

COMMUNITY OVERVIEW AND SCRUTINY COMMITTEE

Committee Report

Public

Date of Meeting:

10 January 2002

Title: IMPLEMENTING AN EQUAL OPPORTUNITIES POLICY

Report of: Director of Housing

Report reference: H004/02

Summary:

The report sets out the requirements for the Authority to produce a Race Equality Scheme by the 31st May 2002.

It also sets out the proposals for the Authority to implement a comprehensive equalities policy in line with the new Equality Standard for Local Government scheme.

Recommendations:

The committee are recommended to comment upon the proposed arrangements set out in Section 7 of the report re the framework to be used to allow the authority to meet its obligations under the new legislation.

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Note: In compliance with Section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: CRE Statutory Code of Practice draft On the duty to promote race equality and The Equality Standard for Local Government.

1.

2. Introduction

1. The duty to promote race equality is both an opportunity and a challenge for Britain's public sector. The duty has arisen at a time when public services are experiencing large-scale modernisation. The drive to improve performance, openness and accountability is rapidly changing the way public authorities work. The new duty now adds the need for fairness.
2. The Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000) places a general duty on a wide range of public authorities to promote race

equality. This duty means that, in everything we do, the authority should have due regard to the need to:

- eliminate unlawful racial discrimination;
 - promote equality of opportunity; and
 - promote good race relations between people of different racial groups.
1. The duty aims to make the promotion of race equality central to the way public authorities work. Promoting race equality will improve the delivery of public services for everyone. In most cases, authorities should be able to use their existing arrangements – such as those for policy making – to meet the duty's requirements. This should help to avoid any unnecessary or duplicated work.
 2. The duty of public authorities to promote race equality in relation to *policy and service delivery will*:
 - encourage policy makers to be more aware of possible problems;
 - contribute to more informed decision making;
 - make sure that policies are properly targeted;
 - improve the authority's ability to deliver suitable and accessible services that meet varied needs;
 - encourage greater openness about policy making;
 - increase confidence in public services, especially among ethnic minority communities;
 1. Public authorities can decide how they will meet their duty to promote race equality. The Race Relations Act 1976 gives the CRE (Commission for Racial Equality) the power to issue codes of practice, with the approval of Parliament.
 2. The specific duties imposed by order of the Home Secretary came into effect on **3 December 2001**. Public authorities bound by these duties will need to have properly timetabled and realistic plans for meeting these duties in place by **31 May 2002**.

1. The Legal Framework

1. The Race Relations Act 1976 defines direct and indirect discrimination and victimisation. It outlaws racial discrimination in employment, training, education, housing, public appointments, and provision of goods, facilities and services. The Race Relations (Amendment) Act 2000 came into force on 2 April 2001 and since then the Race Relations Act 1976 has covered all the functions of public authorities (with just a few exceptions).
2. There is a general duty applied to all public authorities listed in schedule 1A to the Act. The duty's aim is to make promotion of race equality central to the work of the listed public authorities. The duty also expects public authorities to take the lead in promoting race equality and preventing unlawful discrimination.
3. The authority is required to prepare and publish a Race Equality Scheme. This scheme should set out the 'functions' or 'policies' that are relevant to meeting the general duty, and the arrangements that will help to meet the duty in policy and service delivery
4. The authority must monitor its employment procedures and practice.
5. Guidance suggests that authorities that follow and fully introduce the processes and arrangements covered by the specific duties should meet the general duty to promote

race equality, and should be able to prove that they are doing so. Taking action to promote race equality should provide the authority with the necessary evidence.

6. The authority is responsible for meeting its general and specific duties. Within the authority, this responsibility will rest with the groups or individuals who are liable for the authority's acts or omissions.
7. The authority should take account of its general duty to promote race equality – and other specific duties – when it works with other public, private or voluntary organisations. In practice, this will mean that a public authority that is working within a mixed partnership, for example involving public, private and voluntary sector partners, will need to be satisfied that the arrangements for planning and managing joint work will meet its statutory race equality duties. There is no similar obligation on a private or voluntary partner.
8. Agencies that audit or inspect the authority are bound by the duty to promote race equality. These agencies will need to consider how the new duty fits with their inspection or audit obligations.

2. The General Duty

1. The duty is set out in section 71(1) of the Race Relations Act 1976 and it applies to every public authority listed in schedule 1A to the Act.

