



Confidential

How can you create an inclusive business?

25th and 26th March 2024

Ground rules



Participation

You are your own best resource. Each of you brings a wealth of experience to this session



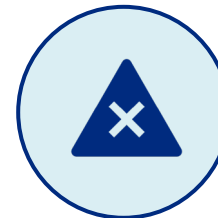
Agree to disagree

Everyone should feel free to express themselves. Frank discussions are healthy



Respect

Respect each other, yourself and the topic



No disturbances

Devote your full time and attention. Turn off your phone and avoid dealing with e-mails



Ask questions

There are no stupid questions



9.30am – 10.00am	Does a more diverse leadership group improve business performance?	Ian McGlashan
10.00am – 10.30am	What must you do to comply with the new employer's duty to prevent sexual harassment of employees?	Sinead Donnelly
10.30am – 11.00am	What practical steps can support equity, diversity and inclusion in your business?	Ian McGlashan
11.00am – 11.30am	Break	

Programme (2)



11.30am – 12.00pm	How to tackle unconscious bias and microaggressions?	Lindsey Murray
12.00pm – 12.30pm	How can you avoid costly discrimination claims?	Ian McGlashan
12.30pm – 1.00pm	Questions and close	



Does a more diverse leadership group improve business performance?

Ian McGlashan

Profitability



Research on the link between profitability and diversity



Diversity matters even more – a report by McKinsey and Company investigated the business case for diversity



Showed the relationship between diversity in executive teams and financial outperformance is strong and strengthens over time



Organisations in the top quartile for gender diversity on executive teams were 39% more likely to have above-average profitability than organisations in the fourth quartile (2023)



Up from 25% in 2020



Up from 15% in 2015

Profitability (2)



The case for ethnic and cultural diversity is equally compelling



The 2023 report found top quartile companies outperformed those in the fourth by 39% in profitability



