



Department of  
**Health, Social Services  
and Public Safety**

An Roinn  
**Sláinte, Seirbhísí Sóisialta  
agus Sábháilteachta Poiblí**

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# Embracing Diversity

## Understanding and valuing ethnic diversity in the HPSS

A good practice guide on  
the employment of minority ethnic staff  
including those recruited from overseas into  
Northern Ireland's  
Health and Personal Social Services

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November 2004

Ref: 215/04

Printed by Central Print Unit

November 2004

**DEPARTMENT OF HEALTH, SOCIAL SERVICES AND  
PUBLIC SAFETY**

***EMBRACING DIVERSITY***

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## **PREFACE**

Our communities are becoming increasingly diverse and, as a result, they experience increasingly diverse needs. The Health and Personal Social Services (HPSS) must be capable of responding sensitively to the full range of these needs. The positive contribution which ethnic minority staff, including those recruited from overseas, can make in delivering this agenda is immensely important. Without them we would not be able to deliver the services we need. Sometimes however, the efforts of our overseas staff are rewarded with harassment and discrimination. We must not allow this to continue.

The Government is determined to tackle racial discrimination harassment in all walks of life. My Department is fully committed to working with employers and trade unions to tackle the problem within Health and Social Services in Northern Ireland. We are doing so on a number of fronts and I congratulate those HPSS employers who have been working hard to make a difference in this area. But more still needs to be done.

All staff in the HPSS, wherever they work, have the right to work in an environment free from unwanted, unreasonable and offensive conduct that may affront their dignity or create a hostile environment. A modern, dependable HPSS needs modern dependable employees. In order to provide high quality services to the people of Northern Ireland the HPSS needs to recruit, retain and promote the best available people. Quality of care for service users and for staff go hand in hand.

This Good Practice Guide outlines how the whole of the health and social services can best go about tackling the racial harassment of ethnic minority staff including those from overseas. We are aiming to create and sustain a working environment where individual differences are valued and respected, and where all staff can give of their best and help us to respond more effectively to the needs of the people we serve. Perpetrators of racial harassment will be challenged.

Stamping out racial harassment is everyone's responsibility - staff, service users and members of the public alike. As the biggest employer of black and ethnic minority staff in Northern Ireland the HPSS will set an example for others to follow. This Good Practice Guide sets out how we can all play our part.

**Angela Smith**  
**Minister of Health, Social Services and Public Safety**



## **FOREWORD**

The HPSS Partnership Forum is a body of people who represent major stakeholders in Northern Ireland's health and personal social services, including representatives from the Department, HPSS employers, HPSS trade unions and other professional bodies.

The Forum seeks to address and take forward issues of mutual interest within the HPSS and by working together resolve difficulties and agree a way forward.

All members of the Forum are concerned at the unacceptable treatment which has been experienced by some ethnic minority and overseas staff working in the HPSS here recently.

The Forum recognises that the HPSS depends a great deal on the dedication of its staff, many of whom are from ethnic minority communities in Northern Ireland or have been recruited from overseas. Without them we would not have the high standard of care that we have at present, and many of us would have to wait longer for care.

As the largest employer of ethnic minority people, the HPSS must set an example. Any form of unwanted, unreasonable or offensive conduct, including discrimination, harassment and bullying, that may affect the person's dignity are to be regarded as unacceptable and will not be tolerated or condoned.

Members of the Forum now urge HPSS employers to be proactive in taking a stance against any racial harassment of their staff. There is a clear need for the implementation of unambiguous policies and procedures to support people being abused or attacked, and for challenging the perpetrators, sometimes through the disciplinary process. This should include plans dealing with situations where harassment comes from external sources such as patients, visitors or other members of the public.

The members of the Forum are keen to see the publication of this guidance, and urge all HPSS employers to implement its recommendations forthwith.

**HPSS Partnership Forum**



## **1 Executive Summary**

This Good Practice Guide has been produced by the Department of Health, Social Services and Public Safety, guided and encouraged by the HPSS Partnership Forum. Its aim is to help ensure that ethnic minority health and social care staff, including those who may have been recruited from overseas, are not subjected to racial discrimination or any other kind of racist abuse whether in the workplace or in the community.

Although the Guide contains the necessary references to policy and legislation, it has been kept brief in recognition of the pressures on busy HPSS staff.

The negative and often painful experiences suffered by some internationally recruited staff have been cited in order to highlight their human impact. It is hoped that by including such examples that this will help to increase knowledge, understanding and sensitivity among HPSS staff about the effects that racist behaviour can have on some of our staff. Thus, the possibility of similar negative experiences in the future will be significantly reduced.

