

**Equal Opportunities Commission's submission to
the Meeting of the Bills Committee on Race Discrimination Bill
on 14 May 2008 - Equality Plan**

- 1 The Equal Opportunities Commission (EOC) has been invited to the Bills Committee's meeting to be held on 14 May 2008 to assist Members in a discussion on the concept of mainstreaming racial equality through equality plans.
- 2 To make racial equality a reality in people's everyday life experience, it is important that decisions are made after proper consideration of their impact on different racial groups, including the way the decisions are to be implemented. It is equally important to review and assess the effect on different racial groups after decisions have been made and to evaluate the implementation process. Disadvantage or neglect for certain racial groups often arises through information gap or administrative inflexibility. This should be avoided or corrected so far as practicable. Everything should be planned and done bearing in mind the impact on different racial groups, with a view to ensure equality. This is racial equality mainstreaming.
- 3 The importance of mainstreaming is twofold. Firstly, it can prevent and address discrimination. Secondly, by making equality one of the central considerations in decision-making and implementation, it is also proactive in promoting equality and good relations among different people.
- 4 The EOC has always recognized the importance of mainstreaming and has always encouraged decisions-makers to have proper regard to equality factors in their work. In this connection, the EOC has been observing developments in other countries.

UK

Overview

- 5 Developments in the UK provide a useful reference point on how

mainstreaming could be implemented.

- 6 The Race Relations Act 1976 (RRA) in the UK was amended in 2000 to impose a duty on specified public authorities when carrying out their functions to have due regard to the need to eliminate unlawful racial discrimination and to promote racial equality and good race relations (RRA s.71). This duty to have due regard to racial equality is in essence a duty to mainstream race equality. This is called the general duty¹.
- 7 For the purpose of ensuring that public authorities in the UK do discharge the general duty, the Race Relations Act 1976 (Statutory Duties) Order 2001 (2001 Order), which is a piece of subsidiary legislation under the RRA, requires public authorities specified in the 2001 Order to publish a Race Equality Scheme (2001 Order art.2(1)). This requirement is one of a number of specific duties imposed on different authorities to ensure they fulfill their general mainstreaming duty above. Other specific duties will be briefly mentioned below in paragraphs 32 to 34. The relevant extracts of the 2000 amendment to the RRA and the 2001 Order are attached for reference.
- 8 The Race Equality Scheme is a document that sets out what a public authority is doing in terms of racial equality mainstreaming. The Race Equality Scheme is required to have the following contents (Order art.2(2)):-
 - 8.1 A list of the authority's functions or policies (including proposed policies) assessed to be relevant to racial equality;
 - 8.2 Arrangements for assessing and consulting on likely impact of proposed policies on racial equality;
 - 8.3 Arrangements for monitoring its policies for any adverse impact on racial equality;

¹ This general duty is separate and independent from the obligation imposed under s.19B of the RRA for a public authority not to discriminate in carrying out its functions.

- 8.4 Arrangements for publishing assessment and consultation and monitoring results;
- 8.5 Arrangements for ensuring public access to information and services it provides;
- 8.6 Arrangements for staff training on racial equality.
- 9 Public authorities required to publish a Race Equality Scheme were required to do so by 31 May 2002. Every 3 years a public authority has to review the assessment of its functions or policies for their relevance to racial equality.
- 10 By now, a number of years' experience has accumulated on how the law in UK is implemented. The EOC hopes to assist Members' discussion by drawing out the following features. In doing so, the EOC has made reference to materials published by the Commission for Racial Equality (CRE) (replaced in October 2007 by the Commission for Equality and Human Rights (CEHR)²) as well as Equality Schemes of a number of public authorities in the UK.

Authorities covered

- 11 There are a large number of public authorities who are subject to both the general mainstreaming duty and the specific duty of publishing a Race Equality Scheme. These range from all ministers and government departments, to various other public bodies including the Learning and Skills Council (LSC)³ and the health authorities (these are relevant as Members' present discussion came out of concerns over vocational training and hospital interpretation services).
- 12 Other public authorities having mainstreaming duties include agencies which have inspection and audit functions over other public bodies, like the National Audit Office or the Police

² The CRE, together with the Equal Opportunity Commission in the UK (gender equality) and the Disability Rights Commission, was replaced by a single equality body, the CEHR, in October 2007

³ A body responsible for commissioning and funding post-16 education and training

Complaints Authority. This is important because these agencies are expected and are relied on to make racial equality an important element of their inspection and audit work over the authorities they have to inspect and audit.

- 13 In addition, the CEHR (previously the CRE) is given functions relating to compliance with the requirement to publish a Race Equality Scheme.

List of functions

- 14 In drawing up a Race Equality Scheme for publication, the CRE advised public authorities to make a list of all their functions and policies, and then to assess and prioritize this list in terms of relevance to racial equality. In making this assessment, public authorities are advised to look for evidence that the function or policy is affecting some racial groups differently, and to see whether there is any public concern that the function or policy is causing discrimination and or is damaging race relations.
- 15 Prioritizing functions and policies involves an assessment of how much a function or policy affects people in terms of race (both as members of the public or as employees of the authority). Internal administrative functions are probably less relevant than other functions in terms of racial equality. For example, in the Single Equality Scheme⁴ of the Learning and Skills Council (LSC), the resource management function relating to corporate property and facilities was rated as having a low relevance to racial equality, whereas functions such as learner support, or funding policy and strategy, were rated as having a high relevance to racial equality.
- 16 It is not acceptable to regard race equality as unimportant simply because the population of ethnic minorities is small. When functions and policies are rated as having a high relevance to racial equality, there should be sufficient resources devoted to

⁴ The Single Equality Scheme: Our Strategy for Equality and Diversity (April 2007 LSC) is intended to fulfill the duties for Race Equality Scheme, Disability Equality Scheme and Gender Equality Scheme in one document.

these functions and policy areas to promote race equality. But it is legitimate for a public authority to adjust its arrangements for impact assessment, consultation, monitoring and publication as proportional to its size and resources.

