

The duty to promote race equality

**A GUIDE FOR  
EDUCATION  
AUTHORITIES  
AND SCHOOLS  
IN SCOTLAND**

(Non-statutory)



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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 public authorities 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 Scottish Ministers’ order). Appendix 1 to our statutory *Code of Practice on the Duty to Promote Race Equality in Scotland* gives the final list. The code came into effect on 30 November 2002, following approval by the Scottish Parliament.

The code gives public authorities practical advice on how to meet the general duty and any specific duties introduced by Scottish Ministers. The code can be used in evidence in any legal proceedings under the Act. Although you do not have to follow the code, you will have to show that you are meeting the duties. Our advice is that you should be fully aware of the code’s guidelines.

This guide supports the code and has been written mainly for education authorities and grant-aided and self-governing schools, which are bound by the duty. It also applies to schools that are managed by education authorities. However, the guide will also be useful for pupils, parents and guardians, community groups, contractors, partners, and others who want to know what they can expect from education authorities and schools, and what schools and education authorities might expect from them.

Unlike the code, this guide does not have legal standing. The courts may refer to it, but they do not have to take it into account. Even so, this guide is an important document, and will be a valuable aid. This is because it is based on tried-and-tested experience in education authorities and schools that have been working towards race equality.\*

You should use this guide with the code and our other non-statutory guides: *The Duty to Promote Race Equality: A guide for Scottish public authorities*, and *Ethnic Monitoring: A guide for public authorities*.

HM Inspectorate of Education (previously known as HM Inspectorate of Schools for Scotland) has published two very useful publications in this area: *How good is our school?: Self-evaluation using performance indicators* (1996) and *A Route to Equality and Fairness* (1999), produced with Ayrshire Council. These give schools advice on self-evaluation and measuring their performance, so that they can be sure they are treating all pupils fairly and equally.

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\* Many of the examples in this guide were provided by the Centre for Education for Racial Equality in Scotland (CERES). The CRE would like to acknowledge their contribution.

This guide contains five chapters and three appendices. Following this introduction, chapter 2 describes the benefits of the duty. Chapter 3 explains the general duty and the specific duties. Chapter 4 gives practical advice on meeting the specific duties. Chapter 5 explains the specific duties for employers. Appendix 1 sets out a framework for preparing a race equality policy, and building race equality into your other policies. Appendix 2 gives examples of how education authorities and schools can work together. Appendix 3 explains some of the terms used in the Act.

## Public authorities – duties under the Race Relations Act

	Bound by the general duty APPENDIX 1	Bound by the duty to publish a race equality scheme APPENDIX 2	Bound by the employment duty APPENDIX 3	Bound by the duty to publish a race equality policy APPENDIX 4
Government departments, local government, police, health, regulatory bodies, advice agencies, and commissions	✓	✓	✓	
Non-departmental public bodies (NDPBs), for example, research councils, other agencies and commissions	✓		✓	
Advisory committees and councils, parish councils, and Scottish community councils	✓			
Education authorities, managers of grant-aided schools, and the boards of management of self-governing schools	✓		see note 1	✓
Governing bodies of further and higher education institutions	✓		see note 2	✓

- 1 Although we have not listed education authorities, managers of grant-aided schools, and the boards of management of self-governing schools in appendix 3 of the *Code of Practice on the Duty to Promote Race Equality in Scotland* as being bound by the employment duty, they still have to assess and monitor the impact of their policies on staff, as outlined in Articles 3 (4), 4 (1) and 4 (2) of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 (see pp 39-40, 49 of the code of practice).
- 2 Article 3 (5) of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 places a duty on further and higher education institutions to monitor and assess the impact of their policies on staff. For more details, see *A Guide for Further and Higher Education Institutions in Scotland*.

# 2

## Promoting race equality

The aim of the general duty is to make promoting race equality central to the way public authorities work, and to all areas of their work. This includes developing policies, delivering services, regulation and enforcement, and employment practice.

In most cases, you will be able to use your existing arrangements to meet the duty. This should help to avoid any unnecessary work and expense.

### What are the benefits of the general duty?

Meeting the general duty will help you to:

- meet all your pupils' needs, encourage them to achieve their full potential, and raise educational standards;
- take specific action to tackle any differences between racial groups in terms of their attainment levels and progress, in using disciplinary measures against them (such as exclusion), in admissions, or in assessment;
- create a positive atmosphere, where there is a shared commitment to value diversity and respect difference;
- challenge and prevent racism and discrimination, and promote good relations between people from different racial groups;
- prepare pupils to be full citizens in today's multi-ethnic society;
- make your workforce more representative of the communities you serve;
- improve staff morale and performance;
- avoid losing able staff; and
- make full use of the skills and ideas among people from different racial groups (for example, in the classroom or as members of school boards).

# 3

## The general duty and the specific duties

### What is 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.

The duty is obligatory (which means it must be met) and it must be applied to all functions that are ‘relevant’ to race equality. The weight given to a function should be in proportion to its relevance to race equality. The three parts of the duty – eliminating unlawful racial discrimination, promoting equal opportunities, and promoting good relations between people from different racial groups – complement each other. You should try to find ways of meeting them all.

### What are ‘functions’ and ‘policies’?

This guide follows the code in using the term ‘functions’ to mean the full range of your duties and powers. The term ‘policies’ means the formal and informal decisions you take to carry out your duties and use your powers.

### What does the general duty mean in practice?

#### Obligatory

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. Your aim should be to make race equality a central part of any of your policies or services that are relevant to the duty. The best approach is to build these responsibilities into the work you already do, and to adapt your plans and priorities. You must also make sure that you take account of race equality in all your monitoring, reviewing, and evaluation systems.

## **TACKLING UNLAWFUL RACIAL DISCRIMINATION**

A nursery school in a multi-ethnic area operates a waiting list. The school wants to reflect the range of ethnic minorities in the community. To help them do this, the school gives priority to children from ethnic minorities. Unless the school can justify the practice on non-racial grounds - and this seems unlikely - it could be liable for unlawful direct racial discrimination (see appendix 3). To meet its duty, the school will have to review its practice and remove the discriminatory aspect.

## **PROMOTING GOOD RACE RELATIONS**

A small rural primary school with few pupils from ethnic minorities decided to encourage understanding and appreciation of cultural diversity by inviting a local black musician to the school. The musician, who specialises in songs and stories from different parts of the world, worked with pupils and staff, encouraging them to think about local and family connections beyond Britain.

The school also set up links with a city primary school with a large number of children from ethnic minorities. The schools agreed to run parallel themes in certain subjects and pupils were encouraged to talk to each other on the internet, for example to discuss how they celebrate new year. Groups of pupils from each school also got the chance to spend time in the other school, on an exchange.

## **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 maintaining computers) may not be relevant, race equality will always be relevant when delivering services, and in employment.

