



## SCOTTISH EXECUTIVE

### Health Department

St Andrew's House  
Regent Road  
EDINBURGH  
EH1 3DG

Dear Colleague

### **FAIR FOR ALL: WORKING TOGETHER TOWARDS CULTURALLY-COMPETENT SERVICES**

#### **Summary**

1. This letter accompanies guidance which sets out the responsibilities placed on NHS organisations by legislation, by policy, and by the results of a recent 'Stocktake' exercise undertaken on behalf of the Scottish Executive Health Department. The summary and full reports are available at [www.scotland.gov.uk/library3/society/ffas-00.asp](http://www.scotland.gov.uk/library3/society/ffas-00.asp).

#### **Background**

2. The Race Relations (Amendment) Act 2000 develops the responsibilities previously laid down by the Race Relations Act of 1976 and outlaws race discrimination in relation to functions of public authorities not previously covered by the 1976 Act. These responsibilities include race discrimination in the fields of employment, facilities and services, training, education, housing, and public appointments made by Ministers and Government Departments. **The 2000 Act places a general duty of race equality on all public sector bodies, including a duty to promote race equality.** Orders implementing the Act have been laid by the Scottish Executive and came into effect on 13 March 2002. The implementing Order places specific duties on NHS Boards and Trusts, including a requirement to produce Race Equality Schemes, by November 2002 and specific obligations ([www.scotland-legislation.hmsso.gov.uk/legislation/scotland/ssi2002/20020062.htm](http://www.scotland-legislation.hmsso.gov.uk/legislation/scotland/ssi2002/20020062.htm)).

3. The Scottish Executive has made equal opportunities for all a key element of all its work, as demonstrated by its Equality Strategy ([www.scotland.gov.uk/library3/social/wtem-00.asp](http://www.scotland.gov.uk/library3/social/wtem-00.asp)).

4. In addition, the Health Department has underlined its commitment to this agenda by encouraging Chief Executives to follow the example of Mr Trevor Jones (Chief Executive of NHSScotland) in signing the Commission for Racial Equality's Leadership Challenge.

**21<sup>st</sup> June 2002**

#### **Addresses:**

##### For action

Chief Executives, NHS Boards  
Chief Executives, NHS Trusts  
Chief Executives, Special Health Boards

##### For information

Chairs, NHS Boards  
Chairs, NHS Trusts  
Chairs, Special Health Boards  
Medical Directors, NHS Trusts and Boards  
Directors of Nursing, NHS Trusts and Boards  
Directors of Human Resources, NHS Trusts and Boards  
Directors of Planning, NHS Trusts and Boards  
Directors of Finance, NHS Trusts and Boards  
Chief Executives, Local Authorities  
Presidents, Royal Colleges  
Commission for Racial Equality  
Local Ethnic Minority Groups  
Local Health Councils and SAHC

#### **Enquiries to:**

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5. A draft of this guidance issued for consultation (HDL(2002)1) and was discussed at the NHSScotland *Fair for All* conference of 22 January 2002, and this revised version incorporates comments received both at the conference and thereafter.

6. The Health Department has also funded an Ethnic Minorities Resource Centre to provide support to the service. This Centre will operate from within the Public Health Institute Scotland, and a supplementary paper on the centre will be circulated shortly by the inaugural Director, Dr Rafik Gardee.

### **Action**

7. Chief Executives are asked to circulate the attached guidance to executive colleagues and to appoint a senior member of the Executive Team to co-ordinate and be the point of contact on matters relating to the responsibilities contained within the attached guidance. Please ensure that Miss Laura Ross is advised of the selection no later than 31 July 2002.

8. It is anticipated that local progress in adopting the final guidelines will be assessed on the Scottish Executive Health Department's behalf by the Ethnic Minority Resource Centre after 31 March 2003, as part of the Performance Assessment Framework. **Assessment will be carried out on the basis of relative progress made by organisations.**

Yours sincerely

TREVOR JONES  
Chief Executive

Dr EM ARMSTRONG  
Chief Medical Officer

ANNE JARVIE  
Chief Nursing Officer

MARK BUTLER  
Director of Human Resources

**FAIR FOR ALL: WORKING TOWARDS CULTURALLY COMPETENT  
SERVICES**

**GUIDANCE**

## **How to use this guidance**

What follows is the main body of this guidance.

