

Response Proforma

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<p>ORGANISATION</p> <p>Peterborough Racial equality Council</p>	<p>DATE: 28th September 2009</p> <p>EMAIL:</p> <p>mj@prec.org.uk</p>
<p>CONSULTATION QUESTIONS</p>	<p>RESPONSE</p>
<p>Q1: Do you think the criteria set out above are the right ones? Please give your reasons.</p>	<p>We disagree with the criteria because it implies that big organisations matter and small ones do not. There are too many qualifications such as 'significant' and these are not necessary in our view; in deed our view is that it creates an impression that equality is bureaucratic and a burden and various organisations and individuals will probably be offended by such categorisation. .</p> <p>We believe that the consultation as worded and constructed at the moment will, in effect, significantly dilute the current legislation and undo the slow but inevitable progress made since the RRAA 2000 and further advanced by the DDA 2005 and the Equality Act made.</p> <p>Whilst fully recognising the fact that the equality laws have developed incrementally in the UK, we believe there are positive aspects to this because the needs of the various equality target groups have been developed with their own specific requirements and needs.</p> <p>The criteria should be simple – any public agency should be covered, as should any agency providing a public service. Or any contractor provision of a public agency's services. The criteria set by yourselves should use the current legislating as the yardstick and then build on that the issues relating to procurement, etc.</p>
<p>Q2: Are there any other criteria we should use? If so, what do you suggest?</p>	<p>Your proposed reliance on human rights is narrow and not well founded. Your view that there should be a light touch is misplaced because s71 of the 1976 RRA showed little or no progress until amended by the RRAA 2000, since when the progress made has been comparatively speaking, huge.</p> <p>This is an equality and anti discrimination bill and should be so grounded under the recent acts such as the DDAs, RRAA and the Equality Act 2006. There is already a perfectly good HRA from 1998 and it is important that the 2 issues are kept separate, since one is about the powers of the state and the other is about individuals/groups being subjected to unequal treatment by individuals or agencies including the public sector. In our experience discrimination happens most frequently in the private sector and needs to be addressed more consistently and more rigorously.</p> <p>The GEO has made a serious error by the supposition that human rights issues are the same or similar to equality/discrimination issues. They are not.</p> <p>We do not agree that the specific duties should be left to some further discussions between the EHRC and the GEO, etc but should be discussed with those who suffer discrimination rather than coming to some surprising conclusions by hiring consultants to speak to a select group of public agencies.</p>

	<p>In particular, central government departments' performance has been very poor and this needs to be tackled so that there is a clear lead by example. Weakening the specific duties and trying to get them to be the same or to tally with Human rights issues is not going to work because the needs of the equality strands are so very different.</p>
<p>Q3: Do you agree that public bodies should have a specific duty to publish equality objectives with reference to the relevant evidence and their wider general Equality Duty obligations?</p>	<p>To be honest this is a facile question in the way it has been constructed - how can anyone disagree that public bodies should be obliged to have specific duties?</p> <p>However, these should be the same as now and the GEO proposals will be a fundamental weakening of the current legislation, and this is strongly opposed.</p> <p>There is a need to ensure that the private sector is asked to play its part and be subject to constraints so that equality is not overlooked or by-passed by profit margins and shareholders' interests alone. This is a missed opportunity and a matter of great regret and should be rectified. PREC's own research from recent casework has clearly shown that inequality increased during the recession with BME and other white minorities being affected and with women being hit the hardest. Why is this not being tackled, particularly if the evidence is compelling and long-standing?</p> <p>Both the public and private sectors should produce 2 or 3 yearly plans with review of their functions and a clear audit trail of how their commitments have been implemented. Any deviation from this will be seen as a watering down of equality legislation when the need to protect groups and individuals is more important than ever before.</p>
<p>Q4: Do you agree that public bodies should set out the steps they intend to take to achieve their equality objectives?</p>	<p>Once again, this is a facile question in the way it has been constructed - how can anyone disagree that public bodies should publicise their intended actions. But what consultations and scrutiny structures will this involve other than its own?</p> <p>Of course they should – but the concern we have is that the basis as proposed is very much weaker and will not produce results in practice. Indeed the progress made will be reversed. In our view, many public agencies do not see the current legislation as a burden or as inappropriate or bureaucratic.</p> <p>The GEO should encourage those that have grasped the nettle and reward them through, say the LAA and inspection regimes and to become mentors so that others to the same, including central government departments which have a poor record and several should have been accountable to the EHRC. Or the Ministers in charge.</p> <p>Equality issues cannot be tackled only in the local situation; there should be national guidelines which should at least reflect the current practice and legislation. Any weakening will be seen as a broken promise and will be a retrograde step.</p>
<p>Q5: Do you agree that public bodies should be required to implement the steps they have set out for themselves within the business cycle period unless it would be unreasonable or impractical to do so?</p>	<p>There should be a 2 or 3 year cycle to deal with the equality issues, including collection of monitoring data to show trends and progress, as well as areas to be tackled.</p> <p>PREC feels there would be no circumstances why any agency could argue that providing the basic equality information and work commitments could possibly be seen as unreasonable or impractical. Most collect that information for their own business needs and the requirements of the equality legislation are not onerous.</p>
<p>Q6: Do you agree that public bodies should be required to review their objectives every three years? If not, what time-period do you suggest instead?</p>	<p>PREC does not agree that only your proposed objectives should be reviewed.</p> <p>Nevertheless, we support the 3 yearly cycle, as long as there are annual updates on progress; otherwise, there is little or no incentive for continuous improvement and to make a measureable change and to build on this. It is important that equality and discrimination are tackled and addressed on an on-going basis and that the target groups should be consulted about the progress (or lack of it).</p>

