



LAW AT THE HEART
OF GOVERNMENT

**THE SCHEME TO PROMOTE RACE EQUALITY IN THE
TREASURY
SOLICITOR'S DEPARTMENT**

**Second Edition
May 2005**

.SCHEME UNDER RACE RELATIONS AMENDMENT ACT 2000

SECOND EDITION – MAY 2005

Introduction

1. This is the second edition of the Race Equality Scheme of the Treasury Solicitor's Department (TSol), drawn up in accordance with Article 2 of the Race Relations Act 1976 (Statutory Duties) Order 2001.

2. Section 71 (1) of the Race Relations Act 1976 (as amended) provides that every Government Department (among others) –

“shall, in carrying out its functions, have due regard to the need;

a). to eliminate unlawful racial discrimination; and

b). to promote equality of opportunity and good relations between persons of different racial groups.”

(This duty is referred to below as “the General Duty”.)

3. The Scheme has two purposes. The first is to set out (TSol's) assessment of which its functions and policies are relevant to its performance of the General Duty. The second is to set out its arrangements for a number of matters, namely; assessing and consulting on the likely impact on the promotion of race equality, monitoring policies for any adverse impact on the promotion of race equality, publishing the results of such assessments and monitoring, ensuring public access to information and services provided and training staff in connection with the duties imposed by section 71(1) of the Race Relations Act and the 2001 Order.

PART A: GENERAL ISSUES

What is the Treasury Solicitor's Department?

4. The Treasury Solicitor's Department provides legal services for many Government Departments. Those without their own in-house team of legal advice are given legal advisory services, and the Department also handles litigation on behalf of those and most other Departments. In addition, the Treasury Solicitor as a statutory office-holder has certain specific functions. She holds the office of the Queen's Proctor, is responsible for collecting Bona Vacantia (ownerless property) on behalf of the Crown, and is Head of the Government Legal Service, comprising a total of 1600 Government Lawyers.

5. The Department is organised into a number of Operating Divisions, as follows:-

- * Litigation Division
- * Bona Vacantia Division

- * A number of Divisions which provide advice to other specific Departments:
 - Cabinet Office and Central Advisory Division
 -
 - Department for Education and Skills
 - Department of Culture, Media and Sport
 - HM Treasury
- * European Division
- * Directorate of Corporate Strategy
- * Attorney General's Office
- * Government Legal Service Secretariat

STAFF IN POST

wef : 1 April 2005

ETHNICITY	Number	%	% of those Returned
(blank)	136	18.7%	
Asian - Bangladeshi	7	1.0%	1.2%
Asian - Indian	33	4.5%	5.6%
Asian - Pakistani	6	0.8%	1.0%
Black - African	23	3.2%	3.9%
Black - Caribbean	26	3.6%	4.4%
Mixed Asian & White	5	0.7%	0.8%
Mixed Black African & White	5	0.7%	0.8%
Other Asian background	12	1.7%	2.0%
Other Ethnic background	13	1.8%	2.2%
Other Mixed ethnic background	9	1.2%	1.5%
White	445	61.3%	75.4%
Other *	6	0.8%	1.0%
Grand Total	726		
Returned	590		81.3%

APPRAISAL (2003/04)

ETHNICITY	Number	%
(blank)	126	22.4%
Asian - Indian	23	4.1%
Black - African	17	3.0%
Black - Caribbean	21	3.7%
Mixed Black African and White	6	1.1%
Other Asian background	6	1.1%

Other Ethnic Background	10	1.8%
White	336	59.7%
Other *	18	3.2%
Grand Total	563	

GRIEVANCE/DISCIPLINE

period: October 04 to March 05

ETHNICITY	Number	%
	0	0.0%
Grand Total	0	

CEASE EMPLOYMENT (RESIGNATION/RETIREMENT)

period: October 04 to March 05

ETHNICITY	Number	
(blank)	8	28.6%
White	11	39.3%
Other *	3	10.7%
Grand Total	28	

The Department’s General Policies on Race Equality and Diversity

6. TSol regards our commitment to the promotion of race equality as being based on the bedrock of our unconditional commitment to diversity. Our new statement on diversity is set out below.

**Treasury Solicitor’s Department
Diversity Statement**

TSol supports and promotes the Government’s Agenda for “ a dramatic improvement in diversity”.

Internally, it is essential that TSol provides a workplace environment and culture in which everyone is valued as an individual. An inclusive work environment is onewhich nurtures the development of all staff. It is one in which everyone is encouraged and supported to meet their full potential.

