

Annex 4: Methodology

The Strategy Unit undertook its work in the following stages:

- planning and scoping the project, and identifying key stakeholders;
- fact-finding based on key workstreams;
- publishing an Interim Analytical Report synthesising analysis and comparative evidence of the current differentials between and within ethnic groups and underlying causes; and
- formulating policy options and recommendations to Government for the future of ethnic minorities in the labour market.

Planning and scoping the project

In March 2001, the Prime Minister asked the Strategy Unit to undertake a project to improve the labour market achievements of ethnic minorities. A team was assembled in Summer 2001 (Annex 2 for details). The team:

- produced a Scoping Note establishing the key workstreams upon which the project would focus;
- identified key stakeholders;
- set up an Advisory Group and an Academic Panel for consultation and guidance (Annex 2); and
- developed a Project Management Plan.

Fact-finding based on key workstreams

The key areas of focus identified in the Scoping Note were:

- comparative levels of employment, unemployment and self-employment;
- educational attainment and skills acquisition;
- barriers to employment such as housing, geography, transport, childcare and health; and
- the existence and extent of racial discrimination in the labour market.

These workstreams provided a focus for gathering information and consulting relevant stakeholders. Research for each workstream was carried out in a variety of ways:

- Each team member had extensive discussions with stakeholders and experts within Government departments and related bodies, drawing on their experience, knowledge and existing research. This was supplemented by visits to regional and local partners, providers and employers to explore the issues faced by ethnic minorities and to identify best practice. The breadth of this consultation process enabled the team to develop a greater understanding of the range of experiences and perspectives at a local level and to gain a greater familiarity with

the ideas and aspirations of those policy-makers and practitioners addressing the labour market fortunes of ethnic minority groups.

- The team's work benefited greatly from the formal and informal feedback of the project Advisory Group (see Annex 2) and from meetings with stakeholders from the public, private and voluntary sectors.
- A series of seminars and workshops were undertaken to bring together Whitehall and stakeholders to discuss research findings and experiences in different sectors of the labour market, and also to gain structured feedback on the policy implications that surfaced from the research analysis.
- The team commissioned a research package comprising a number of elements. These included: broad data analysis, comparative policy experiences, focus groups, surveys from voluntary sectors and local authorities, examination of specific policy interventions and detailed private sector case studies as evidence and explanation of labour market difficulties. Papers were commissioned on the following specific topics:
 - Research Overview (Anthony Heath, University of Oxford):
 - (i) Explaining Ethnic Minority Disadvantage
 - (ii) Overview of British Research: Trends, Explanations and Policy
 - (iii) Theory and Research: The American Literature
 - (iv) Future Research
 - Comparative Policy Approaches: Western Europe (Andrew Geddes, University of Liverpool and European University Institute, Florence)
 - Comparative Policy Approaches: New World (Paul Ong, University of California, Los Angeles)
 - United States Affirmative Action (Jonathan Portes, independent consultant)
 - Employment Programmes in the Labour Market: Case Studies of Good Practice in Private Sector Companies (Anuradha Basu, University of Reading)
- Commissioned research material was accompanied by focused teach-in sessions for the team led by the relevant researcher/author.
- The team also commissioned statistical analyses of ethnic minority labour market participation from the Office for National Statistics.

The commissioned research papers listed above can be accessed on the project website, at www.emlm.gov.uk.

Producing an analysis report

An Interim Analytical Report was produced in order to pull together findings from the key workstreams and to establish the strengths and weaknesses of existing policy aimed at addressing the labour market under-achievement of Britain's ethnic minority groups. The report provided a comprehensive and rigorous synthesis of existing research on: the comparative labour market achievements and outcomes of ethnic minorities, how the achievements are changing over time, the key drivers and determinants of those outcomes, and a more tentative consideration of the broad implications for policy. The report was published on the Strategy Unit's web-site in February 2002.

Much of the work involved in the first three stages of the project and in producing the analysis paper is reflected in Chapter 2 of this report.

Formulating policy conclusions

The conclusions drawn in the Interim Analytical Report were used to shape the project's vision and to outline a series of corollary objectives. In this way, it was ensured that policy conclusions were firmly rooted in the evidence. Three high level aims were identified as a starting point:

- unlocking the potential of individuals;
- promoting productivity growth; and
- economic and social inclusion.

Areas for policy development were drawn up and evaluated in consultation with key stakeholders. Policy objectives were grouped into three areas: building employability, connecting people with work and equal opportunities in the workplace. This is reflected in the structure of the report.

A strategy to turn the vision, aims and objectives into workable and effective policy conclusions was developed, based on the following six principles:

- recognition of the diversity within and between ethnic groups;
- developing a balanced and integrated package of policies;
- ensuring that progress is measured and monitored;
- drawing conclusions that, where possible, benefit other disadvantaged groups;
- a bias towards building on existing policies; and
- empowering ethnic minority individuals to take responsibility for their careers.

Annex 5: Organisations and people consulted

During the project, the team consulted widely, talking to individuals in many organisations as well as commissioning focus groups. The intent of the consultation phase was to understand the views and perspectives of different stakeholder groups. A number of regional Government bodies, local authorities and other organisations assisted by providing research material and completing surveys for the project.

1990 Trust
Active Community Unit
Adecco
Advisory, Conciliation and Arbitration Service
African Caribbean Finance Forum
Anser House of Marlow UK
Asian and Oriental Cookery School
Association of First Division Civil Servants
Association of University Teachers
B & Q
Bar Council
Barclays
Better Regulation Task Force
Birmingham City Council
Birmingham Settlement
Black Business Association
Black CARD
Black Development Agency
Black Police Association
Black Training and Enterprise Group
Blackbritain.co.uk
Bolton Metropolitan Council
Boots
Bradford Chamber of Commerce
Brent Local Education Authority
Bristol Regeneration Partnership
British Bankers Association
British Chamber of Commerce
British Medical Association
British Telecom Ethnic Minority Network
Cabinet Office
Call Centre Association
Cambridge Policy Consultants
Camplane Development Centre
Centre for Employment and Enterprise Development
Centre for Social Markets
Cheetham and Broughton Partnership
Citizen and Immigration Canada
Citizens Advice Bureau
Citizenship Foundation
Civil Service Commission
Civitas

COI Communications
Commission for Racial Equality
Confederation of British Industry
CONNECT
Council of Ethnic Minority Voluntary Sector Organisations
Coventry City Council
Coventry Home Working Association
De Montfort University
DEMOS
Department for Education and Skills
Department for Transport, Local Government and the Regions
Department for Work and Pensions
Department of Health
Department of Trade and Industry
Disability Rights Commission
Economic and Domestic Secretariat
Egg
Employment Tribunal System Taskforce
Engineering Council
Equal Opportunities Commission
Equality Commission (Northern Ireland)
Equality Direct
Ethnic Minority Enterprise Centre
European Federation of Black Women Business Owners
FAIR
Federation of Small Businesses
Ford
Foreign and Commonwealth Office
Foreign Policy Centre
Glasgow Chamber of Commerce
Glasgow City Council
GMB
Government Information and Communication Service
Government Office for London
Graphical, Paper and Media Union
Greater Manchester Learning and Skills Council
Handsworth Area Regeneration Trust
Health and Safety Executive
Her Majesty's Treasury
Higher Education Funding Council for England
Home Office
HSBC
Institute for Economic Research
Institute for Public Policy Research
Institute of Asian Businesses
Institute of Directors
Institute of Education, University of London
Institute of Employment Studies, University of Sussex
Institute of Management
Investors in People UK