Impact assessment and consultation

17 In respect of impact assessment, public authorities are advised to set out the information that is available for impact assessment. This may include reference to research findings, population data (including census findings), survey results, or comparisons with similar policies in other authorities.

18 Integral to impact assessment is consultation. Public authorities are required to set out their arrangements for consultation. Consultation may take various forms, including consultation meetings, focus groups, and survey questionnaires.

19 In terms of following up on the outcome of impact assessment, public authorities are advised to ask themselves the following questions:-

19.1 If the assessment or consultation in relation to a policy reveals that certain racial groups have different needs, can they be met, either within the policy or in some other way?

19.2 If a policy adversely affects people from certain racial groups, can another way be found to meet the same policy objective? Can the policy objective justify the adverse effects on these people? Can the policy be adjusted to compensate for any adverse effects?

Monitoring

20 Public authorities are expected to monitor the impact on race equality of their functions and policies as a matter of routine, and to set out their arrangements for so doing.

- 21 This may involve setting up internal systems for the collection of racial data of the people affected by their functions and policies. Care should be taken to ensure that data collection is in compliance with the law on information gathering and processing.
- 22 Other monitoring methods may include focus groups or satisfaction surveys analysed by racial groups.

Publishing assessment, consultation and monitoring reports

- 23 To increase openness so as to allow their work to be scrutinized, public authorities have to publish the results of any assessments, consultations and monitoring. They must also set out their arrangements for so doing in their Race Equality Scheme.
- 24 In publishing the results of assessments and consultations, public authorities are advised to include information on the reason for the assessment or consultation, how it was carried out, a summary of the responses, an assessment of policy options and the authority's proposed action.

Accessibility to information and services

- 25 Accessibility to information and services for all is clearly an important part of racial equality, and public authorities have to set out their arrangements for ensuring accessibility.
- 26 Public authorities are advised to consider accessibility when they assess and prioritize their functions. They should examine whether information is available at the right time and place.
- 27 Staff should be equipped with the right skills, information and understanding to deal with all clients.
- 28 Measures which public authorities could take may include arranging for interpreters, developing access to computers and

internet services, consulting particular groups on what services they need and how they want them provided, and strengthening liaison and understanding with different communities.

Staff training

- 29 Public authorities must ensure that their staff at all levels are aware of the general and specific duties in relation to racial equality, and are aware of the Race Equality Scheme and the action plan linked to it. They should be trained so that they have the necessary skills and information to implement those parts of the Race Equality Scheme and the action plan that apply to them.

Action Plan

- 30 The Race Equality Scheme should include a timetabled and realistic action plan with clear targets and showing the steps the authority will take. Without such an action plan, the authority may be regarded by the Commission for Equality and Human Rights or other inspection or audit agencies as not having properly fulfilled the mainstreaming duties.

Designated high level lead

- 31 Mainstreaming is much more likely to be effective when there is a designated high level lead within a public authority. Take the Learning and Skills Council (LSC), for instance, it has established a National Equality and Diversity Committee within its structure to monitor and assess its Single Equality Scheme and action plan, and to ensure that LSC programmes are appropriately focused among different racial groups. From 2007, LSC papers with a policy bearing would have to include an initial equality and diversity impact assessment for consideration by council members.

Other specific duties

- 32 In addition to the specific duty to publish a Race Equality Scheme, some authorities are subject to a separate duty of monitoring their

employment procedures and practice in connection with race equality.

- 33 Not all public authorities are subject to the specific duty of publishing a Race Equality Scheme. Schools and further and higher educational institutions are not subject to the Race Equality Scheme duty, but they are subject to a specific duty of putting in place a Race Equality Policy, and to assess and monitor the impact of its policies on students, staff and parents, in particular, the attainment level of the students. They have to publish annually the results of its monitoring. For further and higher educational institutions, they have to monitor by racial groups the admission and progress of the students and the recruitment and career progress of staff.
- 34 The above indicates that when public authorities are required to mainstream race equality, the actual circumstances of the different types of public authorities have to inform the specific requirements to be imposed on them.

Enforcement

- 35 In respect of the general mainstreaming duty of having due regard to race equality, if a public authority does not meet this duty, it may be subject to judicial review.
- 36 In respect of the specific duty of publishing a Race Equality Scheme, if a public authority does not meet this duty, the CEHR may issue a compliance notice. According to the former CRE, in practice, a public authority will be warned with a "minded to issue" letter, and only if it stills fail to meet the duty will a compliance notice be issued.
- 37 If a compliance notice is not complied with, the CEHR may apply to the Courts for a court order requiring compliance.
- 38 Inspection and auditing agencies are also expected and relied on to use their processes to identify and address equality issues.