Externally, TSol 's continued success is dependent upon our ability to anticipate, understand, adapt, and respond to the changing values, needs and expectations of our clients and of society. Having a culturally diverse workforce improves our ability to conduct our business.

In order to achieve success we all need to engage in this process.

Preparation of this Scheme

7. The Race Relations Scheme was originally drawn up through the forum of a Race Relations Working Group, under the chairmanship of the Treasury Solicitor and comprising a senior representative from each Division. The draft Scheme was then reviewed and approved by the Diversity Group before submission to, and approval by the Supervisory Board, before publication. The first part of the process was an assessment of functions and policies, which could be relevant to the General Duty. This was carried out by each of the Divisions, and this process has been repeated by Divisional reviews of their assessments and functions for inclusion in this second edition of the Scheme. These assessments are set out in Part B below. TSol's Diversity Group oversee continuing reviews of the Scheme.

Consultation on the Scheme

8. In drawing up and developing its Scheme, the Department has consulted its own Diversity Group and Trade Union side, as well as client Government Departments, the Commission for Racial Equality, the Law Society, the Bar Council, the South East Circuit Minorities Committee and the Society of Black Lawyers. The final Scheme takes full account of the comments received .

Implementation and Timetable

9. All policies and practices operated by the Department, which have been found by this assessment will be considered by TSol's Diversity Group. Membership of the Diversity Group includes the Diversity Officers who may be consulted by staff over race equality issues.

10. As part of its initial review, the Group will be asked to consider amongst other things what training might be needed to secure fulfilment of this Scheme in addition to TSol's continuing Equal Opportunities staff training.

11. In future, all divisions are asked to review their assessments annually, , in the light of any changes in their responsibilities, policies or practices.

12. The Diversity Group will return to these policies and practices at regular intervals in the light of the reassessments, and will be able to do so at other times if it wishes, for example if it wishes to do so in consequence of any complaint against the Department.

13. Ethnic monitoring will be undertaken by means of the Personnel Management

System, using the Census ethnicity categories for England and Wales, against which TSol staff were surveyed in March 2002. Until such time as the Personnel Management System is in place this data will, as far as possible, be extracted from the current HR and other systems in use and against targets currently in place. Annual results will be published in the TSol Annual Report and twice yearly on the its Website and these will be considered by the Diversity Group who will make any necessary recommendations on further action needed. .

14. With the exception of external recruitment, numbers involved in internal processes are likely to be too small to use statistical testing, and so an analysis of data over a period of time and against other Government Departments, including those using GLS recruitment, is likely to be more useful. The Diversity Group will consider any other race equality implications of statistics produced.

15. The Government Legal Service Secretariat will continue to monitor the services, which it provides to the GLS. This is in addition to its commitments under the General Duty.

How we will deal with complaints

16. Any complaints that TSol has failed to meet its duties under the Act can be made by means of the complaints procedure detailed on TSol's website. General complaints relating to the Race Equality Scheme will be investigated by a nominated member of the Diversity Group. The Group will then make a recommendation as to whether to accept the findings of the investigation but leave the final decision to the Deputy Treasury Solicitor. The Treasury Solicitor will reply to the complainant on behalf of the Department.

17. Complaints from TSol staff concerning race equality issues, either from individuals in their own right or through Diversity Officers or Trade Union representatives, or the grievance procedure, will be considered by management with support available to the individual from the Diversity Officers and Trade Union representatives, in the normal way as detailed in the Staff Handbook.

How we will publish our Scheme and consult our staff and the public at different stages of the plan

18. This Race Equality Scheme is published on TSol's website with summary details included in our published TSol Annual Report. Twice yearly statistics, as detailed in Part C, will be circulated, including indication of progress against targets, together with other relevant information. The Diversity Group will be made known as the forum for receiving comments on published statistics and is the forum for reviewing the Scheme and making recommendations on further actions needed, as necessary. Office News will be issued as necessary.

PART B: ASSESSMENT OF FUNCTIONS AND POLICIES

ISSUES COMMON TO ALL DIVISIONS

19. The initial assessment was carried out, Division by Division, and it became clear that many matters were common to all Divisions, or a large majority of them. This Part looks first at those common elements and then goes on to record any additional issues specifically identified for individual Divisions.

