

# Towards Equality and Diversity

Implementing the Employment and Race Directives

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Equality is an integral part of a civilised society – and of a strong and successful Britain. We want to make our society one in which people are given the best possible opportunity to make a success of their lives, whatever their background. Everybody has a valuable contribution to make. Our challenge is to unlock the talents and potential of all our citizens.

The last Parliament saw significant developments. We pressed forward, for example, with proposals to ensure that people with disabilities have access to work and services. We created the Disability Rights Commission to promote and enforce civil rights for disabled people. We introduced a common age of consent for gay men and heterosexuals. We set in place the minimum wage as a vital step for all low-paid workers, but especially women, narrowing the pay gap by 2 percentage points – the first progress for many years. We brought in the New Deal to help young and long term unemployed, workers over 50, lone parents and disabled people.

We also acted decisively in the wake of the Stephen Lawrence Inquiry. We amended Britain's race equality legislation to make race discrimination unlawful when carrying out public functions. We also placed a duty on public authorities to promote race equality as a natural part of their work. In this second term, we will now build on these measures in order to promote a change in culture.

### **Changing culture at work**

In part, this consultation paper is about modern employment. It is about the rights and responsibilities of both individuals and employers, and the benefits which they derive from good working practices.

The reality is that fairness at work and productivity go hand in hand. Equality is about recognising and getting the right people for the job. It is about effective working relationships and good delegation. And, where things begin to go wrong, it is about resolving issues quickly and fairly for both parties. The best employers already know that they need to use the qualifications and skills of all sections of their workforce. And they recognise – indeed, they can demonstrate - that a diverse workforce can give them a competitive edge in meeting the demands of a broad customer base.

Changing culture takes time. Encouraging more employers to adopt the standards of the best will require good advice and practical support. We shall, for example, be providing down-to-earth guidance through the Small Business Service and services like Equality Direct, made available in a way which is easy to access and understands the demands made of managers.

### **Tackling discrimination**

We also need to have a clear, shared understanding of basic minimum standards. Put simply, unfair discrimination – whether at the point of recruitment, in conditions of employment or through harassment – is wrong. It can have a devastating impact on the lives of individuals. It also imposes huge costs on business and the economy more generally every year. These costs may not always be highly visible – but discrimination inevitably undermines companies' efficiency, productivity and ability to compete. In that situation, everyone loses. It was for all these reasons that European member states took action to establish a common framework for protection against discrimination. This Government played a leading role in negotiations – and we welcome the result.

We plan to implement the European Community Employment and Race Directives during the course of this Parliament. This will involve amending our existing legislation on race and disability, and introducing entirely new legislation to outlaw discrimination on grounds of age, sexual orientation and religion in employment and training. These directives will not be the end of the road on equality. We must be alert to change – and will want to review the impact of new legislation, as well as the effectiveness of the support and guidance we provide, in the light of experience.

### **Getting it right**

For the immediate future, implementing this framework is a significant undertaking and we need to allow time to get it right. And to get it right, we need to hear your views. We believe that it is particularly important for individuals and for employers to understand the combined effect of our proposals.

That is why we are consulting at this early stage on a number of key issues in the same document. But this is not your final chance to influence policy. We will ask for your views again, in due course, about subjects such as age discrimination, in the light of further work. And we will be consulting on draft regulations and guidance too. Throughout the process, we will be working to ensure that the links between this and other legislation are made clear.

I look forward to hearing your views.