Initial compliance situation in the UK

- 39 In a report issued on 10 September 2007 by the CRE, shortly before it was replaced by the CEHR, the CRE commented that the overall compliance in the UK with the mainstreaming duties was disappointing. It found that while some small local authorities with relatively limited budgets were meeting or even exceeding their minimum responsibilities, some of the biggest spending government departments were failing to achieve even basic compliance.
- 40 The CRE ranked all public authorities by organizational type. Those authorities making good progress or have significantly improved performance were local governments, inspection and regulatory agencies and criminal justice agencies. Those authorities making poor progress included government departments, national health trusts and further educational institutions.
- 41 For government departments, 15 departmental Race Equality Schemes were found to be non-compliant by the CRE. 8 were later revised. CRE had to consider enforcement action against 6 departments. Compliance action was initiated even in relation to the Cabinet Office.
- 42 Amidst the disappointment in relation to government departments, the CRE was replaced by the CEHR, but it encouraged the CEHR to continue its work on mainstreaming. In addition, similar requirements to publish equality scheme for disability equality and gender equality have also been recently imposed on public authorities in the UK in 2006 and 2007 respectively. All these indicate that despite some initial disappointment, mainstreaming is still considered to be the correct approach.

Sweden

- 43 Apart from the UK experience, EOC's exchange of information with

equality agencies in Sweden also shows that Swedish equality law and enforcement agencies expect and require organizations such as employers and schools or higher educational institutions to put in place annual equal treatment or equality plans in relation to certain aspects of their activities (such as employment or student matters).

Other observations

- 44 Mainstreaming, whether as a general concept or as a legal duty like it is in the UK, does not dictate the specific details of any substantive policy decision or implementation process. What it does require is that specific attention be properly given to equality issues in the decision-making and implementation process.
- 45 While proper attention should be given to equality issues, policy-making often involves balancing a host of different and sometimes conflicting considerations all calling for resources which are limited. The balance is best settled through appropriate political processes. This may mean that, even with the best of intention and the strongest of resolve, the immediate correction of some equality issues may not be attainable but may take time. Mainstreaming will help to maintain focus and make progress during this time.
- 46 Perhaps partly because of the recognition that time may be needed to correct certain equality issues, legislation may provide for a mechanism for responsible entities to apply for relief from immediate legal liability. An example of this can be found in Australia, where the Human Rights & Equal Opportunity Commission (HREOC) is empowered to grant temporary exemptions from specified parts of equality legislation⁵. Such exemptions may be granted subject to conditions, which may include an action plan or a requirement to take measures to correct an inequality during the term of the temporary exemption. Exemptions cannot last more than 5 years in the first instance.

⁵ Though this power is only given under gender, disability and age legislation, it could in principle apply to the present race context.

47 Imposing a legal duty to have an equality plan is one way towards mainstreaming but it is not necessarily a guarantee for effective mainstreaming. As the initial disappointment with government departments in the UK has shown, the key to effective mainstreaming is the strength of resolve within a public authority itself to address equality issues. But it is clear that having an equality plan is in principle a useful tool, though by no means the only tool, for addressing equality issues.

Equal Opportunities Commission
May 2008



Race Relations (Amendment) Act 2000

2000 CHAPTER 34

ARRANGEMENT OF SECTIONS

Further extension of 1976 Act to police and other public authorities

1. Discrimination by police and other public authorities.
2. Specified authorities: general statutory duty.
3. Certain appointment functions outside the employment field.
4. Police: extension of liability of chief officers etc.

Special cases: procedural and other consequences

5. Criminal investigations and proceedings.
6. Immigration and asylum appeals.

National security

7. National security.
8. National security: procedure.

Supplementary and final provisions

9. Consequential amendments and repeals.
10. Short title, commencement and extent.

SCHEDULES:

Schedule 1 Bodies and other persons subject to general statutory duty.

Schedule 2 Consequential amendments.

Schedule 3 Repeals.

An Act to extend further the application of the Race Relations Act 1976 to the police and other public authorities; to amend the exemption under that Act for acts done for the purpose of safeguarding national security; and for connected purposes.

[30th November 2000]

2 Specified authorities: general statutory duty

(1) For section 71 of the 1976 Act (local authorities: general statutory duty) there is substituted—

"71 Specified authorities: general statutory duty

- (1) Every body or other person specified in Schedule 1A or of a description falling within that Schedule shall, in carrying out its functions, have due regard to the need—
 - (a) to eliminate unlawful racial discrimination; and
 - (b) to promote equality of opportunity and good relations between persons of different racial groups.
- (2) The Secretary of State may by order impose, on such persons falling within Schedule 1A as he considers appropriate, such duties as he considers appropriate for the purpose of ensuring the better performance by those persons of their duties under subsection (1).
- (3) An order under subsection (2)—
 - (a) may be made in relation to a particular person falling within Schedule 1A, any description of persons falling within that Schedule or every person falling within that Schedule;
 - (b) may make different provision for different purposes.
- (4) Before making an order under subsection (2), the Secretary of State shall consult the Commission.
- (5) The Secretary of State may by order amend Schedule 1A; but no such order may extend the application of this section unless the Secretary of State considers that the extension relates to a person who exercises functions of a public nature.
- (6) An order under subsection (2) or (5) may contain such incidental, supplementary or consequential provision as the Secretary of State considers appropriate (including provision amending or repealing provision made by or under this Act or any other enactment).
- (7) This section is subject to section 71A and 71B and is without prejudice to the obligation of any person to comply with any other provision of this Act.