Jaguar
Jobcentre Plus
Labour Standards & Workplace Equity, Canadian Government
Law Society
Learning and Skills Council
Leeds Chamber of Commerce
Leeds Metropolitan University
Leicester Fair Employment Initiative
Littlewoods
Lloyds TSB
Local Employment Access Projects
Local Futures
Local Government Association
Lord Chancellor's Department
Manchester City Council
Matrix Chambers
Me Too
MG Rover
Middlesex University
MORI
Moss Side Education Action Zone
National Academic Recognition Information Centre for the UK
National Association of Schoolmasters Union of Women Teachers
National Centre for Social Research
National Centre for Voluntary Organisations
National Employment Panel
National Housing Federation
National Union of Journalists
National Union of Teachers
Natwest
Noon Products
Office for National Statistics
Office for Standards in Education
Office of Government Commerce
Office of Public Management
Orange
PATH West Midlands
Peabody Trust
Peckham Evangelical Churches Action Network
Pertemps Employment Alliance
Prime Focus
Progress Trust
Public and Commercial Services Union
Qualifications and Curriculum Authority
Race for Opportunity
Race Relations Employment Advisory Service
Recruitment and Employment Confederation
Redbridge Borough Council
Reed
Regional Chair – London Central Employment Tribunal

Rowntree Foundation
Runnymede Trust
Sainsburys
Sandwell Metropolitan Borough Council
Scarman Trust
Scottish Enterprise
Shell UK
Small Business Service
Social Market Foundation
Society for Black Business
Society of Black Lawyers
South Asian Development
South Asian Development Partnership
Sponsors for Education Opportunity
Standard Chartered Bank
Tooting Business Network
Tower Hamlets
Trades Union Congress
Transport and General Workers' Union
UNIFI
Unilever
Union of Construction, Allied Trades and Technicians
Union of Shop, Distributive and Allied
UNISON
University of Bradford
University of Cambridge
University of Cambridge
University of Derby
University of Durham
University of East London
University of Leicester
University of Liverpool
University of North London
University of Oxford
University of Reading
University of Warwick
University of Westminster
Vodafone
Walsall Metropolitan Borough Council
West Bromwich Building Society
Windsor Fellowship
Wolverhampton City Council
Workers' Educational Association
Working with Men

Annex 6: Key reading

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- R. Berthoud, *Young Caribbean Men and the Labour Market*, Institute for Social and Economic Research, University of Essex, 1999.
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- Community Cohesion: A Report of the Independent Review Team Chaired by Ted Cantle*, Home Office, December 2001.
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- A. Heath and S. Yu, *Explaining Ethnic Minority Disadvantage*, Report to the PIU, October 2001 (see www.emlm.gov.uk).
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- A. Heath, *Future Research*, Report to the PIU, October 2001 (see www.emlm.gov.uk).
- A. Heath and D. McMahon, *Ethnic Differences in the Labour Market: the Role of Education and Social Class Origins*, Oxford: Centre for Research into Elections and Social Trends, 1999.

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D. Leslie *et al.* (ed), *An Investigation of Racial Discrimination*, Manchester: Manchester University Press, 1998.

D. Leslie, S. Drinkwater, and N. O'Leary, 'Unemployment and earnings among Britain's ethnic minorities: some signs for optimism', *Journal of Ethnic and Migration Studies* 24: 489-506, 1998.

J. Matheson (ed), *Social Trends 30*, Office for National Statistics, London, HMSO, 2000.

H. Metcalf and J. Forth, *Business Benefits of Race Equality at Work*, National Institute of Economic and Social Research, March 2000.

T. Modood, R. Berthoud, *et. al.*, *Ethnic Minorities in Britain: Diversity and Disadvantage*, London: Policy Studies Institute, 1997.

D. Owen *et al.* *Minority Ethnic Participation and Achievements in Education, Training and the Labour Market*, 2000.

L. Platt and M. Noble, *Race, Place and Poverty: Ethnic groups and low income distributions*, Joseph Rowntree Foundation, 1999.

C. Peach (ed), *Ethnicity in the 1991 Census, Volume 2: The ethnic minority populations of Great Britain*, Office for National Statistics, London, HMSO, 1996.

M. Ram and T. Jones, *Ethnic Minorities in Business*, Milton Keynes: Open University Press, 1998.

P. Ratcliffe (ed), *Ethnicity in the 1991 Census, Volume 3*, Office for National Statistics, London, HMSO, 1996.

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Strategy Unit, *Delivering for Children and Families*, Cabinet Office, 2002.

Strategy Unit, *In Demand: Adult Skills in the 21st Century – Part 2*, Second Report on Workforce Development, Cabinet Office, 2002.

The Stephen Lawrence Inquiry: Report of an Inquiry by Sir William Macpherson of Cluny, Home Office, London: TSO 1999.

Annex 7: Initial Regulatory Impact Assessment

A Regulatory Impact Assessment (RIA) is a tool which informs policy decisions. It is an assessment of the impact of policy options in terms of the costs, benefits and risks of a proposal. This annex represents an initial RIA. It addresses each of the report's recommendations in turn and is divided into two parts:

- Part 1 – Addressing recommendations for which regulatory impact issues can be briefly summarised.
- Part 2 – Addressing recommendations the nature and impacts of which justify more detail.

The department assigned lead responsibility on each recommendation will build on these RIAs as the proposals are developed. In doing so, they will be guided by the Cabinet Office Guide to Regulatory Impact Assessments¹ and will comply with the Cabinet Office Consultation Code.²

Part 1

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1	59	[See Part 2]
2	60	The recommendation builds upon the recent introduction of the Pupil Level Annual Schools Census (PLASC), enabling school inspectors – by summer 2003 - to draw on data from the newly-created National Pupil Database (NPD). The recommendation is founded upon the principle of increased transparency and proposes simply to extend the benefits of an innovative management tool to parents. The cost of inaction is high - this measure will mitigate the risk of persistent low-attainment going unnoticed and therefore unaddressed. Ofsted is already committed to address issues of differential attainment, and parents already receive a summary inspection report: the recommendation will therefore necessitate no additional bureaucracy or burdens.
3	62	The recommendation proposes a more efficient allocation of monies from an existing funding stream. It aims to ensure, in keeping with EMAG's primary objective, that the grant's chief beneficiaries are those under-attaining ethnic minority pupils in greatest need. The benefits of action should therefore accrue principally to the lower achieving ethnic minority groups, notably Bangladeshis, Pakistanis and Black Caribbeans. The cost of inaction is significant: without an overhaul of the distribution framework, EMAG monies

¹ www.cabinet-office.gov.uk/regulation/scrutiny/betterpolicy.htm.

² www.cabinet-office.gov.uk/servicefirst/2000/consult/code/ConsultationCode.htm.

