



RACE EQUALITY IMPACT ASSESSMENT

**STATUTORY CODE OF PRACTICE ON RACIAL
EQUALITY IN EMPLOYMENT**

1. Introduction

- 1.1 The Commission for Racial Equality (CRE) is a non-departmental public body established by the Race Relations Act 1976 (RRA).
- 1.2 The RRA gives the CRE a legal duty to:
 - a. work towards the elimination of racial discrimination and harassment
 - b. promote equality of opportunity and good relations between people from different racial groups;
 - c. keep under review the way the RRA works; and
 - d. make proposals for amending it.
- 1.3 Section 71(1) of the RRA places a statutory general duty on listed public authorities, including the CRE, to have 'due regard' to the need to:
 - a. eliminate unlawful racial discrimination
 - b. promote equality of opportunity; and
 - c. promote good relations between people from different racial groups.
- 1.4 The general duty is supported by a number of specific duties. These set out the arrangements that public authorities must make to help them to meet the general duty. One of the specific duties is to make arrangements for assessing, and consulting on, the effects that proposed policies are likely to have on the promotion of racial equality (*CRE: Race Equality Scheme 2002–5*, Objective 3, p 18).
- 1.5 The duty to carry out a race equality impact assessment (REIA), is based on four guiding principles:
 - a. all proposed or new policies relevant to meeting the duty should be assessed;
 - b. the assessment is obligatory;
 - c. the approach should be proportionate to the likely effects of the policy; and
 - d. the assessment should consider all three parts of the general duty.

- 1.6 To meet its duties, the CRE will:
- a. identify relevant proposed policies;
 - b. assess the impact of the policy on all racial groups;
 - c. consult relevant groups on the impact of the policy; and
 - d. take steps to remove discrimination or adverse impact on any particular racial group (or groups).

1.7 The impact our policies might have on a particular racial group (or groups) will be assessed using the following criteria:

- a. do the quantitative or qualitative data show differences between racial groups?
- b. do the differences between racial groups amount to adverse impact, and for which group(s)?
- c. could the policy be directly or indirectly discriminatory? and,
- d. if the policy could be indirectly discriminatory, could it still be justified under the RRA?

2. The purpose of the statutory Code of Practice on Racial Equality in Employment

2.1 The aims of this code are to:

- a. provide practical guidance on how to prevent unlawful racial discrimination, and achieve equality of opportunity in the field of employment;
- b. help employers and others who have duties under the employment provisions of the RRA to understand their responsibilities and rights;
- c. help lawyers and other advisers to advise their clients, and to assist courts and tribunals in interpreting legal concepts; and
- d. make sure anyone contemplating bringing legal proceedings under the RRA, or attempting to negotiate within the workplace, has a clear understanding of both legislation and good practice in the field of employment.

3. Benefits of the code

3.1 The CRE's recommendations in this code should help employers to:

- a. understand and meet their legal obligations;
 - b. adopt and put into practice effective policies, designed to prevent unlawful racial discrimination, and ensure equality of opportunity for all;
 - c. draw on the talents, skills, experience, networks and different cultural perspectives of a diverse workforce;
 - d. create a working environment where people feel they are respected and valued,
 - e. reduce the risks of legal liability, costly and time-consuming disputes, and damage to productivity, staff morale and the organisation's reputation; and
 - f. foster good race relations
- 3.2 The code should also help employees and their representatives understand their rights under the RRA, and what constitutes good practice in the field of employment.

4. Impact assessment

- 4.1 The CRE has a duty (see para 1.5) to assess the relevance of every proposed policy to the general duty. A policy is defined as:

... any practice or written document, which sets out a course of action, guiding principles or procedure, which is adopted and implemented by the authority.

- 4.2 The CRE's assessment process consists of three stages:

- 1. Initial screening
- 2. Full impact assessment
- 3. Race Equality Impact Assessment (REIA) report

5. Stage 1: Initial screening

- 5.1 Details of the initial screening of the code are attached at Appendix 1. Although the screening showed that the code did not need a full impact assessment, the CRE carried one out all the same.

6. Data and research

- 6.1 The CRE consulted the following sources of information:

- a. *Are employers complying?* CRE, 1989;
- b. *Ethnic Minorities and the Labour Market*, Cabinet Office Strategy Unit, March 2003;
- c. Employment tribunal cases, 1980 – present;
- d. Research and survey data on racial equality;
- e. UK Census 2001;
- f. *Towards Racial Equality*, by Schneider-Ross, CRE, 2003; and
- g. Potential users of the code.

7. Consultation

- 7.1 A consultation draft of the code was placed on the CRE website between March 2004 – August 2004, with a questionnaire for comments.
- 7.2 The CRE received 177 responses from organisations in the public, private and voluntary sectors, and from individual members of the public.
- 7.3 A summary of the comments received, and the CRE's response are attached at Appendix 2.
- 7.4 Consultation exercises on the draft code included the following:
 - a. 19/04/04 Seminar with Employers Organisation for Local Government, London
 - b. 20/04/04 Seminar with Employers Organisation for Local Government, Birmingham
 - c. 13/05/04 Two Seminars with Chartered Institute of Personnel Development
 - d. 14/05/04 Seminar with National Council for Voluntary Organisation
 - e. 09/06/04 Presentation to British Retailers Consortium, Employment Policy Group
 - f. 10/06/04 Seminar with Confederation of British Industry
 - g. 15/06/04 Seminar with CRE Wales, Cardiff
 - h. 21/06/04 Seminar with ACAS North East Region, Haydock Park

- i. 22/06/04 Seminar with ACAS North West Region, Leeds
- j. 23/06/04 Seminar with CRE Scotland, Edinburgh
- k. 13/07/04 Meeting with Key Stakeholders, London
- l. 27/07/04 Joint CRE/TUC Seminar, London

8. Impact assessment and justifiability

- 8.1 If an impact assessment finds that the proposed policy could result in unlawful racial discrimination or in adverse impact on a particular racial group (or groups), steps should be taken to prevent the discrimination and to remove, reduce or mitigate adverse effects of the policy.
- 8.2 The CRE was unable to find any qualitative or quantitative evidence that the code would have an adverse affect on any racial group. We shall keep the code under review, to make sure it does not have unintended consequences for our ability to meet the duty to promote race equality.

