
EQUAL OPPORTUNITIES TASK FORCE
OCCASIONAL PAPER NO 1



A model policy for equal opportunities in employment in the NHS

King Edward's Hospital Fund for London

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**A MODEL POLICY
FOR EQUAL OPPORTUNITIES
IN EMPLOYMENT
IN THE NHS**

KING EDWARD'S HOSPITAL FUND FOR LONDON

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INTRODUCTION

The Task Force was established in 1986 to help health authorities to implement equal opportunities policies for all racial groups in the health service. We are concerned with all aspects of equal opportunities, but have decided to put our major effort into employment. We believe that by ensuring equal opportunities in employment for ethnic minorities, authorities will be better placed to improve the delivery of service to minority racial groups. We believe also that the Health Service must benefit from using to the full all the potential talent and experience available from the whole community.

We were created as a result of a joint initiative between the Department of Health and the King's Fund. In announcing our establishment, Len Peach wrote saying 'this initiative has the full support of Ministers. The Department will be supporting the Task Force financially and through active participation in its work' (DA (86) 12).

The letter goes on to say: 'As it implies, the Task Force will be action orientated. Its purpose will be to help accelerate equality of opportunity in the NHS by identifying and disseminating sound, practical measures which authorities can take, and by affording practical advice based on authorities' experience. It will not be preparing a blueprint for general application, and if it does decide to recommend standard procedures in some areas, these would be based on practical work done by authorities'. We intend to follow these principles very closely in all our work.

We began by writing to all authorities asking for information on work in progress or completed policies. It became clear from the replies that the majority of authorities were still at the stage of considering the form of their Equal Opportunities Policy and that only a minority had achieved a completed, agreed policy which was capable of being implemented. Many of the policies which we have received, although described as complete, are little more than statements of intent, with no possibility of successful implementation. Our initial enquiries stimulated a number of authorities to ask for guidance in framing their policies – some, indeed, have asked us to write their policy ourselves.

Our model policy

As a result of this preliminary exercise, we have decided that our first major initiative should be to produce a model policy. In presenting this to authorities we should like to emphasise a number of general points.

Although we describe this as a 'model' policy, we do not expect that authorities will use it in precisely the form in which it is published, but rather that it will be used as a basis which can be adapted for individual circumstances. It does, however, contain all the clauses which would be expected in any policy and we strongly advise that authorities adopt the principles in each section even if they choose to alter some of the detail to fit their own situation.

The policy has been created from a number of policies which health authorities have sent us. We have taken all the paragraphs from different policies, using those sections which seemed to us most suitable for general application. We hope that this will serve to assure authorities that everything in the policy is practical and capable of implementation.

We have also included some general guidance notes which we hope authorities will find useful.

Authorities who have modelled their policies closely on the recommendations of the Commission for Racial Equality (CRE) Code of Practice will find that we have omitted some headings. We have not included a separate section on 'Terms and Conditions of Employment' because we did not find it particularly relevant to the NHS. There is also no separate section on positive action. However, authorities will find reference to positive action at various points in our policy: notably in recruitment and selection, and training and promotion. Authorities should note, when they decide to take positive action to improve employment prospects for disadvantaged groups, that this can only be done where monitoring has shown that particular groups have been under-represented in particular work or grades. We should emphasise that positive discrimination at the point of selection is unlawful.

Our terms of reference only include ethnic minorities. We realize that authorities' policies will be concerned with all disadvantaged groups. However, we believe that our model can readily be modified to cover sex and disablement if authorities so desire. Indeed parts of our model are based on policies which have this wider coverage. A joint NHS/DHSS working group is, at present, considering the sex aspects of equal opportunities and will, no doubt, issue separate guidance on this subject.