The Guide is intended to be a resource that identifies common issues and highlights examples of good practice from within individual Trusts that can be used across the wider services.

Trusts and service providers are encouraged to be sensitive to the needs of staff from overseas and take steps to ensure the successful recruitment, induction and integration of these staff into their organisations and where possible the communities in which they live.

Fully implementing the anti-racism good practice recommended in this Guide will contribute to challenging people's attitudes where necessary and help to promote a more diverse, tolerant and accepting culture within our health and personal social services.



## 2 Background and Introduction

The Department of Health, Social Services and Public Safety's mission is to improve the health and social well-being of the people of Northern Ireland. It endeavours to do so by ensuring the provision of appropriate health and social care services, both in clinical settings, such as hospitals and GP surgeries and in the community, through nursing, social work and other professional services. It also supports programmes of health promotion and education to encourage the community to adopt activities, behaviours and attitudes which will lead to better health and well-being.

In the past decade Northern Ireland's minority ethnic population has increased significantly in its size and in its diversity. This is without question a good thing for Northern Ireland, but at the same time there has been an increasing recognition of problems related to racism, racial discrimination and racist harassment. The issue of racist harassment and racist attacks is an important issue for many members of our ethnic minority communities resident here. For example, research based on PSNI statistics of incidents of racist harassment reveal a large increase in cases reported to the police between 1996, when 39 incidents were recorded, to 2000 when 285 incidents were recorded (Jarman and Monaghan 2003). This has had a significant impact on many HPSS staff and has happened at a time when HPSS employers, as well as private sector health care employers, have been actively recruiting overseas.

In May 2002 the DHSSPS issued *The Employer of Choice*, a Human Resource Strategy for managing and developing people in the health and personal social services. The strategy recognised a widespread shortage of skilled staff in key areas, across both the health and social care services. To meet this shortage employers have recruited nurses and other staff from overseas as part of their workforce planning strategy.

The number of nurses recruited from abroad has significantly increased since 1998. In 2002/2003 there were some 12,757 nurses from overseas (outside the European Union) registered as initial entrants to the Nursing and Midwifery Council (NMC) Register within the UK. Some of these recruits have chosen to seek short-term contracts as continual professional development opportunities in the HPSS and independent sectors. In November 2004 over 800 are employed in the HPSS in Northern Ireland. Overseas recruitment into the HPSS is likely to continue for the foreseeable future.

The objectives of the Guide are to help ensure equality of treatment for ethnic minority and overseas staff and to co-ordinate a more standardised approach by providing the following:

- a clear statement of policy which will help to eliminate racial discrimination and develop more culturally competent organisations;
- clarification of how relevant legislation applies to policy and practice, and
- realistic and practical strategies to respond to the needs of ethnic minority staff.

The DHSSPS and the HPSS Partnership Forum through the publication of this guide and other linked initiatives is committing itself to ensuring that all staff – irrespective of their religious belief, ethnicity, political opinion, gender, sexual orientation, marital or family status, race, disability or age – have the right to work in an environment free from hostility or fear and where they are treated with respect and dignity.

Harassment or abuse in any form is unacceptable behavior. It can impact on the health, confidence, morale and performance of those affected by it, and diminishes the effectiveness of the organisation. Such behaviour cannot be condoned or excused and will not be tolerated.

### **3 The Legislative Framework**

The Good Practice Guide will, of course, operate within the context of existing legislation and proposed legislation in this area. This is summarised below, although it is not a comprehensive account of all relevant legislation.

#### **Race Relations**

The Race Relations (NI) Order 1997 (RRO), as amended, follows closely the provisions of the 1976 Race Relations Act in GB. It proscribes discrimination on grounds of colour, race, nationality or ethnic or national origin. The Irish Traveller community is specifically identified in the Order as a racial group against which racial discrimination is unlawful.

The Race Relations Order (Amendment) Regulations (Northern Ireland) implemented European Council Directive 2000/43/EC of 29 June 2000. The Directive is concerned with the principle of equal treatment between persons, irrespective of racial or ethnic origins in employment as well as other areas. The Directive amends the RRO (above) in that it sets out a new definition of indirect discrimination, and a new definition of harassment, and alters the burden of proof in court proceedings.

#### **The Fair Employment and Treatment (NI) Order 1998**

The Fair Employment and Treatment (Northern Ireland) Order 1998 (FETO) makes it unlawful to discriminate against someone on the grounds of religious belief or political opinion.

