisory Group will comment on findings and recommendations. They will help identify leading practice examples to improve staff experiences at the Arts Council.
Working Group	The Working Group supported the review team with project management tasks.

Limitations, dependencies, and mitigation strategies

The review received strong engagement from the Arts Council community, with a statistically significant survey response and deep qualitative engagement. The review team were also able to consider extensive workforce data. However, there are limitations to the review which are explored below, together with the mitigation strategies that were put in place to address these limitations as best possible:

- **Trust in the review process:** from the outset, the Nous review team heard reports of some staff lacking confidence in the review and reluctance to participate in the interviews. The reasons for this are many and varied: some felt that their experiences would not be taken seriously or that their participation would not lead to positive change. It is possible that some staff did not feel that their anonymity would be protected, or that they would face repercussions to their employment or experienced fatigue from similar previous exercises.
- **Mitigation strategies to improve trust:**the Nous review team stressed anonymity in the communication of the review and took practical steps to uphold confidentiality and safety (e.g., ensuring that meetings were diarised in a private manner and that participants had access to follow up counselling support). The Nous review team met with the Staff Reference Group and individuals who expressed these concerns to clarify the purpose of the review and provide reassurance. The Nous review team established an independent email address where participants could additionally raise concerns.
- **Self-selection:** staff who have participated in the review are those most likely to have the strongest views on issues of EDI and are more likely to have had negative experiences at the Arts Council. These perspectives may have influenced the representativeness of these views across the organisation.
- **Acknowledging lived experience:** the review reflects the lived realities of a range of staff across the Arts Council and therefore, are worthy of consideration in and of

themselves. It is not the purpose of the review to provide a comprehensive assessment about the merit or accuracy of these experiences.

- **Mitigation strategies to address self-selection bias:** this review pursued many modes of communication to engage with staff and provided flexible ways to engage with the review with the aim to reach and hear from a broader range of staff (e.g., offering a wider range of times than the Arts Council's core working hours). The overall period for engagement was also extended than originally planned to accommodate staff participation.
- **Differences between interview and survey respondents:** the review team are not aware of the degree of overlap between individuals who engaged with interviews and the survey. We have not attempted to cross-check participants as one of the review's principles is confidentiality – ensuring we protect the anonymity of all participants. We heard that some staff engaged through both engagement mechanisms, whereas others opted for one over the other due to preference. In general, staff who opted for an interview or focus group had more negative feelings or experiences relating to EDI.
- **Mitigation strategies to address differences:** the review triangulated insights from interviews, surveys, documents, and data; it has not leaned significantly on any individual's specific experiences or feelings.
- **Demographic data:** approximately 80% of staff who completed the survey shared their demographic data and across a range of protected characteristics. The

demographic splits cannot be triangulated with internal data, due to different representation across certain groups.

- **Mitigation strategies to fill gaps in demographic data:** despite gaps, the proportion of survey respondents who provided their demographic data remains at a high response rate. Where there were gaps in the specific protected characteristics of some groups, the Nous review team leaned more heavily on the qualitative data drawn from one-to-one interviews and focus groups.
- **Accessibility:** some staff expressed concerns in relation to accessibility across engagement methods, and queried what supports would be available to facilitate their participation.
 - **Mitigation strategies to ensure accessibility:** the survey instrument and interview guides were piloted internally by the Nous team and were tested with the Arts Council's Access Support team ahead of circulation. Other strategies to promote accessibility included sending interview guides to participants in advance of meetings, reproducing the survey as an editable document, the use of live-captions and transcription in virtual meetings, involvement of British Sign Language (BSL) interpreters and including support persons where it was required by participants.
- **Previous staff:** over the course of the review, the Nous review team received feedback that the scope of the inquiry should be expanded to consider the experiences of ex-staff and historical accounts of discrimination under the Equality Act. In response, National Council clarified that the review

should focus largely on current staff experiences to understand the impact of policies and practices.

- **Mitigation strategies to clarify scope of inquiry:** the Nous review team examined exit survey data between 2019 and 2023 to understand the impact of policies and practices in relation to the experiences of both current and previous staff. Exit survey data was also used to understand ongoing drivers of disparities in staff experiences and outcomes.
- **Investigating individual allegations:** during some one-to-one interviews and focus groups, participants queried whether Nous reviewers would investigate their individual experiences of discrimination, beyond referring them to the Arts Council's complaints and grievance processes. On a few occasions, review participants expressed wanting an immediate resolution to their grievances and not wishing to go through the Arts Council's processes to have their concerns addressed.
- **Mitigation concerns the handling of individual allegations:** the Nous review team clarified the scope of the review across all communications, making it known to participants that the Nous review team would not investigate individual allegations. In addition, a Specific Allegations Protocol was established for serious disclosures involving named complainants. The Nous review team also referred participants to the anonymous reporting platform established by the Arts Council. In addition, the Nous review team communicated their duty of care obligations to participants at the outset of interviews and enacted on this where appropriate.

- **Complaints data:** the survey did not distinguish between formal and informal complaints, nor did it distinguish the effectiveness of formal complaints processes vis-a-vis anonymous complaints processes. In addition, while the survey did not ask for information about the experience of individuals in relation to specific allegations, several respondents shared their personal narrative.
- **Mitigation strategies to disaggregate complaints data:** through the interviews and focus groups, Nous reviewers were able to gather further detail about the effectiveness of specific complaints pathways, including anonymous reporting. In addition, Nous reviewers did not evaluate the Arts Council's performance in handling of specific cases in the survey analysis of complaints data – we sought to understand the experience that people had had and acknowledge that an adverse or sub-optimal finding may influence their perceptions.
- **Benchmarking:** we have endeavoured to provide ratings based on triangulation of data with reported experience, and the practices of comparable organisations. These ratings are open to interpretation and do not reflect variation in team or regional office specific differences, due to sampling size.
- **Mitigation strategies to ratings:** we have carefully tested these ratings as a review team, and in reference to previous exercises of a similar nature. We have also expressly stated these ratings are to be considered indicative, and not definitive of the experiences of all staff at the Arts Council.

3 Overall findings

These findings have been formed through staff interviews, focus groups and survey results; wherever appropriate, these perspectives have been carefully triangulated with available data and documentation. It is entirely possible for there to be some discrepancies between the lived experience of staff who participated in the review with existing data known to the Arts Council, which is discussed in the limitations. Further, through an appraisal of the practices at comparable organisations, the review team have independently arrived at the benchmarking ratings for the arts; this assessment is indicative and does not reflect variation within individual teams and functional areas.

3.1 Access and external recruitment

This section explores the experience of Arts Council England staff in relation to external recruitment across various levels and functions in the organisation, the effectiveness of policies and systems as they commence their roles, and the application of reasonable workplace adjustments to enable individuals with specific needs to undertake their roles effectively. Internal development pathways and the representation of staff with different protected characteristics is discussed in the following sub-section (see section 3.2).

The report first provides an overall finding in relation to access and external recruitment before highlighting five specific findings.

3.1.1 The Arts Council is a leading organisation in terms of access and external recruitment



The review team has assessed the Arts Council to be firmly at the equitable stage of the EDI maturity curve in relation to access. The data shows that the diversity of the applicant pool is greater than that which exists in the broader UK population and the Arts Council has put in place strategies to diversify recruitment channels. Outcomes in the recruitment process are varied at an individual level but it does not appear that an individual's protected characteristics significantly impact their likelihood of success in being invited to interview. This all points to a high level of maturity in access. However, once they had interviewed, HR data shows external applicants of Black, Asian, and ethnically diverse backgrounds have been less likely to be successful in their application than white applicants from 2021/22 onwards.

The level of diversity within the Arts Council is roughly proportionate to the Civil Service more broadly. Within this, the Arts Council employs a higher percentage of women and disabled people than the Civil Service.

The lived experience reported through the survey and interview process reflected a more mixed picture. The review team heard some individual reports of applicants who had been unable to access reasonable adjustments in their interview process. The review team also heard reports of hiring managers rejecting candidates as not being a 'good cultural fit'. Individuals who reported this saw it as being linked to race. While this appeared to be a small experience, it suggests that good practice may not be consistent throughout the organisation. Any accounts of discrimination require addressing, even in an organisation which is generally mature. This prevents the Arts Council from receiving the rating of 'belonging.'

3.1.2 The review makes five specific findings in relation to access and external recruitment

The Arts Council has made significant progress to diversity in its external applicant pool

Since 2019,⁷ the applicants to the Arts Council show greater diversity across different protected characteristics than the UK population, though men are consistently underrepresented. The organisation has implemented external recruitment policies, including a new policy that focuses on attracting more

⁷ The review does not consider data before 2019.

diverse external talent to meet the organisation's targets and recruiting from a wider range of referral sources.⁸

Recruitment policies ensure a fair outcome for most external applicants, with mixed outcomes for Black, Asian and ethnically diverse applicants

Most staff survey respondents across protected characteristics felt neutral or positive that the Arts Council's recruitment processes were fair, unbiased, and likely to lead to diverse hiring. Respondents who identified as trans and non-binary, bisexual, or Black, Asian and ethnically diverse provided lower scores. Some qualitative comments from the survey and interviews point to differences in perception about external recruitment processes encouraging diversity and fairness. Potential reasons include manager bias in decision making and needing to fill vacancies quickly. Some colleagues noted that the interview questions and style may favour internal applicants.

Sex, disability, or sexual orientation do not appear to substantially alter individuals' prospects of receiving a job offer. However, Black, Asian, and ethnically diverse staff have recently had lower chances of success than white staff. The Arts Council set targets in 2021 for representation of staff by sex, disability, and ethnicity by 2024, using external benchmarking and ONS data. The organisation is tracking well against its

⁸ Please note that this and following sections that use the Arts Council's diversity data use the language provided in those systems. This language may not reflect the language that staff colleagues themselves use,

targets for disabled staff representation. The Arts Council's commitments as a Disability Confident Employer (set out in its Recruitment Selection Policy 2022) likely contributes to this.

Staff were mostly positive about interview processes; some reported that managers did not follow the Workplace Adjustments Policy

Most staff survey respondents found that their experience of first applying to and interviewing for the Arts Council was fair. Irrespective of protected characteristics, staff responded 'most of the time' (four out of five) or 'almost all the time' (five out of five) to the question 'Were you treated fairly through the application process?'. Many colleagues highlighted that the Arts Council responded to their needs well, in accordance with the recent Workplace Adjustments Policy 2022 and the Recruitment and Selection Policy 2020. The organisation is often ahead of the curve in terms of access in recruitment. For example, HR introduced a policy in 2021/22 that interview questions must be provided 30 minutes in advance, which some staff have praised.

Some staff colleagues found the interview process did not effectively meet all their needs. Specific concerns related to interview panels not accommodating caring responsibilities and access requirements and interviews being too long and numerous.

Some staff colleagues have mismatched role descriptions and workloads

Many staff colleagues shared their job descriptions did not accurately or specifically describe their role and responsibilities. They highlighted that this mismatch has several implications:

- Recruitment processes are not tailored to the role to ensure successful applicants have the appropriate set of skills and prior experiences to succeed once they enter the Arts Council.
- Broad descriptions leave some external applicants unsure about their duties and tasks.
- Some staff expressed that the tasks and demands required of them exceeded what they perceived as reasonable to achieve.

We heard that these implications impact feelings of inclusion and belonging within teams and have meant that a few disabled staff do not feel fully equipped to handle the daily reality of their role.