1 STATEMENT OF POLICY

- 1.1 The Health Authority recognises that discrimination is unacceptable and it is in its best interest, as well as the interest of its employees, to utilise the skills of the total workforce.
- 1.2 The aim of this policy is to ensure that no job applicant, or employee, is discriminated against either directly or indirectly on the grounds of race, colour, creed, nationality, ethnic or national origins. The Authority commits itself to promote equal opportunities and will keep under review its policies, procedures and practices to ensure that all users and providers of its services are treated according to their needs. This policy will apply to all staff working in the authority.
- 1.3 From time to time, the Health Authority will re-affirm the authority's commitment to the statement and to the equal opportunities policy through:
 - local and ethnic minority press
 - job centres
 - careers offices
 - employment agencies
 - local community groups.In addition to those agencies mentioned above the policy will be
 - circulated to all employees
 - inserted in staff handbooks
 - framed and positioned on Authority notice boards
 - made known to applicants for employment
- 1.4 The policy will also be discussed with the Joint Staff Committee for consultation and communicated to all private contractors reminding them of their responsibility towards equal opportunities.
- 1.5 This policy and any associated arrangements shall be implemented in accordance with the appropriate statutory requirements of the Race Relations Act 1976. In addition, full account will be taken of all available guidance, in particular the CRE Code of Practice and the General Whitley Council Handbook (Section 51).
- 1.6 While it is expected that all staff of the Authority will accept personal responsibility for practical application of the policy, lead responsibility for its implementation will rest with [Heads of Department]. To ensure that it is consistently applied, coordinating responsibility is assigned to the [Personnel Officer], who will have responsibility to the [General Manager] for monitoring the operation of the policy, for both employees and job applicants, and for initiating periodic departmental audits.

2 RECRUITMENT AND SELECTION

- 2.1 The intention of the recruitment procedure is to ensure the most appropriate response to any employment vacancies in the Authority. The Authority wishes to ensure the highest quality of candidates and will take positive action to advise local Job Centres and/or Career Services of all vacancies and of its equal opportunity policy.
- 2.2 The selection process is of crucial importance and must therefore be carried out according to objective, job related criteria. The effectiveness of the policy will be determined to a great extent by this aspect of the employment procedure. The Authority will endeavour, through appropriate training, to ensure that employees making selection decisions will not discriminate, whether consciously or unconsciously, in making these decisions.
- 2.3 The detailed methods of implementation in the Schedule to this policy have been adopted by the Authority and managers are required to follow them.

3 TRAINING, PROMOTION AND CAREER DEVELOPMENT

- 3.1 The Authority will not discriminate in the provision of training courses.
- 3.2 Appropriate training will be provided to enable staff to perform their jobs effectively and to pursue career development opportunities. Additionally the Authority will take positive steps to ensure that disadvantaged groups are afforded, through training, equal opportunities for promotion and career development.
- 3.3 General areas of training will include:
 - training for members and senior officers of the Authority to increase their awareness of their role in the implementation of the policy;
 - training for staff involved in recruitment and selection in appropriate techniques;
 - training and guidance in the law, the Authority's policy, employees' own personal liability and the nature of discrimination;
 - training for promotion and career development;
 - communication and language training.
- 3.4 Age limits for entry to training shall not be unnecessarily restrictive so as to exclude certain groups of staff.
- 3.5 An equal opportunities module will be incorporated in the Authority's induction and general management training courses.
- 3.6 Employees' attention will be drawn to training opportunities as they arise.

4. MONITORING

- 4.1 The Authority will create and maintain employment records of all employees in order to monitor the progress of this policy.
- 4.2 Monitoring will involve:
 - the collection and classification of information regarding the ethnic origin of all current employees and job applicants;
 - the examination by ethnic origin of the distribution of employees and the success rate of applicants according to grade, job category, department, on a unit by unit basis over a period of time;
 - recording recruitment, training and promotional records of all employees, the decisions reached and the reason for those decisions.
- 4.3 The results of monitoring will be reviewed at six monthly intervals to assess the effectiveness of the implementation of the equal opportunities policy. If necessary, adjustment will be made to the policy to ensure that equal opportunities are afforded to all applicants and staff. Changes in distribution over a period of time will also be analysed. In particular, the analysis will show whether there is evidence that individuals from racial minority groups:
 - do not apply for employment or promotion, or that fewer than might be expected do apply;
 - are not recruited or promoted at all, or are appointed in a significantly lower proportion than their rate of application;
 - are under-represented in certain shifts, sections, departments and/or grades.
- 4.4 If *prima facie* evidence is found which suggests that the policy is ineffective, this should be investigated and appropriate action taken.

5. DISCIPLINE AND GRIEVANCE

A) Discipline

- 5.1 Direct racial discrimination and instances of racial abuse will be treated as disciplinary offences and will be dealt with under the disciplinary procedure.
- 5.2 An employee who has in good faith taken action under the Race Relations Act or complains about racial abuse and/or discrimination shall not for that reason receive less favourable treatment than any other employee, for example, by being subjected to disciplinary action.
- 5.3 Particular care must be taken to deal effectively with all complaints of discrimination, victimisation or harassment. It should not be assumed that such complaints are made by those who are over-sensitive.

5.4 In applying the disciplinary procedure, care must be taken that members of one racial group are not disciplined or dismissed for performance or behaviour which would be overlooked or condoned in other groups.

B) *Grievance*

5.5 All employees have the right to seek redress for their grievances. The Authority will ensure that this right is made known.