Up from 36% in 2020



Up from 33% in 2018

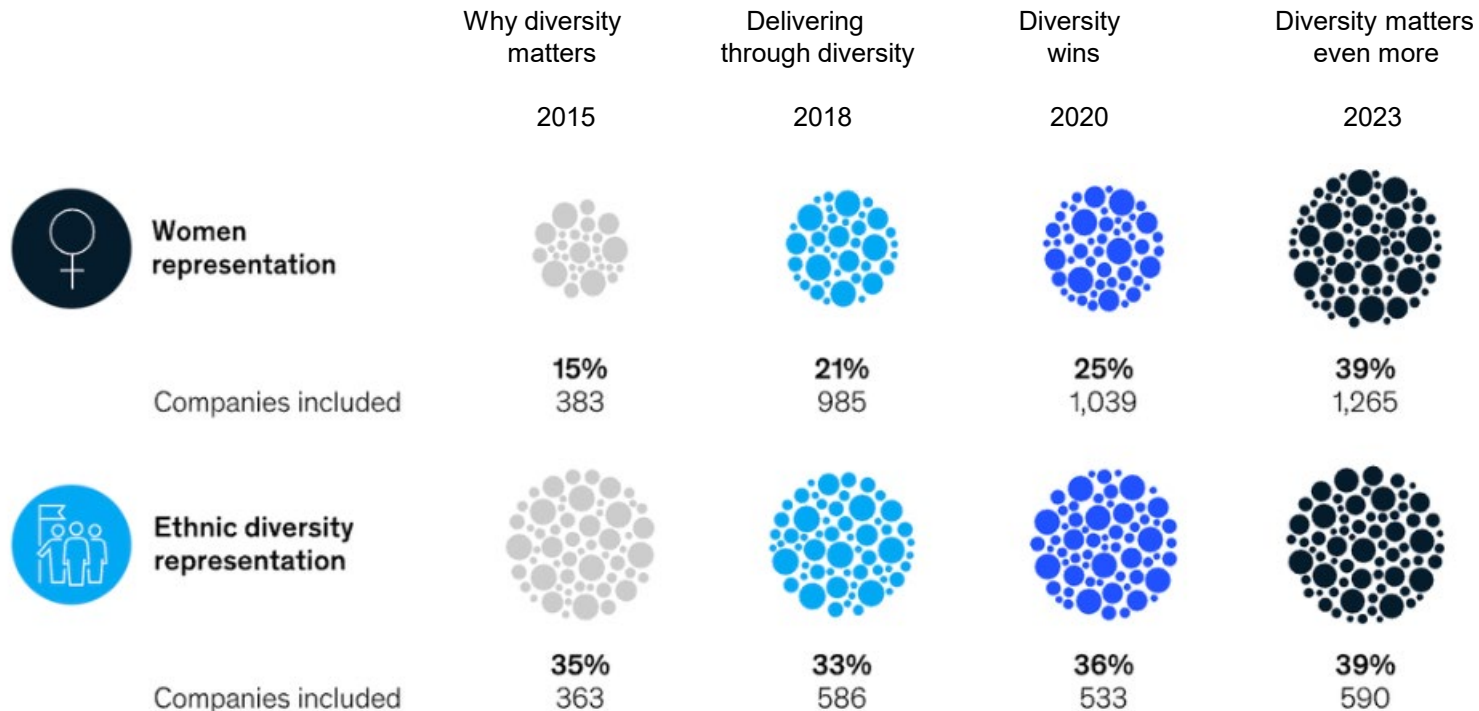


Data set encompassing 23 countries and 1,265 companies across six global regions

Diversity and financial performance



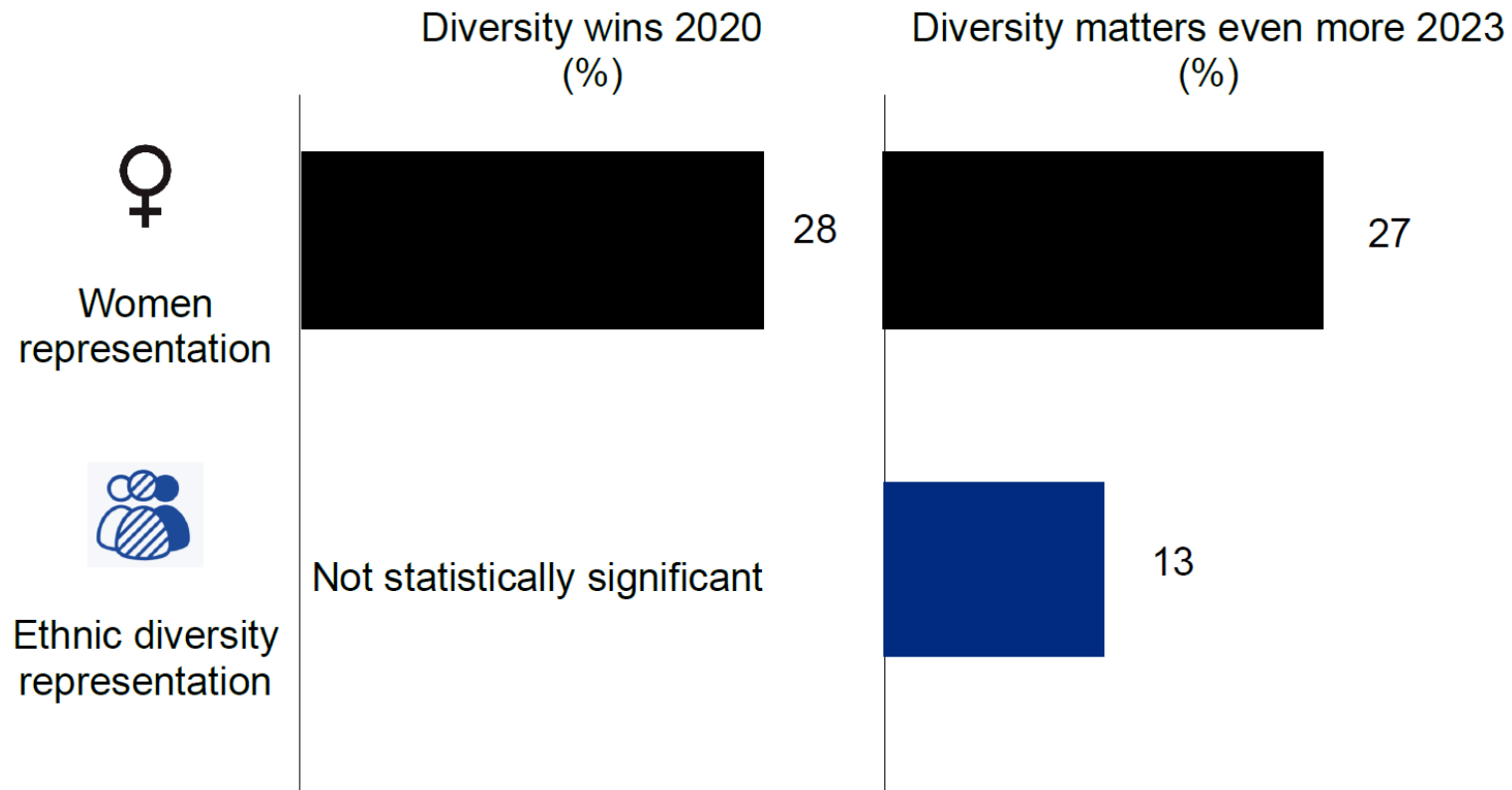
Difference in likelihood of outperformance of first versus fourth quartile



Board diversity and financial performance



The relationship between ethnic diversity and financial outperformance on boards is now statistically significant for both gender and ethnicity



Case study 1 – IHG – Local to global



IHG gives maximum flexibility and support to local and regional leadership to pilot appropriate Equity, diversity and inclusion (EDI) strategies



There's a firm-wide circulation of ideas



IHG convenes regular EDI councils where hotel managers around the world can give feedback to global executives

