

Society for Community Organization
52, Princess Margaret Road, 3/F
Homantin
Tel: 2713 9165 Fax: 2761 3326
Email: soco@pacific.net.hk

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Comments on the administrative guidelines
on promotion of racial equality

1. Introduction

Society for Community Organization welcomes the fact that the Constitutional and Mainland Affairs Bureau (CMAB) has drawn up administrative guidelines for government bureaux and departments. However, the guidelines are not legally binding and thus not obligatory. The government should enact a **statutory code for the promotion of racial equality**.

In the following we have highlighted some of our suggestions to improve the draft administrative guidelines.

2. Comments on the draft administrative guidelines

a. Include all government departments and relevant bodies

The government is not only bound by the Race Discrimination Ordinance, but also the Bill of Rights Ordinance article 1(1) where the rights are to be enjoyed “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”. Thus all government departments and bureaux are obliged to administer all policies without any type of discrimination.

However, para. 1.5 of the draft administrative guidelines mentions only a limited number of departments and bureaux that the guidelines will apply to. The administrative guidelines should apply to all government departments and bureaux, and also other relevant bodies from the outset.

In particular the following departments and bodies also provide services to ethnic minorities and should be included: The Police, The Correctional Services Department, the Immigration Department, Legal Aid Department, Housing Authority and Student Financial Assistance Agency.

It is further recommended that responsible departments ensure that institutions subvented by the government are informed about the guidelines.

b. Time table

Para. 4. 2 sets out the key steps to be taken in formulating policies and measures. Para. 4.2.(e) highlights the necessity to review policies and measures “from time to time”. We suggest that a more solid approach is taken, and that a specific time frame is suggested, such as a yearly review.

c. Practical guidelines

As most departments do not have experience in promoting racial equality, it would be helpful for them to get more practical guidance. Although it is useful with more general guidelines, we suggest that the guidelines include more practical information and examples of what issues are relevant, such as culture, habits, religion and language and how the departments can increase sensitivity in these areas. The examples should both include suggestions for best practice, and also examples of what would constitute discrimination and harassment.

Just as the Code of Practice on Employment under the Race Discrimination Ordinance is full of practical examples, the administrative guidelines should include suggestions of practical measures that can be taken.

d. Harassment

The Annex titled “Provisions of the Race Discrimination Ordinance relevant to the provision of public services” highlights relevant sections of the Race Discrimination Ordinance. While direct and indirect discrimination are separately highlighted, we suggest that harassment is highlighted as well.

e. Check list

Annex B gives an example of a check list of measures. Although it is useful to list what actual measures are being done, a general check list with questions to the departments would be useful in guiding them towards the promotion of racial equality.

f. Reference material

Lots of useful material has been published abroad for the promotion of racial equality. We suggest that the CMAB sets up a resource center (maybe in collaboration with the Equal Opportunities Commission) that government departments can refer to.

For instance, departments may benefit for practical guidance on how to assess whether measures affect racial equality. The Commission for Equality and Human Rights (CEHR) in United Kingdom has published lots of information on how to make a race equality impact assessment¹ or ethnic monitoring for public authorities². It would also

¹ <http://83.137.212.42/sitearchive/cre/duty/reia/publications.html>

be beneficial to give examples on how such monitoring has real life impact, such as case studies from abroad³.

It would be especially useful for the CMAB to highlight areas that are specific to the separate departments that need monitoring. A useful start can be found in Appendix 3 of the guide published by the Commission for Racial Equality titled: “Ethnic monitoring – a guide for public authorities” (2002). This has been attached in the appendix of this document.

g. CMAB responsible to monitor progress

Para. 4.12 encourages the different departments to keep records for monitoring purposes. We suggest that CMAB takes a leading role in collecting and also publishing all the data from different departments so that a more coordinated monitoring approach is possible. We also suggest that CMAB works closely with the departments in their reviews by suggesting improvements and providing guidance, and that the public, including those affected by the policies, are consulted.

h. Resources

The government should inform the public of the resources allocated for the promotion of racial equality and implementing the administrative guidelines in the different departments.

² <http://83.137.212.42/sitearchive/cre/duty/ethnicmonitoring.html>

³ <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-duties/resources/case-studies-of-how-organisations-are-using-the-duties/local-authority-case-studies/>

Commission for Racial Equality: “Ethnic monitoring – a guide for public authorities” (2002): Appendix 3

Appendix 3: Service delivery for ethnic monitoring

This guide uses the term ‘service delivery’ to cover both:

- services such as housing, health, and education; and
- the exercise of enforcement functions such as policing, immigration control, and prisons.

A wide range of public authorities already monitor their services by ethnic group to see whether they are being delivered fairly. Under the Act, many public authorities now have a specific duty to prepare and publish a race equality scheme, which includes arrangements for assessing and monitoring the effects that their policies and functions have on different ethnic groups. A list of these authorities may be found in appendix 3 of the statutory *Code of Practice on the Duty to Promote Race Equality*. Educational institutions have similar duties, but do not have to produce race equality schemes.

General aspects of service delivery for ethnic monitoring

Good practice in relation to monitoring service delivery would cover:

- service applicants;
- service users;
- levels of use;
- satisfaction rates; and
- complaints.

Specific areas for ethnic monitoring

The list below is an illustration of what you might monitor, not what you might already be monitoring. The list is not comprehensive.

