

The duty to promote race equality

# **A GUIDE FOR PUBLIC AUTHORITIES**

(Non-statutory)

COMMISSION FOR  
RACIAL EQUALITY



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# 1

## Introduction

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 (and referred to in this guide as ‘the Act’) gives you a statutory general duty to promote race equality. Set out in section 71(1) of the Act, the duty applies to all the public authorities listed in schedule 1A to the Act (as amended by the Home Secretary’s order). Appendix 1 to our statutory *Code of Practice on the Duty to Promote Race Equality* (the code) gives the final list. The code came into effect on 31 May 2002, following approval by parliament. Many of the listed authorities provide major public services, such as health, education, local government, and policing. Some (for example, broadcasting authorities, or professional organisations such as the Royal College of Surgeons) are bound by the general duty only so far as their public functions are concerned.

Under the Act and the code, the term ‘functions’ means the full range of your duties and powers. When carrying out your functions under the general duty, you must aim to:

- eliminate unlawful racial discrimination;
- promote equal opportunities; and
- promote good relations between people from different racial groups.

The general duty’s aim is to make race equality a central part of the way you work, by putting it at the centre of policy-making, service delivery, regulation and enforcement, and employment practice.

Promoting race equality will improve public services for everyone. You can meet the duty in your own way, taking account of your functions, the areas you cover, and the size and variety of the communities you serve. Many authorities will use, and build on, arrangements and administrative and information systems they already have – such as those for developing and monitoring policy – to avoid unnecessary work and expense. You should not see the duty as a burden.

To help you to meet the general duty to promote race equality, the Home Secretary has made an order under the Act. This gives you specific duties in the areas of policy-making, service delivery, and employment. These duties apply only to the authorities listed in appendices 2 and 3 to the code. The duties’ aim is to improve performance of the general duty. They are not ends in themselves, but the basic steps you must take to meet the general duty.

Under the specific duties covering policy and service delivery, certain listed public authorities (see appendix 2 to the code) must publish a race equality scheme. If you are one of these authorities, your scheme must include the following.

- It must list the functions and policies (including proposed policies) that you have assessed as being relevant to the general duty to promote race equality.
- It must set out your arrangements to:
  - monitor your policies for any adverse impact (see p 43) on promoting race equality;
  - assess, and consult on, the impact that policies you are proposing to introduce are likely to have on promoting race equality;
  - publish the results of your assessments, consultation, and monitoring;
  - make sure that the public have access to information and services; and
  - train your staff on the general duty and the specific duties.

Under the specific duty for employers, if you are one of the public authorities listed in appendix 3 of the code, you must monitor staff in post and applicants for jobs, promotion, and training, by their racial group. If you have more than 150 full-time staff, you must also monitor, by racial group, the number of staff who:

- receive training;
- benefit or suffer from performance appraisals;
- are involved in grievances;
- are subjected to disciplinary action; and
- end their service with your authority (for whatever reason).

If you are bound by the employment duty, you must publish your ethnic monitoring results every year.

Schools and further and higher education institutions also have specific duties. We cover these in separate guides.

## **Enforcing the duties**

Under the Act, we have the power to enforce the specific duties. If we believe you are not meeting these duties, we can issue a 'compliance notice'. This is a legal document that orders you to meet the specific duties within a certain timescale. You will also have to tell us how you plan to meet the duties and observe the conditions of the notice. If you do not observe any part of the notice, we can apply to the courts for an order to make you do so. If the court issues the order and you still do not observe the notice, you can face legal action for contempt of court.

## Status of this guide

Unlike the code, which can be used in evidence in any legal proceedings under the Act, this guide does not have any legal standing. Although it may be referred to in legal proceedings, the courts do not have to take it into account.

Even so, this guide is an important document, as it is based on the professional judgement of public authorities with wide-ranging practical experience of tackling discrimination and promoting race equality. We recommend that you read this guide together with the code.

This guide contains six chapters. Following this introduction, chapter 2 goes on to explain the general duty. Chapter 3 explains in detail the several parts that make up the specific duty to produce and publish a race equality scheme. Chapter 4 covers the specific duty for employers. Chapters 5 and 6 explain how the duty covers public services and functions that you have contracted out, and work that you do with others, for example through partnerships.

We plan to revise and update this guide regularly, so that it always has the most up-to-date experience and information.

We deal with the important subject of ethnic monitoring in a separate guide.

# 2

## The general duty

The general duty, as set out in section 71(1) of the Act, says you must have ‘due regard to the need’:

- to eliminate unlawful racial discrimination; and
- to promote equality of opportunity and good relations between persons of different racial groups.

In practice, this will mean making sure that the duty is central to the way you carry out any function where race equality is ‘relevant’ (see below, pp 7–8, and 24–30).

### The four main principles of the duty

#### Obligatory

The duty’s aim is to make race equality a central part of any policy or service that is relevant to the duty. Promoting race equality is not something you can choose to do or not do. This means you cannot claim that you do not have the resources to meet your responsibilities. The best approach is to build these responsibilities into the work you already do, and to adapt your plans and priorities.

#### Relevant

You need to consider all your functions and decide whether they are relevant to race equality. ‘Relevant’ means ‘having implications for’ (or affecting) race equality. While some purely technical functions (such as managing property) may not be relevant, race equality will always be relevant when delivering services, and in employment.

#### Proportionate

The weight you give a function should be in proportion to its relevance to promoting race equality. In practice, you will find that you give the highest priority to those of your functions and policies that have the greatest potential to affect different racial groups in different ways.

#### Complementary

The three parts of the general duty – eliminating unlawful racial discrimination, promoting equal opportunities, and promoting good relations between people from different racial groups – complement each other. Sometimes they may overlap, but they are three separate and distinct parts of the duty. You should try to find ways of meeting them all.

The three parts of the general duty – eliminating unlawful racial discrimination, promoting equal opportunities, and promoting good relations between people from different racial groups – support each other, and could overlap. However, it is important to remember that the three parts are separate and distinct, and that achieving one of them may not mean you have achieved the others. For example, you may succeed in improving equal opportunities when you introduce a new equal opportunities policy. However, you could also create resentment and damage race relations if you do not make sure your staff understand how the policy benefits everyone (whatever their racial group). It is equally important not to avoid taking action to meet one part of the duty (for example, to promote equal opportunities), because you are concerned about possible negative effects on another (say good relations). You should consider, and find ways of dealing with, all three parts of the general duty.

As mentioned earlier, under the Act and the code:

- ‘functions’ means the full range of your duties and powers; and
- ‘policies’ refers to your formal and informal decisions on how you carry out your duties and use your powers.

Throughout the guide, the terms ‘the general duty’ or ‘the duty’ are used to mean the statutory general duty to promote race equality.

## What do you need to do?

### Policy and service delivery

To satisfy yourself that you are meeting all three parts of the general duty, we suggest you follow the four stages described below.

#### **1. Identify your functions and decide which of them are relevant to race equality.**

You can do this by making a list of all your statutory powers and duties or, if you prefer, a list of all the functions covered by your authority, and related policies. You will find that functions that involve, or affect, the public, as well as functions that you carry out as an employer, are most likely to be relevant to race equality. You should ask which functions could result in unlawful racial discrimination, unequal opportunities or poor race relations.

#### **2. Prioritise these functions.**

The priority you give to each function will depend on how relevant it is to promoting race equality. It will also depend on how much you have already done to promote race equality in carrying out a function. The best way to approach this is by collecting ethnic data about the people affected by each relevant function, or the policies you have introduced to carry it out. This would involve the following steps.

## The general duty

- Identify, by racial group, those who use, or might use, the services or facilities you provide, and ask whether any of them have particular needs or priorities.
- Consider whether the function or policy affects (or could affect) relations between people from different racial groups.
- List your functions in order of their importance, or likely importance, for promoting race equality.

### 3. Assess all relevant functions and policies for their effects on race equality.

- Starting with the most important functions for promoting race equality, draw up a statement of your aims and objectives for each function, and for the policies you have developed to carry it out.
- Make a list of the groups who are meant to benefit from each function – for example, under fives, unemployed people, homeless people, or people who receive fuel payments – together with any information you already have about their racial group.
- Check whether the policies you have adopted to carry out a function affect all racial groups equally. Look for any significant differences between the information available on the different racial groups in the population you serve and the information you hold on the people served by each function and its various policies. For example, changes in police patrol timetables might suit most people in a district, but leave a particularly vulnerable racial group feeling unprotected.
- Ask whether the policies you use to carry out a function, or people's views on those policies, affect relations between people from different racial groups. For example, if you decide to introduce a regeneration scheme in an area with a large Bangladeshi population, and you do not let everyone in the area know about your plans and purposes, this could lead to resentment among other communities and damage relations between them.
- Make sure you have explained your policies to everyone who might be affected by them, even indirectly. Just as important, make sure people know you are working in the best interests of everyone in the community.
- Examine your functions and policies thoroughly and check that your assessments are correct. For example, you could do this by:
  - going through recent surveys or research which you (or other authorities) might have carried out;
  - checking past complaints and cases; or
  - consulting people directly, through local meetings, focus groups or interviews.
- Draw up a list of the possible reasons for any differences you find in the way your functions and policies affect different groups. These could range from not having enough information about a service in certain languages to discriminatory treatment (whether this was intended or not).



- Set up ethnic monitoring systems – if you don't have these already – so that you can carry out regular checks on the effects your policies, and any changes you make to them, have on different racial groups.

#### **4. Consider and make changes to your policies, if necessary, to meet the general duty.**

- If your assessment shows that a policy is having an adverse impact on some racial groups (see p 43), you should ask if this could amount to unlawful racial discrimination (see the appendix). If it could, you should consider and make changes to the policy as soon as possible.
- If you find differences in impact between racial groups, but no immediate evidence of unlawful racial discrimination, you should ask if the policy is acting as a barrier to opportunities for some racial groups, or if it is harming relations between different racial groups.
- Ask if you can avoid any adverse impact. If not, can you justify it in terms of the policy's wider aims? If not, you should consider other policies that could be just as effective, but without having an adverse impact on some racial groups, and without risking damage to race relations.
- If you can justify the policy, you should ask whether you could limit its adverse impact on some racial groups, and any potential it might have for damaging race relations, by taking certain steps, such as positive action (see the appendix). You should also consider explaining, clearly and fully, how the policy will benefit everyone in the community.
- Make sure you prepare well for any changes you are planning to make to your policies or procedures. For example, you could do this by informing and consulting everyone who might be affected by them, and by taking account of their concerns.
- Introduce the changes you have planned, backed by training, if necessary. Make sure that everyone involved in the policy knows and understands what you have done, and is able to put the policy into practice.

## Employment

Employment will be a relevant function for all the public authorities bound by the general duty. If you are one of the public authorities listed in appendix 3 to the code, you also have a specific duty as an employer. The steps we list below will help you to meet both the general duty and the specific duty, if it applies to you.

- Carry out an audit of all your employees, by racial group. If you employ more than 150 people, your audit should include employees who receive training, benefit or suffer detriment from performance appraisals, are involved in grievances, have disciplinary action taken against them, and end employment with your authority (whether as a result of dismissal or some other reason). You have a specific duty to

carry out these audits. We suggest that you use this opportunity also to collect other information – for example on grade, type of contract, pay and other benefits, length of service, sex, age, and disability. You can then carry out closer examinations of your policies, when necessary.

- Compare the information on racial group with information on the population from which you normally recruit. For example, you might cast your net more widely to recruit a highly specialised computer programmer than for a data entry clerk. Check if there are any significant differences between racial groups.
- Check if there are any differences in applicants' success rates, depending on their racial group. We advise you to monitor all stages of the recruitment process, and applicants from inside your authority as well as outside.
- If there are differences in applicants' success rates, you should ask whether your policies and procedures for recruitment and selection – and the way you use them – improve or reduce some people's chances, depending on their racial group. If you find any barriers to equal opportunities, you need to find ways of removing them as soon as possible.
- Consider changes to any policy or practice that puts employees or job applicants from some racial groups at a disadvantage, and take action, as needed, to tackle this disadvantage.
- Consider using positive action (see the appendix) if people from some racial groups are under-represented in a particular area of work.
- Review your personnel policies and procedures regularly – especially your policies on training, appraisal, grievance, and discipline. Then use the information from your monitoring to make sure the policies do not have an adverse impact on

### THE WORLD IN A PARISH

A rural primary school and the local parish council in an area with a very small ethnic minority population decided to widen their children's horizons. They began by making contact with an inner-city school in London with a large number of Caribbean pupils, and with the local education authority. Their first achievement was to win funding for an internet-based project to encourage children from both schools to talk to each other. The next stage saw the twinning project extended to a school in Trinidad, and, before long, the children were having long-distance, three-way conversations. Recently, this developed into exchange visits, with children, teachers and politicians visiting London and Trinidad. At present, all three schools are working on projects to explore the history of the connections between the three places, which go back to the mid-1500s.

### **BUILDING BRIDGES FOR NEW ASYLUM SEEKERS**

A large number of asylum seekers were due to move to a town in the north of England, as part of the government's national dispersal scheme. A group of public authorities (including NHS organisations, local authorities, the police, schools, and a college of further education) got together with the local council for voluntary service to prepare for the asylum seekers' arrival.

The group produced two booklets: one for local residents, and the other – a welcome pack – for the asylum seekers. The booklet for local residents explained why the asylum seekers were in Britain and why they were coming to their town. It outlined the asylum process and explained how asylum seekers' applications were dealt with and what help they received. It also gave basic information about the asylum seekers' cultural and religious backgrounds. The welcome pack for the asylum seekers gave facts and figures about the town, about the different ethnic groups who lived there, and basic information on local services and facilities.

The booklets were very well received. Both local residents and asylum seekers said the booklets had helped to reduce their fears and concerns, and to understand the situation better. The public authorities in the group also ran a wider induction programme for the asylum seekers.

Despite the group's efforts, racist incidents did go up initially. However, having worked together, the agencies found it easier to tackle the incidents jointly, and to pool their resources and ideas to reach different sections of the community.

employees from some racial groups. Make sure everyone knows the policies, and why you have introduced them, so that no misunderstandings arise that could damage relations between staff from different racial groups.

- Make sure all your staff know about, and understand, any changes you make to your employment policies and procedures. Make sure, too, that they have the skills and knowledge they need to put these into practice.

### **What does 'good race relations' mean?**

Relations between people from different racial groups can be complex. They vary from one situation to another and from one region or area to another. However, sensitively approached, people from all racial groups can come together to form a strong, mutually supportive community. 'Good race relations' is shorthand for communities that respect their differences and, secure in the knowledge that they have equal rights and opportunities, pool their talents and energies to achieve common goals. Public authorities are key players and their leadership, combined with respect for the people they serve, is vital to encourage racial and social harmony.

## How can you help to achieve good race relations?

Public authorities have different roles and responsibilities and they work in different ways to promote good race relations. The general duty and the specific duties provide the basis for a consistent approach to a common goal. The key elements of this approach are:

- commitment to tackle unlawful racial discrimination, and to promote equal opportunities and good race relations;
- planning;
- assessment of the effects of your functions and policies on race equality;
- regular dialogue with people from all the communities you serve – and up-to-date information – to explain your plans and policies, and to listen to people’s views and concerns; and
- regular monitoring of the effects your policies and operations have on race equality.