20. Underlying the whole assessment is the fact that the main activity of the Treasury Solicitor's Department is to provide legal services to Government Departments and certain other public bodies. The Department does not consider that its role of providing legal advice and conducting litigation, under the discipline of professional rules of conduct, can of itself give rise to unlawful discrimination or affect equal opportunities or relations between groups. Providing those services is a means of assisting the other Departments and bodies who are our clients in carrying out *their* functions, for which they will have their own Race Equality Scheme. In general, therefore, this Department does not have responsibility for major governmental or administrative functions directly affecting individual members of the public or groups of the public. The few exceptional cases in which it may have specific functions of that kind are considered in the entries for specific Divisions below.

21. TSol also considered what functions it might have in the wider sense of activities it carries out which could have some impact on members of the public or public groups.

22. It concluded that the activities which, might be relevant to performance of the General Duty, fell into the following categories;

- (a) communications with members of the public, including outside lawyers and officials in other Government departments and other public bodies;
- (b) activities as an employer of staff, including temporary staff;
- (c) activities in instructing Counsel and in instructing solicitors to act as agents;
- (d) activities as a purchaser of business services.

Communications with members of the public and others

23. Communications with the public were thought to be either general requests for information, including inquiries about the Department, or communications relating to specific legal matters.

24. In handling general inquiries the Department is committed, like all Government Departments to the principle of public service. It was expected that all staff would recognise that the principles in the Department's Diversity Policy should apply equally to communications with those outside the Department, but consideration would be given to whether this should be more clearly expressed.

25. In handling communications on legal matters, all members of TSol were under an obligation to act in a professional and ethical manner, consistent with the codes of conduct of the Law Society or, as appropriate, the General Council of the Bar, both of which, include express policies on equal opportunities and avoidance of discrimination. In the case of litigation, we recognised that communications with an unrepresented member of the public might put that person at a particular disadvantage if their first

language was not English. See the section on Litigation Division below.

26. We concluded that the existing policies would support the performance of the General Duty and we found no other policies that might have an impact in relation to our performance of the General Duty.

Activities as an employer of staff

27. For convenience, these are considered below under the section on the Directorate of Corporate Strategy.

Activities as a purchaser of services

28. For convenience, these are considered below under the section on the Directorate of Corporate Strategy.

Activities in instructing Counsel and in instructing solicitors to act as agents

29. For convenience, these are considered below under the section on the Litigation Division.

30. Provision of external training course places.

Each Division of TSol has a Training Liaison Officer (TLO) whose role is to represent the Head of Division or Group Leader in liaising with TSol's People Development team in the provision of external training course places for members of their Divisions or Groups. Individuals are approved for external training places on the basis of training needs identified in their Training and Development Plans and the training requirements of their Division or Team, only. In the case of budgetary restrictions on the numbers who can be allocated places account will be taken of the relative need of applicants for the training in question, and fairness of allocation of budget resource among the team.

838 external training events were attended by TSol members of staff in the period 1 October 2004 to 31 March 2005.

DIRECTORATE OF CORPORATE STRATEGY (DOCS)

31. DOCS exists to enable TSol to deliver the best legal services in the field by delivering the best possible: -

- corporate strategy advice and implementation; and
- internal business services.

The Directorate is divided into the Finance, Information Systems, Human Resources Division (plus Office Services), and the Business Strategy Unit.

HR Division

32. **Activities:** The role of HR is to provide an efficient personnel service to all members of the Agency, assist the Supervisory Board in meeting the Agency's training and people development priorities, and ensure that the Agency's policies and procedures reflect a modern and diverse civil service. Chief among its activities are recruitment, appraisal, promotion and selection, pay and grievance procedures.

33. **Assessment:** Much of the early stages of recruitment are carried out by Personnel and the Government Legal Service who ensure that advertising for jobs in the Agency is placed with the media which will best attract applicants from all ethnic (and other) groups in the community. The GLS recruitment team normally attends a Careers Fairs each year, aimed at ethnic minority graduates e.g. 'Creating the Future' is organised by Diversity UK Limited (backed by the Cabinet Office) and 'Recruiting for the 21st Century' by the African and Caribbean Finance Forum (ACFF). (See also the separate entry for the Government Legal Service (Secretariat) below). TMP Worldwide, who act as recruitment agents for the Department and administer some of the early stages of the recruitment process, operate within the rules of Civil Service Commissioners rules for Civil Service recruitment, which ensure attention to racial equality in all processes. Additionally they provide details of the ethnicity of all applicants. All those in Tsol who are involved in sifting and interviewing candidates receive relevant training, which includes equal opportunities . All staff receive equal opportunities and diversity awareness training which features in training on the appraisal system and in management courses. The HR team has received diversity awareness training. Appraisal markings are analysed annually to ensure there is no inappropriate bias against any grouping. This analysis is published on Tsol's intranet. Additionally a random sample of reports are checked. HR formulate the terms and conditions of the Agency's staff in consultation with the Trade Union side, and the Diversity Group, following the receipt of legal advice on proposed policy.