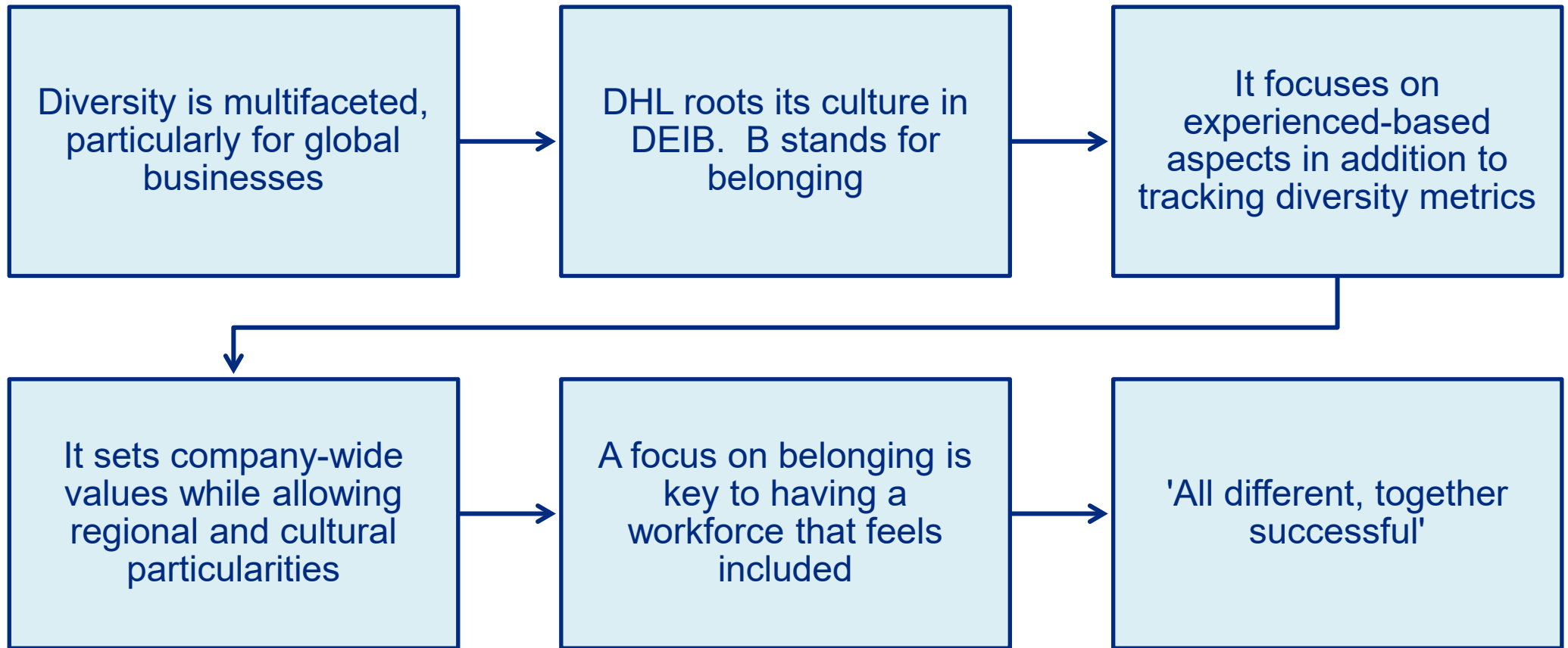


Local leaders can say 'this doesn't make that much sense within our market; let's modify this'



IHG tracks diversity and inclusion throughout the organisation, always considering local contexts

Case study 2 – DHL – Cultivating belonging



Case study 3 – Air New Zealand – Working with the community



Air New Zealand has partnered with key stakeholders to broaden its talent pipeline

Its pilots visit local schools to break down gender stereotypes

It partnered with a community organisation on a program designed to build leadership capability, stress cultural confidence and provide space to discuss identity

It rewrote its promotion process with different criteria and asked candidates' peers to score them

Cultivating diverse talent




 Relying on existing networks to develop candidate pipelines can limit representation

 Reach out to talent pipelines early to identify top candidates

 Prepare your diverse talent for future board participation

 Place high-potential, diverse individuals in roles with profit-and-loss responsibility

 Ensure they have committed mentors and sponsors

 Equip them with the knowledge and skills to deal with the governance and strategy issues boards typically face

Five levers for change



Commit to a systematic, purpose-led approach to benefit all stakeholders



Embed your strategy in company-wide business initiatives while tailoring to local context



Prioritise belonging and inclusive practices to unlock performance



Embolden and activate champions and allies by providing adequate resources and support



Act on feedback, including dissenting voices

Key takeaways



Diverse leadership teams financially outperform their peers



To achieve lasting impact, companies should:

Commit to a systematic, purpose-led approach to diversity and inclusion

Embed their strategy in company-wide initiatives

Prioritise belonging and inclusive practices

Act on feedback



Consider diverse skills and backgrounds when selecting candidates for leadership positions and cultivate diverse talent pipelines



Engage the community in diversity efforts to broaden the talent pipeline



What must you do to comply with the new employer's duty to prevent sexual harassment of employees?

Sinéad Donnelly



- The Worker Protection (Amendment of Equality Act 2010) Act 2023 (the Act) received Royal Assent on 26th October 2023
- The Act introduces a new legal duty for employers to take reasonable steps to prevent sexual harassment of employees in the course of their employment
- Sexual harassment: 'unwanted conduct of a sexual nature, which has the purpose or effect of violating your dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment'
- Harassment by third parties

What has prompted the changes?



- Cultural change arising from the #MeToo movement
- The Fawcett Society report in 2023
 - McDonalds allegations of *'a toxic culture of sexual assault, harassment, racism and bullying, with workers as young as 17 being groped and harassed 'almost routinely''*

Who will be protected and against what?



- Primarily introduced to protect women
- All genders are at risk of sexual harassment and protected against unwanted conduct of a 'sexual nature'
- Levels of injury to feelings
- Breaches could lead to enforcement action by the Equality and Human Rights Commission and/or an uplift of up to 25% to any compensation awarded

What are 'reasonable steps'?



- The law demands reasonable, proactive steps but no definitions
- The Equality and Human Rights Commission's technical guidance will be updated to set out the steps employers need to take
- Use of risk assessments/considering higher risk factors and groups
- As a minimum, employers should be:
 - introducing and updating policies and procedures dealing with harassment
 - making these available to staff
 - supporting and educating staff to speak up about sexual harassment
 - providing relevant, regular training to staff members