Depending on your functions and responsibilities as a public authority, you should be able to promote good race relations by:

- creating opportunities for people from different communities to meet and openly and honestly discuss issues and concerns;
- addressing all the needs in your community, either through projects specifically designed for particular groups or through wider initiatives that benefit the whole community; and
- making sure that you address your specific duties with the ultimate aim of meeting all three parts of the general duty.

If you put all your plans into practice, you can be confident that you are working within the law and contributing to good race relations in your community.

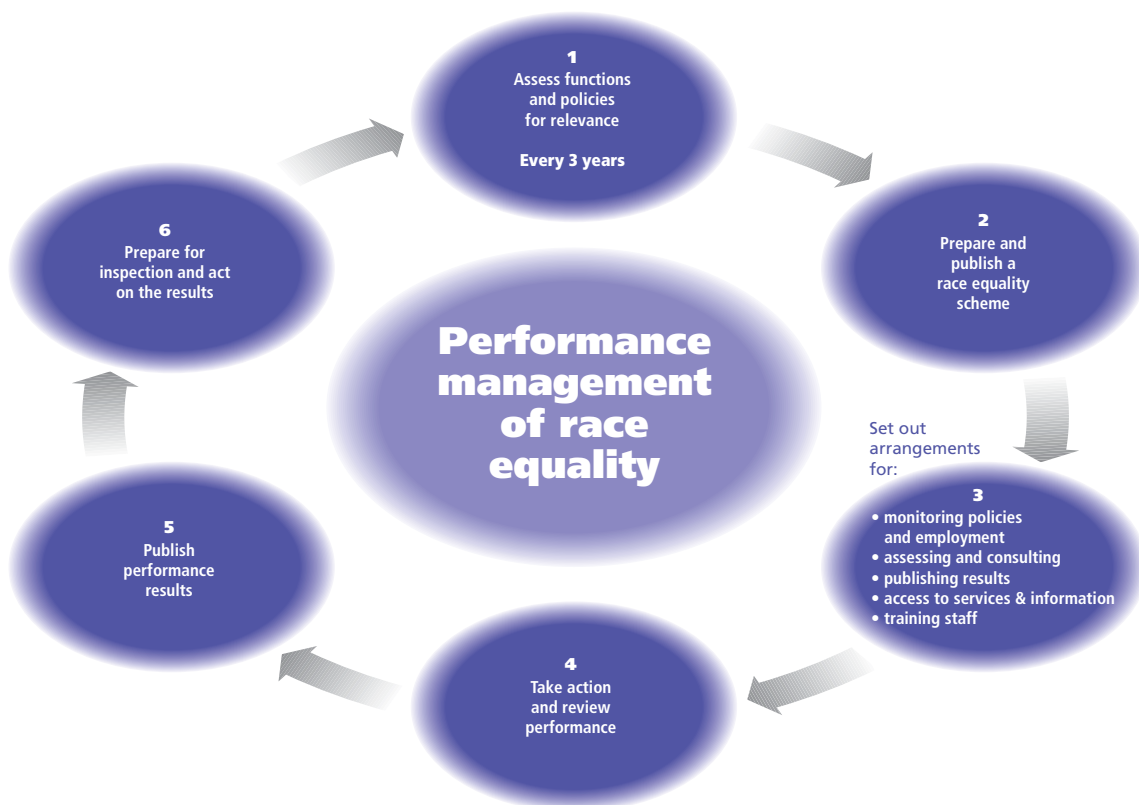
## What role do auditing and inspection agencies have?

Agencies that carry out statutory inspections and audits of public authorities are bound by the general duty. They are responsible for making sure in their inspections and monitoring that you take account of the general duty and any specific duties. In practice, this means that agencies such as OFSTED and the Audit Commission will inspect, and report on, whether you are meeting the general duty and the specific duties.

## How does the general duty relate to the specific duties?

It is important to remember that the specific duties have been introduced to help you to meet the general duty. The specific duties are a means to an end – steps, methods, and arrangements – not ends in themselves. Your ultimate aim must be to meet the general duty.

In practice, this means that each time you tackle a specific duty, you should ask if you are meeting the general duty, and what you should be doing to help you to meet it. For example, one of the specific duties is to make arrangements to monitor your policies for any adverse impact they might have on race equality. Unless you put those arrangements fully into practice, and deal with any adverse impact your policies might be having on some racial groups – if only to reduce it – you may not be meeting the general duty. So, the question to ask yourself when you have completed the monitoring exercise is: 'What should we be doing to eliminate unlawful racial discrimination, to promote equal opportunities, and to promote good race relations?'



# 3

## Specific duties

# Race equality scheme

### The duty

Under this specific duty, set out in the Race Relations Act 1976 (Statutory Duties) Order 2001, the public authorities listed in appendix 2 to the code had to prepare and publish a race equality scheme by 31 May 2002. If you are one of these authorities (referred to in the order as ‘a person’), your scheme should say how you plan to meet the general duty and specific duties. The order setting out this specific duty says:

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).*

### What does this mean?

A race equality scheme is effectively a strategy and a timetabled and realistic action plan. It should summarise your approach to race equality, and your corporate aims. It should also say how you plan to carry out the individual parts of the specific duty – in other words, your arrangements for assessing, consulting, monitoring, informing, publishing, and training. Make sure your race equality scheme says what your arrangements are and how you plan to put them in place over the life of the scheme.

### **GOVERNMENT DEPARTMENT CONSULTS WIDELY ON ITS SCHEME**

A central government department with key responsibilities in criminal justice across 42 areas in England and Wales decided to produce one race equality scheme (RES) for the department as a whole. Local areas will adapt the scheme to suit their circumstances.

The department set up an RES project team, which was made up of policy and personnel staff and led by a chief officer. The team began by asking all the directorates to list their functions and their policies. It then spent a day with representatives from each directorate to assess whether their functions and policies were relevant to race equality and, if so, how relevant they were. The team used this information to draft a race equality scheme.

The next step was to consult people about the scheme. The team sent the draft scheme to the trade unions, staff networks, and agencies that the department works with. However, the views it was most interested in were those of people at the receiving end of the department's policies – victims, witnesses and defendants. The team held a small workshop to discuss issues in some depth. Among those who attended were policy and operational staff, ethnic minority groups working on behalf of victims (also known as monitoring projects), NACRO (which represents defendants), a representative from the Society of Black Lawyers, and, most importantly, people who had criticised the department's work on race.

The specific aims of the workshop were: to prioritise policies, get a view on the best way of carrying out impact assessments and informing people of the results; and discuss publication of the RES.

The first draft of the RES, which was a very bureaucratic document, did not go down at all well and the team completely rewrote it. The department is confident that it now has a scheme that is more in tune with what the public want.

Your race equality scheme should cover all your relevant functions, whether you carry them out inside or outside the authority, and bring them together within a single framework.

If you already have a race equality strategy, it should not be too difficult to produce a race equality scheme. However, you will need to thoroughly review your strategy to make sure it covers all parts of the specific duty, and can meet the general duty to promote race equality.

The race equality scheme can be part of your general equality strategy and, in most cases, it will make sense to do this. You may decide to take a similar approach to other equality concerns, such as sex and disability. However, you need to make sure that the race equality sections are distinct and specific.

### **RACE EQUALITY SCHEME INSPIRED BY PATIENTS**

An NHS trust in the Midlands decided that its race equality scheme would focus on patients. As a result, the trust grouped its functions and policies under headings that emphasised patients' relationships with its services. The headings included referrals, assessment, treatment, discharge, and follow-up. The trust also added 'employment' and 'support services', to cover its other main functions.

The trust felt that its approach was both practical and thorough, and that it made sense to its service users.

### **GOVERNMENT DEPARTMENT WANTS ITS SCHEME TO BE EXEMPLARY**

A central government department, which covers a wide range of functions and areas, has decided to develop a general scheme, setting out its principles and practices, and associate schemes for each of its parts. Each associate scheme will be consistent with the general scheme, and will feed into a yearly review process.

The general scheme aims to:

- reflect closely the requirements of the Race Relations Act and our codes of practice;
- be flexible, so that it can meet the needs and priorities of the department and each of its parts;
- build on work already under way to promote race equality, using, as far as possible, systems and processes that are already in place;
- provide a framework for other similar duties that might be introduced in the future;
- serve as a model for other parts of government; and
- recognise that the specific duties introduce only minimum standards, which the department wants to improve on.

Two working groups, which include representatives from the trade unions and the department's network for staff from ethnic minorities, have been set up to take this work forward.

Because the department wants the scheme to be exemplary, and to go beyond the minimum demands of the law, it encourages monitoring by sex as well as ethnic background. It also includes monitoring of complaints, which is not covered by the specific duties. The scheme is very much a living document, and the department welcomes comments.



### **COMBINING BEST VALUE AND RACE EQUALITY**

A local authority decided that it would combine its work on 'best value' with its duty to promote race equality. Best value reviews take place every five years, while race equality schemes should be reviewed at least every three years.

The authority began by setting its best value plan alongside its list of relevant functions. There was considerable overlap, with many of the services flagged up for best value review in year 1 also rated as being highly relevant to race equality. It seemed sensible to do the race equality and best value reviews for these services at the same time, as part of a single, overall review. The authority also saw this as a way of 'mainstreaming' race equality.

The authority then went one step further and decided to merge its race equality scheme (RES) and its best value performance plan (BVPP). The RES is now a separate chapter within the authority's BVPP, and is updated and reported on every year through the performance planning process.

However, full integration of the RES and the BVPP was not possible, as some functions and policies that are very relevant to race equality (such as employment) do not carry as much weight in best value reviews. So, the authority combines best value and race equality reviews wherever possible, but it also does several separate reviews to meet its duty.

The race equality sections should make clear how you plan to meet the duties under the Act. Your commitment to promoting race equality will need to be plain to your staff, to audit or inspection teams (who will need to assess the way you are meeting your duties), and to the general public.

The race equality scheme is a public document that explains how you plan to meet the general duty. However, to meet the duty, you must put the scheme into practice. You will have to answer to the public for delivering the programme you set out in your scheme. The aim of this and other specific duties is to help you to eliminate unlawful racial discrimination, and to promote equal opportunities and good race relations.

### **What is the reason for the scheme?**

The reason for introducing a specific duty to prepare a race equality scheme is to make sure you carry out the general duty to promote race equality in a systematic way. Producing a race equality scheme will help you to consider the effects of all your activities and operations in terms of race equality, and to make the necessary changes to deliver your services effectively in a multi-ethnic society. You will only be able to deal with the problem of institutional racism (as defined in the Stephen Lawrence Inquiry Report) if you put race equality at the centre of your policy-making and service delivery.

### Why is this important?

The government has said that an organisation which is promoting race equality will be recognised by the following.

- It monitors its workforce, and makes sure that people from ethnic minorities are treated fairly.
- It assesses how its policies and programmes could affect ethnic minorities, and deals with any possible adverse impact.
- It monitors the way its policies and programmes are put into practice, to make sure they meet the needs of people from ethnic minorities.
- It has a publicly-stated policy on race equality.

### What should the scheme include?

Your race equality scheme should set out how you plan to meet all your duties: the general duty and the specific duties on policy and service delivery (see p 14). If you also

#### **GOVERNMENT DEPARTMENT SETS LEVELS OF RELEVANCE**

A central government department with a wide variety of customers has found that only some of its functions and policies – those that apply to people as consumers or employees, and those that apply to small firms – are relevant to race equality. To meet its duty, it has classified its work areas into three broad categories – high, moderate, and low or nil – according to their actual or possible effects on race equality. Each category carries a different set of obligations. The department has included support functions, such as internal auditing and providing statistics, as relevant functions, because they help it to meet the duty. The department has confirmed its classifications by consulting various groups, including people from ethnic minorities, and ministers.

A senior manager in each work area is responsible for the duty, and for reporting, once a year, to the departmental board. In areas classified as 'high', the officer has to make sure that every policy, scheme or service has been checked and is meeting the duty.

The department believes this 'devolved' arrangement will allow it to take a strategic approach to meeting the new duties. The managers responsible for the duty in each area can make sure that the weight they give to race equality is in proportion to its relevance to their area. The central unit can then take overall responsibility, and give help where it is needed most.

The department is confident that the arrangement will encourage people in each work area to get involved, and will help to make sure that race equality is genuinely 'mainstreamed'. In other words, the people responsible for policy-making and service delivery will take account of race issues as they make policy and deliver their services.

## Elements of a race equality scheme

- ▶ **Your race equality values, principles and standards**
- ▶ **Your race equality strategic aims**
- ▶ **How you will meet the general duty**
- ▶ **How you will meet the specific duties**
- ▶ **Your action plan and timetable**
- ▶ **How you will review your plan and timetable**
- ▶ **Your race equality targets**
- ▶ **Your race equality performance indicators**
- ▶ **How you will deal with complaints**
- ▶ **How you will consult your staff and the public, including ethnic minority communities, at different stages of the action plan**
- ▶ **How you will tell your staff about your plans and activities**
- ▶ **How you will tell the public about your race equality progress**

have to meet the specific duties for employers (see p 62), we would advise you to include your arrangements for this in your race equality scheme.

We suggest you make the scheme as comprehensive as possible. You will find it more practical to have a single framework, which brings together as far as possible all aspects of your duty to promote race equality. You should consider including:

- the values, principles, and standards that guide your approach to race equality;
- the overall strategic aims you have adopted to promote race equality;
- an action plan and clear timescales;
- your arrangements for meeting the general duty and the specific duties;
- how often you plan to review each part of the scheme, and the scheme as a whole (under the duty you must review the whole scheme at least every three years, and we would advise you to report achievements at least once a year);
- how you plan to deal with complaints about the way you are meeting the duties, or other complaints about race equality;

### **COUNCIL BUILDS DUTY INTO ONGOING RACE EQUALITY WORK**

Following the Stephen Lawrence Inquiry Report, an urban local authority with a small ethnic minority population carried out a thorough review of its work on race equality. This led to a new equal opportunities policy and a three-year action plan (which is reviewed every year). Both the policy and the action plan have separate sections dealing with race issues. The authority's plan includes:

- ethnic monitoring of service delivery, and satisfaction surveys;
- ethnic monitoring of public complaints;
- race equality performance targets for senior managers;
- greater cooperation with ethnic minority voluntary organisations, and various consultation exercises;
- targets for increasing the number of staff from certain racial groups;
- positive action, as part of a management development programme;
- ethnic monitoring of reasons for staff leaving the authority (based partly on what they say during 'exit' interviews with managers); and
- race equality training for staff.

The local authority did not have to do very much to develop a race equality scheme, besides reviewing its functions and policies to decide which were relevant to the duty, making arrangements to assess and consult on the effects of its services and policies on race equality (see pp 35–51), and training staff on the duty (see pp 58–61).