71A General statutory duty: special cases

- (1) In relation to the carrying out of immigration and nationality functions (within the meaning of section 19D(1)), section 71(1)(b) has effect with the omission of the words "equality of opportunity and".
- (2) Where an entry in Schedule 1A is limited to a person in a particular capacity, section 71(1) does not apply to that person in any other capacity.
- (3) Where an entry in Schedule 1A is limited to particular functions of a person, section 71(1) does not apply to that person in relation to any other functions.

71B General statutory duty: Scotland and Wales

- (1) For the purposes of the [1998 c. 46.] Scotland Act 1998, subsections (2) to (4) of section 71 (and sections 71(6) and 74 so far as they apply to the power conferred by subsection (2) of section 71) shall be taken to be pre-commencement enactments within the meaning of that Act.
- (2) Before making an order under section 71(2) in relation to functions exercisable in relation to Wales by a person who is not a Welsh public authority, the Secretary of State shall consult the National Assembly for Wales.
- (3) The Secretary of State shall not make an order under section 71(2) in relation to functions of a Welsh public authority except with the consent of the National Assembly for Wales.
- (4) In this section "Welsh public authority" means any person whose functions are exercisable only in relation to Wales and includes the National Assembly for Wales.

71C General statutory duty: codes of practice

- (1) The Commission may issue codes of practice containing such practical guidance as

the Commission think fit in relation to the performance by persons of duties imposed on them by virtue of subsections (1) and (2) of section 71.

- (2) When the Commission propose to issue a code of practice under this section, they—
 - (a) shall prepare and publish a draft of the code;
 - (b) shall consider any representations made to them about the draft; and
 - (c) may modify the draft accordingly.
- (3) In the course of preparing any draft code of practice under this section the Commission shall consult such organisations or bodies as appear to the Commission to be appropriate having regard to the content of the draft code.
- (4) If the Commission determine to proceed with a draft code of practice, they shall transmit the draft to the Secretary of State who shall consult the Scottish Ministers and the National Assembly for Wales.
- (5) After consulting the Scottish Ministers and the National Assembly for Wales, the Secretary of State shall—
 - (a) if he approves of the draft code, lay it before both Houses of Parliament; and
 - (b) if he does not approve of it, publish details of his reasons for withholding approval.
- (6) If, within the period of forty days beginning with the day on which a copy of a draft code of practice is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, either House so resolves, no further proceedings shall be taken on the draft code of practice, but without prejudice to the laying before Parliament of a new draft.
- (7) In reckoning the period of forty days referred to in subsection (6), no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (8) If no such resolution is passed as is referred to in subsection (6), the Commission shall issue the code in the form of the draft and the code shall come into effect on such day as the Secretary of State may, after consulting the Scottish Ministers and the National Assembly for Wales, by order appoint.
- (9) Without prejudice to section 74(3), an order under subsection (8) may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code of practice thereby brought into operation.
- (10) The Commission may revoke, or from time to time revise, the whole or any part of a code of practice issued under this section; and, where they revise the whole or any part of such a code, they shall issue the revised code, and subsections (2) to (9) shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of a code.
- (11) A failure on the part of any person to observe any provision of a code of practice shall not of itself render that person liable to any proceedings; but any code of practice issued under this section shall be admissible in evidence in any legal proceedings, and if any provision of such a code appears to the court or tribunal concerned to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.
- (12) Without prejudice to subsection (1), a code of practice issued under this section may include such practical guidance as the Commission think fit as to what steps it is reasonably practicable for persons to take for the purpose of preventing their staff from doing in the course of their duties acts made unlawful by this Act.

71D General statutory duty: compliance notices

- (1) If the Commission are satisfied that a person has failed to comply with, or is failing to comply with, any duty imposed by an order under section 71(2), the Commission may serve on that person a notice ("a compliance notice").
- (2) A compliance notice shall require the person concerned—
 - (a) to comply with the duty concerned; and
 - (b) to inform the Commission, within 28 days of the date on which the notice is served, of the steps that the person has taken, or is taking, to comply with the duty.

- (3) A compliance notice may also require the person concerned to furnish the Commission with such other written information as may be reasonably required by the notice in order to verify that the duty has been complied with.
- (4) The notice may specify—
 - (a) the time (no later than three months from the date on which the notice is served) at which any information is to be furnished to the Commission;
 - (b) the manner and form in which any such information is to be so furnished.
- (5) A compliance notice shall not require a person to furnish information which the person could not be compelled to furnish in evidence in civil proceedings before the High Court or the Court of Session.

71E Enforcement of compliance notices

- (1) The Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring a person falling within Schedule 1A to furnish any information required by a compliance notice if—
 - (a) the person fails to furnish the information to the Commission in accordance with the notice; or
 - (b) the Commission have reasonable cause to believe that the person does not intend to furnish the information.
 - (2) If the Commission consider that a person has not, within three months of the date on which a compliance notice was served on that person, complied with any requirement of the notice for that person to comply with a duty imposed by an order under section 71(2), the Commission may apply to a designated county court or, in Scotland, a sheriff court for an order requiring the person to comply with the requirement of the notice.
 - (3) If the court is satisfied that the application is well-founded, it may grant the order in the terms applied for or in more limited terms.
 - (4) The sanctions in section 71D and this section shall be the only sanctions for breach of any duty imposed by an order under section 71(2), but without prejudice to the enforcement under section 57 or otherwise of any other provision of this Act (where the breach is also a contravention of that provision)."
- (2) Schedule 1 (which inserts Schedule 1A into the 1976 Act) is to have effect.

SCHEDULES

SCHEDULE 1

Section 2(2).