## **Proportionate**

Under the duty, you must have 'due regard' for race equality. This means that the weight you give a function should be in proportion to how relevant it is to 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. The duty will be particularly relevant to functions such as admission, assessment, raising pupils' attainment levels, delivering the curriculum, discipline (including exclusion), guidance and support, and recruitment and professional development of staff.

## **PROMOTING EQUAL OPPORTUNITIES THROUGH POSITIVE ACTION**

A school found that its Bangladeshi pupils had lower attainment levels than the average for the school, and that the differences became more marked as these pupils progressed through the school. The school set targets to reduce – and finally remove – the differences. It also took positive action (see appendix 3) and introduced various schemes, specially targeted at its Bangladeshi pupils, such as mentoring and after-school study groups.

## **PROMOTING EQUAL OPPORTUNITIES THROUGH DEVELOPING PEOPLE SKILLS**

Another school provides a ten week course on equal opportunities for all S1 pupils. The pace of the course is brisk, with a large amount of time spent on gathering knowledge, and developing skills in gathering information, public speaking, and writing. They also look at issues of racism as it occurs in Scotland and worldwide. Pupils are helped to identify discriminatory action and behaviour, and to develop skills to challenge these.

The effectiveness of the course is evaluated by all pupils who take part in it. And pupils in S6, who took the course in S1, have the opportunity to evaluate the course five years later to see how effective it is. The course has proven to be very successful and helped to change other staff attitudes to equality issues in the curriculum.

Race equality is important, even if there is nobody from an ethnic minority group in your local community. Education plays a vital role in influencing young people, because the views and attitudes they form as pupils or students will probably stay with them for the rest of their lives. Also, racist acts (such as handing out racist literature) can happen in schools with no pupils from ethnic minorities.

## **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. For example, a project you are involved in to tackle racial harassment or abuse may contribute to eliminating unlawful racial discrimination, but it may not, by itself, promote good race relations. You may have to take other steps to do this. You will need to find ways of meeting all three parts of the duty.



## What are the specific duties?

Scottish Ministers can place specific duties on the public authorities bound by the general duty. The specific duties for education authorities are set out in chapter 4 of this guide.

## What is the relationship between the general duty and the specific duties?

The specific duties have been introduced to help education authorities to meet the general duty. They are a means to an end – steps, methods, and arrangements – not ends in themselves. Your ultimate aim must be to meet the general duty. For example, if the monitoring that schools carry out under the specific duty on monitoring (see pp 20 – 23) shows that children of Pakistani origin perform well below the school average, to meet the general duty, you should take steps to find out why this is happening. You should then make sure something is done about it.

## How does the general duty apply to contracted services?

You are responsible for meeting the general duty and any specific duties in all your relevant functions, including those carried out by someone else through a contract (for example, cleaning services or school meals) or a service-level agreement (for example, family centres). This means that if you decide to outsource a service, and the service is relevant to race equality, you should ask what you need to do to meet the duties. You could then consider including those duties in the contract or agreement as performance standards for delivering the service.

(For further guidance on how the general duty and specific duties apply to procurement, see section 5 of the *Guide for Public Authorities in Scotland*.)

## How does the general duty affect partnerships?

You are responsible for meeting the general duty and any specific duties when you carry out a relevant function with other organisations. If your partners are other public authorities that are also bound by the duty, each authority will be individually responsible for meeting the general duty and the specific duties. If your partners are private or voluntary organisations, you may need to make sure that the work you do

# The general duty and the specific duties

jointly, and the way you do it, allows you to meet the duties in terms of race equality. Your private and voluntary partners do not have any similar obligation.

(For more guidance on how the general duty and specific duties apply to partnerships, see section 6 of the *Guide for Public Authorities in Scotland*.)

In education terms, the general duty will, for example, have implications for private partnership nurseries, private-public partnership building contractors, voluntary organisations funded by the authority, and contractors who provide school meals and transport. Education authorities need to make sure that these partners and contractors receive the support they need to meet the requirements of the Act. This needs to be built into the authority's service improvement plan (as laid down in the Standards in Scotland's Schools etc Act 2000) which will in turn inform each school's development planning.

## 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 they take account of the general duty and any specific duties. In practice, this means that agencies such as HM Inspectorate of Education will inspect, and report on, whether you are meeting the general duty and the specific duties.

## How are the duties enforced?

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 will 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.

If a public authority does not meet the general duty, its actions (or failure to act) can be challenged by a claim to the Court of Session for judicial review (asking the court to review the way the public authority made a decision). The court will not decide on the merits of the decision, only whether it is legal. The court can ask the authority to reconsider the way it has made a decision.

For example, if an education authority decides to change the catchment areas for all of its primary schools, and some local people believe that the decision will have an adverse impact on pupils from some racial groups, they can ask for a judicial review of the decision.

# 4

## Specific duties Policies and services

The Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 says that an education authority, managers of a grant-aided school, and the board of management of a self-governing school specified in Part I of Schedule 2 of the order must:

3. (1) .... before 30th November 2002,
  - (a) *prepare a written statement of its policy for promoting race equality (referred to in this article as its 'race equality policy'); and*
  - (b) *have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (4) ...*
- (2) *Such a body or person shall,*
  - (a) *maintain a copy of its race equality policy and in the case of an education authority ensure that each school under its management maintains such a copy; and*
  - (b) *fulfil those duties in accordance with such arrangements and in the case of an education authority ensure that each school under its management complies with the arrangements.*
- (3) *A race equality policy prepared under paragraph (1)(a) and the arrangements put in place under paragraph (1)(b) by an education authority will apply to each school under its management.*
- (4) *It shall be the duty of [such] a body or person ... to make arrangements for each school under its management to –*
  - (a) *assess the impact of its policies, including its race equality policy, on pupils, staff and parents of different racial groups including, in particular, the impact on attainment levels of such pupils; and*
  - (b) *monitor, by reference to their impact on such pupils, staff and parents, the operation of such policies including, in particular, their impact on the attainment levels of such pupils.*
- .....
- (6) *Such a body or person shall take steps as are reasonably practicable to publish annually the results of its monitoring under this article.*

### **INTRODUCING A RACE EQUALITY POLICY**

An education authority decided to involve its schools' staff and pupils in drawing up its race equality policy. A small group was set up, including head teachers, members from school boards, members of teaching and non-teaching staff, and representatives from the pupils' councils. The group produced a template for a wide-ranging race equality policy, and then drew up a more detailed policy for consultation. This was sent to the school board members, the pupils' councils, the parent-teacher associations, unions, the education authorities, and local community groups, including the racial equality council. The draft policy was also discussed in lessons on citizenship, and in special consultation meetings with parents and guardians.