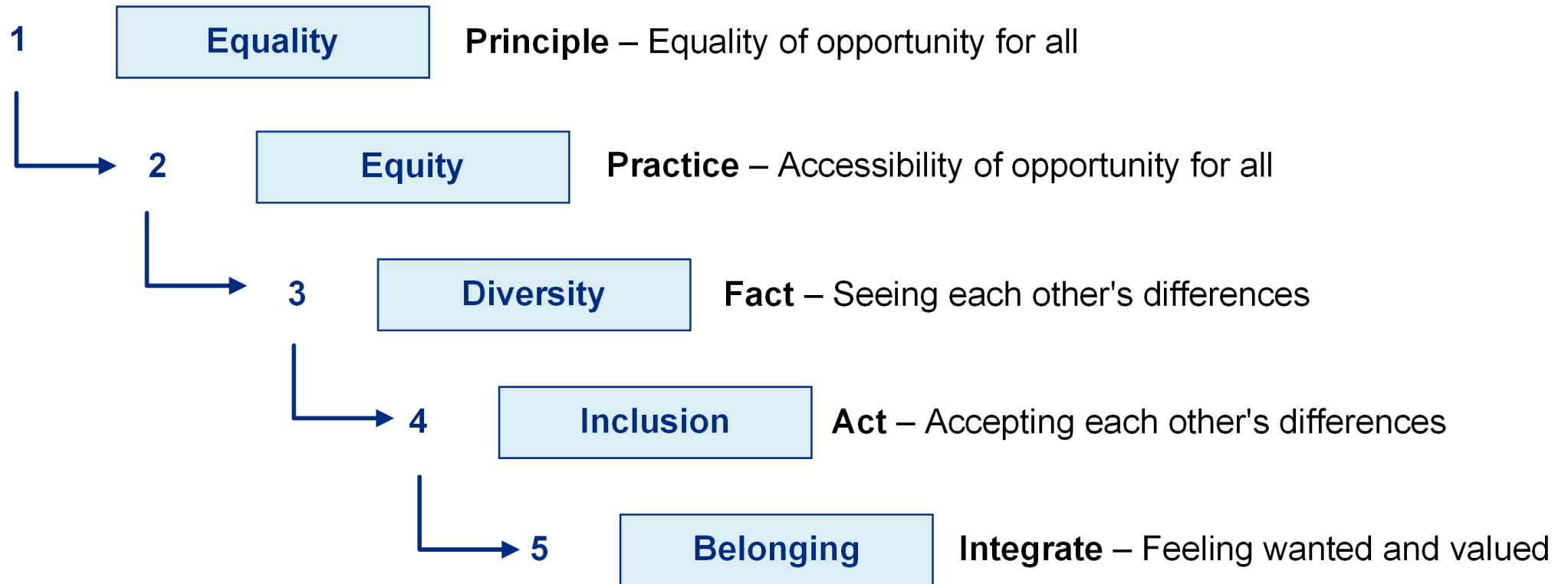
- Creating a genuine 'speak-up' culture; a safe environment
- Monitor the effectiveness of your policies and the processes in place to protect your employees
 - A victim focused approach, encourage reporting
- Communicate a zero-tolerance approach to customers/clients/contractors, for example by using signs
- Collective ownership
- Leadership and culture change - Board recognition and approval of your strategy
- Understand who your higher risk groups are and ensure they are communicated with
- Focus on existing gender equalities such as gender pay gap, promotion of under-represented groups including at Senior Manager/Board level



What practical steps can support equity, diversity and inclusion in your business?

Ian McGlashan

Five step approach



Implementing an effective EDI strategy



Develop a clear EDI strategy



Assess the impact of EDI



Demonstrate commitment



Implement an EDI policy



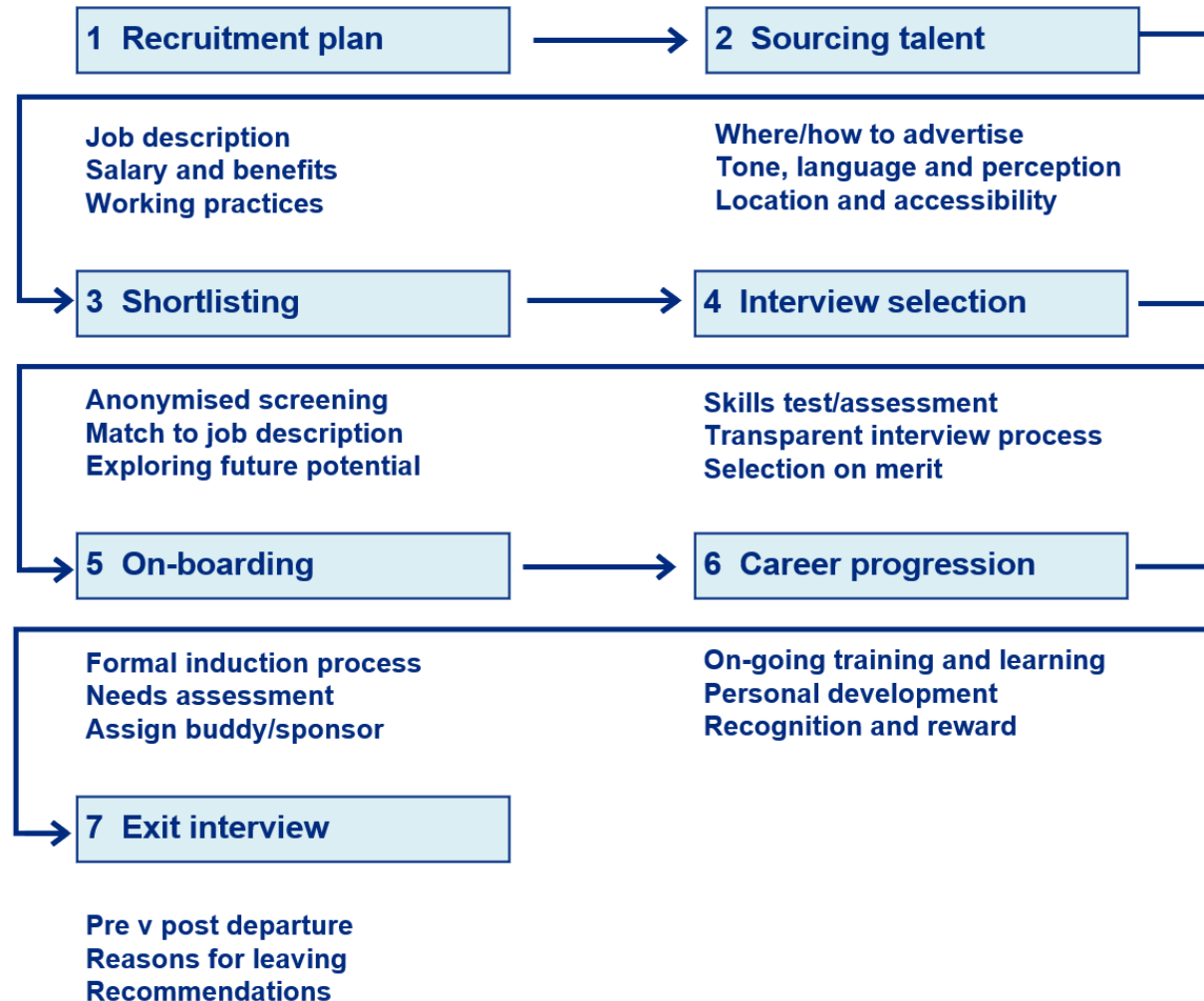
Provide training, learning and development