- what else you have done, such as the targets you might have set, say, to reduce under-representation of people from some racial groups among your employees, or to raise satisfaction rates among residents from particular racial groups;
- other standards or measures that apply to your authority, such as the performance measures on race equality under statutory performance systems such as 'best value', or your own performance measures on race equality (for example, in employment, service delivery, and policy development), and how those measures relate to the scheme;
- how the scheme relates to your other policies and strategies;
- how you will consult the general public and, particularly, what you will do to make sure that people from ethnic minorities are involved at all stages; and
- how you plan to make sure that all your staff know about the scheme and understand what it means and involves.

### **COUNCIL MAKES RACE EQUALITY PART OF EQUALITY STRATEGY**

A local council carried out a thorough review of its approach to race equality, based on wide-ranging consultation with local communities, politicians, management, and staff. The council accepted the review's recommendations in full.

During the two years since the review, the council has:

- developed an equal opportunities strategy and an annual action plan, with a separate section on race equality that meets the general duty and the specific duty to produce a race equality scheme;
- reviewed and extended the range of its monitoring systems;
- set performance measures on equality for its main services, and reports regularly on progress towards meeting them;
- set new targets for its workforce, and added new areas for monitoring (such as staff appraisals, complaints, training, and disciplinary action);
- set up a new ethnic minorities committee;
- encouraged people from ethnic minorities to get involved in groups such as the local strategic partnership and the crime and disorder partnership; and
- started working more systematically to improve achievement and reduce exclusion among pupils from ethnic minorities, as part of a wider programme to improve its education services.

### **FIRE AUTHORITY BUILDS SCHEME INTO REVISED STRATEGY**

A fire authority recently completed a full-scale review of its three year old equal opportunities strategy and action plan. The review looked at the authority's achievements against its original aims and yearly targets. It also took into account more recent developments, including:

- the Stephen Lawrence Inquiry Report;
- the Race Relations (Amendment) Act 2000;
- feedback from a staff survey;
- an audit of staff's ethnic backgrounds; and
- an analysis of tribunal findings.

The authority has drafted a new, three year strategy and an action plan, which includes its race equality scheme. As the authority wanted as much agreement as possible for the strategy, particularly for its targets, it consulted staff and others on all its proposals.

### FROM STRATEGY TO SCHEME

Following discussions with patients, staff, and other groups, an NHS trust drew up a race equality strategy and action plan for 2000 – 2004. The strategy has six sections. Four of them deal with service delivery, one with partnership work, and one with employment. Each section begins by describing the current situation in each area. The strategy then goes on to list current and planned activities, together with a series of targets. Patients – including those from ethnic minorities – and their representatives, and others will be involved in monitoring and reviewing progress.

The trust has reviewed and revised its race equality strategy and action plan, and packaged them to meet the terms of a race equality scheme.

### Should the scheme include outcomes?

In drawing up your race equality scheme, you will certainly find it useful to think about, and include, what you want to achieve through the scheme. It is important to remember that the race equality scheme is not just a plan for setting up processes. The aim of ethnic monitoring is not to collect ethnic data for its own sake, any more than the aim of consultation is to collect people's views. The race equality scheme is about making race equality a reality, and using monitoring, assessment, and consultation to achieve this. The general outcomes of putting your race equality scheme into practice are likely to include:

- a more representative workforce at all levels in your authority;
- no significant differences in satisfaction among your staff, based on their racial group;
- no significant differences in public confidence in your authority, based on people's racial groups;
- no significant differences in service outcomes between racial groups; and
- no significant differences in people's satisfaction with services, based on their racial groups.

You should see your race equality scheme as a framework for steady improvement in race equality. You are unlikely to fully achieve all the outcomes you set for yourself in your first scheme. However, you should be able to see improvements in race equality over time, as long as you make every effort to put your schemes into practice.

### Does the scheme need special procedures?

You could use the systems and procedures you already have to draw up and monitor your race equality scheme. The scheme's success will depend more on your commitment to making it work, than on how you set it up.

However, you may want to give overall responsibility for the day-to-day management of the scheme to an experienced, senior member of staff, reporting directly to senior management. If you do this, make sure the officer has the time and resources to take on this role.

It may also be useful to set up a properly-equipped 'steering group', to oversee the process, and to help coordinate different activities. Ideally, the group would be made up of the managers responsible for the areas covered by the specific duties. The group would need to meet regularly, and could be chaired by the senior officer responsible for the scheme.

You should make every effort to draw members of the steering group from employees from different racial groups and to build their perspectives and ideas into the way you develop and monitor the scheme. If you have any ethnic minority staff associations, their involvement will also be useful.

If you work with another authority (whether or not you have to by law), your race equality scheme could have clear links to the other authority's scheme. You could consult each other regularly, to make sure your schemes are compatible and coordinated properly (see chapter 6).

## How should you publish the scheme?

Your race equality scheme is a public document and needs to be available to anyone who wants to see it.

### HOW A COUNCIL KEEPS ITS PUBLIC INFORMED

A local council recently reviewed and published a new equalities policy and action plan. The documents had separate sections on race equality and were available to anyone who asked for them. As well as these documents, the council published a series of handbooks for management and staff. One of these – *Race Equality: your rights and responsibilities* – explained what the council expected staff to do and how they could expect to be treated. At the same time, the council published a leaflet for the public, which explained:

- the aims of its race equality policy;
- what it had already achieved; and
- what it was planning to do.

The leaflet was available in different languages. The council followed this up with a feature on its achievements during the year in a local council magazine (sent to all households in the area), as well as a report in its best value performance plan.

### **PRIMARY CARE TRUST ASSESSES DISEASE, DEATH AND ETHNICITY**

A primary care trust analysed data on disease and death for all illnesses and all racial groups in the local population. The trust used the analysis to pick out certain functions and services for special attention, including health education work with certain racial groups, including Indian, Pakistani, Bangladeshi, and Irish.

Based on this assessment, the trust has given high priority to coronary care, chest and lung conditions, and mental health (particularly depression, schizophrenia and alcohol-related problems). The trust is confident that it now has enough information to decide what priority to give to particular health problems, depending on how they affect people from ethnic minorities.

We suggest you think carefully about the ways in which some people might be prevented from seeing it (for example, if you do not provide it in large print, in languages other than English, or on audio tape), and deal with these.

As mentioned earlier, we recommend that you report on progress at least once a year (for example, through your annual report or newsletters, or on your website), and review and update the whole race equality scheme at least every three years.

## **FUNCTIONS AND POLICIES**

### **The duty**

The public authorities listed in appendix 2 to the code must set out, in their race equality scheme, which of their functions and current and proposed policies are relevant to the general duty to promote race equality. They must also review these functions and policies at least every three years, from 31 May 2002 (see p 14).

### **What is meant by ‘functions’ and ‘policies’?**

In the context of the Act – and the general duty it gives public authorities to promote race equality – the term ‘functions’ means your duties and powers. It covers internal and external functions, including service delivery.

Similarly, the term ‘policies’ has a wide meaning. Ideally, your policies should be clearly and plainly written. However, in reality, some policies are built into everyday procedures and customs. As a result, not all policy has been open to inspection and review.

You should take ‘policies’ to mean the full range of formal and informal decisions you make in carrying out your duties, and all the ways in which you use your powers – or



decide not to. You should therefore include in any assessment of a policy an examination of long-standing 'custom and practice' and management decisions, as well as your formal written policy.

It is important to remember that, in this context, service delivery means the full range of external functions, including regulation and enforcement.

### **What does 'relevant' mean?**

In terms of the Act, 'relevant' means 'having implications for' (or affecting) the general duty. A function or a policy will be relevant if it has, or could have, implications of any kind for promoting race equality.

### **What is the reason for this duty?**

Section 71(1) of the Act says that public authorities must have 'due regard' to their duty to promote race equality. As explained in chapter 2, this means you are expected to give appropriate weight to promoting race equality when carrying out your functions. In other words, the weight you give to race equality should be in proportion to how relevant that function is to the general duty. To meet this duty, you need to decide whether your functions and policies are relevant to race equality, and, if so, how relevant they are.

### **Why is this important?**

In the past, organisations that did consider race issues usually kept these to one side and dealt with them through specific race equality functions and policies. Meanwhile, the organisation's work continued in what was really a 'culture- and colour-blind' way. Since the Stephen Lawrence Inquiry Report drew attention to the routine discrimination in many institutions (such as the police), organisations have recognised more and more the importance of making race equality part of their everyday work.

The aim of this duty is to tackle 'institutional racism' in public services by 'mainstreaming' race equality, in other words making it part of your general structures and operations. In particular, the duty asks you to recognise how your functions and policies might affect the way you promote race equality.

### **What do you need to do?**

To meet this duty, you will need to:

- list all your functions and policies;
- decide how you will assess if a function or policy is relevant to the general duty;

### **POLICE FORCE MAINSTREAMS RACE EQUALITY**

*Winning the Race: Policing plural communities*, a report by Her Majesty's Inspectorate of Constabulary, recommended that 'the community and race relations implications of policies, procedures, and practices – including the planning of specific operations – should be routinely considered alongside other resource implications.'

Responding to it, a police force in central England has developed a new policy for the force. The policy makes senior managers responsible for taking account of community and race relations factors whenever they make decisions about operations, policies, procedures, and practices, or carry out impact assessments for major investigations or policing operations. The policy sets out a series of questions to help them. These focus on:

- consultation, inside and outside the force, to collect information and help make decisions;
- prejudice, stereotypes, and assumptions;
- the scope for unequal outcomes for particular groups, and how to deal with this;
- people's views of decisions and action, inside and outside the force; and
- the implications of decisions for race equality and other human rights.

The force has produced a policy statement on impact assessments. These have to be carried out in cases of homicide, injuries resulting from police using firearms, and large-scale public disorder. Senior officers can also ask for impact assessments for other types of policing.

Guidance on the policy covers issues such as police responsibility, answering to the community, gathering intelligence, timescales, holding data, and dealing with the media. It also recommends that senior managers should consult racial equality councils and other community groups, to increase community confidence, and to encourage the free flow of information between the police and the community.

Senior managers have to use a specially designed form to record all consultations, the nature of the evidence and their assessment of it, and all decisions and actions they take.

- set up a procedure for regularly (at least every three years) assessing your functions and policies for their relevance to promoting race equality, and putting them in order according to this assessment; and
- set out these arrangements in your race equality scheme, and put them into practice.

As suggested earlier, you should consider reviewing your race equality scheme every year. This would allow you to consider any new functions or policies you introduce during the year. Whatever approach you take, it should be flexible enough to take account of changing priorities.

This part of the race equality scheme is a vital stage towards meeting the general duty. It gives focus to the task of recognising that policies and functions are not 'culture- or colour-blind', and that the reasoning behind rules and decisions can unintentionally affect people from some racial groups. The question you must ask once you have made all the lists and set up the procedures is: 'What should we be doing to eliminate unlawful racial discrimination, and to promote equal opportunities and good race relations?'

## **How will you know if a function or policy is relevant to the general duty?**

The basic question to ask is: 'How does this function or policy affect different racial groups in the community we serve?'

For each function or policy you could also ask the following questions.

- Which parts of the general duty – eliminating unlawful racial discrimination, promoting equal opportunities, and promoting good race relations – are relevant to this function or policy?
- Is there any reason to believe that people from some racial groups are being, or could be, adversely affected by this function or policy? Which racial groups does this function or policy affect?

### **HEALTH AUTHORITY ADDS RACE EQUALITY QUESTIONS TO POLICY REPORTS**

A health authority has created a standard computerised format for all policy reports. This format includes questions under a series of headings, such as finance, human resources, environment, Human Rights Act, and race equality. Under race equality, report writers must answer the following questions:

- Is there any evidence that some racial groups could be adversely affected?
- Is there any public concern, especially from ethnic minorities, about possible discrimination?

The answers to these questions form a written race equality statement, which is included in the final report.

## How should you decide how relevant a function or policy is?

You may find that many of your functions and policies are relevant to race equality and that it is not possible to deal with them all at once. We suggest you consider each function or policy in turn, to decide how significant it is in terms of promoting race equality. For example, a police force may want to give more attention to its policy on stops and searches than its policy on responding to road-traffic accidents, in terms of each policy's likely effect on promoting race equality.

To decide how relevant particular functions and policies are, you could ask two questions.

- How much evidence do we have – none, a little, some, or a lot (for example, from research, consultation, complaints, or ethnic monitoring)?
- Are the public (especially ethnic minority communities) worried that certain functions or policies are discriminatory or racist?

To meet this part of the specific duty, you may need to review all the functions and policies you see as being relevant to race equality. Your overall strategy, as set out in your race equality scheme, should allow for this.

## The assessment grid

The assessment grid on page 29 has been developed for a local authority, to assess how relevant its functions are to the general duty. A similar grid could be used to assess policies. You can easily adapt the grid for your organisation, if you find it useful.

### How to use the grid

For each function (or policy), answer all four sets of questions. The questions in the first two columns will help you to decide whether the function has any relevance to the general duty. The questions in the second two columns will help you to decide how relevant the function is.

### Evaluating your answers

We set out below a rough guide to evaluating your answers.

- **High relevance (Year 1)**
  - The function is relevant to all or most parts of the general duty.
  - There is substantial evidence that some racial groups are (or could be) differently affected by the function.
  - There is substantial public concern about the function.

## ASSESSING FUNCTIONS OR POLICIES

### How relevant are they to the general duty?

Example of a grid for assessing local government functions or policies

	Questions to ask when assessing a function or policy			
	Is it relevant to the general duty?	How relevant is it?		
	Which of the 3 parts does it apply to (if any): 1 Eliminating discrimination? 2 Promoting equal opportunities? 3 Promoting good race relations?	Is there evidence or reason to believe that some racial groups could be differently affected?  Which racial groups are affected?	How much evidence do you have? 1 None or a little 2 Some 3 Substantial	Is there any public concern that the function or policy is being carried out in a discriminatory way? 1 None or a little 2 Some 3 Substantial
<b>Social services</b>				
Children and families				
Youth offending				
Mental health				
Older people				
Disabilities				
<b>Education</b>				
School achievement				
Pupils' and parents' services				
Early years				
Libraries				
Leisure				
<b>Environmental</b>				
Environmental health				
Planning and waste management				
Street services				
Highways				
<b>Housing</b>				
Homelessness				
Housing management				
Housing strategy				
<b>Chief executive</b>				
Policy, equalities and performance				
Partnerships and regeneration				
Democratic services				
<b>Corporate services</b>				
Personnel				
Finance				
IT				
Property				

- **Medium relevance (Year 2)**

- The function is relevant to most parts of the general duty.
- There is some evidence that some racial groups are (or could be) differently affected.
- There is some public concern about the function.

- **Low relevance (Year 3)**

- You should schedule all other functions for race equality work in the third year. Some functions (for example, property services or highways maintenance in local government) may have very little relevance to the general duty – except in your role as an employer, which will be relevant to all functions. However, you should still reconsider these functions every three years.