When the education authority had approved the policy, the group met them to discuss how to promote the policy and make sure that everyone knew about it. They produced a poster in the main languages used in the community and copies were distributed widely. The policy was discussed at length at parents' evenings, in school assemblies and citizenship lessons, and in training sessions for all staff.

The education authority staff, pupils' councils, school boards, head teachers, and management teams all had various responsibilities for monitoring the policy and making sure that it was working as planned. The education authority's plan was to review and evaluate the policy every four years.

## **Race equality policy**

### **What is the duty?**

Education authorities, managers of grant-aided schools, and the board of management of self-governing schools must prepare and maintain a written statement of their race equality policy. They must also have arrangements in place for meeting their duties as soon as reasonably possible. Both the statement and the arrangements had to be ready by 30 November 2002.

### **What is a race equality policy?**

A race equality policy is a description of how education authorities and schools plan to prevent racial discrimination, and promote equal opportunities and good race relations across all areas of school activity. The education authority will develop the race equality policy, but schools have the responsibility of putting the policy into practice. The policy should be part of the planning arrangements the education authority and school already makes.

### REVIEWING THE CURRICULUM

As part of a review of its curriculum policy, a secondary school released the heads of each department for half a day to work with specialists from the education authority's ethnic minority support service. They discussed work schemes and national guidance for each subject, and the teachers took away new ideas and perspectives, which they built into their lessons and course units. They also produced a booklet on possible approaches to each subject, and made it available to all staff.

*The race equality policy should be a written statement of responsibilities and commitments. It could be linked to an action plan for putting the policy into practice. A good policy would:*

- a. be part of the school's development plan;*
- b. give details of how the school will put the policy into practice and assess how effective it is;*
- c. clearly define roles and responsibilities, so that people know what is expected of them; and*
- d. explain clearly what the school will do if the policy is not followed.*

(paragraph 6.11, code of practice in Scotland)

### Does the race equality policy have to be a separate policy?

*The race equality policy can be combined with another policy, such as an equal opportunities or diversity policy. However, to meet this duty, the race equality policy should be clearly identifiable and easily available (paragraph 6.12, code of practice in Scotland).*

We suggest that, if you have a general equal opportunities or diversity policy, you should make race equality a separate section (or series of sections) within it.

The Standards in Scotland's Schools etc Act 2000 places a requirement on education authorities to publish their progress in equalities matters as part of their annual service improvement plan. This requirement offers education authorities the opportunity to mainstream race equality issues by adding them to their annual statement of improvement objectives.

### REVISING FAILING POLICIES

When it found that some groups of pupils were underachieving, a school decided to revise its policy on pupil assessment. The change meant that pupils admitted after the start of the academic year, including those for whom English was not their first language, were automatically placed in the top set until their abilities could be assessed. The school monitored the change carefully. The data showed that pupils from ethnic minorities and refugee and asylum-seeker groups were receiving better results in their assessments, and that their attainment levels had improved noticeably after the policy was changed.

### REACHING LOCAL COMMUNITIES

A school decided that the best way of building strong links with local ethnic minority communities was to get parents and guardians to help. A small group of parents and guardians from ethnic minorities were approached and, before long, the school found itself hosting a series of community events. The initiative was a resounding success and the number of parents and guardians from ethnic minorities taking part in school activities shot up dramatically. Community groups also contributed ideas for the curriculum and some of their members agreed to be mentors for pupils, and to help them to improve their reading skills.

Another school actively develops links with agencies serving ethnic minority communities around the school. They encourage these agencies to contribute to equality days held in the school. The school works hard to develop close links with ethnic minority groups, encouraging them to use the community facilities in the school. The school hosts community-language classes on its premises to develop an atmosphere which encourages ethnic minorities to become involved.

### What should the race equality policy cover?

*The race equality policy should reflect the character and circumstances of the school, and deal with the main areas that are relevant to promoting the general duty. For example:*

- a. pupils' attainment and progress;*
- b. curriculum, teaching and learning (including language and cultural needs);*
- c. promoting good race relations in the school and in the local community;*
- d. care and assessment;*
- e. staff recruitment and career development;*
- f. the school's values;*
- g. pupil behaviour, discipline and exclusion;*

### UNDERSTANDING DIFFERENT BACKGROUNDS

A small, all-white primary school in a rural area organises school visits each year to venues that help develop pupil knowledge of cultural, interfaith, and anti-racist issues. They arrange visits to mosques, synagogues, and gurdwaras in Edinburgh and Glasgow for P6 and P7 pupils. A group has visited the Anne Frank House in Amsterdam, where issues of racism are explored within a more global context.

### GETTING PARENTS INVOLVED

A school that was having difficulty involving parents and guardians from ethnic minorities, especially women, in the life of the school introduced discussion groups and adult learning classes. Home-school liaison workers worked closely with the women to encourage them to take part. The school used the sessions to tell the women about the school and about how they could support their children's education, as well as to consult them on various school policies. A number of women got involved in classroom activities. As a result of the initiatives, the number of parents and guardians from ethnic minorities going to parent evenings and similar events increased from under 5 per cent to 50 per cent of the parents and guardians from ethnic minorities, and one of the women became a member of the school board.

Another school meets regularly with ethnic minority parents to discuss a range of issues, such as the role of guidance and careers, how to report racial incidents, and how to help children choose subjects.

In all appropriate cases, translated material and interpreters are provided.

- h. racial harassment and bullying;*
- i. admission and transfer procedures;*
- j. membership of the school board;*
- k. involving parents and the community in the school.*

(paragraph 6.13, code of practice in Scotland)

We suggest that the policy should set out:

- arrangements for building race equality into the processes for policy planning and development;
- arrangements for putting the policy into practice, including a timetable for regular reviews of the policy; and
- arrangements for monitoring and assessing progress towards meeting any race equality targets, and the race equality duty.

## How should you put the policy into practice?

Managers of grant-aided schools and the board of management of self-governing schools must assess and monitor the impact of their policies (including the race equality policy) on pupils, staff, and parents from different racial groups. Education authorities must make sure that each school under its management assesses and monitors the impact of its policies (including the race equality policy) on pupils, staff, and parents from different racial groups. Unless the school meets these responsibilities (to assess impact and to monitor), the authority is unlikely to meet its statutory duty.

### **A SCHOOL WITH 10 ETHNIC MINORITY PUPILS**

A secondary school with only 10 pupils from ethnic minorities decided to monitor each racial group's performance and progress. It emerged that five out of seven pupils of Pakistani origin were performing below the average for the school. Closer examination of the data showed that, in three cases, there had been a marked drop over the years, especially in certain subjects.

The school decided to give special support to these three pupils. It also asked all its pupils from ethnic minorities how they thought the curriculum could be made more interesting, and whether there were any issues that it needed to consider. Following this consultation, the school made sure that it considered cultural and race-equality issues at the curriculum planning stages for all subjects.