Policy to performance



	Policy	Process	Procedure	Performance
Purpose	<p>Define the organisation's position</p> <p>What are we doing? Why are we doing it? Who does it help?</p>	<p>Define roles and responsibilities</p> <p>Who is doing it? What are they doing</p>	<p>Define actions and outcomes</p> <p>When are they doing it? How are they doing it?</p>	<p>Definitions and measures of success</p> <p>How will we check the policy is being adhered to? How will we check the policy is effective?</p>
Ownership	Organisation	Individual(s) described in the policy	Individual(s) described in the policy	Organisation
Key information	<ol style="list-style-type: none"> 1 Aims and objectives 2 Compliance 3 Consequences 	Steps required to implement the policy	Breakdown of steps required to implement process	<p>What do we want to measure? When will we measure it? Who will measure it? How will we measure it?</p>
Communication	Organisation	Individuals	Individuals	Organisation and individuals
Review cycle	Every 6 to 12 months	Every 6 months	As required	After each cycle

Adopt inclusive recruitment and selection processes



Engaging and supporting under-represented groups



- Public meetings
- Roadshows
- Individual workforce activities
- Publications
- Surveys
- Social media
- Site visits
- Charities
- Special recruitment agencies



Implementing the concept of 'diversity of thought' and 'intercultural competence'



Diversity of thought is crucial for innovation and development



Actively encourage, promote, and support EDI to achieve diversity of thought



Intercultural competence is understanding cultural and social differences and adapting



Competent intercultural communication includes language, tone, actions, behaviour, and conduct that are appropriate to the expectations of the social or cultural group



Consider the effect of cultural competence in developing products, marketing and behaviour

Measuring progress and developing a strategy for continuous improvement



Determine who is responsible for executing and ensuring the success of the strategy



Establish transparent and accountable processes



Assess current levels of diversity and the data needed for measurement



Designate individuals or teams responsible for measuring and reporting progress




Agree on how progress will be tracked and measured

Key takeaways



 Value training and development

 Integrate EDI into all aspects of the operation

 Use policies, processes, and practices to promote and support EDI

 Adopt inclusive recruitment and selection processes

 Engage with under-represented groups

 Promote diversity of thought by encouraging individuals to embrace and celebrate differences

 Measure success by tracking progress, evaluating impact, and celebrating success



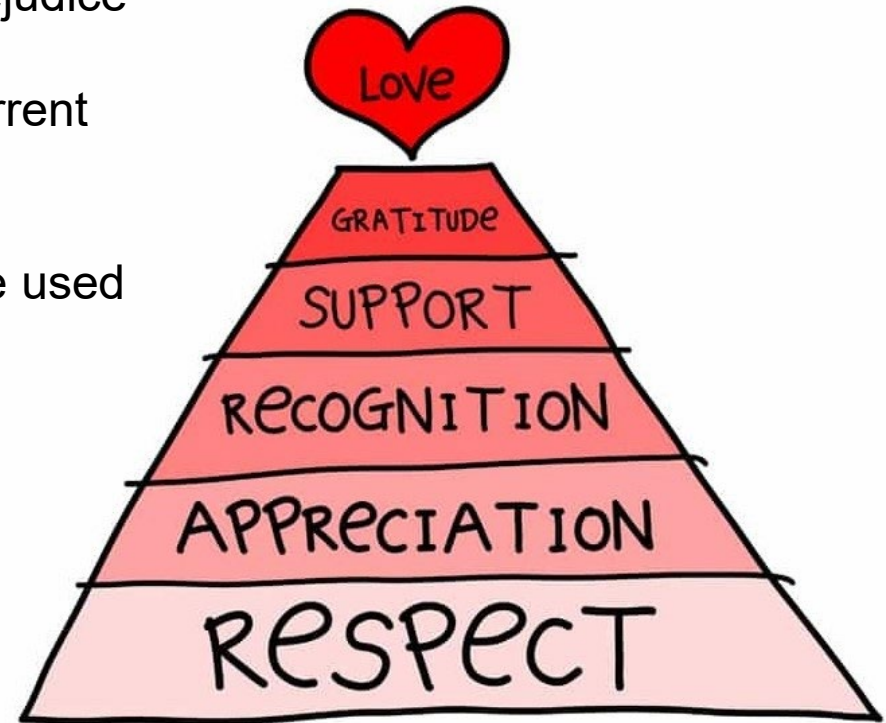
How to tackle microaggressions and unconscious bias

Lindsey Murray

What is a microaggression?



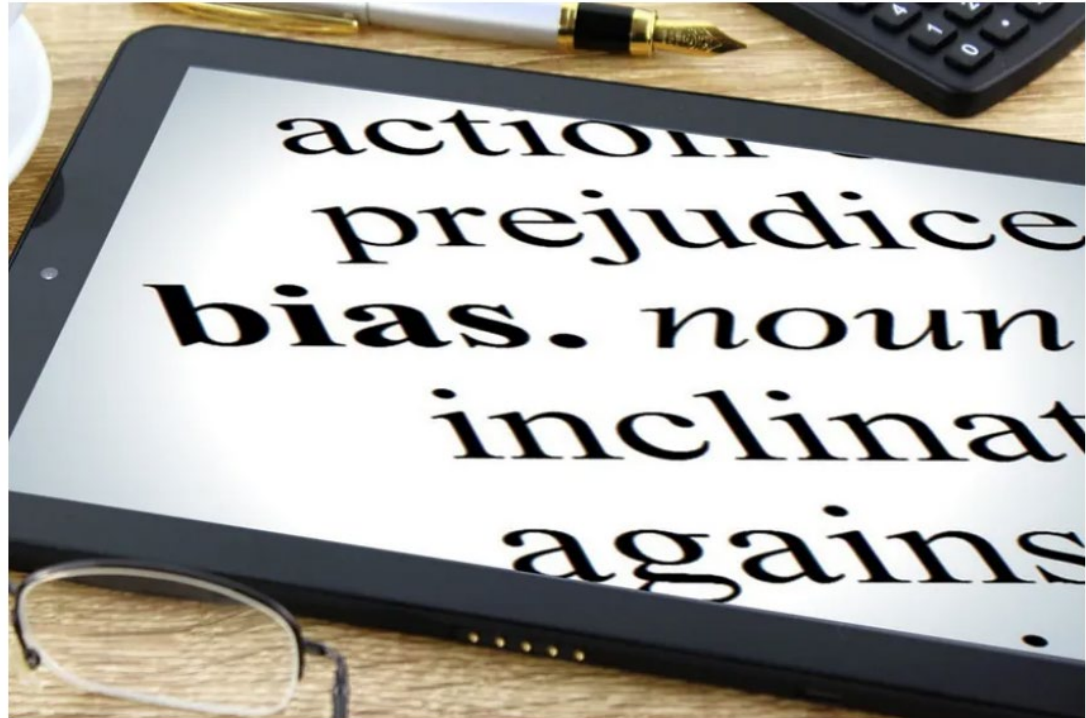
- Another term for microaggression is subtle prejudice
- Words and phrases can trigger thoughts of current and past discrimination
- Taking time to be intentional with the language used is part of treating each other with respect



