

Annex A (HEFCE 2006/28)

Race Equality Scheme

1. This Race Equality Scheme was originally published to comply with our statutory duties under the Race Relations (Amendment) Act 2000. It has been updated twice (once fundamentally) since its original publication in 2002, and has now been updated again in order to integrate it into our new Single Equality Scheme. The amendments mainly serve to remove duplication with the SES and to bring the Race Equality Scheme up to date with HEFCE's new strategic plan (HEFCE 2006/13).

Overview of race equality at HEFCE

Our vision

2. HEFCE is committed to achieving race equality and equality of opportunity for all who learn and work in higher education and for our own staff.
3. For students, we aim to ensure that all those with the potential to benefit from higher education have the opportunity to do so, whatever their background and whenever they need it. We also want to help higher education institutions develop a more demonstrably fair and supportive environment for their staff.
4. We promote diversity and equal opportunities in employment at HEFCE. We aim to have a diverse and well motivated workforce where all colleagues are treated equally and with respect.

Context

5. We understand the challenges that currently face the sector in implementing such wide-ranging legislation as the Race Relations (Amendment) Act 2000 and know there is much to be done across the sector. Some of the monitoring statistics we have collected through the Higher Education Statistics Agency illustrate this well:

- 21 per cent of black and minority ethnic UK students are studying at post-1992 institutions, compared to 14 per cent in pre-1992 institutions
- 4 per cent of professor-level academic staff are from black and minority ethnic groups compared to 8.4 per cent of lecturer-level staff
- of this 4 per cent, there are only 40 from Black British or Black African/Caribbean backgrounds (out of a total of 12,285 staff at professor level).

Aims

6. We aim to help the HE sector in England improve the diversity of its students, staff, leaders and governors. We will do this with the support of expert bodies such as the Equality Challenge Unit (ECU), the Higher Education Academy and the Leadership Foundation, who are already putting practical measures in place to help academics support a more diverse student population, update their employment practices and help to develop more leaders for the future from black and minority ethnic groups.

7. We understand that this process of change in higher education will be demanding, both for us and the sector. We appreciate that issues of race equality are not clear-cut, and that individuals may have multiple identities (they may be from a minority ethnic group and also have a disability for instance) and that discrimination can affect people in very different ways.

8. Our Race Equality Scheme has been written with these aims in mind. It is backed up by a detailed Equality Action Plan (see Annex D) which allocates responsibility to individuals across the Council for implementing race equality in their areas of work.

Status of this Race Equality Scheme

9. This scheme forms part of our overall Single Equality Scheme (SES). Therefore there is some cross-referencing between this annex and the overall SES. This is to avoid duplication and to streamline our equality processes as far as is possible and appropriate. While we feel that this scheme fulfils our statutory duties, it is meant to be read in the context of our SES.

Introduction

10. The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 – referred to as the Act throughout this annex – places a general duty on public authorities to promote race equality. Under the new duty, and through all relevant functions, public authorities are required to have due regard to the need to:

- eliminate unlawful racial discrimination
- promote equality of opportunity
- promote good relations between people of different racial groups.

11. The Council is subject to the Act and was required to produce a Race Equality Scheme by 31 May 2002. We have developed a scheme that includes:

- the values, principles and standards that guide our approach to race equality
- the overall strategic aims and objectives adopted to promote race equality
- clear timescales and actions
- how often each part of the scheme and the scheme as a whole will be reviewed
- how complaints about the way we are meeting our duties or other complaints about race equality will be dealt with
- how the scheme relates to our other policies and strategies
- a consultation strategy
- an action plan to ensure that all our staff are aware of the scheme and understand what it involves.

12. We have taken the view that the Race Equality Scheme should form part of our overall SES, and be linked to our wider strategic aims and objectives – as long as it can be easily identified, monitored, assessed and reviewed as meeting the requirements of the general and specific duties under the Act.

13. As part of the process of developing the scheme in 2002, independent consultants Focus Consultancy Limited worked with HEFCE senior managers, Board members, staff from ethnic minorities, and a project steering group.