Section 71(1) states:

Every body or other person specified in Schedule 1A or of a description falling within that Schedule shall, in carrying out its functions, have due regard to the need

a) to eliminate unlawful racial discrimination

b) to promote equality of opportunity and good relations between persons of different racial groups.

2. Four principles should govern how the authority proposes to meet its duty to promote race equality:
 - Promoting race equality is obligatory for all public authorities listed in schedule 1A to the amended Race Relations Act.
 - Public authorities must meet the duty to promote race equality in all relevant functions.
 - The weight given to race equality should be proportionate to its relevance.
 - The elements of the duty are complementary (which means they are all necessary to meet the whole duty).
1. Public authorities listed in schedule 1A must make race equality a central part of their functions (such as planning, policy making, service delivery, regulation, inspection, enforcement and employment). The general duty does not tell the authority how to do its work, but it expects them to assess whether race equality is relevant to their functions. If it is, the Authority should do everything it can to meet the general duty. The duty should underpin all policy and practice, and it should encourage improvement. It is not necessarily a new responsibility for the authority, just a more effective way of doing what it already does.
2. The authority should assess whether, and how, race equality is relevant to each of its functions. This may involve identifying those functions that involve or affect the public. A public authority may decide that the general duty does not apply to some of its functions; for example those that are purely technical, such as traffic control.
3. The general duty has three parts:

- eliminating unlawful racial discrimination;
- promoting equality of opportunity; and
- promoting good relations between people of different racial groups.

1. The authority should consider the following four steps to meet the general duty.

- Identify which of their functions are relevant to the duty.
- Set priorities for these functions, based on their relevance to race equality.
- Assess how all these relevant functions and any related policies affect race equality.
- Consider how the policies might be changed, where necessary, to meet the general duty, and make the changes.

1. To identify relevant functions, the authority will find it useful first to make a list of all its functions, including employment. It should then assess how relevant each function is to each part of the general duty.
2. To assess the impact of its functions and policies on race equality, the authority may find it useful to draw up a clear statement of the aims of each function or policy. Consideration can then be given as to whether it has information about how different racial groups are affected by the function or policy, as employees and users, or possible users, of services. The authority could get this information from various sources; for example previous research, records of complaints, surveys or local meetings. These methods should help the authority to assess which of the services are used by which racial groups, or what people think of the services, and to decide what they might need to do to meet the general duty. These methods are all in line with good practice on continuous service improvement.
3. The authority may also need to consider adapting existing information systems, so that data can be provided on different racial groups and show what progress the authority is making on race equality.

3.10. To assess the effects of a policy, or the way a function is being carried out, the authority should consider the following questions.

- Could the policy have an adverse impact on equality of opportunity for some racial groups? In other words, does it put some racial groups at a disadvantage?
- Could the policy have an adverse impact on relations between different racial groups?
- Is the adverse impact, if any, unavoidable? Could it be considered to be unlawful racial discrimination? Can it be justified by the policy's aims and importance? Are there other ways in which the authority's aims can be achieved without causing an adverse impact on some racial groups?
- Can the adverse impact be reduced by taking particular measures?
- Is further research or consultation necessary? Would this research be proportionate to the importance of the policy? Is it likely to lead to a different outcome?

1. Specific Duties: Policy and Service Delivery

1. The necessary arrangements may not have to be new. Some services may already have systems in place to meet their statutory requirements to collect data on performance, or to have their policies and services examined by independent inspection or audit agencies.
2. By publishing a Race Equality Scheme, the authority is accountable for its proposals for

meeting the duty. This is also an opportunity for the authority to explain the values, principles and standards that guide its approach to race equality.

The scheme should show how the authority plans to meet its statutory duties under section 71(1) of the Act and, in particular, sections 2(2) and (3) of the Race Relations Act (Statutory Duties) Order 2001, which say the following.

2 (2) A Race Equality Scheme shall state, in particular –

(a) those of its functions and policies, or proposed policies, which that person has assessed as relevant to its performance of the duty imposed by section 71(1) of the Race Relations Act; and

(b) that person's arrangements for –

(i) assessing and consulting on the likely impact of its proposed policies on the promotion of race equality;

(ii) monitoring its policies for any adverse impact on the promotion of race equality;

(iii) publishing the results of such assessments and consultation as are mentioned in sub-paragraph (i) and of such monitoring as is mentioned in sub-paragraph (ii);

(iv) ensuring public access to information and services which it provides; and

(v) training staff in connection with the duties imposed by section 71(1) of the Race Relations Act and this Order.