The Order outlaws discrimination by employers against members of their existing workforce and in the recruitment of new employees. Employers are also liable for acts of discrimination committed by their employees in the course of their employment, whether or not the acts were done with the employer's knowledge or approval, unless the employer can show that he took such steps as were reasonably practicable to prevent the discrimination occurring.

The Order also applies to the following bodies:

- those with statutory power to select employees for others;
- employment agencies;
- vocational organisations, including trade unions;

- training providers, and
- those who have power to confer qualifications.

The Order also applies to contract workers, partnerships and barristers.

The Fair Employment and Treatment Order (Amendment) Regulations (Northern Ireland) 2003 implemented the European Council Directive 2000/78/EC of 27 November 2000. It established a general framework for equal treatment in employment and occupation. It sets out a new definition of indirect discrimination in the areas of employment and vocational training and also a new definition of harassment.

### **The Northern Ireland Act 1998**

Section 75 of the Northern Ireland Act 1998 requires all Government Departments, Non-Departmental Public Bodies and other public authorities (including appropriate UK Departments operating in Northern Ireland and District Councils) in carrying out their functions to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, **racial group**, age marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without, and
- between persons with dependants and persons without.

In addition, without prejudice to the obligation above, Departments and other public authorities, in carrying out their functions relating to Northern Ireland must have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or **racial group**.

### **Equality Commission for Northern Ireland**

The Northern Ireland Act 1998 also provides for the Commission for Racial Equality (Northern Ireland), which was set up under the 1997 Race Relations Order, to be dissolved and for its functions to be exercised by the Equality Commission for Northern Ireland.

With regard to race equality, the three principal duties of the Equality Commission are:

- to work towards the elimination of discrimination;
- to promote equality of opportunity, and good relations, between persons of different racial groups generally, and
- to keep under review the working of the Order and, when it is so required by the Office of the First Minister and Deputy First Minister (OFMDFM) or otherwise thinks it necessary, draw up and submit to OFMDFM proposals for amending the Order.

Regulations 18 and 19 make it unlawful for bodies concerned with education or vocational training or guidance to subject persons to harassment.

Regulations 22 to 24, and 26, make it unlawful for persons concerned with the provision of goods, facilities or services, or accommodation, to subject persons to harassment.

Regulation 41 and 43 alter the burden of proof in tribunal and court proceedings in relation to discrimination on grounds of race, ethnic or national origins, or harassment, in areas with which the Directive is concerned.

### **The Single Equality Bill for Northern Ireland**

The development of a Single Equality Bill (SEB) is an important element of the Northern Ireland equality agenda. In June 2004 the Government published the Green Paper on the SEB: A Discussion Paper on options for a Bill to harmonise, update and extend, where appropriate, anti-discrimination and equality legislation in Northern Ireland.

The purpose of the SEB is to provide a clear and accessible framework of anti-discrimination and equality law for Northern Ireland by addressing unlawful discrimination and promoting equality. The underpinning criteria for the SEB include dignity for all; the need for an effective, efficient and equitable framework of legislation; good means of redress; balances to be struck between equality and other social needs; and the need to minimise hierarchies of inequality developing.

## **Race Hate**

The Government has introduced legislation to protect individuals from ‘hate crimes’. The hate crimes legislation introduced in Northern Ireland is more wide ranging and comprehensive than criminal justice legislation dealing with ‘hate crimes’ already in place in England and Wales.

The Criminal Justice (Northern Ireland) Order 2004, defines hate crimes as “crimes where an offence involves hostility based on religion, race, disability or sexual orientation”. The Government’s decision to introduce legislation to further protect individuals against hate crimes was taken against a background of a rising number of these crimes in Northern Ireland.

## **How the Guide fits**

This Good Practice Guide is intended to complement the existing legislative framework. Legislation is important in deciding the principles that should govern behaviour and in setting minimum standards that must be observed. In this way, legislation can signal and bring about change.

But change can also be influenced by action to make sure that the principles of law are incorporated into policies and practices as they are developed. It is the Department’s intention that this Guide will inform the development of new policies and practices.

#### 4. **Clarification of Terms: Understanding Racial Discrimination, Harassment and Abuse**

##### **What is Discrimination?**

Discrimination occurs when someone is treated unfairly or less favourably compared with people from other groups. It may be **direct** or **indirect**.

Direct discrimination includes, for example, treatment arising from:

- an assumption that staff from ethnic minority backgrounds cannot do certain jobs (eg automatically ruling them out of jobs which might involve dealing with the public);
- an assumption that staff recruited overseas are not as committed to their jobs as local staff, or vice versa; or
- hostile attitudes to people from other ethnic, cultural or religious backgrounds.