**Barbara Roche**  
Minister of State, Cabinet Office

# The Race and Employment Directives

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## Scope of directives

- S1. The Employment and Race Directives were adopted under Article 13 of the EC Treaty by the UK and other European member states in 2000. Together, they provide a common framework of protection against discrimination and harassment.
- (a) *The Employment Directive (2000/78/EC)* prohibits discrimination in the context of sexual orientation, religion or belief, disability and age. It covers conditions for access to employment, self-employment and occupation, including selection criteria and recruitment conditions; working conditions, including dismissals and pay; vocational guidance and training; and the membership of employers' and workers' organisations or professional bodies.
  - (b) *The Race Directive (2000/43/EC)* prohibits discrimination on the grounds of race and ethnic origin. It covers the same areas as the Employment Directive and, in addition, social protection (including social security and healthcare); education; goods and services available to the public, including housing; and social advantages (which covers things like housing benefit, student maintenance grants and loans, bus passes for senior citizens etc).
- S2. There are a number of important points to note about the scope of the Directives:
- (a) they apply to both the public and private sectors, regardless of the size of the organisation (there is no small firm exemption). The armed forces can, however, be excluded from legislation implementing the provisions on age and disability;
  - (b) "pay" is likely to include all types of remuneration and fringe benefits such as performance-related pay, group insurance (e.g. private health care insurance provided as part of an employment package) and occupational pensions;
  - (c) all state benefits (including state pensions) are excluded from the scope of the Employment Directive. The Directive also allows member states to provide that fixing ages for occupational pension schemes and, in this context, the use of age criteria in actuarial calculations should not be regarded as age discrimination;
  - (d) "access to employment" covers employment agencies – and bodies which award licences or qualifications needed to carry out a particular job (e.g. the Public Carriage Office which licenses taxi drivers in London);
  - (e) "vocational training" has a wide meaning. It covers not only in-house training provided by an employer, but also courses or studies which provide training for jobs or professions – including most university degrees and many other further and higher education courses (for example, teacher training courses).

## What the Directives mean for Great Britain

- S3. We intend to implement the Employment and Race Directives by:
- (a) amending the Race Relations Act (RRA) and Disability Discrimination Act (DDA). Most of the changes will be technical in nature. Although the DDA's exemption for small firms will have to be removed, we had already proposed to do this;
  - (b) introducing new legislation to prohibit discrimination in work and training on grounds of sexual orientation, religion and age.

## Our approach to implementation

- S4. Our approach to implementing the Directives is guided by three main principles:
- (a) To develop practical, workable and effective legislation which fully meets the standards required by the Directive and will have a real impact in removing unfair discrimination and improving people's lives – but without stifling business with unnecessary burdens.
  - (b) To seek greater coherence where possible between strands (e.g. race, religion, age, etc) so that rights and obligations are easier for individuals and employers to understand. Wherever sensible and practical, we aim to ensure that requirements in new and existing legislation contain the same or similar concepts and wording. We will implement groups of legislation together where practicable.
  - (c) To ensure that sufficient time is given to employers, employees and other interested parties to consider our proposals for implementing the Directives; to respond to consultation at each stage; and to prepare for their implementation.

## Next steps

- S5. After publishing this paper, we will:
- (a) respond to questions by making additional briefing available via the internet or through our freephone consultation lines. We want the consultation process to be dynamic. We will continue to take soundings with representative groups after the formal deadline has passed, so that implementing legislation is well-informed;

- (b) prepare more detailed proposals on sexual orientation, religion and age as the basis for further consultation. We will consult, in addition, on guidance on each subject;
- (c) allow employers at least three months before legislation comes into force to consider the guidance and make any changes needed to their policies and working practices.

S6. We intend to prepare separate items of legislation for each of the strands and to use regulations under Section 2(2) of the European Communities Act 1972 to implement the Directives where practicable. This will help us to manage the process of implementation in a way which allows sufficient time for consultation and preparation, but without missing important deadlines.

### Timetable

S7. Legislation on race, sexual orientation and religion will be implemented first, in the second half of 2003. Our proposed timetable is as follows:

29 March 2002	Consultation ends
Second half of 2002	Consultation on draft regulations (3 months)
First half of 2003	Lay regulations before Parliament
	Consultation on draft guidance (3 months)
	Publication of guidance

S8. For the other strands:

- (a) **Disability.** We are ending the exemption of small employers from the DDA in October 2004 and also propose to make the other changes to the DDA required by the Employment Directive at the same time. These will include ending other occupational and employment exemptions and omissions from the DDA mentioned in *Towards Inclusion*.
- (b) **Age discrimination.** Along with other European member states, we argued that a longer period (until 2006) should be available to implement the age provisions of the Employment Directive. We plan to prepare legislation and publish guidance well before December 2006 to ensure that employers have good time to prepare.

- S9. An amendment to the EU Equal Treatment Directive (which covers **sex discrimination**) is likely to be agreed amongst European member states by the end of the year. We expect that the deadline for its implementation will fall into the early part of 2005. If practicable, we shall look to implement any necessary changes to the SDA at the same time as introducing new legislation on age.

## Some general issues for consultation

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- S10. We are particularly interested in your views on the following general issues. Please do take the time to read through the proposals which follow and let us know what you think, using the enclosed questionnaire.