The framework for workplace adjustments has improved but staff experiences vary

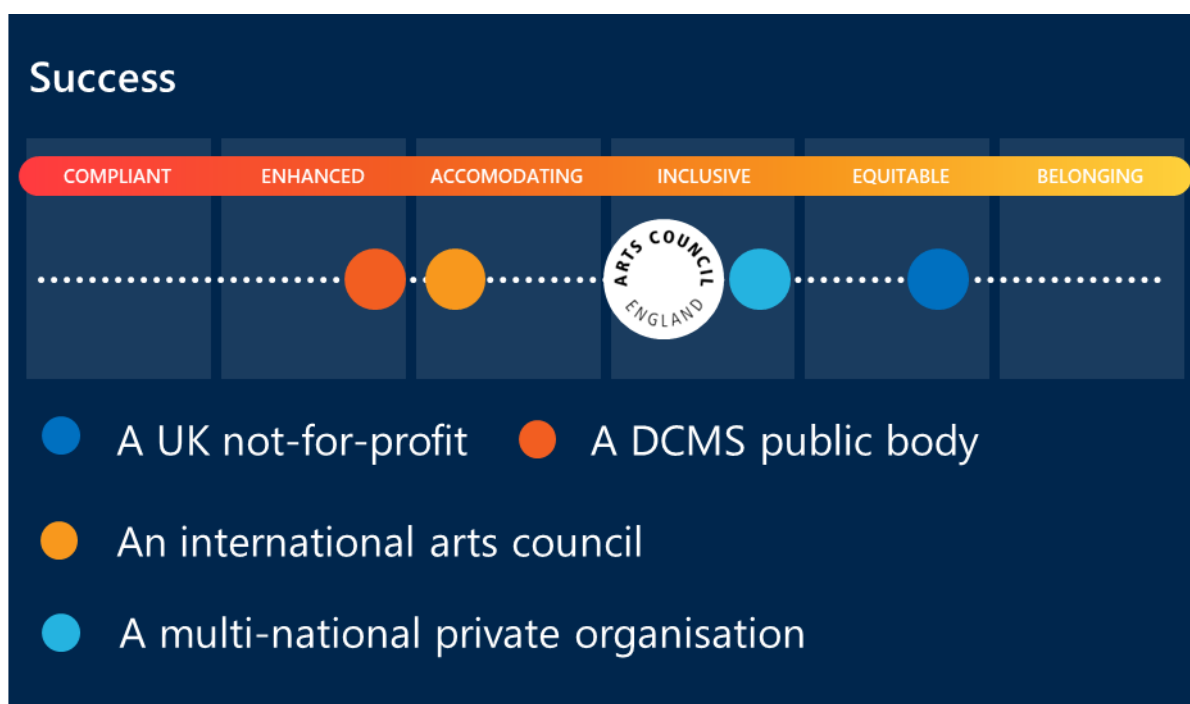
The Arts Council provides extensive support to staff colleagues with different needs – and has several policies in place, such as the Family Leave Policy (2019) and Workplace Adjustments Policy (2022). Many staff shared examples of the Arts Council offering flexibility and support with childcare, caring or other personal responsibilities or with access needs. Some disabled staff described positive developments over the last one to two years, such as the Workplace Adjustment Policy in 2022, the Extended Responsibility Allowance to support Access to Work applications, the Employee Assistance Scheme, the Access Changemaker initiative, and coaching sessions which help individuals to develop Inclusive Working Documents (a.k.a., Access Riders). However, many staff were vocal about areas for further improvement; these include consistent implementation

of reasonable adjustments and attitudinal challenges in relation to disability and other workplace adjustments.

3.2 Success

This section assesses the impact of formal and informal pathways for staff to advance through the organisation and the representation of staff of various protected characteristics across grades and functions at the Arts Council. The language of promotion is not commonly understood at the Arts Council. Therefore, the review team have opted for a more inclusive notion of advancement. This section also explores efforts towards pay equity between groups and individuals at the organisation, the use and impact of fixed-term contracts, and makes findings in relation to opportunities for ongoing skills development at the organisation. The report first provides an overall finding in relation to success before highlighting seven specific findings.

3.2.1 The Arts Council is making strong progress on success but more work is appropriate



The review team has benchmarked the Arts Council as sitting at the beginning of 'inclusive' in relation to success. This placement reflects a mix of strong progress and areas where further progress is required.

The data shows that the Arts Council is leading the way in some areas of success, for example in gender and ethnicity pay gaps and in representation at the A+ senior grade. The Arts Council leads the way among DCMS arm's-length bodies with a median gender pay gap (GPG) under 3% for the last three years. This compares to a median of 9.8% GPG in 2022, 0% in 2021 and 10.6% in 2020 for DCMS arm's-length bodies collectively. The Arts Council's data capture processes are robust and detailed. This enables quantitative analysis of representation, employment type, and progression that goes beyond what is available at many comparable organisations.

Representation gaps remain at the EB senior grade in relation to ethnicity against the Arts Council's own targets. Regional inconsistencies also exist; for example, the London office employs a higher proportion of Black, Asian, and ethnically diverse staff.

Reported lived experience presents a more challenging picture. The survey data shows that many staff colleagues do not perceive progression to be fair and transparent. Perceptions of both a lack of transparency and favouritism impact all staff. This primarily occurs through line managers providing limited opportunities to demonstrate skill to handpicked individuals. Staff colleagues raising this concern see it as disproportionately negatively affecting staff colleagues with protected characteristics that their line managers do not share.

Many staff colleagues feel that their diversity is not well represented at the Arts Council; this is despite the Arts Council being largely representative of UK demographics. Some staff saw insufficient representation as a barrier to advancement and a factor in experiences of microaggressions and stereotyping. The review team found insufficient material to draw out differences in lived experience by specific regions. However, staff colleagues at the Arts Council do not have the same experiences across the organisation. This reinforces the current rating provided for staff for success.

3.2.2 The review makes seven findings in relation to success

Advancement processes lack transparency and clarity for staff

Most staff who responded to the survey felt that advancement processes were not transparent. Many staff colleagues have minimal trust in the Arts Council's advancement processes. Several had observed promotions occurring without the opportunity being advertised on internal platforms. Some staff colleagues also noted that individuals were given development opportunities (both formal and informal) over others and that some role descriptions appeared to have been tailored for specific individuals.

Staff have limited progression pathways, which contributes to inequalities

Many staff who engaged in this review emphasised that the Arts Council lacks advancement pathways for staff and fails to communicate available pathways. They note that this contributes to challenges for staff representation. Career history data⁹ illustrates the Arts Council's internal advancement routes. These often occur through secondments or restructures. Direct promotions are rarer – though 24% of the

⁹ HR provided de-identified history for all current employees that included their role changes. Using the total workforce size and the number of individuals who had received a promotion while at the Arts Council, we were able to determine the percentage of the current workforce who had ever received a promotion.

current workforce has been formally promoted. Many staff colleagues perceived preference for external candidates and noted limited pay progression. Experiences varied by region, with fewer challenges in larger offices (London and Manchester). Staff colleagues pointed to the Arts Council's low staff turnover, rare/irregular performance reviews, and a perceived preference for external sector specials as contributing to this.

There are a variety of approaches to applying the performance policies

In early 2020, the Arts Council changed its performance review process from a traditional annual performance review to more flexible, ongoing reviews that are led by the individual and their work priorities. This process is a way for staff to work towards their goals, but does not lead to any progression outcomes, i.e., a role title or grade change. It appears to have had mixed uptake across the organisation, which may be a result of Covid impacting the new policy rollout and communications; in the past six months, 192 (29% of current workforce) have updated their priorities with their manager. This reflects frustrations from some staff – that they had rarely undergone a performance review or discussion with their manager and if they did, that it had not led to a clear outcome.

Survey respondents felt that managers contributed to their ongoing learning and development at the Arts Council. Some interviewees praised managers who were supportive of embracing new ways of working, particularly during the pandemic, and for identifying and nurturing skills through formal and informal means.

Staff perceive that favouritism plays a role in advancement at the Arts Council

Female, disabled, and Black, Asian and ethnically diverse staff colleagues are slightly under-represented, while LGBTQ+ staff are marginally over-represented in role grade changes¹⁰ compared to their subset of the workforce. Slight under-representation persists for Black staff. Many staff colleagues emphasised that advancement processes appear to value hours worked over capability. This makes managerial choices more important: giving someone a heavier load also gives an opportunity for advancement.

Many staff colleagues of different protected characteristics felt that the Arts Council's advancement processes were unfair. Staff colleagues perceived that favouritism and/or unconscious bias influenced on promotions or other development opportunities. However, they primarily reflected that this appeared to stem from limited understanding of biases, insufficient training, or time pressures rather than from malice.

Staff are critical of the Arts Council's mixed success in representation

Available data on staff representation and staff perceptions of representation are misaligned; with staff colleagues having a less positive view than the data revealed. This may point to other cultural factors, such as the engagement of staff

¹⁰ We have included all staff members that have had more than one role grade at the organisation during their tenure in this analysis.

networks, visible role models, and the role of allies in championing diversity in staff representation.

Regarding ethnicities, Black, Asian, and ethnically diverse staff were slightly over-represented at the A+ grade. Representation of specific ethnicities was varied. For example, Black staff were poorly represented at EB, A+, A and B levels. Chinese, Arab, and Latin American staff were underrepresented across the organisation.

On other protected characteristics, senior leadership and managerial staff slightly under-represent the Arts Council at large. In 2022, LGBTQ+, disabled, and female staff colleagues were underrepresented at EB, A+, A and B grades compared to the rest of the organisation.¹¹ Available data does not allow the review team to draw reliable conclusions relating to socio-economic representation. Representation differences exist across regions. For example, the Southwest region has the highest proportion of disabled staff (20% are disabled compared to 12% across the organisation). London has the highest proportion of Black, Asian, and ethnically diverse staff, while the North area has the lowest proportion.

Staff colleagues' accounts of representation portray a much more challenging picture. Some staff colleagues in interviews expressed that the Arts Council was neither diverse nor successfully representative. Staff colleagues also described a lack of representation as a barrier to advancement. Specifically,

¹¹ The representation of total staff vs leadership was 17% vs 11% (LGBTQIA+), 12% vs 7% (disabled staff), and 68% vs 60% (women).

several Black, Asian and ethnically diverse staff outside London cited insufficient representation as one of the factors in experiences of microaggressions and in reinforcing stereotypes.

The Arts Council has achieved considerable progress in reducing gender and ethnicity-related pay disparities

The Arts Council is in a positive position regarding its ethnicity and gender pay gaps.¹² Black, Asian and ethnically diverse staff received higher pay on average than white staff in 2021 and 2022. The median gender pay gap has fluctuated a little above 0% over the last five years; men received slightly higher pay than women at the organisation across 2017, 2019, 2021, and 2022 (positive pay gap means men are paid more). The mean pay gap is much larger than the median pay gap, which suggests it may be partly skewed by lower representation of women at more senior levels of the organisation.

Staff believe that the Arts Council uses fixed-term contracts less equitably than current data suggests

Fixed term contracts can contribute to precarity so it is valuable to understand which staff colleagues are on these contracts. Female, disabled, and Black, Asian, and ethnically

¹² Bonus pay gaps have been excluded from analysis, with the context that ACE provides equal bonuses to all staff.

The median pay gap is usually a clearer way of considering pay gap as it uses the middle of pay distribution, rather than average (mean) pay. Pay distribution is skewed as the highest earners are usually paid significantly more than the lowest earners; this reduces the utility of mean pay approaches.

diverse staff colleagues are less represented in fixed-term contracts. Gay, lesbian, and bisexual staff colleagues are more represented. The number of fixed-term staff falls with tenure at the Arts Council. Unusually, there are a few staff on fixed-term contracts who have been at the organisation between four-five years. This warrants further investigation. The data picture does not align with staff colleagues' perceptions; a few interviewees shared concerns that staff with certain protected characteristics were disproportionately on fixed-term contracts.

3.3 Support

This section investigates the effectiveness of complaints and reporting processes in resolving grievances, including the level of confidence that staff have in these mechanisms. It explores: the role of managers in creating an inclusive working environment for all staff; the quality and impact of training to advance staff in understanding of equality, diversity, and inclusion matters; and, the role and contribution of staff-led diversity networks. This section is followed by a discussion of wider factors that contribute to equality, diversity, and inclusion at the Arts Council; this covers leadership, culture, and policies and processes.