34. The allocation of tickets for in-house training events is done by ballot and the ethnicity of those in the ballot is not known. These procedures therefore promote racial equality. As detailed in Part C (paragraph 76 (j)) the ethnicity of applicants for training courses will be monitored by HR who will have the ethnicity records of the ethnicity of staff.

In-house Training in the period 1 October 2004 to 31 March 2005

There were 5162 applications for in-house training in this period and 2205 attendees.

Office Services

35. **Activities:** Responsible for providing secretarial services, looking after the Queen Anne's Chambers building, its security and contents, and managing various service contracts.

36. **Assessment:** All contracts are awarded on the basis of fair competition and value for money, designed to eliminate any risk of racial discrimination. Other functions of the team are operated in compliance with applicable legal requirements (for example

relating to public procurement) and central Government policies, to which staff are expected to adhere and in which they are trained as necessary.

Finance Division

37. **Activities:** The role of the Division is to manage the Finance and Accounting functions of TSol. The Division covers the activities of management accounting, payment and billing processes, debt recovery and the processing of travel and subsistence claims.

38. **Assessment:** Payment and billing processes are run against defined criteria, which are equally applied and by definition do not discriminate on grounds of race. Travel and subsistence claims are dealt with through a procedure, which militates against discrimination in that they are processed in the order received, not by reference to the individual claimant, and the actual payment is processed in the same way as any other payment.

39. Additionally Finance provides expertise to the Agency in Procurement/Contract management through a dedicated, and professionally qualified (MCIPS) Contracts and Procurement Manager. All contracts are awarded on the basis of fair and open competition, subject to the criteria of value for money, in accordance with industry standards (as set by CIPS), and UK and EU policies and legal requirements. All staff are expected to comply to these principles and training is given as appropriate. In this way any risk of racial discrimination is eliminated.

Information Services Division

40. Information Services is responsible for providing the Information Systems, Library and Records Management functions of TSol.

41. Within Information Systems the areas of procurement of goods and services and access requests under Data Protection and Open Government requirements might be relevant to the General Duty. However race equality is assured by compliance with applicable legal requirements (for example relating to public procurement) and central Government policies and procedures, to which, staff are expected to adhere and in which they are trained as necessary.

Business Strategy Unit (BSU)

42. **Activities:** The Business Strategy Unit is a key resource for TSol's modernisation programme. The Unit has responsibility for developing and coordinating TSol's activities in business planning, performance measurement, risk management, client care, Centre of Excellence, and communication strategy. It also provides a secretariat function for the Executive and Supervisory Boards, the Client Care Group, the Centre of Excellence, the Project Implementation Forum, and the Risk Management Group.

43. **Assessment:** The BSU is primarily an internal support unit and therefore the majority of its activities are outside the scope of the General Duty. However, the Unit actively contributes to TSol's equality initiatives through ensuring that Race Equality and Diversity more generally are always an integral and stated part of business planning and the formulation of policy and strategy documents. Further, diversity issues are reported on in such documents as TSol's Annual Report and Accounts, and the Spring Departmental Report to Parliament.

LITIGATION DIVISION

44. **Activities:** Litigation Division is a large Division that handles litigation in the Courts of England and Wales for most of the major Government Departments and for a number of other public bodies. This casework is broadly of two kinds, private and public. These bodies may be claimants or defendants in a wide range of private law litigation on matters such as personal injury, contract and commercial matters, employment issues and debt recovery. The public law litigation consists of claims against these bodies by way of judicial review.

45. Litigation also has some more specialist activities, including conducting proceedings for disqualification of directors under the Companies Acts and acting as the Queen's Proctor in certain family law matters.

46. **Assessment:** The conduct of litigation is largely a technical exercise of representing the interests of the client Departments or bodies in conducting the particular case. It is regulated by detailed rules of court procedure and decisions on handling are usually taken on the advice of Counsel. Other parties are, frequently, represented by their own legal advisers. Except in two areas of this activity, there was not thought to be any scope for the application of the General Duty.