How to tackle a microaggression



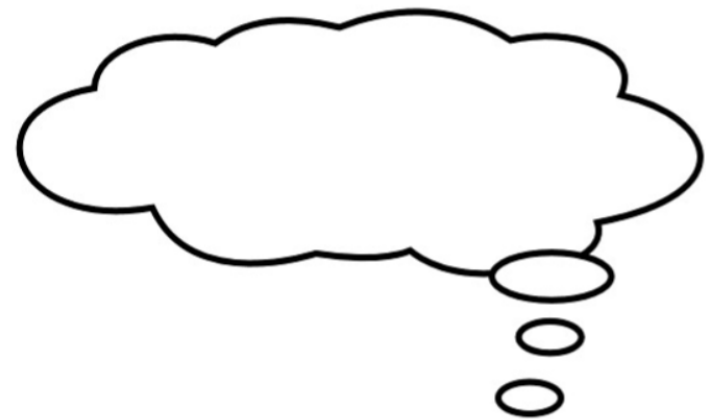
- Be aware of them
- Call them out
- Acknowledge their effect
- Apologise
- Follow up



How to tackle unconscious bias



- Creating more inclusive and culturally competent workplace cultures means each of us must explore our own biases to become aware of them
- Recognise your own bias
- When you hear a word, what are the first three words that come into your head?





Single parent



Chief Executive Officer



Why tackle microaggression and unconscious bias?



- If anything, it's about business
- Having people who can connect directly with their audience or customer base prevents discrimination
- To sell effectively and run successful marketing campaigns, an organisation should have the diversity of its customer base reflected at all levels within a corporate or boardroom structure



The cost of failure



- On 9th January 2018, an H&M advert showed a young black child wearing a green hoodie with the phrase 'Coolest monkey in the jungle'
- This might not have been out-and-out racism, but negligence that results in 'accidental' racism is just as insidious
- Their intention was clearly not to cause offence. Lack of diversity on the board meant that it just didn't enter their minds to think about their black customers
- March 2018 operating profit had fallen by 62%





How can you avoid costly discrimination claims?

Ian McGlashan

Can a gendered swear word be gender reassignment discrimination? Fischer v London United Busways



Anything done by an employee in the course of their employment is treated as having also been done by the employer

Regardless of whether the employee's acts were done with the employer's knowledge or approval

So, an employer can be vicariously liable for acts of discrimination committed by an employee

However, the employer will avoid vicarious liability if it can show that it took 'all reasonable steps' to prevent its employee from committing a particular discriminatory act

Can a gendered swear word be gender reassignment discrimination? Fischer v London United Busways (2)



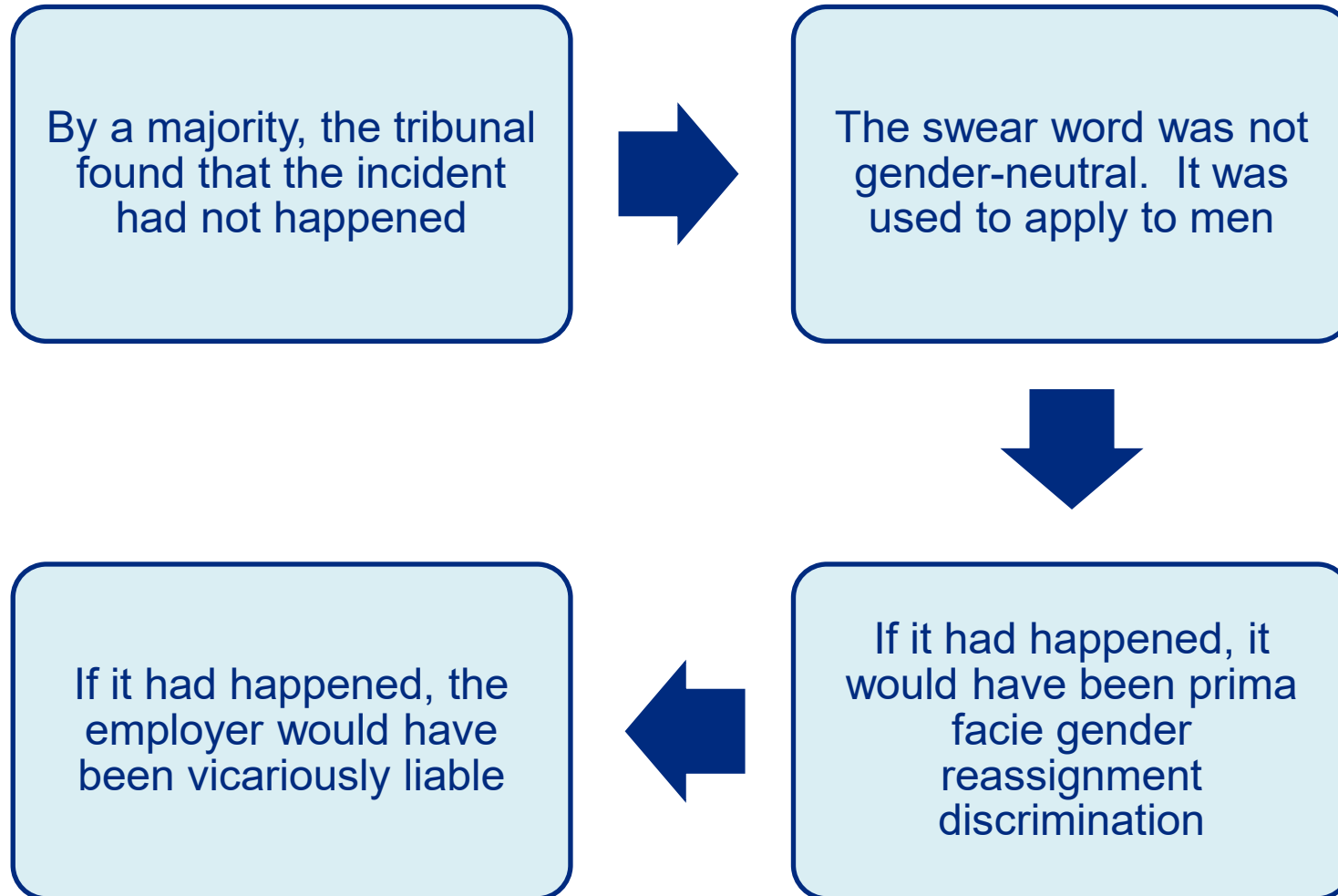
Ms Fischer, a transwoman, claimed direct gender reassignment discrimination against London United Busways