### Direct discrimination

#### The Directives

- S11. Both Directives state that direct discrimination occurs where “one person is treated less favourably than another is, has been or would be treated in a comparable situation” on any of the grounds of discrimination covered by the Directives. In other words it means a difference of treatment simply because of a person’s race, sexual orientation, religion or belief, disability, or age, rather than (for example) a person’s competence to do a particular job
- S12. The Employment Directive also contains a recital (no. 17) which makes clear that the Directive does not require a person to be recruited, promoted, kept in employment, or given training “where he or she is not competent, capable or available to perform the essential functions of the post concerned or to undergo the relevant training” (except where – in the case of a person with a disability – he or she can be made capable, competent or available by means of a reasonable adjustment).
- S13. Except in relation to age, differences of treatment based directly on one of the grounds covered by the Directives can be justified only in limited circumstances – in particular, where it is a “genuine and determining occupational requirement” that a job be done by a person of a particular racial group, religion etc.
- S14. There is a more general provision allowing differences of treatment directly on the basis of age to be justified in certain circumstances.

### Existing legislation

- S15. The RRA contains a definition very similar to the one in the Directives. So, for example, employers commit direct discrimination under the RRA where on racial grounds they treat an employee less favourably than they would treat another employee in comparable circumstances. The approach of the DDA is rather different.
- S16. We do not propose to make any amendment to the definition of direct discrimination in the RRA. And we intend to apply the RRA definition in the new legislation on sexual orientation, religion or belief, and age. The definition of discrimination in the DDA will require only minor alterations to make it clear that direct discrimination in the narrow sense used by the Employment Directive cannot be justified. **Do you agree with this approach?**

## Indirect discrimination

### The Directives

- S17. Both Directives state that indirect discrimination occurs where an apparently neutral “provision, criterion or practice” would put persons of a given group (e.g. members of a racial or religious group) at a particular disadvantage compared with other persons, unless the provision, criterion or practice can be objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.
- S18. This is supplemented by a recital in each directive which says:
- “The appreciation of the facts from which it may be inferred that there has been direct or indirect discrimination is a matter for national judicial or other competent bodies, in accordance with rules of national law or practice. Such rules may provide in particular for indirect discrimination to be established by any means including on the basis of statistical evidence.”

### Existing legislation

- S19. Once again, the DDA uses a different approach. Under the RRA, indirect discrimination occurs where a **requirement or condition** is applied which:
- (a) a **considerably smaller proportion** of persons of a particular racial group are able to comply with when compared with persons not of that group;
  - (b) cannot be justified by the employer (or other person applying the requirement or condition) irrespective of racial grounds; and
  - (c) is to the detriment of the complainant.

## Our proposal

- S20. **Option 1.** To incorporate the formulation used in the Directives' definition (or something very similar) in new legislation on age, sexual orientation and religion, and in legislation to amend the RRA. We might also use this definition in the DDA in certain the limited circumstances. It could also be adopted in the SDA, provided that this is in line with the Equal Treatment Amendment Directive which is currently being negotiated in Brussels.
- S21. A single definition of indirect discrimination should remove some of the complexities facing individuals and business when allegations of multiple discrimination arise: for example on grounds of race and religion. Having a single definition might also help save training and other costs for business.
- S22. **Option 2.** The definition used in the Directives would still be adopted in new legislation to cover sexual orientation, religion, age and, in certain limited areas, disability. But the existing RRA definition would be left intact, subject to the following minor adjustments:
- (a) "requirement or condition" would be expanded to cover "provision, criterion or practice" (the wording used in the Directive); and
  - (b) it would be made clear that a complainant could seek to establish whether "a considerably smaller proportion" of his or her racial group was able to comply with the provision, criterion or practice in comparison with other groups, by means which do not rely on an analysis of statistical evidence.
- S23. This option would have the benefit of minimising the changes to the RRA, but the revised definition would then be inconsistent with the one used in the new legislation on sexual orientation, religion and age. In our view, it would not be practicable to apply the RRA definition, as so amended, to the new legislation on sexual orientation, religion and age – or in the DDA.
- S24. Either option 1 or option 2 would mean that informal practices, as well as formal requirements and conditions, would fall within the definition of indirect discrimination. Moreover, comparative disadvantage to particular groups could be proved by evidence which did not depend on compilation of statistics. We therefore believe that both options would enhance the protection available to individuals, but option 1 is likely to have longer-term benefits to businesses and individuals.
- S25. **The choice is, therefore, between a consistent definition across all the grounds of discrimination (option 1), or one which would minimise changes to current law (option 2). Which do you prefer?**

## Harassment

### The Directives

S26. Both the Race and Employment Directives specify that harassment is to be treated as a form of direct discrimination when unwanted conduct based on a ground of discrimination covered by either Directive takes place:

“with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment”.