Indirect discrimination occurs when a requirement of employment is made which adversely affects or favours one group more than another and cannot be justified by the needs of the job, for example:

- unnecessary requirements to work unsocial hours, which might cause difficulties for women with domestic responsibilities;
- an unnecessary ban on women wearing trousers, which would affect Muslim women.

Article 6(2)(c) of the Race Relations (Northern Ireland) Order says that:

*It is unlawful for a person ..... to discriminate against [an] employee ... by dismissing him, or subjecting him to any other detriment.*

The case of *De Souza v The Automobile Association* [1986], which was heard in the Court of Appeal, established the principle that a racial insult in itself may be a detriment under the Race Relations Act 1976 (the corresponding GB legislation) or in other words a disadvantage in the circumstances in which someone has to work. Any *other* detriment the complainant might experience therefore, such as

blocked promotion, compulsory transfer, refusal of leave or dismissal would be an *additional* detriment.

### **What is Racial Harassment?**

‘For anyone who is a target of harassment, being at work means being in a permanent state of dread, being unable to concentrate and failing to realise one’s full potential. Worse, the tension is contagious and invariably affects others, with ultimately damaging consequences for the organisation as a whole’. (Herman Ouseley, Chairman of the Commission for Racial Equality: ‘Racial Harassment at work: what employers can do about it’)

The Race Relations (Northern Ireland) Order 1997 does not use the term, ‘racial harassment’ but experience in Great Britain has shown that industrial tribunals are increasingly willing to conclude that racial harassment and abuse at work is ‘less favourable treatment on racial grounds’, and therefore constitutes unlawful racial discrimination.

Article 3(1)(a) of the Order says that:

*A person discriminates against another ... if on racial grounds he treats that other less favourably than he treats or would treat other persons.*

The question is whether the person complaining of racial harassment would have been treated differently if race, nationality, or ethnic or national origin had not been an issue. There is no hard and fast definition of racial harassment. It is a general term covering a wide range of unacceptable, and often unlawful behaviours.

But there are other, subtler forms of harassment that are equally distressing and that can create an intimidating and unpleasant atmosphere at work, for example racist ‘jokes’, banter, insults, taunts, gibes, literature and graffiti; shunning people because of their race, colour, nationality or ethnic background; excluding them from conversations, making racist insinuations; condescending attitudes or remarks, or remarks or facial expressions which deprecate the way someone dresses.

The definition of sexual harassment provided in the European Commission’s Code of Practice on Sexual Harassment (there is at present no equivalent for racial harassment) can usefully be extended to racial harassment. The Code defines sexual harassment as ‘unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work’.

Racial harassment may be deliberate and conscious. But it can also be unintentional; ‘I meant no offence’, or ‘it was just a joke’ is a common, sometimes genuine, protest when someone has been oblivious to another person’s feelings or sensitivities. Unlawful discrimination as defined by the Race Relations Order need not be conscious, and as a tribunal once remarked, ‘it certainly does not need to be motivated; the great majority of people believe they have no prejudices.’ While the intention of the perpetrator may provide an explanation for the harassment, it can never be an excuse.

Industrial tribunals have consistently ruled that there can be ‘no degree of acceptability’ for racist banter in the workplace. The context is irrelevant, and any use of it is an expression of racial prejudice.

The most important rule for employers faced with complaints of racial harassment is that **the perception and interpretation of the person who feels harassed must be central to the consideration of harassment**. As the tribunal in the case of *Clarke v BTR Fatati* summed up:

*It is not what a bystander might consider to be a disadvantage, or anyone else other than the applicant, but what the applicant himself considered ..... It was not material that other employees might shrug off being called racist names ..... or that things were said without malice; [but that] the applicant was upset and thought he was being singled out.*



# **POLICY AND PRACTICE**



## 5 Recruitment and Induction

Section 3 of this Guide gives a brief account of the set of circumstances which have led to a higher level of recruitment of overseas staff to the HPSS. However, the international mobility of health and social care professionals is a well established practice (particularly in GB) and has been going on for many years.

Overseas recruitment practice is sufficiently important and complex to warrant guidance in its own right and DHSSPS will shortly publish “Guidance on International Nursing Recruitment”, which will be a general guide to assist employers and employees. The guidance will cover those areas of the recruitment process that may have an impact on how individual workers experience their transition into the new ‘host’ working environment.

More particularly it will consider:

- what the workers’ hopes and expectations are of their new place of employment, and
- what the current established staff in the workplace think about accepting new overseas staff.

### Expectations

If the expectations of the new recruits and existing staff can be more closely aligned the likelihood of disappointments and misunderstandings can be reduced.