Context

14. The Race Relations Act 1976 provides the legislative base for anti-racist policies within Britain. The 1976 Act was significantly strengthened as a result of recommendations that came out of the Macpherson Report on the Stephen Lawrence murder inquiry. The Race Relations (Amendment) Act 2000 amended the 1976 Act so as to:

- a. Prohibit race discrimination in public functions not previously covered by the 1976 Act.
- b. Place a general duty on specified public authorities to have due regard to the need to promote race equality.
- c. Give the Home Secretary powers to impose specific duties on public authorities that are subject to the general duty, and to add to the list of bodies to which the general duty applies.

15. A 'racial group' in the 2000 Act is a group of people defined by colour, ethnicity, race, nationality, national or ethnic origins. The new anti-discrimination provisions and the general duty for public authorities listed in the 2000 Act came into effect on 2 April 2001.

16. Schedule 1A to the 1976 Act, as amended, lists the bodies and other persons subject to the general duty.

17. The Macpherson report gave the definition of institutional racism as:

'the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantage minority ethnic people.'

We endorse this definition, and signed the Bristol Joint Declaration on Racial Equality in December 2003 to publicise our acceptance of it. Through the Declaration, we work in partnership with a number of public and private sector organisations in the Bristol area (where our headquarters is) on shared issues such as minority ethnic participation in the local labour market, policy impact assessment tools and race equality training.

18. There have also been several advances in race equality law through the European Community, including:

- Article 13 of the Treaty of Amsterdam which conferred upon member states the ability to 'take action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'
- Council Directive 2000/43/EC, which implements the principle of equal treatment between people irrespective of racial or ethnic origin. It was adopted by EU member states in 2000
- Race Relations Act 1976 (Amendment) Regulations 2003 which redefined indirect discrimination, introduced a new definition of harassment (applicable to both employers and employees), redefined the burden of proof and its application to institutional liability, and removed those exceptions that are contrary to the principle of equal treatment for all.

19. Another relevant piece of legislation (passed on 2 December 2003) was the Employment Equality (Religion or Belief) Regulations which cover direct and indirect discrimination on the grounds of a person's religion or belief. We understand that there are parallels between racial and religious discrimination, but acknowledge that race and religion are not the same issue and are often manifested or experienced separately.

Specific duties

20. The specific requirements in relation to our Race Equality Scheme are as follows:
- a. The preparation and publication of a scheme which sets out how that public authority intends to meet its obligations under the general duty and other specific duties which have been set and are relevant to it.
 - b. An assessment of that public authority's functions and policies which it feels are relevant to the general duty (which must be reviewed at least every three years).
 - c. That public authority's arrangements for assessing and consulting on the impact that any policies it is proposing are likely to have on the promotion of race equality.
 - d. That public authority's arrangements for monitoring its policies for any adverse impact on the promotion of race equality.
 - e. That public authority's arrangements for publishing the results of its:
 - i. Assessment under (b).
 - ii. Consultations under (c).
 - iii. Monitoring under (d).
 - f. That public authority's arrangements for ensuring that those from minority ethnic communities have access to information and to services that it provides.
 - g. That public authority's arrangements for the training of its staff on issues relevant to the general duty and the specific duties.
21. The specific requirements in relation to each further and higher education institution (HEI) are that it should:

- a. (Before 31 May 2002) prepare a written statement of its policy for promoting race equality (its 'race equality policy').
- b. Have in place arrangements for fulfilling, as soon as is reasonably practicable, its duties under the Act.
- c. Maintain a copy of the statement and fulfil these duties in accordance with such arrangements.
- d. Assess the impact of its policies, including its race equality policy, on students and staff of different racial groups.
- e. Monitor, by reference to these racial groups, the admissions and progress of students and the recruitment and career progress of staff.
- f. Include in the written statement of its race equality policy how it will publish that statement and the results of its assessment and monitoring under sub-paragraphs 21d and 21e above.
- g. Take such steps as are reasonably practicable to publish annually the results of its monitoring.

Employment duties

22. There are also the following specific duties relating to employment issues, which apply to HEFCE. (Higher education institutions are subject to slightly different duties with regard to employment.)