(3) Such a person shall, within a period of three years from 31st May 2002, and within each further period of three years, review the assessment referred to in paragraph (2)(a).

3. All public authorities that must publish a Race Equality Scheme also have specific employment duties. These authorities' Race Equality Schemes should include the arrangements they make to meet their employment duties.
4. The Race Equality Scheme can be part of a more general equality strategy or scheme, as long as it can be easily identified as meeting all the statutory requirements for such a scheme.
5. The authority must list, in their Race Equality Scheme, the functions and policies (including their proposed policies) that are relevant to their performance of the general duty to promote race equality. They should review this list at least every three years.
6. The authority must set out, in their Race Equality Scheme, their arrangements for assessing, and consulting on, the likely impact of their proposed policies on the promotion of race equality.
7. The authority is expected to set out its arrangements for:
 - assessing the likely impact of proposed policies, including data collection arrangements;
 - consulting groups who may be affected by the policies.
1. Assessing the possible impact of a proposed policy should help to identify whether that policy might have a different impact on some racial groups, and whether it will contribute to good race relations. The assessment may involve using:
 - relevant past data;
 - relevant research findings;

- population data, including census findings;
 - comparisons with similar policies in other authorities;
 - survey results;
 - ethnic data collected at different stages of a process (for example, when people apply for a service);
 - one-off data-gathering exercises; or
 - specially commissioned research.
1. The authority already consult people in various ways. However, it will raise confidence in its services and improve its policy development if it uses clear consultation methods and explains them to the staff and to the public.

The authority could consult and has consulted people in the following ways.

- consultation meetings;
 - focus groups;
 - reference groups;
 - citizens' juries;
 - public scrutiny; or
 - survey questionnaires.
1. The authority must set out in the Race Equality Scheme the arrangements for monitoring the policies for any adverse impact on the promotion of race equality.
 2. Monitoring will allow the authority to test:
 - how racial groups take part in, or are affected by, our policies (for example, how often and why people use a service, how often they experience enforcement or legal action, how often they make complaints and why, and whether they face disadvantage or find that their needs are not met);
 - whether people from all groups are equally satisfied with the way they are treated;
 - whether services are provided effectively to all communities; and
 - whether services are suitable and designed to meet varied needs (for example, whether they recognise language difficulties, individual cultural needs, or long-standing patterns of discrimination or exclusion).
 1. The authority must set out their arrangements for publishing the results of any assessments, consultations and monitoring they do to identify any adverse impact on race equality.
 2. Arrangements for publishing monitoring results should indicate how often and in what form publication will take place. The arrangements might also take account of how these reports fit in with the authority's other statutory requirements or demands for published data.
 3. The authority must set out their arrangements for making sure that the public have access to information and services they provide.

4. The authority must set out their arrangements for training their staff in connection with the general duty to promote race equality, and any specific duties.
5. Staff-training arrangements under this duty must aim to ensure that staff responsible for meeting the general and specific duties are aware of these – and have the necessary skills to carry them out. All staff should work in a non-discriminatory way and this may involve some training on race issues. However, this specific duty is concerned with meeting the training needs of those staff responsible for managing and delivering the public authority's race equality strategy as a whole.

Staff training will therefore need to focus on what the authority needs to do to meet the duties laid down in the Race Relations Act and any specific duties.

1. Specific Duties : Employment

1. The specific duty on employment applies to most of the public authorities bound by the general duty. Schools and further education and higher education institutions are not bound by the employment duty, as they have separate employment responsibilities. A few, mainly advisory, agencies are also not bound by the employment duty.
2. Sections 5 (1) (2) and (3) of the Race Relations Act (Statutory Duties) Order

2001, state the following:

5 (1) A person to which this article applies shall,

(a) before 31st May 2002, have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (2); and

(b) fulfil those duties in accordance with such arrangements.

(2) It shall be the duty of such a person to monitor, by reference to the racial groups to which they belong,

(a) the numbers of –

(i) staff in post, and

(ii) applicants for employment, training and promotion, from each such group, and

(b) where that person has 150 or more full-time staff, the numbers of staff from each such group who

(i) receive training;

(ii) benefit or suffer detriment as a result of its performance assessment procedures;

(iii) are involved in grievance procedures;

(iv) are the subject of disciplinary procedures or

(v) cease employment with that person.