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		will remain unconnected to pupil need. The quantity and targeting of EMAG funding can be determined by means of an existing resource - the new ethnicity data recorded through PLASC – and no increase to the existing fund (c.£450m over three years) is proposed. In those schools with comparatively higher proportions of high attaining ethnic minority pupils, there is therefore a possibility of funding being reduced.
4	67	The recommendation recognises the abundance of best practice literature in the area of ethnic minority attainment and, for this reason, does not propose that any new material be commissioned. It aims to ensure that schools - especially in the lowest achieving LEAs - are able to take full advantage of existing best practice literature and to harness this in the formulation and implementation of interventions for under-attaining groups. The principal benefit of action is more effective best practice collation and the delivery of fast, flexible responses to issues of concern. The cost of inaction is persisting low attainment, unmitigated by ameliorative interventions on the part of schools. In the first instance, the recommendation requires action on the part of DfES; in the long term, it is expected that more effective dissemination of best practice material will incentivise schools themselves to re-evaluate their own practices accordingly. This may bring with it resource implications for schools, but these are unlikely to be large, either absolutely or in relation to the benefits of the measure. On the contrary, more widespread adoption of best practice may bring resource savings. The cost of the review will not exceed £100,000.
5	68	The recommendation recognises both the huge impact that parents have on their children’s educational achievements and the extent to which significant responsibilities in this area lie outside the classroom, beyond Government’s direct influence. Delivering improved educational attainment will depend on parents being encouraged to become more proactive, and sharing responsibility with schools and teachers. It is also likely that increased engagement of ethnic minority parents with schools will increase the levels of human and social capital of some particularly isolated groups, such as Bangladeshi and Pakistani mothers. DfES has recognised these opportunities through its Sure Start scheme and is currently developing a new strategy for improving parental involvement in the education of their children. The recommendation builds on these initiatives by emphasising the importance of an ethnically-responsive approach, and – as an adjunct to existing work – implies minimal additional resource requirements. The risk of inaction is a continued disconnect between schools and parents to the long-term detriment of pupils. The anticipated cost of this recommendation is £200,000.
6	71	The recommendation builds on the Government’s commitment to education reforms to increase parental choice and promote diversity of supply. These are ongoing reforms and – as international evidence has illustrated - have the potential to raise attainment levels in schools in deprived areas. Benefits of this proposal will accrue to children, parents and schools. The chief cost of inaction is the further isolation of already disengaged groups. By ensuring that ethnic minority parents are adequately informed, engaged and advised, the strategy seeks to mitigate the risk of greater choice leading to increased sorting of pupils by socio-economic group. It should also build

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		on existing self-help activities within communities. Resources will be required at DfES, LEA and school level to design and implement this strategy.
7	73	The recommendation aims to fill a number of information gaps related to the attainment of ethnic minority pupils in schools. A better understanding of the nuances of such issues is crucial to the process of delivering informed interventions and of ensuring that resources are allocated in the most efficient way possible. The risk of inaction is therefore that education policy and initiatives are not tailored to need and that, as a consequence, resources are invested inefficiently. Research will be conducted within - or commissioned by - DfES, and is unlikely to exceed £500,000 in cost.
8	78	The recommendation is designed to promote efficiency within Jobcentre Plus by ensuring that its engagement mechanisms are informed by lessons from existing outreach initiatives. The principal benefit of action will be a more effective allocation of resources: in increasing awareness of and access to Jobcentre Plus facilities, the recommendation will assist the delivery of a high-quality service to a diverse client base. Jobcentre Plus is currently in the process of drawing up a comprehensive action plan and strategy to improve performance for ethnic minorities and to meet its obligations under the Race Relations (Amendment) Act. Plans also exist to evaluate the effectiveness of outreach initiatives. This proposal builds on both pieces of work; its resource implications are therefore likely to be minimal. The costs of inaction, however, are likely to be considerable: in the absence of effective outreach mechanisms, disadvantaged ethnic minority groups will remain disengaged from the labour market.
9	79	The recommendation aims to improve job outcomes for ethnic minority groups. The risk of not taking action is that staff concentrate on those who are easiest to help rather than devoting appropriate time and effort to the most disadvantaged – a constituency amongst which ethnic minorities are disproportionately represented. A model in which geographical deprivation is a determining factor in point weightings will deliver benefits to all disadvantaged groups, not just ethnic minorities; for this reason, such an approach is in many ways preferable. The proposed review is unlikely to exceed £100,000.
10	81	The recommendation seeks to ascertain the effectiveness of ‘Tailored Pathways’, which have been rolled out to test the impact on job outcomes of a more flexible New Deal approach. Such flexibility will disproportionately benefit ethnic minorities, who appear to have been disadvantaged by elements of rigidity within standard New Deal structures. Specifically, many jobseekers from ethnic minority groups have not accessed the ‘soft’ skills training available under the New Deal for Young People; others have chosen options which may not maximise their chances of finding long-term employment. The benefit of this recommendation is a clearer understanding of the effectiveness of different New Deal structures. Should the evaluation indicate the benefits of increasing programme flexibility and Personal Adviser discretion, the process of embedding these processes nationally will naturally incur some cost. In the first instance,

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		however, evaluation costs should not exceed £100,000.
11	83	The recommendation seeks to ascertain the effectiveness of Employment Zones for New Deal for Young People (NDYP) ‘returners’ from ethnic minority groups. Evidence shows that ethnic minorities – who are disproportionately concentrated in the NDYP 18-24 age bracket – are not benefiting from the New Deal programme to the same extent as their White counterparts. The cost of inaction is that such disparity persists. The Employment Zone pilots announced in SR2002 should provide a clear assessment of the effectiveness of Employment Zones in dealing with the needs of jobseekers in this younger age group, and could usefully inform future labour market programme reform. Should the Employment Zone model be introduced for ‘first time’ clients, the process of contracting out to private sector Employment Zone providers will clearly impact on existing New Deal contract providers. However, DWP estimates suggest that the costs of the two approaches are broadly similar, in which case there would be no additional expense incurred.
12	89	The recommendation is founded upon the principle that employment policies should take greater account of the links between social housing and joblessness. The high concentration of workless people in social housing means that targeting tenants with extra support, help and advice would be an effective way of connecting the unemployed and economically inactive with welfare to work programmes. The cost of inaction is persisting, and disproportionate, worklessness for social housing tenants. The benefits of this proposal are that it builds upon existing best practice, will help meet Government objectives to provide employment opportunities for all, and will have a disproportionate impact on two of the most disadvantaged groups – namely Bangladeshis and Black Caribbeans. Any additional costs incurred by social housing providers or Jobcentre Plus offices will need to come from existing resources. These partnerships will be voluntary.
13	90	The recommendation aims to improve labour market achievement by promoting residential mobility among the workless. Social housing tenants are characterised by low levels of both employment and residential mobility. The difference in mobility is particularly striking when compared with that of low-income private tenants. The Housing and Employment Mobility Service (HEMS) is being designed by Government to promote inter-regional mobility, and is projected to cost £10-15m from 2001-2006. This recommendation supports the roll-out of HEMS and seeks to ensure that ethnic minority Registered Social Landlords are not excluded from the service.
14	93	The recommendation aims to foster a better understanding of the factors contributing to the low levels of usage of formal childcare by ethnic minority groups. Evidence shows that a lack of available and affordable formal childcare can act as a barrier to labour market participation, and this is the chief risk that the proposal seeks to mitigate. The benefits of this proposal could be considerable - there is a clear economic rationale for engaging this issue and for assessing the capacity of existing policy to address the barriers faced by ethnic minority parents. In addition to the costs of the proposed analysis (approximately £100,000), resource will be required to devise and implement measures to raise awareness amongst ethnic minority groups of the childcare component of the Working Tax Credit

