



Promoting race equality in early years

Introduction

This paper has been written for

- local authority early years officers
- area officers with responsibilities for equality, policy or training issues (in early years and children's partnerships or local authorities)
- equality coordinators in early years settings

It aims to clarify the responsibilities for ensuring the implementation of race equality in early years settings, taking account of the requirements of the Race Relations (Amendment) Act 2000.

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What are the duties?

Background to the law

The Race Relations (Amendment) Act 2000 is a result of the Macpherson report into the murder of the black teenager, Stephen Lawrence. It outlaws racial discrimination in public authority functions that were not already covered by the 1976 Race Relations Act. The 1976 Act outlawed racial discrimination and covered statutory and non-statutory early years organisations and provision in education, employment, housing and the provision of goods, facilities and services. However, the amendment extends the Act's powers to make racial discrimination unlawful for any listed public authority in any of its functions.

What the law says

The law requires all listed public authorities to comply with the **General duty** to make the promotion of race equality central to their work. Some public authorities also have **specific duties** placed on them to make arrangements to help them meet the General duty. This statutory public duty means there is no choice about complying; it applies to all public authorities whatever their minority ethnic population. A lack of resources is no excuse for non-compliance.

What is the public duty?

The General duty means that all listed public authorities must have a due regard to the need to:

- eliminate unlawful racial discrimination
- promote equality of opportunity and
- promote good relations between people of different racial groups

Effectively, this requires authorities to take account of race equality in policy making, service delivery, employment practice and other functions within existing funding.

The **specific duties** are a means for public authorities to meet the general duty. These include the preparation and delivery of a Race Equality Scheme, which is essentially a three-year strategy and action plan that states how the public authority will arrange to fulfil its general duty under the Act. The Race Equality Scheme should state which functions and policies have been assessed as relevant to the performance of the general duty to promote race equality and what arrangements it has for meeting its specific duties, i.e. assessing and consulting on the likely impact of its proposed policies on the promotion of racial equality; monitoring its policies for any adverse impact on the promotion of race equality; publishing the results of such assessments and consultations; ensuring public access to information and the services which it provides; training staff in their responsibilities under the Act and reviewing progress on a rolling three-year programme.

Showing that the duty has been met – ethnic monitoring

Ethnic monitoring is necessary to demonstrate that policies for promoting equality are working in practice and measuring any adverse impact. Monitoring is the process of collecting, analysing and evaluating data on the ethnicity of people in relation to the processes of employment, admissions and the experiences and opportunities available and outcomes achieved. It is a way of identifying potential discrimination and whether policies on promoting equality of opportunity and good relations between people of different racial groups are being implemented. If monitoring reveals any discrepancies, they need to be examined and the reasons for them ascertained. Consultation with all concerned about categories to be used and data protection issues should be undertaken.

Who is responsible?

What is a 'public authority'?

A public authority is any organisation with functions of a public nature. Public authorities include private organisations that carry out public functions. Government departments, local authorities and Primary Care Trusts are examples of public authorities.

Is there a public duty when working in partnerships?

Partnerships are single bodies bringing together representatives of various organisations to pursue common aims. They include 'umbrella' organisations working for children and families, early years or children's partnerships. They are not themselves public authorities and are therefore not bound by the race equality duty. However, where a public authority is a member of a partnership, wholly or significantly, it has a duty to promote race equality in the work carried out by the partnership, both the General duty and the specific duties. It must also ensure that the other partnership members are aware of the authority's legal responsibilities.

Voluntary, private, independent and community organisations, as partnership members, are bound by the law on racial discrimination but not by the race equality duty.

A CRE publication provides further details - see the further information section at the end of this paper.

Responsibilities in early years

Early years settings (including nurseries, nursery schools, children's centres, neighbourhood nurseries, early excellence centres and out-of-school care) which are directly run or maintained by the local education authority, and day nurseries run by social services departments of local authorities, will be bound by the General and specific duties for a public authority.

Sure Start local programmes will have local authority and Primary Care Trust representatives on their partnership boards - so the local authority and Primary Care Trust, as public authorities, will have responsibility to ensure the duties are fulfilled.

Voluntary, independent and private early years and childcare settings/services do not have the same

statutory duty as public authorities. However, the principles of equity and justice underpinning the law should be applied by all settings as good practice. Furthermore, where the provision is overseen, coordinated or advised by the local early years or children's partnership (which, as indicated above, has public authority membership), the local authority will have responsibility to ensure the duties are fulfilled.

Practice implications for early years settings

The following are duties for publicly run settings and good practice for private, voluntary and independent settings. These steps need to become part of everyday routine practice.

Early years and childcare settings need to

- examine all their existing policies, procedures and practices and assess whether they promote racial equality in all that they do
- devise a strategy to evaluate the impact of all they do on all children and their families in the area and whether they might advantage or disadvantage families from particular racial groups
- take advice and support from the local authority and attend training provided by it
- ensure that all members of staff understand the law is important

They need to **eliminate unlawful racial discrimination**:

- examine all their policies, practices and procedures to ensure there is no discrimination on racial grounds
- monitor and review - collect information on ethnicity, analyse it and evaluate the effectiveness of policies, procedures and practices to help establish whether discrimination occurs
- remove discrimination if identified

They must **promote equality of opportunity**:

- ensure that everyone in the setting is equally valued, treated with equal respect and concern, and that the needs of each are addressed
- ensure that each child and family has equal access and entitlement to all available opportunities for learning, experiences and resources