Schools (including schools under education authority management) will have to make sure that they put the race equality policy into practice and deal with issues that arise in the school and in the communities they serve. If you are a school, you may find it useful to link the race equality policy to an action plan, which could be part of your normal planning arrangements.

You need to make sure that your school board is clear about the race equality policy and fully understands its implications, as they have a central role in shaping the policy and in evaluating how effective it is. The policy could also be a regular item on the agenda at school board meetings.

The policy could include plans for training staff and members of the school board to meet their responsibilities.

Parents, guardians, pupils and staff will also need to know what the policy says, and understand what it means for them. We suggest that you make sure the policy explains how you plan to do this, and to keep everyone up to date with progress.

### **DECISIVE ACTION**

To see whether racist incidents were being dealt with effectively, a school employed a consultant to talk to pupils about racism and racial equality in the school. During the discussions, a number of pupils complained about a particular member of staff who joked and made racist remarks about them. They also complained that staff did not take racist incidents seriously.

The school reviewed its racial harassment policy and procedures and drew up an action plan, which included training for all staff. It also introduced a code of ethics for the school. A year later, the consultant was invited back to the school to talk to pupils. The initiative, and the school's decisive response, had clearly led to improvements.



### **DEVELOPING PUPIL EXPERTISE IN RECOGNISING AND DEALING WITH RACISM**

A secondary school in a multi-ethnic area promotes the understanding of race issues through an innovative scheme involving senior pupils (S6) working with younger pupils. Each year the senior pupils take part in a day dedicated to equalities issues. During the day, they are trained in delivering anti-racist workshops to younger pupils (in their school and in other schools). To further promote equalities throughout the school community, the senior pupils have developed guidelines on race and gender which spell out the school's expectations of pupils. These guidelines have been distributed to all pupils and parents.

## **Assessing policies**

### **What is the duty?**

Managers of grant-aided schools and the board of management of self-governing schools must assess and monitor the impact of their policies (including the race equality policy) on pupils, staff, and parents from different racial groups. Education authorities must make arrangements for the schools under their management to assess the impact their policies (including their race equality policy) have on pupils, staff, and parents from different racial groups. In particular, schools must assess whether the policies have, or could have, an adverse impact on the attainment levels of pupils from different racial groups.

### **OPEN SCHOOL POLICY**

A nursery and infant school says in its information for parents and guardians that everyone is welcome to visit the school at any time that is convenient for staff and pupils. Staff are also available for discussions 15 minutes before school and after closing. The school keeps records of parents' and guardians' visits (and the reasons for them) in the school secretary's office. It also encourages parents and guardians to come into their child's classroom at the start of each day for a 15-minute reading session.

When the school reviewed its arrangements, it became clear that Pakistani and Bangladeshi parents and guardians were much less likely to visit the school or go to the reading sessions. Following a first informal meeting with them, the school held regular meetings, where interpreters – who knew many of the families personally – were present. By the end of the year, the small group of regulars had grown appreciably and the number of parents and guardians going to the reading sessions also rose. Some of them chose to read books in their home languages.

As a result of the dialogue between the school and parents, another positive outcome is that parent notes are translated into relevant community languages.

### **PLANNING FOR IMPROVEMENT, STAFF DEVELOPMENT, AND REVIEW**

A school wants to raise the profile of anti-racism in their school. The head teacher, together with the principal teacher of guidance, proposes to:

- organise formal anti-racist training for staff;
- develop guidelines for anti-racist practice, with the involvement of staff and students;
- develop a zero-tolerance approach to racism;
- formulate and put into practice a new whole-school policy on anti-racism, which has the backing of all the school's stakeholders and which will be included in the school prospectus;
- improve the recording of racist incidents by developing staff awareness; and
- have specific activities to improve awareness of other cultures.

## **When should you assess your policies?**

Schools are not expected to assess all relevant policies at once. However, you will find it helpful to include a timetable for assessing all of them in the arrangements the education authority sets out for meeting this duty.

You should assess how effective the race equality policy is through the arrangements you have already made to develop and review policies.

You will also find it useful to be able to show that you have made arrangements to take account of race equality when you review any policies, and when you draw up and consider new ones.

## **How should you assess your policies?**

To assess your policies, you will need information, by racial group, on needs, entitlements, and outcomes for pupils, parents, guardians, and staff. The information should tell you whether your policies are affecting some racial groups differently. If you do find differences, and the differences amount to adverse impact, to meet the general duty, you will need to investigate the processes that have led to them. Adverse impact means significant differences in patterns of representation or outcomes between racial groups. You should then consider how to remove any barriers and, where necessary, review and revise your policy.

Our guide, *Ethnic Monitoring: A guide for public authorities in Scotland*, explains in more detail how to assess differences between racial groups. It also gives examples of action you could take to remove or reduce adverse impact.

### SURVEYING DIFFERENCES

A school that regularly assesses its ethnic monitoring data on pupils' attainment found that pupils who had support in English as an additional language (EAL) did well in some subjects, but not in others. To understand why, the school carried out a sample survey of bilingual pupils. It also surveyed a randomly selected group of pupils, for comparison. The pupils were asked about their favourite subjects and why they found some lessons easier to follow or more enjoyable. The survey found that it was important for all pupils – but especially for EAL pupils – to have a clear idea of the subject matter, and of the teacher's expectations and plans for the lesson.

The code lists 10 questions you can use to assess the impact of your policies, including your race equality policy – giving special attention to pupils' attainment levels.

- a. *Is the school making sure that its policies, for example on exclusion, bullying, the curriculum, parental involvement, community involvement, and race equality, are not having an adverse impact on pupils, staff or parents from some racial groups?*
- b. *How does the school help all staff to develop and reach their full potential?*
- c. *How does the school encourage all parents to take part fully in the life of the school?*
- d. *Does the school help all its pupils to achieve as much as they can, and get the most from what is on offer, based on their individual needs?*
- e. *How does the school explain any differences? Are the explanations justified? Can they be justified on non-racial grounds, such as English language difficulties?*
- f. *Does each relevant policy include aims to deal with differences (or possible differences) in pupils' attainments between racial groups? Do the policy's aims lead to action to deal with any differences that have been identified (for example, extra coaching for pupils, or steps to prevent racist bullying)?*
- g. *What is the school doing to raise standards, and promote equality of opportunity for pupils who seem to be underachieving and who may need extra support?*
- h. *What is the school doing to:*
  - (i) *prepare pupils for living in a multi-ethnic society;*
  - (ii) *promote race equality and harmony in the school, and in the local community; and*
  - (iii) *prevent or deal with racism?*
- i. *Is the action the school has taken appropriate and effective? Are there any unexpected results? If so, how are they being handled?*
- j. *What changes does the school need to make to relevant policies, policy aims, and any related targets and strategies?*

(paragraph 6.16, code of practice in Scotland)

## What information should you use to answer these questions?

*To answer these questions, schools could consider:*

- a. collecting and analysing relevant monitoring and other data;*
- b. talking to pupils, parents and staff to find out their needs and opinions; and*
- c. carrying out surveys or special research.*

(paragraph 6.17, code of practice in Scotland)

## What should you do with the results of assessments?

*Schools could use the results of these assessments to:*

- a. rethink their race equality objectives (where necessary); and*
- b. influence and guide their planning and decision making.*

(paragraph 6.18, code of practice in Scotland)

## How can you take account of everyone's views and needs?

We recommend that you consider the views and needs of parents, guardians, staff, and pupils who are affected by the policy you are assessing. This could involve explaining clearly to the groups concerned what you are doing and why. It could also mean looking at how you might communicate better (formally and informally) with pupils, parents, guardians, and staff from different racial groups, and involve them in planning and decision making.