- a. Certain public authorities subject to the general duty are required to have in place arrangements for monitoring the ethnicity of:
 - i. Staff in post.
 - ii. Applicants for jobs, promotion and training.
- b. If such a body has more than 150 full-time employees it is required to have in place arrangements for monitoring the ethnicity of staff who:
 - i. Receive training.
 - ii. Benefit or suffer detriment as a result of performance appraisal.
 - iii. Are involved in grievance procedures.
 - iv. Are the subject of disciplinary procedures.
 - v. Are dismissed or leave for other reasons.
- c. A public authority subject to these employment duties must publish annually the results of the above ethnicity monitoring.

23. Section 71C of the Race Relations Act 1976, as amended, confers on the Commission for Racial Equality (CRE) the power to issue codes of practice in relation to any aspect of the general duty, in terms of both the general and specific duties mentioned above. Such codes can be admissible as evidence in proceedings brought under the Race Relations Act.

24. The CRE has published a statutory 'Code of practice on the duty to promote race equality' and a non-statutory guide for institutions of further and higher education (HE). The code came into effect on 31 May 2002, following consultation and approval by Parliament. It will be admissible as evidence in any legal proceedings under the Race Relations Act.

Our approach

25. The Council is a relatively small organisation that deals with a range of complex policy-related initiatives, and services delivered to a wide range of stakeholders. Our scheme must be capable of dealing with that complexity, and the complexity of the issues related to institutional racism. As a result it needs to:

- a. Reflect the structure and focus of the legislation.
- b. Take account of ideas and issues coming out of the CRE code of practice and its good practice guides.¹
- c. Take account of the work that is already being done in HEFCE and HEIs to promote race equality.
- d. Build as far as practicable on existing plans, initiatives, processes and mechanisms in order to mainstream race equality across the Council's work.

26. We are committed to meeting our obligations under the general duty and acting as a beacon of good practice for the sector. To do so, we will use the specific duties, including this scheme, to make race equality and equal treatment – irrespective of gender, disability, sexuality, age or religious belief – an underpinning theme in the development, delivery and refinement of our policies, initiatives and services, and in the way we manage our staff.

27. The Act and associated CRE guidance aim to put race equality issues at the core of public service delivery as part of good generic management practice, and to ensure that a strategy and action plan are in place to eliminate conscious or unconscious racial discrimination in public institutions.

28. As an accountable body, we have a primary responsibility for ensuring that funds are spent properly to maximum effect. At the same time, HEIs are independent institutions and we are concerned to ensure that accountability requirements placed on them are not excessive or inappropriate, and do not divert them from their main purpose. HEIs are directly accountable for ensuring that they meet the requirements of the Act as well as the requirements placed on them by virtue of the Act through the Council.

29. Our Race Equality Scheme is therefore designed to not impose an additional burden on HEIs, nor to substitute for their own strategies and action plans for addressing race equality issues, but to complement these. We intend to achieve this through regular

¹ For example the CRE guides 'Conducting Impact Assessments: A Practical Guide' and 'Race Equality and Public Procurement'.

review of the scheme, and by developing the race equality dimension of our support to the sector, including offering information and guidance, and disseminating good practice.

Principles and characteristics

30. Our Race Equality Scheme is based on the following principles:
 - a. The scheme should have due regard for our role in the sector, in particular our roles in offering appropriate information, guidance, advice and support for HEIs, and providing advice to the Government and Department for Education and Skills (DfES).
 - b. Race equality and diversity equality (and fair treatment) issues should be built into our core strategic themes to maximise the potential positive impact on race equality.
 - c. Where the potential impact on race equality is unclear or unknown, additional data should be collected.
 - d. The Race Equality Scheme should be used to develop the capacity of the Council and the sector as a whole, and thus reflect good generic management practice.
 - e. The scheme will be reviewed annually and remain an active, web-only document to enable responsive updates. Alternative formats (including hard copies) are available on request and we intend to produce a summary leaflet of the SES in 2007.
31. The scheme:
 - a. Will be promoted and readily accessible to those working in the Council and the sector and to the public, via published documents and our web-site.
 - b. Will be brought to the attention of all HEFCE staff in the staff guide and included within induction and a special staff training programme, so that it becomes a core part of our working.
 - c. Sets out a timetabled action plan to help us meet our obligations under the Act.
 - d. Includes plans and procedures to deal with any complaints about possible failure to meet the general and specific duties, or other complaints about the promotion of race equality.
 - e. Includes measures which have been or are being put in place to promote race equality.
32. In relation to the specific duties, the scheme:
 - a. Will be reviewed and updated annually, so that it properly reflects priorities and pressures facing the Council.
 - b. Will be evaluated annually in terms of the impact on our staff and the development and delivery of policies, initiatives and services.