## **MONITORING POLICIES**

### **The duty**

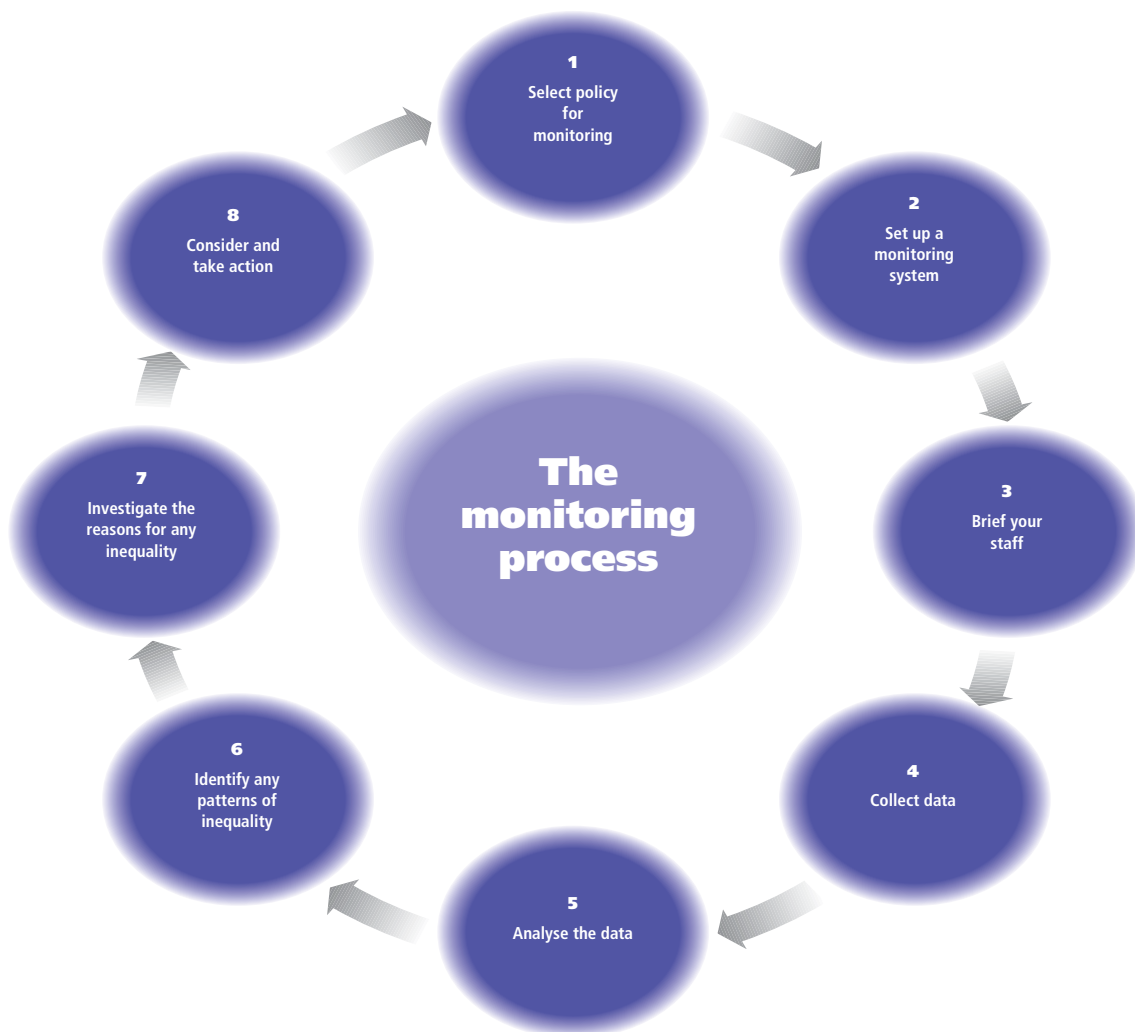
The public authorities listed in appendix 2 to the code must set out, in their race equality scheme, their arrangements for monitoring any adverse impact their policies have on promoting race equality (see p 14).

### **What does this mean?**

This duty relates specifically to the policies you have decided are relevant to the general duty. These include the full range of policies on delivering services, and your policies on employment. As well as being covered by a specific duty (which many of you will have to meet), employment will always be a relevant function in terms of meeting the general duty.

#### **NHS TRUST INVESTIGATES PROBLEM BEHIND ETHNIC DATA**

The outpatients department of an NHS trust reviewed the appointments patients did not keep. Analysis of the missed appointments showed that a disproportionately high number of ethnic minorities did not appear on certain days. Further analysis showed that many of these failed appointments were on holy days or festivals (for example during Eid, Greek Easter, Diwali, or on St Patrick's Day). As a result, the outpatients department put a multi-faith and multi-ethnic calendar on its computer system, so that staff in charge of appointments knew when those days fell and could avoid them when making an appointment.



Under the duty, you must set out your arrangements for monitoring the impact of all your relevant policies on race equality. However, to meet the three parts of the general duty – eliminating unlawful racial discrimination, promoting equal opportunities, and promoting good race relations – you will need to put those arrangements into practice, and deal with any adverse impact your policies might be having on some racial groups.

### **What is the reason for monitoring?**

Monitoring can tell you how your policies are affecting different racial groups, and whether they are having an adverse impact on some groups.

Monitoring by racial group can test:

- the under- or over-representation of different racial groups (for example, in reporting problems, using services, or facing enforcement action);

### **RACE EQUALITY PERFORMANCE MEASURES FOR COUNCIL DEPARTMENTS**

A council has a well-established performance management system, based on measures of performance for each business unit. A recent review showed that business units used very few measures of race equality. The council ran a project to:

- introduce a council-wide ethnic monitoring system in employment and service delivery;
- decide which functions would be monitored;
- carry out early monitoring to know where they were starting from; and
- analyse the data and set targets.

The council now has a booklet, listing its race equality performance measures, which cover most of its functions. The time the authority took at the beginning to set up a state-of-the-art, computerised monitoring system was central to the project's success.

- satisfaction with a service, whatever a person's racial group;
- how effectively a service is delivered to different communities; and
- how services are provided (for example, whether they take account of language or cultural needs, or the effects of past discrimination).

### **Why is this important?**

First, monitoring is an important way of measuring the effects of policies in practice. It can tell you if you are operating within the law – the Act forbids racial discrimination in most areas (see the appendix) – and within your own policies on equality.

Second, monitoring is a vital part of any strategy to promote race equality in an organisation. As the Stephen Lawrence Inquiry Report warned, long-standing ways of doing things can discriminate against people from ethnic minorities, despite an organisation's efforts to promote race equality. The actions that discriminate against ethnic minorities are often the result of an organisation's 'collective failure' to work in ways that do not discriminate.

Monitoring will help you to check whether your policies, operations, and organisational culture are discriminating against some racial groups. Without ethnic monitoring data, there is no reliable way of knowing whether discrimination might be taking place, or whether your policies to prevent or tackle it are working. Monitoring can also help you to find out why and how discrimination takes place.



## What do you need to do?

If you do not already monitor your policies to see how they affect different racial groups, this could be one of your first tasks. You will also need to monitor any relevant new policies you introduce.

For each policy, you will need to:

- monitor its effects on different racial groups;
- check whether there are any differences in its impact on different racial groups; and
- assess whether these differences have an adverse impact on some racial groups (see p 43).

If you do find any adverse impact, you will need to investigate the reasons for this and consider whether you should revise your policies and procedures. One of the questions you might ask when you are looking for reasons is whether the policy or procedure has been strictly followed, or whether management has used its discretion to vary it.

It cannot be emphasised too strongly that monitoring is more than just collecting information. Unless you follow up the findings of your monitoring, investigate any adverse impact, and tackle any barriers or failures you find, you may not be meeting the general duty. As we have explained (see p 13) the specific duties are a means to the ultimate aim of meeting the general duty. So, the question you should ask in addressing your specific duties is: 'What should we be doing to eliminate unlawful racial discrimination, to promote equal opportunities, and to promote good race relations?'

We have produced a separate guide to the monitoring duties under the Act – *Ethnic Monitoring: A guide for public authorities* – which explains in more detail what you can do.

## What should you monitor?

Many public authorities already monitor certain aspects of their services, and their employment activities. However, under the Act, most authorities now have a specific duty to make arrangements for monitoring the effects of their policies on promoting race equality. This means you may have to adapt your current monitoring systems to include race as a factor.

## What ethnic data should you collect and analyse?

You will need ethnic data for all the policies you have decided are relevant to promoting race equality. 'Ethnic data' means information about the way policies affect people, depending on their racial group.

### **ARTS BODY TACKLES UNDER-REPRESENTATION**

A large arts funding body realised that one of its major schemes had only made awards to a handful of ethnic minority applicants. Just as worrying was the discovery that there were not many entries from ethnic minority projects. The funding body did two things. First, they re-examined the conditions for entry, to make sure they were not unknowingly discriminating against ethnic minority projects. Second, they employed someone with a lot of experience in arts projects run by people from ethnic minorities to contact potential applicants. The result was a sharp rise in entries, and in awards (eventually totalling millions of pounds).

## **Monitoring people's views and experiences**

The third part of the general duty relates to promoting good race relations. As well as monitoring policies, you may therefore also want to consider monitoring what people from different racial groups think of your policies and services.

This will help to raise your profile and reputation among the communities you serve. It will also increase your understanding of needs and concerns that you might have overlooked or ignored.

## **How should you monitor impact?**

Public authorities have developed various ways of testing the impact of their policies, to make sure they are achieving their aims. Ways you could monitor the impact of your policies and services include:

- keeping records, by racial group, of how and when your services or law enforcement powers are used (for example, breast-screening services, or cautions and arrests);
- satisfaction surveys and perception surveys, with people's replies analysed according to their racial group;
- random or targeted personal interviews;
- data on complaints, analysed by the racial groups of those complaining, and the nature of the complaint; and
- public consultation meetings and structured focus groups.

The methods and resources you use will depend on the size of your authority, and the importance of the policy and its likely effect on the public, including people from ethnic minorities. Most importantly, whatever method you use, you should try to make sure that you reach people who have first-hand experience of your functions and policies. For example, police forces should try to contact the victims of racist attacks and young people who have been stopped and searched in the street.

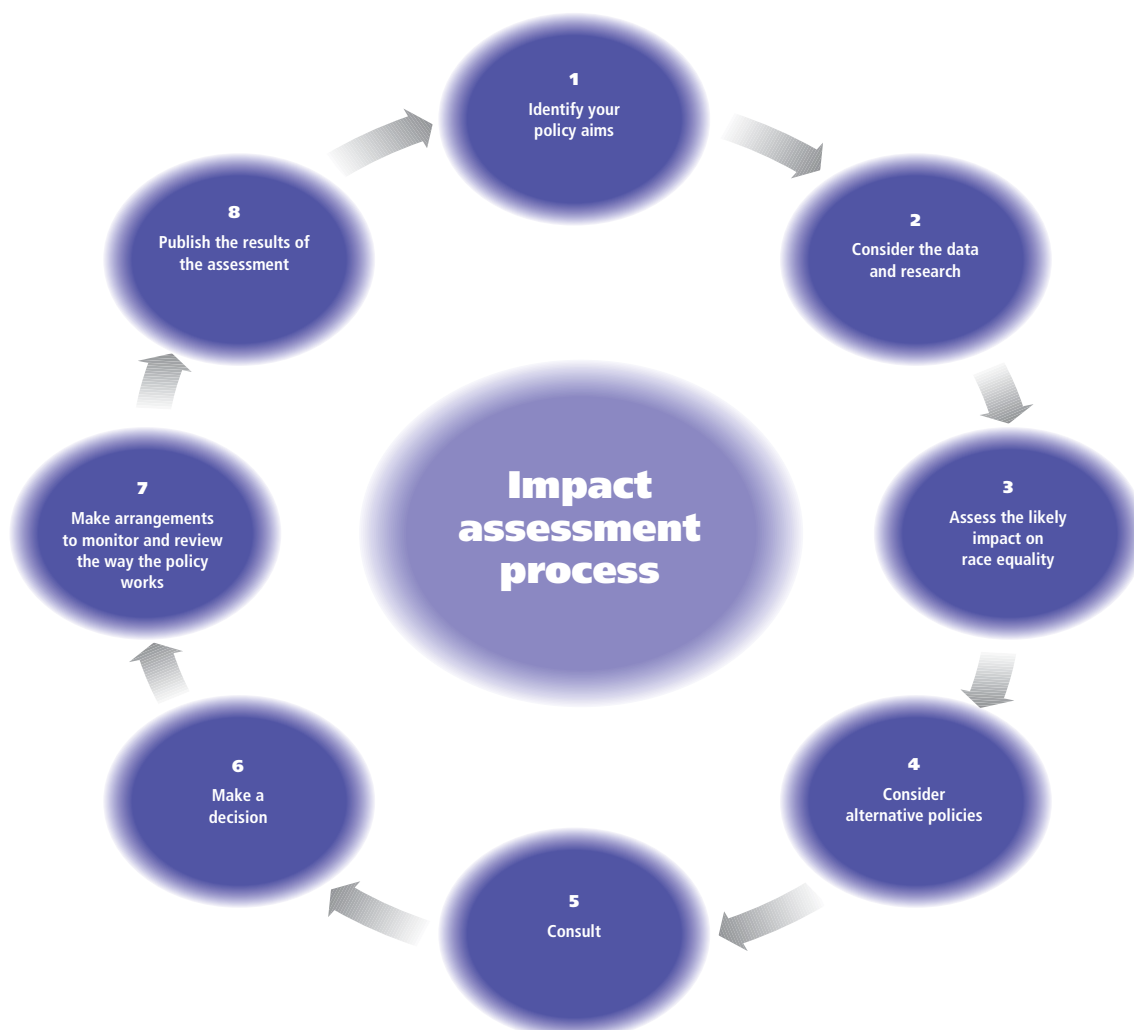
## ASSESSING AND CONSULTING ON PROPOSED POLICIES

### The duty

The public authorities listed in appendix 2 to the code must set out, in their race equality scheme, their arrangements for assessing, and consulting on, the likely impact of their proposed policies on promoting race equality (see p 14).

### What does this mean?

This means you must set out the arrangements you have made to assess the likely impact of policies you are proposing to introduce before you adopt them. You may need to look at how decisions are made in your authority, and make sure that the policies you finally introduce promote equal opportunities and good race relations, and



### GUIDES TO IMPACT ASSESSMENT

The NHS Executive for London has produced *A Short Guide to Health Impact Assessment*. The guide covers race equality as an essential part of the assessment process. It offers a good example of how to mainstream race equality. The Greater London Authority has also produced a health impact assessment 'screening tool'. This offers a series of questions, to identify the possible effects of health policies on ethnic and other groups.

do not lead to unlawful direct or indirect racial discrimination (see the appendix). Under the duty, you also need to arrange to consult people who are likely to be affected by your policy proposals and their implications for promoting race equality. In tackling this specific duty, you should remember the principles of relevance and proportionality (see p 6). Not all the policies you are considering will be relevant to race equality, and some will be much more relevant than others.