5.6 Complaints will normally be processed through the agreed grievance procedure. It is recognised however that employees often find it difficult to approach their immediate superiors in cases involving discrimination or harassment. The first point of contact in incidents of this nature may therefore alternatively be the appropriate [Personnel Officer] (or [Administrative Officer] in the case of [Personnel staff]). If the individual remains aggrieved then a formal complaint in writing should be made to the appropriate [Administrative Officer].

6. CULTURAL AND RELIGIOUS NEEDS

6.1 The Race Relations Act 1976 does not specifically cover religious discrimination, but it may fall within the indirect discrimination provisions of the Act. Where employees have particular cultural and religious needs which may conflict with existing work requirements, the Authority will consider whether it is reasonably practicable to vary or adapt these requirements to enable such needs to be met.

6.2 Sympathetic consideration should be given to employees requesting either the accumulation of annual leave or unpaid leave in order to visit relations overseas. Similarly, it should be borne in mind that members of certain religions may request the opportunity to observe prayer times and other religious rites.

6.3 The Authority will also provide appropriate translation facilities, for example, in the communication of grievance and disciplinary procedures, and use alternative or additional methods of communication where employees find it difficult to understand health and safety requirements.

SCHEDULE

- 1 All job descriptions must be reviewed to ensure that they are in line with the Authority's policy on equal opportunities, and that job requirements are reflected accurately in the person specification. Job descriptions and person specifications must accompany all requests for advertisements.
- 2 The Health Authority shall not discriminate directly, or indirectly, on advertising posts by including any requirements or criteria which are unnecessary to the post and which might exclude future applicants of particular racial groups.
- 3 Recruitment is by advertisement and open competition. Following approval of the Equal Opportunities Policy by the Health Authority all recruitment advertisements, both internal and external, will state that this Authority is 'An Equal Opportunity Employer'.
- 4 The Personnel Department is responsible for the co-ordination of all recruitment advertising and, in addition to the normal media advertising, it will ensure that all the District's vacancies are notified to job centres and the local Community Relations Council.
- 5 Although approaches may be received by unsolicited letters, telephone calls, informal visits and word of mouth, all such enquiries will be put on waiting lists and will be sent application forms and other details automatically when suitable posts are advertised. All applications will then be considered as part of the recognised formal recruitment process.
- 6 In order to avoid indirect discrimination, the Health Authority shall not confine its recruitment to areas or media sources which provide only, or mainly, applicants of a particular racial group.
- 7 All applicants who apply for jobs with the Health Authority will receive fair treatment and will be considered solely on their ability to do the job.
- 8 All officers who have the authority to recruit, and/or who are involved in the recruitment process, will, from time to time, review their selection criteria and tests to ensure that they are related to job requirements and do not unlawfully discriminate. All managers who have authority to recruit must be trained in recruitment and selection within two years of the implementation of this policy and/or within six months of their appointment.
- 9 All officers who have authority to recruit and/or are involved in the recruitment process shall be informed, through training programmes, of the effects which generalised assumptions and prejudices about race can have on selection decisions.

- 10 All officers responsible for shortlisting, interviewing, and/or selecting candidates shall be made aware of possible misunderstandings which can occur in interviews between the interviewers and persons of different cultural backgrounds.
- 11 Overseas qualifications, degrees, diplomas, which are comparable with UK qualifications, will be accepted as equivalents (subject to registration requirements and to Whitley Council terms and conditions of service).
- 12 Shortlisting and interviewing will be carried out by more than one person. Wherever possible a representative of the Personnel Department shall be actively involved in the shortlisting process and present at all interviews.
- 13 When a job involves irregular or unsocial hours or travel, the full facts should be referred to in the job description and other recruitment literature.
- 14 Interview questions must be related to the requirements and circumstances of the job, and must not be of a discriminatory nature.
- 15 The Health Authority shall not disqualify any applicant because he/she is unable to complete an application form unassisted, unless personal completion of the form is a valid test of the standard of English required for the safe and effective performance of the job.
- 16 All applicants will be given equal consideration for appointments. Criteria for shortlisting must be clearly established and equally applied to all candidates.
- 17 Selection decisions must not be influenced by race, religion, creed, colour, ethnic origin, or by the traditional profile of the postholder, unless for genuine occupational qualification reasons. Selection decisions must not be influenced by perceived prejudices of other staff.
- 18 Recruitment records, which detail appropriate information to enable accurate and meaningful equal opportunities analysis to be carried out, shall be kept by Personnel and other staff involved in the recruitment process, and an analysis shall be submitted to the Management Board at six monthly intervals.
- 19 Each individual should be assessed according to his/her personal capability to carry out a given job. General assumptions must not be made that a person's race would disqualify them from carrying out certain kinds of work.
- 20 Age limits should be retained only if they are necessary to the job. An unjustifiable age limit could constitute unlawful, indirect discrimination.