(3) Such a person shall publish annually the results of its monitoring under paragraph (2).

3. The specific duties on employment are meant to provide a framework for measuring the

progress of equality of opportunity in public sector employment.

The specific duties are also meant to provide monitoring information to guide initiatives that could lead to a more representative public sector workforce; for example setting recruitment targets for under-represented racial groups, or targeting management development courses at racial groups that are under-represented at certain levels. This duty will help public authorities to meet their general duty to promote race equality in all areas of their work.

2. The Equality Standard for Local Government

1. The Equality Standard for local government is a framework to allow the authority to set up a way of working which will make mainstreaming equalities into service delivery and employment an issue for all aspects of its work. The standard has been created following partnership working between the Commission for Racial Equality, the Disability Rights Commission, the Equal Opportunities Commission and the Employers' Organisation for local government.
2. The Equality Standard is set out over five levels of achievement:
 - Level 1: commitment to a Comprehensive Equality Policy (CEP);
 - Level 2: assessment and consultation;
 - Level 3: setting equality objectives and targets;
 - Level 4: information systems and monitoring against targets;
 - Level 5: achieving and reviewing outcomes.

Attached at Appendix A is a summary showing the breakdown of the various levels and headings as to what is required before the authority can say it has achieved a level.

1. Attached at Appendix B is a more detailed summary document specific to Level 1 of the standard. You will see from the document that there are four substantive areas to the standard which are common to all levels as follows:
 - leadership and corporate commitment;
 - consultation and community development and scrutiny;
 - service delivery and customer care;
 - employment and training.

1. Proposals for Producing the Race Equality Scheme & Implementing the Equality Standard for Local Government

1. With the Race Equality Scheme needing to be published by the 31st May 2002 the timetable is fairly tight with the draft needing to be prepared by the 25th March 2002 to allow for consultation and The Executive's approval.
2. It is proposed that a working group is set up immediately with the relevant Executive portfolio holder and officers who are able to represent and be responsible for the standard areas of the Equality Standard as listed in 6.3 above. The responsibility for overseeing their respective area would continue throughout the implementation and compliance to the Equality Standard.
3. The group would be responsible for:
 - establishing a timetable for the production of the Race Equality Scheme;
 - assessing what actions will be required to ensure compliance with the statutory requirements under the Race Relations Regulations;
 - considering the functions and policies it intends to monitor under the scheme;
 - assessing the impact of the scheme on the various services and how the scheme will be publicised;
 - agreeing the contents of a survey and to which levels of service it should be issued to allow a baseline position to be established for the authority in line with the Equality Standard levels;

1. Target setting for the success of the implementation would involve the authority setting the level it wished to progress to each year and publishing this in line with BV Indicator 2. (BV indicator 2 asks for the level of compliance to which the authority conforms to the Equality Standard).

T. Bramley

Director of Housing

APPENDIX A

the equality standard at a glance

Level 1: Commitment to a comprehensive equality policy

To achieve Level 1 of the Standard an authority must have adopted a comprehensive equality policy that commits it to achieving equality in race, gender and disability through:

- improving equality practice at both corporate and departmental level
- earmarking specific resources for improving equality practice
- equality action planning and equality target setting within all departments and service areas
- systematic consultation
- a fair employment and equal pay policy
- an impact and needs/requirements assessment
- progress monitoring
- audit and scrutiny

Level 2: Assessment and consultation

To achieve Level 2 of the Standard an authority will need to demonstrate:

- that it has engaged in an impact and needs/requirements assessment
- that it has engaged in consultation with designated community, staff and stakeholder groups
- that it has engaged in the development of information and monitoring systems
- that it has engaged in an equality action planning process for employment, pay and service delivery
- that it is developing a system of self-assessment, scrutiny and audit

Level 3: Setting equality objectives and targets

To achieve Level 3 of the Standard an authority will have to demonstrate:

- that it has completed a full and systematic consultation process with designated community, staff and stakeholder groups

- that it has set equality objectives for employment, pay and service delivery based on impact and needs/requirements assessment and consultation
- that equality objectives have been translated into action plans with specific targets
- that it is developing information and monitoring systems that allow it to assess progress in achieving targets
- that action on achieving targets is started