Promote good relations between people of different racial groups

Children reflect the attitudes and values of all around them, including racial attitudes and values. While eliminating racial discrimination and promoting equality of opportunity are important in ensuring race equality, they are insufficient in themselves to counter any prevailing racist attitudes and behaviour. In order to offset the process whereby children may learn to be racially prejudiced at an early age, specific and positive action needs to be taken on a regular basis to ensure children:

- develop positive attitudes and behaviour to all people, whether they are different from or similar to themselves
- unlearn any negative attitudes and behaviour that they may have already learnt
- value aspects of other people's lives (such as their skin colour, physical features, culture, language or religion) equally rather than seeing them as less worthy than theirs or ranking them in a racial hierarchy

It is important to recognise and accept that the need to eliminate unlawful racial discrimination and promote equality of opportunity and good relations applies equally in all areas, whether rural, suburban or urban. This is as important where the children are largely from one racial group as it is in multiracial, multicultural, multilingual settings. It is an essential part of promoting good relations between people of different racial groups and provides children with a basis for understanding race equality in their future lives.

Settings should also ensure that the needs of every child and adult are identified and addressed and that everyone shares an ethos to promote race equality in practice. Planning a strategic approach will enable short and long-term objectives to be realistic as well as effective.

Settings should prepare and maintain a written statement on promoting race equality, giving details of how it is to be implemented. They should monitor and assess how their policies affect families, staff and children from all racial groups and make changes to remove any disadvantage or discrimination. As a minimum, this means monitoring ethnic data on employment and admissions, observing and recording which

children access what services and devising methods of consulting with everyone involved in the setting – staff, children and their families.

Practice implications for local authorities and their early years and children's partnerships

Local authorities and their early years and children's partnerships are in a position to identify and have an overview of the needs of all members of the local community. In response to its general and specific duties the local authority should:

- **assist settings to comply with their duties**

including by:

- providing training courses on the general and specific duties
- offering information, support and advice
- providing a central supply of supportive resources for sharing with settings
- supporting staff to recognise and challenge discrimination knowledgeably and confidently
- supporting any equality coordinators in settings
- ensuring a requirement to comply with the principles of the duties within contractual and funding agreements

- **ensure compliance and that monitoring is put in place**

including by ensuring that:

- what is learnt in training is put into practice
- Children's Information Services (CISs) comply with their duty
- all settings and childminder networks have a racial equality policy
- the ethnic data collected by settings is monitored and analysed effectively
- race equality principles are central to the procurement process for any contracted-out services (for example, meals) and training
- any non-public authority partnership members are aware of how the public duty affects them

Sources of support

Local authorities and settings are supported and encouraged to comply with their duties by central government departments and agencies.

The **Sure Start Unit** (part of the Department for Education and Skills and the Department of Work and Pensions) ensures - through the annual review and self assessment process - that local authorities comply with their duty to monitor the impact of all their activities on minority ethnic families and their children.

Through its inspection process, **Ofsted** ensures that settings promote equality of opportunity and anti-discriminatory practice for all children (Standard 9 for Section 122 inspections and Section 10 inspections) and that inspectors fully understand the implications of the Race Relations (Amendment) Act 2000.

The **Learning and Skills Council and Teacher Training Agency** ensure that early years teachers/workers are provided with the understanding, knowledge and skills in their initial and in-service education to comply with the public duty through their oversight of training courses.

Definitions of racial discrimination

The Act sets out explanations of what discrimination covers.

Direct discrimination means treating a person in a particular racial group less well than someone in the same or similar circumstances from a different racial group. The motive for such treatment is irrelevant.

Indirect discrimination occurs when a provision, criterion or practice, applied equally to everyone, puts people from a particular racial group (based on race or ethnic or national origin) at a disadvantage because they cannot comply with it. This will be unlawful unless it can be shown that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

Indirect discrimination also occurs when a requirement or condition, applied equally to everyone, has a disproportionate adverse effect on people from a particular racial group (based on colour or nationality) because they cannot comply with it. This will be unlawful if it cannot be justified on non-racial grounds.

Customs, practices and procedures that may have been in place for a long time may have an indirectly discriminatory impact on particular racial groups, even though this was never the intention.

Segregation - segregating a person from others on racial grounds constitutes less favourable treatment.

Victimisation - the law protects a person who is victimised for bringing a complaint of racial discrimination under the Race Relations (Amendment) Act 2000 or for backing someone else's complaint.

For further details of these definitions see the CRE website: www.cre.gov.uk

(**Note:** racial group or ethnic background covers the following – colour, race, nationality including citizenship or ethnic or national origins.)

Further information

Commission for Racial Equality (CRE) (2002) 'Statutory Code of Practice on the duty to promote race equality'

Commission for Racial Equality (CRE) (2004) 'Public Authorities and Partnerships: a guide to the duty to promote race equality'

Early Years Trainers Anti Racist Network (2001) 'A Policy for Excellence: developing a policy for equality in early years settings'

Lane, J (1999) 'Action for racial equality in the early years: understanding the past, thinking about the present, planning for the future', National Early Years Network. Available from EYE and the National Children's Bureau. Recommended by the CRE.

The CRE website provides information, links to more detailed advice, and downloadable publications: www.cre.gov.uk

The Sure Start website provides links to further more detailed advice, information, sources of case studies, support, and links to more detailed advice: www.surestart.gov.uk