GUIDANCE NOTES ON RECRUITMENT AND SELECTION

1 Job descriptions

Job Descriptions are already widely used in the NHS and form part of the contract of employment. These documents have quasi-statutory status and as such care should be taken to ensure that they accurately reflect the nature of the job to which they relate. Details such as the grade, duties and lines of reporting should be stated clearly and concisely.

2 Person specifications

Person Specifications are intended to act as an aid for managers and personnel specialists in the selection process. Their use is now generally seen as good manpower management practice. Person specifications should include such details as: level of experience required; necessary educational standards; and particular personal characteristics required for the job.

The requirements set out in the person specification should closely match those of the job specification.

3 Advertisements

The wording of job advertisements should correspond with the main points in both the job description and the person specification.

Authorities should ensure that all job advertisements are circulated sufficiently widely to give potential ethnic minority applicants a reasonable chance of seeing them, for example through the local and ethnic minority newspapers, the circulation of vacancy bulletins to local libraries, community relations councils (CRCs), local voluntary organisations, youth clubs and job centres as well as the customary publications. (Authorities will find that many of these agencies will not charge.)

It is unlawful, under Section 29 of the Race Relations Act 1976, for an advertisement to be directly or indirectly discriminatory.

4 Shortlisting

Shortlisting must be carried out in accordance with the criteria set out in both the job description and person specification. Care must be taken to ensure that these criteria are applied objectively and fairly to all applicants. The reasons for shortlisting and non-shortlisting should be recorded both as a check on the selection procedure and also as protection against complaints or allegations of discrimination in the selection procedure. These records, together with the application forms, should be kept for a minimum of six months. Shortlisting should always be carried out by more than one person.

5 Interviewing

As with shortlisting, the criteria used for selection must be related to the criteria set out in the job description and person specification. No questions that are potentially or actually of a discriminatory nature must be asked (see section on Training). In order to maintain consistency in selection criteria, someone involved in the shortlisting stage of the selection process should also be involved in the interviews.

6 Recruitment of professional staff

It is recognised that authorities may feel an obligation to employ the graduates of professional training schools within the District. Where this is the case, it is important that the authority, together with those training establishments, should endeavour to recruit members of under-represented groups. This is in line with Sections 35, 37 and 38 of the Race Relations Act 1976.

7 Direct discrimination

This occurs when a person is treated less favourably than others are or would be treated in the same circumstances on racial grounds.

For example, it is unlawful to state in an advert, job description or person specification that applicants must be of a particular racial group, except in certain well defined circumstances where it is a genuine occupational qualification for the job concerned (Section 5(2)(d) of the Race Relations Act 1976).

8 Indirect discrimination

This occurs when conditions or requirements are applied which, whether intentionally or not, have a disproportionately adverse effect on a particular racial group, and are not justifiable.

The most obvious example of indirect discrimination is where an applicant is required to conform to certain dress regulations unless it is necessary for the safe performance of that job.

A particular instance would be to require all ambulance drivers to wear caps, thus discriminating against Sikhs who wear turbans.

In the case of *Kaur v Kingston and Richmond AHA*, an industrial tribunal found that the authority had indirectly discriminated when they withdrew an offer of a place as a pupil nurse to Tajinder Kaur when she pointed out that wearing a uniform skirt would be unacceptable (because of religious rites), but offered to wear uniform trousers.

A less clear example might be where the authority impose as a condition of employment that employees must live in the immediate area of the place of work where the population of that area is predominantly of one racial group.

Other examples of potential indirect discrimination can be seen in the Schedule to the policy at paragraphs 2, 6, 11 and 20.

GUIDANCE NOTES ON MONITORING

There is currently no single system of monitoring or collecting ethnic records which we can recommend to authorities. We intend to make a detailed study of the way in which organisations both inside and outside the Health Service have carried out the process. After analysing this information we hope to be able to issue more detailed guidelines.

The collection of records is essential if an authority is to monitor its equal opportunities policy. Implementation of the recruitment and selection and training procedures depends for its success in having a clear idea of the number and distribution of different racial groups throughout the workforce.

The purpose of this information is *not* to introduce a quota system, which is, in any event, unlawful under current legislation, but rather to give indications of whether an authority's recruitment programmes are proving successful.