Quote            *“I expected high technology when I came, that I could learn a lot and be able to take back something to South Africa”.*  
Female, 47 yrs, South African nurse in private sector

Quote            *“I thought that before I came to the UK I expected that it would be like America, that after a year I could have my own home and my own car.”*  
Female, 36 yrs, Filipino nurse working in HPSS

Although the new staff arriving from overseas will inevitably go through a process of adapting to new ways of living and working, consideration should be given to the impact that the arrival of new staff will have on existing staff.

Existing staff should be engaged in the decision making processes involved in overseas recruitment and deployment:

### **Example of Good Practice**

*The Trust actively engages with staff side representatives in relation to recruitment and employment of overseas nurses, which has taken place in the Trust for the last 3 years consecutively. The decision to continue to recruit nurses from overseas was encouraged by the level of support and success of the integration of the nurses from previous years, within the hospital and indeed the wider community.*

Mater Hospital Trust, June 2004

Programmes should be developed to prepare staff to work with colleagues who have come from overseas and who have different cultural backgrounds:

### **Example of Good Practice**

*Consideration has been given to employees who work with colleagues from different cultural backgrounds at a local level within workplace by managers who have received equality training. The Trust also runs a comprehensive induction programme which focuses on all areas and aspects of equality.*

Mater Hospital Trust, June 2004

## **Arriving**

Arriving as a stranger in a foreign country, particularly one in which you are to live, and work can be an unsettling prospect, and employers should give consideration to how newly-arriving staff are welcomed.

Quote            *“You know, you weep your eyes out, nobody to console you, nobody to talk to, when you’re ill nobody to look after you. It is not the same at home. At home people are always coming to visit.”*  
Female, 36 yrs, South African nurse in private sector.

Quote            *“My reception was very good. When I got to the airport there was somebody to meet me and I was taken to a hotel. Then they accommodated me in a bed and breakfast and they helped me to get the accommodation which they had promised.”*  
Female, 25yrs, Filipino nurse in private sector

### **Example of Good Practice**

*All the nurses, on arrival in Belfast, were met at the airport by representatives from the Royal Hospitals, including members of the panel who interviewed them in the Philippines, to ensure some “familiar faces”. Arrangements were made to bring the nurses to their accommodation where a formal welcome was organised.*

The Royal Hospitals Trust, July 2004

The recruitment agencies who recruit overseas staff on behalf of employers in Northern Ireland should follow industry best practice by ensuring that they follow-up on clients:

### **Example of Good Practice**

*There has been excellent follow-up by the recruitment agency. They have given advice to the Trust on such issues as visas and work permits, and there has been regular personal contact between agency nurses, consultant and staff.*

Homefirst Community Trust, June 2004

Each new recruit from overseas should receive proper training and induction. They should receive accurate information about the post they will be taking up, the environment in which they will be working and their likely accommodation. A well planned induction programme is essential so that the employer can engage the recruit with other members of the health and social care team. It should encourage integration at an early stage and maximise their early contribution:

### **Example of Good Practice**

*Comprehensive induction programmes including corporate induction, personnel induction, nurse induction and departmental induction were put in place. In addition we provided a structural adaptation programme to meet the requirements for registration with the Nursing and Midwifery Council. In a very small number of cases where a nurse was experiencing some difficulties during adaptation, arrangements were made to transfer the nurse to a different specialty and provide further mentoring and support and in all cases the nurse successfully completed the adaptation programme.*

The Royal Hospitals Trust, July 2004.

### **Example of Good Practice**

*The Trust runs a 6-month adaptation programme for overseas nurses. This programme is clearly clinically orientated, however it also provides education and advice on cultural issues within the wider community which overseas nurses may have to respond to.*

Mater Hospital Trust, June 2004

Employers should also give consideration to the level of support which new staff may require as they acclimatise to their new work and surroundings:

Quote: *“You go to all these Northern Ireland nurses and you can’t even ask anything because all they say is: “I’m sorry but I don’t know. I can’t help you”.*

Female, 42yrs, Indian, in private sector

### **Example of Good Practice**

*The provision of a non-nurse advocate and friend who visits the nurses once per week has been very successful. This is a grade 4 administrative officer with a good sense of humour, maternal disposition and excellent communication skills. She has direct access to the Nurse Director for problem solving and the staff have her mobile phone number for contact.*

Homefirst Community Trust, July 2004

Support and advocacy on an ongoing basis:

### **Example of Good Practice**

*The Trust has a dedicated Lead Nurse for Learning and Development who acts as a mentor for overseas nurses. The Lead Nurse also advises Ward Sisters on areas of support and advocacy on an on-going basis.*

Mater Hospital Trust, June 2004

## **6. In The Workplace**

Section 3 of this Guide provided an overview of the relevant legislation. This section considers this from the perspective of the employee.

