

RACE RELATIONS (AMENDMENT) ACT 2000

Statutory Code of Practice on the Duty to Promote Race Equality

Response by the Forum Against Islamophobia & Racism (FAIR)
to the documents released for consultation by the
Commission for Racial Equality (CRE)
in December 2001

SUMMARY

1. It is now increasingly accepted around the world that religion plays a central role in racial dynamics, as was recognised at the UN World Conference Against Racism in Durban (2001), in European Union directives and bodies like the European Monitoring Centre on Racism and Xenophobia, and by research and legislation carried out by the British government. The Runnymede Trust report on Islamophobia, the Derby report, and the Parekh report among others have recognised the salience of the cultural and religious aspects of racial discrimination. The government has also conceded that anti-religious prejudice is a demonstrable aspect of racism by the redefinition of aggravated offences as racially and religiously motivated and by the forthcoming incorporation of the EU directive on employment, which includes protection against religious discrimination. Policy statements from the Civil Service, the Prison Service, ACPO, the NHS and many local government authorities have already incorporated provisions against religious discrimination.

2. The Race Relations Act 1976 as amended by the Race Relations Amendment Act 2000 places a general duty on a wide range of public authorities to promote race equality. There are three strands to this duty so that in performing their functions public authorities should have regard to the need to (a) eliminate unlawful racial discrimination; (b) promote equality of opportunity; and (c) promote good race relations between people of different racial groups. We believe that the Codes adopted under the RRAA 2000 ought to recognise the changing context of race relations by recognising the cultural and religious dimensions of racial discrimination; otherwise there is a danger that they will not adopt current best practice.

3. FAIR's proposals for the various consultation drafts aim to strengthen and complement them in a modest way to ensure that best practice is spread effectively among all public bodies, and so that concrete steps are taken to improve the quality of life of many British Muslims, and people of other non-ethnic minority faiths, who form vulnerable and excluded sections of British society.

THE DRAFT "A GUIDE FOR PUBLIC AUTHORITIES"

4. The Draft "A Guide for Public Authorities" includes numerous examples of good practice amongst public authorities seeking to ensure that:

- the public services they provide are properly targeted;
- result from full and appropriate consultation with the local community;
- are suitable and accessible to meet the varied and specific needs of ethnic minorities and increase confidence in public services, especially ethnic minority communities.

The Draft also includes examples of good practice which recognises that there is significant overlap between a number of key characteristics of ethnic minorities: race and ethnicity, culture and language. **In some cases good practice requires a recognition that there is an overlap between the race, culture, ethnicity and religion of a particular individual or community.**

5. Examples of this overlap from the CRE Draft "A Guide for Public Authorities" include the following:

Example 9 (p. 18)

“An NHS Trust out-patients department reviewed the appointments not kept by patients. An analysis of the missed appointments showed that a disproportionately high number of ethnic minorities did not attend on certain days. Further analysis showed that many of these failed appointments were on holy days or festivals (for example during Eid, Greek Easter, Diwali, St Patrick’s Day). As a result, the out-patients department placed a multi-faith and multi-ethnic calendar on the computer system and appointments staff were then alerted to these days so that they could avoid them when making certain appointments.”

Example 19 (p. 28)

“Every year, a leisure service surveys those people who use its leisure centres. The leisure centres are in a multicultural area, with large Pakistani Muslim and Somali Muslim populations. The most recent surveys showed that almost none of these women used the centres. The service had never thought of running special sessions for women, but after discussing the survey results with local ethnic minority community groups, the service has introduced special sessions for Pakistani and Somali women. The service has co-operated with local voluntary groups that work with Pakistani and Somali communities, and it is now including sessions within a ‘healthy living’ education programme for Muslim women.”