She said a colleague called her a 'w****r'

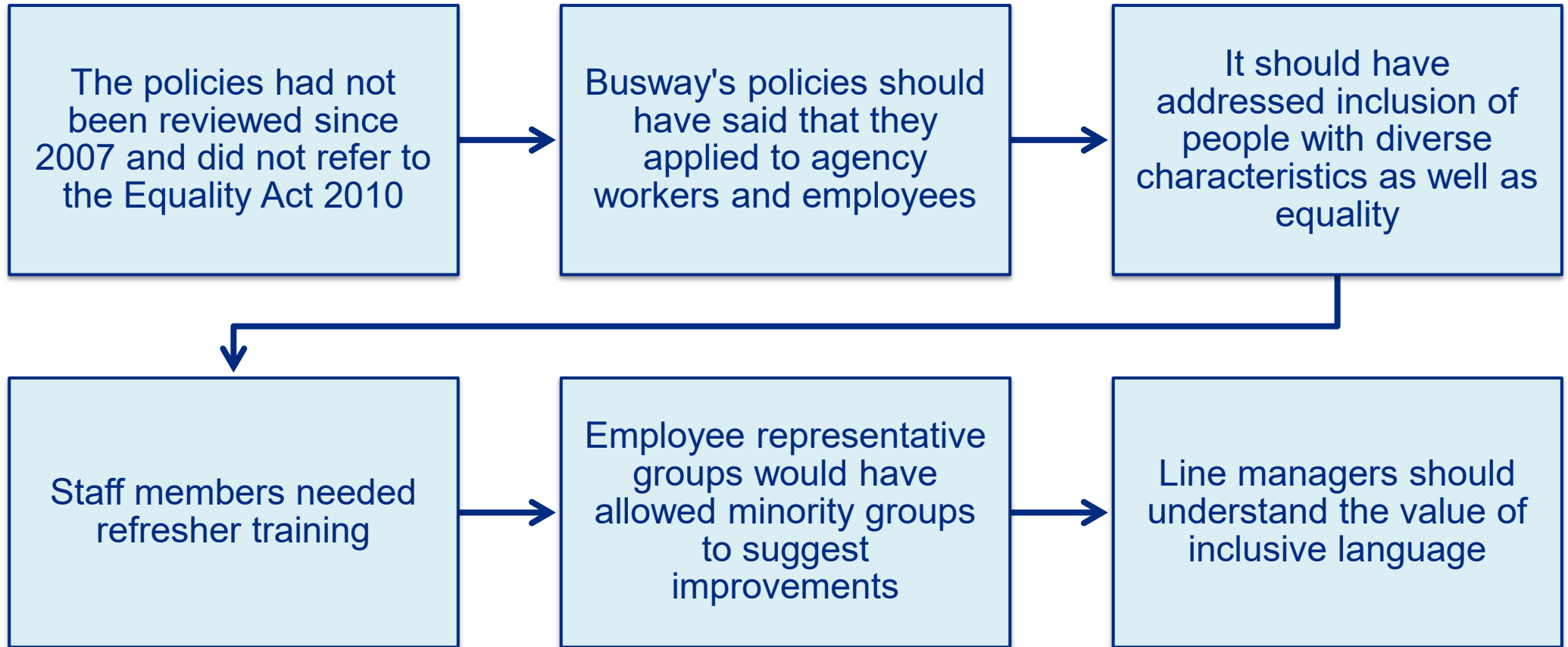
The employer denied that it had happened

It said even if it had happened, it had done all it could to prevent it from happening

Can a gendered swear word be gender reassignment discrimination? Fischer v London United Busways (3)



Can a gendered swear word be gender reassignment discrimination? Fischer v London United Busways (4)



Was dismissing a manager for using the 'N' word discriminatory or unfair? Borg-Neal v Lloyds Banking Group



- Dismissing for misconduct will only be fair if, at the time of dismissal:
 - The employer believed the employee to be guilty of misconduct
 - It had reasonable grounds for believing that the employee was guilty of that misconduct
 - At the time it held that belief it had carried out as much investigation as was reasonable
- Under the Equality Act 2010 (EqA 2010), 'discrimination arising from disability' which occurs when
 - A treats B unfavourably because of something arising in consequence of B's disability
 - A cannot show that the treatment is a proportionate means of achieving a legitimate aim

Was dismissing a manager for using the 'N' word discriminatory or unfair? Borg-Neal v Lloyds Banking Group (2)



During training, Mr Borg-Neal asked the trainer how a line manager should handle a situation if someone from an ethnic minority uses a word that might be considered offensive if used by someone not within that minority