### What is the reason for this duty?

Policies are always being adapted or replaced because of new laws and changing environments. This part of your race equality scheme should help you to take account of this in your efforts to meet the general duty. The aim is to build race equality into the policy-making process, and to make that process clear, open, and inclusive.

### Why is this important?

The general duty and the specific duty to draw up and introduce race equality schemes are forward-looking steps, designed to tackle the long term challenge of removing 'institutional racism' from public services. The tasks facing public authorities are always changing. You need to question your policies and, sometimes, the cultural assumptions behind them. Also, policies need to be relevant and to reflect changes in the legal, social, and political environment. Finally, to turn policies into effective and fair public services, constant monitoring and assessment of your policies and services is the best way of meeting your aims and improving performance and quality.

### What do you need to do?

Your first step might be to consider methods and procedures for:

- assessing how your proposed policies are likely to affect people from different racial groups (this could include collecting and analysing relevant ethnic data);
- consulting people who are likely to be affected by your proposed policies; and

- reviewing and revising your proposed policies in the light of your assessment and consultation, if they show adverse impact on some racial groups.

The aim of including arrangements for assessment and consultation in race equality schemes is to equip you to meet the three parts of the general duty. If your assessments and consultation show that any of your proposed policies are likely to have an adverse impact on some of the communities you serve, and you cannot justify this, you must deal with it, either by considering other policies, or by finding ways of reducing the adverse impact of the policies you have proposed.

### How does assessment help?

- It challenges the assumption that policies affect everyone in the same way, by detecting and assessing any adverse impact on a particular group before the policies are introduced.
- It allows you to make sure that different groups are equally served by the policy.

#### **PRIMARY CARE TRUST ANALYSES RACE AND SEX DATA ON DOMESTIC VIOLENCE**

A primary care trust was reviewing domestic violence, where much of its policy had been based on incidents reported to the local police. There appeared to be conflicting evidence on the subject. A voluntary sector report showed high levels of reporting among women from ethnic minorities, while police records showed the opposite. To monitor the situation better, the council ran a series of focus groups with women from ethnic minorities, whom it contacted through voluntary organisations. The groups were run by women from ethnic minorities.

The findings were professionally analysed and written up. They were sent to all the local agencies, including the council, the police force, and the women's drop-in centre. The findings showed that women from ethnic minorities did not report their experiences to the police because they did not trust them. They preferred to discuss their problems with other women in the family, friends, and voluntary organisations for women.

The police acted quickly in response, by:

- recruiting more staff from ethnic minorities;
- increasing their 'outreach' efforts by going out to meet women at various local community centres; and
- joining up with a local women's project to provide better services.

### FROM SCREENING TO FULL ASSESSMENT

A central government department decided to proof all its policies for race equality. It began by screening its policies against the evidence available. The results quickly persuaded the department that it needed full race equality impact assessments of a range of policies. It decided to spread these out over three years and to combine them with assessments of the policies' effects on people's daily lives.

The assessments involve close analysis of available data, new research, and a programme of wide-ranging consultations with the public, and with groups inside and outside the department. The department is also strengthening its baseline data and reviewing its monitoring processes, to make sure it can generate the data it will need to measure the effects of its policies and any changes it makes to them.

## What is the best way of doing this?

One way of approaching this is by carrying out an 'impact assessment'. An impact assessment is a systematic way of finding out whether a policy (or a proposed policy) affects different racial groups differently. Its merits are that it enables you to:

- take account of the needs, circumstances, and experiences of those who are affected by your policies;
- identify actual and potential inequalities in outcomes;
- consider other ways of achieving the aims of your policy;
- increase public confidence in the fairness of your policies; and
- develop better policies generally.

## When should you assess impact?

You could begin as soon as you decide to develop a new policy that is relevant to the general duty. Assessing the impact of a policy on promoting race equality should be part of your normal policy-making process.

## How fully do you need to assess impact?

There are three types of impact assessment.

- An *initial assessment or screening* is normally based on data you already have. It may only produce estimates or signs of unequal impact, but it is useful for developing new policies, or considering changes to existing policies.

- A *partial impact assessment* builds on an initial assessment, outlines risks and benefits, and includes advice from experts and interested groups.
- A *full impact assessment* would include the results of external consultation, a final recommendation, and arrangements for monitoring and evaluating the policy and its impact in practice.

You may not need to carry out a full impact assessment in every case.

### How should you assess impact?

If you decide to carry out a full impact assessment, we would advise you to approach it systematically, for example by following the eight steps listed below.

1. Identifying the aims of your policy and how it will work.
2. Examining the data and research available.
3. Assessing the likely impact on race equality.
4. Considering other ways of achieving the same policy goals.
5. Consulting people who are likely to be affected by your policy.
6. Deciding whether to introduce your policy.
7. Making arrangements to monitor and review your policy and its impact.
8. Publishing the results of the assessment.

#### NHS TRUST TACKLES ADVERSE IMPACT

An NHS trust decided that its approach to assessing how relevant its functions and services were to race equality would be to assume that any function or service that involved caring for patients would be relevant. Two areas in particular – outpatient services, and accident and emergency services – had lower levels of uptake and lower levels of satisfaction among some racial groups. The trust also found that staff from ethnic minorities were less likely to be promoted. To tackle these findings, the trust decided to:

- send information about its outpatient and accident and emergency services to everyone in the community, in various languages and formats (such as large print);
- train staff who had contact with the public on how to treat patients from different cultural backgrounds;
- set targets to tackle under-representation of people from ethnic minorities at senior management levels in the trust; and
- introduce a management development programme.

### 1. Identifying the aims of your policy and how it will work

Good policies have clear, achievable aims, and they are workable. You can ask the following questions of any new policy proposal.

- What is the purpose of the policy?
- Who is affected by it?
- Who is the policy intended to benefit, and how?
- How will we put policy into practice, and who will be responsible for it?
- How does the policy fit into our wider aims?
- How does the policy relate to other authorities' policies in this area?

### 2. Examining the data and research available

The next step is to ask what kind of information you will need to estimate the impact your policy is likely to have on different racial groups, and where you should look for the information. This should also tell you whether you should commission fresh research.

The most likely source of the information you are looking for is other authorities and you might consider working with them at this stage. There is little point in duplicating work others have already done and you may find that they are only too willing to cooperate in projects that will strengthen their databases. Local authorities usually have ethnic data on their populations and may be happy to share the information with other authorities in their area. Health, social services, and education authorities will probably welcome the opportunity to work together to develop new data, because their fields of responsibility overlap. You might consider sharing information that is already in the public domain with the people who are likely to be affected by your policy. They will then be able to understand better the basis for your decisions.

#### What sort of data will you need?

You may need both quantitative and qualitative data. You can get this from existing databases and research, or collect fresh data. What is important is that the data is relevant and reliable. You could consider the following steps to get the data you need.

- Collect and analyse as much relevant ethnic data as you can find from existing databases and analyse it. You can use this data as a benchmark for assessing policies and services.
- Build on this data with information from research studies or surveys. This should give you a better understanding of how your policy proposals are likely to affect different racial groups.
- Identify any gaps in the information.



- Identify other sources of information, or partners who might work with you to develop new data.
- Commission fresh data.

### **What ethnic categories should you use?**

We recommend that you use the same ethnic categories as were used in the 2001 census, or categories that are compatible with the census categories. See our guide, *Ethnic Monitoring: A guide for public authorities*, for more information.

You might also consider collecting information about other factors such as age, religious belief, and sex. This can be invaluable when you want to look at the effects of your policies in greater detail. For example, a policy that does not have an adverse impact on a racial group as a whole may have a significant adverse impact on older women or young people from some racial groups, or on people who observe certain religious customs.

### **How can you collect the data?**

You can use a wide range of methods to collect the information you need. However, your choice is likely to be decided by your circumstances and by the nature of the subject. Clearly, the quality and reliability of the information you gather will increase according to the number and range of methods you can use.

These include:

- existing ethnic monitoring databases in related policy areas;
- surveys (face-to-face, telephone and postal);

#### **SATISFACTION SURVEY PICKS UP WORRIES AMONG AFRICAN GROUPS**

For some years, a local council has been surveying its residents' opinions and analysing their replies in terms of their racial groups. One of the surveys included questions about equal treatment and satisfaction with the council's services. It showed that people from some African groups felt they were unequally treated and had little confidence in the council. As a result, the council:

- held discussions with these communities;
- sent them special information leaflets; and
- held job fairs to actively encourage them to apply for vacancies in the council.

The council repeated these, and other, schemes over the next three years. The last residents' survey showed that, over the three year period, there had been slight improvements, year on year, in Africans' opinions about the council.

### **BOROUGH CONSULTS ON FIRST COMMUNITY PLAN**

Local strategic partnerships (LSPs) came into effect in May 2001. Many areas have carried out wide-ranging consultations, and will feed the results into the first community plans that the LSPs will produce. In one inner-city area, the main partners got together and organised a 'mixed bag' of consultation exercises. These included:

- a young people's 'speak out' day, where young people had the chance to meet up with youth leaders and to air their concerns;
- an older people's 'listening' event, where representatives of different public services listened to older people talking about their concerns;
- a conference with local refugees and asylum seekers;
- focus groups with local business people, Travellers, women, lesbians, gay men and disabled people;
- a workshop, where people from ethnic minorities discussed their priorities;
- a survey of residents; and
- a borough conference (to which all local residents were invited).

The partners used the views from these various exercises to produce the borough's first community plan.

- population data held by other authorities and agencies, and other statistics (including census data);
- consultation exercises;
- observations;
- focus group discussions;
- in-depth interviews;
- available research findings; and
- analysis of similar policies in your own or other public authorities.

Each method has its advantages and disadvantages, depending on your aims and circumstances. You might consider getting professional advice from an experienced social researcher, if you do not have this expertise in-house.

It will be especially important to include methods that have proved successful in reaching ethnic minority communities, including women and young people from these communities. It may also help to involve people from these communities as advisers when you are deciding which methods to use to collect the data.

### 3. Assessing the likely impact on race equality

You can now use the information you have gathered and analysed to decide whether your policy proposal could affect different racial groups differently, and whether any differences amount to adverse impact or unlawful racial discrimination. Adverse impact means significant differences in patterns of representation or outcomes between racial groups. Adverse impact may not in itself be proof of racial discrimination, one way or the other. What it means is that you need to investigate the processes that have resulted in adverse impact and tackle any barriers or failings you find.

A quick rule of thumb to check whether differences amount to adverse impact is the four-fifths rule. It says that if the rate for any group is less than four-fifths (or 80 per cent) of the rate of the group with the highest rate, this will be an indication of bias. This check is very rough and ready and is not a statistical test. You should also remember that it only deals with the question of adverse impact and does not resolve the ultimate question of unlawful racial discrimination.

Our guide to ethnic monitoring, *Ethnic Monitoring: A guide for public authorities*, gives more detail about adverse impact. It also includes several examples of how public authorities have tackled adverse impact shown up by their monitoring.

The following questions may help you to assess the impact of your policy.

- Does the quantitative data show differences between racial groups?
- Does the qualitative data show differences between racial groups?
- Do the differences between racial groups amount to adverse impact, and for which groups?
- Could the policy be directly or indirectly discriminatory (see the appendix)?
- If the policy could be indirectly discriminatory, could it still be justifiable under the Act?

### 4. Considering other ways of achieving the same policy goals

This is a crucial stage in assessing impact. If your assessment shows that your policy is likely to have an adverse impact on some racial groups, you need to consider ways of dealing with this. You could make changes to the policy, or the way you plan to operate it, to remove or reduce adverse impact. You could also consider a different policy altogether, which still achieves the aims of your original policy, but avoids any adverse impact on race equality.

You may find the following questions useful in considering different policy options.

- How far do each of your policy options advance or restrict race equality?

### **CONSULTATIVE FORUM INCLUDES TRAVELLER REPRESENTATIVES**

A local council and police force in the Midlands held a meeting with local Gypsies and Travellers to agree a process for consulting them about sites and services. This led to a regular consultation forum being set up, with representatives from local Traveller groups. Other agencies, including local education authorities, have also become involved. Better communication and consultation in recent years has led to better relations between all the agencies, the local population, and the Travellers.

### **POLICE FORCE SETS UP CONSULTATIVE YOUTH FORUMS**

A police force covering several multi-ethnic areas had successfully involved older people from ethnic minority communities in consultation meetings, but almost no young people. Following a meeting between the police and local youth leaders (which was organised by the local racial equality council), the police are now introducing 'youth forums' in several areas. They have also developed a website to improve communication with young people.

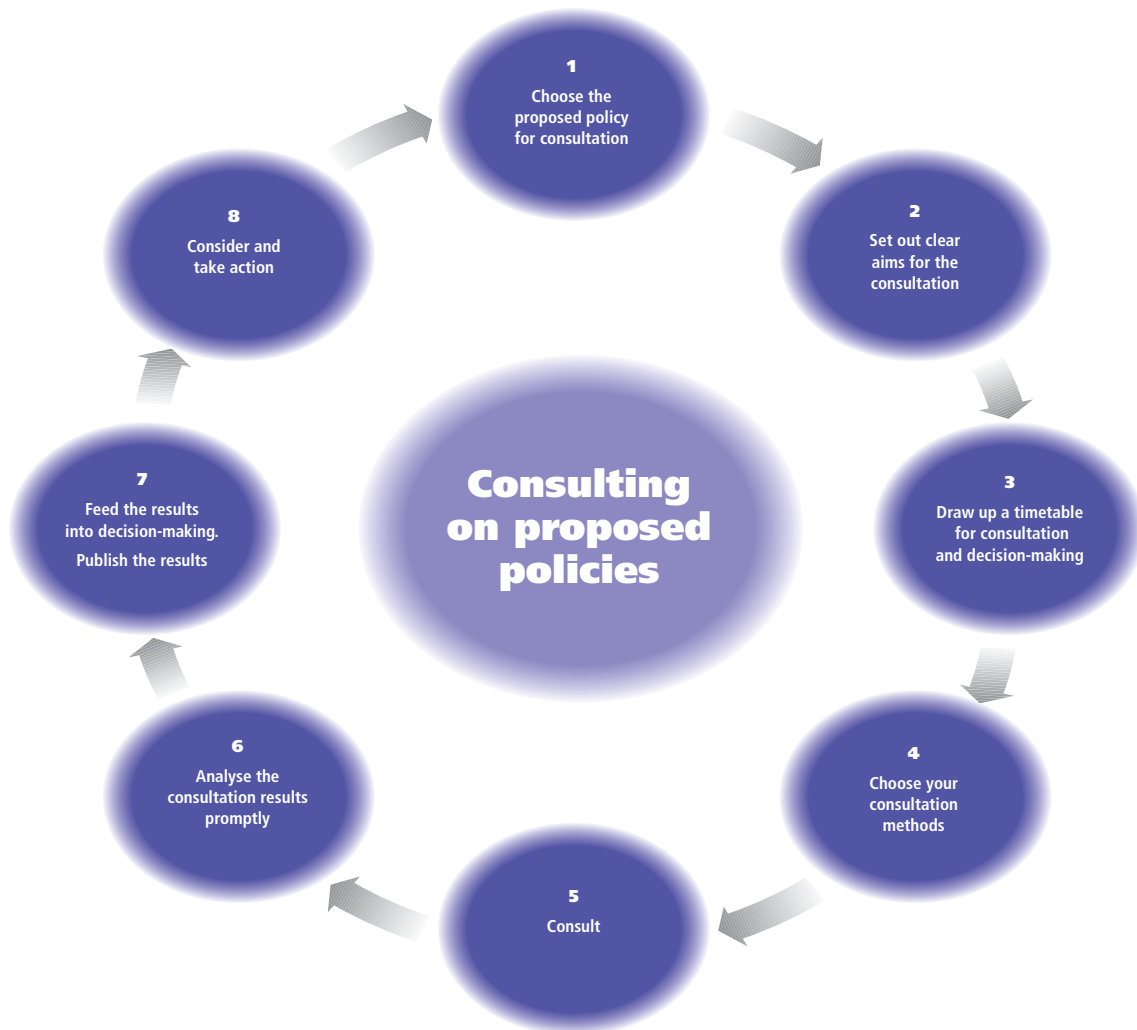
- In what way does each option advance or restrict race equality?
- If you do not adopt the option that is better for race equality, what are the consequences for the racial groups affected by each option, and what are the consequences for you?