Action plan

33. Our Equality Action Plan (see Annex D) sets out all the actions we will be taking as a result of the analysis of our functions and policies. In it, all the actions relating to our Race Equality Scheme are clearly identified. Many of the actions are continuations of or build-on actions from our previous race equality action plans, but they are time-bound and have outcomes attached.

Assessment of HEFCE functions

34. The assessment of our functions, to see which are appropriate for inclusion within the scheme, is an important stage in the scheme's development and maintenance.

35. Our functions are designed to meet the requirements of central government stakeholders and to support the sector. While we have few direct dealings with the public, nevertheless our functions could have a significant impact on the capacity of the sector to meet the needs of minority ethnic communities. A qualitative assessment of the relative priority of the functions for the Race Equality Scheme is given in Table 2.

Table 2 The relative priority of our functions for the Race Equality Scheme

HEFCE function	Priority for race equality	Rationale
Corporate communications	High	Communications and our public presentation can have a high impact on stakeholders', staff, potential staff and the public's regard for HEFCE, and could have a high impact on our ability to promote good race relations and share information about the Council's activities in this area.
Engaging with HEIs	High	Our direct interaction and support for institutions has a potentially high impact on our ability to promote good race relations and help to eliminate unlawful discrimination in the HE sector.
Human resources	High	Human resources has a high impact on race equality for staff at HEFCE, as there is direct impact on employee resourcing, relations and development.
Research policy	High	This theme has high relevance in race equality due to its strategic focus on research careers and the Research Assessment Exercise (which we have assessed as being of high relevance itself to race equality).
Analytical services	High	Our Analytical Services Group specifies, analyses and reports on all the equal opportunities monitoring data submitted on all members of staff and students in HE. Therefore its work has a very high relevance and priority for race equality.
Widening participation	High	Our widening participation activity aims to both widen and increase participation among under-represented groups in HE and ensure that access to HE is open to everyone, whatever their background. This area has a very high relevance to our scheme.
Leadership, governance and	High	The LGM team has overall responsibility for the Race Equality Scheme and for equal opportunities issues for staff in HE.

management		
Business and community interaction	Medium	This policy area has some relevance, particularly in specific funds which support community engagement by institutions, but the business interaction side has a lower relevance, hence the medium rating.
Learning and teaching	Medium	Supporting learning and teaching activities in HE has a medium impact on race equality: there is some relevance (for example the impact on race equality of special funding initiatives such as the Centres for Excellence in Teaching and Learning) and in some curriculum development areas, supported by the Higher Education Academy.
Finance, planning and procurement	Medium	Some areas, notably corporate planning and procurement, have medium-high impact on race equality, although the finance/payments division has almost no impact, hence the medium rating.
International collaboration and development	Medium	This has a medium impact as members of staff in this team regularly engage with colleagues from countries across the world by undertaking visits and welcoming people to the UK. They also have a role in advising other colleagues making visits about different countries' cultures.
Assurance service (including audit, estates and institutional finance)	Low	Some areas, such as estates and institutional finance, have a very low relevance to race equality, while others – such as audit – have a medium relevance as their work involves making judgements about the management of an institution and compliance with legislation.
Information technology and systems	Low	The IT and systems team within the Council has almost no impact on race equality, except for the support it provides in updating web pages or facilitating staff surveys.
Knowledge management	Low	The knowledge management team has minimal impact on race equality, beyond its role in promoting information on race equality (by disseminating articles, books and so on) and relaying queries from members of the sector or public.

