

Cumbria Police Authority  
Personnel Committee  
27<sup>th</sup> February 2006.

## **Agenda Item No.9**

Report by the Clerk & Chief Executive.

### **STATUTORY CODE OF PRACTICE ON RACIAL EQUALITY IN EMPLOYMENT**

The *Code of Practice on Racial Equality in Employment*, issued in November 2005, replaces the statutory *Code of Practice For the Elimination of Racial Discrimination and the Promotion of Equality of Opportunity in Employment*, issued by the Commission for Racial Equality (CRE) in 1984 under the Race Relations Act 1976 (RRA). (References in the code to the RRA include all subsequent amending legislation).

The RRA gave the CRE a legal duty to –

- (a). work towards the elimination of racial discrimination and harassment;
- (b). promote equality of opportunity and good relations between people from different racial groups; and
- (c) keep under review the way the RRA is working, and, if necessary, make proposals to the secretary of state for amending it.

Section 47 of the RRA gives the CRE the power to issue codes of practice in the field of employment (see the glossary at Appendix 7) and to give such practical guidance as it sees fit.

#### **Purpose of the Code**

The purpose of the Code is to:

- (a) give employers and principals practical guidance on how to prevent unlawful racial discrimination and achieve equality of opportunity in the field of employment;
- (b) help employers and others who have duties under the employment provisions of the RRA to understand their responsibilities and rights;
- (c) help lawyers and other advisers to advise their clients;
- (d) give employment tribunals and courts clear guidelines on good equal opportunities practice in employment; and
- (e) make sure anyone who is considering bringing legal proceedings under the RRA, or attempting to negotiate in the workplace, understands the legislation and is aware of good practice in the field of employment.

#### **Status of the Code**

The Code is a statutory code (it has been approved by the Secretary of State and laid before parliament) but the Code does not impose any legal obligations. Nor is it an authoritative statement of the law; only courts and employment tribunals can provide this. However, the Code can be used in

evidence in legal proceedings brought under the RRA. Courts and tribunals must take account of any part of the Code that might be relevant to a question arising during proceedings where employers risk being found liable for acts of unlawful racial discrimination or harassment by their workers. Failure to have complied with the Code is therefore likely to provide evidence leading to such a finding. On the positive side, employers should be able to defend themselves better in any case of alleged racial discrimination brought against their organisation, if they can show they have taken the steps recommended in the Code and complied with its requirements.

### **Application of the code**

The RRA and this code apply to:

- (a). all employers in England, Scotland and Wales, whatever their size, resources or number of workers;
- (b). certain organisations, such as employment and recruitment agencies, (including online agencies), trade unions, professional associations, partnerships, accrediting bodies and vocational training organisations, in relation to their role as providers of services specifically covered by the RRA;
- (c). applicants for employment, workers and former workers.

### **Public authorities**

While the RRA applies to all employers, section 71(1) gives public authorities *additional* statutory duties (see paras 2.28 – 2.29). This includes police authorities. The reason for doing so is to make the promotion of racial equality central to their work. However, it should be emphasised that much of the guidance and good practice associated with these duties is relevant to *all* employers anyway.

### **Benefits of the Code**

The CRE believes that the Code should help employers to:

- (a). understand and meet their legal obligations;
- (b). adopt and put into practice effective policies, designed to prevent unlawful racial discrimination or harassment, and ensure equality of opportunity for all;
- (c). draw on the talents, skills, experience, networks and different cultural perspectives of a diverse workforce;
- (d). create a working environment where people feel they are respected and valued;
- (e). reduce the risks of legal liability, costly and time-consuming grievances and damage to productivity, staff morale and the organisation's reputation; and
- (f). foster good race relations in the workplace.

The Code should also help workers and their representatives understand their rights under the RRA, and what constitutes good practice in the field of employment.

### **Other areas of equality**

The Code is restricted by the terms of the RRA to matters concerning racial discrimination and equality of opportunity in employment, arising between people from different racial groups. However, its principles of good practice may also be useful when promoting equality of opportunity generally, although the statutory requirements differ in detail in other areas of equality.

Although discrimination in employment on the grounds of religion or belief is separately unlawful under the Employment Equality (Religion or Belief) Regulations 2003, it should be mentioned that, if people affected by religious discrimination are from a particular racial group, then circumstances where the discrimination ensuing might also amount to indirect racial discrimination and therefore fall within this particular code as well.

A copy of the Code is available in the Police Authority library.

This report was considered by the Community and Race Relations Committee on 26<sup>th</sup> January 2006. That Committee asked that the report also be submitted to the Personnel Committee.

**RECOMMENDED:** That the report be noted.

**C R Alcock**  
**Clerk and Chief Executive**

19<sup>th</sup> January 2006.

**Background documents:** The Code of Practice on Racial Equality in Employment.

**Race and Diversity and Human Rights Act Implications:** Maintaining an up-to-date awareness of new and current publications setting out requirements in the field of racial equality is an important element in ensuring that Members are able to ensure that both the Authority and Constabulary are fulfilling their duties under the Race Relations Act.