BODIES AND OTHER PERSONS SUBJECT TO GENERAL STATUTORY DUTY.

The following Schedule is inserted into the 1976 Act after Schedule 1—

"SCHEDULE 1A

BODIES AND OTHER PERSONS SUBJECT TO GENERAL STATUTORY DUTY

Ministers of the Crown and government departments

- 1 (1) A Minister of the Crown or government department.
- (2) Sub-paragraph (1) does not include the Security Service, the Intelligence Service or the Government Communications Headquarters.

Scottish Administration

- 2 (1) An office-holder in the Scottish Administration within the meaning given by section 126(7)(a) of the [1998 c. 46.] Scotland Act 1998.
- (2) Members of the staff of the Scottish Administration within the meaning given by section 126(7)(b) of that Act.

National Assembly for Wales

- 3 (1) The National Assembly for Wales.
- (2) An Assembly subsidiary as defined by section 99(4) of the [1998 c. 38.] Government of Wales Act 1998.

Armed forces

- 4 Any of the naval, military or air forces of the Crown.

National Health Service: England and Wales

- 5 A Health Authority established under section 8 of the [1977 c. 49.] National Health Service Act 1977.
- 6 A special health authority established under section 11 of that Act.
- 7 A primary care trust established under section 16A of that Act.
- 8 A National Health Service trust established under section 5 of the [1990 c. 19.] National Health Service and Community Care Act 1990.

National Health Service: Scotland

- 9 A Health Board constituted under section 2 of the [1978 c. 29.] National Health Service (Scotland) Act 1978.

- 10 A Special Health Board constituted under section 2 of that Act.
11 A National Health Service Trust established under section 12A of that Act.

Local government

- 12 A local authority within the meaning of the [1972 c. 70.] Local Government Act 1972, namely—
 (a) in England, a county council, a London borough council, a district council or a parish council;
 (b) in Wales, a county council, a county borough council or a community council.
- 13 A council constituted under section 2 of the [1994 c. 39.] Local Government etc. (Scotland) Act 1994.
- 14 A community council established under section 51 of the [1973 c. 65.] Local Government (Scotland) Act 1973.
- 15 The Greater London Authority.
- 16 The Common Council of the City of London in its capacity as a local authority or port health authority.
- 17 The Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple, in his capacity as a local authority.
- 18 The Council of the Isles of Scilly.
- 19 A parish meeting constituted under section 13 of the [1972 c. 70.] Local Government Act 1972.
- 20 Any charter trustees constituted under section 246 of that Act.
- 21 A fire authority constituted by a combination scheme under section 5 or 6 of the [1947 c. 41.] Fire Services Act 1947.
- 22 A waste disposal authority established by virtue of an order under section 10(1) of the [1985 c. 51.] Local Government Act 1985.
- 23 A water or sewerage authority constituted under section 62 of the [1994 c. 39.] Local Government etc. (Scotland) Act 1994.
- 24 A port health authority constituted by an order under section 2 of the [1984 c. 22.] Public Health (Control of Disease) Act 1984.
- 25 A licensing planning committee constituted under section 119 of the [1964 c. 26.] Licensing Act 1964.
- 26 A licensing board constituted under section 1 of the [1976 c. 66.] Licensing (Scotland) Act 1976.
- 27 An internal drainage board which is continued in being by virtue of section 1 of the [1991 c. 59.] Land Drainage Act 1991.
- 28 A probation committee constituted under section 3 of the [1993 c. 47.] Probation Service Act 1993.
- 29 A joint authority established under Part IV of the [1985 c. 51.] Local Government Act 1985 (fire services, civil defence and transport).
- 30 A joint board within the meaning of section 235(1) of the [1973 c. 65.] Local Government (Scotland) Act 1973.
- 31 The London Fire and Emergency Planning Authority.
- 32 A body corporate established pursuant to an order under section 67 of the [1985 c. 51.] Local Government Act 1985 (transfer of functions to successors of residuary bodies, etc.).
- 33 A body corporate established pursuant to an order under section 22 of the [1992 c. 19.] Local Government Act 1992 (residuary bodies).
- 34 The Broads Authority established by section 1 of the [1988 c. 4.] Norfolk and Suffolk Broads Act 1988.
- 35 A joint committee constituted in accordance with section 102(1)(b) of the [1972 c. 70.] Local Government Act 1972.
- 36 A joint board which is continued in being by virtue of section 263(1) of that Act.

- 37 A joint authority established under section 21 of the [1992 c. 19.] Local Government Act 1992.
- 38 A Passenger Transport Executive for a passenger transport area within the meaning of Part II of the [1968 c. 73.] Transport Act 1968.
- 39 Transport for London.
- 40 The London Development Agency.
- 41 A regional development agency established under the [1998 c. 45.] Regional Development Agencies Act 1998 (other than the London Development Agency).
- 42 Scottish Enterprise and Highland and Islands Enterprise, established under the [1990 c. 35.] Enterprise and New Towns (Scotland) Act 1990.
- 43 A National Park authority established by an order under section 63 of the [1995 c. 25.] Environment Act 1995.
- 44 A joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the [1990 c. 8.] Town and Country Planning Act 1990.
- 45 A magistrates' courts committee established under section 27 of the Justices of the [1997 c. 25.] Peace Act 1997.