HEFCE policy development for race equality

36. A key area of activity to implement our Race Equality Scheme will be impact assessment of our policies on race equality. Our overall approach to impact assessment for all our strategic aims and policy areas is described in paragraphs 50-54 of the SES. Areas we have categorised as 'high priority' for impact assessment for race in each of our strategic themes are described below, and link to the prioritisation of our functions for race at paragraph 35 of this annex. We currently provide a race equality impact assessment of our major policy areas to the DfES. That document is currently being updated (due to be completed by August 2006) but the most recent version is on the DfES web-site.² We would particularly welcome input via this consultation on our

² See www.dfes.gov.uk/hegateway/uploads/Race_Impact_Assessment_August_2004.pdf

priorities as listed in Table 3, such as whether they are the right ones. All policies, categorised as high, medium or low, are described in the Equality Action Plan at Annex D.

Table 3 Our priority policies for race impact assessment, by strategic aim

<i>Enhancing excellence in learning and teaching</i>	
Priority policies for race impact assessment	Rationale
Learning and teaching funding allocation	We allocate around 60 per cent of our overall funding through our formula funding for teaching (£4,228 million in 2006-07). This funding, while not ring-fenced, is benefiting hundreds of thousands of students in England and we must ensure that there is no negative impact on race equality through our funding mechanisms.
Quality assurance	We are in a position to support the sector in a culture of continuous improvement and in ensuring equality of outcome for all racial groups. Our quality assurance policies are therefore a high priority for race impact assessment.
Professional development	Teaching in HE is a skilled profession which must be adequately recognised and rewarded. The effective provision of learning and teaching to all students and the support of all teachers through programmes of continuing professional development have potentially a high impact on the student experience and are therefore a high priority for impact assessment.
Workplace learning	As part of our strategy on employer engagement, we are developing an approach to workplace learning that will contribute both to economic success and widening access to HE. It is our hope to support people in the workplace that do not have HE qualifications, to gain such qualifications and participate in HE. It is possible that this initiative will have a positive impact on some racial groups who have not traditionally had high participation rates in HE, as it provides another route to study.

Note: The key data sources for helping us to assess the impact on race equality of these policies are:

- National Student Survey
- HESA individualised student record
- Youth Cohort Study
- Destination of Leavers from HE survey.

<i>Widening participation and fair access</i>	
Priority policies for race impact assessment	Rationale
Increasing demand for HE through funding the national Aimhigher	Aimhigher's aims are to raise the aspirations and develop the abilities of people from groups that are under-represented in HE.

programme	Aimhigher partnerships build cross-sector relationships which break down the barriers which institutions and systems can unwittingly create for learners. This programme has a potentially large impact on under-represented racial groups, especially with regard to raising their aspirations for HE and supporting HEIs to eliminate the barriers barring some applicants from entering HE.
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Note: The key data sources for helping us to assess the impact on race equality of these policies are:

- UCAS data about applicants to HE
- HESA individualised student record
- LSC individualised learner record (which relates to learners in the learning and skills sector)
- Aimhigher evaluation information, such as project outputs and case studies
- summer schools/European Social Fund information on participation (monitoring can be analysed by race).

<i>Enhancing excellence in research</i>	
Priority policy for race impact assessment	Rationale
2008 Research Assessment Exercise	The 2008 RAE is a major exercise for the UK funding councils and almost all HEIs. It also has a large potential impact on the amounts of research funding received by an HEI as well as on individual members of staff and their research careers.

Note: The key data source for helping us to assess the impact on race equality of this policy is the HESA individualised staff record.

<i>Enhancing the contribution of HE to the economy and society</i>	
Priority policies for race impact assessment	Rationale
Meeting new economic and social challenges – the social dimension	We want to focus more on our support to HE to contribute to wider social agendas. This includes its contribution to civic life and developing civilising values; social, community and environmental support; and regeneration. This wider social agenda could embrace race equality issues.

Note: The key data source for helping us to assess the impact on race equality of this policy is the HE-Business and Community Interaction survey.

<i>Sustaining a high quality HE sector</i>	
Priority policies for race impact assessment	Rationale
Developing people and organisational culture	As a knowledge-based sector, the performance of the people who work in HE is critical. They represent its biggest cost and most significant asset. The actions we have set out to support the continuous improvement of leadership, governance and management will support the development of people and the

	organisational culture. Evidence has shown that staff from black and minority ethnic groups are often subject to detriment in employment, therefore this is a high priority area for impact assessment.
Equality and diversity for people employed in HE	We have committed to working in partnership with HEIs on improvements in equal opportunities and diversity, as we do on other aspects of people development – although in these areas we also have legal responsibilities to monitor the sector. Race equality for all, and our statutory duty to promote race equality, are clearly high priorities here.