6. These examples illustrate that good practice in the delivery of appropriate public services, and on issues of consultation and dissemination of information, will sometimes require attention to the religious needs of individuals and communities. **In these cases the promotion of: (i) equality of opportunity; and (ii) good race relations between people of different racial groups will require recognition of the religious needs of an individual or community.**

THE DRAFT “STATUTORY CODE OF PRACTICE ON THE DUTY TO PROMOTE RACE EQUALITY”

7. Although those public authorities which introduce good practice as illustrated in the examples above will ensure that they take this overlap between race, culture, ethnicity and religion into account, there is insufficient guidance in the CRE Code of Practice to ensure that this good practice is fully disseminated and followed by all public authorities. This oversight does not raise any difficulty for ethnic religious minorities whose religious needs can be accommodated within the legal definition of ‘racial’ under present race relations legislation. However, this omission does discriminate against non-ethnic religious minorities whose religious needs are not directly protected by current race relations legislation. This is of particular concern to Muslims who comprise a large non-ethnic religious minority and who suffer from extreme social exclusion (as recent figures from the Performance and Innovation Unit Report on Ethnic Minorities 2001 indicate). There is therefore a potential lacuna in the legal reform agenda to mainstream ethnic minorities as a way of encouraging community cohesion and good race relations. A positive way of tackling this issue would be to include some guidance in the Code of Practice on the overlap between race and religion in order to formulate guidance that is fully multi-ethnic, multi-cultural **and multi-faith**. For example, the Code of Practice ought to include the following type of guidance:

‘Complementary’ – Para 3.8-3.10

8. Para 3.9 states that the three parts of the general duty support each other; and that they are overlapping but also different. Para 3.10 states that “Public authorities should consider and deal with all three parts of the general duty separately”. Further guidance in this section could make clear that in some cases the second (promoting equality of opportunity) and third (promoting good relations between people of different racial groups) parts of the duty may require a public authority to recognise that some people may have specific religious need in using public services; and/or there may be a need to consult religious as well as ethnic groups; and/or there may be a need to disseminate information to religious as well as ethnic communities.

Assessing impact and considering change – Para 3.14-3.16

9. Section 3.16 discusses the effects of a policy or the way a function is being carried out and the questions public authorities could ask themselves. This section could include a question on whether the policy could have an adverse impact on a particular religious group not fully covered by the public authority's analysis of the impact of its policies on racial groups – and whether further research or consultation is necessary on this issue. A clear precedent has been set for public bodies to monitor religion as well as ethnicity by the example of the 2001 Census.

Arrangements for assessing, and consulting on, the likely impact of proposed policies –Para 4.15-4.21

10. This section could make clear that in some cases in drafting its policy and practice on consultations (focus groups, surveys, etc.) the public authority should note that in some cases it will need to consult with religious groups and communities not already caught within its consultation of ethnic minority groups.

OTHER CHANGES TO THE CODE OF PRACTICE

11. There are other small changes that can reasonably be made in the draft Statutory Code of Practice on the Duty to Promote Race Equality that would make it far more inclusive of all minorities and extend its benefits to a far greater number of people.

The title

12. The Code of Practice would be clearer if it adopted a fuller title, for example, **Code of Practice on the Duty to Promote Race Equality and Cultural Diversity**. As the Parekh report makes clear, there is an equally pressing need not only to promote equality but also to recognise the multicultural diversity of modern Britain (Para 19.17).

The phrase 'race equality'

13. Similarly the term 'race equality' should generally be extended so that there is a reference to cultural diversity as well. For example, 'race equality schemes' should be known as 'schemes for race equality and cultural diversity', or more succinctly as 'equality and diversity schemes'.

'Racial group'

14. The term 'racial group', wherever it appears in the Code, should be extended so that it reads 'racial or cultural group'.

The glossary

15. The term 'racial group' is defined in the glossary as 'a group of people defined by their race, colour, nationality (including citizenship), ethnic or national origin'. This remains a legalistic rather than a common-sense definition, and therefore, it would be much clearer to use the term 'racial or cultural group'. It is vital that the glossary reflects the increased relevance of cultural and religious diversity to racial discrimination so that it reads as follows: **"Racial or cultural group** means a group of persons defined by their race, colour, nationality (including citizenship), religion or belief, language, ethnic or national origins."

