

The duty to promote race equality

**A GUIDE FOR
FURTHER AND
HIGHER EDUCATION
INSTITUTIONS
IN SCOTLAND**

(Non-statutory)

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1

Introduction

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 (and referred to in this guide as ‘the Act’) gives public authorities a statutory general duty to promote race equality. Set out in section 71(1) of the Act, the duty applies to all the public authorities listed in schedule 1A to the Act (as amended in an order by Scottish Ministers). Appendix 1 to our draft statutory *Code of Practice on the Duty to Promote Race Equality in Scotland* gives the final list. The code will come into effect on 30 November 2002, following approval by the Scottish Parliament.

The code gives public authorities practical advice on how to meet the general duty and any specific duties introduced by Scottish Ministers. The code can be used in evidence in any legal proceedings under the Act. Although you do have to follow the code, you will have to show that you are meeting the duties. Our advice is that you should be fully aware of the code’s guidelines.

This guide supports the code and has been written mainly for the governing bodies* of further and higher education institutions that are bound by the duties. However, the guide will also be useful for students, community groups, contractors, partners, and others who want to know what they can expect from further and higher education institutions, and what these institutions might expect from them.

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

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

This guide contains five chapters and two appendices. Following this introduction, chapter 2 sets out the benefits of the duty. Chapter 3 explains the general duty and the specific duties. Chapter 4 gives practical advice on meeting the specific duties for further and higher education institutions in policy and services and chapter 5 explains the specific duties for employers. Appendix 1 sets out a framework for preparing a race equality policy and building race equality into your other policies. Appendix 2 explains some of the terms used in the Act.

* In the context of the Act and this guide, the term ‘governing body’ means all the educational bodies listed under Part II, Schedule 2 of the Scottish order.

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Promoting race equality

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

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

What are the benefits of the general duty?

Meeting the general duty will help you to:

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

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The general duty and the specific duties

What is the general duty?

The general duty, as set out in section 71(1) of the Act, says you must have ‘due regard to the need’:

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

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

What are ‘functions’ and ‘policies’?

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

What does the general duty mean in practice?

Obligatory

Promoting race equality is not something you can choose to do or not do. This means you cannot claim that you do not have the resources to meet your responsibilities. Your aim should be to make race equality a central part of any of your policies or services that are relevant to the duty. The best approach is to build these responsibilities into the work you already do, and to adapt your plans and priorities. You should also make sure that you take account of race equality in all your monitoring, reviewing, and evaluation systems.

The general duty and the specific duties

TACKLING UNLAWFUL RACIAL DISCRIMINATION

A college used a computerised system to select students. The program was developed to mimic the way the admissions tutor chose candidates. 'Caucasian' and male applicants were given greater weight than women or applicants from ethnic minorities. The computer program 'institutionalised' the admissions tutor's discrimination.

To meet the general duty, the college would need to assess its admissions policy and its criteria for selection, and take action to remove any discriminatory practice that it found. In this case, the college will have to remove the differences in the weightings for different groups of applicants.

PROMOTING EQUAL OPPORTUNITIES

A college finds that staff from ethnic minorities are under-represented in senior posts. To tackle this, it takes various steps. These include introducing:

- a positive action training course in management skills for under-represented groups;
- a mentoring scheme; and
- a support group for staff from ethnic minorities.

PROMOTING GOOD RACE RELATIONS

A college in a rural area with few ethnic minorities made links with a city college with a large ethnic minority student population. The colleges ran student exchange programmes and gave students active support in some subjects.

Relevant

You need to consider all your functions and decide whether they are relevant to race equality. 'Relevant' means 'having implications for' (or affecting) race equality. While some purely technical functions (such as maintaining computers) may not be relevant, race equality will always be relevant when delivering services, and in employment.

Proportionate

Under the duty, you must have 'due regard' for race equality. This means that the weight you give a function should be in proportion to how relevant it is to race equality. In practice, you will find that you give the highest priority to those of your functions and policies that have the greatest potential to affect different racial groups in different ways. The duty will be particularly relevant to functions such as student admissions, assessments, raising achievement levels, delivering the curriculum, discipline, guidance and support, and recruitment and professional development of staff.

Race equality is important, even if there is nobody from an ethnic minority group in your institution or local community. Education plays a vital role in influencing people's views and attitudes. Also, racist acts (such as handing out racist literature) can happen in institutions with no ethnic minority students.

Complementary

The three parts of the general duty – eliminating unlawful racial discrimination, promoting equal opportunities, and promoting good relations between people from different racial groups – complement each other. Sometimes they may overlap, but they are three separate and distinct parts of the duty. For example, a project you are involved in to tackle racial harassment or abuse may contribute to eliminating unlawful racial discrimination, but it may not, by itself, promote good race relations. You may have to take other steps to do this. You should try to find ways of meeting all three parts of the duty.

What are the specific duties?

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

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

The specific duties have been introduced to help you to meet the general duty. They are a means to an end – steps, methods, and arrangements – not ends in themselves. Your ultimate aim must be to meet the general duty. For example, if the monitoring you carry out under the specific duty on monitoring (see pp 18 – 21) shows that drop-out rates for Pakistani students are much higher than the average for your college, to meet the general duty, you should take steps to find out why this is happening. You should then do something about it.

How does the general duty apply to contracted services?