47. Moreover, like the Advisory Divisions (below), Litigation Division simply provides services in connection with the functions of the Departments and bodies for which it acts. In some cases, the Division could find itself providing legal advice in the context of such litigation and it will look into means of ensuring that where, for example, the Race Equality Scheme of the Prison Service or the Immigration and Nationality Department of the Home Office could be relevant to the issues raised that the members of the Litigation Division dealing with the matter are made aware of any provisions that might be appropriate.

48. The first area where the General Duty might have application concerned the treatment of unrepresented persons in litigation against bodies for which the Department is acting, where it was recognised that, although the primary duty was to represent the interests of the client body for whom the Treasury Solicitor is acting, there might be a possibility of particular disadvantage if their first language was not English (although, for example, in Judicial Review cases courts can supply an interpreter for an unrepresented applicant)..

49. The other area concerned the instruction of Counsel and, in cases outside London, the use of solicitors to act as agents. In its use of Counsel, Litigation Division is constrained by the rule requiring Counsel acting for Government Departments to be nominated by the Attorney General. In most circumstances this means that Counsel are selected from a "Panel" which has been pre-selected by the Attorney General following an open competition. (Applicants to the Panels are asked to complete a form stating their ethnic origin: please see paragraph 69 below). In a specialist case where no member of the Panel has the required expertise, or is available, an individual nomination must be sought. See the section assessing the Legal Secretariat to the Law Officers, below.

50. The Treasury Solicitor is required to monitor the performance of all Panel Counsel by completing a form designed for the purpose, which is sent to the Attorney General on a quarterly basis together with a report. Additionally some work is given to private solicitors, based solely on their ability to do a professional job at an acceptable rate. TSol is currently reviewing how it procures legal services.

EMPLOYMENT AND COMMERCIAL CONTRACTS GROUP

51. Activities: The Employment and Commercial Contracts Group ("ECCG") provides employment litigation and advisory services for many Government Departments and for a number of other public bodies. It also provides advice on procurement and contracts to a slightly smaller number. In giving advice on contracts it makes use of the services of external solicitors. The Group also provides lawyers who act as in house legal advisers to the Office of Government Commerce. The Group does not act in Scotland or on behalf of the Welsh Assembly.

52. Assessment: As is the case for Litigation Group there is little scope for the application of the General Duty. In providing employment litigation and advisory services the Group represents the interests of the Crown and independent non-crown bodies alike in their capacity as employer. In so doing the Group will be assisting them to comply with the General duty.

53. The Group deals with discrimination claims on behalf of its clients and naturally the Group's lawyers need to be aware of the client's race equality schemes.

54. ECCG helps administer panels of external lawyers to advise on matters where TSol does not have the necessary in house capacity. Such solicitors are subject to Law Society requirements and guidance in the way they conduct their business, which include racial matters (in addition to their statutory obligations). They were all specifically asked for information about any discrimination findings against the firm as part of the selection process.

55. In advising the Office of Government Commerce, ECCG acts in the same way as an advisory division and the points made in the Advisory Divisions are relevant. See the section on Advisory Divisions

56. ECCG is subject to the same rules about use of Counsel as, and in this follows the

lead of, Litigation Group. See the section on Litigation Group.

BONA VACANTIA DIVISION

57. **Activities.** Bona vacantia (BV) is the legal term for property, which passes to the Crown from dissolved companies or persons dying intestate with no known relatives. The Division administers the estates of persons who die domiciled in England and Wales without leaving a will or any entitled kin. It also deals with the assets of dissolved companies registered under the Companies Acts where the last registered office was in England or Wales (outside the Royal Duchies of Lancaster and Cornwall).

58. **Assessment.** The Division's main functions are: (i) to give advice on BV matters (particularly through the website and telephone helpline); (ii) to collect bona vacantia assets; (iii) to sell valuable assets (iv) to disclaim onerous assets; (v) to consider applications for discretionary payments (in effect, gifts). It also orders services to assist in performing its functions (considered for all Divisions in the entry for the Directorate of Corporate Strategy, above).

59. **Communication.** The Division interacts directly with the public and therefore the biggest potential source of problems in relation to the General Duty is thought to be poor communication. As well as correspondence, the Division informs people about bona vacantia matters through its own website (www.bonavacantia.gov.uk) and through a telephone helpline. All the Division's guidelines – which explain our policy and procedures – are published on the website and sent to people who contact us. We are currently rewriting these in plainer English to make their meaning clearer. These standardised, published processes and procedures are an effective means of ensuring consistency of practice. Translation services are available in appropriate cases.

59a We have developed over the last year a Customer Service Strategy to increase awareness of what we do and to set new standards for communication. In addition, all staff joining the Bona Vacantia division undertake diversity awareness training.