S27. The Directives go on to say that, in this context, “the concept of harassment may be defined in accordance with the national laws and practice of the member states”.

### Existing legislation

S28. The RRA and SDA do not specifically refer to harassment, but it is clear from case law that racial or sexual harassment is a type of detriment capable of amounting to less favourable treatment prohibited by the Acts. Employment Tribunals normally define harassment as unwanted conduct of a racial or sexual nature or other conduct based on race or sex affecting the dignity of men and women at work.

S29. Similarly, the DDA does not expressly mention harassment, but it does prohibit discrimination against persons with disabilities “by subjecting them to detriment”.

### Our proposals

S30. We have identified two options for implementation:

**Option 1.** In relation to sexual orientation, religion, disability and age, harassment could be defined by using the formulation set out in Article 2.3 of the Employment Directive. This would mean that, in order to establish that harassment had occurred, a complainant would have to show that:

- (a) he or she had been the victim of unwanted conduct based on one of the grounds of discrimination concerned;
- (b) the conduct had been intended to violate his or her dignity, or that it actually did have that effect; and
- (c) the conduct had been intended to create an intimidating, hostile, degrading, humiliating or offensive environment for him or her, or that it actually did have that effect.

- S31. In harassment cases under the RRA, a complainant need prove only items (a) and (b). The Directives' definition is therefore stricter.
- S32. It is not open to us to incorporate that definition in the RRA because Article 6.2 of the Race Directive says that the level of protection against discrimination must not be reduced. Under option 1, we would therefore not intend to make any specific amendment to the RRA in relation to harassment. Tribunals would continue to apply their existing approach when determining whether harassment had occurred.
- S33. Option 1 would have the advantage of minimising changes to the RRA. Existing, familiar case law on racial harassment could continue to be applied. Legislation on the new grounds of discrimination would incorporate the clear Employment Directive definition, although this is a stricter test than that applied under the RRA.
- S34. **Option 2.** This would involve applying a consistent definition of harassment across all the grounds of discrimination covered by the Directives. We would do this by enshrining the existing case law definition (see above) in the RRA. We have in mind that the effect of the new provision would be that harassment (as so defined) constituted discrimination. We would incorporate very similar provisions in the new legislation on sexual orientation, religion and age. We would also explicitly outlaw harassment in the DDA in a way which took account of its different approach to tackling discrimination.
- S35. We are also thinking of making it clear in the RRA, DDA and the new legislation that, when deciding whether conduct amounts to harassment, Tribunals should consider whether a reasonable person would have regarded the conduct concerned as violating the dignity of the complainant.
- S36. An advantage of the Option 2 definition is that it should make it easier to deal with cases involving allegations of harassment on multiple grounds (e.g. where an employee suffered harassment because he was both black and gay). And in overall terms, the test for deciding when harassment has occurred would be more straightforward than under Option 1.
- S37. The Equal Treatment Amendment Directive is currently being negotiated in Brussels. This is likely to include a specific definition of harassment which we will need to reflect in the SDA. Depending on the final outcome of the negotiations, it may be possible to use the option 2 definition in the SDA.

**Do you favour option 1 or option 2? Please say why.**

**If you prefer option 2, would you support the idea that Tribunals should assess whether "a reasonable person" would have regarded the conduct in question as harassment?**

## Promoting equal treatment

### The Directives

S38. The Race Directive requires member states to designate a body or bodies to “promote” race equality, and to assist individuals to pursue complaints. The Employment Directive does not have a corresponding requirement.

### Existing legislation

S39. Great Britain has already established the Commission for Racial Equality, as well as the Disability Rights Commission and the Equal Opportunities Commission (responsible for gender issues and equal pay for men and women).

### Our proposal

S40. We believe that, in the longer term, there are arguments in favour of a single, statutory commission offering integrated advice, guidance and support on equality matters. That would be in the interests of businesses and individuals, particularly those who are the subject of multiple discrimination. It would also help to ensure a coherent approach to equality issues across the board.

S41. We are, however, clear that a major change of this nature cannot be achieved effectively in the short term. In particular, the Disability Rights Commission is a young organisation, established as recently as April 2000. It needs time to establish its services to support the continuing implementation of the DDA. We also want to learn from the experience in Northern Ireland where a single commission was established in the same year.