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		(approximately £500,000).
15	96	The recommendation aims to promote greater enterprise in deprived areas by requiring the Small Business Service (SBS) to provide better business support services to ethnic minority entrepreneurs. The risk of not taking action is that levels of business activity in deprived areas – where ethnic minorities are disproportionately concentrated – stagnate, to the detriment of both entrepreneurs and the local community. The first of the three measures will have resource implications in terms of data-management for Business Link operators (if external contractors are not used). The second measure will require that Business Link operators identify and develop better relations with new stakeholders. The third measure will require extra effort on the part of Business Link staff to meet new targets. The total costs incurred as a result are estimated to be no more than £250,000.
16	97	The recommendation seeks to ensure that ethnic minority communities are benefiting from Government urban regeneration funds, and to mitigate the risk that entrepreneurs within these communities face disproportionate barriers to accessing capital. Officials in DTI and NRU will be expected to co-ordinate data-gathering and dissemination, but costs are expected to be minimal.
17	111	The recommendation advocates the development of effective support and guidance to ensure that employers are equipped with relevant and accessible information. The principal benefit of these proposals is a heightened awareness among employers of the means by which equality of opportunity can be embedded in the workplace. As a result, such employers will be more likely to mainstream these issues in the development of policies and practices, leading to greater opportunities for their employees. Indirectly, the impact of the proposals may be exponential if employers other than those directly helped were effected. The cost of inaction is that jobseekers and employees from ethnic minority groups continue to face disproportionate barriers to employment, and that employers do not benefit from a workforce reflective of the society in which they operate. (i) Estimates, based on a KPMG evaluation in 2001, suggest that doubling the RREAS service would result in 672 additional changes in policies and practices among employers, at a cost of £1.4m. However, anticipated Exchequer costs will be mitigated by the introduction of fees for certain services. (ii) and (iv) Minimal costs would be incurred from gathering the information necessary to be imparted to employers. (iii) The CRE is already producing and disseminating best practice to the public sector; minimal additional costs would result from disseminating it to the private and voluntary sectors.
18	111	The recommendation is designed to ensure that the full range of publicly provided information and support services meets the needs of, and is accessible to, employers. The risk of not taking such action is that employers are provided with ineffective information and support mechanisms and that, as a result, equality of opportunity is not prioritised within the workplace. The cost of reviewing these services will not exceed £250,000. Additional costs may be incurred at a later stage if the review finds that substantial changes are needed to existing provision.

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19	112	[See Part 2]
20	113	The recommendation addresses concerns that existing award and recognition schemes may be neither sufficiently broad (in terms of sectoral coverage) nor sufficiently well recognised to have a significant impact. Determining whether it is necessary to develop a new award scheme or simply to strengthen existing awards will allow appropriate action to be taken to ensure that employers are effectively incentivised to act in the area of race equality. Without such incentives, and without a sufficiently high profile award scheme, there is a risk that race equality is marginalised within the workplace. The cost of the review is likely to be minimal.
21	114	The recommendation recognises the success of U.S. employment ‘compacts’, in which employers agree to hire (or at least to interview) disadvantaged individuals who meet certain standards – typically in terms of job-readiness or educational attainment. Benefits of such action include galvanising the local business community and agreeing common expectations about the role of the public and private sector in embedding equality of opportunity in employment practices. The cost of inaction is the persistence of a climate in which disadvantage is exacerbated by disengagement from the labour market. In the first instance, the proposed DWP/NEP review will not have significant resource implications. The development of a strategy and action plan will incur some cost on the part of an employer. Participation is, however, voluntary and therefore not unduly burdensome.
22	115	The recommendation offers the primary benefit of ensuring that patterns and trends in Employment Tribunal cases are properly noted and addressed, and that feedback loops are efficiently managed. It takes advantage both of existing data-sets (statistical information - without names - is already published in the Employment Tribunal Service annual report) and of the ‘macro’ perspective afforded to the Presidents of Tribunals. The cost of inaction is that employers with especially poor race equality track-records continue to go undetected and that ethnic minority employees continue to be discriminated against as a result. There are potential risks relating to the publication of repeat offence data, and it is therefore crucial that parameters indicating what constitutes a ‘repeat offender’ are clearly and equitably defined by DTI, in association with ACAS.
23	117	[See Part 2]
24	118	The recommendation is informed by the relative lack of primary research data on the persistence of racial discrimination and harassment in the labour market. A better understanding of the factors underpinning these phenomena would bring a range of benefits, principally the development of more refined policy responses and more accurate measures of progress. Research should include large-scale discrimination tests, focus groups, interviews, analysis of employment tribunal cases and public attitude surveys. Results should be published and disseminated to key labour market stakeholders. The costs of inaction are potentially huge: without a clear understanding of the nature, causes and extent of racial discrimination, Government’s anti-discriminatory machinery can only ever be partially effective. The costs of this proposal should not exceed £1m. DTI and DWP should explore possible options for collaboration

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		with future ESRC research proposals.
25	119	[See Part 2]
26	126	[See Part 2]
27	127	The recommendation is designed to clarify the mixed messages from previous research in this area and to assist the design, implementation and assessment of future awareness campaigns. It is notable just how little is known, or shared, within and beyond Government about successfully raising awareness in relation to race discrimination and stereotyping. While the potential prize in getting this right is considerable, evidence shows that campaigns can lead to adverse effects if not conducted properly. This is the chief risk that the proposal will mitigate. The costs of conducting the research will not exceed £250,000, but the costs of subsequently running a campaign could be more substantial.
28	137	The recommendation proposes reforms to the machinery of Government to improve political leadership, co-ordination and policy delivery. There has, in the past, been a lack of accountability across Government for the labour market achievements of ethnic minorities; the continuation of this situation is the greatest cost of inaction. The recommendation reflects one of the key messages of the report as a whole: though the core competencies of a number of departments are inextricably linked to issues of ethnic minority labour market performance, no single department has the capacity to deliver improvements in isolation. The proposed Task Force will provide an effective forum for joining up these departments, not only with each other, but also with key external partners. The Task Force will be formally classified as an ‘ad hoc advisory group’, as a result of which members will not be paid. They will, however, be reimbursed for expenses incurred on group business, and these (minimal) costs will be absorbed by the sponsor department, DWP.

Part 2

Recommendation 1 - Floor targets (p.59)

1. Recommendation

DfES has already implemented, and will continue to implement a series of policies which are directly and indirectly targeted at closing the attainment gap between low achieving ethnic minority groups and the White average. These policies include Excellence in Cities, Extended, Specialist and Beacon Schools, Sure Start, the whole of the Standards agenda, and DfES' forthcoming ethnic minority achievement strategy. If despite these programmes, new data sources reveal persisting and disproportionate attainment gaps between ethnic groups, DfES should factor ethnicity into education floor targets from Q3/2005.