3.3.1 The Arts Council has several gaps to address on support



The Arts Council is 'inclusive' in relation to its support mechanisms and practices. This reflects generally strong processes but negative staff perceptions. Positively, the Arts Council provides EDI training, has staff networks in place, and has pockets of strong management. Negatively, the lived experience reported shows a lack of trust in the formal complaints and grievances systems. The review team arrived at this rating, with due regard given to the limited number of formal grievances and complaints that the Arts Council receives annually. Staff colleagues who engaged with the review felt that processes were insufficient and perceived a lack of appropriate support. Some of this reflects a view that public responses are a necessary element of a complaints process. The Arts Council could better communicate the need for confidentiality in employment matters to staff colleagues.

Complaints and grievances are an area that many organisations globally struggle to implement successfully. It requires both good written processes and consistent implementation, often enacted in emotionally heightened situations. Interview and survey data suggests that implementation has been the main issue for the Arts Council, with negative survey results on understanding of the grievance process and level of comfort using the complaints process. For example, only 36% of respondents gave a positive answer to the question 'would you feel confident and comfortable using the complaints process?'. While not entirely comparable, these results are lower than the Civil Service generally, with the 2022 Civil Service People Survey finding 71% of respondents were confident that if they reported an issue, it would be properly resolved (responding agree or strongly agree).

Staff colleagues who do not realise their desired results through complaints and grievances can blame the process. However, the lived experience indicates that staff are unclear on specific steps and decisions associated with how the Arts Council resolves grievances. The review team recognises the quality and comprehensiveness of HR processes and policies but notes that staff colleagues who participated in the consultation processes do not understand these processes. This gap should be addressed.

The lived experience shared also suggests staff feel managers are not given the tools to create an inclusive environment in their teams. On an individual level, nearly 40% of survey respondents did not feel managers at the Arts Council demonstrate inclusive behaviours, with individual reports of managers failing to call out discriminatory behaviour when they witnessed it. Some staff reported to the review that they

felt the attitude of HR towards complaints was not appropriate. Staff networks are well regarded by many individuals that engaged with the review, but there is a clear sense their purpose and contribution could be clearly defined. Similarly, some EDI training is very well regarded across the organisation while other training is perceived as too basic to be useful (or optional and undersubscribed).

3.3.2 The review makes eight findings in relation to support

Staff do not fully understand how to raise complaints

The Arts Council has several policies which describe how it handles different types of employee-related issues and the support that can be provided to staff and managers. The Grievance Policy outlines how to raise complaints and issues at work, the informal and formal handling procedures, and the role of managers and HR. The Dignity at Work Policy sets expectations for how staff should behave and the responsibilities of managers and HR in cases of bullying and harassment. These policies are available on the organisation's intranet and signposted during onboarding.

However, staff colleagues' contributions in the survey, focus groups, and interviews reveal that a significant proportion of staff either do not know or are only somewhat aware of how to raise a complaint. This is reasonable as staff are unlikely to seek out the policies unless they need to. But some interviewees felt that policies can be hard to find, out of date, or hard to follow. Staff colleagues do not seem to understand the steps involved in raising a complaint or the supports during this process. Staff colleagues' limited awareness means that complaints numbers

are not an appropriate proxy for dissatisfaction. The review cannot quantify the potential scale of under-complaint that follows from limited awareness of the process.

Staff have low confidence and trust in the complaints reporting processes

Survey data shows staff colleagues have low confidence that the Arts Council will deal with grievances appropriately. This is a strong and consistent finding. The survey highlights demographic differences here:

- Disabled staff; Black, Asian and ethnically diverse staff; bisexual, trans and non-binary staff report the lower levels of confidence and comfort using the Arts Council's complaints processes.
- Gay/lesbian staff; Muslim staff; male staff; non-disabled staff report the higher levels of confidence.

Staff colleagues report low levels of trust in the formal complaints processes for several reasons (all reasons were provided three or more times). These include:

- fear of repercussions
- concerns about the impact on having made a complaint on advancement prospects
- doubt that complaining would lead to a resolution
- perceptions that policies serve to protect the organisation rather than complainants
- belief that the Arts Council inconsistently applies its anti-bullying and related policies and standards

- views that the Arts Council does not thoroughly investigate complaints.

A limitation of the survey is that it did not distinguish between formal complaints processes and anonymous reporting mechanisms. One-to-one interviews and focus groups explored these matters. They revealed that some staff colleagues are unaware of anonymous reporting channels (e.g., the InChorus platform) and that staff colleagues did not feel secure that their anonymity would be guaranteed.

These concerns are consistent with the barriers to reporting in the Civil Service.¹³

HR apply a policy-led approach to formal grievances, but staff perceive that processes are inconsistent

The review team considered a detailed breakdown of formal employee relations cases. This demonstrated an impartial and fair process. For each case, a hearing manager with relevant seniority and expertise is appointed, all available evidence is gathered and assessed, and HR Business Partners provide guidance and set expectations for those involved. However, current processes and guidance leave scope for a degree of variability in how the grievance process is perceived to work in practice.

¹³ Civil Service HR. Review of arrangement for tackling bullying, harassment, and misconduct in the civil service. Retrieved from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744907/TacklingBullyingHarassmentMisconduct-CivilService.pdf

The review team's own assessment is that this is somewhat the case. HR highlighted that there are no set criteria for appointing a hearing manager and that hearing managers do not receive written guidance or training on how to weigh up evidence and reach a decision. HR Business Partners do however provide support through the process.

Some staff colleagues in management posts mentioned that they would value a clear explanation on the step-by-step actions that are undertaken at each stage of the complaints process. This would allow managers to reassure their teams about both the complaints process itself and the rationale for decision-making.

Some staff colleagues felt that the Arts Council applied complaints policies and processes in an inconsistent and biased manner. They see this as occurring in two ways:

- Some staff colleagues (especially those from a self-identified working class and/or ethnically diverse background) believed that other staff colleagues (usually influential staff colleagues in leadership positions) tended to 'get away with things' and avoid disciplinary processes.
- Staff colleagues made complaints from multiple sides in recent high-profile disputes. Many staff colleagues saw the Arts Council as having taken disciplinary action against only one side, with little or no clarity to justify the Arts Council's approach. The most highly cited example of this was the organisation's response to the circulation of the petition following the LGB Alliance funding, and subsequent non-funding, decision.

It is blithe to state that ‘justice must not only be done, but must be seen to be done’; however, this is the view of many Arts Council staff colleagues. Staff colleagues, especially those who saw themselves as victims of inappropriate behaviour, expect a degree of public acknowledgement and resolution. This is inconsistent with an appropriate organisational decision to preserve confidentiality.

This section has focused on the formal complaints processes at the Arts Council. However, HR Business Partners shared with the review team that at the outset of most cases they encourage and support managers to handle complaints informally, preventing unnecessary escalation (as per the Grievance Policy). This requires confidence and capability of managers to handle issues within their teams.

Staff expressed concern about HR and line manager attitudes towards complaints

Many staff colleagues at different levels of seniority disclosed concerns about the HR team’s approach to formal and informal complaints. This review did not conduct detailed analysis of HR capabilities of the HR team neither did it seek to corroborate allegations; both are outside the review’s Terms of Reference. As described elsewhere, the review team finds the quality and comprehensiveness of HR policies is robust.

However, equally, the reported lived experience of staff is worthy of further interrogation. The review team heard about line managers’ inconsistent attitudes to complaints. Some staff colleagues reported positive experiences with line managers (both at a senior manager and director level); these line managers created a supportive environment, provided prompt guidance, and took appropriate actions. However, many staff

colleagues had negative experiences raising complaints and grievances with their managers.

Not all managers have the right skills to create an inclusive environment

Staff colleagues have mixed perspectives in relation to managers' abilities to create inclusive environments. EDI matters such as racism are a standing agenda item in some parts of the Arts Council and staff colleagues praised some managers for their interventions against inappropriate behaviours. However, this did not consistently occur. Some staff colleagues identified their manager as a source of microaggressions or as failing to prevent or challenge exclusionary or discriminatory behaviours in their team. Some staff colleagues also saw managers, and the Arts Council more broadly, as lacking the skills to provide reasonable adjustments for disabled staff. Some female staff colleagues, Black, Asian, and ethnically diverse staff colleagues, and staff colleagues with from less advantaged socio-economic backgrounds, and disabled staff colleagues shared this perspective.

Current EDI training does not adequately equip line managers to create an inclusive culture

Over 80% of staff at the Arts Council have received some form of training on inclusion. This is a significant achievement. However, perceptions of its the effectiveness and impact are mixed. Staff highlight a range limitations, including that:

- Training is largely delivered through online.
- It is unengaging.
- It is prescriptive.

- The Arts Council wastes or devalues input from staff networks and other internal experts on elements of training.
- Tensions associated with navigating different social positions and beliefs in relation to certain EDI matters prevent useful resolution.
- It does not meet managers' needs to more in-depth and robust training.
- Anti-racism training was not received well by Black, Asian and ethnically diverse communities.

Staff largely value staff networks

Staff colleagues across the organisation and at various levels stated the staff working groups as a key strength of the Arts Council's efforts towards EDI. Staff networks to support and advocate for individuals with a specific protected characteristic are relatively new at the Arts Council. While these groups have varying degrees of visibility depending on the group they represent, the Black Staff Group and LGBTQIA+ Staff Group were called out in survey responses as having made a valuable contribution.

Staff colleagues who are not members of existing staff networks also see their impact. For example, some staff colleagues in favour of sex-based rights who hold gender critical views see the impact that staff networks have had. They have considered setting up an equivalent women's network (which would align with their philosophical beliefs around sex). The SEEN Network performs a similar function across the Civil

Service and public sector.¹⁴ They have chosen not to start this group due to a perception that it would attract unwanted controversy. Two things flow from this:

- It provides a clear recognition from people outside existing staff networks of their value.
- It is not appropriate that a group, which shares a protected characteristic, feels unable to set up an employee network. This is the case notwithstanding the likely harm that such a group's existence could cause for other staff colleagues. Elsewhere, we discuss issues in relation to personal belief.

The expectations and institutional role of staff networks are unclear

Involvement in the staff networks can take a significant emotional toll. It is an ongoing time commitment and the stress of being a part of these groups has led to a high turnover in membership and leadership.

This is most pronounced in the Race Equality Group and Black Staff Group. Network members expressed that commitment levels are significant and that this has left them feeling burnt-out, particularly if change hasn't been realised. Staff colleagues praise staff networks' work. Staff colleagues value the learning opportunities and expertise that they receive. But their expectations of members may be too high.

¹⁴ Cabinet Office. Guidance, SEEN Network. Retrieved from: <https://www.gov.uk/government/publications/civil-service-staff-networks/seen-network>.

3.4 Inclusive leadership and governance

This section examines the commitment of leadership and underpinning governance mechanisms to advance equality, diversity, and inclusion. It considers the obligation and duties of the Arts Council as an arms-length public body. In sharing these perspectives through surveys and staff interviews, staff colleagues typically referenced leaders as those occupying positions on the National Council, Executive Board, and Senior Leadership team, or at Area Director level.

3.4.1 The Arts Council is a leading organisation in terms of inclusive leadership and governance



The Arts Council has been benchmarked towards the beginning of 'equitable' in relation to leadership and governance. This reflects inconsistency in leadership engagement in EDI activities across the organisation, with

examples of excellent practice and pockets where leadership engagement is perceived as tokenistic.

It also recognises that the Arts Council exists in a difficult environment where it needs to manage the tensions and limitations of operating as arms-length body within the creative and cultural sector. On average across the UK civil service there is a relatively positive sentiment about the “commitment of the organisation to creating a diverse and inclusive organisation” (Civil Service People Survey 2022) with 78% of respondents providing a positive response to the prompt above.

Inclusive leadership and governance are inherently qualitative assessments, and so we have used perceived leadership to the Equality Act to structure these qualitative findings. Overall, staff had a positive assessment of leaders’ commitment to the Equality Act, but some staff did not see how this outward commitment translated into action. Average scores on compliance with each element of the Equality Act were broadly but only slightly positive, sitting at approximately 3.5 out of 5 for most elements.

