

# GLA12/7.1

## Specific Duties under Race Relations (Amendment) Act 2000 and Disability Discrimination Act

October 2006

**BOARD PAPER REFERENCE – GLA12/7.1 – Specific Duties under Race Relations (Amendment) Act 2000 and Disability Discrimination Act**Issue

1. Whether the GLA should remain under Defra and be covered by their Joint Equality Scheme, or whether the Authority should accept specific duties for race relations employment and disability, with a GLA Equality Scheme.

Recommendation

2. That recent proposals from CRE and the Office of Disability that the GLA take on specific duties for race relations, employment and disability be rejected, and that the Authority is included in the Defra Joint Equality Scheme for these matters.

Discussion

3. The Race Relations (Amendment) Act 2000 - RR(A)A 2000 - places a general duty on a wide range of public authorities to promote race equality. Ministers of the Crown and government departments are specifically cited in Schedule 1A of the Act, together with most agencies, non-Departmental Public Bodies (NDPB) and other public authorities. Although not mentioned by name in the Schedule or in the current version of the Code of Practice on the Duty to Promote Race Equality, the GLA clearly has this general duty.
4. In addition to this general duty, some public authorities responsible for delivering important public services have had specific duties placed on them. Specific duties involve making arrangements that will help them to meet their general duty to promote race equality. Principal amongst these arrangements is the preparation and publication of a Race Equality Scheme (RES), the suggested content of which is outlined at Annex A.
5. The criteria for deciding whether a public authority should be bound by specific duties are unclear. And the Code of Practice is ambiguous in indicating on the one hand that 'regulatory bodies' are bound by the duty to publish a RES, and on the other that NDPBs are not. What is clear, is that CRE is keen to extend the list of public authorities bound by specific duties, has formed the view that the GLA ought to be included, and has recommended to the Home Office that the next update to Schedule 1A should include the GLA.
6. The Disability Discrimination Act (DDA) places similar duties on public authorities to those arising from RR(A)A 2000. In this connection the GLA has recently been contacted by the Office for Disability Issues in the Department of Work and Pensions proposing that the GLA should be subject to the specific duties under that Act. The stated basis for this proposal is that the GLA meets one or more of the following criteria:
  - significant direct dealings with disabled users
  - significant impacts on the lives of disabled people
  - could be a significant employer of disabled people
  - is of sufficient size to support the duties

7. A number of bodies bound by specific duties, resulting from more than one piece of diversity legislation, are opting to combine these duties (e.g. Racial and Disability Discrimination) in a single Joint Equality Scheme (JES). It should be noted that preparation and publication of a JES is not a trivial exercise. The Defra JES runs to 139 pages and requires significant resources to maintain and to produce the required reports for various bodies such as CRE and the Office of Disability. Inevitably, these reports lead to further queries and discussions and to an appreciable ongoing resource commitment. It should also be noted that further Equality Schemes may be required in the future, e.g. a gender scheme will be required in April 2007 and Defra is already investigating this.
8. Defra produced their first Race Equality Scheme in 2001. It covered the core Department (including the Rural Payments Agency), the Pesticides Safety Directorate and the Veterinary Medicines Directorate, i.e. there is no part of Defra, its agencies or NDPBs that was not covered by the Defra RES. For obvious reasons the GLA was not mentioned in the original Defra RES, but is mentioned in the 2005-2006 Race Equality Scheme Progress report. Similarly, the GLA is mentioned in and indeed is covered by Defra's Joint Equality Scheme, which is currently going through the public consultation process. As stated previously, the JES meets both race and disability legislative requirements.
9. Following the proposals by the CRE and the Office of Disability that the GLA should take on specific duties for race relations, employment and disability, advice has been sought from Defra(DEU). The Defra(DEU) view is that the GLA should be included within the Defra umbrella for two main reasons. Firstly, because there is nothing in the way the GLA deals with the public that warrants it being treated any differently to any other of Defra's delivery agents. There is a feeling that both CRE and the Office of Disability have misunderstood how the GLA works. They seem not to appreciate that the GLA has relatively little direct contact with labour, and has very limited opportunity or reason to influence - let alone monitor - race relations and/or disability. Secondly, because the GLA is too small to accommodate the effort or provide the expertise, to produce and maintain its own RES.
10. The present position is as follows. On Race Equality, the Authority has advised the CRE that they are not convinced the GLA should be bound by specific duties, and are inclined to the view that they should be included in the Defra scheme. We have advised the CRE that guidance will be sought from the GLA Board on the matter. On Disability, the GLA has advised the Office of Disability that the Authority does not obviously meet any of the criteria in paragraph 6 above, depending on how the word 'significant' is interpreted across government.
11. The GLA executive is inclined towards the Defra view that the CRE and Office of Disability proposals that the GLA should take on specific duties for race relations and disability, should be rejected. The executive would be content for the GLA to be covered by the Defra JES in this regard.

## **Specific Duties - Race Equality and Employment**

### Race Equality Scheme

The scheme is a timetabled and realistic plan, setting out the authority's arrangements for meeting the general and specific duties.

The scheme should show how the public authority plans to meet its statutory duties under section 71(1) of the Race Relations Act (the Act) and, in particular, articles 2(2) and 2(3) of the Race Relations Act 1976 (Statutory Duties) Order 2001.

- 2.(2) A Race Equality Scheme shall state, in particular –
- (a) Those of its functions and policies, or proposed policies, which that person has assessed as relevant to its performance of the duty imposed by section 71(1) of the Race Relations Act; and
  - (b) That person's arrangements for –
    - (i) Assessing and consulting on the likely impact of its proposed policies on the promotion of race equality;
    - (ii) Monitoring its policies for any adverse impact on the promotion of race equality;
    - (iii) Publishing the results of such assessments and consultation as are mentioned in sub-paragraph (i) and of such monitoring as is mentioned in sub-paragraph (ii);
    - (iv) Ensuring public access to information and services which it provides; and
    - (v) Training staff in connection with the duties imposed by section 71(1) of the Race Relations Act and this Order.
- (3). Such a person shall within a period of three years from 31<sup>st</sup> May 2002, and within each further period of three years, review the assessment referred to in paragraph (2)(a).

### Employment

All public authorities that have to publish a race equality scheme also have specific employment duties. Arrangements for fulfilling specific employment duties may be contained in the Race Equality Scheme for convenience.

Articles 5(1), 5(2) and 5(3) of the Race Relations Act 1976 (Statutory Duties) Order 2001 say the following:

- 5.(1) A person to which this article applies shall,
- (a) before 31<sup>st</sup> May 2002, have in place arrangements for fulfilling, as soon as is reasonably practical, its duties under paragraph (2); and
  - (b) fulfil those duties in accordance with such arrangements.
- (2) It shall be the duty of such a person to monitor, by reference to the racial groups to which they belong,
- (a) the numbers of –
    - (i) staff in post, and
    - (ii) applicants for employment, training and promotion, from each such group, and
  - (b) where that person has 150 or more full time staff, the numbers of staff from each such group who –
    - (i) receive training;
    - (ii) benefit or suffer detriment as a result of its performance assessment procedures;
    - (iii) are involved in grievance procedures;
    - (iv) are the subject of disciplinary procedures; or
    - (v) cease employment with that person.
- (3) Such a person shall publish annually the results of its monitoring under paragraph (2).