This guidance has been written to allow each section to be considered independently. However organisations should ensure that arrangements are in place to take forward all elements of the guidance.

Monitoring progress on the specific deliverables from elements 1-5 will be incorporated into the Performance Assessment Framework. Performance management will be undertaken by the Ethnic Minority Resource Centre in partnership with the Scottish Executive Health Department.

## **Deliverables**

### **Element 1 – Energising the Organisation**

Statement of Organisational Intent; Executive Leadership; Action Plan

### **Element 2 – Demographic Profile**

Surveying the local population; Needs Assessment; Commitment to Research

### **Element 3 – Access and Service Delivery**

Access Audit; Personal Care; Food; Spiritual Care; Translation and Interpretation; Advocacy; Gender Issues; Bereavement

### **Element 4 – Human Resources**

Equal Opportunities; Improvement Policies; Bullying and Harassment

### **Element 5 – Community Development**

Collaborative Mechanisms; Developing the Community

# **FAIR FOR ALL: WORKING TOWARDS CULTURALLY COMPETENT SERVICES**

## **Introduction**

1. **Our National Health: A plan for action, a plan for change** laid down NHSScotland's commitment to ensure that '... NHS staff are professionally and culturally equipped to meet the distinctive needs of people and family groups from ethnic minority communities.' This links with the wider Scottish Executive drive for equal opportunities, as demonstrated in the Executive's Equality Strategy.

2. NHS Scotland has more recently supported a comprehensive 'stocktake' of how the organisation is performing in this area. Chief Executives were provided with copies of the full report; summaries have been distributed to the wider community.

3. This guidance is provided to outline the responsibilities placed upon the organisations in NHSScotland to deliver a culturally competent service. Competence across these strands, as well as within them, will be necessary to achieve a culturally competent service and to meet the demands of the Race Relations (Amendment) Act 2000. The specific deliverables are designed to reflect five major strands of policy; Energising the Organisation; Demographic Profile; Access and Service Delivery; Human Resources; and Community Development. The main body of the guidance provides contextual information.

4. Achieving these deliverables by 31 March 2003 will be easier for some organisations than for others. Organisations will be held accountable on the basis of their relative improvement through this period.

5. Of greatest importance to the Health Department will be evidence of a culture change within NHS Scotland that results in awareness of, and responsiveness to, the needs of individuals regardless of ethnic origin.

6. It should be noted that improving the health of minority ethnic health service users extends to improving the health of all communities. Competence in this area indicates capacity to be sensitive to distinctive requirements of all groups.

7. The requirements laid out in this guidance extend to all Trusts and NHS Boards. For ease of understanding these are collectively referred to as NHS organisations throughout this letter.

8. **Organisations are reminded that the main provisions of the Race Relations (Amendment) Act 2000, as detailed in Annex 2, are now in force.**

## **Definitions of major strands of policy**

9. "A culturally competent service" is defined as a service which recognises and meets the diverse needs of people of different cultural backgrounds. This applies to every individual with a healthcare need. It includes, but is not limited to, making provision for religious and cultural beliefs such as worship, diet, and hygiene

requirements, catering for communication and language diversity, and involving users in service development. A key part of cultural competence is ensuring that discrimination on the basis of culture, belief, race, nationality or colour has no role in the delivery of services.

10. An “Ethnic Minority group” may be one of a wide range of groups who live in Scotland but who define themselves by virtue of their colour, race, ethnic or national origins. For the purposes of *Fair for All* we have adopted a definition of minority ethnic groups which extends beyond the current legal framework to encompass for example gypsy travellers and faith groups. Current legislation gives protection to people from discrimination on racial grounds. Those groups who are protected are referred to as racial groups – for a fuller description of what this term means please refer to [www.cre.gov.uk/gdpract/ed\\_cop\\_s\\_legal.html](http://www.cre.gov.uk/gdpract/ed_cop_s_legal.html). In considering policy and its implications towards “ethnic minority groups” we would encourage Boards to operate within the NHSScotland’s aspirations as set out in Annex1 of this guidance.