9. Policy implications

- 9.1 No one who responded to the draft code during the consultation process identified potential unlawful discrimination or adverse impact arising as a result of the code's recommendations. No further investigation or research is therefore needed.

10. Policy application and monitoring

- 10.1 The CRE is planning to monitor both the take-up and the effectiveness of the code.
 - a. The code will be freely downloadable from the CRE website (www.cre.gov.uk) and will also be available for purchase in printed form. We will monitor the number of 'hits' to the site, the number of copies downloaded and the number of printed copies sold each year.
 - b. The CRE will invite organisations from the private, public and voluntary sectors to take part in a pilot project to monitor the effects of the code on racial equality.
 - c. The CRE will offer training seminars to explain the code and will monitor how participating organisations put its recommendations into effect.
 - d. The CRE will offer to make presentations on the code at trade union annual conferences and encourage unions to fill out questionnaires on

the way the code is being taken up in different workplaces and put into effect.

- e. The CRE will approach professional organisations, such as the Chartered Institute of Personnel Development, the Law Society, the Bar Council, the Employers' Organisation for Local Government, the National Council for Citizens Advice Bureaux and others, to advertise the code and to help in promoting it.
- f. The CRE will carry out research into cases of racial discrimination where the code is cited in employment tribunal decisions.
- g. The Director of the Private Sector at the CRE will be responsible for conducting yearly reviews of the code. Details will be available on the CRE website.

11. REIA recommendations

- 11.1 The code should be made available widely, and its effectiveness reviewed each year.

12. Conclusion

- 12.1 At this stage, no further assessment is required.

13. Publication of Race Equality Impact Assessment

- 13.1 This REIA report will be published on the CRE website.

Appendix 1: Initial Screening

Each question is designed to help identify whether the policy has implications for equality of opportunity. In each case, use your best judgement, and if you think there are any implications for racial equality, explain why.

- (a) Is there any evidence, or other reason, to believe there will be higher or lower differences in impact on certain groups?**

No. The code clarifies what is meant by racial discrimination and advises organisations on the standards of good practice needed to prevent unlawful racial discrimination and ensure equality of opportunity in the field of employment. Its aim is to help employers and others with responsibilities under the employment provisions of the RRA to understand their responsibilities and rights. The RRA protects all racial groups from unlawful discrimination on racial grounds, both in employment and service provision. Therefore, there is no evidence or reason to believe that the code will have a different impact on any racial group.

- (b) Is there any evidence, or other reason, to believe, that different groups have different needs, experiences, issues and priorities in relation to this particular policy?**

No. As above.

- (c) Is there an opportunity to promote race equality more effectively by altering this policy or working with others in the wider community?**

No. However, we shall continue to work closely with stakeholder organisations in the private, public and voluntary sectors, to make sure the code's recommendations are followed. We shall also work with them to make sure the code does not have adverse implications for the promotion of race equality.

- (d) Have prior consultations with relevant groups, organisations or individuals indicated that this particular policy creates problems that are specific to them?**

No. A survey carried out in 1986, two years after the 1984 code was published, showed that only 4% of large organisations had put the code fully into effect and were monitoring it. This was mainly due to a lack of commitment on the part of organisations, as steps to ensure equality of opportunity were seen as a burdensome 'extra' and not as an essential part of developing good employment policy and practice.

Appendix 2: Results of consultation

Critical comments	CRE response
<i>Purpose of code not clear</i>	The purpose of the code has been spelled out clearly.
<i>Too long and demanding</i>	The code has been reduced in size. It is now a much clearer, more accessible and succinct document.
<i>Doesn't reflect company practice or practices in smaller organisations</i>	The fact that smaller organisations will need to adapt the code to their specific needs has been highlighted.
<i>Recommendations found to be too prescriptive and could "trip-up" organisations not following the recommendations</i>	The language has been modified.
<i>Tension between distinguishing statutory recommendations and good practice guidance</i>	The distinctions between the law, recommendations and advice are now clearer.
<i>Section on law very complex and confusing; law should be explained in lay-terms</i>	The legal context has been made more accessible.
<i>Distortion because of over simplifications</i>	The CRE took this comment on board while reviewing the language and legal content of the code.
<i>Language unclear: what does "should" and "could," mean?</i>	The distinction between recommendations and advice is now clearer.
<i>Found to be too public sector orientated</i>	The code does not focus on any particular sector.
<i>Not clear who the Code is aimed at: lawyers or practitioners</i>	The code now makes its intended readership clearer.
<i>Glossary should go at front</i>	On reflection, the CRE decided the glossary should remain as an Appendix at the end of the code.
<i>Recruitment recommendations very prescriptive and unreflective of current practices</i>	The section on recruitment is more succinct and draws a clear distinction between recommendation and advice.
<i>Parts of guidance were found to be irrelevant to public sector</i>	Details about the public sector have been deleted in favour of referring readers to CRE publications on the race equality duty.
<i>Confusion as to which parts were statutory and which were guidance</i>	The distinction between recommendations and advice is now clearer.
<i>Guidance on GOR, GOQ and positive action very confusing</i>	The sections on GOR, GOQ and positive action have been shortened and attached as an appendix