It will be helpful to get feedback on the methods you use to reach various groups, so that you know if the methods are working.

## Monitoring policies

### What is the duty?

Education authorities must make arrangements for the schools under their management to monitor the impact of all policies (including the race equality policy) on pupils, parents, and staff from different racial groups. In particular, schools must monitor the impact of policies on pupils' attainment levels.

Managers of grant-aided schools, and the boards of management of self-governing schools must monitor the impact of their policies (including the race equality policy) on pupils, staff, and parents from different racial groups. In particular, they must monitor the impact of policies on pupils' attainment levels.

### MONITORING PERFORMANCE

A school analysed its standard grade results by ethnic background, sex, and subject area. For a more detailed analysis, the school asked its department heads to compare the results with previous years (in terms of overall performance, national averages, and estimated grades), to see if there were significant differences in performance relating to ability, sex, teaching groups, and racial groups. The school also asked the heads to explain any inequalities they found, and to suggest what individual departments, and the school as a whole, should do to raise attainment levels.

## What should you monitor?

*To monitor their pupils' attainment, schools should collect information about pupils' performance and progress, by racial group. They will need to analyse the information, and use it to examine trends. To help interpret this information, schools may find it useful to examine other areas that could have an impact on pupils' attainment (paragraph 6.20, code of practice in Scotland).*

Other areas that may affect pupils' attainment include:

- exclusion;
- racial harassment and bullying;
- curriculum, teaching and learning (including language and cultural needs);
- punishment and reward;
- support, advice and guidance; and
- parents' and guardians' involvement in the school.

The standard monitoring you already carry out, such as assessing teaching and test and exam results, will give you most of the data you need. However, you could also consider other monitoring methods such as satisfaction surveys, one-to-one interviews, classroom discussion, and feedback exercises on questions such as learning styles and relations between teachers and pupils.

You might also consider monitoring areas that could have an adverse impact on staff and parents and guardians from different racial groups.

In the case of staff, this is likely to include monitoring, by racial group, applications for employment, training, and promotion.

You should already be providing this information to your education authority, which has a specific duty on employment in relation to all the schools it manages (see chapter 5 and appendix 2).

### MONITORING TEMPORARY EXCLUSIONS

As part of a strategy to reduce permanent exclusions, a secondary school monitored and analysed temporary exclusions over each school term. The school kept records by racial group, sex, year group, subject, and reasons for exclusions, and discussed the results with staff at department and year-team meetings. The data allowed the school to identify:

- individual pupils who needed support;
- year groups that needed support;
- individual staff and departments that needed support; and
- areas in which both individuals and the school as a whole needed training.

The school was able to direct resources where they were most needed. It introduced plans to support individual pupils with strategies for 'anger management and behaviour modification' in some cases. The school worked not only with pupils, but also with teaching and other staff, who all received training in managing behaviour. A part-time counsellor worked with some of the pupils and ran early morning clinics once a fortnight for teachers. These sessions gave teachers the chance to think about how to deal with certain types of behaviour and to understand where their 'problem' pupils were coming from. Teachers also met parents and guardians regularly to discuss their children's progress.

In the case of parents and guardians, this may include monitoring, by racial group:

- attendance at meetings or other events for parents and guardians;
- membership of the school board and parent-teacher association; and
- access to information, services, and resources for parents and guardians.

### How should you use the monitoring data?

*Monitoring information will help schools to see what progress they are making towards meeting their race equality targets and objectives. In particular, it will help them to:*

- highlight any differences in attainment between pupils from different racial groups;*
- ask why these differences exist, and test the explanations given;*
- review how effective their current targets and objectives are; and*
- decide what further action may be needed to meet the three parts of the general duty, and to improve the performance of pupils from different racial groups.*

(paragraph 6.21, code of practice in Scotland)

### TACKLING NAME-CALLING

Staff at a primary school realised that the school's only two Chinese children were being called racist names. However, on reflection, the staff acknowledged that the children also used other kinds of name-calling. So, they decided to tackle all name-calling and arranged a meeting with school managers and parents and guardians to discuss the problem. The staff and some parents and guardians drew up a plan. This included:

- making a list of all the names that were used;
- going to classes to tackle the problem; and
- using the records they kept to see whether their efforts had made any difference.

In the school's newsletter, the head teacher informed parents and guardians about the school's plans to deal with the problem. She emphasised that the school's approach was not to blame parents or guardians or pupils, but that the problem could only be tackled if everyone worked together. She invited parents and guardians to talk to her about any worries they might have and, as there was some apprehension about the school's proposals, she arranged a meeting to go into the matter in more detail. She explained that the school's approach was entirely consistent with its values and ethos, and that she was taking personal responsibility for the project.

Monitoring over time showed that name-calling incidents dropped considerably, and parents and guardians made it clear that they were very pleased with what the school had achieved.

## Publishing

Education authorities, managers of grant-aided schools, and the boards of management of self-governing schools must take reasonable and practical steps to publish, each year, the results of any monitoring carried out to meet the specific duties.

Schools and education authorities should use the arrangements they already have in place to publish the results of the monitoring. It should be enough to publish summaries of the results, highlighting trends and key issues, and outlining the steps they are planning to take. Education authorities should clearly identify the race equality aspects when reporting on equalities within their annual statement of improvement objectives.

## **Training and professional development**

School staff and members of the school board will have training and development needs, which should be reviewed each year. Education authorities will want to make sure that at least one senior member of staff from each school carries out training on the authority's race equality policy and the implications for the work of the school.



# 5

## Specific duties Employment

### Education authorities' specific duties in employment

#### Staff employed in schools

The duties set out in article 4(2) and (5) of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 only apply to education authority staff who are employed in schools. The duties say that education authorities (referred to as a body or person) must:

- 4 (2) ... monitor, by reference to the racial groups to which they belong –
  - (a) the numbers at each school under its management of –
    - (i) staff in post, and
    - (ii) applicants for employment, training and promotion, from each such group, and
  - (b) in the case of bodies or persons ... which have 150 or more full-time staff in total in all schools under their management, the numbers of staff from each school and 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 such schools.
- ...
- (5) Such a body or person shall take such steps as are reasonably practicable to publish annually the results of its monitoring under this article.