#### Energising the organisation

11. “Energising the Organisation” relates to the extent an organisation deals with the challenge of minority ethnic health issues positively and proactively.

#### Demographic profile

12. “Demographic profile” relates to the level of demographic intelligence held by a NHS organisation concerning their catchment status. This includes geographic concentration and relative socio-economic positioning. NHS organisations must have adequate levels of intelligence to facilitate effective planning of services.

#### Access and service delivery

13. “Access and Service Delivery” relates to the level to which NHS organisations are active in acknowledging and overcoming barriers to access by minority ethnic populations.

#### Human Resources

14. “Human Resources” covers the extent to which NHSScotland organisations have integrated ethnic minority issues into HR strategies relating to the recruitment, development, retention and promotion of staff.

#### Community Development

15. “Community Development” relates to the engagement of NHS organisations in consultation, dialogue and support for minority ethnic communities.

### **Role of Board and Trust Management Structures**

16. Responsibility for delivering the ethnic minority health agenda rests with Chief Executives of organisations. However, the issues cut across all areas of

NHSScotland. Hence, Medical Directors, Directors of Operations, Human Resources, Planning, Finance and Nursing will all be expected to take prominent roles in delivering the agenda. Further, each person within NHS organisations has a responsibility to implement the policies put in place to attain cultural competence.

### **Resources**

17. The Department acknowledges that this is a challenging task. To this end, it is funding, under the auspices of the Public Health Institute Scotland, an Ethnic Minority Resource Centre. This centre became active on 1st April 2002 and will provide support for NHS organisations in meeting the expectations laid down and will make positive changes to the culture of these organisations.

A separate paper detailing the work of the centre and its role in performance managing this process will be circulated by the centre's inaugural director, Dr Rafik Gardee.

### **NHSScotland "Ethnicity awards"**

18. The Ethnic Minority Resource Centre will be charged with the establishment of an annual "ethnicity awards" ceremony. These awards will recognise not only consistent general excellence in provision, but also relative improvement by organisations, and outstanding innovations.

### **Reporting mechanisms**

19. The deliverables set out in this guidance will be appraised by the Ethnic Minorities Resource Centre on behalf of the Scottish Executive Health Department. This will form part of the NHSScotland Performance Assessment Framework.

The Ethnic Minority Resource Centre can be accessed through contacting Ms Jackie Willis on 0141 300 1021 or email [jackie.willis@phis.csa.scot.nhs.uk](mailto:jackie.willis@phis.csa.scot.nhs.uk) .

## **Element 1 - Energising the Organisation**

*“To what extent has the organisation come to terms with the challenge of minority ethnic health?”*

### **Notes**

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- a) NHS organisations are expected to ensure that they have made significant progress on the following deliverables in Year One of their *Fair for All* programmes. Organisations will be expected to move on in years two and three on their own initiative.
  - b) Achievement will be noted during the Performance Assessment Framework round.
  - c) Advice and support will be available through the Ethnic Minority Resource Centre.
  - d) Organisations should consider, with their community planning partners, the extent to which these requirements can be considered within the context of community planning generally and health and improvement plans specifically.
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### **Statement of Organisational Intent**

- Each organisation will be expected to draft a policy statement covering how it intends to deal with all aspects of providing a culturally competent service.

In particular, each statement will be expected to include:

- the organisation’s statement on ensuring that its services will be provided appropriate to need to all elements of the community it serves, and will be of a consistently excellent standard;
  - the organisation’s commitment to monitoring its policies;
  - the organisation’s position on racism, including the handling of racist behaviour;
  - the organisation’s commitment to consistently improving access to its services;
  - the organisation’s commitment to gathering an appropriate evidence base for all future decisions; and,
  - the organisation’s commitment to learning from and sharing of evidence-based good practice.
- The statement should also cover all other aspects of this document.
  - The statement should outline the organisational commitment to mainstreaming all minority ethnic issues into decision-making and reporting processes.
  - The statement should be consulted upon with local communities and then published publicly.

- The statement should be disseminated throughout the organisation, at induction and at appropriate training points for all staff.