60. **Collection of bona vacantia property.** It is recognised that searches of intestates' homes will involve members of staff interacting with members of the public outside an office setting. Practice guidance and full training is given to all staff who conduct house searches.

61. **Sales of property; disclaimers of onerous property.** Divisional procedures in relation to sales are designed to ensure that the duty to obtain market price is carried out in a neutral fashion. Divisional policies and procedures on disclaimers of onerous property are designed to ensure that only assets falling within certain clearly defined categories designed to protect the Crown are disclaimed.

62. **Making discretionary payments.** The nature of such payments (in effect, gifts), and the wide discretion given to the Treasury Solicitor to decide whether or not to make them, means that this is an area to which the General Duty is likely to apply. The procedural rule that such payments can only be authorised by the Treasury Solicitor

and by Assistant Treasury Solicitors provides considerable protection against bad practice. However, it is also important to ensure that all members of staff deal properly with discretionary payment cases. Accordingly, there are published guidelines covering such payments available on the Division's website. Workshops are held regularly to train staff in applying the new guidelines fairly.

63. **Monitoring.** In most cases staff do not know the racial group of people outside the Division with whom they are dealing. Complaints are monitored to see whether they have involved any suggestion of a breach of the general duty. There have been no suggestions to date. This monitoring will continue.

ADVISORY DIVISIONS

64. **Activities:** TSol has five Advisory Divisions which provide legal advice to other Government Departments and certain public bodies. They are:

Cabinet Office and Central Advisory Division
Culture, Media and Sport Division
Education and Skills Division
Treasury Advisory Division.

65. In each case the activities consist of providing legal advisory services relating to the activities of the client Department or body. Advice to other Government Departments includes the drafting of statutory instruments and involvement in the passage of Bills through Parliament. The functions of the relevant Department, or body, are carried out by its Ministers or officials, acting on the legal advice given, and they too have responsibility for the related policies and any contacts with the public. Direct contacts between advisory Divisions and members of the public are few.

66. **Assessment:** As previously indicated, it is not felt that the giving of professional advice on legal issues to a client Department or body is a matter to which the General Duty can apply.

67. However, Advisory Divisions have a role in assisting the client Department or body in carrying out *its* obligations under the Race Relations Act, including the General Duty.

68. Communications with people in client Departments and bodies would fall within the duty, but raised no special considerations and are dealt with generally at the beginning of this Part.

69. Advisory Divisions instruct Counsel to give advice and, in some cases, instruct solicitors to act as agents in conducting prosecutions on matters for which the client Department or body has responsibility. This is considered generally under the section on Litigation Division above.

EUROPEAN DIVISION

70. **Activities:** European Division provides and co-ordinates legal services in support of the Government's policies in relation to the European Union. It is divided into two teams. One, Cabinet Office Legal Advisers, advises the European Secretariat of the Cabinet Office, and through co-ordination seeks to ensure a consistent approach to questions of Community law among UK departments and the Northern Ireland, Scottish and Welsh administrations. The other, the European Litigation team, conducts all litigation on behalf of the UK in the European Court of Justice.

71. **Assessment:** The position of Cabinet Office Legal Advisers was considered to be the same as for the Advisory Divisions considered above. That of the European Litigation team was similar to Litigation Division, though in practice the specialist and international nature of the litigation would greatly restricted the likely impact of the General Duty.

ATTORNEY GENERAL'S OFFICE

72. **Activities:** The Attorney General's Office provides high-grade legal advice and support to the Attorney General and the Solicitor General (the Law Officers). The Attorney General, assisted by the Solicitor General, is the chief legal adviser to the Government. The Attorney General also has certain public interest functions, for example, in taking action to protect charities, consenting to the prosecution of certain, serious, offences, and appoints amici curiae (or friends of the court).

73. The Attorney General has overall responsibility for the Treasury Solicitor's Department, superintends the Director of Public Prosecutions as Head of the Crown Prosecution Service (CPS), the Director of the Serious Fraud Office (SFO), the Director of the Revenue and Customs Office, and the Director of Public Prosecutions in Northern Ireland. The Law Officers answer for these Departments in Parliament. The Attorney General supervises the system of Panel Counsel.

74. In their Ministerial role the Law Officers play a full part with the Home Secretary and the Secretary of State for Constitutional Affairs in delivering the Government's policy and targets for criminal justice.