Before making a decision, you should also check that by adopting an option that reduces adverse impact on one racial group you do not create adverse impact on another group. If this is unavoidable, you may need to satisfy yourself that you can justify this legally.

## **5. Consulting people who are likely to be affected by the policy**

As part of your race equality scheme, you must set out your arrangements for consulting the people who are likely to be affected by your policy proposals. Consultation is a key stage in carrying out a race equality impact assessment and you should consider building it into your development and planning processes. Your aim should be to:

- consult people from all racial groups, and take their views into account when developing various policy options;
- tailor the consultation methods you use to the groups you want to reach;
- not use consultation too often, and not always consult the same groups;



- manage the consultation exercise well, timetable it properly, make sure its aims are clear, and explain the exercise to the people involved;
- monitor and assess the consultation methods and, if necessary, adapt them; and
- publish the results of these consultations, and feed them back into your planning and decision-making processes in an open and responsible way.

### Who should you consult?

If public services are to reflect public needs and wishes, it is important to aim to involve everyone who is affected by your policy – both inside and outside your authority – in the consultation, and to give them the opportunity to express their opinions, concerns, and suggestions. You could also try to involve anyone in your area who is interested in promoting race equality – from individuals to community groups, associations, and corporate teams.

#### **SPECIAL LEISURE SESSIONS FOR WOMEN**

Every year, a leisure service conducts surveys of the people who use its leisure centres. The centres are in a multi-ethnic area, with large Pakistani Muslim and Somali Muslim populations. The most recent surveys showed that almost none of the women from these communities used the centres.

The service had never thought of running special sessions for women, but after discussing the survey results with local community groups, it introduced special women-only sessions. The service publicised the sessions through local ethnic minority projects and through mosques, encouraging women to attend.

The sessions have been a great success among ethnic minority women and the service is now considering a similar approach to encourage take-up of its gym facilities, as part of a 'healthy living' project.

Inside your authority, you will find it very useful to work closely with recognised trade unions and staff associations, including ethnic minority staff associations. You could consult them at all stages, but especially when you plan to consult staff in general about your proposals.

Bearing in mind that good race relations and, in particular, the success of your race equality scheme, will depend on support from your whole community, you should consult as widely as possible outside your authority. However, because people from ethnic minorities experience high levels of racial prejudice and harassment, and often lack confidence in the authorities, it is particularly important to make sure you reach them in your consultations.

You may need to take special care not to restrict your consultations to official ethnic minority associations and community leaders. However, they will be important in

#### **HOME TRUTHS ABOUT INSPECTION SERVICE**

A staff survey on equal treatment, based on age, sex, disability, ethnic background, and sexuality, by a large public sector inspection service found significant differences of opinion among different groups. To explore these views further, the inspection service's management team held a series of focus groups for older and ethnic minority staff. The common message from these groups was that the service did not appear to have an equal opportunities policy, or to have ever done anything in this area. Last year, the service set up an equalities strategy group, which included staff from various ethnic backgrounds. The group drew up an action plan, with targets, and told all staff about it. The group also sent progress reports to all staff. The inspection service is about to carry out the next staff survey and hopes to see some positive changes in opinion following their actions so far.

giving you information and helping you to reach their communities. Your local racial equality council should also be able to advise you.

Groups that could be overlooked in consultations include:

- groups that are new to this country, such as refugees and asylum seekers;
- groups that have often been excluded by public authorities, such as Gypsies and Travellers;
- women from ethnic minorities;
- young or older people from ethnic minorities;
- people from ethnic minorities with disabilities, and their carers;
- businesses owned or run by people from ethnic minorities;
- relatively isolated families or individuals in rural areas, including shopkeepers and restaurant owners from ethnic minorities; and
- people who live in one area and work in another, so have needs in both.

### What consultation methods should you use?

Consultation is often most effective when it uses a variety of methods, such as surveys, focus groups, and public meetings. Many public authorities have a lot of experience in this area and, if you are one of these, you should be able to draw on this.

#### **COUNCIL'S FORWARD PLAN INCLUDES RACE EQUALITY**

From May 2002, local authorities have to produce a forward plan, setting out all the policies that will be up for decision or review during the year. One local authority decided to test out its forward plan before it became compulsory. The plan covered race equality assessments and consultations in the following way.

- All departments must use a set format to list next year's policy decisions.
- Departments must answer all the questions, including these two on race equality:
  - How will we assess the proposed policy's effect on race equality?
  - Do we need to consult on the proposed policy's effect on race equality?

The council then drew up a list of the main policies – including those affecting race equality – and produced a forward plan for consulting local ethnic minority communities. At a one-day workshop, members of these communities put the policies in order of priority for detailed consultation during the next year. The workshop cut the list of around 200 decisions down to 30. The council will consult local ethnic minority communities in detail on these 30 items, through public meetings, workshops, and focus-group sessions.

#### **WORKING ON HOLY DAYS**

A staff consultation exercise to consider a new council service which involved late Friday and Saturday working made it clear that some members of staff would be adversely affected by the proposal. Some Jewish and Seventh Day Adventist employees pointed out that they observed their sabbath between sundown Friday and sundown Saturday, and that it would be impossible for them to follow the policy, as presently drafted.

The council recognised that, although it had no intention of discriminating against any of its staff, it would have to take reasonable steps to avoid any adverse impact on particular racial groups, unless it could justify the policy and show that it had no other choice. One possibility would be to allow the employees to work overtime on another day for regular pay. The unions (which are also bound by the Race Relations Act under section 11) agreed that the existence of a collective agreement prohibiting regular pay for overtime work should not absolve them from their legal responsibilities.

The council was aware that the Race Relations Act only protects people from religious discrimination if this also amounts to indirect racial discrimination against protected racial groups under the Act – Jewish people form a protected group, but not Seventh Day Adventists (see the appendix). However, it was also aware that under article 9 of the Human Rights Act, taken together with article 14, groups observing the sabbath are protected from discrimination when practising their religious beliefs. The council also knew that legislation prohibiting religious discrimination in employment under the EU's Article 13 Employment Directive would be on the books by December 2003.

The council set up a special project to list the customs and practices of all the religious groups in its workforce, as far as it knew these from its monitoring data (the council had included information about religion in its monitoring form). It then used this list to check these against all departmental policies and rules that might adversely affect their staff. To see whether its proposed policy could be justified, the authority considered:

- the costs of making other arrangements;
- the question of renegotiating a collective agreement;
- possible adverse impact on other employees;
- possible damage to race relations between employees; and
- practical shift arrangements.

The council worked closely with the unions and the association of staff from ethnic minorities to revise the policy, so that it accommodated particular beliefs and customs in the fairest way for all staff. The policy was adopted following another round of consultation with all staff.



However, to help you to meet the duty, it may be preferable to use consultation methods that allow and encourage people from all racial groups to play a full part. The situation should make them feel confident enough to talk about their needs and their experiences of your policies and services. Make sure the method you choose gives the people who are likely to be affected by the policy the chance to consider it and respond. You will also find it helpful to match the consultation methods you use to the subject of the policy and to the kind of information you are hoping to get.

The consultation methods that public authorities have used have not always succeeded in persuading people from ethnic minorities to take part. You might want to consider some or all of the following suggestions.

- Hold meetings in community venues, because this is the level at which most people have concerns, for example about policing.
- Keep the meetings informal, as people can feel uncomfortable and shy in formal situations.
- Hold separate meetings for particular ethnic minority communities, and also for groups within those communities, such as young people, older people, women, people with disabilities, Gypsies and Travellers.
- Ask local ethnic minority community associations and racial equality councils to help you to organise consultation meetings, possibly jointly.
- Check that dates, times, and venues (for example, licensed premises) do not clash with religious customs or festivals.
- Use focus groups, reference groups, and citizens' juries, so that you can explore issues in greater detail with a few individuals.
- Use written questionnaires or interview surveys to reach a wider audience, or a particular cross-section of your local community.
- Translate consultation material, and publicity material for the consultation exercise, as required, and arrange for interpreters at meetings.
- Set up lay advisory groups for regular discussion and consultation, and choose members for their special skills or experience.
- Make sure all groups get any help they need to take part in and respond to your consultation exercise.

## 6. Deciding whether to introduce the policy

You should now be ready to decide whether to adopt your policy, based on four important factors:

- the aims of the policy;
- the results of your race equality impact assessment;

- the relative merits of other policies; and
- the results of your consultation.

If you decide to adopt the policy, you must satisfy yourself that it is not likely to have an adverse impact on any racial groups.

If your race equality impact assessment shows that the policy could be directly discriminatory in any of the areas covered by the Act, the policy would be unlawful and should be rejected. A directly discriminatory policy cannot be justified and you should find other ways of achieving your goals.

If your race equality impact assessment shows that the policy could be indirectly discriminatory, you may also need to reject it, unless you are satisfied that you can justify the policy under the Act. This means you would probably have to show successfully in court that:

- the policy was necessary to allow you to carry out your functions; and
- you were unable to find another way of achieving the policy's aims that had a less discriminatory effect.

Since your decision is likely to be a complicated one, drawing on several different types of data, it may not be possible to follow a very structured approach to decision-making. However, you should try to be as systematic as possible, and adopt clear procedures for the different stages. We would also advise you to record your conclusions at each stage, so that your decision is open to scrutiny and can be justified. You could also consider writing up the process in an impact assessment report, together with recommendations on whether and how the policy might be reviewed.

Everyone involved in the decision-making process should ideally have the necessary skills and experience, and the authority to make sure that the decision is put into practice. You should make sure you include training on assessment and your assessment procedures in the arrangements you make to train staff to meet the duties (see p 58).

## **7. Making arrangements to monitor and review the policy and its impact**

To meet the duty, you will need to make arrangements to monitor the policy regularly. You could probably do this as part of your normal arrangements for monitoring all policies.

You should not therefore consider the impact assessment as a one-off exercise. As you will only know the actual impact of your proposed policy when you have put it into practice, we would advise you to plan a follow-up assessment as soon as possible. If you think there is any danger of the policy having an adverse impact on some racial groups,

### **A COUNCIL'S PLANS FOR PUBLISHING**

A local council is planning to publish reports on the race equality duty:

- in its magazine, which is sent to all households each month;
- in its best value performance plan, which is sent to all households once a year, and which is available in different languages for anyone who asks;
- in its staff newsletter;
- in its yearly report on its race equality scheme; and
- on its website.

or if there is public concern about it, you could consider testing it out in one or two areas first. You could then carry out a full assessment of its impact on race equality.

Once the new policy is fully operational, you should include race equality impact assessments as part of your regular arrangements for monitoring and reviewing your policies.

## **8. Publishing the results of the assessment**

Under the duty, you must publish the results of the assessments, consultations and monitoring you carry out to meet the duty and make these available.

The next section gives practical advice on this part of the duty.

## **PUBLISHING RESULTS**

### **The duty**

The public authorities listed in appendix 2 to the code must set out, in their race equality scheme, their arrangements for publishing the results of their assessments, consultations, and monitoring (see p 14).

### **What does this mean?**

This means you must set out your arrangements for publishing (in some form) the results of the monitoring of your policies. In the case of policies you are proposing to introduce, you must set out your arrangements for publishing the results of your assessment and consultation in terms of the impact the policies are likely to have on promoting race equality.

## What is the reason for this duty?

This part of the duty is about accountability. It aims to make sure that your monitoring, assessment, and consultation activities, and their results, are clear and plain to the public.

## Why is this important?

If you are to win and keep public confidence, you need not only to promote race equality, but to be seen to be doing so. By publishing the results of your activities, you will show that you are carrying out the specific duties of:

- monitoring; and
- assessing and consulting on the effects of your policies.

Publishing your results will also show your commitment to promoting race equality. Your staff will be better informed about your policies and more aware of the standards of good practice. Also, public confidence in your authority will increase, particularly among the ethnic minority communities you serve.

## What information should you publish?

You may want to consider whether to produce written reports on every assessment, consultation, and monitoring exercise. As the reports are likely to be detailed and technical, you could make them available only to anyone who asks for them. However, we would recommend that you publish summaries of the reports more regularly and distribute them more widely and regularly.

### Assessment

You should consider publishing the following.

- A description and explanation of the proposed policy and a brief account of how you assessed its possible effects.
- A summary of the results of your assessment, including the likely impact of the proposed policy on promoting race equality.
- Any available technical reports, and how to get them.
- A review of your proposed policy (or policy options) in the light of your assessment.
- A statement of what you plan to do next.

### Consultation

You should consider publishing the following.

- Why you carried out the consultation.
- Details of how you went about it.
- A summary of the replies you received from people you consulted.
- A review of your proposed policy (or policy options) in the light of the responses you received, particularly concerning any adverse impact on promoting race equality.
- A statement of what you plan to do next.

### Monitoring

You should consider publishing the following.

- An explanation of monitoring.
- The monitoring systems and methods you used.
- A summary and assessment of the results of your monitoring, making clear whether you found any evidence of adverse impact on race equality.
- How you will use these results to develop future policy and practice.

### What publishing methods should you use?

You can use whatever methods you normally use (for example, newsletters or your annual report or your website) to publish the information. If you are thinking about introducing social or environmental reports, you could also include a summary of the information here.

Sometimes, you may prefer to publish the results separately, as part of the assessment, consultation, and monitoring processes. For example, if you have carried out a full race equality impact assessment of a proposed policy, you may find it useful to publish the results as a basis for formal consultation.

Whatever communication methods you use, you may need to make sure that the information is reaching people from different racial groups. You may need to translate the information into languages other than English, and in formats that people with disabilities can use (such as in Braille, in large print or on audio tape).

Posting the information on your website is a cost-effective way of reaching a very wide audience. However, not everyone has access to the internet and you might not reach important groups.

You may want to use the local, national or specialist press or other media – both mainstream and ethnic minority – to place a notice, telling people where they can find more detailed information.