*NB It may be that Board areas choose to collaborate on this statement, especially with regard to consulting. Each organisation must nonetheless ensure that any statement adopted is appropriate to its aims and abilities.*

### **Executive Leadership**

- Each organisation is expected to appoint a senior member of the Executive team to take responsibility within the organisation for delivering a culturally competent service. This individual should hold a position allowing them to remain abreast of all major potential problem areas.
- Each organisation should assign the task of co-ordinating this initiative to a senior operational manager to ensure effective implementation. This manager should liaise directly with the named executive lead.

### **Action Plan**

- Each organisation must prepare a detailed, dated and costed action plan outlining how it intends to continue its progress to cultural competence.
- The action plan should note the specific duties laid down by the Race Relations (Amendment) Act 2000, and should become a key component of the Race Equality Scheme laid down therein (which needs to be in place by 30 November 2002).
- The action plan must, as a minimum, include actions in each of the five elements of the *Fair for All* framework.
- The plan must retain as its guiding principle the need to make clear the organisation's commitment to the health of the minority ethnic population.
- The plan must be developed jointly with the Organisation's community representatives and ethnic minority health forum, with the Ethnic Minority Resource Centre, and submitted to the Scottish Executive Health Department by 31 March 2003.

## Element 2 – Demographic Profile

*“To what extent does the organisation have a clear understanding of minority ethnic make-up of the local population?”*

### Notes

- a) NHS organisations are expected to ensure that they have made significant progress on the following deliverables in Year One of their *Fair for All* programmes. Organisations will be expected to move on in years two and three on their own initiative.
- b) Achievement will be noted during the Performance Assessment Framework round.
- c) Advice and support will be available through the Ethnic Minority Resource Centre.
- d) Organisations should consider with their community planning partners the extent to which these requirements can be considered within the context of community planning generally and health and improvement plans specifically.

### Surveying the local population

- Each organisation must collaborate on a targeted survey designed to ascertain the demographic make-up of their catchment area.

*Note: This deliverable will be assessed by unified Board area, but all organisations are expected to provide support and resources for the project.*

- The survey should pay particular attention to ascertaining the ethnic make-up of the area, as well as gathering data on age and gender profiles.

*Note: “Ethnic make-up”, above, should pay particular attention to language, religion, spiritual needs, etc.*

### Needs Assessment

- Each organisation should carry out and make available publicly a detailed (health) needs assessment based on local minority ethnic demography.
- This assessment should be used in consultation with local communities to more accurately determine where there are any barriers to service access within the system.

### Commitment to research

- Upon completing the initial demographic survey and needs assessment, each organisation must actively consider further research on more detailed levels, regarding incidence of disease, service utilisation, and other topics as appropriate.
- The organisation must ensure that it is working towards more effective systems for gathering information on local minority ethnic communities on an ongoing basis.
- These data should include data related to service use and utilisation, on facets such as religion, personal care needs, translation needs, etc, as set out in Element 3 – Access and Service Delivery.

## **Element 3 – Access and Service Delivery**

*“To what extent has the organisation taken account of access issues and concerns that may have arisen for local communities?”*

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### **Notes**

- a) NHS organisations are expected to ensure that they have made significant progress on the following deliverables in Year One of their *Fair for All* programmes. Organisations will be expected to move on in years two and three on their own initiative.
  - b) Achievement will be noted during the Performance Assessment Framework round.
  - c) Advice and support will be available through the Ethnic Minority Resource Centre.
  - d) Organisations should consider with their community planning partners the extent to which these requirements can be considered within the context of community planning generally and health and improvement plans specifically.
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### **Access Audit**

- Each organisation will be expected to utilise the results of its needs assessment (see Element 2 – Demographics) to measure how effectively its service provision meets the needs of minority ethnic communities. It is important to remember that this, and other aspects of this guidance, are relevant right across the spectrum of the NHS. Organisations should also note that the requirements of the Race Relations (Amendment) Act 2000 also apply to services which are contracted out as well as those provided in-house and arrangements should be made accordingly.

In particular, each review will be expected to demonstrate:

- how the organisation’s catering, interpretation, personal care, spiritual and religious, handling and mobility, and advocacy services respond to all elements of the community;
- what the organisation has in terms of these services;
- what the organisation lacks in terms of these services;
- what the organisation intends to do to improve these services;
- whether there are any other access needs which the organisation needs to develop.