	Monitoring by the NAO, the Audit Commission and Ofsted needs to be improved and should be a core within any inspection. They should in turn be inspected.
Q7: Do you agree that public bodies should set equality objectives taking into account priority areas set by the relevant Secretary of State?	<p>National issues are important, of course, but local circumstances should be taken into account and it is important that Government Offices are tasked to deal with these with a view to ensuring local equality issues are considered and addressed.</p> <p>It is important that local data on employment, stop and search, etc should influence local priorities and indeed some of the regional/national priorities as well. Since neither the Secretary of State nor the civil service always know how best to deal with equality issues locally.</p>
Q8: Do you agree that public bodies should not be required to set equality objectives in respect of each protected characteristic?	<p>We do not agree at all. It is important that race, gender and disability work continues by public agencies and that the private sector should also have to address this.</p> <p>Otherwise all the modest gains made since 2000 will be lost as public agencies will put forward reasons why they should be exempt. Agencies funded by the public should be told clearly and unequivocally that no opt-outs will be considered.</p>
Q9: Do you agree that public bodies should be required to report annually on progress against their equality objectives, but that the means by which they do so should not be prescribed in legislation?	<p>Yes, we do; annual updates are crucial.</p> <p>But unless there is a template, the reporting structures will not compare like-with-like. In our view, it is important that the public and equality target groups should be able to see progress made within a given structure. Therefore, there must be minimum requirements set for annual reports.</p>
Q10: Do you agree that public bodies with 150 or more employees should be required to publish their gender pay gap, their ethnic minority employment rate and their disability employment rate? We would welcome views on the benefits of these proposals in encouraging public authorities to be more transparent.	<p>This is agreed but the proposals are hugely inadequate. Our view is that the current reporting requirements under the RRAA 200 should be extended to gender and disability.</p> <p>The recent disability case in Leicestershire has highlighted the significance of treating hate crimes very seriously because the consequences can otherwise be devastating.</p> <p>The benefits are obvious – transparency, clear progress as well as the equality target groups being satisfied that progress will be made. In turn, any public agency that takes this seriously will have better community engagement/involvement.</p> <p>The requirements on staff information are not at all daunting because public agencies should be doing that any way. And most do.</p>
Q11: Do you agree with the proposal to use the overall median gender pay gap figure? Please give your reasons. If not, what other method would you suggest and why?	<p>No we don't. There needs to be background and contextual information on this subject. Information should be given as under the current requirements of the RRAA 2000. Without that, what will be information actually achieved and how will the debate be informed and how will anyone know what the real differences may be in say local government compared to the police services? Or comparisons between the private and public sectors – and what is going to be done about it.</p> <p>The boundaries between the public and private sectors can change, as seen from the banking crisis in which the vast majority of the bank customers are now part of nationalised institutions.</p>
Q12: Do you have any evidence of how much it would cost to produce and publish this information, and of what the benefits of producing and publishing this information	<p>From experience, the costs of collecting information would appear to be low because public agencies normally keep records required in any case. When compared to the costs of our small charity, where information has often got to be collated manually in the 1st place, the costs would be very favourable indeed.</p> <p>From experience of local authorities such as Westminster City Council or Leicester City Council, the information was mostly at hand and required for PDPs and other essential</p>