You are responsible for meeting the general duty and any specific duties in all your relevant functions, including those carried out by someone else through a contract or a service-level agreement. This means that if you decide to outsource a service, and the service is relevant to race equality, you should ask what you need to do to meet the duties. You could then consider including those duties in the contract or agreement as performance standards for delivering the service. For more guidance on how the general duty and specific duties apply to procurement, please see section 5 of *A Guide for Public Authorities in Scotland*.

How does the general duty affect partnerships?

You are responsible for meeting the general duty and any specific duties when you carry out a relevant function with other organisations. If your partners are other public authorities that are also bound by the duty, each authority will be individually responsible for meeting the general duty and the specific duties. If your partners are private or voluntary organisations, you may need to make sure that the work you do jointly, and the way you do it, allows you to meet the duties in terms of race equality. Your private and voluntary partners do not have any similar obligation. For more guidance on how the general duty and specific duties apply to procurement, please see section 5 of *A Guide for Public Authorities in Scotland*.

What role do auditing and inspection agencies have?

Agencies that carry out statutory inspections and audits of public authorities are bound by the general duty. They are responsible for making sure that they take account of the general duty and any specific duties in their inspections and monitoring. In practice, this means that agencies such as Audit Scotland will inspect, and report on, whether you are meeting the general duty and the specific duties.

How are the duties enforced?

Under the Act, we have the power to enforce the specific duties. If we believe you are not meeting these duties, we can issue a 'compliance notice'. This is a legal document that orders you to meet the specific duties within a certain timescale. You will also have to tell us how you will meet the duties and observe the conditions of the notice. If you do not observe any part of the notice, we can apply to the courts for an order to make

The general duty and the specific duties

you do so. If the court issues the order and you still do not observe the notice, you can face legal action for contempt of court.

If you do not meet the general duty, your actions, or failure to act, can be challenged by a claim to the Court of Session for judicial review (asking the court to review the way you made a decision). The court will not decide on the merits of the decision, only whether it is legal. The court can ask you to reconsider the way you made a decision. For example, if a college decides to stop running a series of courses without first assessing the impact this decision may have on students from different racial groups, members of these groups could apply for a judicial review of the college's decision.

Public authorities – duties under the Race Relations Act

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

Notes:

- 1 Although education authorities, managers of grant-aided schools, and the boards of management of self-governing schools are not listed in appendix 3 of the *Code of Practice on the Duty to Promote Race Equality in Scotland* as being bound by the employment duty, they still have to assess and monitor the impact their policies will have on staff. This is outlined in Articles 3 (4), 4 (1) and 4 (2) of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 (see pp 37-40, and 49-50 of the code of practice in Scotland).
- 2 Article 3 (5) of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 places a duty on further and higher education institutions to monitor and assess the impact their policies have on staff.

4

Specific duties Policies and services

The Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 says that the governing body or manager of a further or higher education institution specified in Part II of Schedule 2 of the order must:

- 3 (1) ... before 30th November 2002,*
- (a) prepare a written statement of its policy for promoting race equality (referred to in this article as its 'race equality policy'); and*
 - (b) have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph ... (5) ...*
- (2) Such a body or person shall,*
- (a) maintain a copy of its race equality policy ..., and*
 - (b) fulfil those duties in accordance with such arrangements*
- ...*
- (5) It shall be the duty of [such] a body or person ... 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).*
- (6) Such a body or person shall take such steps as are reasonably practicable to publish annually the results of its monitoring under this article.*

Race equality policy

What is the duty?

You must prepare and maintain a written statement of your race equality policy. You must also have arrangements in place for meeting your duties as soon as reasonably possible. Both the statement and arrangements have to be ready by 30 November 2002.

**CONFERENCES ON EQUALITY
BRING DEPARTMENTS TOGETHER**

A further education college has set up a review group to target equality. Its brief is to carry out full formal reviews of individual departments and planning units and to produce an equality review of the institution once a year. The group organises a one-day conference on equal opportunities every year.

The conference is aimed at staff in strategic and management positions. The first half of the day focuses on developing plans for action in the main areas of equality.

The second part of the day looks at individual departments' work on equality. Academic departments report on specific equality projects, and talk about their future plans. There is plenty of opportunity for questions and critical discussion and members of staff are able to pass on good practice. They also get the opportunity to think about new strategies and approaches to their work, including partnerships.

What is a race equality policy?

A race equality policy is a description of how you intend to prevent racial discrimination, promote equality of opportunity, and promote good race relations across all areas of activity. The policy should be part of the planning arrangements you already make.

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

- a. be part of the institution's yearly plan;*
- b. give details of how the institution will put the policy into practice, monitor it, and assess how effective it is;*
- c. provide a framework for building race equality into other relevant policies, and into all relevant areas of the institution's activities;*
- d. clearly define roles and responsibilities so that people know what is expected of them;*
- e. explain clearly what the institution will do if the policy is not followed; and*
- f. set out the institution's arrangements for publishing, each year, its race equality policy and the results of the monitoring and assessments it carries out to meet the duty.*

(paragraph 6.26, code of practice in Scotland)

USING EQUAL OPPORTUNITIES GROUPS

A college has an equal opportunities group. The group has representatives from:

- teaching and non-teaching staff at various grades;
- ethnic minority employee groups; and
- trade unions.

The group's role is to assess equal opportunities in the college and to advise on how important policy developments will affect equal opportunities. The group reports directly to the college's executive board. From time to time, the group carries out surveys among staff and students to see how much they know about the college's policies and procedures for promoting equal opportunities and tackling discrimination. The equal opportunities group uses questionnaires, meetings and interviews – with groups and individuals – and makes recommendations to the board.