*NB – Each of the following deliverables will need to be the subject of appropriate training*

### **Personal Care**

- Each organisation will be expected to make provision for patients with particular spiritual or religious needs to perform appropriate ablutions (if the patient is in an inpatient facility). If this expectation is not immediately achievable, organisations will be expected to make plans to provide access to appropriate facilities.

## **Food**

- Each organisation will be expected to make appropriate provision for food which meets the religious and cultural needs of all services users.
- Each organisation is to ensure that where cultural or religious needs dictate a diet pattern that is not “standard”, the patient’s nutritional needs are met appropriately.
- Each organisation is to ensure that food preparation in these cases is in line with appropriate religious or spiritual beliefs.

## **Spiritual Care**

*NB – This section should be considered in conjunction with forthcoming NHS guidance on spiritual care within the NHS.*

- Each organisation is to ensure that its services, where practicable, are sensitive to the religious and spiritual needs of users.
- Each organisation is to ensure that the services it provides includes adequate provision of facilities for religious worship or meditation.
- Each organisation is to ensure that access to religious counselling is appropriate to the needs of users.
- Organisations should ensure that they are aware of, and sensitive to, differing approaches to bereavement, and that every effort is made to accommodate these.

## **Translation and Interpretation**

- Each organisation is to ensure that it has examined the need for translation and interpretation services .
- Each organisation should adopt a policy on the provision of translation and interpreting services, stating that access to appropriate translation and interpretation services will be made available, ensuring adequate coverage and quality.
- Each organisation should ensure that, where need is considered insufficient to warrant internal provision of translation services, these services can be provided through agreements with local partner organisations. Areas of geographic remoteness may need to secure other way of providing the level and quality of service required.
- Each organisation, in consultation with local communities, is to establish a policy on the provision of information for patients in languages other than English.

This policy should include:

- the types of information to be provided;
- the languages in which these are to be provided; and,
- to whom (carers, families, etc) the information is to be provided.

- Each organisation, in conjunction with the above, is to ensure that it investigates information sources, formats, providers, that may already be available nationally.

### **Advocacy**

- Each organisation is to investigate, in conjunction with local communities, the possibility of providing and supporting advocacy services.

*Each organisation should take account of existing NHS guidance on this topic, which indicates that NHS Boards, working with their planning partners, should ensure that advocacy services should be available to everyone that needs such support.*

*(See Independent Advocacy: A Guide to Commissioners at [www.scotland.gov.uk/library3/health/iagc-00.asp](http://www.scotland.gov.uk/library3/health/iagc-00.asp) )*

### **Gender issues**

- Each organisation must, where practical, make efforts to ensure that patients are given the choice of gender of the health professional involved in their care.

## **Element 4 – Human Resources**

*“To what extent has the organisation integrated minority ethnic issues into its Human Resources strategies?”*

### **Notes**

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- a) NHS organisations are expected to ensure that they have made significant progress on the following deliverables in Year One of their *Fair for All* programmes. Organisations achieving will be expected to move on in years two and three on their own initiative.
  - b) Achievement will be noted during the Performance Assessment Framework round.
  - c) Advice and support will be available through the Ethnic Minority Resource Centre.
  - d) Organisations should consider with their community planning partners the extent to which these requirements can be considered within the context of community planning generally and health and improvement plans specifically.
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### **Equal Opportunities**

- Each organisation must ensure that it has adopted an equal opportunities policy in line with guidance issued by the Scottish Partnership Forum on the subject (January 2001) and should also be aware of the requirements placed upon it with regard to the Race Relations (Amendment) Act and the monitoring of training, grievances, disciplinary procedures, performance appraisal and dismissals
- Each organisation must be able to demonstrate the effective implementation of the equal opportunities policy.
- Each organisation must have mechanisms for disseminating the content of the equal opportunities policy within the organisation.
- Each organisation should monitor the level of minority ethnic staffing within the organisation, and should be able to ascertain whether this is in line with the minority ethnic population within the catchment area.
- Each organisation must ensure that its training and development processes are open and available to all staff, and that all staff are appropriately accessing these services.

### **Improvement Policies**

- Each organisation should take steps to check that its recruitment processes reach minority ethnic communities.
- Each organisation must ensure that all staff receive equality and diversity training, and are aware of local issues regarding access to health services by local populations.