When he did not get an immediate response, he added, the most common example being the use of the 'N' word in the black community. However, Mr Borg-Neal used the full word

Following an internal investigation and disciplinary process concerning Mr Borg-Neal's use of offensive language, the Bank dismissed him for gross misconduct

He brought claims against the Bank for, among other things, unfair dismissal, discrimination arising from disability and direct race discrimination

Was dismissing a manager for using the 'N' word discriminatory or unfair? Borg-Neal v Lloyds Banking Group (3)



The tribunal noted that:



Borg-Neal had used the word once and immediately apologised



His question was relevant and well-intentioned

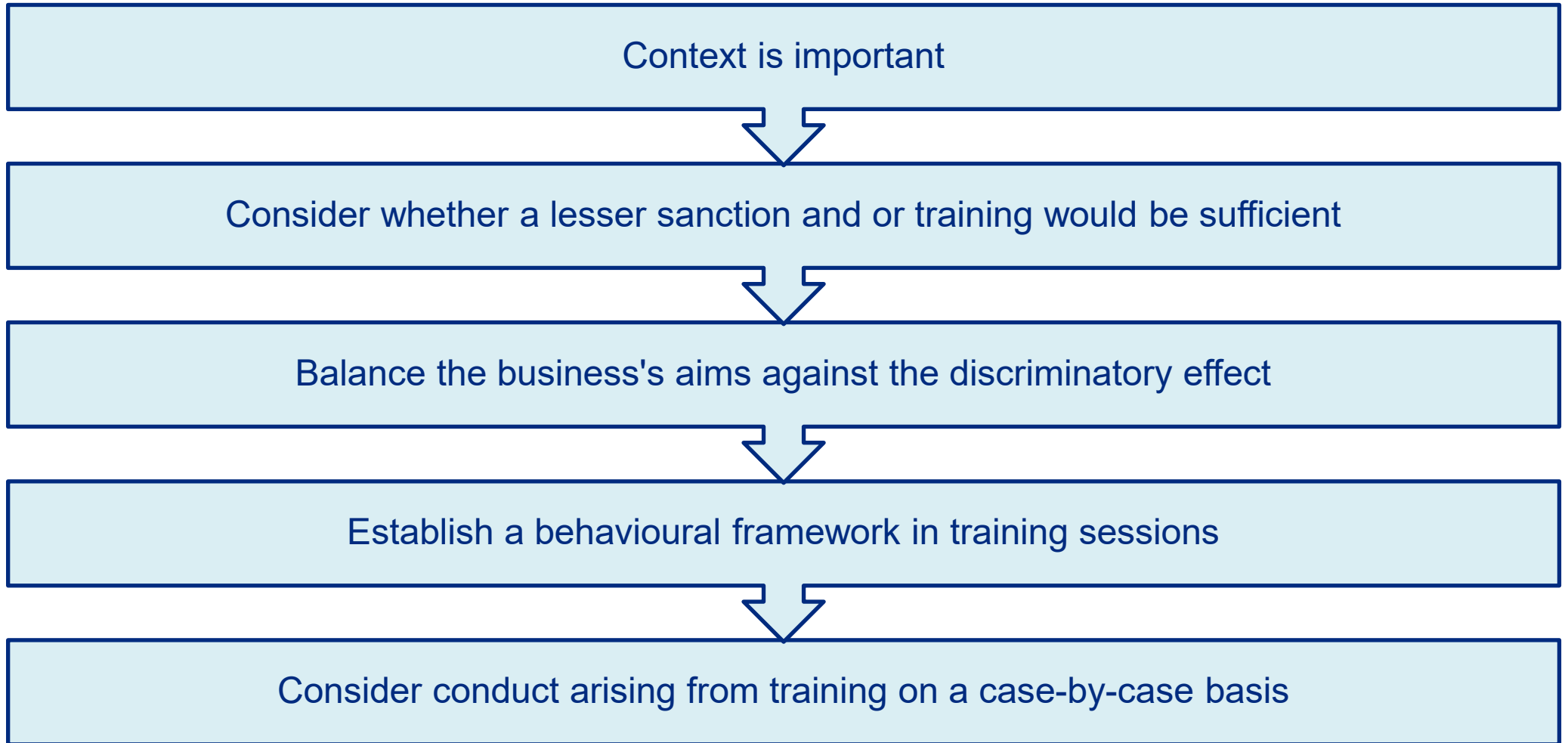


Borg-Neal had dyslexia which caused him to blurt things out before losing his train of thought



Dismissing him was unfair and discriminatory

Was dismissing a manager for using the 'N' word discriminatory or unfair? Borg-Neal v Lloyds Banking Group (4)



Laddish culture costs Lidl £50,000 – Hunter v Lidl



Miss Hunter was subjected to unwanted advances and comments by a fellow employee

She complained to her Store Manager, who told her to 'take it as a compliment'

The harassment continued. A Deputy Store Manager touched her bottom, thighs and waist

He attempted to hug her and slap her bottom

He made highly sexualised comments to her about her sex life, underwear and appearance

She resigned and issued several claims, including sexual harassment

Laddish culture costs Lidl £50,000 – Hunter v Lidl (2)



Miss Hunter had been sexually harassed and the behaviour reflected the culture of the store

Workplace 'banter' was commonplace and used by some managers to 'lighten the atmosphere'

Managers ranked female staff members by their perceived attractiveness

Managers didn't appear to understand that their comments were offensive

Laddish culture costs Lidl £50,000 – Hunter v Lidl (3)



Lidl could have avoided liability if it had taken all reasonable steps to prevent the harassment

It didn't come close to establishing this because:

Senior managers didn't step in to prevent harassment

Lidl failed to train managers on its anti-harassment policy

Lidl failed to deal with complaints in line with its procedure

Laddish culture costs Lidl £50,000 – Hunter v Lidl (4)



Critically evaluate your culture



Train your staff



Train your managers



Make it easy to report incidents



Deal with complaints appropriately



Update your policies



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