S42. We therefore propose to develop transitional arrangements that will enable us to move towards a single commission in the longer term. Meanwhile, paragraphs S43 to S49 set out how advice, guidance and support might be provided on the new grounds of discrimination.

## Advice, guidance and support

### The Directives

S43. Both Directives require member states to take care that details of implementing legislation should be brought to the attention of those with an interest.

S44. As mentioned above, the Race Directive requires member states to designate a body to promote race equality, to give advice and to assist individuals in pursuing complaints. But there is no corresponding requirement in the Employment Directive.

## Existing legislation

S45. The Commission for Racial Equality and the Disability Rights Commission already have powers to issue guidance, and to provide advice to individuals, businesses and others, in relation to the provisions of the RRA and DDA respectively.

## Our proposal

S46. Although not required by the Employment Directive, we consider it important that individuals should have access to practical advice and support if they believe that they have been the subject of unlawful discrimination on the grounds of sexual orientation, religion or belief, or age.

S47. We therefore think that written guidance should be available so that individuals, employers and others are aware of their rights and responsibilities under the legislation dealing with these new grounds. We propose that guidance should be prepared or commissioned by the Government, and that drafts will be the subject of consultation before a final version is published at least three months before new legislation comes into force.

S48. **Which organisations, in your view, should be involved in helping to prepare practical guidance for the use of both business and individuals?**

S49. In our view, individuals should also be able to obtain advice about ways of resolving difficult situations at work or, if there is a clear case of discrimination, how to make a formal complaint. This kind of advice is already available from: ACAS regional telephone centres; Citizens Advice Bureaux and trade unions; and the Equal Opportunities Commission, Commission for Racial Equality and Disability Rights Commission under the current equality legislation. Business can also get impartial advice from the Equality Direct telephone advice service.

**What arrangements should be made available to provide support in these areas on the new grounds of age, religion and sexual orientation?**

## **Occupational Requirements**

### The Directives

S50. When transposing the Race and Employment Directives, member states have an option to provide that differences in treatment based on a characteristic related to a particular racial or ethnic origin, sexual orientation, religion or belief, disability or age can be justified where having that characteristic is "a genuine and determining occupational requirement", but only where "the objective is legitimate and the requirement is proportionate."

### Existing legislation

- S51. Section 5 of the RRA specifies circumstances where it may be a genuine occupational qualification for a job to be carried out by someone of a particular racial group. These include reasons of authenticity, in a dramatic performance or other entertainment for example, or for authenticity as an artist's or photographer's model. Also section 4(3) exempts employment in a private household from the provisions of the Act.
- S52. The DDA already ensures that employers and others can seek to justify employing someone because they have a particular disability.

### Our proposal

- S53. We do not propose to include a list of permissible occupational requirements as part of new legislation on sexual orientation, religion or belief and age. We think that this approach would be too inflexible. It would be very difficult to specify every possible circumstance when a genuine occupational requirement may arise.
- S54. Instead, we propose that there should be a provision of general application, allowing employers to recruit staff on the basis of a "genuine occupational requirement" in the rare situation where they could show that it was an essentially defining feature of the job for the employee to be of a particular sexual orientation, religion or belief, or age. It will then be a matter for Employment Tribunals and the Courts to judge whether the criteria set out in the legislation have been met in particular cases. We propose to give written guidance listing some examples of the circumstances in which employers could rely on this limited exception.
- Do you agree?**
- S55. For the same reasons we propose to delete sections 4(3) and 5 of the RRA. In their place, we will provide that membership of a particular racial or ethnic group could be a genuine occupational requirement where it is an essentially defining feature of a job. **Do you agree?**
- S56. We do not propose to make any amendment to existing provisions of the DDA.

## **Strand specific issues**

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- S57. The full consultation document also seeks views on a number of issues which relate to each of the particular 'strands' of equality legislation: race, sexual orientation, religion, disability and age. These are summarised below. Responses to these questions will help us frame clear and workable legislation, supported by written guidance which meets your needs.

## Race

S58. Amendments to the RRA resulting from the Directive are unlikely to impact heavily on companies as the business case for diversity is now widely recognised. The RRA has been in force for 25 years and employers are well used to its principles. The main consultation document consults on technical changes to the RRA which will affect:

- seamen recruited abroad;
- training for those not ordinarily resident in the UK;
- charities as employers and providers of goods and services;
- partnerships of fewer than six people;
- the disposal and management of small dwellings.