## Harassment and Bullying

- Each organisation should ensure that it has adopted Scottish Partnership Forum guidance on *Dignity at Work: Eliminating Bullying and Harassment in the Workforce* ([www.show.scot.nhs.uk/spf/partnership\\_information\\_network.htm](http://www.show.scot.nhs.uk/spf/partnership_information_network.htm))
- Each organisation should ensure that it can demonstrate the effective implementation of the *Dignity at Work* policy.

## **Element 5 – Community Development**

*“The degree to which the organisation is ‘outward facing’ and concerned with involving local minority ethnic communities and organisations in promoting their own health”*

### **Notes**

- a) NHS organisations are expected to ensure that they have made significant progress towards the following deliverables in Year One of their *Fair for All* programmes. Organisations will be expected to move on in years two and three on their own initiative.
- b) Achievement will be noted during the Performance Assessment Framework round.
- c) Advice and support will be available through the Ethnic Minority Resource Centre.
- d) Organisations should consider with their community planning partners the extent to which these requirements can be considered within the context of community planning generally and health and improvement plans specifically.

### **Consultative mechanisms**

The principles of consultation set out in HDL 2002(42) apply equally to ethnic minorities as to other groups of the population. (Consultation and Public Involvement in Service Change – Draft Interim Guidance available at [www.show.scot.nhs.uk/sehd](http://www.show.scot.nhs.uk/sehd) )

- Each organisation should establish a consultative forum, representative of its local minority ethnic community.
- The forum should be jointly chaired by the named member of the executive team and an appropriate member of the local minority ethnic community.
- The forum should be used to consult the local minority ethnic community on service delivery issues.
- This forum must draw sufficient membership from within the NHS organisation it is attached to and local external agencies and groups to ensure that it can accurately be described as multidisciplinary.
- This forum should be considered to be an informed voice on local service provision. However, it is also important to ensure there are adequate opportunities for wider engagement.

### **Developing the community**

- Each organisation should maintain a directory of key local agencies and individuals.
- Each organisation should explore with its local community how they might support locally-provided services, for example advocacy for patients and relatives.
- Each organisation must ensure that it provides support for local carers.

## **The Health Policy Background**

### **Introduction**

This section is intended to provide a short overview of the policy context within NHSScotland.

### **The NHSScotland policy context**

The Ministerial Introduction to *Our National Health: a plan for action, a plan for change* opens with:

“We must build an NHS which listens better to patients and responds more effectively to their needs”.

Elsewhere in this document, it has been noted that *Our National Health* also promised that NHSScotland staff would be committed to becoming:

“Professionally and culturally equipped to meet the distinctive needs of people and family groups from ethnic minority communities”.

These commitments, taken together, signify NHSScotland’s acknowledgement that it had not always provided a culturally competent service in the past, but that it had been unable to fully tackle the challenge of treating each individual according to their need.

NHSScotland has doubled its effort to provide a patient-focused service. A patient-focused service is defined as a service that ensures that the service exists for the patient, where individuals are treated according to their needs and wishes, as far as is practically possible. This means ensuring that access to appropriate services is available, that appropriate information is available, that dietary and other personal requirements are addressed, and that the service is responsive to the patient’s needs.

A patient-focused NHS requires:

- good communications, including listening and talking to patients, public and communities;
- knowing about those who use the service and understanding their needs;
- keeping users of the service/organisation informed and involved;
- having clear, explicit standards of service;
- maintaining politeness and mutual respect;
- having the ability to respond flexibly to an individual’s specific needs; and,
- ensuring effective action is taken to improve services.

The deliverables noted in this HDL and guidance form a key part of the framework for *Patient Focus and Public Involvement* published in December 2001 ([www.scotland.gov.uk/library3/health/pfpi-00.asp](http://www.scotland.gov.uk/library3/health/pfpi-00.asp)).

## **Ethnic Minorities and Health – the Legal Framework**

This section provides an overview of the legal framework that all NHS organisations must conform to.

These orders will be supplemented by Commission for Racial Equality (CRE) Codes of Practice, which all NHS organisations will be expected to adhere to.