3.4.2 The review makes four findings in relation to inclusive leadership and governance

Staff do not always see how leaders' commitment to EDI translates into action

The Arts Council's National Council and other senior leaders who have engaged with this review have demonstrated outward commitment to fostering a more equal, diverse, and inclusive organisation. The survey results echo this to an extent. Of those that completed the survey, respondents were favourable in their assessment of the Arts Council in taking steps to meet the needs of people who have specific protected characteristics (3.75 out of 5) and encouraging people with protected characteristics to participate in public life where participation is disproportionately low (3.74 out of 5). However, several staff colleagues were concerned that leaders sometimes merely paid lip service to EDI. These staff colleagues queried whether leaders' commitment was genuine and whether they would invest in improving experiences and outcomes for staff colleagues of different protected characteristics.

Staff, including leaders, do not consistently understand the tensions and limitations of an arm's-length body

The Arts Council is a non-departmental public body, also known as an arm's-length body. It is part of government but has some independence in certain elements of its operations. This both empowers and constrains the organisation and its leaders as it pursues equality, diversity, and inclusion.

Sector-oriented arm's-length bodies, such as the Arts Council, face specific pressures in balancing their government and

sector positions. Many staff colleagues do not understand this balance well. Staff colleagues' self-perceptions complicate this. Staff colleagues repeatedly presented themselves as part of the creative and cultural sector first and government second (if at all).

These tensions contribute to an unhappy situation in which the Arts Council cannot realise its staff colleagues' high equality, diversity, and inclusion expectations. Leaders have exacerbated this challenge in two ways. Firstly, they have not ensured that staff colleagues understand their authorising environment on political matters as an arm's-length body. Secondly, leaders have enabled or encouraged substantial, powerful, and emotionally fraught labour in relation to equality, diversity, and inclusion when the Arts Council may not be able to take proportionate actions to implement the outcomes of this work.

Staff perceive some leadership engagement to be tokenistic

Several staff emphasised in focus groups and interviews how the organisation often seeks staff input across a range of issues but does not appear to consistently act on the feedback. This contributes to staff colleagues feeling frustrated at sharing their experiences repeatedly, perceiving a growing disconnect between leadership and the rest of the organisation, and feeding mistrust in the leadership team's commitment to progress on EDI. Additionally, several representatives of staff networks and groups felt that there was a limit to the support and involvement that they could receive from senior leaders.

Leaders' active engagement with EDI does not appear uniform

It is not clear whether all leaders feel responsible for progressing EDI principles at the organisation. Staff colleagues shared mixed perspectives – they viewed some leaders as strong advocates for staff with different protected characteristics and others as indifferent. They described very limited actively unsupportive behaviours. Some staff are concerned that leaders do not fully represent the rest of the Arts Council or the population across all protected characteristics. This is inevitable – a small leadership group cannot at any time fully represent modern England. However, this contributes to an undue burden on leaders with specific characteristics to advocate for their communities in addition to their specific roles.

3.5 Open and respectful cultures

This section assesses the Arts Council's wider organisational culture and environment. This includes the experience of staff in relation to inclusive and discriminatory behaviours, and the fulfilment of the organisation towards the Nolan Principles. It explores the sense of belonging and connection individuals have to the organisation and considers the ongoing impact of the pandemic.

3.5.1 The Arts Council should progress further faster on developing open and respectful cultures



The review team has benchmarked the Arts Council between 'enhanced' and 'accommodating' in relation to open and respectful culture. This benchmark is particularly contestable given the specificity and intensity of the Arts Council's challenges in relation to trans rights and gender critical beliefs.

This theme cannot be easily quantified and so assessment is reliant on survey and interview outputs. The Equality Act requires organisations to have due regard to the needs to both 'promote understanding' and 'foster good relations between people who share and people who do not share given protected characteristics.' While the Arts Council has had some success in promoting understanding through EDI training, leadership statements, and its staff networks, it has not met its obligation to foster good relations. Staff expectations of EDI at

the Arts Council are very high, and in many cases go beyond what the Equality Act requires, or indeed permits.

Most staff colleagues contribute to an open and inclusive culture and most survey respondents felt their 'colleagues demonstrated the Nolan Principles at work'. However, some staff felt that aspects of their identity were not mirrored in the organisation and reported that they felt excluded because of their protected characteristics or that they experienced microaggressions.

In fostering good relations there have been some instances where the Arts Council has been more successful than others. For example, in the wake of George Floyd's death, the Arts Council took a public stance that was acknowledged as an important moment for Black, Asian and ethnically diverse staff who engaged in the review. In comparison, handling of the LGB Alliance conflict in 2022 has seen an unresolved breakdown in the relationship between pro-trans and gender critical staff colleagues.

3.5.2 The review makes five findings in relation to open and respectful cultures

Staff are passionate about the Arts Council's purpose, which heightens expectations for EDI

Staff colleagues at all levels of the organisation demonstrated deep commitment to the Arts Council's mission, often describing it as a privilege to be in service of the creative and cultural arts in England. They demonstrated great interest in the Arts Council's funding decisions, particularly within their regions.

This contributed to them expecting the Arts Council to reflect the wider sector's practice and provide an example for better practices. Some noted the personal tensions that come from overlapping or conflicting expectations due to their roles or relationships outside of work (e.g., affiliations to arts organisations).

Staff largely embody the Nolan Principles and the Arts Council's values

The Arts Council expects its employees to embody two sets of principles at work: its organisational values and the Nolan Principles as a public body. The Nolan principles of integrity, accountability and honesty emerge as those most strongly exhibited by colleagues at the Arts Council. Some staff felt that certain offices demonstrated the Nolan Principles more clearly than others; a few suggested that national teams (irrespective of where they were based) were held more accountable to these behaviours than regional teams.

Colleagues often expressed positive sentiments in interviews and the survey towards their fellow colleagues, managers, and leaders. However, staff colleagues also provided examples of where colleagues did not treat others fairly or with respect and where managers did not foster inclusive environments.

Some staff felt that aspects of their identity were not mirrored in the organisation

Many staff who spoke with the review team described what they had come to understand as the stereotypical identity, background, and belief system of an Arts Council England employee. Staff of Black, Asian and ethnically diverse backgrounds, and lower socio-economic backgrounds repeatedly described experiences or feelings of workplace

exclusion because they did not share these. These experiences appeared to be heightened in regional offices outside of London, where there was lower ethnicity representation.

Post-pandemic, staff have experienced greater flexibility but face some challenges in ways of working

Staff colleagues in interviews and focus groups had had a largely positive experience working at the Arts Council during the pandemic. Disabled staff noted how technology and working from home enabled greater engagement with the organisation and to their roles. Many staff were effusive about the support that the Arts Council provided throughout the pandemic, but a small number of staff described feeling disconnected from their teams and spoke about how managers determined whether teams had a positive experience. Several cultural issues that may deteriorate further have emerged post-pandemic. This review heard examples of some managers putting pressure on teams to be in the office all the time.

Some staff experienced microaggressions, which often appeared to go unaddressed and unresolved

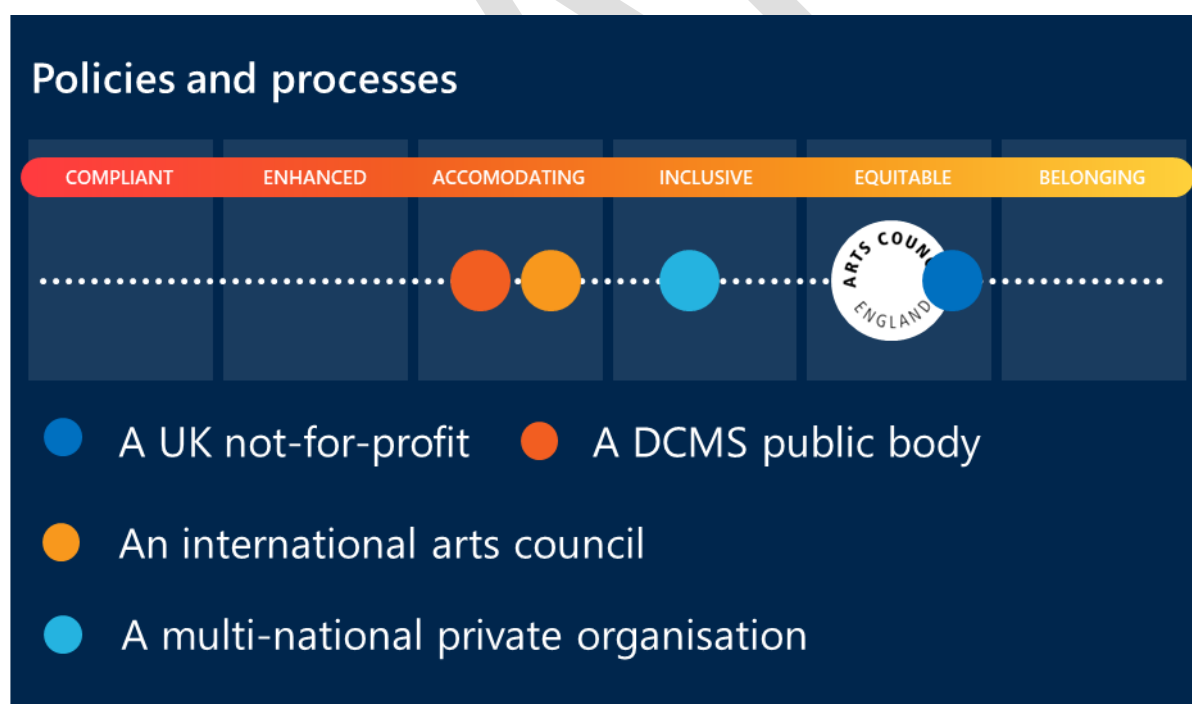
Almost all staff colleagues of Black, Asian and ethnically diverse backgrounds who contributed to the review shared negative experiences at the Arts Council in relation to their race. These experiences appeared to be more frequent outside of London, with lower visible ethnic representation. Several staff colleagues described experiencing or witnessing racial microaggressions. These often came in the form of patronising tones and attitudes, excluding colleagues from activities, assuming artistic expertise based on race, and confusing

colleagues for others of the same (or the presumed same) ethnicity.

3.6 Policies and processes

Previous sections have explored the impact and effectiveness of various policies and processes in relation to recruitment, complaints, and pay among other topics. This section briefly explores the overall policy framework to support the Arts Council's equality, diversity, and inclusion agenda in drawing together the overall findings.

3.6.1 The Arts Council is a leading organisation in terms of its policies and processes



The Arts Council is benchmarked as firmly 'equitable' in relation to policies and processes. This high rating reflects the work the organisation has put into building a cohesive set of EDI targets, strategies, and policies. Where the rating slips is in

the sometimes-inconsistent application of these policies by managers and members of the HR team, as perceived by staff who engaged in this review.

The Arts Council has made significant strides in policy and supports, although low awareness of policies in place suggests these policies could be more strongly communicated. Overall, survey respondents were generally positive in their attitude towards the policies the Arts Council has in place to tackle specific types of discrimination, except for class discrimination. In addition, the review team observes there are opportunities to simplify certain policies to make them as accessible and as widely understood as possible by the organisation.

Qualitative feedback was that the Arts Council's efforts to put in place a robust policy framework has been a positive step, however managers are inconsistently applying these policies which significantly detracts from their benefit. Survey respondents gave implementation of socio-economic status and age policies the lowest ratings (all under 3.5 out of 5).

3.6.2 The review makes two findings in relation to policies and processes

The Arts Council has made significant strides in policy and supports, which could be more widely communicated

The Arts Council has a rich policy framework to support its EDI aspirations. In particular, the Arts Council has made significant advancements to improve the entitlements and supports available for disabled staff. This reinforces the Arts Council's success in having achieved recognition as a Disability Confident Employer. The review team also recognises the Arts

Council's Equality, Diversity, and Inclusion statement as a clear and wide-ranging guidance document of the organisation's duties under the Equality Act 2010. Further, the organisation has recently begun to ask for staff and applicants to explicitly disclose neurodiversity.