## Sexual orientation

S59. We shall prepare draft regulations as the basis for further, detailed consultation about discrimination on grounds of sexual orientation next year. In the main consultation document, we:

- propose to define discrimination on the grounds of “sexual orientation” as discrimination against an individual on the grounds that he or she is of “heterosexual, homosexual or bisexual orientation”;
- ask for views on harassment, and whether the proposed definitions proposed in paragraphs S30 to S37 cover the range of behaviour which gay men and lesbians, in particular, believe to be unfair discrimination;
- discuss the implications of the Directive for benefits available to opposite and same sex partners under occupational pension schemes. The main document explains why rules which restrict benefits to surviving spouses (in contrast to unmarried partners) are allowable under the Directive.

## Religion and belief

S60. We shall prepare draft regulations as the basis for further, detailed consultation about discrimination on grounds of religion and belief next year. In the main consultation document, we:

- propose not to define the term “religion and belief”, except to say that belief should be taken to refer to a religious or similar belief, and not political belief;

- ask for views about issues such as leave for religious observance and rules about uniform or dress;
- discuss the exemption which will allow religious organisations to pursue employment policies necessary to preserve their ethos;
- explain the impact of the Employment Directive on employment in religious schools in England and Wales and Scotland.

## **Disability**

- S61. Earlier this year, we proposed important changes to the Disability Discrimination Act (DDA) in response to recommendations from the Disability Rights Task Force. These changes anticipated the most significant amendments required by the Employment Directive. They include ending the exemption from the DDA's employment provisions for employers with fewer than 15 employees. The Government is already committed to do this by October 2004.
- S62. In the main consultation document, we explain what other changes we need to make to the DDA in light of the Directive, and in particular discuss options for amending the provisions of the DDA concerning:
- performance pay;
  - occupational pensions;
  - group insurance (e.g. private health insurance provided to employees as part of their remuneration package);
  - bodies which award licences or qualifications needed to carry out particular jobs.

## **Age**

- S63. In contrast to the position under the other grounds, the Directive allows for differences of treatment based directly on a person's age where they can be to be objectively and reasonably justified. The challenge for implementation is to identify which types of treatment are acceptable and which are not.
- S64. With that in mind, we intend to introduce age legislation on a longer timetable than equivalent legislation on sexual orientation and religion or belief. We will also carry out a second consultation exercise on age in the second half of 2002. In the meantime, the main consultation document seeks your views on a number of issues, including:
- experiences of indirect or direct discrimination on grounds of age;
  - the circumstances, if any, in which employers might legitimately refuse to recruit, train or promote simply someone because of their age;

- circumstances when it may be legitimate to recruit someone of a particular age;
- whether favourable treatment in the form of voluntary retirement or redundancy packages for older workers should continue to be permitted;
- whether employers should be able to fix the retirement age of their employees.

# Annex A: Costs and benefits

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## Costs and benefits

A1. We have prepared detailed analysis of the potential costs and benefits of implementing the Race and Employment Directives. This is available from the DTI website at [www.dti.gov.uk/er/equality](http://www.dti.gov.uk/er/equality). A summary of the costs and benefits for business are given below. As part of the consultation exercise, we would welcome comments about the figures, or the assumptions and methodology used in this initial analysis.

## Costs and benefits for business

A2. The total compliance costs for each element of the Directive are presented in the following table, together with those benefits which can be expressed in financial terms.

	One-off cost (£ million)	Annual recurring cost (£ million)	Benefits (£ million)
Race	0.0	0.5	
Sexual orientation <sup>1</sup>	23.0	4.5 <sup>1</sup>	5– 52
Religion/belief <sup>2</sup>	45.0	44.0 - 80.0	13 – 103
Disability	Minimal <sup>3</sup>	Minimal	
Age	152.0	138.0	84– 412
<b>Combined</b>	220.0	187.0 - 223.0	102 – 567

## Total costs

A3. The one-off cost of all the elements is estimated to be £220 million. This takes into account the fact that joint introduction of elements where this occurs will reduce the total costs of familiarisation with the legislation. These “diminishing marginal costs” are considerable. They are explained in the detailed impact assessment. Recurring costs total between £187 and £223 million when all the elements come into force from December 2006 onwards.

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<sup>1</sup> £31 million if pensions included.