Level 4: Information systems and monitoring against targets

To achieve Level 4 of the Standard an authority will have to demonstrate that:

- it has developed information and monitoring systems that allow it to assess progress in achieving targets
- it is measuring progress against targets and effectively using its information and monitoring systems
- monitoring reports are being produced at specific intervals and circulated to designated consultation and scrutiny groups
- monitoring systems are providing useful information about progress towards specific targets

Level 5: Achieving and reviewing outcomes

To achieve Level 5 of the Standard an authority will have to demonstrate that it has made considerable progress in achieving equal employment and service provision with regard to race, gender and disability. It will need to show that:

- it has achieved significant progress towards the targets it set at Level 3.
- it has reviewed and revised targets, monitoring and consultation systems with designated community, staff and stakeholder groups
- it has initiated a new round of action planning and target setting
- through its achievements it can be seen as an example of good practice for other local authorities and agencies.

the equality standard

how it works -----

Continuous Improvement through Equality Management

APPENDIX B

Level 1: Commitment to a comprehensive equality policy

To achieve Level 1 of the Standard an authority must have adopted a comprehensive equality policy that commits it to achieving equality in race, gender and disability through:

- improving equality practice at both corporate and departmental level
- earmarking specific resources for improving equality practice
- equality action planning and equality target setting within all departments and service areas
- systematic consultation
- a fair employment and equal pay policy
- an impact and needs/requirements assessment
- progress monitoring
- audit and scrutiny

These general commitments translate into action in the four substantive areas of the Standard:

Leadership and corporate commitment

- formulate and adopt a comprehensive equality policy for the authority covering race, gender and disability;
- ensure that the written policies are in line with current legislation (Race Relations Act and Race Relations (Amendment) Act, Sex Discrimination Act, Equal Pay act, Disability Discrimination Act) and Codes of Practice issued by the three equality Commissions;
- make a corporate commitment to developing a Corporate Equality Plan (CEP) indicating how equality policy will be implemented. The CEP should incorporate or be consistent with the authority's statutory Race Equality Scheme;
- make a corporate commitment to carrying out a process of equality impact and needs/requirements assessment including those assessments of organisational and individual requirements required for compliance with the DDA;
- make a corporate commitment to a fair employment and equal pay policy;
- make a corporate commitment to earmark specific resources for improving equality practice;

Consultation and community development and scrutiny

- corporate commitment to consult with designated community, staff and stakeholder groups on all aspects of equality policy;
- each department and service area to make a commitment to contribute to the consultation and scrutiny section of the CEP;
- make a corporate commitment to equality self-assessment, scrutiny and audit;
- each department and service area to commit to engage in consultation with designated community, staff and stakeholder groups in service delivery;
- make a corporate commitment to consult departments and service areas on equality objectives;
- each department and service area to commit to processes on equality self-assessment, scrutiny and audit on its service delivery;
- incorporate equality policy as a key theme within the 'Community Strategy' drawn up by the local authority and its partners;
- make a commitment to establish mechanisms for responding to discrimination and harassment on the grounds of race, disability and gender.

Service delivery and customer care

- departmental and service area commitment to a comprehensive equality policy appropriate to its service delivery;
- department and service area commitment to implementing the equality impact 'needs/requirements' assessment for its service delivery including those assessments of organisational and individual requirements required for compliance with the DDA;
- departmental and service area commitment to developing equal access service plan element of CEP, and to set targets within each department and service area as part of their business plans;
- department and service area commitment to equality action planning and equality target setting within all departments and service areas;
- department and service area commitment to allocate specific resources for improving equality practice.

Employment and training

- adopt recruitment procedures which use non-discriminatory practices;
- commitment to an employment equality assessment of the local labour market area, workforce profiling and equal pay review;
- commitment to establish a fair employment and equal pay policy;
- commitment to establish an equal employment section of the CEP incorporating the employment related issues from the Race Equality Scheme and including those assessments of organisational and individual requirements required for compliance with DDA;
- commitment to adopt procedures to ensure that publicity for vacancies does not unfairly restrict the range of applicants;
- commitment to produce a standard range of application forms and job descriptions that are clear and explicit;
- commitment to review personnel information system for monitoring suitability including underpinning the Council's statutory ethnic monitoring duties;
- commitment to make procedures consistent with Employment Codes of Practice;
- commitment to develop a programme of staff training in equality issues