## **ACCESS TO INFORMATION AND SERVICES**

### **The duty**

The public authorities listed in appendix 2 to the code must set out, in their race equality scheme, their arrangements for making sure that people have access to the information and services they provide (see p 14).

### **What does this mean?**

This means you need to make sure that everyone, whatever their racial group, can get information about your authority and its services. In practice, you may have to identify and focus on people who do not appear to know about your work or your services, or who face barriers in accessing it (such as language barriers).

Here, we use ‘information’ in its widest sense. It includes information about your functions, powers, duties, policies, services, and complaints procedures, as well as information about people’s rights under your functions, procedures, and services. You may also want to include information about the right to receive fair treatment, and what people can do if they experience discrimination.

### **What is the reason for this duty?**

The reason for making this part of the race equality scheme is to make sure that public services work for everyone. You will be failing in your duty to make your services available to everyone if people from ethnic minorities:

- do not know about particular services;
- are not confident about using them; or
- meet barriers when they try to use them.

### **Why is this important?**

Lack of information can be a disadvantage, and people from ethnic minorities can be particularly affected. For some, this may be partly because their expectations are based on their experience of very different systems elsewhere. This is especially the case for people who have arrived in Britain fairly recently, such as refugees or asylum seekers. However, for many others, it is because public authorities have not produced information about their responsibilities and powers, and about people’s rights under these powers in user-friendly formats, or distributed them evenly across all communities. If you are to meet the general duty to promote race equality, you must make sure that everyone has access to information about public services, whatever their racial group.

### **COUNCIL IMPROVES INFORMATION ABOUT ITS REVENUE SERVICE**

A local council's revenue department has introduced a variety of schemes to tackle communication barriers between the service and its customers. The schemes include:

- a booklet about the service in different languages;
- an interpreting service over the phone, available to anyone who asks;
- customers being able to choose which language the revenue department contacts them in – they can choose the language when they first contact the revenue department, and it is then noted on their own account screens;
- staff training on equality, cultural questions, and customer care; and
- revenue staff regularly visiting community venues.

### **PRIMARY CARE TRUST TAKES POSITIVE ACTION TO REACH PAKISTANI AND BANGLADESHI WOMEN**

A primary care trust was worried that not enough Pakistani and Bangladeshi women were using the trust's sexual health services, although men from these communities did use the services. The trust employed a Pakistani woman social worker as part of a specialist 'outreach' project. She consulted the local community and faith groups, and won their support for a campaign to raise awareness. The trust used community networks to hold events, including two health conferences that attracted a total of 200 women. The trust:

- produced information leaflets;
- ran a sexual health education programme at a community venue; and
- set up a sexual health clinic for women in the area, which holds a surgery every month.

At the same time, the trust began encouraging people from ethnic minorities to apply for jobs in its sexual health service. It also ran a programme on cultural awareness and sexual health for its staff.

### **INTERPRETERS ACCOMPANY BEAT OFFICERS ON PATROL**

Racist attacks against asylum seekers had risen recently and a police force decided that its officers would make their evening foot patrols with interpreters. Between them, the interpreters speak over 20 languages. The officers also carry information cards to help them recognise the languages spoken by asylum seekers.

### What do you need to do?

To meet the duty, you could do the following.

- Find out what information and services people in your area, including people from ethnic minorities, need.
- Monitor how people, including people from ethnic minorities, use your services and information.
- Identify and remove any barriers that people from some racial groups might face when they try to get information or use your services.
- Change the way you make information and services available, if necessary, so that no one is excluded.

### How can you identify possible barriers?

There are various ways in which you can identify possible barriers, including:

- monitoring requests for information, by racial group;
- monitoring use of the information, by racial group;
- monitoring how your services are used, by racial group;
- getting feedback from people who use your services and information, including people from ethnic minorities;
- analysing complaints about services or information, by racial group; and
- consulting people (including people from ethnic minorities) who do not use your services about the difficulties they face – for example, ask older people and their carers why they do not use meals on wheels, day care, or residential services.

#### **COUNCIL BUILDS RACE EQUALITY INTO CALL CENTRES**

As part of an overall strategy to improve access to its services, a local council set up customer service centres and a call centre. The council is currently working to build race equality concerns into these developments by:

- consulting local communities about where they can get these services;
- trying to make its workforce more representative of the local community
- arranging for interpreters in over 100 community languages;
- providing computer and internet access in different languages; and
- holding ‘surgeries’ in community settings that people are familiar with and where they feel comfortable.



### **RURAL FORCE APPOINTS DIVERSITY OFFICER**

A rural police force has created a new post for a diversity officer to improve its contact with people from small, isolated, ethnic minority communities, and to consult them. The officer also helps the force on various race issues, as most of the police officers have very little experience of these.

Possible barriers that people from ethnic minorities might face include:

- not knowing about your services;
- your authority not providing the services that people from ethnic minorities in your area want;
- feeling alienated because of the way you provide your services;
- not having English as a first language;
- not feeling confident enough to use the services; and
- having had a bad experience of one of your services in the past.

### **How can you provide access to information?**

You can:

- make sure that any information you publish in English is also available in other languages used by local people from ethnic minorities;
- arrange for staff to communicate directly with community groups;
- make sure that interpreters are available when they are needed;
- keep community representatives well informed;
- make sure that news and information particularly reaches women, young people, and older people from ethnic minorities;
- arrange open days, visits, and work-shadowing schemes, where you invite people from ethnic minorities to accompany and watch someone from your authority as they go about their day-to-day job;
- encourage people from ethnic minorities to get involved in consultation exercises;
- arrange for your staff to get some work experience in a local ethnic minority organisation; and
- support programmes for teaching English to people from ethnic minorities whose first language is not English.

## How can you provide access to services?

You can:

- hold sessions in local venues used by people from ethnic minorities;
- ask people from ethnic minority communities what services they want, or what changes they would like to see in services you already provide;
- take information about the service, or the service itself, directly to ethnic minority communities;
- appoint community liaison workers;
- train your staff – especially staff who deal with the public – on discrimination law, and on the cultural backgrounds of various racial groups;
- set clear standards for staff behaviour, backed by appropriate sanctions;
- consider using mediators from ethnic minorities;
- make sure that schemes meant for particular communities actually reach them;
- work with local community organisations;
- arrange for interpreters, when necessary;
- make sure you have staff members from the different racial groups in the population you serve; and
- use positive action (as allowed under section 35 of the Act), including outreach work (see the appendix).

## TRAINING STAFF

### The duty

The public authorities listed in appendix 2 to the code must set out, in their race equality scheme, their arrangements for training their staff on issues that are relevant to the general duty (see p 14).

### What does this mean?

Many public authorities have a long history of training staff on race issues. Continuing this training, and making sure it is effective, will be an important part of any race equality scheme.

The duty focuses on training to meet the general duty. This means your staff should have the skills and knowledge to help you to eliminate unlawful racial discrimination,

and promote equal opportunities and good race relations. You may also want to consider the training needs of staff who have special responsibilities for managing and introducing your race equality scheme. Clearly, in the widest sense, all staff should do their jobs without discriminating unlawfully and, to this end, may need training on race issues.

## What is the reason for this duty?

This duty aims to make sure that staff working on this area have the skills they need to make sure that public authorities meet both the general duty and the specific duties.

## Why is this important?

The three parts of the general duty to promote race equality are complex. You must apply each one individually to those of your functions and policies that are relevant to race equality. The staff you choose for this area of work will need a thorough understanding of race issues, and of your roles and responsibilities. They will also need excellent organisational, planning, and coordinating skills to help you to meet the general duty and all aspects of the specific duties, including your race equality scheme.

## What could the training cover?

The staff you appoint to work on the general duty to promote race equality (and any specific duties) should already have a good general understanding of race issues. They should also be able to develop complex strategies for large organisations and apply them effectively. Your training could first make sure that your staff have these general skills, before going on to the specific knowledge they will need.

### COMPUTER-BASED RACE EQUALITY TRAINING MANUAL

A national learning and training authority has adopted a policy to 'mainstream' race equality in all its policies, procedures, and day-to-day practices. To support this strategy, the authority has produced a computer-based manual on 'mainstreaming', and a computer-based training programme for all staff. The manual focuses on issues such as:

- building race equality into business planning;
- building race equality into consultation;
- setting race equality performance measures; and
- giving all staff race equality targets.

The authority offers a complete staff training programme and has a small team of specialist equality advisers.

The training you provide could cover:

- a general understanding of race equality issues as they affect public authorities, including the idea of ‘institutional racism’;
- how to introduce policy in large organisations;
- the general duty and the specific duties, and why they are important;
- the concept of a race equality scheme, and how to develop it and put it into practice;
- how to carry out assessments, consultation, and monitoring; and
- how to produce and publish reports on assessments, consultations, and monitoring, and publicise them widely.

### **What will you need to do?**

To train staff, you may need to:

- draw up a list of tasks that staff will need to carry out if you are to meet your general and specific duties under the Act;
- select the staff who will carry out the tasks;
- decide what knowledge and skills they will need to carry out these tasks effectively;
- design a training programme to meet these needs;
- choose trainers (inside or outside the authority) who are qualified to deliver this training;
- set up the training programme; and
- monitor and assess the training, making changes where necessary.

Some large public authorities will already have training departments that are experienced in delivering training on race equality strategies to senior managers and policy makers. These authorities should be able to design and deliver the necessary training in-house, with some adjustment and updating to satisfy the duty. Other authorities may need to bring in specialists from the training departments of professional and other associations.

Whether you provide the training in-house or through outside consultants, you should try to consult and involve people from ethnic minorities in developing and delivering the training.

# 4

## Specific duties **Employment**

### **The duty**

The specific duty for employers applies to most public authorities bound by the general duty (see appendix 3 to the code). A few authorities – mainly advisory agencies, schools, and further and higher education institutions – are not bound by this specific duty. However, employment will be a relevant function for all of them and they will need to meet the general duty in relation to it. We have produced separate guides for schools and further and higher education institutions. You should remember that it is unlawful under the Act for any employer, public or private (unless specifically exempted), to discriminate on racial grounds (see the appendix).

Article 5 of the Race Relations Act 1976 (Statutory Duties) Order 2001 says:

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).*

### What does this mean?

Ethnic monitoring is the process which organisations use to collect, store, and analyse data about people's racial groups. Under this duty, you will need to collect information about the ethnic backgrounds of your workforce, and of everyone applying for jobs, training, and promotion in your authority.

If you have more than 150 full-time staff, you will also need to monitor, by racial group, the number of staff who:

- receive training;
- benefit or suffer from performance appraisals;
- are involved in grievances;
- are subjected to disciplinary action; and
- end their service with your authority (for whatever reason).

To meet your general duty to promote race equality – that is, to eliminate unlawful racial discrimination, and promote equal opportunities and good race relations – you will need to use the information:

#### **HEALTH AUTHORITY TAKES STEPS TO RECRUIT MORE ETHNIC MINORITY STAFF**

A health authority found from its monitoring that 5 per cent of its workforce were from ethnic minorities compared to a local population where 20 per cent were from ethnic minorities. The authority set a target to achieve a more representative workforce within five years. To do this, the authority revised its code of practice on recruitment, its interview process, and its arrangements for advertising. The authority achieved its targets on time.

At the end of the five year period, the authority's monitoring showed a significant under-representation of staff from ethnic minorities at middle and senior management levels. The authority took the following steps to tackle this.

- It set specific targets to tackle under-representation at senior management levels.
- It employed a search agency to target and positively encourage people from ethnic minorities to apply, so that it could achieve more balanced shortlists.
- It introduced a management development programme for women (who are also under-represented) and employees from ethnic minorities, to give them the development opportunities and experiences they needed to compete for more senior posts. Evaluation showed a 35 per cent success rate in promotions for staff who had taken part in the programme.

**NHS TRUST ENCOURAGES JOB  
APPLICATIONS FROM ETHNIC MINORITIES**

Worried that its workforce did not represent the population it served, an NHS trust asked its local ethnic minority communities what was going wrong. They explained that they did not see any job advertisements or hear about vacancies. The trust asked for advice from one of our regional offices, as well as local racial equality councils and community centres. It then produced a series of leaflets and held information days about careers in the NHS. These information days were widely advertised, in the ethnic minority media and elsewhere. They were well attended and have been repeated regularly. The trust recently reported that it now gets more applications from some of the communities targeted at the information days.

- to see if there are differences between different racial groups;
- to investigate the reasons behind the differences; and
- to deal with any unfairness, disadvantage or possible discrimination, for example by setting employment targets, training staff, revising policies and procedures, and using positive action (see the appendix), when necessary.

## **What is the reason for this duty?**

The government's commitment following the Stephen Lawrence Inquiry Report was to make public services a 'beacon of good practice'. The original 1976 Act outlawed racial discrimination in employment, but it did not make ethnic monitoring compulsory. The employment duty changes this. For the first time, public authorities must monitor their employment processes by racial group and publish the results each year. The duty introduces openness and fairness to the employment process. It also gives greater support to the government's goal of developing public services that reflect Britain's multi-ethnic society and meet its needs.

## **Why is this important?**

Discrimination takes place in employment when people from some racial groups are treated less favourably than others (see the appendix). Discrimination is not necessarily deliberate. In fact, barriers to employment or promotion for particular racial groups can often be hard to see. Evidence from successive Labour Force Surveys shows that, on average, ethnic minorities tend to be over-represented among the unemployed and under-represented at middle and senior management levels in employment, compared with the population as a whole.

Ethnic monitoring gives you a clearer picture of what is happening in your workforce. It allows you to see whether your equal opportunities policies are working, and to measure their progress. It gives you the basis on which to:

- make sure that you use people's talents to the full;
- make sure that staff-selection decisions are based on objective criteria that strictly match the job that has to be done;
- avoid unlawful racial discrimination in employment;
- make sure that you achieve your employment targets; and
- make the workforce more representative of the community you serve.

The amended Act calls for a more active, strategic approach to tackling racial discrimination and promoting race equality. The introduction of a specific duty to carry out ethnic monitoring recognises that regular monitoring is vital to meet the general duty.

### What do you need to do?

To meet the specific duty for employers, you will need to:

- collect and monitor information about ethnic background; and
- publish the monitoring results each year.

However, to meet the general duty, which expects you to aim to eliminate unlawful

#### **PROBATION SERVICE TACKLES ADVERSE IMPACT OF GRIEVANCES AND DISCIPLINARIES**

By monitoring its employment policies, a probation service in the north of England discovered that black staff were much more frequently involved in grievance and disciplinary action than white staff. The chief officer commissioned research to look at the reasons for this. The research found several flaws in the grievance and disciplinary policy and the way it was followed. With the approval of the Association of Black Probation Officers (ABPO) and the Black Workers Forum (BWF), the service introduced a three-point action plan. The plan aims to:

- make sure that staff supervision and appraisal is more accurately and thoroughly monitored;
- make sure that all middle managers involved in supervising staff from ethnic minorities are properly trained in equal opportunities issues; and
- offer mentoring opportunities for all staff from ethnic minorities – a pilot scheme has shown this to be very successful.