#### Staff not employed in schools

Any education authority staff who are not employed in schools are covered by the employment duty as set out in articles 5(1) and 5(2) of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002. Under these duties, education authorities (referred to as bodies or persons) must:

- 5 (1) (a) *before 30th November 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 body or 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 body or 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 or other body.*
- ...
- (3) *Such a body or person shall publish annually the results of its monitoring under paragraph (2).*

We recommend that you collect ethnic data for all areas of employment where racial inequality or discrimination might occur. You could then:

- analyse the data to see if there are any patterns of inequality; and
- take whatever steps are needed to remove barriers and promote equal opportunities.

If the monitoring shows that an employment policy, procedure or practice is resulting in unlawful racial discrimination (see appendix 3), you should examine the policy, procedure or practice carefully, to see where and how discrimination is taking place. You should then consider what changes to introduce, make them as soon as possible, and monitor their effects.

If the monitoring shows that a policy, procedure or practice has an adverse impact on equal opportunities or good race relations (even though it is not unlawfully discriminatory), to meet the general duty you should consider making changes to the policy, procedure or practice, to remove, or at least reduce, inequalities.

## Positive action

If the monitoring shows that some racial groups are under-represented in the workforce, you could consider taking 'positive action' (see appendix 3). This allows you to target your on-the-job training, and your efforts to recruit staff, at those groups that are under-represented in a particular area of work. However, positive action does not allow you to discriminate when you decide who to select for the job.

## Do schools have specific duties in employment?

Schools do not have specific duties in employment. However, every school will need to give its education authority information on employment, so that the authority can meet its duty to monitor and report, each year, on staff in the schools that it manages. We would advise you to look carefully at the specific duties for employers (see p 25, and chapter 5 of the code). You should also remember that it is unlawful under the Act for any employer, public or private (unless specifically exempted), to discriminate on racial grounds (see appendix 3).

## Ethnic categories

We would encourage you to use the same ethnic classification system as the one used in the 2001 census, and to add extra categories to reflect your circumstances. For example, if you recruit a number of overseas staff from a particular country, or if your intake of pupils from a particular country goes up as a result of changes in the local population, your classification system may need to include a category for that country. However, you should be able to fit the extra category within the census categories. See our guide, *Ethnic Monitoring: A guide for public authorities in Scotland*, for more information.

## Appendix 1

# Framework for a race equality policy

## Introduction

Under the duty to promote race equality, education authorities must:

- prepare a written statement of a race equality policy;
- maintain the written statement;
- make arrangements for fulfilling their specific duties; and
- make sure that the schools they are responsible for follow the arrangements.

The policy could be a separate race equality policy or part of another policy. If it is part of another policy, we suggest that it should be easily identifiable as a race equality policy.

You will find it helpful to put a senior member of staff in charge of developing the policy, putting it into practice, and informing and involving people inside and outside the education authority.

Part I covers the points we would advise you to include in your race equality policy. Part II suggests questions that should help you to take account of race equality in other policies.

## I. The race equality policy

### 1. Background

It may help to include a summary of the main race equality issues in your area. These could include:

- the population of your area;
- the ethnic backgrounds of pupils and staff; and
- brief accounts of any racist incidents in schools or in the local area.

### 2. Aims and values

Your race equality policy should be based on your values and aims. It should include a statement that your aim is to eliminate unlawful racial discrimination, and to promote equal opportunities and good race relations in all areas of school life. These could include:

- progress, attainment, and assessment;
- behaviour, discipline, and exclusions;
- pupils' personal development and pastoral care;
- teaching and learning;
- admission and attendance;
- the curriculum;
- staff recruitment and professional development; and
- partnerships with parents and guardians, and communities.

The statement is important because it links the race equality policy to other school activities. You should also consider including race equality statements in other relevant policies (see pp 32 – 35).

### 3. Leadership and management

You will find it helpful to set out in your policy the commitments and responsibilities of education authority staff, the head teacher, staff, pupils, and visitors to the school. We give examples of these below.

#### **Commitments**

We are committed to:

- actively tackling racial discrimination, and promoting equal opportunities and good race relations;
- encouraging, supporting, and helping all pupils and staff to reach their potential;
- working with parents and guardians, and with the wider community, to tackle racial discrimination, and to follow and promote good practice; and
- making sure the race equality policy and its procedures are followed.

#### **Responsibilities**

##### *A Education authority*

The education authority is responsible for:

- making sure that the schools under its management make arrangements to assess the impact of its policies;
- making sure that schools monitor the way these policies work;
- making sure the school complies with the amended Race Relations Act 1976 (the Act); and
- making sure the race equality policy and its procedures are followed.

# Appendix 1

## Framework for a race equality policy

### *B Head teacher*

The head teacher is responsible for:

- making sure the race equality policy is readily available and that school board members, staff, pupils, and their parents and guardians know about it;
- making sure the race equality policy and its procedures are followed;
- producing regular information for staff and school board members about the policy and how it is working, and providing training for them on the policy, if necessary;
- making sure all staff know their responsibilities and receive training and support in carrying these out; and
- taking appropriate action in cases of racial harassment and racial discrimination.

### *C All staff*

All staff are responsible for:

- dealing with racist incidents, and being able to recognise and tackle racial bias and stereotyping;
- promoting equal opportunities and good race relations, and avoiding discrimination against anyone for reasons of race, colour, nationality, or ethnic or national origins; and
- keeping up to date with the law on discrimination, and taking up training and learning opportunities.

### *D Staff with specific responsibilities*

We suggest that you make a senior member of staff responsible overall for:

- coordinating work on race equality; and
- dealing with reports of racist incidents.

### *E Visitors and contractors*

Visitors and contractors are responsible for:

- knowing, and following, your race equality policy.

## 4. Covering the specific duties

Education authorities must make arrangements for the schools they manage to assess and monitor the effects of their policies (including the race equality policy) on pupils, parents, guardians, and staff from different racial groups. The race equality policy should briefly set out these arrangements. The policy could include the following.

### **Planning and developing policy**

- How you plan to build questions on the implications for race equality into the processes for developing and planning policy.
- How you will build race equality targets within your wider strategic plans.
- How you plan to assess the effects of the race equality policy, for example, through consultation, and by using auditing tools (such as *How good is our school?*) to set race equality targets and take action.

### **Ethnic monitoring**

- How you plan to collect ethnic data to monitor pupils' attainment and progress, and set targets.
- How you plan to use ethnic data – for example on attainment, progress, exclusions, sanctions, and rewards – to inform planning and decision-making.