You may want to refer to *Race Equality and Public Services*, a very useful compilation of race equality performance measures and equality monitoring results across the public sector, published every year by the Home Office’s race equality unit.

CRIMINAL JUSTICE AND POLICING

- Stop and search
- Arrests
- Cautions
- Bail
- Police complaints
- Deaths in custody
- Surveys of community perceptions of policing
- Surveys of satisfaction with policing
- Reports of racist incidents and outcomes
- Crown Prosecution Service decisions
- Types of pleas
- Types of trial and their verdicts
- Appeals and their outcomes
- Probation service social inquiry reports
- Sentencing patterns
- Who goes to which prison
- Treatment in prison

HEALTH

- Service take-up in primary, secondary, and community services
- Levels of service use in primary, secondary, and community services
- Clinical diagnosis, treatment, and treatment pathways
- Hospital admissions

- Hospital waiting lists
- Hospital discharges
- Registration
- Referrals
- Surveys of patients
- Health surveys of the public
- Complaints by patients
- Reports of racist incidents and outcomes

The Department of Health has producing a useful guide: *Collecting ethnic category data: guidance and training material for implementation, and the new ethnic categories from April 2001.*

EDUCATION

Schools

- Ethnic profiles of pupils
- Applications and success and failure rates for admission
- Appeals against admission decisions
- Pupils' attainment levels
- Temporary and permanent exclusion
- Truancy
- Reports of bullying
- Complaints made by parents
- Reports of racist incidents and outcomes
- Disciplinary action
- English as an additional language (EAL)
- Composition of governing bodies

- Extra-curricular activities
- Assessment and setting

Higher and further education

- Applications and success and failure rates for admission
- Choice of subjects
- Drop-out rates
- Year-on-year achievement levels
- Assessment outcomes and types of assessment
- Class of degree
- Complaints of harassment, discrimination, and unfair treatment
- Appeals and their outcomes
- Reports of racist incidents and outcomes
- Work placements
- Satisfaction surveys
- Complaints by students

We have produced separate guides for schools and further and higher education institutions on the new statutory duties under the Race Relations Act.

LOCAL GOVERNMENT

Housing

- Homelessness applications and acceptances
 - Time spent in temporary accommodation
 - Type and quality of housing offered
- General housing applications
 - Time spent on housing waiting list

- Housing transfer applications
 - Housing transfer offers
 - Housing transfer acceptances
- Satisfaction with repairs, estates services, and housing management
- Reports of racist incidents and outcomes
- Complaints by service users
- Nominations to outside agencies, including housing associations, and outcomes

Benefits

- Benefit applicants and recipients
- Types of benefit
- Time taken to process applications
- Claimant satisfaction survey

Social services

- Children on child protection register
- Children in residential care
- Children in foster care
- Children awaiting adoption
- Children with three or more placements in past 12 months
- Non-allocated children's cases
- Home care: applicants, recipients, satisfaction surveys, and reviews
- Community care: applicants, recipients, satisfaction surveys, and reviews
- Day care: applicants, recipients, satisfaction surveys, and reviews
- Occupational therapy: applicants, recipients, satisfaction surveys, and reviews
- Adult residential care: applicants, recipients, satisfaction surveys, and reviews

- Physical and learning disability, and mental health services: applicants, recipients, satisfaction surveys, and reviews
- Compulsory mental health detentions
- Complaints across all services

Environmental health

- Requests for advice
- Visits
- Inspections and prosecutions
- Special needs (including language needs)
- Applications for home-improvement grants and outcomes
- Satisfaction surveys
- Complaints by service users

Planning and licensing

- Applications and outcomes
- Types of application
- Objections
- Satisfaction levels
- Complaints by service users

Economic development and regeneration

- Beneficiaries of regeneration initiatives
- Make-up of regeneration and New Deal boards
- Representation in multi-agency partnerships (for example, local strategic partnerships)
- Outcomes of bids for funding
- Applications for neighbourhood renewal funding, community chests, and

community empowerment funding, and outcomes

- Financial and other help to small businesses
- Requests for advice
- Satisfaction levels
- Complaints by service users

Library and leisure services

- Service users
- Satisfaction surveys
- Complaints by service users

Local education authorities

- Teacher profiles
- LEA staff profiles
- Pupil attainment data
- Pupil exclusions
- Pupils with English as an additional language
- Pupil admissions
- Under-fives centres: applications and outcomes, and pupil profiles
- School meals: users' profile
- Complaints across all services

The Department for Education and Skills has issued a circular on ethnic monitoring: *Guidance for LEAs on schools' collection and recording data on pupils' ethnic group (in compliance with the Data Protection Act and 2001 national population census)*.

You can download this from the department's website:

www.standardsdfes.gov.uk/ethnicminorities

CENTRAL GOVERNMENT

The list below is an illustration of what some government departments might monitor, not what they might already be monitoring. This is not a full list.

- *Driver licensing*: for example, pass rates for different parts of the driving test
- *Culture, Media and Sport*: for example, access to national museums and galleries, usage, satisfaction levels, and complaints
- *Customs and Excise*: for example, rates of detaining and searching at ports, and liquidation proceedings over unpaid VAT
- *Inland Revenue*: for example, investigations, satisfaction levels, and complaints