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

The race equality policy can be combined with another policy, such as an equal opportunities or diversity policy. However, to meet this duty, the race equality policy will need to be clearly identifiable and easily available (paragraph 6.29, code of practice in Scotland).

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

PROMOTING RACE EQUALITY

Following an audit of its course materials, a college produced a poster and put it up in the staff room and near photocopiers all around the college. The poster said:

Tutors, check your materials! Have you checked your favourite materials for equal opportunities issues?

Do you think that all your resources do the following?

- *Promote equal opportunities?*
- *Celebrate cultural diversity?*
- *Present positive role models?*
- *Challenge stereotypes?*
- *Educate your students for life and work in a multi-ethnic society?*

If you have answered 'no' to any of the above, what are you going to do now? Please remember that a minor change to your course materials could make a major change to the way a student responds to the course.

What should the race equality policy cover?

The race equality policy should reflect the character and circumstances of the institution, and deal with the main areas that are relevant to promoting equality of opportunity and good race relations, and tackling racial discrimination. These areas may include:

- a. the institution's values;*
- b. curriculum, teaching and learning (including language and cultural needs);*
- c. assessment;*
- d. racial harassment and bullying;*
- e. the institution's management and governing body;*
- f. admissions, access and participation;*
- g. student support and guidance;*
- h. behaviour and discipline;*
- i. partnerships and community links; and*
- j. staff recruitment, training and career development.*

(paragraph 6.28, code of practice in Scotland)

We suggest that your policy should set out:

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

WIDENING INVOLVEMENT

A medical school did not have many ethnic minority students, so it set up links with local schools and colleges to test a new project. This project involved getting medical students to work with year 12 pupils. The students helped the pupils to fill in their UCAS (Universities and Colleges Admissions Service) applications, and gave them practical tips on interview techniques. The project was hugely successful and saw dramatic increases in the number of successful applications from pupils from ethnic minorities in the fields of medicine and dentistry.

MONITORING CHECKLISTS

A college used the aims set out in its race equality policy to draw up responsibility checklists for its staff. For example, the checklists for teaching staff included:

- the content of the curriculum;
- teaching methods and materials;
- classroom values;
- guidance and referrals to counselling and support services; and
- assessments.

Personal tutors, course tutors, and heads of departments also had their own checklists. The college used the checklists as a basis for drawing up questions for a student satisfaction survey. The college used feedback from the surveys, together with monitoring data on performance and progress, to review and improve training and support for staff, and to assess its policies and strategies for teaching, learning, and the curriculum.

Who should you consult about the race equality policy?

When drawing up the race equality policy, we suggest that you consult and involve the people who will be affected by it. These will include:

- staff and students from ethnic minorities;
- trade unions; and
- associations for staff and students from ethnic minorities.

How should you put the policy into practice?

We suggest that you link your race equality policy to an action plan, and put the plan into practice. The action plan could be part of your strategic plan, and you can develop and introduce it through your normal planning and decision-making processes.

You should consider getting approval for the policy from your governing body, because they are ultimately responsible for seeing that you meet the duty. The policy could also be a regular item on the agenda at meetings of the governing body.

You should consider including in the policy your plans for training staff and members of the governing body to meet their responsibilities.

Staff and students will also need to know about the policy and understand what it means for them. We suggest that you make it clear in the policy how you plan to do this, and keep everyone up to date with progress.

Assessing policies

What is the duty?

You must assess the impact of your policies (including your race equality policy) on students and staff from different racial groups.

Why should you assess your policies?

The purpose of the assessment is to see whether the institution's policies help to achieve race equality for students and staff from different racial groups or whether they have, or could have, an adverse impact on them (paragraph 6.31, code of practice in Scotland).

When should you assess your policies?

You are not expected to assess all your relevant policies at once, but you will find it helpful to include a timetable for assessing them all in the arrangements you set out for meeting this duty.

You may find it helpful to build your assessment into the arrangements you have already made to review your policies.

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

How should you assess your policies?

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

LANGUAGE SUPPORT FOR INTERNATIONAL STUDENTS

A university runs an English language support programme for students who are non-native speakers of English. Students can enrol for the courses, which are offered at four different levels, while they are studying at the university. The courses are credited and students can take recognised qualifications in English if they want.

USING MENTORING

A teacher training institution, worried about the low number of enrolments from students from ethnic minorities, introduced a 'mentoring' programme. Students who volunteer for this programme are attached to a mentor, who is a specially trained teacher. The mentor meets the students once a month. The mentors are themselves either from an ethnic minority group or have considerable understanding of racism (or both). They advise students on both personal and professional problems. Their job is to listen, advise, serve as an advocate, and help with job applications. The mentors receive support from the college's counselling services.

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

The code lists nine questions you can use to assess the impact of your institution's policies.