2. Purpose and intended effect of measure

(i) Objective

The objective of this measure is to ensure that schools are incentivised to close the educational attainment gap between under-performing ethnic minority pupils and their White counterparts. The measure builds on existing strategy by seeking to ensure that particular groups do not persistently fall through the gaps of current floor targets. It is not a new target, but a means of ensuring that all groups benefit from the educational 'safeguards' that already exists.

Although all low-attaining groups will benefit from this measure, current data sources indicate that the chief beneficiaries will be Black Caribbean and Pakistani boys, whose rate of improvement in GCSEs has been minimal.

(ii) Background

The floor target mechanism permits the identification of areas with significant under-attainment problems, the reallocation of public spending and the tracking of subsequent improvements. In education, these targets are designed to achieve a minimum level of attainment at school and LEA level. Targets of this sort have generally been effective in helping to raise educational attainment.

However, the fulfilment of existing floor targets appears to be having little impact on the performance of low-attaining ethnic minority pupils, with Black Caribbean and Pakistani boys, especially, failing to show any signs of closing the gap between themselves and the White average level. In part, this is because the size of the ethnic minority pupil base is sufficiently small that it can fit several times over within the percentage allowed for pupils who do not achieve 5 A*-C GCSE grades. In other words, there is nothing about current floor targets that stops ethnic minority groups 'slipping through the cracks'.

The proposal underscores the credibility of government strategy by offering a fresh intervention if improved attainment rates among key groups are not achieved. It is important not to appear complacent (low ethnic minority school attainment was first

highlighted in a government report in 1963), whilst at the same time placing a reasonable amount of pressure on DfES to deliver in a realistic timeframe.

(iii) *Risk assessment*

The measure addresses the risk of under-attaining ethnic minority pupils falling behind relative to their White peers. The current attainment gap between Black Caribbean and Pakistani boys and their White counterparts is 25-30 percentage points (using 5 or more A*-C GCSEs as a baseline, with 2000 data). Although the performance of these groups is improving in absolute terms (as indeed is that of all groups), their GCSE attainment levels are not converging with those of their White peers – and may be diverging.

(iv) *Sectors affected*

The introduction of the Pupil Level Annual Schools Census (PLASC) to create a National Pupil Database will aid the setting of targets based on ethnic minority attainment levels. The proposal simply adds an ethnic-specific component to targets, and is not something that would alter the impact of existing targets on schools or teachers. The triggered floor target would be of concern to central policy-makers and may impact upon the prioritisation of resources in some LEAs, but would not affect front-line educationalists in any additional way.

(v) *Issues of equity and fairness*

The measure is designed to address a current inequality. It is, however, deliberately non-prescriptive and recognises that new PLASC-generated data must be the primary determinant as to which groups are factored into floor targets. Moreover, this data should be value-added to take into account social class factors, thereby reflecting quality of inputs, rather than simply raw outcomes. Finally, it is left to DfES to determine how ‘challenging’ these targets should be, if introduced in 2005.

3. *Options*

Others options have been considered and rejected in favour of the recommendation. These include:

- (i) Do nothing. Without action, it is likely that the attainment levels of under-performing ethnic minority groups will diverge further still from those of their White peers. Not addressing this is not an option.
- (ii) Factor ethnicity into existing floor targets immediately. This option would cut across the ethnic minority achievement strategy in DfES and could not take advantage of new data sources.
- (iii) Introduce separate floor targets for ethnic minority pupils if attainment gap has not narrowed by 2005. This option would increase burdens on the LEA infrastructure. In addition, there is a lack of evidence on the effectiveness of group-specific targets.

4. Benefit of chosen option

The chief benefits of the chosen option are that (i) it does not call for a new target *per se*, but is, rather, a means of ensuring that all groups are benefiting from existing Government measures in this field; and (ii) it does not intervene in the development of the department's new ethnic minority achievement strategy, but proposes a safeguard should attainment gaps persist.

The benefits of this measure will accrue principally to those ethnic minority pupils whose attainment levels are at risk of stagnating or diverging relative to those of their White peers. Given the positive correlation between human capital and labour market success, it is clear that raising educational performance will have significant economic as well as social benefits.

5. Costs

The proposal will have no costs if, by 2005, attainment gaps have been narrowed. However, if these gaps persist and ethnicity is factored into floor targets, schools and LEAs will need to rely on a range of existing and fresh initiatives to meet these. The bulk of these will be included within DfES's forthcoming ethnic minority achievement strategy. The details of this strategy have not been finalised by the department but are likely to include initiatives on parental engagement, peer support, mentoring, after school support, and rewarding schools and pupil success. These measures, alongside other larger initiatives such as Excellence in Schools, will need to be sufficiently effective and focused in order that the proposed target is met in narrowing the attainment gap. Any additional resources will need to be considered by the department in 2005.

6. Implementation

The measure is non-prescriptive, both in terms of the groups who may be factored into targets and in terms of the level at which these re-factored targets will be set. Implementation will therefore require DfES to assess data trends in 2005 and to revise its targets accordingly. Once this has been accomplished, LEAs will be responsible for promoting strategies and allocating resources to enable schools to meet these targets.

7. Consultation

(i) Within Government

DfES would be expected to consult with Local Education Authorities.

(ii) Public consultation

The recommendation would require public consultation. However, if revised floor targets were introduced after 2005, the department would be expected to engage external stakeholders beforehand.

Recommendation 19 - CRE Code of Practice in Employment (p.112)

1. Recommendation

The CRE should update its Code of Practice in Employment, consulting widely amongst all relevant stakeholders, to ensure that it accurately reflects existing race relations legislation and that it is known extensively by, is accessible to and is able to meet the needs of employers [by Q1/2004].

2. Purpose and intended effect of measure

(i) Objective

The existing CRE Code of Practice was issued in 1984 and flowed from the 1976 Race Relations Act (see: www.cre.gov.uk). The legal and employment framework, as well as understanding of best practice, has changed considerably in the period since and the updated Code is designed to reflected this. The update will make the Code more relevant and accessible to employers.

(ii) Background

The CRE Code of Practice is an important source of information and guidance for employers. Its purpose is to provide practical guidance to assist employers, trades unions, employees and others on how actual policies and procedures can be adopted or revised to deliver greater race equality in the workplace.

(iii) Risk assessment

In the continued absence of an updated Code of Practice it is likely that employers will not have access to current practical guidance and illustrations of the policies and procedures which can help deliver greater race equality in the workplace. The CRE Code is a natural source of such guidance and plays an important complementary role in the range of possible support that employers may choose to engage (others include Equality Direct, based on telephone and website interaction, and RREAS which delivers an advisory package tailored to individual employers needs). The Code is likely to be an initial source of guidance for many employers.

There is a risk that the existing Code does not provide a full up to date account of the legal and policy framework for employment and that potential users are not benefiting as much as they might from an updated Code. Ethnic minorities will account for a disproportionate growth in the working age population over the next decade. The Code will therefore have greater relevance for a larger number of employers facing choices and decisions on workplace fairness and equity. The Code has a part to play in helping employers address the root causes of workplace discrimination and unfair treatment.

(iv) Sectors affected

The updated Code of Practice would be relevant to all sectors of the labour market. The contents of the Code would presumably reflect the different legal and

employment frameworks of sectors and would also highlight the role of the recent Race Relations (Amendment) Act 2000.