### **Assessing and reviewing policies**

- How and when you plan to monitor, assess, and review your policies and strategies that are relevant to race equality, to see how effective they are in tackling unlawful racial discrimination, and promoting equal opportunities and good race relations.
- How you plan to build race equality questions into your self-review and evaluation frameworks.
- How you plan to use the results of reviews and assessments to inform planning and decision-making.
- How you plan to review your race equality policy against your assessments, and make any changes that are needed to the policy, and to any targets it includes.

### **Publishing the results of monitoring**

- How you plan to publish, each year, the results of your monitoring.
- How you plan to keep everyone in the school informed about the policy and how it is working.
- How you plan to make sure that any information you publish cannot be used to identify individuals.

## **5. Putting the race equality policy into practice**

You could consider the following questions.

### **How will you put the policy into practice?**

You should include:

- monitoring the policy to see how it is working; and
- when, and how often, you plan to review the race equality policy.

### **How will you use training and development?**

You should include:

- developing a training strategy which includes training and support for staff and school board members;
- the methods you will use to train staff and school board members; and
- monitoring and assessing the training.

### **How will you publish and promote the policy?**

You should include:

- how and where the policy will be available;
- who will get a copy of the policy; and
- whether the policy will be translated or made available in special formats (for example, on cassette and in Braille).

## **6. Date of the policy**

Always say when the policy was approved and signed.

## **7. Breaches of the policy**

We would advise you to make it clear in your race equality policy what action you will take if pupils, staff or others do not follow the policy.

## **II. Building race equality into other policies**

We suggest below some examples of questions you could ask to take account of race equality in your other policies, and to build policy statements for them.

### **Policies on attainment, progress, and assessment**

- How do you make sure that you have equally high expectations of all pupils and are committed to encouraging and helping them to achieve the highest standards?
- How do you recognise and value different kinds of achievement?
- Do you monitor pupils' attainments and progress by their racial group, and analyse the information to identify trends and any patterns of underachievement?



### **Policies on behaviour, discipline, and exclusion**

- How do you make sure your procedures for disciplining pupils and managing behaviour are fair to pupils from all racial groups?
- Do your staff use rewards and sanctions consistently?
- Do you monitor exclusions to see if there are any patterns or trends?
- Do your strategies for integrating long-term truants and excluded pupils in the school consider the needs of pupils from all racial groups?

### **Policies on admission and attendance**

- Is your admission policy equally open to pupils from all racial groups?
- Do you monitor the admission process to make sure it is used consistently and fairly for applicants from all racial groups?
- Do you monitor school attendance by pupils' racial groups?

### **Policies on the curriculum**

- How do you plan the curriculum so that it includes the principle of race equality, and recognises and values diversity?
- How do you make sure that pupils get the opportunity to explore questions of identity, race equality, and racism?
- How do you monitor the curriculum and assess whether it helps all pupils to achieve their full potential?
- What do you do to give pupils the chance to experience other cultures?
- How do extra-curricular activities and events cater for the interests and abilities of all pupils, and take account of parents' and guardians' concerns about religion or culture?

### **Policies on personal development and pastoral care**

- How do you make sure that pastoral support takes account of religious and ethnic differences, and the experiences and needs of particular groups of pupils, such as Gypsies and Travellers, refugees, and asylum seekers?
- How do you encourage all pupils to consider the full range of options after they are 16?
- Do you monitor work experience placements by racial group to make sure there is no stereotyping?
- What support do you give to victims of racism and racial harassment through the school or with help from outside agencies?

### Policies on teaching and learning

- How do your staff create an environment where all pupils can contribute fully and feel valued?
- How does your teaching take account of pupils' cultural backgrounds, language needs, and different learning styles?
- How are different cultural traditions valued and made meaningful to pupils? Do you help pupils to make connections with their own lives?
- How do your teachers challenge stereotypes and give pupils the understanding they need to recognise prejudice and reject racial discrimination?

### Policies on working with parents and guardians, and with communities

- What steps do you take to encourage all parents and guardians to get involved in the school?
- How do you make sure that information and material for parents and guardians is written clearly and is available (where necessary) in languages other than English, and in special formats?
- How do you make sure that your premises and facilities are fully accessible to, and can be used by, everyone in your community?

### Policies on racial harassment, bullying, and school values

- How do you publicly promote good personal and community relations, and what steps do you take to prevent racial discrimination?
- How do you record, investigate, and report racist incidents and racial harassment to your education authority?
- What training do you give staff to make sure they know how to deal firmly, consistently, and effectively with racist incidents, racial harassment, and bullying?
- How do you make sure that pupils, parents, guardians, and staff know the procedures for dealing with racist incidents and racial harassment?
- How do you work with the education authority and others to tackle racism and racial harassment in the school and in the local area?

### Policies on staff recruitment and professional development

- How do you advertise posts, including posts for non-teaching staff? Are all posts open to the widest pool of applicants?
- How do you make sure that everyone who is involved in recruitment and selection is effectively trained and knows what to do to avoid discriminating, intentionally or otherwise?

- How do you make sure that your recruitment and selection procedures follow good equal opportunities practice?
- How do you monitor applications for employment, training and promotion, and staff in post?

### **Policies on procurement and outsourcing**

- How do you make sure that you meet the general duty in relevant functions or services that you carry out under contract or under other service arrangements?
- How do you take account of race equality in your contractual or other arrangements for delivering services?
- What sanctions do you take against contractors or providers of services who do not follow your race equality policy? What procedures do you have for this?

## Appendix 2

# Education authority support for schools

## Education authorities and the duty to promote race equality

Education authorities are bound by the duty to promote race equality. To meet the duty, they need to tackle unlawful racial discrimination, and promote equal opportunities and good race relations when carrying out all their 'relevant' functions (see p 6). This means that education authorities have a central role to play in encouraging, supporting, and helping schools to develop good practice in achieving race equality, particularly if the work involves meeting the requirements of the duty. We will encourage education authorities to:

- play an active part in supporting schools in their race equality work;
- identify, set up, and promote good practice in achieving race equality in schools;
- help to develop positive links between schools and local communities;
- provide information, resources, guidance and support, so that schools can develop good practice.

The following examples show how education authorities might support their schools.

### Examples

#### 1. Reviewing functions

An education authority carried out a review of the way the duty to promote race equality affected its work with schools. This was based on HMI Education's standard for schools, *How good is our school?*. The review, which was led by an assistant director, consisted of each section of the directorate looking at what they would need to do to help schools to meet the standard. As a result, they drew up an action plan aimed at building race equality into all areas of the directorate's work. The plan included the following.

- The education authority would review all the policy guidance and support they give schools, to make sure it refers to race (and other forms of) equality throughout. The education authority would also update its guidance for schools on race equality policies, and on how to deal with racial harassment.