International health and social care professionals legally recruited from overseas to work in Northern Ireland are protected by relevant employment law in the same way as all other employees:

- All staff, regardless of country of origin, have the same legal protections within the workplace.
- Relevant employment legislation applies as long as the employee holds a valid work permit.
- Employment legislation protects and guides the conditions of service for all employees, regardless of their country of origin.

International health and social care professionals should have the same support and access to further education and training and continuing professional development as all other employees.

- Professional development plays a key role in ensuring the continuing effectiveness of staff and high quality of care.
- Ongoing professional development plays an important role in the retention of staff.
- Some health and social care regulators require practitioners to undergo periodic professional development in order to maintain their registration.

The Department's Guidance on International Nursing Recruitment will provide details on adaptation training. However, it is worth stressing that if professional bodies such as the Nursing and Midwifery Council recommend that a recruit should undergo a period of adaptation training it is incumbent on the employer to develop an approved adaptation programme to prepare the recruit.

It is essential that the pay and conditions which new recruits are offered are consistent with those expected by staff recruited and trained in Northern Ireland and other countries of the UK who fulfill the same roles. The same rights and privileges are available to all staff regardless of country of origin:

### **Example of Good Practice**

*The Trust runs an effective adaptation programme for all overseas nurses. This intensive induction details all aspects of their terms and conditions of employment, and embarks on educating nurses about the Trust's stance and commitment in relation to the Northern Ireland Act 1998.*

Mater Hospital Trust, June 2004

Employers have a legal and moral responsibility to protect employees from the humiliation of harassment. Many employers assume that if there are no reports of racial harassment, there is no problem in their organisation. But most incidents of racial harassment are never reported, and employers should understand why their employees may be putting up with it:

- They may feel too intimidated to do anything about it.
- They may be afraid of reprisals.
- They may not want to make a fuss.
- They may think they will not be believed or understood.
- They may think that nothing will be done about their complaint.

They may not know how to go about making a complaint, or to whom, especially if the harassment is coming from their line manager or supervisor.

In some areas of the HPSS, such as hospitals, where direct services are provided to the public, there is the potential for a racially motivated attack. Employers have a legal and moral responsibility to protect their employees from the humiliation and indignity of harassment.

### **Racial Harassment**

The first step in preventing racial harassment in the workplace is for employers to acknowledge that it might happen or could be happening in their organisation, and to decide to take a stand against it. The policy adopted may cover several forms of harassment but the detailed procedures drawn up to implement it need to address the specific difficulties associated with each type of harassment.

Harassment policies are most effective when they are part of an overall equal opportunity policy for the organisation, drawn up in partnership with the workplace trade unions. The racial harassment policy and procedures should be set out clearly in notices, staff newsletters, manuals and annual reports, and reinforced frequently through training, discussion and monitoring.

Employees should understand that one of the essential conditions of their employment is to treat everyone with dignity and respect and to expect such treatment themselves. They should also be aware that incidents of proven racial harassment can be treated as a disciplinary matter and that they could be dismissed for such behaviour.

Properly communicated, the policy should become part of the ethos of the organisation, giving anyone who thinks they are being harassed and those who may witness harassment of others, the confidence to raise the matter through the organisation's procedures, and the courage to speak out against such behaviour.

Training is essential to explain to employees why the organisation has adopted a policy against racial harassment and to make sure that everyone is clear about the procedures they must follow if they want to make a complaint. The policy should be discussed in any induction training for new staff and be included as a standard element in all other training programmes. Employers should ensure that all staff receive training in what is meant by unacceptable behaviour at work.

Managers and supervisors may need more intensive courses on the laws against discrimination; relevant statutory codes of practice and the organisation's procedures for considering complaints. Role-play sessions and detailed exercises on sample harassment cases can be particularly useful elements of such training. Managers and supervisors should understand that it is their responsibility to ensure that the workplace is free of racist jokes and banter, and that every complaint must be taken seriously.

It is important not to underestimate the destructive effects of racial discrimination and harassment. One of the main problems in the cases reaching industrial tribunals has been managers who refuse to take complaints seriously, or hope that the problem will go away by itself and tell the injured person to 'forget it'.

Women, in particular, may experience bullying and humiliation on account of their sex as well as their ethnic origin and may need to be able to talk to someone who can sympathise with their experience and give them support. In one case in England a female police officer who was of Turkish origin and a Muslim, is instructive. She was refused promotion, subjected to racist and sexist taunts and

abused in offensive letters circulated to staff. Ms Locker settled her case out of Court for a total of £32,500.