Note: The key data sources for helping us to assess the impact on race equality of these policies are:

- HESA individualised staff record
- findings from the 2005 Equal Opportunities Research Programme³
- 'The higher education workforce in England: a framework for the future', (HEFCE 2006/21).

<i>Enabling excellence</i>	
Priority policies for race impact assessment	Rationale
People management	This links to HEFCE's role as an employer of over 250 people, and we believe it is important for the organisation's effectiveness that we develop and reward high performance. Everything we do needs to take place within a supportive learning culture where there is a high respect for individual needs and diversity. Equality across all outcomes for staff of all racial groups is our goal, and therefore our people management policies are a high priority for race impact assessment.

Note: The key data sources for helping us to assess the impact on race equality of these policies are:

- HEFCE's human resources database
- annual staff survey
- recruitment and selection monitoring data.

Our monitoring arrangements

37. The Act places a statutory duty on us to monitor the HE sector for any adverse and differential impact of a HEFCE-sponsored policy or service on a minority ethnic community. There is also a specific duty on us to monitor, by racial group, the numbers of teaching staff in the HEIs we are responsible for, and to publish annually, as far as possible, the results of that monitoring. We have decided to exceed this requirement by monitoring all types of staff employed by HEIs, and all students undertaking programmes

³ HEFCE 2005/19.

of higher education. The establishment and maintenance of robust monitoring arrangements, for existing and proposed policies that are relevant to the general duty, is critical to enable us to meet our obligations under the specific duties.

38. We are committed to developing a monitoring framework that does not impose undue burdens on institutions, and does not seek to collect any data additional to that already being requested or collected as part of HEIs' own monitoring requirements. The monitoring information we do collect will be published, in summary form, on the HEFCE web-site and in other appropriate publications.

39. If we note any particular problems or discrepancies in the monitoring data collected that indicates an HEI is not complying with the Act, we can offer guidance and support to that institution, in partnership with the ECU, to enable it to rectify any problems. We have no enforcement powers under the Act.

40. The scheme will supplement where necessary, on a sector-wide basis, the direct work being undertaken by individual HEIs to explore whether policies and services impact differentially and adversely on those from minority ethnic communities. These tools could include, as appropriate:

- a. Measurement of levels of access to particular programmes.
- b. Quantitative and qualitative data gathering.
- c. Analysis of specific issues or emerging problem areas across the sector.
- d. Discussion forums.
- e. Identification and dissemination of good practice.

The consultation process

41. We aim to ensure that key stakeholders understand, participate in, and own the Race Equality Scheme. We will follow the process set out in the SES at paragraphs 48-49 and aim to re-visit these in the light of emerging guidance on consultation and communication models of good practice in the context of the Act.

Arrangements for publishing the scheme, results of consultations and progress reports

42. We intend to publish on our web-site:

- a. The Race Equality Scheme, which will also be available in hard copy on request.
- b. The results of consultations in relation to the scheme.
- c. Results of consultations on the race equality dimension of any new policy or initiative.
- d. The annual equality report submitted to the HEFCE Board.

43. We will also publicise through specialist media, including those used by minority ethnic audiences, the availability of the above publications.

Enforcement

44. If a public organisation does not meet the general duty, its actions (or failure to act) can be challenged by a claim to the High Court for judicial review. A claim for judicial review can be made by a person or group of people with an interest in the matter, or by the CRE.

45. If the CRE (or at some point in the future, the Commission for Equality and Human Rights) is satisfied that a public authority has failed to comply with any of its specific duties, the CRE may serve a 'compliance notice'. This will require the public authority to comply with its specific duties, and to inform the serving body within 28 days of measures that are being taken in response. The CRE can also require the public authority to provide written information verifying compliance. If, after three months, the public authority has not complied with the notice the CRE can ask the courts to order compliance.

46. Our arrangements for handling complaints against the Council are outlined in paragraphs 69-70 of the SES.