The CRE would be expected to consult a range of stakeholders in different labour market sectors. This would entail issuing drafts, soliciting feedback and direct contact with stakeholders in different sectors. This may be facilitated through representative bodies, trade associations, employers' groups, trades unions, research organisations, and others. Wide cross-sectoral consultation, including with small businesses, would be an essential aspect of delivering an accurate and accessible Code.

(v) *Issues of equity and fairness*

Greater use of an updated Code of Practice would be an effective means of raising awareness and engagement among employers and others. Evidence shows that workplace discrimination and harassment persist, particular among disengaged and ill-informed employers. Such employers are a prime target for the encouragement of greater awareness and response to these issues. The Code of Practice enables initial engagement on the basis of its accuracy, up to date guidance, and use of best practice examples.

3. *Options*

Others options have been considered and rejected in favour of the recommendation. These include:

- (i) Do nothing. By allowing employers to continue to rely on the existing Code of Practice there is real likelihood that they will be either misled or given false assurance. In addition, such employers will not receive the benefits of guidance about policies and procedures that are currently as preventative and corrective measures in the workplace.
- (ii) Strengthen the existing Code on an *ad hoc* basis. This option would risk introducing further confusion as employers would not always know which Code they were working from and seeking to implement. Additionally, ad hoc updates would not lend themselves to full consideration by relevant stakeholders.
- (iii) Detailed guidance issued by the CRE on a sector by sector basis that went beyond an overarching Code of Practice. This option can still be exploited but is not a realistic substitute for the Code. Employers and others will still look to the Code of Practice to reflect the broad framework for practical action.

4. *Benefit of chosen option*

The overarching benefit of the recommendation would be to provide an approved standard for employers and employees. This would deliver clarity for employers facing decisions on how best to promote race equality in the workplace. The approved standard would also have relevance to the work of Employment Tribunals.

5. *Costs*

The costs of carrying out an update of the Code of Practice will be mainly met by the CRE. It is estimated that such costs will be no greater than £200,000. There may be subsequent dissemination costs as well. Consultation costs faced by stakeholders are likely to be minimal, but CRE should ensure that business interests are fully factored in to the process. Both CRE and stakeholder costs will benefit from existing documentation and expertise of the legal and employment framework and the accessibility of sources of best practice. There are no direct costs to employers in updating the Code of Practice. Many employers will use the Code as a reference document. They will need to make themselves familiar with the contents of the revised Code - the CRE can assist in this by ensuring that the changes are simple, accessible and effective.

6. *Implementation*

Consulting and implementing the Code at employer level would remain voluntary. However, failure to follow the Code can be cited in an employment tribunal.

Once the CRE had obtained broad agreement on the accuracy of the updated Code from relevant stakeholders, it would need to promote its awareness and take-up. This could be done via representative and trade bodies for many employers. The CRE's current private sector strategy would present an ideal vehicle for promotion of the revised Code.

7. *Consultation*

(i) *Within Government*

The CRE would be expected to consult all relevant stakeholders within government on the revised Code. These will include DTI, SBS, DWP and LCD. Bodies such as ACAS, EOC and DRC may also have a contribution to make through consultation.

(ii) *Public consultation*

The recommendation would require consultation with key employer organisations, trades unions and others. The primary purpose of this would be to ensure accuracy and to make the Code of Practice as accessible as possible.

Recommendation 23 - DTI Review (p.117)

1. Recommendation

DTI should carry out a review of the most effective means to tackle systemic racial discrimination among employers. Part of this review should examine the case for adapting the powers of Employment Tribunals to make wider recommendations to effect change both for the complainant and the work environment more broadly.

[This RIA focuses on the direct impact of the Review. Any subsequent policy proposals should be subject to normal consultation and RIA process].

2. Purpose and intended effect of measure

(i) Objective

The objective of this measure is to ensure that Government machinery and policy for addressing systemic discrimination is as effective as possible. The proposal gives DTI the scope to consider a range of possible interventions, and indicates that, within this scope, it should review the effectiveness of employment tribunals – a key element in Government’s existing anti-discrimination regime.

(ii) Background

The first step towards reducing racial discrimination further and more effectively in the labour market should be the institution of preventative measures, such as providing information and guidance to employers on race relations standards – both legislative and non-legislative - and concrete measures for meeting such standards. This step should be complemented by efforts to address racial discrimination once it has occurred, with the aim of decreasing the likelihood of its continuance. Employment tribunals are a lever available to government to meet this aim.

Under the 1976 Race Relations Act, an employment tribunal is empowered, upon a finding of unlawful discrimination, to make recommendations to an employer for the purpose of obviating or reducing the adverse effect on the complainant of any act of discrimination to which the complaint relates. If, without reasonable justification, the employer fails to comply with the tribunal’s formal recommendation, the tribunal can order the employer to pay increased compensation to the complainant or, if an order of compensation was not made, make such an order. Formal recommendations have legal status and sanctions for non-compliance.

However, an employment tribunal is not able to make formal recommendations that might have a wider impact on the practices of an employer. For example, if during the course of a case an employment tribunal identifies discriminatory practices that have contributed to the proven discriminatory act, the employment tribunal cannot formally recommend that the offending employer implement corrective measures to address these wider problems. If a complainant is no longer employed by the respondent, the employment tribunal is barred from making any formal recommendations to the offending employer because they will not obviate or reduce the adverse effect of

discrimination on the former employee. These factors should be taken into account in the review.

(iii) *Risk assessment*

The main risk that this recommendation addresses is that of discrimination persisting in the workplace. Over the next ten years, ethnic minorities will account for more than half the growth in the working age population. If systemic discrimination continues to inhibit the labour market participation and success of these groups, economic integration will be retarded and social cohesion further compromised.

There is a risk that existing anti-discriminatory mechanisms are not being utilised to their full educative and preventative capacity. At present, there are two key limitations on the powers of employment tribunals:

- (i) If during the course of a case an employment tribunal identifies discriminatory aspects of an employer's organisational practices, policies or workplace culture that have contributed to an offence, the employment tribunal cannot recommend that the offending employer implement corrective measures to address these wider problems.
- (ii) Similarly, if a complainant is no longer employed by the defendant, the employment tribunal is barred from making any recommendations to the offending employer because they will not obviate or reduce adverse effect of discrimination on the former employee.

(iv) *Sectors affected*

The review should address all sectors of the labour market. DTI would be expected to consult a wide range of employers and to engage with representative bodies, trade associations, employers' groups, trades unions, research organisations and others. Wide cross-sectoral consultation would be an essential aspect of gaining a clear picture both of the extent of racial discrimination in the workplace and of the most effective levers for addressing it.

(v) *Issues of equity and fairness*

The proposal seeks to address directly the issue of systemic discrimination in the workplace. Evidence shows that such discrimination persists, particular among disengaged and ill-informed employers. The review will highlight how it can best be tackled and how the practices of discriminatory employers can best be corrected.

3. *Options*

Others options have been considered and rejected in favour of the recommendation. These include:

- (i) Do nothing. Unless the existing anti-discriminatory regime is improved, the disappearance of systemic discrimination is improbable.