Overall, staff colleagues felt that the Arts Council had reasonably robust policies to support staff of different protected characteristics and to tackle discrimination. In particular, they noted benefits of the recent reasonable adjustments policy. Ignorance of the Arts Council's policy framework undermines its impact. Staff colleagues often highlighted their lack of awareness/others' lack of awareness of it – it does not appear that the Arts Council has communicated its policy framework in a way that would lead staff colleagues to understand it well. Staff colleagues have also not necessarily taken opportunities presented to them to develop a deeper understanding.

Staff are concerned that managers inconsistently apply some policies

Several staff colleagues shared that managers did not consistently apply policies, leading to disparate experiences. Policies appear to be implemented to varying levels depending on the protected characteristic. Staff colleagues indicated that policies relating to socio-economic status (which is not a protected characteristic) were least likely to be implemented. Policies in support of parents were most likely to be implemented.

4 Specific findings in relation to protected characteristics and socio-economic background

This section includes any additional findings against each protected characteristic in the Equality Act, and against socio-economic status. We have also noted where this review heard little to nothing for some characteristics.

Age

Data analysis shows that the Arts Council has an age-diverse organisation and over half of staff are between ages 30-50. Age diversity declines up the organisation, and tends towards older ages. Age rarely came up as an area of interest in this review. However, a few staff colleagues of different ages shared concerns through the survey and consults that older colleagues are passed over for promotion due to their age, and that younger staff sometimes mock them.

Disability

The Arts Council states in external guidance for the sector – ‘Building Access: A good practice guide for arts and cultural organisations’ – that it uses the Social Model of Disability. This model is based on the principle that disability is caused by barriers in society, rather than a person’s impairment. The Arts Council demonstrates excellent practice in relation to addressing barriers to its disabled/D/deaf/neurodiverse staff. The Arts Council’s emphasis on addressing disabling social factors has increased. The Access Changemaker initiative has made a positive and enduring contribution to understanding and addressing barriers to accessibility across several business areas of the organisation.

A recruitment drive has led to greater numbers of disabled/D/deaf/neurodiverse staff at the organisation. However, it is not clear that the organisation has effectively created an environment for these individuals to thrive and grow. Diversity may not have fully translated into inclusion. Despite progress, most disabled staff colleagues who engaged in this review described instances in which the organisation had not considered ("forgotten") their access needs or preferences. They recounted experiences of facing challenging ableist attitudes and/or discrimination within the Arts Council from colleagues, line managers, and more senior leaders. These experiences evidently deeply impacted the wellbeing of these individuals.

Gender reassignment

Debate around gender reassignment is a major fault line in the Arts Council. But this fault line relates more clearly to philosophical belief, rather than to gender reassignment itself.

In terms of gender reassignment itself, some potentially harmful behaviour occurs at the Arts Council. This relates to the attitudes and statements that some gender critical staff colleagues have made. For example, a begrudging performance of accepting another person's pronouns will be read as such and does not encourage a positive working environment for trans staff colleagues. Equally, overtly delegitimising trans identities is likely to promote a hostile environment for trans staff. While noting that these harms are likely to emerge, the review also acknowledges that gender critical beliefs are also protected under the Equality Act and their expression of these beliefs can also be protected. This is a complex area of law, with the precise legal position likely

turning on the specific facts in question.¹⁵ Nonetheless, this emphasises the benefits of tolerant restraint in a public sector workplace.

The larger challenge concerns the conflict between opposing philosophical beliefs regarding gender reassignment. It is explored in the relevant section.

Marriage and civil partnership

Marriage and civil partnership very rarely came up in engagement – the survey received one comment relating to this.

Pregnancy and maternity

Several staff colleagues shared overall positive experiences of pregnancy and maternity at the Arts Council. A few colleagues highlighted that rigidity around contracted working hours made it financially difficult for parents to take on a part-time role. Staff colleagues also raised very limited instances in which women with childcare responsibilities received comments relating to their commitment to work. This review heard comments that some staff felt overlooked for career opportunities and they had little agency about the roles that were available to them when they returned from leave.

Race

The report includes reflections on disparities in relation to race and ethnicity-related staff recruitment, representation, and the

¹⁵ See *Mackereth v DWP [2022] EAT 99* for a more complete discussion of the distinction between protected beliefs and potentially non-protected behaviours that follow from belief.

experiences of staff in relation to microaggressions and inappropriate behaviours throughout. In general, the review finds the experiences of Black, Asian, and ethnically diverse staff vary greatly across and within ethnicity groupings and that it is unhelpful to homogenise their experiences.

The review heard some positive examples of staff experiences in relation to ethnicity, particularly at senior levels of leadership. However, through the available staff data and analysis of staff interviews and survey responses, the review finds that Black, Asian and ethnically diverse staff at the Arts Council experience heightened challenges at work. These challenges particularly relate to feelings of inclusion, belonging, and encouragement. They stem from:

- feeling visibly represented within the organisation
- experiencing micro-aggressions and other forms of racism
- colleagues making assumptions about their background and interests
- not feeling able to bring their 'whole self to work'.

These challenges appear to be exacerbated for Black staff.¹⁶ Almost all Black staff who engaged with the review shared experiences of racial stereotyping, bias, and micro-aggressions. Black staff often had concerns around their advancement opportunities. Many Black staff interviewed expressed concerns

¹⁶ Recognising the low Black staff population (28 Black staff; 8 mixed staff), we have not quantified these findings.

that leadership did not take clear and consistent positions on issues such as Black Lives Matter.

The review heard very limited accounts of racialised antisemitism. This is also noted in relation to religion.

Religion or belief

This section first explores religion and religious belief before engaging deeply in questions relating to the protection of philosophical belief, with a specific focus on gender critical beliefs.

Religion

This review heard little in relation to religious belief and practice at the Arts Council. It appeared that staff colleagues of different religions were equally able to contribute and grow at the organisation. However, a few staff colleagues expressed a desire for greater celebration and awareness of different faiths. The review team also heard very limited accounts of staff colleagues expressing antisemitic attitudes.

Philosophical belief in relation to sex

The organisation faces a substantial issue in regarding philosophical belief.

The Equality Act's protections in relation to religion and belief are multi-faceted. Most elements of gender and belief are consistent with broader themes discussed in preceding sections. The exception to this concerns the challenge around balancing competing beliefs regarding gender reassignment.

This section first explores some of the factors that exacerbate this currently at the Arts Council before exploring some specific aspects of this challenge for the Arts Council.

DRAFT

Several factors appear to exacerbate this for the Arts Council.

They include:

- UK society is divided on the appropriate treatment of trans rights.
- The political class in the United Kingdom contributes to heightened emphasis on sex-based rights and trans rights.
- Covid has allowed staff colleagues to opt-out of engagement with people with opposing views.
- Conflicting norms around expression and restraint in the arts and public sectors may contribute to confusion around managing conflicts of belief.
- Communications from the Arts Council's leadership has left staff colleagues with different beliefs unsatisfied.

These challenges speak to deep-seated social questions. All evidence provided to the review suggests that engaged staff colleagues have deep-seated and honest perspectives regarding gender reassignment and its interaction with sex. It is not the role of the review to express a path forward or to say that one protected belief is more worthy than another.

The Equality Act protects some beliefs (though not all behaviours that flow from them). Philosophical beliefs are a protected characteristic under the Equality Act.¹⁷ Legitimately-held gender critical beliefs can be protected beliefs for the purposes of the Equality Act. All evidence provided to review

¹⁷ s 10(2)

suggests that staff colleagues who assert gender critical beliefs hold these views genuinely and enduringly. These staff colleagues' beliefs should therefore be treated in line with Equality Act protections. So the Arts Council and its employees are under a legal duty to avoid discrimination or harassment based on these views.

Consultations indicate that many Arts Council England employees do not find this to be an appropriate situation, not seeing these beliefs as worthy of legal protection. This is a legitimate political belief. However, the state of the law is clear. And compliance with the Equality Act is, in the context of a non-departmental body of the UK government, a baseline requirement for equality, diversity, and inclusion.

Equally, the Equality Act automatically protects non-belief alongside belief. People who do not hold gender critical views are protected *in the same way* as people who hold gender critical beliefs. This means that they are entitled to the same protections against discrimination and harassment. Some gender critical staff colleagues do not appear to fully recognise the reciprocity of protected beliefs and their inverse. This links back to Minister Badenoch's emphasis that the Equality Act is "a shield, not a sword".¹⁸

¹⁸ Retrieved from <https://hansard.parliament.uk/Commons/2022-10-26/debates/AE123F8B-4279-4595-A046-6EB9F59E6E35/TopicalQuestions?highlight=sword#contribution-69DE0DE9-2F23-458C-BFE5-B11F06820E7D>.

Both gender critical and non-gender critical staff colleagues have contributed to an environment where other staff colleagues may feel harassed. The harm, stress, and genuine hurt that staff colleagues feel was obvious and heartfelt. These emotions and experiences exist for colleagues who hold gender critical views and those who do not. Staff colleagues with both sets of beliefs indicated the ways in which they feel that their colleagues have harmed them. The review has no reason to find that this harm has not occurred. This contributes to an elevated emotional environment for the Arts Council. Working through this challenge will be a novel experience for the Arts Council. Interviewees repeatedly noted that the Arts Council had not previously experienced a similar internal division around belief.

The Arts Council may have had the necessary due regard to fostering good relations under the Public Sector Equality Duty but it has not realised these good relations substantively. Three staff behaviours/trends deserve specific comment in this space:

1. The staff petition following the LGB Alliance funding discussion included language towards gender critical employees that is not consistent with the Equality Act's protection of gender critical belief.
2. Gender critical staff colleagues have stated that they 'don't trust' staff colleagues with pronouns in their biographies or email sign-offs. This prevents good relations from forming.
3. Post-Covid working practices allow people to avoid engaging with others. Both gender critical and pro-trans staff colleagues have sought to avoid each other and taken advantage of this flexibility to do so.

The notion of good relations requires some examination in the context of contested protected belief at the Arts Council. Good relations are a worthy goal but an obligation towards good relations can harm staff colleagues. The evident pain that staff at the Arts Council experience around this matter means that light touch or small interventions are unlikely to reach a positive resolution.

Sex

Most female colleagues felt they were treated equally to men at the organisation. There is nothing further to add on sex that has not been discussed in other sections of this report.

Sexual orientation

Many gay, lesbian, and bisexual staff colleagues at the Arts Council are allies to trans staff colleagues and trans individuals generally. The failings in relation to engagement around protected beliefs therefore deeply affect them. There is nothing further to add on sexual orientation that has not been discussed in other sections of this report.

Socio-economic background

The Arts Council's limited data collection relating to socio-economic background has made it difficult to draw conclusions about the socio-economic makeup of the workforce. However, several staff colleagues shared through the survey and interviews that the Arts Council does not represent a broad range of socio-economic backgrounds. Many individuals highlighted assumptions that all staff are from the same background.

5 Recommendations and commendations

The review has identified several areas where the Arts Council is demonstrating excellent work and where the Arts Council has already made substantial progress towards EDI. The Arts Council is working to improve staff experience and outcomes through developing, implementing, and iterating policies, practices, and systemic changes. These practices have been identified as leading through the earlier benchmarking exercise of comparable organisations. Some of these include:

- External recruitment efforts to increase Black, Asian and ethnically diverse staff
- Comprehensive collection of staff diversity data
- Scaling up use of the ClearTalents platform
- Investigating pay gap analysis for disabled, deaf, and neurodiverse staff, and pension gender pay gap
- Conducting self-assessments across business areas through the Access Changemaker initiative and expanding this approach through HR
- Accessibility improvements through the Workplace Adjustment policy, in particular, at recruitment and interview stages
- Procuring a new training provider to focus on inclusive behaviours

In turn, the approach to developing recommendations has focused on the areas that represent the highest priority in terms of need and significance to the Arts Council. As a large and complex organisation, it is inevitable there are likely

actions that will need to be taken that fall outside these recommendations, including those that are specific to individual teams and offices. Our review did not receive sufficient evidence such that it could be isolated to individual teams and offices.