- a. *Is the institution helping all staff and students to achieve as much as they can, and get as much as they can from what is provided for them?*
- b. *How does the institution explain the differences between groups of students in terms of teaching and learning, drop-out rates, student progression and achievement, assessment, access to learning resources, support and guidance, and curricular and other opportunities?*
- c. *Are these explanations justified? Can they be justified on non-racial grounds (for example, English language difficulties)?*
- d. *How does the institution explain the differences between groups of staff in terms of grade and position, type of contract, career development, training, and other opportunities?*
- e. *Are these explanations justified? Can they be justified on non-racial grounds (for example, a change in institution-wide policy on permanent recruitment)?*
- f. *What is the institution doing to:*
 - (i) *raise achievement levels and tackle race inequalities when recruiting staff, and in students' performance and progress;*
 - (ii) *promote race equality and harmony, both inside the institution and in the wider community; and*
 - (iii) *prevent, or deal with, racism?*
- g. *Do the policy's aims lead to action to deal with any unjustifiable differences that are identified?*
- h. *Is the action appropriate and effective? Are there any unexpected results? If so, how are they being handled?*

AVOIDING BIAS IN MARKING

To avoid possible bias in exam assessments, a college uses anonymised marking. This means that every student has an individual reference number. This is used on all their work instead of any personal information. The college keeps the data on sex and racial group separately and uses it to monitor the assessments. The system led to a marked improvement in the grades which students from ethnic minorities received.

- i. What changes does the institution need to make to policies, relevant policy aims, and related targets and strategies?*

(paragraph 6.33, code of practice in Scotland)

What information should you use to answer these questions?

To answer these questions, further and higher institutions could consider:

- a. collecting and analysing relevant monitoring and other information;*
- b. talking to staff and students from all racial groups to find out their needs and opinions; and*
- c. carrying out surveys and research studies.*

(paragraph 6.34, code of practice in Scotland)

What should you do with the results of assessments?

Further and higher education institutions could use these assessments to:

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

(paragraph 6.35, code of practice in Scotland)

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

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

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

STUDENT WORK PLACEMENTS

A college department monitored its student work placements. This included monitoring:

- access to work placements;
- progress reports;
- complaints by students of discrimination or harassment; and
- job offers following the placement.

The information showed that students from ethnic minorities:

- were more likely to be refused placements;
- were given less support by some employers;
- made a number of complaints of racism; and
- were less successful than white students in getting jobs with their placement employer after their work experience ended.

As a result of its monitoring, the department made a number of changes. It introduced a 'standards contract', which was sent to every work placement provider. The contract set out what the college expected from providers in terms of equal opportunities, as well as the standard of support all students should receive throughout their placement. The department also introduced a policy of not using employers who failed to meet these standards. Individual course tutors took responsibility for making sure that recruitment to work placements was fair. They also gave students individual support, before and during their placement, and regularly contacted the work provider to discuss students' progress.

The department's swift action led to a marked fall in the differences between students from ethnic minorities and other students. The department's action plan included a target to remove any differences completely, within three years.

Monitoring

What is the duty?

You must monitor, by racial group, the admission and progress of students, and staff recruitment and career progress.

What is monitoring?

Monitoring involves collecting information to measure an institution's performance and effectiveness. The results may suggest how the institution can improve (paragraph 6.37, code of practice in Scotland).

Students: what should you monitor?

The institution should monitor all stages of the student admissions process, from applications to outcomes. To help interpret the information, the institution might also consider monitoring other areas that could have an adverse impact on students from some racial groups, such as:

- a. choice of subject;*
- b. home or international status; and*
- c. selection methods.*

(paragraph 6.38, code of practice in Scotland)

The institution should monitor all students' achievements and progress. To help interpret the information, the institution might also consider monitoring other areas that could have an adverse impact on students from some racial groups, such as:

- a. student numbers, transfers and drop-outs;*
- b. different methods of assessing students;*
- c. work placements;*
- d. the results of programmes targeted at people from specific racial groups; and*
- e. bullying and racial harassment.*

(paragraph 6.39, code of practice in Scotland)

Staff: what should you monitor?

The institution should monitor all activities that relate to staff recruitment and selection, and to career development and opportunities for promotion. It might consider monitoring for each department as well as the whole institution. This is likely to include:

- a. selecting and training panel members;*
- b. applications and appointments;*
- c. success rates for the different selection methods;*
- d. permanent, temporary or fixed-term appointments; and*
- e. home or international status (for institutions that recruit internationally).*

(paragraph 6.40, code of practice in Scotland)

EXTENSIVE AND INTENSIVE MONITORING

A college revised its monitoring systems to include data collection on racial group, sex, disability, nationality, home and international status, and grade. Detailed analysis showed that staff from ethnic minorities (particularly women) were under-represented in full-time and permanent teaching posts, and in senior positions throughout the college. The data also showed that it took longer for them to get promotions than other staff.

The college decided to investigate this more thoroughly and launched a detailed study of its ethnic minority staff. The study found that staff from ethnic minorities:

- were more highly qualified than their white colleagues;
- made, on average, twice as many applications as white staff before getting a promotion; and
- had fewer opportunities for training and career development, partly because they were more likely to be in part-time positions.

As a result, the college took a number of steps.

- It reviewed and revised its policies and procedures for recruitment and selection, to make sure they took account of equal opportunities.
- It gave all staff involved in recruitment and selection training in equal opportunities.
- It reviewed and revised its policy and procedures for creating teaching posts – and for deciding whether they were full time or part time – so that there was consistency across all departments.
- It checked that monitoring reports were produced once a year and that they went to all planning and decision-making groups in the college, and to the ethnic minority support group, trade unions, and staff groups.
- It made sure that copies of reports highlighting inequalities or patterns of inequality in certain departments actually went to these departments once a year, and that they produced action plans to deal with the issues.
- It set up a support group for staff from ethnic minorities, reporting directly to the college principal.
- It revised the selection criteria and procedures for training and development, so that part-time staff were not left out.
- It drew up a positive action plan to offer staff from ethnic minorities training in management skills.
- It introduced a mentoring scheme for staff from ethnic minorities and other groups who were under-represented in various ways.