<p>might be?</p>	<p>working tools in any case. Costs of collecting and monitoring were therefore likely to be minimal</p> <p>The benefits are that any reader can ascertain the progress made and be better engaged. Very often, the reports tend to get discussed in detail at public agency-public meetings, as at the Peterborough City Council's Equality Forum just last week.</p> <p>The costs of collecting such information would be on average less than £5000 for a large organisation. The costs of publishing such information can easily be slashed by summarising it in internal and external magazines such as 'Your Peterborough' Both Leicester and Westminster councils also have such publications.</p>
<p>Q13: Do you agree with the proposal not to require public bodies to report employment data in relation to the other characteristics protected under the Equality Duty? If not, what other data do you think should be reported on?</p>	<p>PREC would prefer information was collected across all 6 strands, but in our view the detailed information should cover at least gender, race and disability. However, as mentioned above, merely covering employment rates is going to be unhelpful and verging on being pointless. Information should be collected as per the specific duties on employment under the RRAA 2000.</p>
<p>Q14: Do you agree with the move away from an emphasis on describing process, to requiring public bodies to demonstrate how they have taken evidence of the impact on equality into account in the design of their key policy and service delivery initiatives and the difference this has made?</p>	<p>You have made assumptions that conducting equality impact assessments and the employment information required under the RRAA 2000 is process-driven. That is not our only experience because in Peterborough and the same is true of both Leicester and Westminster, since the value of looking at service re-engineering was done as part of EIAs.</p> <p>PREC also works with 2 public prisons locally and the experience is again very different from what is assumed by the GEO.</p> <p>In our wide experience, the emphasis has been outcomes and re-designing services, not processes or the bureaucracy.</p>
<p>Q15: Do you agree that public bodies should have a specific duty - when setting their equality objectives, deciding on the steps towards their achievement and reviewing their progress in achieving them to take reasonable steps to involve and consult employees, service users and other relevant groups who have an interest in how it carries out its functions - or where appropriate their representatives; and in particular take reasonable steps to consult and involve the protected groups for whom the duty is designed to deliver benefits?</p>	<p>We agree with the requirement of a duty to involve and consult.</p> <p>However, we do not support the proposed qualifications such as 'reasonable' (what will that actually mean, and why is there such reluctance to set down the value of this work and looking at minimal standards that are meaningfully going to not only involve equality groups but engage them in discussions and work jointly on what needs to be done.</p> <p>Your description of 'steps' makes the consultation/engagement sound rather process-driven whereas this is need not be case in our view.</p> <p>We agree that the target equality groups should be involved, but that involvement needs to be done consistently and should be meaningful (i.e. their views taken on board and recorded) and should make the groups feel they have been allowed to make a positive contribution, rather than being involved peripherally.</p>
<p>Q16: Do you think that imposing specific equality duties on contracting authorities in relation to their public</p>	<p>Yes, but that duty, bearing in mind how much out-sourcing is happening, needs to be detailed and be centred around the information sought from public agencies under the RRAA 2000</p> <p>The GEO would do well to follow the example of Peterborough's CTPB where the</p>