- (ii) Address only existing voluntary information and guidance delivery mechanisms and let employment tribunals, with their current powers, hold employers accountable for abiding by the law. However, some employers will continue to be resistant to the principle of equal opportunities and will continue to re-appear in tribunals that lack a compelling preventative or educative capacity.
- (iii) Introduce rights to bring redress to groups through tribunals. This is potentially an excessively litigious approach. It also removes entirely, rather than builds upon, the individual complainant basis of the current system and may encourage speculative claims.

4. Benefit of chosen option

The chosen option is wide in its scope and situates enforcement and regulatory mechanisms within the context of other forms of intervention. It recognises the potential risks of an unduly legalistic approach and builds an assessment of the role of employment tribunals into a broader review.

If pursued, a widening of the power of employment tribunals could directly benefit:

- (i) Employers – those who have been found to have unlawfully discriminated against an employee will benefit from receiving appropriate guidance to help them improve or develop their equal opportunities practices and to reduce the likelihood of further legal action; and
- (ii) Employees – this proposal will ensure that, where an employer is found to have discriminated unlawfully, the tribunal is empowered to make wider recommendations that will benefit employees other than the individual complainant in a particular case.

In addition to the benefits highlighted above, there are overall indirect benefits to society in combating systemic discrimination to facilitate a more diverse workforce. These include:

- (i) greater fairness;
- (ii) promoting greater social inclusion; and
- (iii) increased labour market participation by all groups and therefore increased efficiency of the labour market.

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.

5. *Costs*

The cost of the proposed review will not exceed £250,000.

The scale of subsequent costs will depend upon the nature of the measures proposed by the review. Should the review propose that the powers of employment tribunals are widened, employers would incur costs in all cases where tribunals recommend actions and mandate procedures that are not currently used. Compliance costs for employers will be primarily dependent upon the nature of the tribunal recommendation made in a particular instance.

The scale of this cost will also vary according to the extent to which a respondent's existing resources and infrastructure are capable of meeting the requirements of the court's recommendation. Principal among the factors determining this will be the employer's size – it is likely that smaller employers would suffer a proportionately greater burden than larger employers. However, it is anticipated that the employment tribunal would take related questions of feasibility and practicability into consideration when judging the scope and extent of its recommendations.

Many small businesses do not have a specialised personnel function and therefore lack people who deal with personnel issues on a day-to-day basis. This fact, combined with a lower likelihood than a larger firm of being frequently exposed to employment rights issues and a lower likelihood of having written grievance procedures, may contribute to a greater incidence of complaints in small firms. In 2000, small businesses were involved in a third of the 715,000 enquiries made to ACAS. As a result, the costs of introducing wider recommendations may fall disproportionately on small firms. The provision of guidance from the Commission for Racial Equality and the availability of advice from both the CRE and RREAS should, however, reduce the costs of implementing procedures for small businesses.

6. *Implementation*

DTI will be responsible for implementing the proposed review. Specifics of implementation will depend upon the outcome of this review and should incorporate appropriate consultation and RIAs.

7. *Consultation*

(i) *Within Government*

Within Government, DTI would be expected to consult with departments – principally Home Office, DTI, SBS, DWP and LCD – in addition to agencies and NDPBs. The CRE, in particular, will have a key role to play.

(ii) *Public consultation*

The proposed review would benefit from wide public consultation with employers and with key employer organisations, trade unions and other groups with a perspective on, and interest in addressing, discrimination in the workplace.

Recommendation 25 - CRE General Enquiry Powers (p.119)

1. Recommendation

The CRE should examine ways to make greater use of its general enquiry powers to gather evidence of underlying patterns of discrimination and disadvantage, and to engage relevant stakeholders on appropriate action plans in response [by Q3/2003]. It should implement action points as part of a strategic review of its overall enforcement and promotional powers and specific levers of influence.

2. Purpose and intended effect of measure

(i) Objective

The current role of the CRE is based on a combination of law enforcement and promotional role. Shifting the balance towards greater use of general enquiry powers will allow many more opportunities for the CRE to engage and consult a wide range of stakeholders. Such an approach will also permit a greater likelihood of affecting change based on a shared understanding of problems of discrimination and unfair treatment in the workplace.

(ii) Background

Powers of general enquiry were given to the CRE in the 1976 Race Relations Act. These powers have not been extensively used in the period since. Such powers are designed to allow the CRE to collect a robust body of evidence on underlying patterns of access, treatment and outcome. They are by nature about going beyond the circumstances of an individual or particular complainant who still has recourse to redress via the tribunal system. These powers, if well exercised, have great potential in showing key stakeholders (for example, employers, trainers, recruitment agencies) that a case needs to be answered where patterns of discrimination have been shown. Finally, such powers lend themselves to use on a very selective basis in order to highlight problems that may be prevalent in particular industry or part of the labour market.

(iii) Risk assessment

The main risk that this recommendation addresses is that of underlying patterns of discrimination and differential outcomes - and their causes – remaining undetected and not acted upon. Where sufficient evidence cannot be gathered in support of a specific allegation of discrimination may not always mean that discriminatory effects are absent. Rather, these powers enable the CRE to tackle areas of concern from the other end by gathering and interpreting evidence that points to wider patterns of differential treatment of ethnic minorities by organisations (for example, employers, banks, universities).

There is a risk that these important tools are not being fully utilised as part of a broad range of measures to address and tackle racial discrimination in employment. There is further related risk that employers will become accustomed to perceiving the CRE

as possessing only specific enquiry powers and that this perception will result in an unbalanced understanding of the role of the CRE.

(iv) *Sectors affected*

The CRE is able to make use of its general enquiry powers in relation to all sectors of the economy.

(v) *Issues of equity and fairness*

General enquiry powers enable the CRE to address potentially wide patterns of discrimination and unfair treatment that may not necessarily be detected through seeking to take action against an individual employer. This is a potent tool in tackling the causes of inequity and unfairness faced by some ethnic minorities in the labour market.

In practice the effects of these powers will be felt in those sectors, industries or markets that are selected by the CRE as high priority and that lend themselves to the collection of robust evidence of discrimination and unfair treatment. By achieving a broad shared consensus with stakeholders on the extent and causes of the problem, these powers allow the CRE to affect real change to combat inequity and unfairness.

3. *Options*

The option already exists in statute and to some degree in practice. Alternative options involve shifting the balance towards greater use of powers of specific enquiry; this is not realistic as an option since the CRE will still be required to use these powers. Options include:

- (i) Do nothing. This would prevent the CRE from engaging stakeholders on the basis of a shared understanding of problems, causes and solutions. This is not attractive since it underlines a view of the CRE as a law enforcement agency to the exclusion of all other roles.
- (ii) Rely exclusively on general enquiry powers. This is not favoured as it would negate all use of existing specific enquiry powers which remain important as part of a range of tools to address discrimination and unfairness.
- (iii) Rely exclusively on specific enquiry powers. This option would prevent the CRE using its general enquiry powers. A balance between different powers and approaches is essential in tackling a wide range of problems.

4. *Benefit of chosen option*

The overarching benefit of the chosen option is to enable the CRE to make better use of a range of powers and approaches to address problems of discrimination and unfairness in the labour market.

