



**A GUIDE TO  
THE CODE OF PRACTICE  
ON RACIAL EQUALITY  
IN HOUSING**



**COMMISSION FOR  
RACIAL EQUALITY**

**From 1 October 2006, the statutory *Code of Practice for Racial Equality in Housing* replaces two statutory codes of practice, one for rented housing (1991), and the other for non-rented housing (1992), issued by the Commission for Racial Equality (CRE). The new code is published in three versions: one each for England, Scotland and Wales.**

## **WHAT IS THE CODE OF PRACTICE?**

The code is a set of recommendations and guidance on how to avoid unlawful racial discrimination and harassment in housing. It outlines the legal obligations of housing organisations under the Race Relations Act 1976 (RRA), and contains general advice on the policies they need to safeguard against discrimination, as well as more detailed recommendations on the procedures and practices that will help ensure fair and equal treatment for everyone.

The revised code reflects the law as it stands today, and benefits from the discrimination case law that has been developed since the RRA came into effect in 1977.

The code is a statutory code. This means it has been approved by a secretary of state and laid before parliament.

This guide explains the importance of the code and should not be seen as a substitute for it.

## **WHO DOES THE CODE APPLY TO?**

The code applies to all housing organisations in England, Scotland and Wales. The term 'housing organisations' covers a wide range of bodies, including: house builders and developers, local housing authorities, housing associations, estate and lettings agencies as well as private landlords and house sellers.

## **WHAT IS THE STATUS OF THE CODE?**

The code does not have the force of law. But if housing organisations ever have to defend themselves in a county court (or sheriff court in Scotland) against complaints of racial discrimination or harassment, their failure to follow the code may count against them. The court must take the code into account, if it is relevant.

## **WHAT IS THE PURPOSE OF THE CODE?**

The code has been written to help housing organisations to:

- understand the RRA, and to be aware of their duties, rights and responsibilities;
- make sure all who seek housing or housing services are treated equally, irrespective of race, colour, nationality or ethnic or national origins;

- be aware of the different backgrounds and cultures of the population they serve, and any consequent differences in the type of housing or housing services needed;
- follow good practice in all their activities, from providing housing itself to related services;
- provide relevant and well-designed training for all board members and staff, including front-line staff and specialists;
- eliminate racial harassment;
- reduce persistent inequalities in the type and quality of housing available to people from different racial groups;
- reduce the risks of costly and time-consuming litigation;
- foster good relations between people from different backgrounds in the communities they serve; and
- strengthen the organisation's reputation as a fair provider of housing and related services for all.

The code has also been written to help housing organisations that are public authorities to meet the statutory duty to promote race equality, which applies to all their functions.

## WHAT DOES THE LAW SAY?

The RRA makes it unlawful to discriminate on grounds of race, colour, nationality (including citizenship) or ethnic or national origins in the sale or letting of housing, or in providing housing services.

Racial discrimination may be either direct or indirect.

- **Direct discrimination** means treating a person less favourably on racial grounds; for example, by only giving information about certain types of property to let to British people, or by refusing to sell to a Bangladeshi family. Segregating a person from others on racial grounds is automatically unlawful direct discrimination.
- **Indirect discrimination** occurs when an apparently non-discriminatory requirement, condition, criterion or practice which applies equally to everyone is actually harder for people from particular racial groups to satisfy, and which cannot be objectively justified. For example, it could be indirect discrimination for a housing cooperative with only white members to rely on word of mouth to let people know about vacant properties.

**Harassment** on grounds of race or national or ethnic origins is specifically prohibited under the RRA, while harassment on grounds of colour or nationality may amount to unlawful direct discrimination. Harassment is defined as 'unwanted conduct that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person'. What is intimidating, hostile, degrading, humiliating or offensive is, in the main, defined by the person who has complained of harassment.

It is unlawful to **victimise** a person because he or she has made, or supported, a complaint of racial discrimination or harassment.

**Instructing or inducing another person to discriminate** is unlawful, as is publishing an advertisement or notice that indicates an intention to discriminate. The CRE can bring proceedings against an employer in these cases.