<sup>2</sup> Some of the costs under religion as well as under sexual orientation have not been quantified.

<sup>3</sup> This is because the significant changes to the DDA appeared in the Regulatory Impact Assessment for *Towards Inclusion* published on 5 March 2001. The cost of removing the exemption for small firms was estimated to be £4.7 million.

### Costs for a typical business

- A4. There are about 25 million employees in Great Britain. The average cost of implementing our proposals is therefore around £9 per employee. Some of these implementation costs – those related to reading guidance for example - do not depend on the number of employees within the business. In total there are 1.4 million employers in Great Britain. The average cost per employer is £157.
- A5. Training costs are another important factor. These depend on the size of the employer. Per employee, they are estimated to be £150 per day training. In total, recurring costs average at £134 to £159 per employer once all the strands have been introduced.

### **Impact on small business**

- A6. Some of the implementation costs do not depend on the size of the firm. The owner manager of a firm with 20 employees will have to read the guidance, just as the personnel manager of a large firm will.
- A7. Apart from this, the likely impact on businesses is generally proportional to the number of employees who are covered by new or amended legislation, but with some exceptions.
- (a) To the extent that smaller businesses are more likely to recruit and promote on an informal basis, they may need to make greater changes in order to meet the Directives. This applies to all five strands: race, sexual orientation, religion, disability and age.
  - (b) Costs arising from complaints and Tribunal cases may impose a greater burden on smaller businesses as they will have less resource to deal with these complaints. This applies to all five strands.
  - (c) Adjustment costs under religion or belief, such as accommodating for dietary requirements, will impose a greater burden on smaller businesses as the cost per worker of such provisions will be greater.

### General benefits

- A8. In addition to the costs and benefits highlighted above, there are overall benefits to society in facilitating a more diverse workforce. These include:
- (a) greater fairness. Legislation on sexual orientation, religion and age will offer new protection against discrimination in employment and training, in a similar way to existing GB legislation;

- (b) promoting greater social inclusion, through wider employment and training opportunities, which is necessary for a diverse and tolerant society;
- (c) increased labour market participation by all groups and therefore increased efficiency of the labour market.

A9. It is difficult to attach a monetary value to these, but they do have implications for the competitiveness and prosperity of businesses and the economy more generally. A more inclusive society ensures that more people are able to use their talents and fulfil their potential in work. It provides a stable environment in which businesses can prosper.

# Annex B: About this consultation

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## Scope of consultation

- B1. This paper invites views about new and amending legislation which will apply to England, Scotland and Wales. We welcome responses from organisations based in Great Britain; anyone resident or working in Great Britain; from business overseas employing staff in Great Britain; or anyone else who thinks they may be affected by new legislation. Responsibility for implementing the employment and race directives in Northern Ireland rests with the Office of the First Minister and Deputy First Minister.

## Questions about the consultation

- B2. We would be happy to answer your questions about issues raised in this paper or about the process of consultation itself. Please call one of the following freephone numbers:

General issues	0800 028 8078
Race	0800 528 0039
Sexual orientation	0800 028 8076
Religion	0800 028 8074
Disability	0800 587 2314
Age	0800 028 8066
Minicom (all issues) for people with hearing impairments	0207 712 2492

## Access to information and alternative formats

- B3. We are committed to open consultation. A complete copy of this document, an on-line questionnaire and a shorter summary version are available in English and Welsh. [www.dti.gov.uk/er/equality](http://www.dti.gov.uk/er/equality). The website includes links to versions in Arabic, Hindi, Chinese and Gujarati. It also holds a copy of the version prepared for people with learning disabilities. All of these, together with documents in Braille, large print and on tape are available on request (see below).

## Consultation deadline

- B4. This consultation exercises closes at the end of March 2002. Please let us have your responses before then.

## How to respond

- B5 A questionnaire is enclosed as part of this pack. Please do take time to complete the relevant parts if you can. It should be returned to the following address shown on the form. Alternatively, you might find it easier to complete the form by downloading a copy from the DTI website – [www.dti.gov.uk/er/equality](http://www.dti.gov.uk/er/equality) – and returning it by Email to [equality@dfes.gsi.gov.uk](mailto:equality@dfes.gsi.gov.uk). If you have a visual impairment and wish to respond orally, please telephone 0800 0288078.