Other educational bodies

- 46 Governing bodies of—
- (a) educational establishments maintained by local education authorities;
 - (b) institutions within the further education sector (within the meaning of section 91 (3) of the [1992 c. 13.] Further and Higher Education Act 1992); or
 - (c) institutions within the higher education sector (within the meaning of section 91 (5) of the Act of 1992).
- 47 The managers of a grant-aided school (within the meaning of section 135 of the [1980 c. 44.] Education (Scotland) Act 1980).
- 48 The managers of a central institution (within the meaning of section 135 of the Act of 1980).
- 49 The board of management of a self-governing school (within the meaning of the [1989 c. 39.] Self-Governing Schools etc. (Scotland) Act 1989).
- 50 The board of management of a college of further education (within the meaning of section 36(1) of the [1992 c. 37.] Further and Higher Education (Scotland) Act 1992).
- 51 The governing body of an institution within the higher education sector (within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992).

Other housing bodies

- 52 The Housing Corporation.
- 53 Scottish Homes.
- 54 A housing action trust established under Part III of the [1988 c. 50.] Housing Act 1988.

Police

- 55 A police authority established under section 3 of the [1996 c. 16.] Police Act 1996.
- 56 A police authority established under section 2 of the [1967 c. 77.] Police (Scotland) Act 1967.
- 57 The Metropolitan Police Authority established under section 5B of the [1996 c. 16.] Police Act 1996.
- 58 The Common Council of the City of London in its capacity as a police authority.
- 59 The Service Authority for the National Criminal Intelligence Service.
- 60 The Service Authority for the National Crime Squad."

2001 No. 3458

RACE RELATIONS

The Race Relations Act 1976 (Statutory Duties) Order 2001

Made - - - - - 23rd October 2001
Laid before Parliament - 24th October 2001
Coming into force - - 3rd December 2001

The Secretary of State, in exercise of the powers conferred upon him by section 71(2) and (3) of the Race Relations Act 1976(a), after consultation with the National Assembly for Wales and with the consent of the Assembly(b), and after consultation with the Commission for Racial Equality(c), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Race Relations Act 1976 (Statutory Duties) Order 2001 and shall come into force on 3rd December 2001.

(2) In this Order—

“the Race Relations Act” means the Race Relations Act 1976;

“staff” includes any person treated as an employee for the purposes of Part II of the Race Relations Act (Discrimination in the Employment Field); and references to “150 full-time staff” are references to such number of staff as would, if the hours they work were aggregated, amount to 150 staff working on a full-time basis.

Race equality schemes

2.—(1) A body or other person specified in Schedule 1 to this Order shall, before 31st May 2002, publish a Race Equality Scheme, that is a scheme showing how it intends to fulfil its duties under section 71(1) of the Race Relations Act and this Order.

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

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

(b) that person’s arrangements for—

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

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

(a) 1976 c. 74; section 71 was substituted by section 2 of the Race Relations (Amendment) Act 2000 (c. 34).

(b) See section 71B(2) and (3) of the Race Relations Act 1976.

(c) See section 71(4) of the 1976 Act.

- (iii) publishing the results of such assessments and consultation as are mentioned in sub-paragraph (i) and of such monitoring as is mentioned in sub-paragraph (ii);
- (iv) ensuring public access to information and services which it provides; and
- (v) training staff in connection with the duties imposed by section 71(1) of the Race Relations Act and this Order.

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

Educational bodies

3.—(1) A body specified in Part I or II of Schedule 2 to this Order shall, before 31st May 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 (3) or (4), as the case may be.

(2) Such a body shall,

- (a) maintain a copy of the statement, and
- (b) fulfil those duties in accordance with such arrangements.

(3) It shall be the duty of a body specified in Part I of Schedule 2 to this Order 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.

(4) It shall be the duty of a body specified in Part II of Schedule 2 to this Order to—

- (a) assess the impact of its policies, including its race equality policy, on students and staff of different racial groups;
- (b) monitor, by reference to those racial groups, the admission and progress of students and the recruitment and career progress of staff; and
- (c) include in its written statement of its race equality policy an indication of its arrangements for publishing that statement and the results of its assessment and monitoring under sub-paragraphs (a) and (b).

(5) Such a body shall take such steps as are reasonably practicable to publish annually the results of its monitoring under this article.

4.—(1) A body specified in Part III, IV or V of Schedule 2 to this Order shall, before 31st May 2002, have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (2), (3) or (4), as the case may be, and shall fulfil those duties in accordance with such arrangements.

(2) It shall be the duty of a body specified in Part III of Schedule 2 to this Order to monitor, by reference to the racial groups to which they belong,

- (a) the numbers at all maintained schools in its area of—
 - (i) staff in post, and
 - (ii) applicants for employment, training and promotion, from each such group, and
- (b) in the case of all maintained schools in its area which have 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 such schools.

- (3) It shall be the duty of a body specified in Part IV of Schedule 2 to this Order to—
- (a) monitor, by reference to the racial groups to which they belong, the numbers of teaching staff from each such group at all maintained schools in respect of which it exercises its functions; and
 - (b) take such steps as are reasonably practicable to use, for that purpose, data provided by Local Education Authorities.
- (4) It shall be the duty of a body specified in Part V of Schedule 2 to this Order to monitor, by reference to the racial groups to which they belong, the numbers of teaching staff from each such group at all educational establishments in respect of which it exercises its functions.
- (5) Such a body shall take such steps as are reasonably practicable to publish annually the results of its monitoring under this article.
- (6) In this article references to “maintained schools” are references to such schools within the meaning given by section 20(7) of the School Standards and Framework Act 1998(a).