It takes courage to make a complaint and employers owe it to their staff to treat all complaints of harassment seriously and sympathetically and to take action promptly. The employer's equal opportunities policy should make clear how complaints of racial harassment will be dealt with.

- (a) The procedures should be set out clearly, step by step, and in clear and unambiguous language, so that a person wishing to make a complaint knows what to do and whom to approach.
- (b) Employees should know to whom they can turn if they want to talk about a problem informally and in confidence, and want to discuss their rights. This might be the personnel manager or an equal opportunities officer, or some other person who is given this specific responsibility.
- (c) Time limits should be set for every stage of the investigation and the whole process should be transparent.
- (d) Investigations can be either informal or formal, and the complainant should be allowed to decide how she or he wants to proceed. The most important thing, however, is to act quickly once a complaint of racial harassment has been received.

The Equality Commission for Northern Ireland has drawn up a Model Harassment Policy and Procedure which covers racial, sexual and sectarian harassment. Copies are available from the Equality Commission NI. Employers are encouraged to customise and apply the model policy and procedure in a way that is appropriate to the size and structure of their organisations.

If at all possible, it is obviously better to try to resolve matters informally. Informal discussions with a trained counsellor can be invaluable in helping to pinpoint the problem, and sometimes even to resolve it without having to go through the formal procedures. This approach should, of course, only be followed with the agreement of the complainant.

Wherever possible, the counsellor should be from the same ethnic background as the complainant. A survey conducted by *Equal Opportunities Review* showed that, while employers had no difficulty in appreciating that women who had been harassed might prefer to talk about their experience to a female counselor or adviser, they did not think of extending the same consideration to ethnic minority staff.

It is not necessary to keep detailed records about this stage, unless the complainant decides to pursue the matter further. However, employers should monitor the number of informal complaints and their outcomes (page 25). The complainant should be allowed to have a representative or friend at all discussions.

If the informal approach fails, the following should apply.

- (a) The complainant should make a formal complaint, in writing, identifying the person who has been harassed.
- (b) The policy should set a time limit for settling complaints. If a complaint is not dealt with swiftly and decisively, there is every chance that the harassment will continue and that the person who has brought the complaint will be victimised for having done so. Employers should note, when setting the limits for investigations of harassment complaints, that the industrial tribunal hearing the case of *Clarke v BTR Fatai Ltd* found a month to be too long.
- (c) The complaint should be acknowledged in writing as soon as possible and the alleged harasser given written notification of it at the same time, with full details of the allegations.
- (d) Confidentiality is essential. Employers should make it clear to line managers and everyone involved in the complaint that they should not talk openly about it at work until the investigation is over.
- (e) Royal Mail, which was commended for its action by an industrial tribunal, had a policy of immediately separating the parties to a harassment complaint. As this may not always be possible, employers should make sure that the complainant is not victimised in any way while the matter is being investigated, and receives full support.
- (f) Care should be taken when considering whether an organisation's standard grievance procedure is adequate for dealing with complaints of harassment. For example, if someone wishes to take a complaint against his or her line manager then he or she should be able to take the complaint directly to a more senior person.
- (g) If the organisation deals with complaints of harassment through a separate procedure rather than the grievance and disciplinary procedures, and a complaint of racial harassment is being considered at the same time as disciplinary procedures are being taken against the complainant, the

harassment complaint should take precedence, and the disciplinary action be temporarily suspended.

- (h) The complaint should be heard as quickly as possible by a panel, or by an independent person, preferably someone outside the departments where the parties concerned work.
- (i) The person or panel members should be trained in handling complaints of racial discrimination and harassment.
- (j) As racial harassment is a disciplinary matter, the panel investigating a complaint must be reasonably satisfied that the incident took place.
- (k) Each party should be allowed to choose the person who accompanies him or her.
- (l) The complainant should receive a decision in writing from management as soon as the investigation is complete. Where necessary, disciplinary action should be taken as quickly as possible. If the disciplinary action involves separating the parties to the complaint, it is the harasser who should be moved or transferred or suspended, not the person who has been harassed, as this would not amount to additional detriment.
- (m) Every effort should be made to prevent further harassment and the complainant should be given a written undertaking that he or she will not be victimised or suffer further detriment.

### **Monitoring**

The only way an organisation can know whether its policy and procedures are working is to keep careful track of all complaints of harassment and how they are resolved. An employer should be able to say how many complaints of racial harassment have been made in a year, how many were resolved informally, how many were investigated formally, how long each investigation took and what the outcomes were.