- The education authority would make sure that race equality questions were included in its processes for planning, review, and decision-making, particularly in areas such as: school organisation, admission, allocating funds and resources, exclusion, inclusion and behaviour support, curriculum support, school improvement, and special educational needs.
- The education authority would update its monitoring systems, so that data (including ethnic data on pupils' performance and progress, exclusions, and racist incidents) could be broken down and analysed on an education authority, individual school, and 'similar school' basis. The education authority would also improve the way it distributed and used the data.
- The education authority would set up a programme to support schools when they carry out race equality audits and impact assessments. The programme would be closely linked to the school self-evaluation framework, which education authority inspectors use when they work with schools.

## 2. Workshops on race equality policies

Using this framework for a race equality policy, an education authority arranged a series of workshops for schools to guide them through the process of preparing a race equality policy and developing an action plan. The education authority encouraged schools to work in small groups, so that they could share ideas and practice. The groups met regularly and were supported by education authority officers, who gave them advice and guidance. Once the policies and action plans had been prepared, schools used the groups to share good practice and to get support from other schools. As the coordinator of the groups, the education authority made sure that good practice was passed on to all schools in the education authority. The education authority also identified areas of common concern, and held training events to help schools sort out their problems.

## 3. Advising schools on monitoring and assessing policies

An education authority produced a leaflet on what schools needed to do to meet their duties to monitor and assess the effects of their policies. The leaflet also set out what monitoring information the education authority needed from schools to meet its specific duties in employment.

The education authority then organised a seminar for schools on how to assess the effects of their policies. The seminar focused on practical examples of policies on attainment and curriculum planning and delivery. The education authority explained how it could support schools, both with assessments (for example, by providing analyses of monitoring data at a school, education authority or similar-school level) and with good practice (for example, by helping schools set targets, and coordinating and providing resources). The education authority also gave schools practical support, both through networks and individually, and through its advisers.

The education authority used the duty to promote race equality as an opportunity to revise its staff-monitoring systems. At the seminar, the education authority explained how it would use the data to inform its planning and decision-making, and to develop and assess the positive action initiatives it takes to increase the recruitment and development of staff from ethnic minorities in teaching.

### 4. Training and support for members of school boards

An education authority's support service for members of a school board produced a paper for school board members to let them know of their responsibilities under the duty to promote race equality, and followed this up with a seminar on the specific duties.

The education authority then held meetings for a small group of school board members to discuss race equality issues, especially the question of recruiting and retaining school board members from ethnic minorities. The education authority carried out a survey to see how many ethnic minority school board members there were in schools, and set up systems to regularly monitor recruitment and retention. Following the analysis of a 'needs and satisfaction' survey of school-board members from ethnic minorities, the education authority set up a support network for them.

### 5. Helping schools to develop good practice

An education authority helps its schools to develop good practice in achieving race equality in a number of ways.

- It sets out clearly what good practice is and shares this with schools.
- It produces guidance on the curriculum which includes advice on the race equality aspects of each subject.
- It helps schools to identify under-achieving groups and set targets, and gives them professional support to achieve these targets.
- It uses its contacts in the community to improve links between schools and communities, and encourages schools to become resources for their local communities.
- It makes sure schools have clear procedures for reporting, and acting on, racist incidents.
- It uses *How good is our school?* and builds its guidelines into its school self-evaluation scheme.

Through its monitoring, the education authority found that pupils from Chinese, Gypsy, and Traveller backgrounds were underachieving in its schools. To tackle this, the education authority set up special projects to raise these pupils' achievement levels. Steering groups, chaired by the director of education and including representatives from both communities, oversee the projects.

The education authority has also introduced a scheme to set up ‘families’ of schools. The scheme involves matching schools in deprived areas with schools in more wealthy areas. The schools in each family share ideas and good practice, and help and support each other.

## 6. Resources for schools

As part of a review of race equality issues in the curriculum, an education authority carried out an audit of the resources its schools used. It then set up a database to help teachers find suitable resources more easily. The database includes details of artists and others who have dealt with the subjects of racism and diversity in their work, as well as materials that schools have developed or used in lessons or projects on these subjects.

The education authority also identified gaps in resources and, with outside funding, set up a project to track down other resources that were available in Britain and develop new resources and materials for schools.

The education authority promoted the database, and good practice it had found in schools, through its website, and by holding a series of events for teachers from different types of school.

## 7. Reaching parents, guardians, and communities

A number of schools in an education authority faced potentially difficult situations when parents and guardians wanted to take their children on extended holidays to the Indian subcontinent. With help from the local racial equality council (REC), the education authority held a series of meetings with parents, guardians, and community groups in various venues, including local mosques and community centres, to discuss the problem and to listen to their concerns. The meetings also gave schools and the education authority the opportunity to explain the difficulties they were having.

As a result of the consultations, the education authority, with support from the REC director, a small group of parents and guardians from ethnic minorities, representatives from the community (including the local mosques), and staff from several local schools, drew up a policy on extended leave. The policy set out:

- when it would be acceptable for parents and guardians to ask for extended leave,
- what parents and guardians were expected to do; and
- how the education authority would support pupils who were on extended leave.

## Appendix 3

# 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. The Scottish Parliament’s inquiry into Gypsies and Travellers and public-sector policies recommended that all legislation and policies should be framed on the understanding that Gypsies and Travellers have distinct ethnic characteristics. As a result, they should be treated as an ethnic group (until there is a court ruling recognising them as a racial group 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 black pupils because they are black.

**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 other than racial grounds.

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

- 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 particular areas 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:

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

Under section 71(2) and (3) of the Act, Scottish Ministers have 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 in Scotland* came into effect on 30 November 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 sheriff court 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.



**COMMISSION FOR  
RACIAL EQUALITY**

**[www.cre.gov.uk](http://www.cre.gov.uk)**

## **OFFICES**

### **SCOTLAND**

The Tun  
12 Jackson's Entry  
off Holyrood Road  
Edinburgh  
EH8 8PJ  
☎ 0131 524 2000

### **HEAD OFFICE**

St Dunstan's House  
201-211 Borough High Street  
London  
SE1 1GZ  
☎ 020 7939 0000

### **BIRMINGHAM**

Lancaster House (3rd floor)  
67 Newhall Street  
Birmingham  
B3 1NA  
☎ 0121 710 3000

### **LEEDS**

Yorkshire Bank Chambers (1st floor)  
Infirmary Street  
Leeds  
LS1 2JP  
☎ 0113 389 3600

### **MANCHESTER**

Maybrook House (5th floor)  
40 Blackfriars Street  
Manchester  
M3 2EG  
☎ 0161 835 5500

### **WALES**

Capital Tower (3rd floor)  
Greyfriars Road  
Cardiff  
CF10 3AG  
☎ 02920 729 200

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