The action programme led to an increase in the number of people from ethnic minorities getting senior posts and permanent positions in the college. Ethnic minority women made the biggest improvements.

The institution should identify areas where career progress could be affected and monitor those. They might include:

- a. staff, by their grade and type of post;*
- b. staff, by their length of service;*
- c. staff training and development, including applications and selection, if appropriate;*
- d. the results of training and career-development programmes or strategies that target staff from particular racial groups;*
- e. staff appraisals; and*
- f. staff promotion, including recruitment methods and criteria for choosing candidates.*

(paragraph 6.41, code of practice in Scotland)

How should you use the monitoring data?

You will find it useful to assess your monitoring data regularly. This will allow you to evaluate the progress you are making in meeting your race equality targets and aims. These assessments will help you to:

- a. highlight any differences between staff and students from different racial groups;*
- b. ask why these differences exist;*
- c. review how effective its current targets and aims are;*
- d. decide what more it can do to improve the performance of students from different racial groups (including positive action as allowed in section 35 of the Race Relations Act) and to improve the recruitment and progression of staff from different racial groups (again including positive action as allowed in sections 37 and 38 of the Race Relations Act); and*
- e. decide what further action it may need to take to meet the three parts of the general duty.*

(paragraph 6.42, code of practice in Scotland)

Publishing

What is the duty?

You must include a statement in your written race equality policy about your arrangements for publishing the policy, and the results of your assessments and monitoring. You must also take reasonable and practical steps to publish, each year, the results of the monitoring you carry out to meet the duty.

Your race equality policy should explain what you plan to publish, and how it will be published. You should use the arrangements you already have in place to publish the results of your monitoring and assessments.

We suggest that you also consider publishing the results of any consultations you carry out to meet the duty. For example, the information you publish could include:

- a. why the consultation took place;*
- b. how the consultation was carried out;*
- c. a summary of the responses or views expressed;*
- d. an assessment of the policy options; and*
- e. what the institution is proposing to do.*

(paragraph 6.45, code of practice in Scotland)

Who should get the information?

You could consider giving a copy or a summary of your race equality policy to all your staff and students. In the case of assessment and monitoring reports, you could limit the information to those who might be affected by the policy.

You could also include information about the results of your monitoring in your annual report or in any newsletters you publish, or on your website.

5

Specific duties Employment

Further and higher education institutions have a specific duty to monitor the recruitment of staff and their career progress (see pp 18 –21). This means you are not directly bound by the specific duties for employers, which are more extensive. However, you will need to take account of these duties to meet the general duty. We would strongly advise you, therefore, to look carefully at the specific duties for employers, which we have reproduced below. You should also remember that it is unlawful under the Act for any employer, public or private (unless specifically exempted), to discriminate on racial grounds (see appendix 2).

Article 5 of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 says that a body or person who is bound by the specific duties for employers must:

- 5.(1) (a) *before 30th November 2002, have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under paragraph (2); and*
- (b) *fulfil those duties in accordance with such arrangements.*

- (2) *... 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 or other body.*

- (3) *Such a body or person shall publish annually the results of its monitoring under paragraph (2).*

INVOLVING STAFF FROM ETHNIC MINORITIES IN PROMOTION REVIEW

A university learned from its monitoring data that staff from ethnic minorities, particularly women, were much less likely to be promoted. The data also showed that many of the staff from ethnic minorities who were promoted, especially those who were promoted to the most senior posts, were from overseas.

The university decided to look at the issue in greater detail and invited members of the support group for staff from ethnic minorities to assess each stage of the recruitment and selection process, and to suggest changes to the policy and procedures.

The group found inconsistencies in the recruitment procedures, particularly in certain departments. Staff from ethnic minorities who were surveyed complained that some posts were not formally advertised, and that, in some cases, staff had been 'lined up' for positions. When the recruitment procedures were followed, the group found other barriers which applicants from ethnic minorities faced, both at the application and interview stage. These included limiting applications to staff in permanent posts, and making it a condition that applicants had specific experience, which could only be acquired in certain posts.

The group made several recommendations and the university revised its recruitment and selection policy and procedures and took the following steps.

- It made sure that they formally advertised all vacancies.
- It set up a panel, made up of representatives from each department, to review and revise all job descriptions and person specifications, so that any criteria that were not strictly necessary were removed.
- It made sure that everyone who was involved in recruiting and selecting staff received regular training and guidance material.
- It set up a programme of training, work shadowing, and mentoring for members of racial groups that were under-represented at certain levels, so that they could acquire the skills and experience needed for more senior positions.

The Scottish Further Education Funding Council and the Scottish Higher Education Funding Council have a duty under article 4(4) and 4(5) of the Race Relations Act 1976 (Statutory Duties) (Scotland) Order 2002 to:

- monitor, by racial group, the numbers of teaching staff from each group at all the establishments they are responsible for; and
- take reasonable and practical steps to publish, each year, the results of this monitoring.

You will need to give the funding council the information it needs from you.

To be sure you are meeting the general duty, we recommend that you collect ethnic data on all areas of employment where racial inequality or discrimination might occur. You could then:

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

If your monitoring shows that an employment policy, procedure, or practice is resulting in unlawful racial discrimination (see appendix 2), you should examine the policy, procedure, or practice carefully to see where and how discrimination is taking place. You should then consider what changes to introduce, make them as soon as possible, and monitor their effects.