## How to order further copies of this document

- B6 In addition to internet access, further copies of this document can be obtained from publications order lines as follows:

Format	Contact	Reference code
Full consultation document (English)	Prolog	URN01/1466
Full consultation document (Welsh)	Prolog	URN01/1469
Summary document (English)	Prolog	URN01/1471
Summary document (Welsh)	Prolog	URN01/1472
Braille	Prolog	URN01/1468
Version for people with a learning disability	Prolog	URN01/1473
Audio cassette	Prolog	URN01/CAS15
Large print	DTI	URN01/1470
Full document on floppy disk	DTI	URN01/1474

### To order from Prolog:

Phone: 0845 60 222 60

Fax: 0845 60 333 60

Email: [dfes@prolog.uk.com](mailto:dfes@prolog.uk.com)

### To order from DTI:

Phone: 0800 0288078

Fax: 020 7215 0168

Email: [simon.conroy@dti.gsi.gov.uk](mailto:simon.conroy@dti.gsi.gov.uk)

## Government's code of practice on consultation

- B7 This exercise follows the Government's Code of Practice on consultation.

## Commenting about the consultation process

- B8 If you have views about the way in which we have carried out this consultation process, or suggestions for future exercises, please write to: Andrew Dobbie, Regulatory Impact Unit, Department of Trade and Industry, 1 Victoria Street, London SW1H 0ET.

## Annex C: Current sources of advice

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If you believe need advice about tackling discrimination or promoting diversity – whether as a manager or an individual – you can already find help from one of more of the following sources.

Service	Description	Contact Details
ACAS	Advisory, Conciliation and Arbitration Service (ACAS) are the employment relations experts, helping people work together effectively. ACAS can help provide impartial information and help, preventing and resolving problems between employers and their workforces, settling complaints about employees' rights, and encouraging people to work together effectively.	<p><b>England</b> 0121 456 5856</p> <p><b>Scotland</b> 0141 204 2677</p> <p><b>Wales</b> 029 2076 1126</p> <p><a href="http://www.acas.org.uk">www.acas.org.uk</a></p>
Citizens Advice Bureau	The Citizens Advice Bureau service offers free, confidential, impartial and independent advice on problems which are central to people's lives. These include debt and consumer issues, benefits, housing, legal matters, employment, and immigration. Advisers can help fill out forms, write letters, negotiate with creditors and represent clients at Court or Tribunal.	<p><b>England and Wales</b> 020 7833 2181 <a href="http://www.nacab.org.uk">www.nacab.org.uk</a></p> <p><b>Scotland</b> 0131 667 0156 <a href="http://www.cas.org.uk">www.cas.org.uk</a></p>
Commission for Racial Equality	The Commission for Racial Equality is a publicly funded, non-governmental body set up under the Race Relations Act 1976 to tackle racial discrimination and promote racial equality.	<p><b>England</b> 020 7828 7022</p> <p><b>Scotland</b> 0131 240 2600</p> <p><b>Wales</b> 0292 038 8977</p> <p><a href="http://www.cre.gov.uk">www.cre.gov.uk</a></p>

Service	Description	Contact Details
Disability Rights Commission	The Disability Rights Commission (DRC) is an independent body set up by the Government to help secure civil rights for disabled people.	08457 622 633 <a href="http://www.drc.org.uk">www.drc.org.uk</a>
Equal Opportunities Commission	The Equal Opportunities Commission (EOC) is an agency working to eliminate sex discrimination in 21st Century Britain.	<b>England</b> 0161 833 9244  <b>Scotland</b> 0141 248 5833  <b>Wales</b> 029 2034 3552  <a href="http://www.eoc.org.uk">www.eoc.org.uk</a>
Equality Direct	This service is designed to give business managers easy access to authoritative and joined-up advice on a wide range of equality issues.	0845 600 3444  <a href="http://www.equalitydirect.org.uk">www.equalitydirect.org.uk</a>
RREAS	The Race Relations Employment Advisory Service (RREAS) is part of the Advisory, Conciliation and Arbitration Service (ACAS). The service provides free and confidential strategic advice to employers and others so that they can develop and implement policies and practices for racial equality among the workforce. It is a national service with a team of advisers based throughout the country to ensure local expertise is available to all their clients.	0121 452 5447  0121 452 5448  0121 452 5449
Small Business Service	The Small Business Service (SBS) is a Government agency which champions the interests of small businesses.	0845 600 9006  <a href="http://www.businesslink.org">www.businesslink.org</a>



Department for  
**Work and Pensions**