Nous has **identified six recommendations**, prioritised by timescale, for the Arts Council to implement over the next 12-24 months. The review team has also indicated responsible areas, though further work will be required to refine these recommendations and ensure effective implementation. The recommendations are prioritised by time scales from three months to two years recognising that the Arts Council will need to allocate sufficient resources and effort to progress these recommendations.

5.1 Ensure workplace adjustments are applied consistently and improve staff awareness of supports

The Arts Council has made impressive progress since 2019 in developing workplace adjustment policies and making these adjustments more widely available. The next steps are to review the communication of these policies wherever appropriate and to ensure that staff colleagues understand how the Arts Council can support them.

The Arts Council should provide managers with sufficient training and guidance, so that workplace adjustments can be made more accessible to staff, external applicants during recruitment, and with a lower barrier to entry. These principles should then be consistently embedded into day-to-day

guidance and practices such as onboarding, meeting agendas and other rituals to reinforce good practice. The Arts Council is well positioned to be a leading disability employer and should extend its approach to staff training and development in areas such as ableism, and the intersectionality between disability and other protected characteristics.

The Arts Council should extend its adjustment policies to the way in which members of non-executive groups, such as the Disability Advisory Group engage and interact with the organisation. This review has primarily focused on the experiences of staff at the Arts Council, but heard evidence from National and Area Council members of the Disability Advisory Group about barriers to engagement as non-executives. Given the significant contribution of non-executive groups such as the Disability Advisory Group, the organisation should take further steps to facilitate its engagement successfully, including a re-examination of its governance policy frameworks.

- **Timescale:** This is a high priority recommendation. The Arts Council should action it in the next six months.
- **Responsible area(s):** Governance team, Human Resources, line managers, recruiting managers.

5.2 Increase staff confidence and improve transparency in grievance processes

The Arts Council has a strong foundation in the maturity of its grievance processes and documentation. However, a perception that the Arts Council applies it inconsistently and a lack of trust in issues being properly resolved both undermine

the process's impact. The Arts Council must address this for the process to function effectively.

HR should review, refresh, and, most importantly, recommunicate its process to address this. This should include a focus on designing a process which encourages consistency in application, empowers leaders to the policy consistently, and supports staff colleagues to recognise the consistency of application. The recommunication should clarify the challenge associated with balancing the demonstration of consistency and need to protect the confidentiality of affected parties. This approach should couple the substantive centring of staff colleagues who raise a grievance with a perception that this is the case.

The Arts Council should clearly and repeatedly publicise the grievance process in plain language so that people involved in the processes understand how it works and what to expect. This should include whole-of-organisation communication and smaller group engagement. Elements of the process that are open to interpretation and nuance require clarity, in relation to why certain judgments have been arrived at. Staff colleagues do not currently understand the rationale for confidentiality and see this as a mechanism to enable a lack of transparency, rather than a mechanism to support staff rights. The grievance process should be readily accessible for all staff colleagues and staff colleagues should be in the position where they can access a copy of the grievance process and understand how the Arts Council would manage a grievance without needing to speak with either their line manager or with HR representatives.

Regular internal communication campaigns about the ways in which staff colleagues can resolve grievances (including informal methods and conflict resolution) can help demystify a process that is often emotionally heightened for all parties involved. This approach should be workshopped internally to the organisation to understand how staff colleagues would prefer to access this information.

Staff could be encouraged to provide regular feedback on the grievances process itself to support continuous improvement.

- **Timescale:** This is a high priority recommendation. The Arts Council should action it in the next six months.
- **Responsible area(s):** Executive Board, Human Resources , line managers, recruiting managers.

5.3 Improve transparency in the advancement pathways

The Arts Council should address staff concerns about unofficial hiring pathways such as unadvertised positions and staff being favoured for secondment and ad hoc opportunities. In turn, the Arts Council should more closely align the consideration of those for secondment and ad hoc opportunities with the organisation's performance frameworks and processes, and that can clearly and consistently be communicated to all staff. This will provide a clear and transparent log of suitable staff colleagues and the reasons why managers may encourage them to pursue certain pathways. This provides the evidence base to advance staff colleagues who make a demonstrable contribution to the Arts Council.

- **Timescale:** This is a priority recommendation. The Arts Council should action it in the next 12 months.
- **Responsible area(s):** Human Resources, Learning and Development, line managers.

5.4 Enhance the capability of managers and leaders to create an inclusive culture for all staff

Staff colleagues across the organisation (including those in managerial posts) have indicated they do not feel managers are equipped with the right skills to create an inclusive environment for their teams. Training for individuals with line management responsibilities needs to go beyond awareness building; it should also be more targeted than general EDI training. The Arts Council needs to focus explicitly on identifying and challenging microaggressions and other inappropriate behaviours in the workplace, and understanding the specific challenges faced by staff of certain characteristics, particularly disabled or Black, Asian and ethnically diverse colleagues.

Managing diverse teams and creating inclusive spaces is a specific leadership skillset – one that is difficult to develop independently without support. This will also increase the consistency of experience for staff colleagues and empower managers to address issues in their team in a way that aligns with the Arts Council's desired ways of working and without unnecessarily escalating matters. The Arts Council should consider a variety of informal and formal approaches; this includes additional training and coaching for managers. The

Arts Council would benefit from engagement with staff colleagues with different protected characteristics (and their representative groups) to ensure that it is both as appropriate as possible for the Arts Council's context and in line with leading practice as it continues to evolve. This is especially important as that evolution of practice occurs now at a rapid pace and the Arts Council is well placed to upskill its managers and leaders.

This review heard examples of the Arts Council delivering generic EDI training for staff, including anti-racism training and unconscious bias training. Future training should be designed by the following principles:

- **Ongoing.** Regular and consistent training is much more likely to enhance skillsets and make cultural change.
- **Accessible.** Training should be designed for all learners, acknowledging that staff will learn in different ways,
- **Attended.** Training will have the greatest impact if the right people take part and enough other staff colleagues attend to shift the culture.
- **Engaging.** Attendance does not suffice. Training should make it as easy as possible for staff colleagues to understand the programme's importance and how to put it into practice well.

The Arts Council should build these skills into formal performance frameworks and processes once existing managers have had the opportunity to adequately upskill. Managers should be encouraged to regularly reflect on how they demonstrate inclusive behaviours in their roles and those

that demonstrate excellent practice in the organisation should be recognised for their efforts. Through regular sharing of practice, managers can be supported to learn from each other and wider staff colleagues.

- **Timescale:** This is a priority recommendation. The Arts Council should action it in the next 12 months.
- **Responsible area(s):** Executive Board, line managers, staff reference groups.

5.5 Clarify the purpose and governance for staff networks to maximise their contributions

Staff colleagues that engaged with the review highly value staff networks but there remains confusion about the role of these networks within (and potentially beyond) the organisation. This contributes to a sense of irritation and burnout for network members who care deeply, work hard, and have (in some cases) limited success. To help build a more productive ongoing relationship between networks and the organisation, the Arts Council should consider the following:

- **Alignment to formal decision-making processes |** The Arts Council should set and formalise reporting arrangements between network leaders to a relevant senior officer within the Executive Board to create a key point of contact for networks to provide input. This could look like network leads meeting quarterly with the relevant senior officer to create the space for two-way information sharing and to continually monitor that the networks have an appropriate level of support and input.

- **Refresh terms of reference and network purpose** | The networks and the Arts Council's leadership should co-create terms of reference, with each existing network identifying an appropriate senior sponsor from the Executive Board. This will both help networks maximise their value to the organisation and to their members, while minimising the burden on staff involved. As such, a key component of these terms of reference should be defining the purpose of each network; whether their role is primarily focused on advocacy in policy development, a support role, or activity based. This may vary between networks. These terms of reference should clarify the expectations of effort and boundaries for staff networks. All future networks that are established should identify a senior sponsor so that the work of the networks is aligned to the strategic objectives of the organisation.
- **Formalising how and when networks provide input** | The above terms of reference should formalise the types of decisions at Arts Council England that networks have input into, and how their views should be taken into account, for example in an advisory capacity to member(s) of the Executive Board. The Arts Council should consistently recognise staff colleagues for their work through staff networks in performance frameworks and processes, and explore funding support where this is appropriate and consistent with the Terms of Reference (e.g., budget for organising events).
- **Timescale:** This is a priority recommendation. The Arts Council should action it in the next 12 months.
- **Responsible area(s):** Executive Board.

5.6 Uphold the Public Sector Equality Duty to foster good relations between staff in relation to personal beliefs

The Arts Council meets its obligation to have 'due regard' in this matter but this has not substantively translated into 'good relations' between groups. This is particularly notable in relation to staff colleagues who hold gender critical views and staff who hold pro trans views. The Arts Council's leaders need to set clear expectations on how groups and individuals interact with each other when they hold directly competing philosophical views. When this standard is not met the consequences need to be demonstrably equitable for people on each side of a debate.

Individuals need to recognise the legal right of the other group to their belief, and that they do not have the right to discriminate against an individual for holding that belief. Staff colleagues must also recognise that the privilege of working for the state comes with compromises and requires high standards and interpersonal relations. This is true both for staff colleagues and for the Arts Council itself. The Arts Council is part of the UK state and does not have full freedom of action in how it engages with philosophical debates. Staff colleagues (including some more senior staff colleagues) do not fully appreciate the nature of these limitations. There may be a need for additional training to be provided contextualising this broader messaging in the context of the Arts Council's obligations as an arm's-length body.

The Arts Council should clarify the extent of its freedoms and the obligations that its institutional position imposes on it. The

Arts Council should then repeatedly communicate these limitations clearly to all staff colleagues (through both whole-of-organisation messaging and through smaller group engagements).

Success in this area is far from guaranteed. Philosophical debates reflect substantively different understandings of the human condition and the appropriate structure of society. The Arts Council has very limited influence in how these debates occur in wider society. However, prospective clarity, transparency, and consistency in the Arts Council's approach to philosophical belief in a manner that reflects the Arts Council's institutional position may mitigate this.

- **Timescale:** This is a priority recommendation, which should be actioned over the next 18 months.
- **Responsible area(s):** Executive Board, all staff colleagues.

5.7 Reinforce the Arts Council's purpose and identity as a development agency for creativity and culture

The Arts Council is an arm's-length body of the Department for Culture, Media and Sport (DCMS) that operates to provide grants to the creative and cultural sector in England.

Inconsistent understandings of this statement contribute to major organisational challenges at the Arts Council. These challenges play out in terms of EDI and more broadly.

Most staff colleagues who expressed an opinion on this matter during the review process identified primarily with the creative and cultural sector rather than with government. This is

unsurprising. Staff colleagues at the Arts Council retain and foster significant links with organisations in the creative and cultural sector. Staff colleagues hold voluntary and trustee positions in the sector outside of their employment at the Arts Council. Their touchpoints for EDI expectations and social norms are consistent with the sector's. Many staff that engaged with the review identified more strongly with the sector's needs, wants and aspirations than in their principal role as a non-departmental public body of government. They also position their own employment terms and trajectory against the sector rather than within government.

More senior staff colleagues at the Arts Council recognise that the Arts Council's position in government provides clarity on the ways in which the organisation must operate to maintain the trust of DCMS – its sponsor department – and the government more widely. They also recognise the constraints that this imposes in terms of the Arts Council's internal operations and its ability to 'have a voice' on certain matters.

Middle managers can be in the invidious position of balancing and managing these different understandings. They are also unlikely to have support to manage and communicate this well.

The difference of understanding regarding the Arts Council's positionality plays out in many elements of the Arts Council's operations. This is not unusual - many sector-oriented arm's-length bodies face challenges in this space, though it appears particularly pronounced in the Arts Council.