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

Positive action

If your monitoring shows that some racial groups are under-represented in your workforce, you could consider taking ‘positive action’ (see appendix 2). This allows you to target your on-the-job training, and your efforts to recruit staff, at those groups that are under-represented in a particular area of work. However, positive action does not allow you to discriminate when you decide who to select for the job.

Ethnic categories

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

Appendix 1

Framework for a race equality policy

Introduction

Under the duty to promote race equality, you must prepare and maintain a written statement of your race equality policy.

Preparing your race equality policy

- Your policy could be a separate race equality policy or part of another policy. If it is part of another policy, you should make sure it is easily identifiable as a race equality policy.
- We recommend that you set up a committee or a working group, chaired by a senior manager. The committee should be responsible for developing your race equality policy, consulting and involving people outside the institution, and taking account of the needs and interests of various groups in the institution. You might want to include the following among the members of the committee:
 - staff from different departments;
 - staff representing different grades, levels, and types of position;
 - students, including overseas students; and
 - unions and other groups, such as networks or associations of staff and students from ethnic minorities.
- Your policy should cover each of the specific duties that Scottish Ministers have introduced for further and higher education institutions and all your arrangements for meeting these duties. As well as the specific duty to prepare and maintain a race equality policy statement, you must:
 - assess the effects of your policies on staff and students from different racial groups;
 - monitor, by racial group, the admission and progress of students, and the recruitment and career development of staff;
 - set out your arrangements for publishing your race equality policy statement, and the results of your assessment and monitoring; and
 - take reasonable and practical steps to publish the results of your monitoring each year.

- We recommend that you also include:
 - a brief description of the main issues you face;
 - your aims and values;
 - your commitments and responsibilities; and
 - your arrangements for planning future policies and reviewing current policies.

Maintaining your race equality policy

You will need to show that you take your policy seriously and that you are taking steps to make it work, and to improve it. We have powers under the amended Race Relations Act 1976 (the Act) to enforce the specific duties. Auditing and inspection bodies may also want to know what you have done to meet the duties. We would advise you to take the following steps.

- Link your race equality policy to your strategic plan. The plan should include race equality targets, so that you can measure your progress towards putting the policy into practice. The plan should also set a timetable for reviewing and assessing the policy.
- Make sure your race equality policy is easily available and that your staff, students, and other interested parties (such as employers who provide work placements) know about it.
- Provide regular information and training for all your staff and governors on the policy and on how to put it into practice.
- Make sure that departments cover the race equality implications of their work in their policy statements, based on your race equality policy. They may also need to set race equality targets.
- Monitor, review, and assess the effects of the race equality policy on your other policies.
- Use the results of your monitoring and assessment to identify and make changes to your race equality policy, and any race equality targets, if necessary.

In November 2001, HM Inspectorate of Education published *Racial Equality in Further Education Colleges* on behalf of the Scottish Further Education Funding Council. This report identifies good practice in many aspects of equalities work, including race equality. In the higher education sector, the Equality Challenge Unit (ECU) has published a model race equality policy structure for higher education institutions to use. The ECU works with all partners, including the CRE, to promote equality throughout the sector, and will work with individual institutions on putting their race equality policy into practice.

I. The race equality policy

1. Background

It may help to summarise the main race equality issues for your institution. These could include the following.

- Your main functions.
- Initiatives or current priorities that are relevant to the duty, such as increasing access, improving retention rates, and encouraging achievement.
- Particular concerns about your staff, such as:
 - the isolation of staff from some racial groups, for example, because of their small numbers;
 - high turnover of staff from some racial groups; and
 - over-representation of staff from some racial groups in short-term contract posts or at lower grades.
- Particular concerns about students, such as:
 - retention rates of students from some racial groups; and
 - respect for people from different racial groups.
- Racist incidents, both in your institution and in the local area.
- A summary of the population and population trends in your area, analysed by racial group, and the implications for your institution.
- How you contribute to setting and meeting measures for equality and diversity set by external organisations, such as the local Learning and Skills Council.

2. Aims and values

Your race equality policy should be based on your values and aims. It should deal with the main areas relevant to promoting race equality, and should include a statement that your aim is to eliminate unlawful racial discrimination, and to promote equal opportunities and good race relations. Areas relevant to race equality could include:

- admission and access;
- student achievement and assessment;
- guidance and support for students;
- teaching and learning;
- the curriculum;
- staff recruitment, their professional development, and support for them;

- partnerships and community links;
- procurement and outsourcing; and
- quality assurance.

The statement is important, because it links your policy to other areas of activity in your institution. You should also consider including race equality statements in other policies that are relevant to promoting race equality (see pp 33 – 35).

3. Leadership and management

You will find it helpful to set out your commitments and the responsibilities of the governing body, managers, staff, and students in your policy. We give examples of these below.

Commitments

We are committed to:

- actively tackling racial discrimination, and promoting equal opportunities and good race relations;
- encouraging, supporting, and helping all students and staff to reach their potential;
- working with other institutions, local communities, and others to tackle racial discrimination and to encourage and promote good practice in achieving race equality; and
- making sure that the race equality policy and its procedures are followed.

Responsibilities

A. *The governing body*

The members of the governing body are responsible for:

- making sure the institution complies with the Act, and meets all its duties, including the general duty and the specific duties; and
- making sure the race equality policy and its procedures are followed.

B. *The principal or vice-chancellor*

The principal or vice-chancellor is responsible for:

- giving a consistent and high-profile lead on race equality issues;
- promoting the race equality policy inside and outside the institution; and
- making sure the race equality policy and its procedures are followed.