This monitoring information should be used to evaluate the policy and procedures at regular intervals, with changes recommended when something is working well. If the information also reveals a greater incidence of harassment complaints in certain departments or branches, action should be taken straightaway to investigate them and deal with any problems.

The harassment policy should make it clear to contractors, patients, clients and users of any services that the organisation provides, that racial harassment towards its employees will not be tolerated. The policy should set out clearly the sanctions that will be taken if any complaint is upheld.

Employers have a duty to ensure that all staff, whatever their ethnic origin, can expect equal conditions of work in an environment that is free from humiliation, and in which their performance, career prospects and job satisfaction are not affected by racial prejudice, discrimination and harassment.

Employers who, for whatever reason, fall short of meeting this duty have nothing to gain and everything to lose: morale and performance may suffer good employees are unable to give of their best to the organisation; some good employees may decide to leave; cases may go to industrial tribunals or further.

### **Promotion and Career Advancement**

It is worth stating that when eligible, all staff recruited from overseas should have equal opportunity for advancement within their employing organisations. In order to fulfill this obligation employers must be sure that all methods used to attract and select candidates are justifiable and free from bias or prejudice. For example,

- encourage applicants from all suitably qualified people;
- not be biased or stereotype people in any way;
- be widely publicised where practicable, and
- aim to attract under-represented groups.

#### **Example of Good Practice**

*We are pleased that many of the international nurses have applied for promotional posts and a total of 14 have been appointed 'E' grade with 1 nurse subsequently appointed to 'F' grade – a number of nurses are currently applying for 'E' grade posts.*

The Royal Hospitals Trust, July 2004



## 7. In the Community

In Section 2 of this Guide reference was made to the increasing diversity of society in Northern Ireland, with ethnic minorities growing and becoming more visible. Of course incoming internationally recruited health and social care workers have added to this mix.

However, it is an unfortunate fact that some sections of Northern Ireland's society have not welcomed these changes and indeed some have been openly hostile and even violent towards ethnic minorities. While steps are being taken to address this issue, employers should carefully consider how, when and where newly recruited ethnic minority staff might move into host communities:

Quote: *You can't avoid being isolated here because you are in a minority. At first it's tough, even where to get your proper food and things like what bus to catch. The isolation is not so bad now as I have been here for two years already.*

Employers should consider what steps they might take which may help to prepare prospective host communities for the arrival of new overseas staff. "Outreach" work can go a long way towards tackling myths and rumours and addressing any concerns raised by local residents.

### **Example of Good Practice**

*Within the Trust, the culture of the overseas nurse is very much celebrated and supported, and indeed by the wider community. Cultural and religious awareness workshops have been organised for those within the Trust and to raise awareness in the local community. The Trust intends to continue its attempts to raise awareness to as captive an audience as possible.*

Mater Hospital Trust, June 2004.

### **Example of Good Practice**

*The induction programme and adaptation programme have been thorough. The induction programme involved provision of information packs, assistance with banking, telephones, doctor, dentist, visits to supermarket and making links with local communities and churches.*

Homefirst Community Trust, July 2004

### **Example of Good Practice**

*We have worked with Falls Women Centre to introduce female overseas staff to the network of women's centres in West Belfast and the services they provide, including childcare. An event for overseas women and children was held on 25<sup>th</sup> March, sponsored by the Royal.*

The Royal Hospitals Trust, July 2004

Where racist harassment or abuse has occurred employers should be proactive in:

- providing information and training for staff on personal safety and security;
- seeking access to local community representatives;
- alerting PSNI.

### **Example of Good Practice**

*Staff Safety Seminars have been held highlighting issues of personal security and how to report incidents occurring in and outside the Trust. Also meetings have been held with community representatives in the South Belfast (Donegall Road/ Village) area about recent racist attacks on patients/staff.*

The Royal Hospitals Trust, July 2004

## 8. Conclusion

This Guide has been produced by the Department and the staff side organisations working in partnership, as an immediate response to a rise in reported incidents of racist abuse and violence towards staff in the HPSS. Its purpose is to describe the problems and suggest ways in which employers in the health sector can address these. In particular it seeks to help employers to provide the best possible support to those staff who suffer, or are at risk of suffering, from racism.

This first edition of the Guide quotes examples of good practice from a small number of HPSS Trusts, but the Department acknowledges that valuable and imaginative work is being done by health care employers across Northern Ireland. A second edition of the Guide will be published in 2005. For that edition we would welcome further examples of good practice which can be included. We would also welcome any comments on this edition.

Any comments on the Guide or suggestions for future content should be addressed to:

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