Clarity on this matter will be a core enabler for several elements of the Arts Council's success. It is essential that

National Council and the Executive Board reassert the Arts Council's primary purpose as set out in the Charter. Routine communications and regular dialogue about this purpose and the constraints of the Arts Council as a public body can help guide staff expectations and concerns.

- **Timescale:** This is a priority recommendation, which should be consistently enacted over the next 18 months.
- **Responsible area(s):** National Council, Executive Board.

Appendix A Review Terms of Reference

The supplier will undertake a review of relevant policies, procedures and structures and assess the extent to which they meet legal requirements such as the Public Sector Equality Duty, public sector standards and the commitment to Inclusivity and Relevance that the Arts Council has set out in its 21-24 Delivery Plan.

The review will consider practices, workplace culture and the experience of colleagues across the organisation, and within individual departments and teams.

The review will be evidence-based. Data and information will be analysed, and any surveys will be undertaken in accordance with recognised good practice.

The engagement with staff and non-executive members will be a key part of the review. It will be important that the supplier gains the confidence of staff and is able to encourage members of staff to participate in the review by assuring them of confidentiality and independence.

We expect that the supplier will, at a minimum, provide an opportunity for all members of staff and members of the non-executive governance to contribute to the review either via a survey or written submissions, and offer to meet and hold sessions with some individuals, teams, staff diversity groups and the Union.

We will also expect the supplier to meet the accessibility needs of members of staff and our non-executive governance who wish to contribute to the review.

The supplier will provide fortnightly updates on progress to the Chair of National Council and/or the National Council Steering Group. These updates will include progress made, issues emerging, and next steps.

The supplier will be required to share a draft of its findings and recommendations for improvement with the National Council Steering Group before they are finalised. The final report will include an executive summary, findings and the evidence, list areas of good practice and recommendations for improvement. The supplier will set out its conclusions on the extent to which the Arts Council meets:

- Requirements of the Equality Act 2010
- The Nolan Principles of Public Life
- Best practice in the public sector on Equality, Diversity and Inclusion
- Arts Council England's own ambitions in relation to its 10-Year Strategy and Inclusivity and Relevance Investment Principle.

The supplier will be expected to undertake all the administration associated with the review, including arranging meetings and interviews with the National Council Steering Group, members of staff and other stakeholders.

Members of the supplier's team who will be engaging with staff as part of the review should have mental health first aid training or the equivalent training. The Arts Council will arrange for a bespoke counselling service to be set up to support staff throughout the review process, alongside its existing Employee Assistant Provider.

Where an individual provides their consent, specific allegations of discrimination, harassment or victimisation which emerge during the course of the review should be passed on to the Chair of National Council for the Arts Council to investigate. Similarly, the Chair should be notified of any other urgent issues where the supplier feels that immediate action is required.

Appendix B Review background, context and language

This section contains contextual information related to equality, diversity, and inclusion (EDI) in public sector organisations and the wider rationale for this work. It provides an overview of how the Terms of Reference were addressed through the review.

EDI is an important goal for public bodies, though their aspirations are contested externally and internally

EDI is a central goal across government. However, there is no single pathway that UK government organisations can follow to realise it. Additionally, the scope and nature of objectives regarding EDI are appropriately contested and have had mixed success.

The Public Sector Equality Duty (PSED) in the Equality Act provides a major positive obligation on public bodies to enhance EDI. Its perceived effectiveness remains a mixed picture.¹⁹ Public authorities use equality assessments and other mechanisms to comply with the PSED and express that it has had a positive impact on their organisations²⁰. However,

¹⁹ House of Commons Library. The Public Sector Equality Duty and Equality Impact Assessments – Briefing Paper. Retrieved from:
<https://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf>.

²⁰ Government Equalities Office. Views and experiences of the PSED – qualitative research to inform the review. Retrieved from:

previous reviews have raised questions about the overarching value of equality impact assessments. They have highlighted challenges with the PSED regarding the difficulties of implementing the duty²¹ and of interpreting 'due regard' as to whether it places sufficient responsibility for public authorities to advance equality of opportunity for disabled people.²²

Equality, diversity and inclusion (EDI) is a strategic priority for the Arts Council and to the recovery of the cultural sector

The Arts Council has four equality objectives in its Delivery Plan 2021–2024. This review addresses the objective of becoming 'a more inclusive and relevant national development agency for

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237200/PSED Revised Report Final 030913 - FINAL.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237200/PSED_Revised_Report_Final_030913_-_FINAL.PDF) :

²¹ Review of the Public Sector Equality Duty: Report of the Independent Steering Group. Retrieved from:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237200/PSED Revised Report Final 030913 - FINAL.PDF](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/237200/PSED_Revised_Report_Final_030913_-_FINAL.PDF) . Retrieved from:

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237194/Review of the Public Sector Equality Duty by the Independent Steering Group.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/237194/Review_of_the_Public_Sector_Equality_Duty_by_the_Independent_Steering_Group.pdf).

²² Select Committee on Equality Act 2010 and Disability. Retrieved from:

<https://publications.parliament.uk/pa/ld201516/ldselect/ldeqact/117/117.pdf>.

creativity and culture that models good practice.’²³ However, the Arts Council’s wider aspirations are important to this. The Arts Council seeks to role model aspirational practices for the sector and thereby contribute to wider opportunities and more inclusive environments for all individuals working in the creative and cultural sector. This is important for staff colleagues at the Arts Council, many of whom have deep personal and professional relationships with organisations in the creative and cultural sector.

Commissioning this review is important to the Arts Council’s community, who have progressed a range of EDI actions

The Arts Council’s National Council, Senior Leadership team, and Human Resources team have taken a range of steps to improve organisational EDI outcomes since 2019. Some of these are listed below for context; subsequent sections of the report explore the effectiveness of these actions. They include:

- Developing a suite of statements and policies that set out the organisation’s ambitions and actions towards equality including the Equality and Diversity statement²⁴ and the Workplace Adjustment Policy.
- Pledging to address racial disparities within the organisation and across the creative and cultural sector in support of the

²³ Delivery Plan. Arts Council England. Retrieved from: <https://www.artscouncil.org.uk/lets-create/delivery-plan-2021-2024>.

²⁴ Arts Council England. Equality and Diversity Statement (2022).

Black Lives Matter movement and improve gender equality.²⁵

- Introducing InChorus – an anonymous reporting platform – to allow staff colleagues to report any incident of non-inclusive and inclusive behaviour experience at the Arts Council.
- Expanding data collection to capture information on neurodiversity, data on sex and gender identity and socio-economic background.
- Articulating a position on gender reassignment and religion/belief, building on the Equality Act and based on legal advice provided to the Arts Council following *Forstater v CGD Europe*. This case broadened understandings of protections for belief under the Equality Act.
- Reviewing and making changes to recruitment processes with a focus on improving guidance for applicants.
- Publishing sex and ethnicity pay data including gap analysis and actions taken to address disparities.
- Disseminating a range of staff communications which raise awareness about a wide variety of topics relating to EDI, including gender equality, collection of socio-economic data, Black History Month, and burnout. For example, Figure 5 provides an extract that describes the rationale for the collection of socio-economic data.

²⁵ Black Lives Matter (2020). Arts Council England. Retrieved from: <https://www.artscouncil.org.uk/blog/black-lives-matter>

Figure 5 | Staff communications in relation to collection of socio-economic diversity, May 2019

Research has shown if you are from a less well-off background you are less likely to have career success in the creative and cultural sector. And the barriers are even higher if you combine this with being a person of colour, a woman or if you are disabled. However to date we've lacked the evidence base to inform action in relation to socio-economic origins. That is about to change.

In 2020, we will introduce the question: **Thinking back to when you were aged about 14, which best describes the sort of work the main/highest income earner in your household did in their main job?** to our annual data survey for NPOs. This question is designed to give a snapshot of socio-economic background, is recommended by government, and has been used by the likes of the BBC and C4.

We want to start with ourselves first so we can examine our structures, processes and culture in light of the evidence. This staff first approach will also give us a chance to iron out any glitches or concerns before we go to the sector. If you take part and want to give us feedback now is the time to speak up.

Please note that this question is voluntary, and you can choose to be anonymous. It's nobody's business where you individually come from, but each response you volunteer helps us build a more accurate picture of our workforce as a whole. And we need an accurate baseline to instigate and measure change.

We all feel frustrated by the distressing lack of diversity within our sector and our own workforce. But positive change, that creates a fairer and more inclusive sector, is possible. It needs each of us to care but it also needs us to get into action in a way that's useful – whether that's a personal act like mentoring a colleague, or something with wider significance like instigating a change in recruitment policy.

In addition, the Disability Network, the LGBTQIA+ Working Group and union representatives have progressed a range of EDI initiatives include self-assessment survey pilots to better understand practices in relation to accessibility and LGBT+ History Month to highlight a few examples. Members of staff outside of officially organised networks and working groups have also contributed to EDI initiatives.

These and other developments precede this review and exemplify the Arts Council's high level of ambition in relation to EDI. This commitment exists at all levels of the organisation.

Staff colleagues within the Arts Council have sought a review of this kind for some time. Immediate triggers for this independent review include concerning reports from staff employee networks about the experiences of Black, Asian, and

global majority/ethnically diverse staff²⁶ and organisational disquiet (including a staff petition, the description of which is contested by some staff members) following the award and revocation of funding to LGB Alliance through the Jubilee Fund. These reports on the experiences of Black, Asian, and global majority/ethnically diverse staff are not widely available due to the potentially identifiable nature information within them; the review has nonetheless considered them.

Some staff groups have challenged the procurement process that led to this review occurring as they sought greater involvement in the process. National Council members engaged staff groups and accepted several suggestions to the review's Terms of Reference, which are described below. The Nous review team has met with a Staff Reference Group throughout the review. The Staff Reference Group exists expressly for the purposes of the review. The Nous review team has sought their insight at various times during the review (details of this engagement is set out in section 2).

The independent review's Terms of Reference focus on employment policies and processes, practices, and culture

The Arts Council has commissioned Nous to conduct this review to understand the EDI experience of staff colleagues across all protected characteristic and socio-economic backgrounds.

²⁶ Race Equality and Black Staff group survey responses (May 2022). Two year report: the scale of our work (October 2022). Race Equality Group.

Specifically, the review was required to assess the extent to which the Arts Council meets:

- The requirements of the Equality Act
- The Nolan Principles
- The Arts Council's Inclusivity and Relevance Investment Principle
- Best practice on EDI within the public sector

The review also required a consideration of intersectionality between the nine protected characteristics covered by the Equality Act (and socio-economic background), to identify areas of good practice and make recommendations for improvement. This includes the provision of advice on implementation as well as ongoing monitoring and periodic review of Arts Council's efforts towards EDI as an employer. The full Terms of Reference are outlined in Appendix A.

The Equality Act provides differentiated protections on the basis of nine protected characteristics

The Equality Act is the major piece of equalities legislation in Great Britain. Compliance with the Equality Act is therefore the foundation of the Arts Council's work as an equal, diverse, and inclusive organisation. The review acknowledges that many advocates, politicians, and other factors, including the Chair of the Equality of Human Rights Commission,²⁷ recognise that the

²⁷ Baroness Falkner, Letter to Minister for Women and Equalities on the definition of the protected characteristic of 'sex' in the Equality Act 2010 (3 April 2023). Retrieved from:

Equality Act's language and concepts are no longer entirely fit-for purpose. For example, the Equality Act does not clearly distinguish between sex and gender and uses language that is no longer seen as appropriate. However, the Arts Council must nonetheless comply with its legislative requirements.

The Equality Act only provides protections on the basis of nine protected characteristics, not on all areas where inappropriate discrimination may occur

The Equality Act protects nine 'protected characteristics', being:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.²⁸

<https://www.equalityhumanrights.com/en/our-work/news/clarifying-definition-%E2%80%98sex%E2%80%99-equality-act>.