Appendix 1

Framework for a race equality policy

C. Managers, including heads of departments

Managers and heads of departments are responsible for:

- putting the policy and its strategies and procedures into practice;
- making sure that all staff know their responsibilities, and receive support and training in carrying these out; and
- following the relevant procedures and taking action against staff or students who may be discriminating unlawfully for reasons of race, colour, nationality, or ethnic or national origins.

D Staff with specific responsibilities

We suggest that you make a senior manager, group or committee responsible overall for:

- coordinating work on race equality;
- making sure that each department appoints a member of staff to be responsible for coordinating and mainstreaming their race equality work; and
- giving certain members of staff responsibility for dealing with racist incidents.

E All staff

All staff are responsible for:

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

F. Contractors and service providers

All contractors and providers of services are responsible for:

- following the race equality policy, and any race equality conditions in contracts or agreements.

4. Covering the specific duties

You have specific duties under the Act to assess and monitor the effects of your policies (including your race equality policy) on students and staff from different racial groups. Your race equality policy should briefly set out how you will do this. The policy could include the following.

Planning and developing policy

- How you plan to build questions on the implications for race equality into the processes for developing and planning policy.
- How you will use your assessments and consultations to decide whether you need to take any action.
- How you will build race equality targets within your wider strategic plans.

Ethnic monitoring

- How you will collect ethnic data to monitor the admission and progress of students, and the recruitment and professional development of staff.
- How you will use the data to inform planning and decision-making, and to set targets.
- How you will use the ethnic data provided by organisations such as the Higher Education Statistical Agency and the Universities and Colleges Admissions Service.

Assessing and reviewing policies

- How and when you plan to review, monitor, and assess all your policies and strategies, to see how effective they are in tackling unlawful racial discrimination, and promoting equal opportunities and good race relations.
- How you plan to consult staff, students and other interested parties.
- How you plan to build race equality questions into your self-review and evaluation frameworks.
- How you will use the results of reviews and assessments to inform all your planning and decision-making.

Publishing the results of monitoring and assessments

- How you will publish the results of your assessments and monitoring.
- How you will make the information available to different groups in your institution.
- How you will make sure that any information you publish cannot be used to identify individuals.

5. Putting the race equality policy into practice

You could consider the following questions.

How will you put the policy into practice?

You should include:

- monitoring and assessing the policy to see how it is working;
- when and how often you plan to review the policy; and
- how you plan to consult people about the policy and use the feedback.

How will you use training and development?

You should include:

- developing a training strategy which includes training and support for staff and governors;
- the methods you will use to train staff and governors, and who will provide the training; and
- monitoring and assessing the training you provide.

How will you publish and promote the policy?

You should include:

- how and where the policy will be available;
- who will get a copy of the policy;
- whether the policy will be translated or made available in special formats (for example on cassette, and in Braille); and
- promoting the policy as evidence of good practice in audits, inspections, and reviews of your performance.

6. Date of the policy

Always say when the policy was approved and signed.

7. Breaches of the policy

We would advise you to make it clear in your race equality policy what action you will take if students, staff, or others – including members of the public – do not follow the policy.

II. Building race equality into other policies

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

A. Policies on admission and access

- How do you make sure you are attracting applicants from all racial groups in your catchment area?
- What steps do you take to make sure the admissions process is applied consistently and fairly to applicants from all racial groups?
- What do you do to make sure that everyone involved in interviewing and selecting applicants knows about your race equality policy, and has received training in putting the policy into practice?
- How do you use ethnic data on student admissions to inform your planning and decision-making?

B. Policies on achievement, progress, and assessment

- How do you monitor and assess students' achievements, the progress they make, course drop-outs, and course completion by racial group?
- How do you make sure your criteria for assessment are explicit and fair to all students?
- How do you deal with complaints of racial discrimination about the assessment process?
- How do you use the results of monitoring and assessment to inform planning and decision-making?

C. Policies on racial harassment and your values

- What do you do publicly to promote good personal and community relations, including relations between people from different religions, and to oppose all forms of racism and discrimination?
- What training do you give staff to make sure they know how to deal firmly, consistently, and effectively with racist incidents, racial harassment, and bullying?
- How do you make sure that students and staff know the procedures for dealing with racist incidents and racial harassment?
- How do you work with others to tackle racism and racial harassment, both in the institution and more widely?

D. Policies on guidance and support for students

- How do your services identify and meet all students' needs, including any cultural or religious needs they might have?
- How do you make sure that students from all racial groups know about the different kinds of support they can get?
- How do you monitor the placements and work experience you arrange, and what steps do you take to make sure employers and other providers of work follow your race equality policy? What steps do you take when providers fail to follow the policy, and what are the procedures for this?

E. Policies on teaching and learning

- What do you do to encourage students to understand and value cultural and ethnic diversity?
- How do you make sure that your teaching staff create an environment free of prejudice, discrimination and harassment, where students can contribute fully and freely and feel valued?
- How does your teaching take account of students' cultural backgrounds, language needs, and different learning styles?
- How do you make sure you make resources available to meet any specific needs that students from particular racial groups might have?

F. Policies on the curriculum

- How does the curriculum deal with questions of racism and diversity?
- What do you do to take account of the needs of students from different racial groups when planning the curriculum? How do you build race equality aims into all your programmes?
- How do you make sure that departments monitor and assess their curriculum to see that it meets the expectations of students from different racial groups?
- How do extra-curricular activities and events cater for the interests or needs of all students, and take account of any concerns about religion or culture?