Monitoring by employers

- 5.—(1) A person to which this article applies shall,
- (a) before 31st May 2002, have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (2); and
 - (b) fulfil those duties in accordance with such arrangements.
- (2) It shall be the duty of such a person to monitor, by reference to the racial groups to which they belong,
- (a) the numbers of—
 - (i) staff in post, and
 - (ii) applicants for employment, training and promotion, from each such group, and
 - (b) where that person has 150 or more full-time staff, the numbers of staff from each such group who—
 - (i) receive training;
 - (ii) benefit or suffer detriment as a result of its performance assessment procedures;
 - (iii) are involved in grievance procedures;
 - (iv) are the subject of disciplinary procedures; or
 - (v) cease employment with that person.
- (3) Such a person shall publish annually the results of its monitoring under paragraph (2).
- (4) Subject to paragraph (5), this article applies to a body or other person specified in Schedule 1A to the Race Relations Act(b).
- (5) This article does not apply to—
- (a) a body specified in Part I, II or III of Schedule 2;
 - (b) a person specified in Schedule 3;
 - (c) a Scottish public authority with mixed functions or no reserved functions, as referred to in section L.2 of Part II of Schedule 5 to the Scotland Act 1998(c); or
 - (d) a cross-border public authority in relation to the exercise of its Scottish functions within the meaning given by that section.
- (6) In paragraph (5) the reference to a “cross-border public authority” is a reference to such an authority within the meaning given by section 88(5) of the Scotland Act 1998.

Home Office
23rd October 2001

Angela Eagle
Parliamentary Under Secretary of State

(a) 1998 c. 31.
 (b) Schedule 1A is amended by the Race Relations Act 1976 (General Statutory Duty) Order 2001 (S.I. 2001/3457).
 (c) 1998 c. 46.

BODIES AND OTHER PERSONS REQUIRED TO PUBLISH RACE EQUALITY SCHEMES

The Higher Education Funding Council for England.

A body corporate established pursuant to an order under section 67 of the Local Government Act 1985 (transfer of functions to successors of residuary bodies, etc).

A fire authority constituted by a combination scheme under section 5 or 6 of the Fire Services Act 1947.

A Health Authority established under section 8 of the National Health Service Act 1977.

A housing action trust established under Part III of the Housing Act 1988.

A joint authority established under Part IV of the Local Government Act 1985 (fire services, civil defence and transport).

A joint authority established under section 21 of the Local Government Act 1992.

In England, a county council, a London borough council or a district council.

In Wales, a county council or a county borough council.

A local probation board established under section 4 of the Criminal Justice and Court Services Act 2000.

A magistrates' courts committee established under section 27 of the Justices of the Peace Act 1997.

A Minister of the Crown or government department.

A National Health Service trust established under section 5 of the National Health Service and Community Care Act 1990.

A Passenger Transport Executive for a passenger transport area within the meaning of Part II of the Transport Act 1968.

A police authority established under section 3 of the Police Act 1996.

A primary care trust established under section 16A of the National Health Service Act 1977.

A regional development agency established under the Regional Development Agencies Act 1998 (other than the London Development Agency).

A special health authority established under section 11 of the National Health Service Act 1977.

An Assembly subsidiary as defined by section 99(4) of the Government of Wales Act 1998.

Any of the naval, military or air forces of the Crown.

The Audit Commission for Local Authorities and the National Health Service in England and Wales.

The British Broadcasting Corporation, in respect of its public functions.

The British Transport Police.

The Broadcasting Standards Commission, in respect of its public functions.

The Channel Four Television Corporation, in respect of its public functions.

A chief constable of a police force maintained under section 2 of the Police Act 1996.

The Commissioner of Police of the Metropolis.

The Commissioner of Police for the City of London.

The Children and Family Court Advisory and Support Service.

The Commission for Health Improvement.

The Commission for Racial Equality.

The Disability Rights Commission.

English Partnerships.

The Equal Opportunities Commission.

The Health and Safety Commission.

The Health and Safety Executive.
The Higher Education Funding Council for Wales.
The Independent Television Commission, in respect of its public functions.
The Learning and Skills Council for England.
The Legal Services Commission.
The Local Government Commission for England.
The National Audit Office.
The National Council for Education and Training for Wales.
The Police Complaints Authority.
The Radio Authority, in respect of its public functions.
Sianel Pedwar Cymru (Welsh Fourth Channel Authority), in respect of its public functions.
The Strategic Rail Authority.
The Chief Constable for the Ministry of Defence Police appointed by the Secretary of State under section 1(3) of the Ministry of Defence Police Act 1987.
The Common Council of the City of London, in its capacity as a local authority or port health authority.
The Common Council of the City of London, in its capacity as a police authority.
The Council of the Isles of Scilly.
The Greater London Authority.
The Housing Corporation.
The London Development Agency.
The London Fire and Emergency Planning Authority.
The Metropolitan Police Authority established under section 5B of the Police Act 1996.
The National Assembly for Wales.
The Scottish Parliamentary Corporate Body.
The Service Authority for the National Crime Squad.
The Service Authority for the National Criminal Intelligence Service, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.
The Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple, in his capacity as a local authority.
Transport for London.
The Welsh Development Agency.

SCHEDULE 2

Articles 3 and 4

EDUCATIONAL BODIES

PART I

The Governing body of an educational establishment maintained by a Local Education Authority.
The Governing body of a City Technology College, City College for Technology of the Arts or a City Academy.