Anyone who thinks he or she has been discriminated against or harassed, on racial grounds, by a house seller, landlord, estate agency, lettings agency, provider of house purchase finance or other provider of housing advice or services may bring a complaint before a county court (or sheriff court in Scotland). If the

complaint is upheld, the court will normally order the housing organisation to pay compensation, which in these courts can be substantial.

Most public authorities responsible for housing and related services have a statutory general duty to eliminate unlawful racial discrimination and harassment, and promote equality of opportunity and good relations between people from different racial groups.

It is lawful for housing organisations to make arrangements to meet the special needs of particular racial groups; for example, by providing sheltered housing schemes for Chinese elders. The housing organisation must have objective evidence that the need is real.

Housing organisations can also train or encourage people from a particular racial group (or groups) to apply for work in which they have been under-represented or absent, possibly due to past discrimination or other disadvantages. This is called positive action. Selection for employment or promotion must always be based solely on merit.

*The Code of Practice on Racial Equality in Housing* (and the CRE's employment code) explains all these concepts and provisions in detail, with examples, including cases heard in court.

## WHY DOES THE CODE MATTER?

The code is important for two reasons: it can help housing organisations avoid the costs and burdens of complaints, and even legal cases; and it can help them to meet their business needs and objectives. For example, local housing authorities are expected to make sure they identify and meet the need for housing in the communities they serve, but they cannot do this without reliable information about the people who make up these communities, and the different needs they might have. Again, local housing authorities, as well as many other local organisations, have an interest in creating integrated communities, and avoiding the tensions associated with segregated neighbourhoods. The code's recommendations on introducing and using fair and open procedures should be very useful here. For commercial housing

organisations – such as estate, lettings and property management agencies – following the code’s recommendations should help them build a reputation for fair dealing which will in turn attract more customers. The code points to the importance of:

- treating people who are looking for properties to rent or buy, or for advice about housing or housing services, in the same way, without making any assumptions or prejudices about their suitability based on their race, nationality or ethnicity;
- advertising opportunities for rent or purchase as widely as possible; and
- avoiding conditions, criteria or requirements that apparently have nothing to do with race, but could in effect exclude some groups altogether, unless their use can be objectively justified.

### **DOES RACIAL EQUALITY IN HOUSING HAVE ANY CONNECTION WITH EQUAL OPPORTUNITIES IN EMPLOYMENT?**

Yes, good equal opportunities practice in employment should gradually lead to the development of an ethnically diverse workforce. This, in turn, should help housing organisations ensure that their services reach all ethnic minority groups. Restrictive recruitment not only risks breaches of the law, with all the consequent damage to reputation, but also means that organisations may not be able to compete effectively in the labour market. Where particular racial groups are under-represented in an organisation’s workforce, positive action can be a remedy. The housing code does not deal with employment but is entirely consistent with the CRE’s statutory *Code of Practice on Racial Equality in Employment*, which contains detailed recommendations.

### **WHO IS LIABLE FOR RACIAL DISCRIMINATION IN HOUSING?**

Housing organisations are legally responsible for any unlawful racial discrimination or harassment by their agents, contractors or workers in the course of their employment. Under the RRA, an act of discrimination or harassment by a worker in the course of his or her employment is treated as having been committed by the employer as well as by the worker, whether or not the employer knew about it and approved of it. However, employers can avoid liability if they can show they have taken all reasonable steps to prevent such discrimination; for example, by following the code’s recommendations. A complaint to a tribunal may be made against both the employer and the individual worker who is alleged to have discriminated.

A lettings or estate agency practising unlawful racial discrimination will be liable even if it is acting on the instructions of a landlord or seller.

## **DOES THE LAW MAKE AN EXEMPTION FOR SMALL BUSINESSES?**

No, the RRA applies equally to all housing organisations, whatever their size. However, the steps that organisations need to take to make sure they are operating within the law will vary according to the size and structure of their organisations. For example, small landlords and other businesses may need much simpler administrative procedures and systems than organisations with complex structures. The code has to deal in general terms and small landlords should adapt its recommendations to suit their circumstances. The important point is to make sure the organisation's policies, procedures and practices are consistent with the spirit of the code.