75. The Attorney General and the Solicitor General also deal with questions of law arising on Government Bills and with issues of legal policy. They are concerned with all major international and domestic litigation involving the Government and questions of European Community and International Law as they may affect the Government.

76. **Assessment:** The giving of legal advice is outside the General Duty, save that in advising account must be given to the legal framework of duties the Act creates. The advice given to Government Departments needs to be definitive and in giving advice the Law Officers take account of the three objectives of the Race Relations Act insofar as it is appropriate to do so. Where issues of discrimination, equality of opportunity and the promotion of good race relations are not directly relevant to the advice given, it is for the Department receiving the advice to ensure it is applied in such a way as to ensure compliance.

77. When acting in the public interest, the Law Officers act quasi-judicially and

impartially. This impartiality is brought to bear in all aspects of public interest work, including charities, family cases, instructing the Queen's Proctor and in bringing applications under section 42 of the Supreme Court Act 1981 (vexatious litigants). The doctrine of impartiality requires actions to be non-discriminatory and to promote equal opportunities, thereby promoting good race relations. When acting in the public interest, therefore, the Law Officers are, by definition, be promoting all three aspects of the Race Relations Act.

78. In consenting to prosecutions, the Attorney General has to act quasi-judicially and consider the papers before him solely with a view to determining whether there is sufficient evidence to afford a realistic prospect of conviction and whether prosecution is in the public interest. The General Duty does not apply to this prosecution function.

79. In appointing an amicus curiae or friend of the court, the Attorney General would first try to choose counsel from within the Panel system with the requisite experience and expertise. If no appropriate counsel from within the Panel can be found, he must choose from outside the Panel. Choosing from both within the Panel and outside are actions where the elimination of discrimination and the promotion of equality are relevant.

80. In exercising a Ministerial role in relation to the Law Officers' Departments there is no direct application of the three duties under the Act other than in the appointment of the Directors. There is an indirect role in ensuring the Departments for which the Attorney General is responsible apply the three duties imposed by the RRA.

81. Positive steps have been taken to encourage application from ethnic minorities, including encouragement in advertisements and a seminar in 2000 for ethnic minority members of the bar, which will be repeated if the Bar Council so wish. All applicants for Panel counsel posts are encouraged to complete an equal opportunities monitoring form. All members of the selection boards are given written guidance, reinforced orally by the Chairman, stressing the importance of equal opportunities.

GOVERNMENT LEGAL SERVICE (THE SECRETARIAT)

82. The Secretariat provides advice and support to the Government Legal Service (GLS) and to the Head of the GLS in support of her role in providing leadership and strategic direction to the Service which properly balances the needs of clients and lawyers and which is consistent with the overall direction of the Civil Service. It aims to add value over and above what can be provided departmentally by identifying opportunities and putting in place corporate arrangements which deliver cost effective benefits consistent with developments in the Civil Service and wider legal profession; enhance the reputation of the GLS; and ensure the maintenance of a diverse cadre of well trained and motivated lawyers to deliver effective legal services to Government.

83. **Assessment:** The Secretariat's activities are geared towards providing services for other Divisions of the Department and Legal Advisers' Offices in other Government Departments. However, in carrying out these functions, the Secretariat interacts with the public in the provision of its recruitment processes.

84. In providing such services, the Secretariat is operating in a field, which is governed by the Civil Service Commissioners' rules on fairness and openness, whose aims are to find the best available person regardless of race, gender or disability. All decisions on recruitment reside with the Departments for whom we provide the services. However, the Secretariat monitors the processes and outcomes of the decisions made by Departments in order to draw attention to any areas of possible discrimination. The monitoring is carried out through mechanisms agreed with TMP Worldwide as the Secretariat's agent analysing the diversity data gathered as part of the application process. Individual departmental information is passed on showing performance at sift and interview stage. The recruitment procedures carried out by the Secretariat and by Departments are also audited by the Commissioners.

85. In recruitment, the Secretariat has influence on where advertisements for posts are placed. In respect of the General Duty, it is important to ensure that the text and the placements encourage applications from all areas of the population. There is no evidence to suggest that our advertising erects barriers to access but this will be kept under review and action will be taken if it appears necessary.

86. Recruitment decisions by Departments, are required to be taken in a non-discriminatory manner and the Secretariat collects statistics to inform Departments of the outcomes of their decisions. It is possible (as evidenced by a very small number of challenges in employment tribunals) that some people believe that the procedures are unfair or that the ways in which decisions are taken are unfair. The consistent monitoring undertaken by the Secretariat demonstrates the team's constant awareness of the need to alert clients to the duties introduced by the Act.

