

## RACE EQUALITY LEGAL BACKGROUND

Race Equality has its roots in the Race Relations Act 1975 (RRA) which prohibits discrimination against individuals in terms of their race in employment, education and the provision of goods, facilities and services and in the disposal or management of premises. These must ordinarily be open to all races and provide equal opportunities. It also prohibits discrimination in employment against people of different race and culture and applies to all people, including children.

The Race Relations Amendment Act 2000 provided that Public Authorities must have due regard to the need to promote equality of opportunity between different races. This included eliminating unlawful discrimination or harassment that is related to a person's race.

However, despite 30 years of legal rights to race equality, there is still widespread discrimination and persistent inequality, and individual legal rights have not been enough by themselves to change this. Policies and practices that seem neutral can have a significantly different effect on different races, often contributing to greater race inequality.

(NB: The Equality Act 2006 was set up to address the rights of people in terms of Disability and Gender Equality Duties, and brings similar general and specific duties with regard to rights and provisions as to race, including different needs and the right not to be discriminated against in employment or services).

**The General Duty;** The act provided the duty to promote race equality (known as the general duty). Applicable to Public Authorities from 2003, this brings enhanced statutory duties for demonstrating due regard for eliminating unlawful discrimination and harassment and for promoting equality of opportunity between different races in all functions including the need to:

- Eliminate unlawful discrimination and harassment that is related to a person's race.
- Promote equality of opportunity between people of different race
- Promote good relations between people of different race

Under the influence of the Equality Act 2006 best practice expectations are also to;

- Promote positive attitudes towards all races and encouragement of participation by in public life and the taking of steps to meet different needs.
- Meet expectations and responsibilities around employment, goods, services and facilities provisions.

Policies and services will have to be designed from the start with race equality needs in mind, e.g. services are designed with full recognition of race diversity and the people who may wish to use them, with flexibility to ensure satisfactory access and outcomes for all groups. The weight given to this will be dependant on how relevant it

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is to a particular function, for instance pay roll services will have low impact and this low relevance whilst recruitment policy will have high relevance.

#### **The Specific Duties – The Race Equality Duty**

Like the effect of the Equality Act 2006 on Disability and Gender, the Race Relations Act 1975 placed a statutory duty on all public authorities, when carrying out their functions, to have due regard to the need to eliminate unlawful discrimination and harassment, and to promote equality of opportunity between people of different race. The new statutory duty applies to employment and the provision of goods, facilities and services.

Those who have to comply are; Public authorities of all kinds. According to the Human Rights Act, this is ‘any person who has functions of a public nature’ and; Private sector organisations or voluntary bodies when they are carrying out public functions.

The Specific Duties are intended to support progress in delivering the general duty and a key obligation is to prepare and publish a Race Equality Scheme (RES). This involves; devising and publishing a 3 year plan showing how the organisation intends to fulfil its general duty and its specific duties; proper and proactive involvement of stakeholders e.g. service users / employees in the development of this scheme and that the scheme is reviewed at least every 3 years.

The late Commission for Race Equality worked with the Government in ensuring the implementation of standards and produced a Code of Practice for implementation of Race Equality. This function has now merged with the Equalities and Human Rights Commission who also advise, educate and have power to enforce civil rights in relation to Race Equality.

#### **Race Equality Scheme – The Purpose**

Under this Scheme Public Authorities will be moving towards having all their policies and services designed from the start with the needs of people of different race in mind and also with a view to valuing the experiences of and enabling the contributions people of different race bring to society e.g. that services are designed with full recognition of diversity of race, and the need for flexibility to ensure satisfactory access and outcomes for all groups and that employment policies recognise and incorporate the diverse needs of the race population recognising the variety of needs that exist.

The race equality duty also places the focus on assessing the possible social exclusions and disadvantages experienced by people of different race and looks to challenge any barriers, stigmas and other forms of discrimination that prevent people of different race from participating fully within society. This means consideration must be given to assessing any attitudinal, structural and environmental barriers within the implementation of this duty.

For the British Library and other public authorities, this has meant going beyond existing race rights legislation to challenge any potential for institutional discrimination and be active in promoting race equality by having due regard to the need to:

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- prepare and publish a race equality scheme, in consultation with employees, service users and other stakeholders, showing how it will meet its general and specific duties and setting out its race equality objectives within an action plan.
- gather and use information on how the public authority's policies and practices affect race equality in the workforce and in the delivery of services
- consult stakeholders (i.e. employees, service users and others, including trade unions) and take account of relevant information in order to determine its race equality objectives
- assess the impact of its current and proposed policies and practices on race equality
- implement the actions set out in its scheme within three years, unless it is unreasonable or impracticable to do so (e.g. if it no longer relevant or proportional or a substantial change in funding makes this unfeasible)
- report against the scheme every year and review the scheme at least every three years

The Library has explained how these areas have and will be included within the scheme in their statement of intention (section 1.4), which also directs you to links within the main document.

This should include;

- An overall approach to race equality, linked to corporate aims/ objectives (see Section 1 of the main generic document)
- Steps taken to meet the general and specific duties - (the action plan)
- How information was gathered and how this was/ will be taken into account in planning the race equality objectives included in the RES
- How stakeholders have been involved in developing the RES
- How information on the impact of current and future policies and practices in relation to race equality will be gathered and assessed and how it will be used to review the implementation of scheme objectives.
- How the library will ensure the implementation of the scheme objectives and how this will be reported.
- Employment policies have and will recognise and incorporate the diverse needs of race and will be audited and reviewed in line with the expectations of the RES in order to be compliant with the requirements of the duty.

Involving stakeholders – A key element of the Disability Scheme was much more active engagement of stakeholders including a sustainable and demonstrable commitment to involvement e.g. in terms of focus groups etc. For the Race Scheme this is not a specific requirement but after the recent Disability and Gender processes the Library saw the benefit of doing this.

The term impact assessment is used more in recent Gender & Disability legislation. However the Race Scheme does require race impact assessments that will ensure that any decisions and activities do not disadvantage people of different race and to

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identify where there may be better promotion of equality of opportunity. This should involve;

- Consideration of available data and research
- Assessment of impacts of policy / decision on race
- Consideration of measures (e.g. to mitigate any adverse impact, or alternative policies which might better achieve equality in relation to race.
- A decision by the public authority
- Publication of the results of the impact assessment e.g. on the organisations website.
- Arrangements for monitoring for future adverse impact.