5. *Costs*

The CRE will incur no additional costs in using its powers of general enquiry. However, any individual enquiry into a particular industry, sector or market will entail costs and the need to make such expenditure will need to be balanced against other tasks and the use of other powers. It is estimated a single large general enquiry may cost between £100,000 to £300,000. The CRE will need to allow for such expenditure from within its existing budget but in any case will be unlikely to mount more than two or three such inquiries in a single year.

6. *Implementation*

Implementation will rest with the CRE but also depend on the involvement of external stakeholders. Stakeholders such as employer bodies or trade associations will need to provide data and other forms of evidence in order that the CRE can develop a robust picture. Other stakeholder organisations and bodies will also have a role to play in responding to action points that result from greater use of these powers.

7. *Consultation*

(i) *Within Government*

General enquiry powers do not require the CRE to consult within Government as these are already part of the CRE's statutory basis. However, the CRE would be expected to consult with Government departments, the SBS, agencies and NDPBs in using its powers in particular cases of relevance.

(ii) *Public consultation*

Public consultation would be expected to play a part in gathering a body of evidence within a particular general enquiry.

Recommendation 26 - Public Procurement Guidance (p.126)

1. Recommendation

Comprehensive and clear guidance on race equality issues in public procurement is now required. Therefore, DTI and Home Office, in consultation with OGC and ODPM, should consider how this can best be achieved, in the light of the existing work being undertaken by the Sustainable Procurement Group and the CRE. The guidance should:

- (i) explain what is and is not permissible at each stage of the procurement process, including sanctions available for failing to meet relevant race equality contract provisions;
- (ii) exercise use of the full extent of UK and EU law;
- (iii) explicitly encourage public authorities to use this scope;
- (iv) include several model approaches that bodies can adopt.

The guidance should be disseminated to relevant public authorities and potential tenderers through organisations such as the LGA, CBI and CRE. The guidance should be produced and disseminated by Q2/2004.

2. Purpose and intended effect of measure

(i) Objective

The objective of the measure is to clarify the guidance that Government provides to public bodies on race equality issues in public procurement. Adoption of this guidance by a public body will be voluntary, but, where adopted, its effects will be felt by the firms with which the public body subsequently contracts. The employment practices of these firms will be expected to meet the standards required – within the existing legal framework – by the public body in question.

(ii) Background

UK and EU legislation regarding mainstreaming race equality in workforce matters into public procurement is complicated. It is not easy to determine precisely what is and is not required/permitted of public bodies. The overall potential for using public procurement to reflect relevant race equality issues is substantial. However, it is clear that, in pursuing its social objectives, Government is not at present benefiting from the full scope to do so. Clear guidance would ensure that there is more consistency both in terms of understanding obligations and in practice.

(iii) Risk assessment

The preparation of clear guidance would reduce the danger of public bodies either developing systems that are outside the bounds of the law or imposing unnecessarily excessive burdens on business. The measure will ensure that public funds are not directed to firms operating discriminatory practices and will mitigate the risk of discrimination against ethnic minorities continuing unacknowledged and unaddressed in the workplace.

(iv) *Sectors affected*

Where a public body chooses to adopt guidance, its requirements will affect all firms with which it contracts, regardless of size or sector. The impacts on small firms will need to be carefully assessed in the way in which guidance is used to frame individual contracts.

(v) *Issues of equity and fairness*

The measure will not change the existing legal framework. Rather, it will provide guidance on how public bodies can take full advantage of race equality issues within this framework. The Race Relations (Amendment) Act 2000 legislates that public bodies must, in carrying out their functions, have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good race relations. It is this principle of equity that the measure seeks to embed in the practice of procurement.

3. *Options*

Others options have been considered and rejected in favour of the recommendation. These include:

- (i) Do nothing. It is clear that, in pursuing its social objectives, Government is not at present benefiting from the full scope to mainstream equality into its procurement processes. To do nothing would be to discount a valuable means of encouraging good employment practices.
- (ii) Extend race relations legislation to private sector to require compliance. The extension of the Race Relations (Amendment) Act to the private sector would have far-reaching implications that go far beyond the scope of this recommendation.

4. *Benefit of chosen option*

Incorporating legitimate race equality issues in public procurement has a number of generic benefits:

- (i) *Race equality is a Government priority:* Government has articulated its commitment to achieving race equality on several occasions.
- (ii) *Race equality has business benefits:* tenderers with effective race equality strategies will, on average, enjoy better performance and productivity than their competitors, as they will tend to have access to a wider recruitment pool, have lower staff turnover, and higher staff morale and skills. They should therefore be able to perform their contractual duties better, including delivering services to a diverse customer base.

- (iii) *Fair play*: a contractor adhering to public policy goals expressed in legislation should not be disadvantaged when tendering for contracts because a competitor has managed to cut costs by not doing so.
- (iv) *Public accountability*: public bodies award contracts, in part, on behalf of the ethnic minority communities they serve. As such, it is reasonable that the communities should expect that public contracts should go to employers who provide equality of opportunity within the limits of the law.

More specifically, a non-prescriptive, voluntarist approach has the advantage of allowing public bodies to determine the extent to which race equality issues inform their procurement processes.

5. *Costs*

- (i) *Cost to DTI/Home Office*: the costs of producing and reviewing the guidance will not exceed £250,000.
- (ii) *Cost to public bodies*: the cost of this proposal will vary depending on the model adopted, as well as on the size and existing infrastructure of the public body adopting the programme. For example, where an body has an existing infrastructure into which an approach to mainstreaming race equality into public procurement could be integrated, it is likely that that public body would incur little additional cost. Likewise, if several local authorities developed and implemented an approach jointly - for example, creating an industry-specific database of equal opportunity employers - they could share and thus mitigate the individual costs. Very approximate cost estimates have been gathered from local authorities using the six approved questions to determine whether potential contractors are in compliance with race relations legislation as defined by the CRE Employment Codes of Practice. These vary between £3,000 and £35,000 per year.
- (iii) *Cost to business*: Where a public body stipulates compliance conditions, costs are likely to be incurred by contracting firms. U.S. research evidence on the effects of Affirmative Action remains quite incomplete, but surveys of very large companies from the mid-1970s indicates that average annual compliance costs were \$78 per employee in 1976-77 dollars (roughly three times as much in current dollars).³ The variance in these estimates across companies was, however, extremely high.

Of course, formal assessment of the range of costs (and simulation of likely benefits) should be taken into account in drawing up model guidance. Guidance should be consistent with the principle of value for money, defined as the optimum combination of whole life cost and quality to meet the user's requirement.

³ Up-to-date costs would presumably reflect the effects of inflation, the scale of the business on unit costs and the content and nature of individual procurement contracts.

6. *Implementation*

Since adoption of guidance is voluntary, the proposal cannot be enforced. Where public bodies do adopt the guidance, however, contracting firms will, by necessity, be expected to comply. Issues of the precise requirements placed on firms will be examined in detail by, and considered within, the proposed guidance.

7. *Consultation*

(i) *Within Government*

Within Government, DTI and Home Office would be expected to consult with OGC and ODPM, and should pay particular regard to existing initiatives in this area – notably, those of the Sustainable Procurement Group and the CRE.

(ii) *Public consultation*

Public consultation should be undertaken to ensure that the principles enshrined in the procurement guidance are fully understood by the wide range of firms – including SMEs - contracting with public bodies.