²⁸ Equality Act 2010, s 4.

The nature of the protections afforded to an individual or group possessing a given protected characteristic will differ. For example, the Public Sector Equality Duty does not apply in relation to marriage or civil partnership and the primary section in relation to indirect discrimination does not apply in relation to pregnancy or maternity.

The protected characteristics are qualitatively different in terms of their breadth and number of variables. Regarding breadth, universal protected characteristics apply to everyone. For example, everyone has an age and is protected on the basis of their age. The protected characteristics of others are limited. For example, the protection is for marriage and civil partnership, not relationship status. So only people who are married or in a civil partnership benefit from that protected characteristic. A fixed set protects groups who fall into any of the categories (in the set) but not outside these categories. So the protected characteristic of sex does not include a person with intersex variations on that basis.

Regarding variables, multi-axis protected characteristics have many sub-elements. For example, a person holds, and does not hold, an infinite number of philosophical beliefs. That individual is protected on the basis of each of those beliefs.

The Equality Act provides broad, though not absolute, protections in four areas

The Equality Act's protections are limited. It prohibits four different types of activities where they occur on the basis of a protected characteristic. They are:

1. Direct discrimination, being when you are treated worse than another person because of a protected characteristic.

2. Indirect discrimination, when an apparently neutral policy or practice applies to disadvantage a person due to a protected characteristic in a manner that is disproportionate to a legitimate aim.
3. Harassment, being unwanted conduct relating to a protected characteristic for the purpose of or with the effect of violating dignity or of creating an intimidating, hostile, degrading, humiliating, or offensive environment.
4. Victimisation, acting detrimentally towards a person who has or who may assert rights under the Equality Act.²⁹

Several caveats apply to each of these. These protections are limited. They prohibit inappropriate behaviours; they do not empower people to act in a way that others may consider inappropriate.

The Minister for Women and Equalities, Kemi Badenoch, has framed the Equality Act as being “a shield, not a sword”.³⁰ A protected characteristic entitles a person to not be subject to adverse treatment. It does not allow person A to discriminate against person B because of person A’s protected characteristics.

²⁹ Equality Act 2010 ss 13, 19, 26, 27.

³⁰ Retrieved from

<https://hansard.parliament.uk/Commons/2022-10-26/debates/AE123F8B-4279-4595-A046-6EB9F59E6E35/TopicalQuestions?highlight=sword#contribution-69DE0DE9-2F23-458C-BFE5-B11F06820E7D>.

The Equality Act provides a necessary foundation, but public bodies can and should go further

Compliance with the Equality Act is a necessary condition for the Arts Council to provide an equal, diverse, and inclusive workplace. However, mere compliance should not be the aspiration of the organisation.

The notion that the Equality Act provides a floor but not a ceiling is uncontroversial. The major effect of the Equality Act was to bring together and harmonise 13 existing pieces of anti-discrimination legislation.³¹ And the government recognises that more protections can be appropriate. For example, the Equality Act does not expressly protect people on the basis of a non-binary sex identity and the government is not intending to change this law. The government nonetheless opposes discrimination on this basis:

*'The Government wants individuals who identify as non-binary to be able to live discrimination-free lives in accordance with who they believe their true selves to be.'*³²

This is not to suggest that compliance with and the realisation of the Equality Act in all things is simple. This is most obvious in relation to the Public Sector Equality Duty. The obligations

³¹ Explanatory Note, Equality Act 2010, ss 3-12

<https://www.legislation.gov.uk/ukpga/2010/15/notes/division/2/1>

³² Retrieved from:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721725/GRA-Consultation-document.pdf#page=55

to have 'due regard' may be relatively simple to meet but this does not mean that the outcomes sought and the lived experience of individuals in relation to these outcomes – such as good relations between people with and without a given protected characteristic – are simple.

However, the Equality Act does provide a frame into which the Arts Council's actions in this space must sit. Many staff colleagues at the Arts Council have expressed aspirations for and understandings of equality, diversity, inclusion, equity, and justice that go far beyond the floor that the Equality Act sets. These can and do conflict. Appeals to morality and ethics are essential, such as we have heard in this review, and can world a better place. We have sought to measure the Arts Council against these aspirations.

A note of caution is however necessary here. These understandings are not always consistent with the frame that the Equality Act provides for an English organisation that is part of the UK government. Where aspirations and legal compliance are not aligned, it will be necessary for the Arts Council to act within the frame of the law.

The Public Sector Equality Duty imposes additional duties on the Arts Council as a public body

Public bodies, including non-departmental public bodies such as the Arts Council, must also comply with the Public Sector Equality Duty.³³ This is a higher bar that seeks to encourage

³³ Equality Act 2020 s 149

positive behaviours, not simply avoid negative behaviours. It obliges the Arts Council to have due regard to the needs to:

1. Eliminate conduct that the Equality Act prohibits.
2. Advance equality of opportunity between people who hold and do not hold protected characteristics.
3. Foster good relations between people who hold and do not hold protected characteristics.

This positive duty means that the Equality Act itself obliges the Arts Council to move beyond mere compliance. This further emphasises the moral duty to push further.

The Nolan Principles are enduring, and should be understood in the context of changing expectations and the Arts Council's structures

The Seven Principles of Public Life, often referred to as the 'Nolan Principles' are:

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

These principles have been adopted widely since their introduction in 1995 and continue to reflect the expectations that the public have for those in public life. They inform guidance and codes for conduct in non-departmental public bodies and will continue to be reinterpreted to meet changing expectations.³⁴

The 2021 Upholding Standards in Public Life report emphasises that these principles must be understood in the context of external risks to upholding standards. This includes the impact

³⁴ Upholding standards in public life – published report 2021. Retrieved from:
<https://www.gov.uk/government/publications/upholding-standards-in-public-life-published-report>

of social media and the growing polarisation of public debates. This review notes the updated descriptor for leadership has a greater emphasis on treating others with respect.³⁵ This review will explore the application of the Nolan Principles in how *both* staff colleagues and leaders at the Arts Council uphold the Nolan principles.

The Arts Council's Inclusivity and Relevance Principle helped inform the review's approach

The three focus areas of communities, workforce, leadership, and governance, and the creative case for diversity are consistent with the review's conceptual approach.³⁶ As described above in section 2 the independent review assessed the Arts Council's progress against its own measures for the sector. They include:

1. Culture change
2. Becoming more accessible/removing barriers
3. Governance – as related to the oversight and monitoring of Arts Council's EDI efforts, including input from Area Councils, the Race Advisory Group, and the Disability Advisory Group³⁷

³⁵ Ibid.

³⁶ Arts Council England. (2021). Essential Read: Inclusivity and Relevance.

³⁷ In the wake of Covid, a Disability Advisory Group was established to advance accessibility within Area Councils and in parallel, a Race Advisory Group was introduced in response to the Black Lives Matter movement.

4. Leadership

5. Workforce

Within the context of the present review, there is an expanded focus on the handling of employee complaints and grievances and the role of both formal and informal employee networks in advancing EDI. These additional priorities underpin the conceptual approach undertaken to the review.

Identifying 'best practice' can mask organisational nuances

The idea that there is a single set of practices or a universal approach to advancing EDI is now widely challenged. Strategies should be grounded in organisational context and data, professional expertise, views of stakeholders, and changing expectations.³⁸ In the early stages of this review, the term 'best practice' was reframed as 'leading practice' to reflect the process of ongoing learning by organisations.³⁹ Leading practice will focus on those areas which are of the highest relevance to the Arts Council.

Preliminary discussion with National Council and the Staff Reference Group also highlighted that it would be valuable to consider public sector examples from international jurisdictions, and creative and cultural sector examples beyond

³⁸ Chartered Institute of Personnel Development (2021). Diversity management that works: an evidence-based view. Retrieved from: https://www.cipd.co.uk/Images/7926-diversity-and-inclusion-report-revised_tcm18-65334.pdf

³⁹ Inception Meeting between Nous Group and National Council Steering Group (February 2023).

the public sector. In turn, the organisational contexts from which leading practice will be sourced for this review include:

1. Comparable public bodies that discharge the services and duties of the Department of Culture, Media, and Sport (the sponsoring department of the Arts Council).
2. Public organisations in non-UK jurisdictions that have an objective that is comparable to the purposes and mission of the Arts Council (e.g., development agency for culture and creativity).
3. Public and/or private sector organisations in the UK that have an objective that is comparable to the purposes and mission of the Arts Council.
4. Private sector organisations that are globally leading in equality, diversity, and inclusion.

The review has balanced several considerations to find the most appropriate language and terminology

Language and tone are important aspects of any work, and especially in an EDI review. The words we use connect to our identities and express parts of our lived experiences. The Nous reviewers have sought to balance familiarity, self-determination, and fidelity to sources in choosing language in this report. We have taken every effort to use language and terminology that is familiar to the Arts Council, is consistent with definitions used in the Equality Act and the Public Sector Equality Duty, and considers leading practice where appropriate, across all aspects of the review including in the drafting of review communications and the analysis of engagement methods. However, we recognise that all language has limitations. For example, the Equality Act uses

language that would no longer be appropriate in 2023. This is a natural effect of changing and deepening understandings of identity and society.

For these reasons, we have also felt that it is important to use the language individuals have used for themselves as they have shared their personal narratives and where we use quotes. This ensures that the review is centred on their lived realities. Similarly, we have opted to describe data using the Arts Council's descriptions, over general government guidelines. For example, when referring to race, the Arts Council uses the terms 'Black, Asian and ethnically diverse' whereas government guidelines prefer 'ethnic minorities.' These differences reinforce the unsettled nature of language, even across government and public bodies.⁴⁰ We also note that certain terms are used interchangeably, even within the Arts Council's own policies; for example, complaints and grievances are both terms referred to within the organisation's Grievance policy.

Terminology, including the language that we use in this report, can increase the risk of homogenising the experience of individuals and communities who experience discrimination in different ways. For others, the terms used in this report will not satisfactorily capture their intersectional identities and life experiences more broadly. For a select few, the terminology used in this report may not reflect their lived experience in any

⁴⁰ Arts Council England. Equality, Diversity, and Inclusion: A Data Report. Retrieved from: <https://www.artscouncil.org.uk/equality-diversity-and-inclusion-data-report-2020-2021>

way shape or form. This report should be read in the context of these considerations and wider limitations.

DRAFT

Appendix C Detailed considerations about method

The review team undertook the benchmarking exercise through three distinct steps:

1. **Assessing the Arts Council in relation to the conceptual approach** – Nous first reviewed the Arts Council's performance against the conceptual approach's categories, being: access, success, support, inclusive leadership and governance, open and respectful cultures, and policies and processes. This supports the Arts Council to identify strengths and prioritise future efforts.
2. **Benchmarking the Arts Council** – the review team assessed the Arts Council against indicators with a combination of data and qualitative insights. This benchmark is primarily a qualitative process.
3. **Benchmarking comparators** – the review team identified a comparator set against which to assess the Arts Council. We have chosen these organisations because they share similar characteristics to the Arts Council, as set out in section 3. Some organisations are de-identified in the report. Benchmarking of these other organisations provides important context to the ratings that have been provided for the Arts Council.

In addition to benchmarking, examples of 'leading practice' initiatives have been developed to sit alongside the recommendations to provide a practical insight into what good looks like in practice.

This maturity framework has limitations; organisations (or even specific functional areas) can excel on some dimensions of its practices and approaches and perform less well on others. This framework must be considered in the context of wider employment and sector duties (as is the case for the Arts Council England as an arm's-length body).



A bigger idea of success

Nous Group is an international management consultancy operating across the United Kingdom, Ireland, Canada, Australia and New Zealand. We are inspired and determined to improve people's lives in significant ways. When our strengths complement yours and we think big together, we can transform businesses, governments, and communities.

We realise a bigger idea of success.

A bigger idea
of success

700

PEOPLE

5

COUNTRIES

+80.7

2020-22 NET PROMOTER SCORE
– global consulting average: +76.6