## **WHAT ARE THE CODE'S MAIN RECOMMENDATIONS?**

The code's key recommendation is that housing organisations should develop a racial equality policy or strategy, and apply it to all their activities, from advertising to selling or renting, and from mortgage lending to tenancy management.

In putting the racial equality policy or strategy into practice, housing organisations are advised to:

- make racial equality a core value;
- review their functions and policies, and use the results to draw up a racial equality action plan;
- consult staff and local people on the policy or strategy and action plan;
- obtain support from their board and senior managers;
- base their housing plans and arrangements on the most up-to-date information about the need for different types of housing in the areas they serve;
- make sure information about their policy or strategy and services reaches everyone;
- train staff to provide an equal service to all customers, whatever their racial group;
- keep their racial equality policy or strategy and action plan under review, and revise them, if necessary; and
- monitor and evaluate their performance against that of other similar organisations.

## **DOES THE CODE MAKE RECOMMENDATIONS ON ALL AREAS AND ASPECTS OF HOUSING?**

The code makes detailed recommendations on:

- governance and the role of governing bodies;
- new and improved housing;
- sales and lettings;
- mortgage lending and insurance;
- homelessness and housing advice;
- neighbourhood regeneration and integration;
- tenancy and housing management;
- racial harassment and anti-social behaviour;
- contractors and procurement; and
- involvement of residents and tenants.

## **DOES THE CODE MAKE ANY OTHER RECOMMENDATIONS?**

The code makes recommendations on three processes that housing organisations will find essential to meeting the code's recommendations: training, monitoring and impact assessment. Housing organisations should:

- make sure staff have the knowledge, understanding and skill to put their racial equality policy or strategy into effect;
- collect and analyse data on the ethnic backgrounds of applicants for housing and users of their services, and act on the findings; and
- use the ethnic monitoring data, as well as feedback from consultations with staff and local people, to assess whether a proposed policy could have an adverse effect on some racial groups, and amend the policy to reduce or eliminate this effect, as far as possible.

## **WHERE CAN I GET COPIES OF THE CODE?**

The code has been produced in three versions: one each for England, Scotland and Wales (bilingual). They may be downloaded free from the CRE website ([www.cre.gov.uk/housing](http://www.cre.gov.uk/housing)), as can this leaflet and a summary of the code for private sector organisations (which are both also available in Welsh). Hard copies are available from CRE Publications ([www.cre.gov.uk/publs/index.html](http://www.cre.gov.uk/publs/index.html)).

## **CRE publications**

*Code of Practice on Racial Equality in Housing: England* (2006) 96pp.  
ISBN 1 85442 606 0. **£15.00**

*Code of Practice on Racial Equality in Housing: Scotland* (2006) 104pp.  
ISBN 1 85442 607 9. **£15.00**

*Code of Practice on Racial Equality in Housing: Wales* (bilingual)  
(2006) 204pp.  
ISBN 1 85442 608 7. **£15.00**

*A Guide to the Code of Practice on Racial Equality in Housing:  
For private housing providers* (2006) A4 leaflet.  
ISBN 1 85442 610 9. **Free.**

*Code of Practice on Racial Equality in Employment* (2005) 112pp.  
ISBN 1 85442 562 5. **£15.00**

*Code of Practice on the Duty to Promote Race Equality* (2002) 80pp.  
ISBN 1 85442 430 0. **£10.00**

*Ethnic Monitoring: A guide for public authorities* (2002) 92pp.  
ISBN 1 85442 434 3. **£10.00**

*Race Equality and Public Procurement* (2003) 100pp.  
ISBN 1 85442 525 0. **£15.00**

*Race Equality and Procurement in Local Government* (2003) 112pp.  
ISBN 1 85442 524 2. **£15.00**



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ISBN 1 85442 609 5

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