PART C
MEETING THE SPECIFIC DUTY AS AN EMPLOYER

Ethnic Monitoring

87. TSol will have an annual ethnic monitoring plan in place, including targets, for Race Equality. The Diversity Group, will review the progress of their plan twice a year, amending it as necessary to meets its annual targets, and will publish its plan.

88. TSol, via HR Division , currently monitors the ethnicity of its staff and has targets for ethnicity, disability and gender (see Annexes A & B) and will, in future, develop its monitoring to the meet the Specific Duty of the Act. Currently HR Division intends to produce monitoring figures each April and October. The ethnic monitoring conducted will comprise the following;

- a. Staff in post, including by grade .
 - i. ethnicity of staff by 2001 Census categories for England and Wales (March 2002)
 - ii. percentage staff ethnicity against that for South East England and London
 - iii. ethnicity of all staff by grade
 - iv. Have target of similar staff levels by ethnicity against South East/London population .
 - v. Have target of specific ethnic profile by grade, or as set by the Diversity Group.
- b. External applicants for jobs
 - i. ethnicity of applicants for legal positions against the average for the legal profession for England and Wales and for administrative staff against population percentages for London and South East England
 - ii. Ensure recruitment Agents such as TMP and GLS provide adequate detail against ethnic categories.
 - iii. Have target of similar levels against the average for the legal profession for England and Wales for lawyers and for the South East/London population for administrative staff .
- c. Successful/unsuccessful external applicants for jobs
 - i. rates of success at formal sift by ethnicity
 - ii. rates of success at final interview by ethnicity
 - iii. Have target of similar percentage success/failure rates for different ethnic groups
- d. Internal applicants for promotions and postings
 - i. percentage of different ethnic groups applying for promotions and postings

- ii. Have target of similar percentage application rates for different ethnic groups against their total of the workforce.
- e. Successful/unsuccessful applicants for promotions and postings
 - i. percentage of different ethnic groups success/failure rates for promotions and postings
 - ii. Have target of similar percentage success/failure rates for different ethnic groups
- f. Postings/promotions to SCS.
 - i. ethnicity of those appointed/promoted to SCS level
 - ii. Have target of achieving Government led aim of 3.2% ethnic staff in SCS grades by 2005, and 4% by 2008.
- g. Those leaving TSol due to resignation or termination
 - i. percentage of different ethnic groups resigning or having employment terminated
 - ii. Have target of similar percentage rates for exits by different ethnic groups against their total of the workforce
- h. Those raising complaints under the formal grievance procedure
 - i. ethnicity of those bringing formal grievance complaints.
- i. Those subject to formal disciplinary action
 - i. ethnicity of those subject to disciplinary action and
 - ii. any trends indicating ethnic bias in disciplinary procedures or penalties
- j. Applicants for training courses
 - i. ethnicity of those applying for training courses
 - ii. Have target for similar percentage of applicants from different ethnic groups.
- k. Annual appraisal markings by ethnicity.
 - i. ethnicity of those receiving various appraisal box markings
 - ii. Have target of no significant difference in box marking awarded by ethnicity taking account of government Equality in Performance Review recommendations.
- l. Special Performance Awards
 - i. ethnicity of Special Bonus Award recipients

ii. Have target of no inequality of bonus awards by ethnicity.

Annex A

TSOL/GLS STATISTICAL ANALYSIS										
As at January 2005										
		TSOL	TSOL	GLS	CS TARGET	CS TARGET	Law Society	Bar	CS Statistics	Economically active
		No.	%	Oct-04	2005	2008	2003	2003	Apr-03	population Spring 2003
Staff Numbers		667		1986						
SCS	% women		38.6	33	35	37	24.1		24.1	
SCS	% women top 600		50	24	25	30				
SCS	% minority ethnic		10.5	3.9	3.2	4			2.8	
SCS	% disabled		3.5	2.9	3	3.2			1.7	
SCS	Flexible working		5	7*	* Part time only					
All staff	% minority ethnic		18.6	11			7.9	10	8	6.9
All staff	% disabled		4.8	5.1					3.6	12.9
All staff	% women		60	56					52.3	
All staff	% Flexible working		23.5	19.4*	* Part time and home working only					
Joiners	2003		207	199	Actual Numbers					
	2004		155	174	Actual Numbers					
Leavers	2003		95	86	Actual					

					Numbers							
	2004		124	63	Actual Numbers							
Note: emboldened figures = 2005 target met.												