G. Policies on staff recruitment, professional development, and support

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

- How do you make sure that your recruitment and selection procedures follow good equal opportunities practice?
- How do you monitor applications for employment, training and promotion, and staff in post by racial group, and use the information to inform planning and decision-making?
- What steps do you take to tackle differences in patterns of employment between staff from different racial groups (for example in grade, types of contract, or other terms and conditions)? Do you use targets or positive action?
- How do you make sure that departments give their staff the support they need?

H. Policies on working with communities

- How do you work with different parts of the community to make them aware of the benefits of diversity and to tackle racism and racial discrimination?
- How do you make sure that public information and material is written clearly and is available (where necessary) in languages other than English, and in special formats?
- How do you make sure that premises and facilities that have been designated for public use are fully accessible to, and can be used by, everyone in the community you serve?

I. Policies on procurement and outsourcing

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

For more guidance on procurement, please see section 5 of *A Guide for Public Authorities in Scotland*.

J. Policies on quality assurance

- How do you assess and evaluate your performance and effectiveness in eliminating racial discrimination and promoting race equality and good race relations?
- How do you use race equality benchmarks, targets, and performance indicators?
- How do you encourage students and staff to comment on your performance in promoting and achieving race equality? How do you use the feedback?
- How do you use the results of the monitoring and assessment you carry out to promote race equality in your strategic plans?

Appendix 2

Race Relations Act 1976

What is unlawful racial discrimination?

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 (the Act) makes it unlawful to discriminate – directly or indirectly – against someone on racial grounds. Under the Act, ‘racial grounds’ means reasons of race, colour, nationality (including citizenship) or ethnic or national origins. Racial groups are defined accordingly. For example, African Caribbeans, Gypsies, Indians, Irish, Pakistanis, Bangladeshis, Irish Travellers, Jews, and Sikhs are among the groups recognised as racial groups under the Act. The Scottish Parliament’s inquiry into Gypsies/Travellers and public sector policies recommended that all legislation and policies should be framed on the understanding that Gypsies/Travellers have distinct ethnic characteristics and should therefore be regarded as an ethnic group, until there is a court ruling, recognising them as a racial group under the Act.

Direct racial discrimination means treating a person less favourably than another on racial grounds. An example of direct discrimination would be applying harsher discipline to students from ethnic minorities because they are from ethnic minorities.

Indirect racial discrimination means that a requirement or condition which is applied equally to everyone:

- can only be met by a considerably smaller proportion of people from a particular racial group;
- is to their detriment; and
- cannot be justified on non-racial grounds.

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

Victimisation. The Act also makes it unlawful to treat someone less favourably because they are known to have, or are suspected of having:

- made a complaint of racial discrimination;
- planned to make a complaint; or
- supported someone else who has made a complaint of racial discrimination, or to be planning to do so.

An example of victimisation would be where an employee is refused leave because they backed up a colleague’s complaint of racial discrimination.

In what areas is racial discrimination unlawful?

The original Race Relations Act 1976 makes it unlawful for most public, private, and voluntary organisations to discriminate on racial grounds in the following areas:

- employment;
- education;
- housing; and
- providing goods, facilities, and services.

The Race Relations (Amendment) Act 2000 extended the scope of the original law to cover the way public authorities carry out all their functions. The Act defines a public authority widely, as a person or organisation carrying out functions of a public nature. This includes enforcement and regulation functions, such as policing and child protection. It also includes functions or services that are carried out by private or voluntary organisations under a contract or a service-level agreement, such as charities providing local authorities with emergency housing.

What is positive action?

In specific circumstances, the Act allows positive action as a way of overcoming racial inequality.

Positive action allows you to:

- provide facilities or services (in training, education or welfare) to meet the particular needs of people from different racial groups (for example, English language classes – see section 35 of the Act);
- target job training at those racial groups that are under-represented in particular areas of work (see sections 37 and 38); and
- encourage applications from racial groups that are under-represented in particular areas of work (see section 38).

Positive action plans are only meant to be a temporary solution and you may need to review them regularly. You should not use them if the under-representation or particular need no longer exists.

General duty and specific duties

Section 71(1) of the Act places a statutory general duty on most public authorities (see appendix 1 to the code). Under the duty, when carrying out all their functions, authorities must have 'due regard' to the need:

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

Under section 71(2) and (3) of the Act, Scottish Ministers have the power to place specific duties on all or some of the public authorities bound by the general duty (see appendix 2 to the code).

Under section 71(C) of the Act, we can issue codes of practice that will help public authorities to meet their general and specific duties. The statutory *Code of Practice on the Duty to Promote Race Equality in Scotland* is expected to come into effect on 30 November 2002, with approval from parliament.

Under section 71(D) of the Act, we have the power to enforce the specific duties. If we are satisfied that a person has failed to, or is failing to, meet a specific duty, we can issue a compliance notice ordering them to do so. The person concerned has to observe the terms of the notice and tell us, within 28 days, what they have done or will do to meet the duty.

Under section 71(E) of the Act, we have the power to apply to a designated sheriff court for an order, if the person concerned has not supplied the relevant information after being served with a compliance notice, or if we have reason to believe they will not do so.



**COMMISSION FOR
RACIAL EQUALITY**

www.cre.gov.uk

OFFICES

SCOTLAND

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

HEAD OFFICE

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

BIRMINGHAM

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

LEEDS

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

MANCHESTER

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

WALES

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

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