If, for example, the local population has twenty per cent ethnic minority within it, but an authority is only employing six per cent of staff from this ethnic minority, then it is reasonable to suppose either that there is discrimination, or that the ethnic minority groups perceive an authority to be discriminatory.

Equally an authority may employ a sizeable number of ethnic minority workers. The records may even show that they form a majority of the workforce in certain departments, but that they are all on basic grades, with supervisory and managerial posts being filled by white staff. Such a pattern would indicate a need for an authority to review its selection processes and/or to pursue a policy of positive action to select suitable ethnic minority workers to train for promotion.

The process of collecting records falls naturally into two tasks. Once an authority starts to monitor, new applicants should be asked to fill in a suitable form on which they, themselves, can register their racial origin. A number of different forms are currently in use by authorities. We cannot, at this stage, recommend any particular form, but suggest that authorities have regard when devising one to the racial categories suggested in the Commission for Racial Equality's (CRE) guidance.

At the start of implementation of the policy, an authority will also need to collect records of its current workforce. Again, we cannot recommend any particular method of collecting these statistics. The CRE advocates a system of self-assessment supplemented by a management head count. Self-assessment alone seems, in practice, to have been less than successful. Organisations who have attempted this method have, largely, found that the rate of return of the self-assessment forms is too low to give any useful information, and have had to resort to a management head count in order to complete their records.

We recognize that there are difficulties with both self assessment and management headcount. Until we have conducted our study, we can only tell authorities that both methods have been tried, and that management headcounts produce better figures,

although their accuracy may still be in some doubt. Any management recording system should include showing individual workers the racial category in which they have been placed so that their agreement can be secured.

We can, however, firmly recommend that whichever method is tried, no attempt should be made to start collecting records until the staff have been informed. Every avenue open to the authority should be used to ensure that all staff know why the exercise is being conducted.

There are a number of ways in which this can be done. A message with the salary slip is used by many authorities, together with notices on boards and an item in the newsletter. Staff side organisations can also be asked to join the campaign and use their own communication networks to reinforce the management's message.

Many authorities are at pains to point out that this information is confidential and is to be used only in implementing their equal opportunities policy. The confidential nature of the information should also be emphasised on the form for new applicants.

Authorities should also keep records of the reasons both for selection and non-selection of new applicants, and for the promotion of staff, to enable them to monitor these aspects of their policy. They should record those staff who are given training courses at every level to ensure that their intentions on training are being observed.

There will, inevitably, be some costs attaching to the monitoring system. Most of these will come from the time involved in the collection and maintenance of the necessary records. Authorities may be able to reduce these costs, particularly of maintenance, by adapting the Körner packages on information. If authorities have already installed the manpower planning package, they should adapt it to include monitoring requirements as part of the data base.

GUIDANCE NOTES ON TRAINING

Implementing an equal opportunities policy inevitably means that authorities will need to review their training programmes. Our policy mentions the training dimension of recruitment and selection. Most of this training should be incorporated into programmes which authorities are already running for managers and new entrants. Equal opportunities modules added to these programmes should include sessions on:

- 1) guidance on the authority's policy;
- 2) knowledge of the relevant legislation;
- 3) cultural and racial sensitivity.

Authority members and managers should also have training sessions in:

- 4) interviewing techniques;
- 5) the racial dimensions of discipline and grievance procedures.

Those responsible for recruitment, selection and promotion should additionally receive training in:

- 6) the use of job description and person specifications;
- 7) shortlisting and monitoring techniques.

We have also included, in our sections on monitoring and training, the need for positive action in order to enable disadvantaged groups to compete for promotion on a basis of equality. This will be a new area of training for most authorities, and will probably take longer to establish. We regard it as crucial, if authorities are fully to implement their policies, that such a programme is devised.

We have also recommended that suitable language training be undertaken.

These lists should not be regarded as a comprehensive programme, but rather as guidelines to what should be in programmes.

We acknowledge that authorities may find such a training programme rather daunting, particularly in cost terms. There are, however, ways in which cost can be minimised. Much of the basic training, for example, is common to all authorities, who might find it useful and economical to run joint programmes with neighbouring districts. Regions also might be prepared to run programmes on a cost-sharing basis. There are also a number of organisations who can be approached for help. The Department of Employment Race Relations Employment Advisors can assist, as can the regional offices of the CRE. Some polytechnics run language training courses, as do some community and religious groups. Help can also be sought from the NHSTA.

Authorities should be prepared to indentify the priorities for training in their districts and draw up a timed programme for action.

EQUAL OPPORTUNITIES TASK FORCE

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