### **POLICE FORCE ADAPTS UNIFORM FOR MUSLIM WOMEN**

A police force has had an active equal opportunities policy for several years. However, Muslim women are seriously under-represented in the force. To tackle this, the force introduced a new version of its uniform for Muslim women, which allows them to wear a headscarf under their caps. The force is monitoring the change.

racial discrimination, and promote equal opportunities and good race relations, you will need to know more and, if necessary, to do more. We strongly advise you to:

- analyse the information you have collected to see whether there are differences between racial groups; and
- investigate the processes that have resulted in these differences and take any necessary action to remove barriers or failings and promote equal opportunities.

We have produced a separate guide to the monitoring duties under the Act: *Ethnic Monitoring: A guide for public authorities*. This gives detailed advice on how to monitor all the stages in the employment cycle, from appointment and experience in employment (including appraisal, training, promotion, grievances, and disciplinary action) through to employees leaving (including dismissal and other reasons for leaving). The guide also covers monitoring in the areas of policy development and service delivery.

## **How do you collect the information?**

You could ask your staff and job applicants how they would describe their racial group, choosing from a number of possible categories. Job applicants could answer this question on a form that you separate from the application before drawing up a shortlist. For existing staff, you could carry out a survey (if you have not already done so) and then keep your records up to date as new recruits join, and staff move within the organisation or leave.

You may need to explain clearly, to both existing staff and job applicants, why you are monitoring their ethnic background. You should assure them that, under the Data Protection Act 1998, the information will be confidential. Good rates of reply will depend on whether staff and applicants understand the purpose of ethnic monitoring, and share your commitment to promote race equality.

## **What ethnic categories should you use?**

We recommend that you use the same ethnic categories as were used in the 2001 census, or categories that are compatible with the census categories. This lets you compare your authority with the wider population. If your particular circumstances

mean that you need more detailed information, you should make sure that any extra categories you introduce can fit in with those used in the census. See our guide, *Ethnic Monitoring: A guide for public authorities*, for more information.

### **How should you use the data?**

To meet the general duty to promote race equality, you will need to analyse the information you collect to see if there are patterns of inequality that need investigation. Over time, you should be able to tell whether or not your equal opportunities policies are effective.

- In the case of job applicants and recruits, you could consider comparing the application rates from different racial groups with their representation in the population you are recruiting from. You could do the same for their success rates, both at the short-listing and selection stages.
- In the case of existing staff, you may need to break the information down by grade, so that you can see whether some racial groups are concentrated at certain levels in your authority. You could also check whether staff from ethnic minorities have lower success rates than others in getting promotions, specialist posts, and opportunities for training, or whether they have higher rates of complaints, grievances, or disciplinary action.

By analysing the data over time, you will be better able to tell whether you are reducing or removing any inequalities you have found. You can also assess whether what you have done to promote race equality in employment is working. You will need to review these measures regularly, and their effectiveness, against the results of your ethnic monitoring. In the light of this review, you may need to adjust your strategy. For example, if the findings show that ethnic minority groups are equally represented among job applicants, but under-represented among recruits, this could mean that discrimination is taking place. You would need to investigate the reasons for this under-representation, including possible ways in which direct or indirect racial discrimination (see the appendix) could arise during the selection process.

### **How should you publish the results?**

Under the duty, you must publish the results of your monitoring every year. You do not need to publish these as a separate document. The information will often fit within your existing publications, such as staff and public newsletters, or on your website. You could also include a summary of the results from your monitoring in your annual report. If you have very few employees from ethnic minorities, and they can be identified from the data, you may decide not to publish it. You should explain your reasons. However, you may still have to act on your findings.

# 5

## PROCUREMENT

Procurement is a function of most public authorities and may be relevant to the general duty to promote race equality. However, the general duty does not override other laws or regulations on public procurement.

Procurement may be relevant to the duty to promote race equality in three main areas:

- services provided under contract or agreement;
- contractors' equal opportunities policies and practices; and
- contract opportunities for businesses owned or run by people from ethnic minorities.

### Services provided under contract or agreement

You are still responsible for meeting the general duty and any specific duties when:

- any of your functions or services are carried out by a private company or voluntary organisation under a contract or some other arrangement; and
- the duty to promote race equality applies to those functions or services.

If the duties are relevant to a function or service you are contracting out, it may be appropriate to include those duties in the contract as performance standards for delivering the service. For example, if you have a duty to monitor a service you are contracting out, you could consider writing this into the contract. You could also make it clear in the contract that the contracting firm must always provide the service without racial discrimination. If you include these terms in the contract, you could also add a clause that allows you to monitor and enforce the contract.

If you have already contracted out a function or service that is relevant to the duty, you will need to consider whether the existing contract or arrangement lets you meet the general duty and any specific duties. If not, unless the contract or agreement is due to end soon, you will need to make changes to the contract and its terms. Normally, you should not have to draw up a new contract.

If you plan to include race equality clauses in contracts for functions or services that are relevant to the general duty, you may need to make it clear to potential contractors that you are adding the clauses because you need to make sure you are operating within the Act and other relevant legislation.

## Contractors' equal opportunities policies

As well as writing performance standards for delivering a service into a contract, you may be able to use your procurement function to promote race equality by encouraging your contractors to draw up policies that will help them to avoid unlawful racial discrimination, and promote equal opportunities. This should only be on a voluntary basis and you should only discuss the question of a contractor adopting an equal opportunities policy (if they do not already have one) when the contract has been awarded.

## Opportunities for ethnic minority organisations

When you assess your procurement function against the three parts of the general duty, you should consider whether the way you carry out the function has (or is likely to have) an adverse impact on organisations or firms owned or run by people from ethnic minorities. These generally tend to be small or medium-sized firms. Within existing legislation, you can make sure that barriers are removed, so that ethnic minority and small and medium-sized businesses have equal opportunities to tender for public contracts.

### A STANDARD FOR PROSPECTIVE CONTRACTORS

A group of local authorities have set up a forum to develop and operate a common standard for local government, to assess whether potential contractors are operating within the Race Relations Act and our statutory code of practice in employment. The forum's aims are to:

- help potential contractors meet their legal obligations;
- help authorities take steps to improve equal opportunities in employment;
- acknowledge and encourage good firms that work for the authorities; and
- negotiate contracts that provide quality, value for money, and equal opportunities for all local communities.

The Secretary of State has approved certain questions for local authorities to use to obtain information on equal opportunities from prospective commercial partners in the private or voluntary sectors. The forum assesses this information against the requirements of its common standard.

The standard is organised around three levels, depending on the number of employees in the company or organisation. The conditions for each level are based on the recommendations of our statutory code of practice in employment, and on suggestions by staff in the authorities involved who are trained to apply them. The forum gives firms that do not meet the performance levels of the standard advice and the opportunity to take part in training sessions before re-applying. Information on the results of assessments is stored on a database shared by the local authorities involved. A key benefit of the scheme is that companies approved by one authority are accepted by all, saving valuable time for everyone concerned.

### **RACE EQUALITY TERMS IN CONTRACTS**

Following a 'best value' review of its education management function, a local authority decided to put the management of its local education authority services out to tender. The authority drew up a contract, which included the following race equality terms.

- The contracting firm would meet set performance standards that would allow the authority to meet the general duty in all the relevant functions covered by the contract, including school standards, services to pupils and parents, and employment.
- The contracting firm would monitor the arrangements it made to meet the general duty on behalf of the local authority, and report on progress as part of its monitoring, every three months, of the contract.
- The same penalties for breaking the conditions of the contract would apply to the race equality clauses as to other clauses in the contract. However, the contract made it clear that, while the contracting firm had to meet the race equality clauses in the contract on behalf of the public authority, any enforcement action would be brought against the local authority, not the firm.

With the contract up and running, the local authority and the contracting firm are working together to improve the services under contract, including performance on race equality.

### **ENCOURAGING ETHNIC MINORITY BUSINESSES TO TENDER**

An authority decided to renew its approved list of contractors. Determined to make sure that enterprises owned or run by people from ethnic minorities had a fair chance to apply to be on the list, the authority placed advertisements in the ethnic minority press and among ethnic minority business groups.

It asked applicants to give information about the ethnic origins of the company's proprietors. The authority classified a company as an ethnic minority business when at least 51 per cent of the proprietors were from ethnic minority groups.

The application rate from ethnic minority businesses was roughly in proportion to the population of the area. However, further monitoring showed that applications from ethnic minority businesses (as well as applications from other small firms) were being disproportionately referred back to them, asking for more information.

The authority decided to review its application procedures, to remove unnecessary technicalities. It also set up a series of seminars for small and ethnic minority businesses on its application and tendering procedures. The results of monitoring after these changes showed that ethnic minority businesses were tendering for an increasing number of contracts.

# 6

## PARTNERSHIP

If you work jointly with other public, private, or voluntary organisations, you are still responsible for meeting the general duty to promote race equality – and any specific duties. You may therefore need to take account of the duties in any work you do with other organisations, and reflect this in your race equality scheme. There is no similar obligation on private or voluntary sector partners.

If the work you do through a partnership is based on a contract with a private or voluntary organisation, you should follow the advice on procurement in chapter 5.

If you are involved in a partnership that includes other public authorities that are bound by the general duty (for example, a community safety partnership), each of you, individually, will be responsible for meeting the general duty to promote race equality as well as any specific duties. This applies whatever the legal status of the partnership. In some cases, you may find that you can work with your public authority partners to meet the specific duties, for example, to monitor policies for their impact on race equality, or to publish the results of your monitoring. However, this is only possible in relation to functions or policies that you are carrying out through the partnership.

### RACE EQUALITY IN PARTNERSHIP

A multi-agency regeneration project has been set up in a Midlands city. Forty per cent of the inhabitants in the surrounding area are from ethnic minorities, mainly from Chinese, Pakistani, Bangladeshi and African backgrounds. The project won £40 million from the New Deal for Communities to improve shopping and leisure facilities in the area; to reduce crime; to tackle health problems in the different communities; and to increase job opportunities. The project is managed by a steering group, chaired by the local MP. It includes representatives from the local council, local health agencies, the racial equality council, the police, the voluntary action council, the chamber of commerce, two large local private employers, and the local ethnic minority forum.

Five of the agencies on the steering group have to meet the statutory general duty to promote race equality. Recognising its relevance to their partnership work, they discussed the duty at length with their partners on the steering group. The group agreed to build specific race equality aims into their regeneration plans. They also agreed to monitor progress and to consult local communities. The five authorities included this work in their authorities' race equality schemes and in their reports on the scheme. They also covered it in the project's yearly progress reports.

In practice, this may mean that when you are working within a mixed partnership you will need to get agreement from your partners to arrangements for planning, funding, and managing joint work that will allow you to meet the statutory race equality duties.

Best of all would be if you could persuade all your partners to work within the Act and to build the duties into their own structures and activities.

We recommend the following good practice steps for any work you do with other organisations.

- Make every effort to see that race equality is central to any statement of values and aims that the partnership draws up, and that, as far as possible, all groups in the community are represented on the board of the partnership.
- Make sure the partnership has the resources and necessary skills to achieve its race equality aims.
- Build race equality into the partnership's planning processes, and assess and consult on the likely impact of the partnership's policy proposals on promoting race equality.
- Develop measures to assess your performance on race equality, and set targets for improvements in services, and for employment.
- Make arrangements to monitor all targets.
- Train staff working for the partnership in race equality work.

## Appendix

# Race Relations Act 1976

### What is unlawful racial discrimination?

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 (the Act) makes it unlawful to discriminate – directly or indirectly – against someone on racial grounds. Under the Act, ‘racial grounds’ means reasons of race, colour, nationality (including citizenship) or ethnic or national origins. Racial groups are defined accordingly. For example, African Caribbeans, Gypsies, Indians, Irish, Pakistanis, Bangladeshis, Irish Travellers, Jews, and Sikhs are among the groups recognised as racial groups under the Act.

**Direct racial discrimination** means treating a person less favourably than another on racial grounds. An example of direct discrimination would be applying harsher discipline to prisoners from ethnic minorities because they are from ethnic minorities.

**Indirect racial discrimination** means that a requirement or condition which is applied equally to everyone:

- can only be met by a considerably smaller proportion of people from a particular racial group;
- is to their detriment; and
- cannot be justified on non-racial grounds.

All three parts must apply. An example of unlawful indirect discrimination might be where a hospital’s rules on uniform do not allow for a particular racial group’s customs and cannot be justified in terms of the hospital’s needs.

**Victimisation.** The Act also makes it unlawful to treat someone less favourably because they are known to have, or are suspected of having:

- made a complaint of racial discrimination;
- planned to make a complaint; or
- supported someone else who has made a complaint of racial discrimination, or to be planning to do so.

An example of victimisation is where an employee is refused leave because they backed up a colleague’s complaint of racial discrimination.



## In what areas is racial discrimination unlawful?

The original Race Relations Act 1976 makes it unlawful for most public, private, and voluntary organisations to discriminate on racial grounds in the following areas:

- employment;
- education;
- housing; and
- providing goods, facilities, and services.

The Race Relations (Amendment) Act 2000 extended the scope of the original law to cover the way public authorities carry out all their functions. The Act defines a public authority widely, as a person or organisation carrying out functions of a public nature. This includes enforcement and regulation functions, such as policing and child protection. It also includes functions or services that are carried out by private or voluntary organisations under a contract or a service-level agreement, such as charities providing local authorities with emergency housing.

## What is positive action?

In specific circumstances, the Act allows positive action as a way of overcoming racial inequality.

Positive action allows you to:

- provide facilities or services (in training, education or welfare) to meet the particular needs of people from different racial groups (for example, English language classes – see section 35 of the Act);
- target job training at those racial groups that are under-represented in a particular area of work (see sections 37 and 38); and
- encourage applications from racial groups that are under-represented in particular areas of work (see section 38).

Positive action plans are only meant to be a temporary solution and you may need to review them regularly. You should not use them if the under-representation, or the particular need, no longer exists.

## General duty and specific duties

Section 71(1) of the Act places a statutory general duty on most public authorities (see appendix 1 to the code). Under the duty, when carrying out all their functions, authorities must have due regard to the need:

- to tackle unlawful racial discrimination; and
- to promote equality of opportunity, and good relations between persons of different racial groups.

Under section 71(2) and (3) of the Act, the Home Secretary has the power to place specific duties on all or some of the public authorities bound by the general duty (see appendix 2 to the code).

Under section 71(C) of the Act, we can issue codes of practice that will help public authorities to meet their general and specific duties. The statutory *Code of Practice on the Duty to Promote Race Equality* came into effect on 31 May 2002, with approval from parliament.

Under section 71(D) of the Act, we have the power to enforce the specific duties. If we are satisfied that a person has failed to, or is failing to, meet a specific duty, we can issue a compliance notice ordering them to do so. The person concerned has to observe the terms of the notice and tell us, within 28 days, what they have done or will do to meet the duty.

Under section 71(E) of the Act, we have the power to apply to a designated county court (or a sheriff court in Scotland) for an order, if the person concerned has not supplied the relevant information after being served with a compliance notice, or if we have reason to believe they will not do so.



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