<p>procurement activities are needed, or are the best way to help deliver equality objectives? Do you think such an approach should be pursued at this time?</p>	<p>importance of having a diverse supply base is emphasised.</p> <p>We are also concerned that it should be emphasised that the responsibility remains that of the public agency concerned. Our main concern is the evidence we have seen in the last 3 years about the poor treatment of BME staff in outsourced services. And the lack of employment opportunities for the local Gypsy and Traveller communities.</p>
<p>Q17: Do you agree that contracting authorities should be required to state how they will ensure equality factors are considered as part of their procurement activities?</p>	<p>Yes, but PREC's position is already clear in our answer to Q16. The duty should be detailed, specific and relied upon in any breach of service or employment issues.</p> <p>PREC remains unconvinced that there will otherwise be a will to tackle procurement equality issues seriously because the CRE, EHRC and the central governments have said how important this is but little of substance has been implemented on contract compliance since the 1980s and outside of the GLA (the West Midlands experiment is not as successful as claimed). In the meantime, procurement has accelerated hugely.</p> <p>The current proposed light touch will not work in our view and will continue to be a cause for concern for equality target groups in terms of both employment as well as service delivery.</p>
<p>Q18: Do you agree that contracting authorities should be required to consider using equality-related award criteria where they relate to the subject matter of the contract and are proportionate?</p>	<p>Yes, as long as clear standards are laid down and are done as part of EIAs and a clear specific duty is laid down..</p> <p>What do you mean by proportionate?</p>
<p>Q19: Do you agree that contracting authorities should be required to consider incorporating equality-related contract conditions where they relate to the performance of the contract?</p>	<p>Yes – this would be done through EIAs or under the information sought from public agencies on employment under the RRAA 2000. However, we do not support they merely consider equality issues; procurement is use of public money and there should be clear audit trails on how they deliver on all equality issues.</p>
<p>Q20: What would be the impact of an regulatory proposal aimed at dealing with suppliers who have breached discrimination law? What might be the benefits, costs and risks?</p>	<p>Breaches of the law will need to be dealt with by the contracting authority. Protection against it would come from detailed monitoring of the employment as well as service matters.</p> <p>The benefits would be that by taking firm action, no contractor or out-sourced will ignore the importance of making sure that procurement is not only about the bottom line but about high service standards and protecting services to the most needs and vulnerable people in our society.</p> <p>The costs would be incurred by the contractor or the public agency concerned and rightly so. There are no perceived risks in implementing the equality laws of the land.</p> <p>The main risks are that the quality of service must not be allowed to suffer and that contracts should be awarded to those with an good track record of delivering quality services with equality at the forefront.</p>
<p>Q21: Do you support the proposal to establish a national equality standard which could be used in the procurement process? If so, do you believe this is achievable through a</p>	<p>Yes, provided it is not as repetitive and overbearing as the Eq Standard for Local Government.</p> <p>Ultimately, the issue is about implementing a good and high standard of equality legislation. The current view about implementing equality 'lightly' is misguided and will not work- the proof is the difference in s 71 of the revised RRAA 200 compared to the</p>

<p>specific duty or is this better tackled through a non-legislative approach? Are there any practical issues that would need to be considered?</p>	<p>little progress made between 1977 and 2001.</p>
<p>Q22: Which of the above four models do you consider achieves the best balance between joined-up working and senior accountability for equality outcomes, while avoiding unnecessary burdens? Please explain why.</p>	<p>Having the 3 year cycle as under the current DDA and the RRAA is the best approach. It is proportionate and detailed enough to ensure that equality issues are taken seriously without being too process-driven or asking for the impossible.</p> <p>Collection of essential data and monitoring this is crucial as is the practice of carrying out EIAs regularly.</p> <p>Once again, PREC is concerned about emotive language used, implying that equality is burdensome and cost-heavy. That is not our experience.</p>
<p>Q23: Do you have any other suggestions how this duty could be remodelled to retain the valuable features of senior accountability and joined-up working, whilst avoiding unnecessary burdens?</p>	<ul style="list-style-type: none"> • The government needs to give far better leadership on equality issues, if this was done, others would follow the leadership example • Engagement with and involvement of the equality target groups is important • Expectations of councillors and chief officers that equality is crucial for cohesion needs to be bedded down
<p>Q24: Are there any specific requirements, other than those that we have proposed, which you think are essential to ensure that public bodies deliver equality outcomes in an effective and proportionate manner?</p>	<ul style="list-style-type: none"> • Collection, collation and monitoring of data to show that equality is achieved are crucial. • Rewarding those who provide the best results and shaming those who don't is not only effective but cost-effective. • Leadership by public agencies is important, as is inspecting of equality outcomes by the AC, NAO , IPCC, Ofsted, etc • Inclusion of a duty on the private sector not to discriminate and to promote good relations is essential • Victims of discrimination should be allowed to have recourse to public funds to take culprits/offenders to court; over 97%of our clients who can potentially win case can't do so because they do not have the means. This should be changed so that there is a better chance for such victims to have their cases heard in court. • Positive action criteria should be clarified since both S5 and s 7 of the RRA/SDA respectively need clarification. • What about the duty to promote cohesion and getting this 'anomaly' included in the equality laws?
<p>Q25: What role do you think the guidance from EHRC should play in helping public bodies implement the specific duties in a sensible and proportionate manner? What do you think it would be helpful for such guidance to cover?</p>	<p>The guidance should be clear, detailed and clearly lay down expectations, rewards and the cost of non-compliance.</p>