NHS Organisations should remember that they are subject to all civil legislation as regards race relations and ethnic minorities. Put simply, it is wrong and unlawful to discriminate against any individual on the basis of their skin colour or ethnic origin. NHS organisations should also remember that patient/patient and patient/staff interactions can also be subject to criminal law in respect of racially-motivated harassment or incidents.

Both the 1976 and 2000 Acts have at their core the intention to remove all forms of racial discrimination, direct or indirect.

Direct discrimination occurs when a person (or public body) treats someone less favourably than others on racial grounds. Racial grounds are defined as grounds of colour, race, nationality, ethnicity or national origin.

Indirect discrimination occurs when a condition or requirement which is applied equally to everyone cannot be met by a considerably smaller proportion of people from a particular racial group, to their disadvantage. Any such condition or requirement is unlawful unless it can be justified on non-racial grounds.

### **The Race Relations (Amendment) Act 2000**

The Race Relations (Amendment) Act 2000 (RRAA) came into effect on 2 April 2001 and places a general duty upon all bodies to ensure that they promote equality within themselves.

The RRAA makes it unlawful for public authorities to discriminate on racial grounds in carrying out any of their functions, and places a general duty on NHS Boards and Trusts to promote racial equality and prevent racial discrimination. The RRAA also gives the CRE powers to issue statutory codes of practice on how to fulfil general and specific duties to promote racial equality.

The amended Act requires NHS Boards and Trusts to have due regard to the following:

- The elimination of unlawful racial discrimination;
- The promotion of equality of opportunity and good race relations between people of different groups.

This is often known as the ‘General Duty’ and is based on four principles:

- Obligation
- Relevance
- Proportion
- Complementary

The Scottish Parliament has approved legislation placing specific duties on NHS Boards and Trusts.

## **GENERAL DUTY**

To enable Health Boards to meet the General and Specific Duties as laid out in the RRAA 2000 Boards will firstly need to determine which of their functions have relevance to the General Duty to :

Eliminate unlawful discrimination :  
Promote equality of opportunity; and  
Promote good race relations.

The functions which are most likely to have to have relevance to these duties are those which directly involve either patients or employees. For instance policies on patient involvement is more likely to be relevant than your policies relating to hazardous waste disposal. However all functions must be considered and weighted for relevance.

You should also consider the manner in which functions are carried out. For instance the introduction of ethnic monitoring of staff may assist a Board to identify and eliminate unlawful discrimination and promote equality of opportunity, but if staff do not understand its purpose it might actually inhibit good race relations if some staff feel it's real purpose is to give preferential treatment to ethnic minority staff.

Once you have determined which policies have most relevance to the General Duty, rank them according to their relative priority, highlighting those most relevant as priorities for action.

For advice on meeting the Specific Duties you may wish to refer to the following website resources which give detailed guidance :

The CRE website [www.cre.gov.uk](http://www.cre.gov.uk) contains detailed guidance on meeting the Specific Duty

“Putting race equality to work in the NHS : a resource for action will be available on the DoH website from June 2002 [www.doh.gov.uk](http://www.doh.gov.uk)

“Dialog – Diversity in Action in Local Government “ posts examples of best practice in race equality work across the UK [www.LG-employers.gov.uk](http://www.LG-employers.gov.uk)

### **Specific Duties Required by the Race Relations (Amendment) Act**

- Identify relevant functions and conduct subsequent review within 3 years
- Prepare and publish a Race Equality Scheme which sets out arrangements for:
  - assessing and consulting on impact of proposed policies on the promotion of race equality;
  - monitoring impact of policies;
  - ensuring results of assessments, consultation and monitoring;
  - ensuring public access to information and services; and,
  - training staff to carry out duties.

- Employment-specific duties
  - Monitor staff in post, applicants for jobs, training and promotion by racial group.
  - Monitor training, grievance, discipline, performance appraisal, dismissal by racial group.
  - Publish results of employment monitoring annually.

Organisations should be aware that the Scottish Ministers have set a deadline for the production of Race Equality Schemes of 30 November 2002. Codes of Practice will be published by the end of 2002, although drafts are now available at [www.cre.gov.uk/duty/scotland/duty\\_scotland.html](http://www.cre.gov.uk/duty/scotland/duty_scotland.html) .