PART II

The Governing body of an institution within the further education sector within the meaning of section 91(3) of the Further and Higher Education Act 1992.

The Governing body of an institution within the higher education sector within the meaning of section 91(5) of the Act of 1992.

PART III

A Local Education Authority.

PART IV

The Department for Education and Skills.

PART V

The Learning and Skills Council for England.

The Higher Education Funding Council for England.

The Higher Education funding Council for Wales.

The National Council for Education and Training for Wales.

SCHEDULE 3

Article 5

BODIES AND OTHER PERSONS EXCEPTED BY ARTICLE 5(5)(b)

A parish meeting constituted under section 13 of the Local Government Act 1972.

A Parish Council in England.

A community council in Wales.

The Administration of Radioactive Substances Advisory Committee, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Advisory Committee on Hazardous Substances, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Advisory Committee on Pesticides, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Advisory Committee on Releases to the Environment, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Advisory Council on Public Records.

The Advisory Council on the Misuse of Drugs, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

An Agricultural Dwelling House Advisory Committee, established under the Rent (Agriculture) Act 1976.

The Agricultural Wages Board for England and Wales.

An Agricultural Wages Committee.

The Ancient Monuments Board for Wales.

The Animal Procedures Committee.

The Building Regulations Advisory Committee.

The Central Advisory Committee on War Pensions.

The Civil Justice Council.

The Civil Procedure Rule Committee.

The Commonwealth Scholarship Commission in the United Kingdom.

The Consumer Council for Postal Services.

The Council on Tribunals, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Crown Court Rule Committee.

The Disability Living Allowance Advisory Board.

The Disabled Persons Transport Advisory Committee, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Environment Agency Advisory Committee for Wales.

The Family Proceedings Rule Committee.

The Firearms Consultative Committee.

The Government Hospitality Advisory Committee for the Purchase of Wine.

The Hill Farming Advisory Sub-Committee for Wales.

The Historic Buildings Council for Wales.

The Honours Scrutiny Committee.

A Visiting Committee appointed under section 152 of the Immigration and Asylum Act 1999 for an immigration detention centre.

The Industrial Injuries Advisory Council.

The Inland Waterways Amenity Advisory Council, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Insolvency Rules Committee.

The Joint Committee on Vaccination and Immunisation.

The Land Registration Rule Committee.

The Law Commission.

The Legal Services Consultative Panel.

The Local Government Boundary Commission for Wales.

The Low Pay Commission.

The Magistrates' Courts Rule Committee.

The Overseas Service Pensions Scheme Advisory Board.

The Police Negotiating Board, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Quality Assurance Agency for Higher Education.

A Regional Flood Defence Committee established under section 14 of the Environment Act 1995.

The School Teachers' Review Body.

The Sentencing Advisory Panel.

The Social Security Advisory Committee.

The Standing Dental Advisory Committee.

The Standing Medical Advisory Committee.

The Standing Nursing and Midwifery Advisory Committee.

The Standing Pharmaceutical Advisory Committee.

The Theatres Trust, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Treasure Valuation Committee.

The Unrelated Live Transplant Regulatory Authority, otherwise than in respect of its Scottish functions within the meaning given by section L.2 of Part II of Schedule 5 to the Scotland Act 1998.

The Wales New Deal Advisory Task Force.

A War Pensions Committee.

The Welsh Committee for Professional Development of Pharmacy.

The Welsh Dental Committee.

The Welsh Industrial Development Advisory Board.

The Welsh Medical Committee.

The Welsh Nursing and Midwifery Committee.

The Welsh Optometric Committee.

The Welsh Pharmaceutical Committee.

The Welsh Scientific Advisory Committee.

The Wilton Park Academic Council.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order imposes certain duties on certain bodies and other persons who are subject to the general duty under section 71(1) of the Race Relations Act 1976 to have due regard, when exercising their functions, to the need to eliminate unlawful racial discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The duties are imposed for the purpose of ensuring the better performance of the general duty. The Order imposes on a body or other person specified in Schedule 1 to the Order a duty to publish, by 31st May 2002, a Race Equality Scheme, that is a Scheme showing how it intends to fulfil the general duty and its duties under this Order. The Order imposes on an educational body referred to in Part I or II of Schedule 2 duties to prepare, by 31st May 2002, a statement of its race equality policy, to have arrangements in place for fulfilling duties to assess and monitor the impact of its policies on different racial groups, and to fulfil those duties in accordance with such arrangements. The Order imposes on a body referred to in Parts III to V of that Schedule a duty to have in place arrangements for fulfilling duties to monitor, by reference to racial groups, various aspects of education and employment at educational establishments, and to fulfil those duties in accordance with such arrangements. The Order also imposes on bodies and other persons specified in Schedule 1A to the 1976 Act, other than those specified in article 5(5) to the Order, to have in place, by 31st May 2002, arrangements for fulfilling duties to monitor, by reference to racial groups, various aspects of employment by those bodies, and to fulfil those duties in accordance with such arrangements.

By virtue of Section 5 of, and Schedule 1 to, the Interpretation Act 1978, references to persons in paragraphs (2) and (3) of article 2, and in paragraphs (1), (2), (3) and (5) of article 5, include references to a body.

STATUTORY INSTRUMENTS

2001 No. 3458

RACE RELATIONS

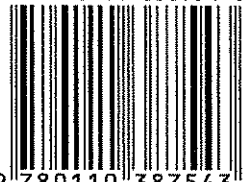
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